

Decision No. 21349

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 FRANK MILLER and H. L. SHRIDER to sell,  
 and FRANK MILLER to purchase an automobile  
 newspaper and film delivery line operating  
 between Los Angeles and Santa Barbara,  
 California.

)  
 )  
 ) Application  
 ) No.15772  
 )

**ORIGINAL**

BY THE COMMISSION -

OPINION and ORDER

H. L. Shrider has petitioned the Railroad Commission for an order approving the sale and transfer by him to Frank Miller, his partner, of his one-half interest in an operating right for an automotive service for the transportation of property between Los Angeles and Santa Barbara and certain intermediate points, and Frank Miller has petitioned for authority to purchase and acquire said one-half interest in said operating right and to hereafter operate thereunder as sole owner, 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 nominal sum of \$1.00.

The operating right, a one-half interest in which is herein proposed to be transferred, was granted to applicants Miller and Shrider by Railroad Commission Decision No.15819, dated December 31, 1925, and issued on Application No.11318. Said decision authorized the partners to operate a service for the transportation of "newspapers, moving picture film and paper advertising for films (not to exceed five pounds for each reel of film), between Los Angeles and Santa Barbara and the intermediate points of Burbank, Lankershim, Owensmouth, Newhall, Saugus, Fillmore, Santa Paula, Oxnard and Ventura."

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.

Frank Miller 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, for the partnership, shall immediately unite with applicant Miller as sole owner in common supplement to the tariffs on file with the Commission covering service given under certificate, a one-half interest in which is herein authorized to be transferred, applicant Miller, for the partnership on the one hand withdrawing, and applicant Miller, sole owner, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Miller, for the partnership, shall immediately withdraw time schedules filed in its name with the Railroad Commission, and applicant Miller, sole owner, shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by the partnership, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of the partnership, 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 Miller 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 5<sup>th</sup> day of July, 1929.

Frank Miller  
Cl. Sealey  
Leon Whitall  
W. H. Miller

COMMISSIONERS.