

Decision No. 20944

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 NAMI YASUNAGA, doing business under
 the fictitious name of Produce Transfer
 Co., to sell, and ROSE DOUDELL to
 purchase an automobile freight line
 operated between certain points in
 Santa Clara County, on the one hand, and
 San Francisco and/or Oakland and points
 intermediate thereto, on the other hand.)

Application
 No. 20944

BY THE COMMISSION:

ORIGINALO P I N I O N

Nami Yasunaga operating under the name and style of Produce Transfer Co. has petitioned the Railroad Commission for an order approving the sale and transfer by hereto Rose Doudell of an operating right for the automotive transportation as a highway common carrier of property between Santa Clara, Campbell, Alviso, Milpitas, Alum Rock Park, San Jose and Coyote (excluding Los Gatos, Saratoga, Cupertino, Mountain View and points south of Coyote) on the one hand and San Francisco and/or Oakland and points intermediate thereto on the other hand as more particularly described and restricted in decision numbers hereinafter set forth and Rose Doudell 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 amended 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 \$2000 which is alleged by

the applicant to be the value of the equipment. No consideration for the intangibles is involved.

The operating right herein proposed to be transferred was created by Decisions Nos. 27674 and 27765, dated January 14, 1935, and February 25, 1935, respectively, on Application No. 19271.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

Rose Doudell 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.

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 for any purpose other than the transfer herein authorized.
2. Applicant Nami Yasunaga shall within twenty (20) days after the effective date of the order herein unite with applicant Rose Doudell in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Nami Yasunaga withdrawing and applicant Rose Doudell accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Nami Yasunaga shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in her name with the Railroad Commission and applicant Rose Doudell shall within twenty (20) days after the effective date of the order herein file, in duplicate, in her own name time schedules covering service

heretofore given by applicant Nami Yasunaga which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Nami Yasunaga 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 applicant Rose Doudell unless such vehicle is owned by said applicant or is leased by her under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority herein 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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

Dated at San Francisco, California, this 18th day of January, 1937.

Matthew Mason
Leon A. White
Ray C. Rice
COMMISSIONERS.