

Decision No. 14690

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of the San Diego and Arizona Railway Company, a corporation, for permission to construct, maintain and operate a team track on Ninth Avenue, in the City of National City, County of San Diego, State of California.

Application No. 10714.

Read G. Dilworth, for Applicant,
M. W. Reed, for The Atchison, Topeka
and Santa Fe Railway Company.

SQUIRES, COMMISSIONER:

O P I N I O N

The San Diego and Arizona Railway Company, a corporation, operating a railroad line between San Diego and El Centro, filed the above entitled application on January 7, 1925, asking for authority to construct a team track at grade across Ninth Avenue in the City of National City, County of San Diego, State of California. The applicant now operates a spur track for a considerable distance along Ninth Avenue, which is an unimproved street from Nineteenth to Twenty-fourth Street. The proposed track takes off from this spur at Twenty-second Street, crosses Ninth Avenue, and continues northerly along it parallel with and 21.3 feet distant easterly from the main spur, to the southerly line of Twenty-first Street.

On December 16, 1924, the Board of Trustees of National City adopted a resolution, No. 959, granting permission to the applicant to construct and operate the track covered by this ap-

plication, a certified copy of which resolution is attached to the application.

Since it appeared from the application on file and from the resolution referred to that Ninth Avenue is an unimproved street and that there was no private objection to the construction of the proposed team track, the Commission concluded that a public hearing was unnecessary and, on January 12, 1925, it issued an ex parte order (Decision No. 14453) granting the application. Subsequently, however, on January 21, 1925, a representative of The Atchison, Topeka and Santa Fe Railway Company, by letter to the Commission, protested against this action on the ground that his company had not been notified and that it had serious objections to the construction of the team track. Thereupon the Commission on January 25, 1925, made an order setting aside Decision No. 14453 and reopening the matter for further consideration.

A public hearing was had at National City on March 12, 1925, at which time both parties were represented. Evidence was received from the applicant and protestant and the matter was duly submitted and is now ready for decision.

It is contended on behalf of protestant that the installation of this track as a team track would constitute a hazard to vehicular traffic on Ninth Avenue. The property of The Atchison, Topeka and Santa Fe Railway Company adjoins Ninth Avenue on the west, but none of the intersecting streets are opened westerly across Ninth Avenue and it is not likely that any of them ever will be, since the property of the Railway Company is occupied by tracks which, in the course of time will, in all probability, be increased in number. On behalf of the applicant it was shown that

not only is Ninth Avenue not now improved, but that no plans are pending for its improvement, and that there is no reasonable probability that for several years any such plans will be proposed or the street actually used for any but industrial purposes. No objection was raised at the hearing to the construction of the track by any resident of the locality and, as already stated, the city authorities in whom the power to protect the streets of the city from railroad encroachments is primarily vested have given their formal consent to the improvement.

It is my opinion, and I so find, that the construction of this team track across Ninth Avenue is convenient and necessary to facilitate the operation of applicant's railway line; that it will not present an undue public hazard, nor will it in any way interfere with the operation of the protestant's railway lines lying to the west.

I recommend the following form of order:

O R D E R

San Diego and Arizona Railway Company, having made application to this Commission for permission to construct a team track at grade across Ninth Avenue in the City of National City, County of San Diego, State of California, and a public hearing having been held at which evidence was taken and the matter was duly submitted and it now being ready for decision; therefore,

IT IS HEREBY ORDERED, that permission and authority be and is hereby granted to San Diego and Arizona Railway Company to construct a team track at grade across Ninth Avenue, in the City of National City, County of San Diego, State of California, as follows:

Beginning at the northwest corner of block 279 of the City of National City according to the map made by Wheeler in 1882, thence westerly at right angles to the east line of Ninth Avenue 29.8 feet to the center line of existing spur track of the San Diego and Arizona Railway Company, thence northwesterly along center line of said track, being parallel to said east line of Ninth Avenue, 55.4 feet to the true point of commencement of this description, thence from the true point of commencement on a curve concave to the right, and tangent to said present center line or spur track, with a radius of 411.5 feet a distance of 58.9 feet, thence N. 10 degrees 01' W. 87.8 mins., thence on a curve concave to the left with a radius of 458.6 feet a distance of 65.3 feet, thence N. 18 degs. 11 mins. W. parallel to and 8.5 feet measured westerly at right angles to the said east line of Ninth Avenue, a distance of 64.1 feet to the southerly line of Twenty-first Street.

and as shown in red on the map (Chula Vista-Coronado Br. Drawing H207 Sheet 1) marked Exhibit "A" and attached to the application; said track and crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing said track and crossing together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said track and crossing shall be so constructed that grades or approach not exceeding two per cent will be feasible in the event that the construction of a roadway along said Ninth Avenue shall thereafter be authorized and so that said grade crossings may be made safe for the passage thereover of vehicles and other road traffic.

(3) This order is made upon the express condition that Ninth Avenue is not now actually constructed and open to travel at the respective points of crossing and said order shall not be deemed an authorization for the construction of an opening of said street for public use across said railroad tracks.

(4) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said track and crossing 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 three (3) 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 24th day of March, 1925.

H. B. Bunnell
C. Leavitt

George D. Squires

Commissioners.