

Decision No. 14736

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application)
of the BOARD OF SUPERVISORS of)
the County of Los Angeles, State)
of California, for permission to)
install a grade crossing over)
the tracks of Pacific Electric)
Railway Company at Atlantic)
Avenue.)

Application No. 10436.

Roy W. Dowds, for Applicant.
Frank Karr, for Pacific Electric Railway Company,
John R. Berryman, Jr., for Los Angeles County
Grade Crossing Committee.

BY THE COMMISSION:

O P I N I O N

In this application the Board of Supervisors of Los Angeles County ask permission to construct Atlantic Avenue at grade across Pacific Electric Railway Company's so-called "Santa Ana Line".

A public hearing was held in this matter before Commissioner Whittlesey in Los Angeles, on November 5, 1924.

The testimony shows that it is the plan of Los Angeles County to make Atlantic Avenue a major highway artery between the cities of Long Beach and Pasadena, a distance of some twenty-six miles. This highway is now in process of being opened throughout the greater portion of its length. The course of Atlantic Avenue is in a northerly and southerly direction, passing through the municipalities of Alhambra, Monterey Park and Maywood, and the unincorporated towns of Belvedere, Bell and Cudahy, all in Los Angeles County. This new highway does not pass through any portion

of the city of Los Angeles, but runs a short distance to the east thereof.

The county of Los Angeles has now acquired practically all of the right-of-way for this new highway that is within the unincorporated portion of the county, although there is a considerable portion of it which is not yet open to traffic. Atlantic Avenue, as now deeded to the county, varies from 80 to 100 feet in width, but it is planned ultimately to make the highway 100 feet in width throughout its entire length.

Between Cudahy and Long Beach, Atlantic Avenue intersects Pacific Electric Railway Company's so-called "Santa Ana Line" at a point approximately one mile to the southeast of the town of Lynwood. In the vicinity of this railroad, Atlantic Avenue, as deeded to the county, is 80 feet in width. For a short distance south of the railroad it is open to a width of 40 feet as the most westerly street of a new subdivision. To the north of the railroad, however, this highway is not yet opened to traffic, the route being across ground which is still being cultivated.

The county plans to begin work shortly on the grading and graveling of that portion of Atlantic Avenue not now opened. After the highway is graveled it will be left open to traffic for a period of about one year to allow the roadbed to consolidate before it is paved. It is estimated it will take about three years to complete the improving, including paving, of Atlantic Avenue between Long Beach and Pasadena.

Pacific Electric Railway Company operates a double track railroad on a 100-foot private right of way in the vicinity of the proposed crossing. A high-speed interurban service is maintained, with a headway of one hour during the greater portion

of the day. There are a total of 45 scheduled passenger movements per day in addition to 2 daily freight trains and occasional extra train movements.

The existing public grade crossings nearest to the one proposed herein are located approximately one-half mile distant in either direction. The view of the railroad at the proposed crossing is good at this time, as there are no obstructions to interfere; and in addition, the tracks are elevated about three feet above the natural ground level.

From the evidence it appears that sufficient public convenience and necessity exists, or will in the near future exist, to justify the granting of a crossing of Atlantic Avenue with this railroad. When Atlantic Avenue, or the major portion thereof, is paved between Long Beach and Pasadena, it will attract a large volume of through traffic and there will then be an urgent public necessity for a grade separation at the location involved herein. In the interest of public economy, however, it appears that until such time as the major portion of this highway is paved, which, as stated above, is estimated to be about three years, a grade crossing would meet the public needs and not create a hazard of unusual magnitude. Such a program meets approval of all interested parties. Pacific Electric Railway Company estimates the cost of a grade crossing, including an automatic flagman, to be \$1,750. This will provide a crossing 33 feet in width with grades of approach a little less than 4 per cent. An estimate prepared jointly by applicant and Pacific Electric Railway Company shows the present-day cost of a grade separation at this location to be \$128,115. This plan provides for the highway to be constructed under the railroad by elevating the tracks six feet and depressing the highway sufficiently to make the necessary clearance.

It appears that the volume of highway traffic at first will

be so small that a grade crossing would suffice for three years, therefore the question whether a grade separation should reasonably be effected at this time must be determined from the standpoint of economy. A basis of comparison in this question of economy is whether or not three years interest on the cost of a grade separation at this time would exceed the cost of a temporary grade crossing plus the excess cost of thereafter constructing the subway.

As far as the unit costs of labor and materials are concerned, there is no positive way of estimating what trend the present market rates will take in three years' time; therefore, we must assume, for the purposes of comparative estimates, that these prices will remain the same. Another important item to consider is that of property damage. It is evident that the opening of an important highway artery such as Atlantic Avenue will have a material effect on the value of adjoining property. If a grade crossing is constructed and buildings are erected in its immediate vicinity, such improvements would undoubtedly add materially to the property damage when a grade separation is effected. It appears that the county plans to prevent excessive property damages if a grade crossing is constructed and later replaced with a grade separation, by requiring that before subdivision maps will be accepted for filing for the adjoining unplatted property north and south of the railroad and west of Atlantic Avenue, provisions must be made which will look to a minimum of future damages. To this end the county also plans to enter into some form of agreement with the property owners adjacent to the proposed crossing. Since it thus appears that property damages will not be materially increased due to delaying the grade separation for about three years, it would be economical to delay the construction of the grade separation until such time as the major

portion of the highway is paved, as the interest on the difference in cost of the two types of crossings over a period of three years will justify the construction of a grade crossing which is to be abolished at the time work begins on the grade separation.

It now remains to take up the question of an equitable apportionment of the cost of this improvement between the interested parties, namely, the applicant and Pacific Electric Railway Company. Although the crossing involved herein is an entirely new one, the railroad cannot reasonably expect to escape being assessed some portion of the cost of the improvement, for the reasons set forth in the Commission's Opinion in its Decision No. 14244 in Application No. 10192, dated November 8, 1924, wherein the City of Los Angeles asked permission to construct La Cienega Boulevard beneath Pacific Electric Railway Company's "Venice Short Line", namely:

"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."

It appears that the question of division of cost in the application now under consideration is somewhat comparable to that

considered in Application No. 10192, referred to above, and should not be lost sight of because of the fact that the interests of public economy require the actual construction of the grade separation to be postponed for a period of three years.

After due consideration of all the evidence in this case, it appears reasonable to grant applicant permission to construct Atlantic Avenue at grade across Pacific Electric Railway Company's "Santa Ana Line", such authority to remain in effect for a period of about three years, at which time a grade separation is to be effected by constructing Atlantic Avenue under the railroad in accordance with plans and specifications which shall have the approval of this Commission. The cost of the grade separation improvement shall be apportioned as follows: Seventy-five (75) per cent to Applicant and twenty-five (25) per cent to Pacific Electric Railway Company - and it will be so ordered. The cost of the temporary grade crossing and its protection shall be apportioned as hereinafter indicated.

O R D E R

The Board of Supervisors of the County of Los Angeles having filed the above entitled application with the Commission for permission to construct Atlantic Avenue at grade across Pacific Electric Railway Company's so-called "Santa Ana Line", a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and now ready for decision:

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require that applicant herein be given authority to construct Atlantic Avenue across Pacific Electric Railway Company's so-called "Santa Ana Line", and that in the interest of public economy a grade crossing should be constructed to serve

the public needs until such time as Atlantic Avenue, or the major portion thereof, is paved between Long Beach and Pasadena, which work it is estimated will be completed within three years, after which a grade separation should be effected; and therefore,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to the Board of Supervisors of the County of Los Angeles, State of California, to construct Atlantic Avenue at grade across Pacific Electric Railway Company's said "Santa Ana Line" at the location shown on the map attached to the application, said crossing to be in effect a public crossing until such time as Atlantic Avenue, or the major portion thereof, is paved between Long Beach and Pasadena, the completion of which is estimated to take about three years, at which time the said grade crossing is to be replaced with a grade separation as hereinafter provided; said grade crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing said grade crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Pacific Electric Railway Company.

(2) The proposed grade crossing shall be constructed of a width not less than thirty (30) feet and at an angle of ninety (90) degrees to the railroad, and with grades of approach not greater than four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereon of vehicular and other road traffic.

(3) An automatic flagman shall be installed for the protection of said grade crossing during the time it is in existence, at the sole expense of Pacific Electric Railway Company. Said auto-

matic flagman shall be of a type and installed in accordance with plans or data approved by the Railroad Commission. The maintenance of said flagman shall be borne by Pacific Electric Railway Company. At the expiration of the authorization of said grade crossing, said automatic flagman shall be removed and retained as the property of Pacific Electric Railway Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission in writing of the completion of the installation of said grade crossing.

(5) If said grade crossing shall not have been installed within one (1) year 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 when Atlantic Avenue, or the major portion thereof, is paved between Long Beach and Pasadena, the grade crossing above authorized shall be replaced by a subway under the tracks, said subway to be constructed subject to the following conditions.

(1) Applicant herein shall prepare plans and specifications for said subway, which shall be submitted to and have the approval of this Commission. After such approval is secured, the construction of the subway shall be commenced within a reasonable length of time and the work continued in a diligent manner until the said subway is completed. These plans and specifications shall be submitted on or before the completion of said paving of Atlantic Avenue.

(2) The work of constructing said subway shall be performed under the direct supervision of the Board of Supervisors of Los Angeles County in accordance with a program which shall have the approval of this Commission.

(3) All provisions of General Order No. 26 of this Commission which are pertinent hereto shall be complied with.

(4) The cost of said subway, exclusive of paving, shall be borne seventy-five (75) per cent by applicant herein and twenty-five (25) per cent by Pacific Electric Railway Company. The cost of paving shall be borne by applicant. The maintenance of that portion of the subway supporting the track structures shall be borne by Pacific Electric Railway Company. The roadway and drainage shall be maintained at the expense of applicant.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said subway.

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 both the said grade crossing and the said subway 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.

Dated at San Francisco, California, this 4th day of April, 1925.

H. A. Brundage

C. C. Harvey

Ernest Shore

George D. Squires

Commissioners.