

13115- ORIGINAL

Decision No. ~~14015~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application)
of San Diego Electric Railway Company)
a corporation, for an order authori-)
zing it to construct, maintain and)
operate its street railway tracks upon) Application No. 9177
and over head crossing over the tracks)
of The Atchison, Topeka & Santa Fe)
Railway Company and across Tide Street,)
in San Diego.)

R. G. Dilworth, for Applicant.

Robert Brennan, for The Atchison, Topeka and Santa Fe
Railway Company.

S. J. Higgins, City Attorney, by Stanley E. Howe,
Deputy City Attorney, for the City of San Diego.

Wright & McKee, by Dempster McZee, for the La Jolla
Stage Line.

Norman Smith, for the Navy Department.

S. Carder Smith, in propria persona, and for certain
residents of Ocean Beach, Old Town and La Playa.

C. M. Monroe, for La Jolla Stage Line.

BY THE COMMISSION:

O P I N I O N

In this application San Diego Electric Railway Company asks for an order authorizing it to construct, maintain and operate an overhead crossing over and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and across Tide Street in the City of San Diego.

This matter was consolidated for hearing with Application No. 9095, in which the same applicant asks the authority of this Commission to abandon certain street railway service in San Diego. While the two applications were heard together they were not consolidated for decision, and since the proposals of the applicant in Application No. 9095 depend to a large extent on a decision in the application herein, separate decisions will be issued.

Public hearings were held in San Diego before Examiner Handford on August 16, 1923 and September 12, 1923.

San Diego Electric Railway Company proposes to establish high speed service between the City of San Diego and Mission Beach and in connection therewith proposes to discontinue certain of its existing service. This new fast service is along a new route. Leaving Broadway, San Diego, the new route is along Arctic Street to Walnut Street, thence on private right of way to Hancock Street, which was to be followed to near Smith Street. From this point the line was to be located upon private right of way. Applicant has secured franchises from the City of San Diego, including along Hancock Street, which street crosses the main line of the Santa Fe between Los Angeles and San Diego near Ampudia Street.

It was shown that subsequent to the filing of the application but prior to the first hearing the Santa Fe suggested to applicant an alternate location for applicant's proposed new line of railroad. The Santa Fe also advised the Commission that it suggested this alternate location and that the matter was under negotiation. The map later filed as the Commission's Exhibit No. 1 showing the proposed and alternate locations was submitted with this information. On this map applicant's proposed location is shown in green and the alternate location proposed by the Santa Fe is shown in red and throughout the hearings the two locations have been referred to as the green line or route and the red line or route.

The purpose of the alternate location suggested by the Santa Fe was to avoid a sharply acute angle crossing of the Santa Fe track and with some adjacent land which the Santa Fe purchased some years ago for use as a yard and engine terminal location. This property consists of a number of city blocks bounded by dedicated streets which are, however, in practically all cases, entirely unimproved and not used. The Santa Fe also applied to the City of San Diego to vacate these paper streets so that the various blocks could be joined together in a large tract of land uncut by city streets and thus usable for yard purposes.

The red line location further proposed the elimination of the present grade crossing of Tide Street and the track of the Santa Fe. This was to be accomplished by relocating Tide Street as shown on the Commission's Exhibit No. 1 and carrying it under the tracks of the Santa Fe in a subway. This proposal involved the consent of the city to thus change Tide Street.

At the first hearing the applicant agreed to change its location from the green line to the red line and amended its application accordingly. Also, the Commission's engineer stated that the red line location appeared to be superior to that originally proposed by the company.

The traffic across the present grade crossing of Tide Street and the Santa Fe was shown to be 4567 vehicles of various kinds on August 15, 1923 between the hours of 6:00 a.m. and 8:00 p.m. The railroad traffic was fifteen movements between the same hours on September 11, 1923. The evidence indicates that the Sunday and holiday traffic (vehicular) is largely in excess of the figures submitted.

Several estimates were submitted both by the applicant and the Santa Fe as to cost of construction on both the green and red lines but since these estimates were predicated upon different

types of construction, upon different numbers of tracks on both the electric lines and the steam railroad and upon different elevations they were not comparable and it was then stipulated that if the red line be adopted the proposed crossing of the applicant over the Santa Fe should provide for one of applicant's tracks and three Santa Fe tracks, the existing main line track and two side tracks, to be located respectively fourteen and twenty-eight feet southerly from and parallel to the present main line track of the Santa Fe.

It was also stipulated that the Santa Fe would appear before the City Council of San Diego with reference to its application to close the above numbered streets now located on its proposed terminal grounds and with reference to the relocation of Tide Street and the matter was submitted with the understanding that the action then taken by the City Council would be certified to the Commission and become of record in this proceeding. The City Council of the City of San Diego by its Resolution 2984 adopted September 17, 1923 granted the petition for closing the streets crossing the Santa Fe terminal grounds and the relocation of Tide Street subject to certain conditions among which are that the Santa Fe would acquire and deliver to the City of San Diego the necessary rights of way and easement for the construction of new Tide Street according to a certain map which is the same as the City of San Diego's Exhibit No. 2. Where the two railroads are crossed the new route of Tide Street is in Witherby Street which name will hereinafter be used. A second condition is the construction of a subway on this new route, none of the expense of which was to be borne by the city. The action of the city has thus now made possible the construction of applicant's line of railroad on the red line.

The resolution of the City Council of San Diego above referred to provided that both railroads, within ten days of its adoption, should file a written acceptance. This has been done.

Approaching the crossing from the east, the plan is for applicant's railroad to raise to sufficient clearance over the Santa Fe on a wooden trestle, to cross the Santa Fe on a steel span, to then continue to Tide Street on another wooden trestle, to cross Witherby Street by means of a steel span and thence to descend on the west side of the two crossings by means of another wooden trestle. The crossing of Witherby Street under the Santa Fe is planned to be made by depression of the street, leaving the Santa Fe track at present grade.

Applicant has agreed to pay all of the cost of constructing its new line across the Santa Fe and across Witherby Street, including the trestle approaches above mentioned. The cost of this according to applicant's Exhibit No. 8 and the Santa Fe's Exhibit No. 5, is estimated as follows:

	<u>Applicant</u>	<u>Santa Fe</u>
Trestle Approaches	\$70 365.00	\$54 725.00
Steel Span and concrete piers for crossing over Santa Fe	75 994.00	59 692.00
Steel Span and concrete piers for crossing over New Tide Street	<u>44 576.00</u>	<u>35 799.00</u>
Total	\$190 935.00	\$150 216.00

These estimates are quite different in amount but since the San Diego Electric agreed to bear the cost of this work it is not necessary to make any attempt at their reconciliation. They do, however, indicate the magnitude of the work.

As to the relocation of Tide and the construction of a subway in Witherby Street under the Santa Fe there is also a difference between the estimates of the applicant and the Santa Fe as follows:

Estimate of Applicant (Applicant Exhibit No. 8)	\$99 722.23
Estimate of Santa Fe (A.T. & S. Fe Ry. Exhibit No. 5)	91 256.00

In these last estimates the quantities and the unit prices applied thereto by both parties are practically alike.

Applicant, however, has added an additional ten per cent which practically explains the difference between the totals of the estimates.

San Diego Electric Railway Company is willing to pay one-half of the cost of changing the highway but is not willing to bear any part of the cost of grade separation between the new highway (Wetherby Street) and the Santa Fe. The Santa Fe, on the other hand, does not believe that it should be required to pay more than one-half of the total cost of changing the highway and separating the grades. The apportionment of the cost not having been agreed to by the interested parties is by stipulation now before the Commission.

Applicant's first location (the green line) as located in Hancock Street, cuts diagonally across the terminal properties of the Santa Fe. The adoption of the new location (the red line) removes this objection. The Santa Fe is also benefitted by the closing by the City of the streets across these properties as this not only makes possible their use for terminal facilities but also actually increases the area of its land. By acceptance of the resolution the Santa Fe has obligated itself to compensate the City in various ways, among which there must be considered its proportion of the cost of relieving the city of any part of the expense of the new highway and subway. The Santa Fe will also be benefitted by the elimination of the existing heavily traveled Tide Street grade crossing.

San Diego Electric Railway Company by virtue of the adoption of the red line will be enabled to make its crossings of the Santa Fe and Tide Street at less expense, as the structure considered as a whole, will be shorter. In the proposed construction along the green line applicant's railroad would cross Tide Street overhead, with a trestle approach to the span across this street. Applicant would therefore by reason of obstructing the

view to travellers on the highway of the Santa Fe trains add somewhat to the hazard of the existing Santa Fe crossing of Tide Street. The construction along the red line will do away with the present grade crossing of the San Diego Electric located in Tide Street and the tracks of the Santa Fe. Applicant also benefits from the possibility of a track connection between its new high speed railroad to be located along the red line and the existing trackage in Tide Street adjacent to the United States Marine Base.

After careful consideration of all of the evidence and record herein and the position of both the railroads with respect to the cost of relocating Tide Street and grade separation of the Santa Fe crossing we are of the opinion and hereby conclude that it would be equitable for the San Diego Electric Railway Company to bear one-third and The Atchison, Topeka and Santa Fe Railway Company two-thirds of such cost.

The items, the cost of which is to be so divided, are considered as those shown in applicant's Exhibit No. 8 and Santa Fe's Exhibit No. 5. The exchange of land between the Santa Fe and the City of San Diego as involved in the relocation of Tide Street is not to be considered as involved in the cost to be apportioned between the Santa Fe and the applicant. Also, it is understood that the Santa Fe will provide free to applicant a right of way for applicant where the red line crosses Santa Fe property in Blocks 223, 542, 326, 327 and 328, as shown on Commission's Exhibit No. 1, and this right of way is also not to be considered as an item in the cost of the relocation of Tide Street.

ORDER

San Diego Electric Railway Company having applied to

the Commission for permission to construct, maintain and operate its street railway tracks upon an overhead crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company and over Tide Street, all in the City of San Diego, public hearings having been held, the matter having been duly submitted and the Commission being now fully advised and basing its order upon the conclusion and findings as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED, that applicant be and it hereby is authorized to construct an overgrade crossing of the track of The Atchison, Topeka and Santa Fe Railway Company in Block 223 in the City of San Diego, County of San Diego, State of California, subject to the following conditions:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter shall be borne by applicant.

(2) Said crossing shall be constructed at the location, in the City of San Diego as shown on the Commission's Exhibit No. 1 in the application herein.

(3) Said crossing shall consist of one track of applicant crossing the three tracks of The Atchison, Topeka and Santa Fe Railway Company, namely, the existing main line track together with two side tracks of The Atchison, Topeka and Santa Fe Railway Company to be located, respectively, fourteen and twenty-eight feet southerly from and parallel to said main line track and said crossing shall be constructed by the elevation of applicant's track above the track of The Atchison, Topeka and Santa Fe Railway Company, which is to be left at its present elevation.

(4) Said crossing shall be constructed according to plans which shall have been approved by this Commission.

(5) Said crossing shall be constructed with clearances to conform with the Commission's General Order No. 26.

(6) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED, that applicant be and it is hereby authorized to construct its track across Witherby Street, near its intersection of Kurtz Street, in the City of San Diego, County of San Diego, State of California, subject to the following conditions:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossing shall be constructed in the location shown on the red line on Commission's Exhibit No. 1 in the application herein.

(3) Said crossing shall be constructed with separated grades according to plans which shall have been approved by the Commission.

(4) Said crossing shall be constructed with a roadway thirty feet in width and with one sidewalk six feet in width to be located on the easterly side of said street and approximately six feet above the elevation of said roadway. Grades of approach of said roadway to said crossing shall not be in excess of five per cent and on said sidewalk shall not be in excess of ten per cent.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED, that if and when applicant commences the construction of the new line of railroad as shown by

the red line on the Commission's Exhibit No. 1, applicant and The Atchison, Topeka and Santa Fe Railway Company shall forthwith proceed with the construction of a new highway as shown by "proposed location of highway" on the City of San Diego's Exhibit No. 2, said new highway to be constructed at separated grades where it crosses the existing track of The Atchison, Topeka and Santa Fe Railway Company and shall complete the construction of said new highway and subway within six (6) months from the commencement of construction thereof.

IT IS HEREBY FURTHER ORDERED, that the cost, as considered in the foregoing opinion, of construction of said new highway including the cost of a separated grade crossing with said Atchison, Topeka and Santa Fe Railway Company, shall be borne one-third by applicant and two-thirds by The Atchison, Topeka and Santa Fe Railway Company; that the said separated grade crossing shall be made by constructing said new highway under the track of The Atchison, Topeka and Santa Fe Railway Company; that said undercrossing shall be constructed with a paved highway for the use of vehicles not less than thirty feet in width, with grades of approach not in excess of five (5) per cent and with a sidewalk six feet in width elevated approximately six feet above the elevation of the roadway, said sidewalk to have grades of approach not in excess of ten per cent and to be located on the easterly side of said highway and, that, further, said under crossing shall be constructed in accordance with plans which shall have been approved by the Commission.

IT IS HEREBY FURTHER ORDERED, that the existing grade crossing of the track of applicant and that of The Atchison, Topeka and Santa Fe Railway Company located in Hortensia Street between Hancock Street and Kurtz Street be and it is hereby abolished when applicant shall have commenced service on the new line of railroad involved in this proceeding and that applicant shall

bear the expense of abolishing said crossing.

IT IS HEREBY FURTHER ORDERED, that the grade crossing of Tide Street and the track of The Atchison, Topeka and Santa Fe Railway Company as shown on the Commission's Exhibit No. 1 be and it is hereby abolished when the new highway herein ordered to be constructed by the applicant and the Santa Fe shall have been opened for traffic and that The Atchison, Topeka and Santa Fe Railway Company shall bear the expense of abolishing said crossing.

IT IS HEREBY FURTHER ORDERED, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this 4th day of February, 1924

C. Shaver
H. B. Brundage
Egerton Chase
J. J. Whitney
Commissioners