

Decision No. 28850

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
SAN FRANCISCO & SAN JOSE FRUIT &
PRODUCE TRANSFER COMPANY, a corporation,
to transfer, and for S. D. SCHIVO and
HAROLD SCHIVO to take over an automobile
freight line operated between San Francisco,
San Jose, Redwood City and Oakland, serving
Menlo Park, Palo Alto, Mayfield, Los Altos
and shipping points within a radius of
three miles either side of highways together
with prior right for operation of said
freight line between San Francisco and San
Jose and way points.

) Application
) No. 19211
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BY THE COMMISSION -

OPINION and ORDER

San Francisco & San Jose Fruit & Produce Transfer Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to S. D. Schivo and Harold Schivo of an operating right for an automotive service for the transportation of passengers and property between San Francisco, Oakland and San Jose and certain other points, and S. D. Schivo and Harold Schivo have 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 purchasers are owners of the corporation which is being dissolved (Exhibit "A"), and the assets are being distributed to and title vested in S. D. Schivo and Harold Schivo, equally. They desire to continue the operations, which are authorized solely for the transportation of fruits, vegetables and produce, under the certificate heretofore granted.

The consideration to be paid for the property herein proposed to be transferred is given as \$1.00. No equipment, except as distributed assets, is transferred. No value is placed on the operative right.

The operative right herein proposed to be transferred
conducted
was created by operations/prior to May 1, 1917, and by
Decision No.11657, dated February 13, 1923, on Application
No.8435, and Decision No.14996, dated June 3, 1925, on
Application No.11098.

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.

S. D. Schivo and Harold Schivo are 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 San Francisco & San Jose Fruit & Produce
Transfer Company shall immediately unite with applicants
S. D. Schivo and Harold Schivo in common supplement to the
tariffs on file with the Commission covering service given
under certificate herein authorized to be transferred,
applicant San Francisco & San Jose Fruit & Produce Transfer
Company on the one hand withdrawing, and applicants
S. D. Schivo and Harold Schivo on the other hand accepting
and establishing such tariffs and all effective supplements
thereto.

3. Applicant San Francisco & San Jose Fruit & Produce
Transfer Company shall immediately withdraw time schedules
filed in its name with the Railroad Commission and applicants
S. D. Schivo and Harold Schivo shall immediately file, in
duplicate, in their own names time schedules covering service
heretofore given by applicant San Francisco & San Jose Fruit
& Produce Transfer Company, which time schedules shall be
identical with the time schedules now on file with the
Railroad Commission in the name of applicant San Francisco &

