

ORIGINAL

Decision No. 54024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of

Emil H. Miller, doing business as
EMIL H. MILLER TRANSIT LINES

and

EMIL H. MILLER TRANSIT LINES, INC.

for authority to transfer operating
rights and all assets; for permit
to issue stock.

Application No. 38456

O P I N I O N

This is an application for an order (1) authorizing Emil H. Miller to transfer operative rights and equipment to Emil H. Miller Transit Lines, Inc., and (2) Emil H. Miller Transit Lines, Inc., to issue shares of stock in consideration for such transfer.

The application shows that Emil H. Miller, doing business as Emil H. Miller Transit Lines, is engaged in operating a passenger stage line between the City of Hayward and points south and west of the city under and pursuant to operative rights granted by the Commission by Decision No. 44836, dated September 26, 1950, as amended by Decision No. 45766, dated May 29, 1951 and by Decision No. 50939, dated January 4, 1955. His balance sheet statement as of December 31, 1955, shows the following:

Assets

Cash in bank	\$ 407.13	
Tangible properties	6,829.97	
Parts and supplies	<u>489.37</u>	
Total		<u>\$7,726.47</u>

Liabilities and Capital

Equipment and long-term obligations	\$1,773.24	
Proprietor's account	<u>5,953.23</u>	
Total		<u>\$7,726.47</u>

Applicant Miller has reported operating revenues of \$7,675.80 in 1955 and \$4,252.77 for the first six months of 1956 with a net loss of \$349.62 in 1955 and a profit of \$23.56 in the 1956 period, after making deductions for depreciation.

It appears that applicant Miller now desires to conduct his operations under a corporate form of organization, that he has organized Emil H. Miller Transit Lines, Inc., and that he proposes to transfer his assets and liabilities to it in exchange for shares of stock without par value but having a stated value of \$50 a share. The verified application shows that the transfer will not be accompanied by any change in service and that the corporation will utilize the same equipment now operated by applicant Miller and that it will adopt the present rates and time schedules.

In reviewing this matter, we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest and should be authorized. Applicant corporation is hereby placed on 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 as to the number of rights which may be given. Applicant is further placed on notice that as a public utility corporation it will be required to set up accounting records designed to produce the information called for in the uniform system of accounts prescribed by the Commission and to file annual reports of the results of its operations when called upon to do so.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of 120 shares of stock herein authorized is reasonably required by Emil H. Miller Transit Lines, Inc., for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Emil H. Miller, doing business as Emil H. Miller Transit Lines, may transfer his operative rights and equipment, on or before December 31, 1956, to Emil H. Miller Transit Lines, Inc.

2. Emil H. Miller Transit Lines, Inc., in acquiring such operative rights and equipment may assume the payment of outstanding liabilities and may issue not exceeding 120 shares of its common stock.

3. None of the shares of stock authorized by paragraph 2 hereof shall be sold or issued unless and until applicant corporation first shall have selected an escrow holder and said escrow holder first shall have been approved by the Commission. When issued, all documents evidencing any of said shares of stock shall be deposited with said escrow holder forthwith, to be held as an escrow pending the further written order of the Commission, and the receipt of said escrow holder for said documents shall be filed with the Commission. The owners or persons entitled to said shares shall not consummate a sale or transfer of said shares, or any interest therein, or receive any consideration therefor, until the written consent of the Commission shall have been obtained so do to.

4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs and timetables on file with the Commission naming rates, rules, regulations and schedules governing the common carrier operations here involved to show that Emil H. Miller, doing business as Emil H. Miller Transit Lines has withdrawn or canceled and Emil H. Miller Transit Lines, Inc., has adopted or established, as its own, said rates, rules, regulations and schedules.

5. Emil H. Miller Transit Lines, Inc., a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authorization herein granted will become effective 20 days after the date hereof.

Dated at San Francisco, California, this 5th day of NOVEMBER, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner C. Lynn Fox did not participate in the disposition of this proceeding.