

Decision No. 39060

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EDWARD)
A. MILLER to sell and J. R. VAN ARSDALE to)
purchase an automobile passenger line)
operating between Martinez and Avon,)
California, and certain sections adjacent)
thereto, known as Alhambra Valley,)
Mountain View, Victory Village and Fairview;)
and between Martinez, California, and)
Richmond Shipyards Nos. 2 and 3, Richmond,)
California.)

Application No. 26270

JAMES F. HOEY and F. G. HAMILTON, by F. G. HAMILTON,
for applicants.
BOEKEL & MORAN by JOHN O. MORAN, for Martinez Bus Lines,
Inc., interested party.

O P I N I O N

In the above entitled application, as amended, the Railroad Commission is asked to authorize Edward A. Miller to sell to J. R. Van Arsdale certain passenger stage operative rights and automotive equipment. The application was publicly heard on May 31, 1946, at San Francisco, with Application No. 27515 wherein J. R. Van Arsdale requests authority to transfer the operative rights involved herein, as well as other operative rights now held by Van Arsdale, to the Martinez Bus Lines, Inc.; and Application No. 27514 wherein Martinez Bus Lines, Inc., requests authority to issue stock and a promissory note and to execute a mortgage of chattels.

The operative rights herein proposed to be transferred were acquired by or granted to applicant Miller by Decision No. 32463, dated October 17, 1939, and Decision No. 35732, dated September 1, 1942, as amended by Decision No. 36584, dated August 31, 1943. The former decision authorized the acquisition of a prescriptive passenger stage right between Martinez and Avon and

the latter decision granted a certificate to Miller authorizing a passenger stage service between Martinez, Alhambra Valley, Mountain View, Victory Village, Fairview sections and intermediate points. The two rights were consolidated.

The agreed purchase price is \$26,900, of which amount \$26,300 is stated to represent the present day value of thirteen units of passenger stage equipment described in the amended application, and \$600 represents the value of the operative rights.

No one protested the granting of the authority sought and the Commission having given full consideration to the evidence of record believes that the application should be granted as provided in the order herein.

J. R. Van Arsdale is hereby 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

A public hearing having been held and the Commission being of the opinion that it is in the public interest to grant the authority requested.

IT IS ORDERED:

(1) That E. A. Miller is hereby authorized to sell and transfer to J. R. Van Arsdale, and the latter is authorized to purchase and acquire, after the effective date hereof and on or before August 31, 1946, the operative rights and the physical properties referred to in the opinion hereof, such sale and transfer to be in accordance with the terms of the agreement of sale attached to the application herein and marked Exhibit "A".

(2) That applicants shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filling in triplicate; and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than one day's notice to the Commission and the public.

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

Dated at San Francisco, California, this 11th day of June, 1946.

Harold Anderson
Justus F. Cramer
James D. Powell
Lawrence H. Huls
COMMISSIONERS