

Decision No. 22872

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HUBERT MILLS to sell, and V.P. MEESE
to purchase an automobile passenger
and freight line operated between
San Diego and Tecate and Potrero,
California.

} Application
} No. 18805
}

BY THE COMMISSION -

OPINION and ORDER

Hubert Mills has petitioned the Railroad Commission for an order approving the sale and transfer by him to V.P. Meese of an operating right for an automotive service for the transportation of passengers and property between San Diego and Tecate, and V. P. Meese 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 \$10.00.

The operating right herein proposed to be transferred was originally granted to J. E. Cottrell by Decision No. 11026 of September 26, 1922, in Application No. 8160 for the transportation of passengers and property between San Diego and Tecate and the intermediate points of Spring Valley, Jamul, Dulzura, Barrett and Potrero with restrictions as to equipment to be used and weight of shipments of property to be transported. Decision No. 11026 was subsequently modified by supplemental orders in Decisions No. 11052 of October 5, 1922, No. 11725 of February 27, 1923, No. 16797 of June 3, 1925, and No. 17071 of July 3, 1926.

Decision No.17417 of October 1, 1926, in Application No.13060, authorized Hubert Mills to acquire from J. H. Cottrell the above described operating right.

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.

V. P. Meese 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 Mills shall immediately unite with applicant Meese in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Mills on the one hand withdrawing, and applicant Meese on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Mills shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Meese shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Mills, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in name of applicant Mills, 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 Meese 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 15th day of September, 1930.

O. P. Leary

John S. Lattin

M. J. Linn
COMMISSIONERS.