

Decision No. 24285.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of Frank Miller, to sell and)	
Dulcie A. Miller to purchase an)	Application
automobile freight line operated)	No. 17822.
between Los Angeles and Santa)	
Barbara, California.)	

BY THE COMMISSION:

O P I N I O N**ORIGINAL**

Applicant Frank Miller asks authority to sell, and applicant Dulcie A. Miller asks authority to purchase, the operating rights for an automotive service for the transportation of film, film advertising and newspapers between Los Angeles and Santa Barbara and certain intermediate points. The sale and purchase are without consideration on the part of either party and the transfer is to be affected as proposed "in adjusting the property rights arising out of the marital relation of applicants". The application also avers that Dulcie A. Miller "is now in active control of said automobile freight line".

By Exhibit "A" attached to the application Frank Miller conveyed by agreement of sale, in August 1931 the operating rights involved together with three automotive vehicles used in the operations to Dulcie A. Miller. As this document as filed does not show execution by the grantee applicants will be required to file an agreement of sale or other proper instrument of conveyance, duly executed, subsequent to the date of order herein.

The right proposed to be transferred originated in Decision No. 15819 on Application No. 11318, wherein a certificate was granted to Frank Miller and H.L. Shrider to "operate motor vehicle service for the transportation of newspapers, moving picture film, and paper advertising for films (not to exceed five pounds for each reel or film) between Los Angeles and Santa Barbara

and the intermediate points of Burbank, Lankershim, Owensmouth, Newhall, Saugus, Fillmore, Santa Paula, Oxnard and Ventura".

By Decision No. 21349 on Application No. 15772, Miller acquired the interest of Shrider and became sole owner.

This appears to be a matter in which a public hearing is not necessary and in which the application should be granted.

Dulcie A. 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.

O R D E R

Frank Miller having made application to sell, and Dulcie A. Miller to purchase, the operative rights heretofore granted Frank Miller by Decision No. 15819 on Application No. 11318 and Decision No. 21349 on Application No. 15772,

IT IS HEREBY ORDERED that authority be and it is hereby granted to Frank Miller to sell and transfer to Dulcie A. Miller, and Dulcie A. Miller to purchase and acquire, the operating rights hereinbefore set forth; provided, that agreement of sale or other proper instrument of conveyance be filed with this Commission within twenty days from date hereof, 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 Frank Miller shall immediately unite with applicant Dulcie A. Miller in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Frank Miller on the one hand withdrawing, and applicant Dulcie A. Miller on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Frank Miller shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Dulcie A. Miller shall immediately file, in duplicate, in her own name time schedules covering service heretofore given by applicant Frank Miller which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Frank 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 Dulcie A. Miller unless such vehicle is owned by said applicant or is leased by her under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 7th day of
December 1931.

C. J. Seaver
Leon A. White
W. J. L.
M. B. Harris
Fred G. Stewart
COMMISSIONERS.