

Decision No. 37017

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
EDWARD MILLER, d/b/a MILLER TRANS-)
PORTATION AND TAXI SERVICE, for a)
certificate of public convenience and)
necessity to operate a passenger stage)
service by automobile as a common)
carrier of passengers between Martinez)
and Richmond Shipyards Nos. 2 and 3 at)
Richmond, California.)

Application No. 25852

BY THE COMMISSION:

O P I N I O N

Edward A. Miller, doing business as Miller Transportation and Taxi Service, requests a certificate of public convenience and necessity authorizing him to establish and operate a passenger stage service for the transportation of passengers between Martinez and Richmond Shipyards Nos. 2 and 3 at Richmond and intermediate points provided that no passengers will be transported excepting those having point of origin or point of destination at Richmond Shipyards Nos. 2 or 3 and provided further that no local service will be performed within the city of Richmond. ⁽¹⁾

In support of the authority sought it is alleged that a large number of employees at the Shipyards involved who reside at Martinez, require additional transportation facilities. It is asserted that there is no direct transportation between Martinez and Richmond Shipyard No. 2 and that the present service between

(1) This applicant is presently providing a passenger stage service between Martinez and Avon and intermediate points and between Martinez and certain suburban areas immediately adjacent to but outside the corporate boundary of Martinez.

Martinez and Richmond Shipyard No. 3 is inadequate. Three daily round trips would be operated between Martinez and each of the yards proposed to be served, designed to meet the needs of the shipyard workers on the three daily shift changes.

The proposed one-way and round-trip fares between Martinez and the Shipyards are fifteen cents and twenty-five cents, respectively. Commutation tickets would be sold at \$3 each, good for fourteen round-trips.

Under the terms of a stipulation entered into by counsel for applicant and counsel for Pacific Greyhound Lines, applicant would discontinue and abandon the proposed operation six months after the termination of the present war. Fiddler Bros., the only other passenger stage corporation operating between the same points, have informed the Commission in writing that they do not desire to oppose the granting of the application.

It is apparent from the application that there is a public need for the establishment of the proposed service. The duration of such need, however, is not determinable in that the permanency of the shipyards at Richmond is obviously subject to the governmental requirements during the present war. In view of this circumstance it would appear that no limitation should be placed upon the term of the certificate herein granted. Instead, the matter should be reconsidered upon the presentation by applicant or by any competing carrier of a supplemental petition raising the question of the continuance of the service after the war emergency has ended.

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

Edward A. Miller 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.

O R D E R

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Edward A. Miller authorizing the establishment and operation of service as a passenger stage corporation, as that term is defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of passengers between Martinez and Richmond Shipyards Nos. 2 and 3 and intermediate points, subject to the following restrictions and condition:

- (a) The only passengers which may be transported are those having either point of origin or point of destination at one of the shipyards herein above described.
- (b) No passenger may be picked up or discharged within the corporate limits of the city of Richmond except at the Shipyards hereinabove described.
- (c) The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Edward A. Miller, 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.

IT IS FURTHER ORDERED that in providing service pursuant to the foregoing certificate, the following service regulations shall be observed:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
2. Applicant shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.
3. Subject to the authority of the Commission to change or modify them at any time by further order applicant shall conduct said passenger stage service over and along the following routes:

Beginning at Martinez thence over California State Highway No. 14B, United States Highway No. 40, 23rd Street, Cutting Boulevard and 14th Street.
 Beginning at the intersection of 23rd Street and Barrett Street (Richmond) thence over Barrett Street, Garrard Boulevard, Washoe Street, Cutting Boulevard, Esmeralda Street and Access Road.

4. Applicant may turn its motor vehicles at termini or intermediate points either in the intersection of the street or by operating around a block, contiguous to such intersection, in either direction.

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

Dated at San Francisco, California, this 25th day of April, 1944.

Richard L. Lusk
Justin J. Coe
Francis R. Havens
Wm. W. Allen
Wm. J. Luce
 COMMISSIONERS