

Decision No. 29520

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 MISENER MOTOR-DRAYAGE COMPANY, a )  
 corporation, for authority to sell, and )  
 J. J. LEONARDINI doing business under the )  
 firm name and style of O. K. TRUCKING )  
 COMPANY, for authority to acquire the )  
 operative rights of MISENER MOTOR-DRAYAGE )  
 COMPANY, now operated by said company )  
 under authority of Decisions number 9398, )  
 10281, 10939, 11634, 16491, and 18129, )  
 and any and all amendments thereof and )  
 supplements thereto. )

Application No. 20975

BY THE COMMISSION:

**ORIGINAL**O P I N I O N

Misener Motor-Drayage Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to J. J. Leonardini, operating under the fictitious name and style of O. K. Trucking Company, of operating rights for the automotive transportation as a highway common carrier of property between Winters, Oakland, Belmont, San Jose, Santa Cruz, Watsonville, Carmel and intermediate points as described and limited in the decision hereafter referred to; and J. J. Leonardini, operating under the fictitious name and style of O. K. Trucking Company, has petitioned for authority to purchase and acquire said operating rights 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 \$2,000 which is alleged to be the value of the intangibles.

No equipment is to be transferred.

The operating rights herein proposed to be transferred were acquired by the seller corporation under authority of decision No. 18129, dated March 30, 1927.

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

J. J. Leonardini 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 Misener Motor-Drayage Company shall within twenty (20) days after the effective date of the order herein unite with applicant J. J. Leonardini in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Misener Motor-Drayage Company withdrawing and applicant J. J. Leonardini accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Misener Motor-Drayage Company shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in its name with the Railroad Commission and applicant J. J. Leonardini shall within twenty (20) days after the effective date of the order herein file, in duplicate; in his own name time schedules covering service heretofore given by applicant Misener Motor-Drayage Company which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Misener Motor-Drayage Company 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 J. J. Leonardini 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.

6. The authority herein granted to sell and transfer the rights 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 24 day of

February, 1937.

Walter S. ...  
Leon ...  
Frank ...  
Ray ...  
Ray ...  
Commissioners