

ORIGINAL

Decision No. 28254

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CESARE PELLEGRINI to sell and
EUGENIO RUGANI and VINCENZO LENCIONI
to purchase an interest in an auto-
mobile freight line operated between
Tunitas, Montara and San Francisco
and Colma, and serving intermediate
points, California.)
Application No. 20187.

BY THE COMMISSION:

O P I N I O N

Applicant Cesare Pellegrini has petitioned the Railroad Commission for an order approving the sale and transfer by him to Eugenio Rugani and Vincenzo Lencioni each an undivided one-third (1/3) interest in an operating right, and equipment, for an automotive service as a highway common carrier of property between Tunitas, Montara and San Francisco and Colma, and Eugenio Rugani and Vincenzo Lencioni have petitioned for authority to purchase and acquire each an undivided one-third (1/3) interest in said operating right and equipment and Pellegrini, Rugani and Lencioni 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 \$5533.32. Of this sum applicants allege \$2000 represents two-thirds (2/3) of the total value of the equipment and \$3533.32 represents two-thirds (2/3) of the total value of intangibles. It is stipulated

and agreed in the agreement of sale, marked Exhibit "A" attached to the application herein, that the above purchase price in full shall be placed in escrow with instructions that such purchase price be handed to Cesare Pellegrini upon the authorization by the Railroad Commission of the transfer of the operating right as herein sought.

The operating right herein proposed to be transferred was created by Decision No. 17797 dated December 23, 1926 in Application No. 11275.

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.

Applicants Pellegrini, Rugani and Lencioni 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.

O R D E R

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 Pellegrini shall within twenty (20) days after the effective date of the order herein

unite with applicants Rugani and Lencioni in common supplement to the tariffs on file with the Commission covering service given under the certificate herein authorized to be transferred, applicant Pellegrini on the one hand withdrawing, and applicants Pellegrini, Rugani and Lencioni on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Pellegrini shall within twenty (20) days after the effective date of the order withdraw time schedules filed in his name with the Railroad Commission and applicants Pellegrini, Rugani and Lencioni shall within twenty (20) days after the effective date of the order file, in duplicate, in their own names time schedules covering service heretofore given by applicant Pellegrini, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Pellegrini, 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 obtained.

5. No vehicle may be operated by applicants Pellegrini, Rugani and Lencioni unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 12th day
of November, 1935.

John A. Quinn
Mr. A. C. ...
Walter R. Quinn
Walter R. Quinn
COMMISSIONERS.