

Decision No. 66920.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of L. SCATENA & CO. & A. GALLI FRUIT
CO., CONSOLIDATED, to sell and
EDWARD J. SCHIVO to purchase an
automobile freight line operated
between San Francisco and San Jose,
California.)

Application
No. 18908.

ORIGINAL

BY THE COMMISSION:

OPINION and ORDER

L. Scatena & Co. and A. Galli Fruit Co. Consolidated, doing business as the S. and G. Transfer Company, have petitioned the Railroad Commission for an/order approving the sale and transfer by them to Edward J. Schivo of an operating right for an automotive service for the transportation of property limited to fruit, vegetables and berries under contract between San Francisco and points in Santa Clara County north of San Jose serving as intermediate points all truck gardens in Santa Clara County north of San Jose and in San Mateo County along and adjacent to the State Highway to San Francisco, and Edward J. Schivo has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1.00, and this sum is declared to be the value of the operating right. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No. 9199, dated June 30, 1921, on Application No. 6693.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be

granted.

Edward J. Schivo is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
2. Applicant Edward J. Schivo shall immediately unite with applicant L. Scatena & Co. and A. Galli Fruit Co., Consolidated in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant L. Scatena & Co. and A. Galli Fruit Co., Consolidated on the one hand withdrawing, and applicant Edward J. Schivo on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant L. Scatena & Co. and A. Galli Fruit Co., Consolidated shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicant Edward J. Schivo shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant L. Scatena & Co. and A. Galli Fruit Co., Consolidated, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant L. Scatena & Co. and A. Galli Fruit Co. Consolidated or time schedules satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Edward J. Schivo unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 5th day
of June 1933.
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O. C. Leary
Leon Whitely
W. H. Lee
W. B. Harris
Walter Moore
Commissioners.