

Decision No. 21116.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of FRED A. SUTHERLAND for permission and a certificate of public convenience and necessity authorizing him to route a portion of his auto stages over a part of National Avenue and Highland Avenue in the City of San Diego, County of San Diego, State of California.

ORIGINAL

Application No. 15495

In the Matter of the Application of SAN DIEGO ELECTRIC RAILWAY COMPANY, a corporation, for permission to extend its National Avenue Bus Line, in the City of San Diego, from its present terminus at National Avenue and 39th Street, to a terminus at National Avenue and Highland Avenue.

Application No. 15524

E. P. Sample, for Applicant in  
Application No. 15495

Morrison, Hohfeld, Foerster, Shuman & Clark,  
by Forrest A. Cobb; and S. E. Mason  
for Applicant in Application No. 15524.

BY THE COMMISSION:

O P I N I O N

Both applicants seek authority to enlarge their existing motor bus operations in the southerly portion of the City of San Diego adjacent to National City. Their proposals as originally made would have to some extent resulted in a duplication of service and each therefore protested the application of the other. At the hearing, however, held in San Diego on April 12th, amendments were made to each application which we believe will eliminate such unnecessary duplication and will just as completely

meet the public need for increased transportation facilities.

San Diego Electric Railway Company now operates motor busses along National Avenue, San Diego between the terminus of its street car line at 32nd Street and 39th Street. It now seeks a permit to extend such bus operation along National Avenue from 39th Street to Highland Avenue, thence along Highland Avenue to Logan Avenue and thence along Logan Avenue as far as 47th Street, all within the City of San Diego. The City of San Diego has granted this applicant franchises for such extension.

The application of Fred A. Sutherland, as amended, is for a re-routing of the portion of his bus service now operating between San Diego and Chula Vista so as to better serve those residents in the northerly portion of National City and the southerly portion of the City of San Diego. We believe that the public will be better served by permitting such re-routing. Both applications will therefore be granted.

Both Fred A. Sutherland and San Diego Electric Railway Company are hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby finds that public convenience and necessity require that San Diego Electric Railway Company operate a motor stage transportation service along the following described route, to-wit:

Commencing at the intersection of 32nd Street and National Avenue in the City of San Diego, thence running easterly along National Avenue to Highland Avenue, thence northerly along <sup>Highland Avenue to</sup> Logan Avenue, thence easterly along Logan Avenue to 47th Street, all within the City of San Diego, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for said services and the same is hereby granted to San Diego Electric Railway Company subject to the following conditions:

1. Applicant shall file its 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 of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) 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 it under a contract or agreement on a basis satisfactory to the Railroad Commission.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby finds that public convenience and necessity require that Fred A. Sutherland conduct a motor bus transportation service over the following described route, to-wit:

Beginning at the intersection of Division Street and National Avenue in the City of National City, thence easterly along Division Street to Highland Avenue, thence southerly along Highland Avenue to 8th Street in the City of National City.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for said service be and the same is hereby granted to Fred A. Sutherland as an extension to and as part of right heretofore established by Fred A. Sutherland through operation prior to May 1, 1917, and 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 within twenty (20) days such time schedules as are necessary to cover enlarged service.
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.

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

Dated at San Francisco, California, this 16<sup>th</sup>  
day of May, 1929.

Thos D. Lott

C. L. Loney  
Frank J. Lott

Leon O. White

J. H. Lott  
Commissioners.