

Decision No. 36695

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of NATALE)  
 BACCI to sell and WALTER W. MILLS to pur- )  
 chase an automobile freight and mail line ) Application No. 25735  
 operated between Cloverdale and The )  
 Geysers, California. )

BY THE COMMISSION:

ORIGINAL

O P I N I O N

The above entitled application requests authorization for the transfer of a highway common carrier operative right between Cloverdale and The Geysers from Natale Bacci to Walter W. Mills.

The operative right involved was created by the Commission's Decision No. 7436, rendered April 15, 1920, on Application No. 5561. Bacci acquired the right under the authority of the Commission's Decision No. 9597, in Application No. 7223. The right originally included authority to transport passengers also but this portion of the operative right was revoked by the Commission's Decision No. 34382. Decision No. 30920, rendered May 31, 1938, in Application No. 21828, modified and limited the freight right to the transportation of shipments of property weighing not to exceed 100 pounds.

The total consideration involved is \$500. The applicants assert that this sum represents the value of the operative right and a contract with the United States Post Office Department for the transportation of mail between the points involved. There is no proposal to transfer any physical assets. Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the

purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose.

Walter W. Mills is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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 appears that this is a matter in which a public hearing is not necessary and the application will be granted.

#### O R D E R

Good cause appearing,

IT IS ORDERED as follows:

(1) That Natale Bacci is hereby authorized to sell and transfer to Walter W. Mills the highway common carrier operative right acquired by said Bacci under the authority of the Commission's Decision No. 9597, in Application No. 7223, as amended by Decision No. 30920 and Decision No. 34382, in Application No. 21828. Walter W. Mills is hereby authorized to purchase and acquire said operative right and hereafter to operate thereunder.

(2) That the authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Walter W. Mills, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.

(3) That applicants shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof, and on not less than one (1) day's notice to the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this  
9<sup>th</sup> day of November, 1943.

Francis A. Havenner  
J. H. [unclear]  
Justus F. [unclear]  
Richard [unclear]  
[unclear]  
COMMISSIONERS