

Decision No. 31146

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
LOUIS ARECCO and SALVATORE LANDI, a
co-partnership doing business under
the assumed name of T. Landi Drayage
Co., to sell, and JOE MANGINI DRAYAGE
CO., INC. to purchase an automobile
produce franchise line between Oakland
and San Francisco, California, and
vice versa.

Application No. 21851

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Louis Arecco and Salvatore Landi (T. Landi), doing business as T. Landi Drayage Co., have petitioned the Railroad Commission for an order approving the sale and transfer by them to Joe Mangini Drayage Co., Inc., of an operative right for the automotive transportation as a highway common carrier between San Francisco and Oakland; and Joe Mangini Drayage Co., Inc. has petitioned for authority to purchase and acquire said operative 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 the sum of \$1400 of which amount \$650 represents the value of the equipment and \$750 represents the value of the intangibles.

The operative right herein proposed to be transferred was created by Decision No. 9757, dated November 10, 1921, on Application No. 7289, and acquired by Arecco and Landi under the authority of Decision No. 22586, dated June 25, 1930, in Application No. 16670.

Arecco and Landi will retain and continue to operate an operative right created by Decision No. 17657, dated November 26, 1926.

This does not appear to be a matter in which a public hearing is required and the authority will be granted.

Joe Mangini Drayage Co., Inc., 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. Applicants Arecco and Landi shall within twenty (20) days after the effective date of the order herein unite with applicant Joe Mangini Drayage Co., Inc. in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Arecco and Landi withdrawing and applicant Joe Mangini Drayage Co., Inc. accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Arecco and Landi shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their name with the Railroad Commission and applicant Joe Mangini Drayage Co., Inc. shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicants

Arecco and Landi which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Arecco and Landi 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 Joe Mangini Drayage Co., Inc. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority herein granted 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 1st day of

August, 1938.

Ray Devalby
Leon Whitely
Frank R. Brown

Ray L. Rice
COMMISSIONERS