

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
the County of Los Angeles, the City
of Los Angeles, the Atchison, Topeka
& Santa Fe Railway Company, the Los
Angeles & Salt Lake Railroad Company,
the Pacific Electric Railway Company,
and the Los Angeles Railway Corpora-
tion, for a just and equitable appor-
tionment of the cost of the construction
of six certain viaducts across the Los
Angeles River, in the said City of Los
Angeles at Macy, Aliso, First, Fourth,
Seventh and Ninth Streets.

ORIGINAL

Application No. 9671.

Edward T. Bishop, County Counsel, by Roy Dowds, Deputy
County Counsel, for the County of Los Angeles.
Jess E. Stephens, City Attorney, and Milton Bryan,
Deputy City Attorney, for the City of Los Angeles.
E. W. Camp, for The Atchison, Topeka & Santa Fe Railway Co.
A. S. Halsted, for Los Angeles & Salt Lake Railroad Company.
Frank Kerr, for the Pacific Electric Railway Company.
S. M. Haskins, for the Los Angeles Railway Corporation.
C. I. Wheat, Attorney for the Railroad Commission of
California.

SHORE and SEAVEY, COMMISSIONERS:

O P I N I O N

This Opinion and Order deals with that portion of the joint application of the County of Los Angeles, the City of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company, the Pacific Electric Railway Company and the Los Angeles Railway Company for an order apportioning the cost of six viaducts proposed to be built over the tracks of the Santa Fe and Salt Lake tracks and over the Los Angeles River in the City of Los Angeles, which covers the viaduct at Macy Street. Authorization for the construction of the Ninth Street viaduct and the apportionment of the cost thereof has already been covered in this Commission's Decision No. 13443.

Plans for the Macy Street viaduct, in so far as they pertain to that portion of the viaduct extending from the westerly bank of the River easterly to the west line of Mission Road, have been approved by the Commission in Decision No. 13856, and applicants have been authorized in that Decision to proceed with the construction of that portion of the viaduct.

Two principal issues remain to be decided in relation to the Macy Street viaduct; first, the length of viaduct on the west side of the River, i.e., whether the present main passenger line of the Santa Fe is to be crossed overhead by the viaduct or whether that track is to be relocated to a position approximately 550 ft. easterly adjacent to the bank of the River and a viaduct with shorter approach constructed; second, the apportionment of the cost of the Macy Street grade separation project between the interested parties.

In addition to the hearings held at Los Angeles on February 6th and March 10th, 1924, in which testimony was presented dealing with general considerations applicable to all the viaducts proposed in this proceeding, and with particular consideration applicable to the Ninth Street viaduct, two further hearings were held on July 15th, 1924 and July 28th, 1924, at which testimony in regard to the Macy Street viaduct was adduced.

The original application contemplated the construction of a short viaduct at Macy Street, and the detail plans and specifications (City's Exhibit No. 12-A to 12-I inclusive) submitted are for such a structure. A map showing a general lay-out for a viaduct having a westerly approach approximately 550 feet longer than the approach proposed in the application was also prepared at the request of the Santa Fe by the City of Los Angeles and introduced as City's Exhibit #15. The Santa Fe requested the City of Los Angeles to prepare the latter plan because that railroad company objects to

the relocation of its main line passenger track to a position adjacent to the river bank, on the ground that it constructed this track at considerable expense many years ago in order to get away from the river bank with its attendant curvature. None of the other railroad applicants opposed the longer viaduct, if such were found in the public interest to be desirable. The Santa Fe contends that the cost of moving their main line back to the River and installing satisfactory facilities in connection therewith would more than offset the cost of the increased length of the long viaduct with its increased property damages over the cost of the short viaduct.

The City of Los Angeles and the County of Los Angeles are opposed to the construction of the long viaduct and claim that the short viaduct is the cheaper both as to construction costs and as to property damages involved. The Los Angeles Gas and Electric Corporation is willing to give a twenty foot strip of land along Macy Street if the short viaduct is built, but claims that it would suffer very large property damage if the long viaduct should be erected. Estimates presented at the hearings show the comparative costs of the long and short viaducts as follows:

I t e m	Source of Estimate	Long Viaduct	Short Viaduct	Excess cost of
				Long Viaduct over Short Viaduct.
East approach	CRC Eng. Dept.	49,433.	49,433.	-
River Span	Do.	244,555.	244,555.	-
West approach	CRC Eng. Dept. & City " "	288,253.	179,308.	108,955.
Salt Lake Track				
Work	CRC Eng. Dept.	85,965.	85,965.	-
Do.	L.A. & S.L. RR.	158,220.	158,220.	-
Santa Fe Track				
Work	CRC Eng. Dept.	123,264. ^φ	114,121.	9,143.
Do.	A.T. & S.F. Ry.	123,264.	220,359.	-97,095.
L.A. Ry. Work	CRC Eng. Dept.	73,527.*	63,187.	10,340.
L.A. Ry. Work	L.A. Ry.	168,130.*	152,058.	16,072.
Property damage				
East of River.	City	56,910.	56,910.	-
Property damage	City	(60,000.		
West of River		(37,950.		
	L.A. G&E Corpn.	163,950.	37,950.	223,950.
Damage to A.T. & S.F. Opera- tion	CRC Eng. Dept.	-	41,322.	-41,322.
Damage to A.T. & S.F. Opera- tions.	A.T. & S.F.	-	182,710.	-182,710.
Total Maximum Estimate		1,350,675.	1,281,503.	69,172.
Total Minimum Estimate		1,183,817.	872,751.	311,066.

Notes: * Additional work L.A. Ry. track for long viaduct estimated at same unit prices as used for short viaduct.
^φ In the absence of estimate by the Commission's Engineering Department of Santa Fe track work for long viaduct, the estimate prepared by A.T. & S.F. Ry. has been adopted for this comparison.

If the maximum claims of interested parties are used the excess cost of the long viaduct would amount to \$69,172., but if the more conservative estimates of damages and costs are used, the excess cost of the long viaduct would be \$311,066. The actual difference in total cost between the two lengths will probably lie somewhere between these two estimates.

The application states that "The locations, plans and specifications and general character of said viaducts as proposed and planned are in no wise repugnant to, or in conflict with, the plans contemplated by the Commission in the Order No. 9398", - the

Union Terminal matter. Although the long viaduct will not interfere with the plans contemplated for a Union Terminal by this Commission, the money spent on the additional length would be entirely wasted if the Plaza Union Terminal plans proposed by this Commission in the proceeding now pending before the Interstate Commerce Commission were carried out, as all of the Santa Fe tracks would, under that plan, necessarily be located adjacent to the River.

The long viaduct will not be of advantage to any of the applicants except the Santa Fe; it will be a detriment to the Los Angeles Gas and Electric Corporation; it will be of benefit to the public at large only in so far as that public is benefited through the slightly better service that might be rendered by the Santa Fe over its present tangent main line as compared to the service along the river tracks. This difference is so slight as to be negligible. The benefits of the long viaduct to the Santa Fe appear to be substantially outweighed on the whole by advantages including the difference in cost of the short viaduct to all interests. It would therefore appear that the shorter viaduct should be constructed in accordance with the plans submitted by the City in detail in Exhibits 12-A to I inclusive and the applicants will be so authorized.

The apportionment of the cost of the Macy Street viaduct remains to be determined by the Commission, and that issue will now be discussed.

Applicants, with the exception of the Los Angeles Railway Corporation, propose that the cost be divided equally between the five applicants, but in the absence of complete agreement among the interested parties, it is the duty of the Commission to rely upon its own judgment, based upon all the considerations presented in evidence, as to a determination of this issue.

Elaborate studies were made and presented, bearing upon this subject; the most comprehensive of which was presented by the Commission's Transportation Engineer, who made an analysis of three

suggested bases of apportioning the cost, as follows:

Basis 1. An equal division of cost between the five applicants primarily interested, similar to the apportionment agreed upon by four of these five applicants.

Basis 2. A division of cost based upon considerations related to the purpose for which the structure is to be constructed. The component parts of the reasoning under this basis might be summarized as follows:

(a) The cost of spanning the river (assuming no railroads involved) assessed to the political subdivisions.

(b) The cost of separating the grades of the street with each steam railroad, equally divided between the political subdivisions and the respective railroads. This includes the cost of raising the bridge spanning the river to the required elevation.

(c) The excess cost of the work due ^{to} occupancy of the street by the street railway, assessed to the street railway company.

Basis 3. A division of cost based upon the same consideration as Basis 2, except that the 20 ft. strip along the viaduct which would be available for use of either street cars or other vehicles, is considered under joint use by the Street Railway and the general public, and that therefore the Street Railway be assessed with not only the excess cost due to its occupancy, but in addition, one-half of the cost otherwise assessable to the political subdivisions for the construction of that 20 ft. portion of such design and strength as required for general street purposes.

The estimated effect of each of these three bases is shown in summary form by the following tabulation, all the figures being estimates for the short viaduct.

Name of Party.	Basis 1		Basis 2		Basis 3	
	Amount	%	Amount	%	Amount	%
City of Los Angeles	171,091.	20	238,028.	27.825	204,502.	23.905
County of Los Angeles	171,090.	20	238,028.	27.825	204,502.	23,905
Atchison, Topeka & Santa Fe Ry.	171,090.	20	179,734.	21.01	179,736.	21.01
Los Angeles & Salt Lake R.R.	171,090.	20	106,055.	12.40	106,056.	12.40
Los Angeles Railway Corporation.	171,090.	20	93,606.	10.94	160,655.	18.78
Total -	855,451.	100.	855,451.	100.	855,451.	100.

As might be expected, the contentions of the City of Los Angeles, the County of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company, regarding the apportionment of cost, are similar. The first three above named parties, although they believe the Los Angeles Railway Corporation should be assessed with 20 per cent of the cost, have indicated that if the Commission should assess some other proportion to the street railway, the remainder of the cost should be divided equally between the four parties who have each agreed to bear 20% of the cost.

The City presented evidence to the effect that approximately one third of the number of persons now using Macy Street at the location of the proposed viaduct, are carried by the street railway; that approximately one third of the tonnage on the street is tonnage of the street railway; and that approximately one third of the area of the viaduct surface will be available to the uses of the street railway. It was also shown that the Los Angeles Railway Corporation, or its predecessor in interest, had contributed amounts varying from 23 per cent to 55 per cent of certain bridges and viaducts constructed in the past.

The Los Angeles Railway Corporation contends that it should not be required to bear any portion of costs of the new viaduct other than those incurred expressly for the purpose of making the structure adaptable for street railway service. It claims that it is the other street traffic rather than the street car traffic that is responsible for the condition making grade separation necessary; that it could continue to operate safely and without undue delay with its existing facilities, including its single track bridge across the river, and that the benefits which would accrue to the street railway by the construction of the viaduct are small. The street railway company represents it is simply an agent of that part of the tax-paying public that rides over the surface of the public streets in street cars, and in so far as the cost of the viaduct charged to the street railway might be reflected in the fare charged its patrons, the street car rider would be required to pay a larger ratio than the automobile rider, because a part of the cost will be paid out of general taxes.

The Los Angeles Railway Corporation also introduced evidence to show that special circumstances, not comparable with the present case, sometimes attended the instances cited where the street railway paid relatively large proportions of the cost of certain bridges and viaducts.

That the problem of apportioning the cost in this case is unusually complicated, is apparent from a consideration of the factors that have been mentioned. We are convinced that each of the parties will receive a considerable and substantial benefit from the proposed viaduct, but there appears to have been found no common denominator or unit of measure by which the interest, activities and benefits of the several parties concerned in the use of this viaduct can be ^{precisely} expressed. We are further convinced that no mathematical analysis or formula has been presented which takes into consideration

all the factors involved. The problem appears, therefore, rather to be a matter to be determined by judgment; a judgment based upon the evidence, and assisted by the analyses of data presented.

The fact that four parties having different interests and different points of view in the matter have, in effect, agreed to divide equally whatever cost is assessed to them collectively, is excellent evidence of the equity of such a division. Nor does it appear that this division as between these four parties is inconsistent, on the whole, with the other evidence presented in this proceeding. It remains then to determine the equitable portion of the cost to assess to the Los Angeles Railway Corporation.

The street railway now crosses the river at Macy Street on a privately owned single track bridge approximately 300 feet in length. This is the only section of single track on the entire Macy Street-Brooklyn Avenue line, a line subject to relatively heavy street car travel. It does not appear that the city is under any franchise or other obligation to furnish the street railway with a bridge over the Los Angeles River at this point. The street railway contends that its existing single track bridge is now, and probably will be adequate for the remaining life of its Macy Street franchise. The judgment of the Company as to this point is open to question. The Los Angeles Railway Corporation has undertaken to serve the Macy Street and Brooklyn Avenue territory, and it has an obligation to render reasonably safe and expeditious service on the line in question. The evidence clearly shows that a section of single track in a heavy traffic double track street car line results, in the aggregate, in a considerable delay and some hazard. It is the Company's duty to improve this condition, when it can be done at a reasonable cost.

Although it must be admitted that the urgency for eliminating the grade crossing is far greater because of automobile traffic than because of street car traffic, we are convinced that the street

railway traffic in this instance is an important contributing factor in the necessity of effecting grade separation. Street cars may be able to cross railroads with somewhat greater degree of safety than automobiles, but this additional safety is purchased by delay, and even with the precaution of stopping cars at grade crossings, a serious hazard still exists. Certainly the street railway has an obligation to eliminate both the delay and the hazard.

The primary cause, however, forcing the viaduct construction at this time is due to the rapid increase of automobile traffic and the attendant congestion and delay at the steam railroad crossings. We are of the opinion, therefore, that the street railway should not bear as large a portion of the cost of this viaduct as each of the other parties. It is our judgment, based upon a careful consideration of all the evidence, that the Los Angeles Railway Corporation should bear 16 per cent of the cost of the Macy Street viaduct, and that the remaining 84 per cent should be equally divided between the City of Los Angeles, the County of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company respectively. The costs to be so divided should include those incurred by all necessary construction work, such as viaduct structural work, track depression and track rearrangement, and also costs incurred on account of damage to property. Any cost incurred due to temporary inconvenience of operation during construction, or any values due to remaining normal life of facilities retired, that may be lost to any of the interested parties, should be borne by the party incurring them, and not included in the cost of the work to be divided as above indicated.

The following form of Order is recommended:

THIRD PRELIMINARY ORDER

The above entitled application has been submitted in so far as the Macy Street viaduct is concerned, and in regard to that particular viaduct the Commission has already made its Preliminary Order approving the detailed plans of that portion of the viaduct spanning the river and the easterly approach thereto and directing the applicants to proceed with the construction. The length of the westerly approach and the apportionment of the costs among the several interested parties is now ready for decision.

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the construction of a viaduct to carry Macy Street above and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and the tracks of the Los Angeles and Salt Lake Railway Company in the City of Los Angeles, County of Los Angeles, State of California.

THEREFORE IT IS HEREBY ORDERED that the City of Los Angeles, County of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company and the Los Angeles Railway Corporation, joint applicants herein, be and they are hereby authorized to construct Macy Street above and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and tracks of the Los Angeles and Salt Lake Railroad Company in accordance with specifications and plans shown in City of Los Angeles' Exhibits 12A to 12I inclusive, filed on July 15, 1924, and that said plans and specifications for the entire viaduct, including the westerly approach, are hereby approved, and

IT IS HEREBY FURTHER ORDERED, that the costs of said separation of grades and of the construction of said viaduct at Macy Street, including such installation expenses and the cost of changes in tracks and yards of the railroads upon the east and west banks of the Los Angeles River as may, by further order or orders herein, be

allocated to this particular viaduct, be and the same shall be paid as follows:

Twenty-one percent (21%) by City of Los Angeles.
Twenty-one percent (21%) by County of Los Angeles.
Twenty-one percent (21%) by The Atchison, Topeka and Santa Fe Railway Company.
Twenty-one percent (21%) by Los Angeles and Salt Lake Railroad Company.
Sixteen percent (16%) by Los Angeles Railway Corporation.

IT IS HEREBY FURTHER ORDERED, that this order be and it is subject to the following conditions:

(1) Clearances in this grade separation shall conform to this Commission's General Order No. 26.

(2) Applicants shall cause to be filed with the Commission monthly reports of progress, with costs, during the period of construction, such reports to contain such information and data as may be required by the Commission.

(3) The Commission reserves the right to make such further orders as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

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

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:

April
~~June~~, 1925.

Dated at San Francisco, California, this 31st day of

H. B. Brundage
C. Cleary
Egerton Shore
George D. Squires
James W. ...
Commissioners.