

Decision No. 14403

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

City of Stockton, a municipal corporation,

Plaintiff

vs.

Southern Pacific Company, a corporation,
The Western Pacific Railroad Company, a
corporation,

Defendants.

Case No. 1963.

J. LeRoy Johnson, City Attorney of the City of
Stockton and Clarence Grant, Assistant City
Attorney, for complainant.

Elmer Westlake and E. J. Foulds, by E. J. Foulds,
for Southern Pacific Company.

James S. Moore, Jr. and Neumiller Ditz, by Mr.
Ditz for the Western Pacific Railroad Company.

MARTIN, Commissioner.

O P I N I O N

This is a proceeding brought by the City of Stockton, asking that the Commission make its order directing that a subway or an overgrade crossing be built on Miner Avenue in the City of Stockton, across the tracks of Southern Pacific Company and The Western Pacific Company, defendants herein; that each of the defendant railroad companies be charged with their portion of the expense of the construction of the elected grade separation and for such other and further relief as the Commission may deem meet and just in the premises.

In the complaint it is alleged that the safety, convenience and welfare of the citizens of the City of Stockton make it

necessary that a grade separation be effected on at least one of the city streets traversing tracks of defendant railroad companies; and that Miner Avenue is centrally located and offers a good location for the construction of a subway or overgrade crossing across the tracks of defendant railroad companies.

With respect to effecting a grade separation at Miner Avenue by means of an overgrade crossing, complainant herein had advised the Commission, in writing, that subsequent to the filing of this complaint, further investigation had been made relative to the construction of an overgrade structure and, as a result, complainant had decided to withdraw its request for the consideration of an overhead crossing and ask that only the subway structure be considered. This request of complainant was granted.

In the answer of each of the defendant railroad companies, practically all the allegations set forth in the City's complaint, tending to show there is a necessity for a grade separation at this time, are denied and dismissal of the complaint is asked.

Public hearings were held in this matter in Stockton February 20th, April 2nd and 3rd, May 23rd; and in San Francisco, April 17th, 18th, 19th, 23rd, all in 1924. It was stipulated by all interested parties that the record in Case 1457, in so far as relevant, be considered in evidence in the present proceeding. Case 1457 was a complaint wherein the City of Stockton asked the Commission to order a subway at Weber Avenue and which, after a number of hearings, was dismissed at the request of the complainant.

Stockton is an important industrial, manufacturing and marketing center, located in the upper portion of the San Joaquin Valley, and is practically surrounded by a large fertile agricultural, horticultural and viticultural district, a great portion of which is intensively cultivated. This city is fortunately situated with respect to transportation facilities, being located on tidewater and

reached by three trans-continental railroads.

The main line tracks of Southern Pacific Company and The Western Pacific Railroad Company, defendants herein, which for convenience will sometimes hereinafter be designated collectively as the Railroads, pass through the City of Stockton in a northerly and southerly direction. The lines of the two railroad companies in the city are practically parallel and situated some 200 feet apart in the vicinity of Miner Avenue. The Western Pacific occupies the easterly position.

Approximately 32 per cent of the area of the City of Stockton lies east of the Railroads. The total population of Stockton is estimated at 53,000, of which some 25 per cent reside east of the Railroads. Located west of the Railroads are the greater portion of the City's larger industries and civic organizations, the business center, the waterfront, the High School, the major portion of the public parks and playgrounds, the greater portion of the industrial plants and six of the seven fire stations. The east side is built up largely with residences.

There are thirty important east and west city streets between Harding Way, (formerly North Street) and Charter Way, (formerly South Street) of which only thirteen cross the Railroads at grade. Seven of these east and west streets are closed by the State Hospital grounds. A number of the other streets that do not cross the tracks are not graded adjacent to the Railroads. With four exceptions all the thirteen streets that cross the tracks involved herein are 60.6 feet in width, the four exceptions being Harding Way, 90 feet wide, and Miner, Weber and Hazelton Avenues, each having a width of 111.1 feet. The present distribution of traffic on the east and west streets is shown in the following tabulation of traffic counts from City of Stockton's Exhibits 10 and 21.

AVERAGE PER HOUR												
Date and:												
Time												
STREET TRAFFIC												
RAILROAD TRAFFIC												
: Pedes- : S.P. Co. : W.P.R.R.Co. : Total												
: Motor:Other: :trians: : Other : :Other : Total												
: Vehi-:Vehi-:Street:& Bicy: : Move- : :Move- : Move-												
: Crossing : Taken. :cles :cles.: Cars :cles. :Total:Trains:ments.:Trains:ments.: ments.												
Harding Way (North St.)	11-17-23 6 AM-10 PM	51.5	1.2	-	12.7	65.4	1.3	2.1	1.0	2.3	6.7	
Park Street	Do.	52.1	1.0	-	22.5	75.6	1.1	0.3	1.2	2.3	4.9	
Oak Street	Do.	59.3	2.4	-	12.9	74.6	1.6	0.4	1.0	1.4	4.4	
Lindsay St.	3-18-24 24 hrs.	34.9	1.0	-	19.5	55.4					3.6	
Miner Ave.	11-17-23 6 AM - 10 P.M.	46.1	1.0	-	23.8	70.9	1.5	4.9	0.7	1.0	8.1	
Channel St.	3-18-24 24 hrs.	28.9	1.3	-	11.5	41.7					6.0	
Weber St.	11-17-23 6 A.M. - 10 P.M.	510.7	4.1	3.0	93.6	611.4	29	5.2	0.6	1.1	9.8	
Main St.	Do.	245.1	1.3	23.8	173.8	444.0	2.4	5.1	0.4	1.0	8.9	
Market St.	Do.	189.4	10.7	-	80.6	280.7	1.4	3.8	0.9	1.2	7.3	
Lafayette Street	6-11-21 6 A.M.- 10 P.M.	20.8	6.7	-	45.3	72.8	1.7	7.9	0.4	1.8	11.8	
Church St.	3-18-24	27.1	.8	-	19.5	47.4	-	-	-	-	16.4	
Haselton Avenue	11-17-23 6 A.M.- 10 P.M.	35.1	3.0	-	17.3	55.4	2.4	6.3	0.8	1.3	10.8	
Charter Way (South St.)	Do.	127.2	4.6	-	11.4	143.2	1.2	4.9	1.0	2.5	9.6	
Total		1428.2	39.1	26.8	544.4	2038.5	17.5*	40.9*	8.0*	15.9*	108.3	

* Exclusive of Lindsay, Channel and Church.

Note: Traffic checks taken on Nov.17, 1923 and June 11, 1921 shown in City of Stockton's Exhibit No. 10.

Traffic checks taken on March 18, 1924 shown in City of Stockton's Exhibit No. 21.

This table shows that the three most important east and west streets of Stockton crossing the Railroads, named in the order of the volume of vehicular traffic carried are, Weber Avenue, Main Street and Market Street. Weber Avenue is located two blocks south of Miner Avenue; Main and Market Streets being the next streets in the order named south of Weber Avenue. These three streets are the principal east and west business streets and carry approximately 65 per cent of the total vehicular and pedestrian traffic that passes over the Railroads. Main Street, in addition to carrying a large volume of vehicular traffic, has the only important street car line serving that portion of the city east of the Railroads. With respect to the traffic on Miner Avenue, attention is called to the fact that this street is at present only partially improved in the vicinity of the proposed subway, which accounts to a certain extent for its relative light traffic, as shown in the preceding tabulation.

Wilson Way, (formerly East Street) is a north and south street located four blocks east of the Railroads. All of the principal highways entering Stockton from the northeast and east, feed traffic into Wilson Way, and this street also now connects directly with all the thirteen through east and west streets crossing the Railroads. The distributing power of this street, therefore, makes it possible for the city to control, in a large degree, the extent to which traffic is distributed on the east and west streets. The importance of Wilson Way in this regard will be even greater when the improvement of this street, now under way, has been completed. Because of topographical conditions, a considerable proportion of the future residential growth of Stockton will most probably take place largely to the north and east of the present built up area. Also, the City has located a civic center near the westerly terminus of Miner Avenue, about two blocks north of the present

business center of the city, which will tend to increase the importance of Miner Avenue as a traffic artery.

Based on present traffic conditions, it would appear preferable, other things being equal, that a subway for east and west traffic be located at either Main Street or Weber Avenue. Due, however, to the narrowness of Main Street, a subway at that location would result in unusually large property damages. The construction cost of a subway at Weber Avenue would be large on account of the complicated railroad track situation prevailing thereon. A subway at either of these streets would also seriously interfere with the convenient access to the passenger station of the Western Pacific, which is located on Union Street, between Weber Avenue and Main Street. When future traffic probabilities are considered, together with the present traffic movement, it appears that a subway at Miner Avenue may be made to serve the public convenience and necessity nearly as well as at either Main Street or Weber Avenue, and certainly in a much greater degree than at any other east and west street. It is certain that property damages incident to the construction of a subway at Miner Avenue will be much less than will be the case of constructing one of similar dimensions at either Main Street or Weber Avenue.

A study of a traffic survey taken at the various streets indicates that highway traffic, in addition to being subjected to considerable hazard at the various grade crossings, is also subject to delays due to the crossings being at times blocked by trains. The defendant railroad companies contend that these delays are due to a large extent to the speed restriction of 8 miles per hour, imposed by the city on the operation of trains, and that if the legal speed of trains were made equal to the legal speed of other traffic, a large part of the inconvenience of delay to the public would be eliminated without substantially increasing the hazard. This sugges-

tion appears to have some merit and it is probable that the City, the railroads and the general public would be benefited by increasing the legal speed permissible for trains, irrespective of whether or not a subway is constructed. However, it does not appear to be reasonable to assume that this would afford a sufficiently adequate relief to the present traffic situation as a substitute for a grade separation.

While it is not fair to assume that the subway proposed herein, if built, will entirely eliminate the inconvenience the City of Stockton is now suffering due to grade crossings being blocked by defendants' trains, it will, however, afford a large measure of relief to the situation in that the proposed subway will offer free passage across the tracks involved to all vehicular traffic which elects to avail itself of this privilege. Testimony submitted at the hearing was to the effect that a subway at Miner Avenue will be of material benefit to the fire department of the City. As hereinbefore stated, six of the seven fire stations of Stockton are located west of the railroads, and in combating fires of any magnitude east of the railroads, it becomes necessary to obtain fire apparatus from the west side. The Fire Chief of Stockton testified that fire-fighting equipment had been detained in crossing the Railroad in certain instances when going to fires, and that with a subway at Miner Avenue, the department would route fire equipment through it, when practicable.

A number of modifications of the City's plans for the proposed grade separation, City of Stockton Exhibits Nos. 14 and 15, were considered and the various estimates therefor are briefly summarized in the following tabulation:

SOURCE OF ESTIMATE ITEM	: General Description : : & Structure :				Estimated Cost.
	: Roadways : : No. : Width :		: Sidewalk : : No. : Width :		Exclusive of property damage.
City of Stockton Exhibit No. 16,	2	24	2	6	*\$308,280.
Defendant Exhibit No. 2 and Transcript page 544,	2	24	2	6	481,715.
Defendant Exhibit No. 2 and Transcript page 343,	1	24	1	6	400,000.
Commission's Exhibit No. 1 Estimate A	2	24	2	6	383,536.
Commission's Exhibit No. 1 Estimate B	2	20	2	5	350,595.
Commission's Exhibit No. 1 Estimate C	1	22	2	5	308,803.

* Piling under abutments supporting the tracks not included.

With respect to property damage that will result in the event a subway is constructed at Miner Avenue, City of Stockton's Exhibit No. 22 shows the estimated amount for the item to be \$51,583, exclusive of railroad property, while City of Stockton's Exhibit No. 24 estimates the damage to railroad property as \$12,167. These appraisals were prepared by the Appraisal Committee of the Stockton Realtors Association and were not contested.

The statements as to plans and estimates introduced by the defendants was without admission by them of the necessity for, and did not specify the general dimensions of a subway if one were required, the purpose of defendants being merely to show the modifications that to them seemed desirable if a subway were constructed, and giving their opinion as to cost.

Extensive studies and data were submitted by the Southern Pacific as to the relation of width of restricted roadways to traffic capacities. The results of these studies are summarized

in Defendant's Exhibit No. 16. It appears from these studies that a single 22-foot roadway would have sufficient capacity to carry a total of more than 1200 vehicles per hour, or about 65% of all the vehicles crossing the Railroads on all the east and west streets during the hour of maximum traffic. It is thus apparent that a subway of lesser width than that proposed by the City of Stockton in its Exhibits 14 and 15, will provide ample carrying capacity to meet the needs for the vehicular and pedestrian traffic that reasonably may be expected to use it for some time to come. The plan suggested in City of Stockton's Exhibits Nos. 14 and 15, provides space for the construction of a double track street car line. The local street car company, however, does not operate on Miner Avenue, and it was strongly opposed, even were it possible to secure a franchise, to rerouting its cars to Miner Avenue. Testimony was offered showing the inconvenience to the traveling public, especially to passengers going to or coming from the passenger depot of either the Southern Pacific or the Western Pacific, and also the damage that might result to Main Street business if the street car traffic were withdrawn from that thoroughfare. Under the circumstances and from the testimony, there does not appear to be sufficient justification at the present time, and in this proceeding, for providing a subway of sufficient capacity to accommodate street cars.

From the evidence it appears that a subway having one roadway with a clear width of 22 feet and one sidewalk with a width of 6 feet will be adequate, and there is not sufficient warrant for imposing either on the City or the Railroads the burden of expense involved in constructing a larger subway at this time. If, and when, additional traffic capacity becomes necessary, another subway should be constructed at some other street. A subway of these dimensions should cost somewhat less than the estimated cost of the structure considered in the Commission's Estimate "C", referred to above.

Both defendant railroad companies oppose the construction of a subway at Miner Avenue as applied for herein, on the ground that public convenience and necessity do not warrant the expense of the proposed improvement. They contend that a subway constructed at Miner Avenue will not attract a large volume of traffic and will have but little beneficial effect on the present conditions. Each of the defendants plan to remove their shops and roundhouses to a new location south of Stockton; in fact, Western Pacific Company's new facilities are now nearly completed. This will lessen, to a certain extent, the switching movements over some of the crossings in Stockton, especially those near the present shops. While the relocations of the shops will improve the situation to a certain extent, the major portion of the conditions complained of by the City will still exist.

Western Pacific alleged, and counsel argued strenuously, that vehicular traffic is delayed but very little by its trains and that it is not fair to require it to participate, to any great extent, in the cost of protection that may be necessary due, in a larger degree, to the operation of Southern Pacific trains than of Western Pacific trains. It cannot be denied that Western Pacific Company's trains do cause some interference with vehicular and pedestrian traffic, and also create a certain hazard, and that due to the fact that the two lines are in close proximity it is not, under the conditions, practicable or proper to construct a subway under the tracks of Southern Pacific Company without extending the subway under tracks of Western Pacific Company. If either of these railroads are to be considered by itself, it might possibly be that the conditions with respect to either railroad, may not be such as to justify the expense of a grade separation. But these railroads

being located as they are, adjacent to each other, each mutually contribute to increase the hazard and public inconvenience caused by the other. If one railroad (i.e. the Western Pacific) locates its line in close proximity and parallel to an existing railroad (i.e. the Southern Pacific) thereby increasing the hazard and inconvenience to the public, it must share in the responsibility for the increased hazard and inconvenience. If the proximity of two railroads creates a jointure of hazard and inconvenience, the situation thus created should properly be dealt with in its entirety. It is futile and idle for a carrier that has deliberately located its line adjacent to another carrier, to contend that if its road were considered by itself, there would not be found sufficient inconvenience or hazard to warrant a separation of grades, and therefore that it should not properly participate in an allocation of the costs of separation. When the Western Pacific located its tracks near the Southern Pacific, making it necessary for vehicular and pedestrian traffic to cross, in close sequence, two main lines of railroad with their various tracks, by that act it became a factor and a participant in any future inconvenience or hazard attendant thereto. The relative and just degree of liability as between the two roads and the consequent allocation of costs, will be dealt with later in this Opinion.

The Southern Pacific Company contends that the public would not make any considerable use of a subway, if constructed; and to this end offered testimony regarding the use of the Fresno Street subway at Fresno, which is located approximately 400 feet south of a grade crossing at Merced Street and 800 feet north of a grade crossing at Tulare Street. A ten hour check of traffic showed that a total of 8525 vehicles, other than street cars, which have no choice of route, crossed the railroad at the three streets, of which 40 per cent used the subway, (Fresno Street) 29 per cent used the

grade crossing at Merced Street and 31 per cent used the grade crossing at Tulare Street. It appears that this subway was installed many years ago, with steep grades of approach, without adequate provision for drainage and with other defects in design; yet in spite of these objectionable features that should not exist in the subway proposed at Miner Avenue, the evidence shows that the public does make a very substantial use of the Fresno Street subway; in fact, more use than is made of either of the grade crossings serving that general section of Fresno.

It was argued by counsel for the Southern Pacific Company that we possess no jurisdiction to direct the separation of grades at this point, because at this intersection the railroad tracks are laid in a street. It is argued that therefore the tracks do not cross the intersecting street. In other words, counsel declares that the portion of Sacramento Street which is situated at the point of such intersection is not a portion of Miner Avenue, and that the latter ends when it meets the former and again commences on the other side.

We see no merit in this contention. As well argue that Miner Avenue continues to exist across Sacramento Street, and the latter loses its entity at the intersection. This point of crossing cannot be considered for purposes of grade separation as a legal no man's land, and the fact is that the lines of travel of both streets intersect at this point, and that the tracks of this railroad do, in every logical sense, cross Miner Avenue. The policy expressed in Section 43 of the Public Utilities Act applies with peculiar force to this situation in so far as the railroad and its hazards are concerned, and we must assume jurisdiction over this grade crossing.

From the evidence before us herein, it appears that public convenience and necessity do require the construction of a subway

at Miner Avenue, and that the need for improving the grade crossing situation will increase in the future, as Stockton is a growing, thriving city and as the district to the east offers a favorable location for future expansion of the city's residential section. It further appears that Miner Avenue is the proper street in which to construct the subway.

In the matter of apportioning the cost of grade separation, it has already been pointed out that the track of each of the defendant railroads are so situated in Stockton that hazard to vehicular and pedestrian travel across each is augmented by the presence of the other. Furthermore, the two railroads are so situated at Miner Avenue that it is physically impracticable to separate the grade at one with suitable approaches without separating the grade at the other. The question of the apportionment of the cost of grade separation as between the public and the railroads is one that generally is not completely susceptible of mathematical determination upon any basis of relative benefits, relative hazards or relative necessity. It is true, however, that railroads are always constructed with the hope and expectation that the communities which they are to serve will grow in population and prosperity. Such growth brings with it new and diverse hazards and, at the same time, creates new obligations. On the one hand, it appears fair and just that the public, the growth of which in large measure, creates the new dangers and necessities, should bear a part of the cost of those facilities which will relieve these new conditions, and, on the other hand, it seems equally fair and just that the railroads which benefit directly and in a vital manner from the very growth in population and traffic which creates the new hazards, should share in the cost of minimizing them. The railroad, by its construction, incurs an obligation to reduce to a minimum, the

hazard and inconvenience to other traffic, that such a barrier interposes to free communication between the two portions of a community that it so divides. This obligation continues and increases with the development of the community which it serves. The absence of any logical or mathematical measuring stick by which to test the usual crossing separation cost apportionment problem, early led both this Commission and most parties appearing before it to the conclusion that a fair method would be the assessment of equal portions of the cost upon the two major interests, and the justice of this conclusion has seldom been questioned.

It is true that a situation is sometimes met wherein some more definite measure may be arrived at upon principles of benefit, hazard or necessity, but in our opinion this is not such a case. Nothing has been shown by any of the parties to this proceeding which can justify the taking of this case out of the general policy of equal cost division which we have maintained for many years, and we therefore believe it appropriate and just that the City of Stockton should bear one half of the cost of the separation of grades at this point, and that the two carriers here in question should together bear the other half. The cost of improving the street with a pavement (not now existing) should be borne exclusively by the City; as likewise should the cost of relocating, as may be necessary, gas or water pipes or conduits, in so far as the owners of these utilities are not required to bear such cost under their franchise obligations.

In determining a just division of the Railroads' portion of the cost as between the two defendant companies, due consideration must be given to physical as well as to the operating conditions of each railroad. As a basis for this division of cost, it has been considered equitable that the railroads' portion of the cost of the subway, exclusive of that portion occupied by tracks, should be

divided equally between the two defendant railroads, including property damage. With respect to the cost of that portion of the subway occupied by tracks, the railroads' portion of this amount should be assessed to each railroad in proportion to the number of tracks involved. Using this theory as a basis for apportioning the cost and giving consideration to other phases involved herein, it appears equitable that Southern Pacific Company should pay sixty (60) per cent of the railroads' portion, or thirty per cent of the total cost of the subway, exclusive of pavement costs, and the Western Pacific Company should pay forty (40) per cent of the railroads' share, or twenty (20) per cent of the total cost of the subway, exclusive of pavement costs.

There is a tentative agreement between complainant and defendants whereby the City of Stockton will have direct supervision of this improvement.

Defendant railroad companies contend that if a subway is installed at Miner Avenue, public convenience and necessity will not then require the continuance of the grade crossings of the two adjoining streets, Lindsay and Channel, over their tracks. This contention appears reasonable. The closing of these streets will also tend to encourage the use of a subway at Miner Avenue without seriously inconveniencing the small volume of traffic now using Lindsay and Channel Streets. Also, the City should arrange to so improve and keep improved the pavement through the proposed subway so that it will be attractive to vehicular traffic.

The following form of Order is submitted:

O R D E R

The City of Stockton, County of San Joaquin, State of California, filed the above entitled proceeding asking that the

Commission make its order directing that a subway be built on Miner Avenue in the City of Stockton under the tracks of Southern Pacific Company and The Western Pacific Railroad Company, or upon such other highway transversing the tracks of these defendant railroad companies as the Commission might deem proper; that the defendant railroad companies be charged with their portion of the expense of the construction of such subway and for such other and further relief as the Commission might consider just in the premises. Public hearings have been held on this matter, the Commission is apprized of the facts, and the matter has been submitted and is now ready for decision, and

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the separation of grades of the crossing of Miner Avenue with the tracks of Southern Pacific Company and with the tracks of The Western Pacific Railroad Company in the City of Stockton, County of San Joaquin, State of California, and

THEREFORE, IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to the City of Stockton, to construct a subway in Miner Avenue under the tracks of the Southern Pacific Company and under the tracks of The Western Pacific Railroad Company in the City of Stockton, County of San Joaquin, State of California; said subway to be constructed subject to the following conditions, viz:

(1) Said subway shall be constructed so as to provide one roadway with not less than twenty-two (22) feet clear width and one sidewalk with a width of not less than six (6) feet, and with grades of approach of approximately five (5) per cent.

(2) Said subway shall be constructed in accordance with detail plans and specifications which shall have been approved by this Commission.

(3) The work of constructing said subway shall be performed under the direct supervision of the City of Stockton in accordance with a program which shall have the approval of this Commission.

(4) All provisions of General Order No. 26 of this Commission which are appurtenant herein shall be complied with.

(5) The existing grade crossings over defendants' tracks on Lindsey and Channel Streets respectively, shall be abandoned and effectivcly closed after the subway in Miner Avenue is completed and opened to public use.

(6) Applicant shall, within thirty days thereafter, notify this Commission in writing of the completion of the installation of said subway.

(7) If said subway shall not have been installed within two years from the date of this Order, the authorization herein granted shall then lapse and become void unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED that the cost of constructing said subway, including amounts assessed in compensation for property taken and damaged in connection therewith, shall be borne as follows:

(1) City of Stockton shall bear one-half the cost of said subway, exclusive of the cost of paving the roadway, and the entire cost of paving the roadway through the subway.

(2) Southern Pacific Company shall pay thirty (30) per cent of the total cost of said subway, exclusive of the cost of roadway paving.

(3) The Western Pacific Railroad Company shall pay twenty (20) per cent of the total cost of said subway, exclusive of the cost of roadway paving.

IT IS HEREBY FURTHER ORDERED that the maintenance of said subway shall be borne as follows:

(1) Maintenance of the sub-structure, together with the cost of draining and lighting said subway, shall be borne by the City of Stockton.

(2) The maintenance of that portion of said subway of the super-structure supporting tracks of Southern Pacific Company shall be borne by Southern Pacific Company.

(3) The maintenance of that portion of the super-structure of said subway supporting tracks of The Western Pacific shall be borne by The Western Pacific Railroad Company.

IT IS HEREBY FURTHER ORDERED,

(1) That no portion of the cost herein assessed to the City of Stockton for the construction of said subway shall be assessed to the operative property of defendant railroad companies, or either of them.

(2) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and apportioning the costs of said subway, or relative to any other matter pertaining thereto, 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.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date 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 26th day of December, 1924.

Clarence

Dwight Martin
Earl H. Stone

J. P. Whittley
Commissioners.