

ORIGINAL

Decision No. 19120

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FRED SUTHERLAND for certificate of public convenience and necessity to operate automobile stage line between San Diego and Spring Valley and intermediate points and for re-routing of present service via Imperial Boulevard.)
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Application No. 14148.

Richard T. Eddy, for Applicant.

Morrison, Hohfeld, Foerster, Shuman & Clark, and S. E. Mason, for San Diego Electric Railway Co., Protestant.

BY THE COMMISSION:

O P I N I O N

A public hearing on the above entitled application was held in the City of San Diego on November 30, 1927. The San Diego Electric Railway Company appeared to protest the granting of the application as prayed for over that portion of the route known as Broadway Extension, but offered no objection to certain additions to the service now rendered by applicant over Imperial Avenue and other routes to the east thereof in the vicinity of Spring Valley.

For a better understanding of the territory now served and proposed to be served, as well as that now served by the protestant, reference should be made to Decision No. 18717 rendered by this Commission on August 16, 1927, on Applications Nos. 13617, 13783 and 13784. The eastern terminus of applicant's

present stage service as authorized by that decision is at Spring Valley, a growing residential district about nine miles easterly from the business section of San Diego. There has been a natural accretion to the population thus served by the addition of several hundred families located near this terminus, most of whom are now without adequate transportation service to and from San Diego. This district lies south of Spring Valley Station and eastward from Lemon Grove, the center of which is near the junction of Bancroft Drive and Palm Street (sometimes known as Troy Street), approximately a mile and a half from applicant's Imperial Avenue line. By routing some of the stages which now run along Imperial Avenue between Lemon Grove and Spring Valley Station over Palm (Troy) Street, Bancroft Drive and Sweetwater Avenue this growing population can be served. There was a large number of witnesses who urged that such extended service by the applicant be rendered, and as no protest was made thereto, there appears to be no reason why it should not be granted.

As to the further service proposed by applicant over Broadway a greater difficulty is presented. His present operating right between San Diego and Spring Valley, as stated above, is over Imperial Avenue. It traverses several comparatively thickly settled communities, making desirable the operation of 16 buses each way daily. The evidence seemed to be that on several occasions at least the buses were filled to capacity, but it is not quite clear that the proposed extension of service in the neighborhood of Spring Valley would necessitate additions to the present daily schedule. However, the applicant now seeks permission of this Commission to inaugurate a new service of four round trips daily between the

same termini, but over another route for the major portion of the distance, along which route there is at the present time practically no need for transportation service. The proposed new route is along Broadway Boulevard and it is this proposed service to which the protestant San Diego Electric Railway seriously objects.

Protestant contends that the public convenience and necessity does not demand any transportation service along Broadway at the present time for the reason that there are scarcely no persons living along such thoroughfare to avail themselves of such service, and furthermore, that it itself at all times has been and now is ready to give such service whenever the public convenience so requires. A number of photographs and maps were introduced in evidence by protestant to show that there are now along the whole length of the proposed route on Broadway only about twenty homes which are not within a distance of about three-quarters of a mile from applicant's present stage line. Nearly all of these are located near the eastern terminus of Broadway where it unites with Imperial Avenue in Lemon Grove. Applicant introduced no evidence to the contrary and, in fact, admits this generally to be the situation, but, nevertheless, in the belief that the territory is ready for immediate development, expressed himself as ready to at once inaugurate a bus service thereon.

There was no evidence presented to show a demand from the residents themselves along Broadway for transportation service, but a very strong appeal was made by those persons living east of Imperial Avenue around Lemon Grove and Spring Valley to accord them service into San Diego over Broadway in addition to the present Imperial Avenue route. Broadway is preferred because it is a new, well paved highway, not as congested as the older road and though there was some dispute as

to whether there would be any actual saving in distance, this route would undoubtedly, for a time at least, effect some saving in time. The present run to San Diego requires 35 to 40 minutes, whereas the proposed route would reduce such running time by ten minutes. Although many persons residing east of Imperial Avenue might prefer the Broadway route, because of such saving in running time, none of the witnesses, with the possible exception of Mr. O. F. Zottmann who desired transportation to a point near 35th and Broadway in San Diego, would normally be precluded from using the applicant's stages should they continue to operate on the Imperial route solely. No witnesses were presented who live west of Imperial Avenue along Broadway. The testimony of Mr. Sutherland and of those witnesses living east of Imperial Avenue was that there were about 50 families living in the Lemon Grove District to the west of Imperial, but nearly all of such residents live within three-quarters of a mile from the existing bus line.

It would appear, then, that the applicant seeks a certificate of public convenience and necessity to operate auto stages through a territory the residents of which have not demanded such service, if, indeed, there are more than a few residents living therein who might make such a demand. It is true that the residents of the Spring Valley District have expressed a decided preference in favor of the Broadway route, but certainly there has been no showing that the present service is inadequate or that public convenience and necessity demand the additional Broadway service. Imperial Avenue has at times been impassible during heavy rains, but admittedly this was an unusual circumstance. This Commission might accede to the requests of the Spring Valley

residents and accord the applicant the right to operate these buses on Broadway between the present authorized termini without the privilege of serving any intermediate points thereon, but we believe that rights of such a nature should not be granted except when unavoidable.

Accordingly, the applicant will, in the following order, be granted an extension of his present operating rights in order to better serve the residents in and to the south of Spring Valley, but in so far as the applicant seeks an operating right on Broadway and Broadway Extension, this application should be denied.

O R D E R

Application having been made to the Railroad Commission by Fred Sutherland for a certificate of public convenience and necessity to operate an automobile stage service between San Diego and Spring Valley and intermediate points and rerouting of present service via the Imperial Avenue, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by applicant Fred Sutherland of an automobile stage service for the transportation of passengers between San Diego and Spring Valley over the following route or routes, not as a separate operating right, but in conjunction with and as a part of applicant's existing operating rights between said termini over Imperial Boulevard, to-wit: From Lemon Grove to Spring Valley alternatively via Palm Street (sometimes known as Troy Street), Sweetwater Street and/or Bancroft Drive to Spring

Valley Station.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same hereby is granted to Fred Sutherland, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof,
2. Applicant shall file, in duplicate, within a period not to exceed twenty (20) days from the date hereof, time schedules which shall cover the service herein authorized, and commence the operation of such service within a period of not to exceed thirty (30) days from the date hereof.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same hereby is denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15th day of December, 1927.

Edward A. [Signature]
[Signature]
Leon Whitehall
[Signature]
[Signature]
Commissioners.