

Decision No. 20547

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GEORGE P. MILLER to sell, and MENIO J.)
FERRARI to purchase an automobile) Application
passenger and freight line operated) No. 15184
between Placerville and Grizzly Flats,)
California.)

BY THE COMMISSION -

OPINION and ORDER

George P. Miller has petitioned the Railroad Commission for an order approving the sale and transfer by him to Menio J. Ferrari of an operating right for an automobile service for the transportation of passengers and property between Placerville and Grizzly Flats, and Menio J. Ferrari has asked 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 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 \$500, all of which sum is declared to be the value of certain equipment.

The operating right herein proposed to be transferred was originally granted to George P. Miller by the Railroad Commission in its Decision No. 16543, dated April 21, 1926, and issued on Application No. 12757. Miller was authorized to operate

***** an automobile service for the transportation of passengers and freight between Placerville and Grizzly Flats and the intermediate points of Pleasant Valley, Young's and Cole's."

The schedule submitted with application No. 12757 called for service three times a week.

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.

Menio J. Ferrari 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.

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 Miller shall immediately unite with applicant Ferrari in common supplement to the tariffs on file with the Commission, applicant Miller on the one hand withdrawing, and applicant Ferrari on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant Miller shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Ferrari shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Miller which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Miller, 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 secured.

5- No vehicle may be operated by applicant Ferrari 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.

Dated at San Francisco, California, this 3rd day of

December, 1928.

Leon Whittell
C. Sealey

Paul L. Smith

M. J. Carr
COMMISSIONERS.