

Decision No. 14244

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the City of Los Angeles for an order)
requiring the Pacific Electric Rail-)
way Company to at once so elevate its)
tracks as to establish an undergrade)
crossing of La Cienega Boulevard, in)
said city, at the inter-section of)
said boulevard with the Venice Short)
Line tracks of said railway, and to)
apportion the costs of such separa-)
tion of grades.)

ORIGINAL

Application No. 10192.

Milton Bryan, for City of Los Angeles.
Frank Karr, for Pacific Electric Railway Company.

BRUNDIGE, COMMISSIONER:

O P I N I O N

In this application the City of Los Angeles asks permission to construct La Cienega Boulevard across Pacific Electric Railway Company's right-of-way and under the tracks of their so-called "Venice Short Line".

A public hearing was held in this matter in Los Angeles September 30, 1924.

La Cienega Boulevard, a new 100 foot highway in the City of Los Angeles, is to be opened to accommodate north and south vehicular traffic to the district east of Culver City and Beverly Hills, and when completed according to the present plan, will intersect the following important vehicular arteries leading toward Los Angeles; Sunset Boulevard, Santa Monica Boulevard, Beverly Boulevard, Wilshire Boulevard, County Club Drive, Pico Boulevard and Washington Boulevard. South of Washington Boulevard, La Cienega Boulevard is planned to connect with the Inglewood Canyon Road. The ultimate length of this highway is about six miles, but only approximately 75 per cent is now

open to travel, of which only a portion is paved at this time. It is estimated that it will take between two and three years to complete the opening and paving of the remaining portion of this highway.

The crossing applied for is at the intersection of the Pacific Electric Railway Company's so-called "Venice Short Line", with La Cienega Boulevard between the latter's intersection with Washington Boulevard and Pico Boulevard. As La Cienega Boulevard will undoubtedly carry a very large vehicular traffic when finished, and as the "Venice Short Line" is an important interurban electric railroad with frequent train movements at high rates of speed, and as the physical conditions lend themselves quite favorably to elevating the tracks at La Cienega Boulevard, it is evident that if a crossing is to be established here it should be effected by raising the tracks of the railroad and constructing the highway underneath.

There is no crossing at this time over the Railway in the vicinity of La Cienega, and unquestionably in the near future there will be an urgent public necessity of at least one crossing in the vicinity of the one proposed here, as the adjacent territory is being subdivided and improved, and in addition La Cienega Boulevard will afford a connection between the highways named above and should carry a large amount North and South through traffic in this vicinity which would otherwise cross the Railway at grade.

Applicant estimates the total cost of the improvement to be \$165,580, while the Pacific Electric Company presented an estimate which showed the cost to be \$190,896. Mr. W. L. Pollard, General Manager of the E. J. Lawrence Company and Manager of the trust company owning Tract 6447 in which this crossing occurs, testified that his company had set aside \$25,000 to be contributed to assist in defraying the expense of the proposed grade separation. The suggested plan for effecting this grade separation is to elevate the track over a distance of 2220 feet. At the intersection of La Cienega Boulevard the track is to be supported by means of a rein-

forced concrete viaduct, the total length of which is approximately 750 feet. At either end of the viaduct the track is to be constructed on an earth fill with a maximum grade of $1\frac{1}{2}$ per cent. This plan complies with the Commission's General Order 25 with respect to vertical clearance. Due to the fact that the district in the vicinity of this proposed crossing is comparatively low ground, it does not appear practical to depress the roadway more than two or three feet, as the underground water would undoubtedly make it necessary to maintain pumping equipment. In general the plans for the proposed improvement appear to be the most economical method of effecting the grade separation. This plan will, however, interpose approximately thirteen feet of rise and fall on the railroad and will, to some extent, adversely effect railroad operations.

Pacific Electric Railway Company is not opposed to granting applicant an easement to cross its right-of-way with an under-grade crossing, but contends that it should not bear any portion of the expense of the improvement other than the cost of replacing any track material that may be necessary to replace the materials now in use.

In support of its contention, the railroad recites that when it has been called upon to provide separated grade crossings incident to the construction of new lines of railroad, it has been assessed with the entire cost of such work, and contends therefore, that when a new highway requiring a grade separation, as in this case, is to be built, the entire cost of the structure should similarly be borne by the applicant.

We are/^{not} convinced as to the validity of the railroad's argument. A line of railroad is primarily constructed for the purpose of engaging in that business for profit. The establishment of such a line of railroad becomes, of itself, a barrier to what would otherwise be a free and safe means of access for vehicular travel

between the two portions of the territory divided by the railroad, and which, by the construction of the railroad, becomes limited.

It is a well established principle that the railroad incurs an obligation to reduce to a minimum, the hazard at any of the crossings of the established lines of travel of the public, and the obligations of a carrier to participate to the extent of 50 per cent of the cost of completely eliminating such grade crossings at established highways has become almost customary; nor is the railroad's obligation decreased in such a case because of the fact that highway traffic development has increased, subsequent to the establishment of a railroad, to such an extent that grade crossing elimination, which originally was not justified, later becomes necessary.

It is thus evident that the railroad's obligation to provide reasonably safe access across its tracks is a continuing obligation, and it cannot expect to wholly escape the burden of providing safe highways, in addition to those already constructed at the time of the original railroad construction, when development of the community it serves, demands such additional highways. In the present case, the evidence shows that the development in the territory under consideration, has reached a stage where an additional highway will, in the near future, be necessary, and for the reasons above indicated, some portion of the cost of separating the grades at this new highway crossing should equitably be borne by the railroad.

After reviewing all the evidence in this case, it is our judgment that an equitable apportionment of the cost providing for a separated grade crossing at La Cienega Boulevard with the Venice Short Line of the Pacific Electric Railway, would be to assess 75 per cent of the cost of this work to the applicant and 25 per cent of the cost to the railway; applicant, however, to pay the entire cost of paving the roadway through the structure.

There appears to be some uncertainty as to when the La Cienega Boulevard improvement will have progressed to such a stage

that grade separation should be undertaken. In view of this uncertainty as to time, it appears that in the present order it would be unwise to make any definite limitation as to the time within which this work should either be commenced or finished. This order will, therefore, be in the nature of a preliminary order, setting forth the findings of the Commission as to the kind of crossing that should be installed, when a crossing is required, and the apportionment of the cost thereof. A final order in this proceeding, specifying the limits of time within which this work shall be commenced and finished, will be rendered at a later date either upon representation of any interested party, or when it appears to the Commission that the general improvement of the La Cienega Boulevard project has progressed to such a point that a reasonably definite time limit can be established.

The following form of Order is recommended:

ORDER

The City of Los Angeles having filed the above entitled application with the Commission for permission to construct an under-grade crossing of La Cienega Boulevard at its intersection with Pacific Electric Railway Company's so-called "Venice Short Line" in the City of Los Angeles, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED that if and when La Cienega Boulevard shall be constructed across the Venice Short Line of Pacific Electric Railway in the location shown on map marked Exhibit "A" attached to the application, a grade separation shall be effected by carrying the tracks of said Pacific Electric Railway above said La Cienega Boulevard, in accordance with the plan filed in this proceeding as Exhibit "C", and subject to the following conditions:

1. The proposed grade separation shall be constructed in accordance with detailed plans which shall be submitted to and be approved by this Commission.

2. The cost of the grade separation, exclusive of paving, shall be borne: seventy-five (75%) per cent by applicant and twenty-five (25%) per cent by Pacific Electric Railway Company. The cost of paving shall be borne by applicant. The maintenance of the tracks and the supporting structure shall be borne by Pacific Electric Railway Company. The roadway and drainage shall be maintained at the expense of applicant.

3. Construction work on this grade separation shall not be started until subsequent order is issued by this Commission, specifying the date on which such work shall be started, and the length of time within which it shall be completed, providing, however, that such date and time may be changed by the Commission, if circumstances require such action.

4. The Commission reserves the right to make such further Order relative to location, construction, operation, maintenance and protection of said undergrade crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

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

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of November, 1924.

C. Seaver
H. B. Prudig

J. F. Whittley
Commissioners.