

ORIGINAL

Decision No. 46857

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOHN GONZALES and JOE S. GONZALES to)
sell, and PETER RAVALIN to purchase) Application No. 32827
an automobile freight line operated)
between Sunnyvale, California, and)
Oakland, California.)

O P I N I O N

Applicants John Gonzales and Joe S. Gonzales as sellers and Peter Ravalin as buyer are engaged in the same kind of business though not associated. Both transport fresh fruits and vegetables from off-rail points in the Mountain View-Sunnyvale-Palo Alto area, Ravalin operating to San Francisco and Gonzales to Oakland. Peter Ravalin is presently engaged in the operation of an automobile freight line for the transportation of fresh fruits and vegetables, including mushrooms (returning empty containers), between points in Santa Clara and San Mateo counties and San Francisco, pursuant to certificate granted by the Commission. ⁽¹⁾ Applicants John and Joe S. Gonzales are operating over a large area of Santa Clara County, with Mountain View as a base of operation transporting field and orchard produce to Oakland, as a highway common carrier, pursuant to operative rights duly acquired.

Applicants John and Joe Gonzales propose to sell and Peter Ravalin proposes to purchase the produce transportation and trucking business and operative right of said John and Joe E. Gonzales, created by Decision No. 29483 and transferred to said John Gonzales

(1) Decision No. 40532, dated July 22, 1949, in Application No. 27964. This certificate was transferred to applicant Peter Ravalin under Decision No. 41291 by Leonard Shiptoski, the preceding owner.

and Joe E. Gonzales by Decision No. 36693. No equipment is included in the transaction, purchaser alleging that he has already sufficient equipment available to carry on the operation.

Attached to the application are financial statements from which it would appear that the buyer, Ravalin, is financially able to complete his part of the transaction. The contract of sale, attached to the application, provides that the sellers agree to sell to the buyers the trucking and transportation business now conducted by said sellers, including operative rights they may have acquired and operated, for a consideration of \$500, of which sum \$50 is said to represent the value of the business and personal property and \$450 the value of the operative rights.

The net result of the transfer would be to enable the buyer to continue the existing service rendered by seller under Decision No. 29483, thereby extending to the Oakland produce markets the same service being rendered by the buyer to the San Francisco markets from the same general area. It is stated this will permit the purchaser to render shippers a more complete service. All parties in interest were advised of the proposed transfer but no objection was received.

Applicant purchaser proposes to modify his present tariff so as to conform with the existing tariff of seller, both tariffs being on file with the Commission, and to modify his present time schedule in accordance with exhibit attached to the application.

After full consideration the Commission finds that the public interest will not be adversely affected by approval of the transfer of the operative rights and property with which we are here concerned, and that a public hearing is not necessary. Accordingly, the application will be granted. The action taken herein

shall not be construed to be a finding of the value of the property herein authorized to be transferred.

Peter Ravalin is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing, for any amount of money in excess of that originally paid to the state as the consideration for the grant of such rights. 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

Application having been made for an order authorizing the transfer of the above-described operative rights, and the Commission having considered the matter and being of the opinion that a public hearing is not necessary and that the application should be granted as herein provided,

IT IS ORDERED:

(1) That on or after the effective date hereof and on or before May 31, 1952, John Gonzales and Joe S. Gonzales may transfer to Peter Ravalin, and the latter may acquire from the former, and thereafter operate thereunder, the operative rights represented by the certificates of public convenience and necessity acquired under authority granted in Decision No. 29483, dated January 25, 1937, and Decision No. 36693, dated November 9, 1943.

(2) That within thirty (30) days after the consummation of the transfer herein authorized, Peter Ravalin shall notify the Commission in writing of this fact, and shall, within said period,

file with the Commission a true copy of the bill of sale or other instrument of transfer which may have been executed to effect said transfer.

(3) Applicant Peter Ravalin shall file, in triplicate, and concurrently make effective, appropriate tariffs and timetables within sixty (60) days after the effective date hereof, and on not less than five (5) days' notice to the Commission and the public.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 17th day of March, 1952.

R. J. [Signature]
 PRESIDENT
Justus F. Casper
Harold A. Hula
John E. [Signature]

COMMISSIONERS