

Decision No. 21176

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 STODDARD MILLING COMPANY, a corporation
 to sell, and NAPA MILLING AND WAREHOUSE
 COMPANY, a corporation, to purchase an
 automobile freight line operated between
 Napa City and Napa Soda Springs, California.

} ORIGINAL
 } Application
 } No. 15636
 }

BY THE COMMISSION -

OPINION and ORDER

Stoddard Milling Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Napa Milling and Warehouse Company, also a corporation, of an operating right for an automotive service for the transportation of property between Napa and Napa Soda Springs and intermediate points, and Napa Milling and Warehouse Company 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 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 \$200. All of this sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Stoddard Milling Company by Decision No. 15102, dated June 25, 1925, and issued on Application No. 11216, which decision authorizes Stoddard Milling Company to operate an automotive trucking service between Napa City and Napa Soda Springs and intermediate points.

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.

Napa Milling and Warehouse Company, a corporation, 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 Stoddard Milling Company shall immediately unite with applicant Napa Milling and Warehouse Company in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Stoddard Milling Company on the one hand withdrawing, and applicant Napa Milling and Warehouse Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Stoddard Milling Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Napa Milling and Warehouse Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Stoddard Milling Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Stoddard Milling 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 secured.
5. No vehicle may be operated by applicant Napa Milling and Warehouse Company 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.

Dated at San Francisco, California, this 11th day of May, 1929.

Thomas S. Lott
Chas. J. ...
James ...
Leon Whitell
W. H. ...
COMMISSIONERS.