

Decision No. 1477

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM DUELKS,
Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY,
Defendant.

CASE NO. 2018

ORIGINAL

Eugene A. Holmes for Complainant.
Frank Karr for Defendant.

BY THE COMMISSION -

O P I N I O N

In this proceeding, William Duelks, a resident of the community of Graham, Los Angeles County, complains of conditions existing at the Manchester Avenue Crossing of defendant in the County of Los Angeles alleging that the traffic of the railway over said crossing is very heavy; that the community of Graham is rapidly developing as a business center and that only local trains of defendant stop at such station to receive and discharge passengers; and that express trains and local trains, when not stopping at the station of Graham, pass over the crossing of Manchester Avenue at a high rate of speed - many times in excess of forty-five (45) miles per hour. Complainant prays for an order of this Commission requiring defendant to cause all trains crossing the intersection of Manchester Avenue to come to a complete stop at said crossing.

Defendant duly filed its answer herein denying the material allegations of the complaint and alleging that in compliance with an order of this Commission (Decision No. 11928 in Case 1837, decided March 22, 1926) a human flagman is employed at Manchester

Avenue Crossing daily between the hours of 6:00 A.M. and 10:00 P.M.; that public interest and convenience do not require further additional crossing protection unless the present flagmen were to be replaced by flagmen with police power and authority to arrest such users of the highway that violated traffic or warning signals.

A public hearing on this complaint was conducted by Examiner Handford at Los Angeles, at which time evidence was received, the matter was duly submitted and it is now ready for decision.

Witnesses for complainant testified as to conditions existing at Manchester Avenue crossing; that the crossing was one over which the automobile traffic was rapidly increasing; that three or four accidents had been observed at the crossing since the installation of the human flagman in compliance with the previous order of the Commission in Case No. 1337; and that high speed had been observed by some of the express trains which were not scheduled to stop at Graham Station. It was stipulated that the count of traffic as appearing in the complaint might be considered typical of the average use of this crossing. This traffic count was made ^{on} April 15, 1924, between the hours of 5:00 A.M. and 7:00 P.M., during which time 4560 automobiles, 1075 pedestrians, 387 limited or express trains, 283 local trains and 38 freight trains passed over the highway and tracks of defendant. Complaint was also made regarding the noise occasioned by the defendant's railroad operation in the vicinity of Graham Station, by the explosion of torpedos used as flagging protection by trains, and the switching of cars to and from the defendant's material yard located near this point. The matter of operating noises is not an issue in this proceeding but the defendant being advised of the cause of complaint should take such remedial action with its employees as will eliminate the cause of complaint.

Mr. F. L. Annable, General Superintendent of defendant Company and in charge of its train operation, testified that the crossing watchman was installed on April 1, 1923, in compliance with the Commission's Decision No. 11828; that the speed restriction for all trains not scheduled to stop at Graham Station was twenty (20) miles per hour over the Manchester Avenue Crossing; that speed checks were constantly being made over the entire system; that between the months of March to August, 1924, inclusive, 460 checks of speed were made at the crossing herein complained of and that 99 per cent of such speed checks were at speeds not in excess of the limit of twenty miles per hour; and that one motorman found to have exceeded the speed limit prescribed by the company's regulations had been taken out of service. This witness further testified that the scheduled trains crossing Manchester Avenue were 366 express trains using the inside tracks of the four track system; 20 freight and 362 local passenger trains using the outside tracks. The crossing is supplied with an automatic wig-wag signal with a muffled type of bell in addition to the protection furnished by the human flagmen during their hours on duty.

Mr. C. A. Smith, Passenger Traffic Manager for defendant company, testified that his office was in receipt of frequent complaints regarding the necessity for maintaining scheduled time of trains on the Southern Division and that any additional safety stops would result in the necessity for lengthening schedules, as passengers destined to or from Graham Station would then board limited trains by the reason of the fact that such trains were required to make a safety stop at such point, thereby further delaying the schedule of the through trains. A record of passengers handled on the following Southern Division Lines, all of which pass over the Manchester Avenue intersection, for the month of July, 1924, shows the following:

<u>Line</u>	<u>No. of Passengers</u>
Long Beach - - - - -	389,554
San Pedro, via Dominguez - - - - -	341,468
San Pedro, via Gardena - - - - -	86,075
Newport - - - - -	69,431
Santa Ana - - - - -	76,332
Redondo - - - - -	92,685
Hawthorne - - - - -	28,303
Dominguez Locals - - - - -	16,165
Total - - - - -	1,100,013

The Commission has given careful consideration to the record in this proceeding and it is our conclusion that the prayer of complainant for an order requiring defendant to stop all its trains before crossing Manchester Avenue is not justified by the evidence herein adduced. There is no showing that the accidents which have occurred at this crossing since the installation of the human flagman in compliance with the order of the Commission (Decision No. 11828) were occasioned by any fault of the defendant carrier and if the parties, therein involved had respected the signals of the crossing flagman and the visual and audible warning of the automatic wig-wag crossing signal the accidents would not have occurred. Manchester Avenue has been paved for a period of over a year and the fact of the street improvement by paving has developed this avenue into a heavily traveled east and west highway. The establishment of complete protection at this point can only be accomplished by a separation of grades, either by depressing or elevating the highway. The cost of this separation of grades would require a substantial expenditure by the defendant company with the County of Los Angeles as a participant. We are not of the opinion, from the evidence adduced, that the expenditure is warranted by the conditions now existing at this point, nor are we convinced that the stopping of all through, freight and express passenger trains will result in an elimination of the hazard. Passengers of the defendant company originating at or

destined to points south of Graham Station should be transported to their respective destinations promptly and in accordance with advertised schedules and it herein appears, on the basis of July, 1924, being a representative month, that approximately thirteen million passengers annually pass over the Manchester Avenue intersection to or from points served by lines operating trains which do not stop at Graham Station.

We are, however, of the opinion and hereby find as a fact that the protection afforded by the human flagmen now stationed at this point would be considerably enhanced if such flagmen were uniformed employees of the defendant company, if said employees were also deputized by the County of Los Angeles as deputy sheriffs or traffic policemen, and if such employees were required to perform their duties as flagmen by being located in the center of Manchester Avenue on either side of the tracks instead of being stationed at a point near the side of the avenue; such flagmen also to be active employees and selected with a view to their ability to fully perform the duties of their position in protecting the public at a crossing over which a considerable and increasing volume of vehicular traffic passes. The order herein will so provide.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Pacific Electric Railway Company, a corporation, be and it hereby is directed to hereafter employ in the protection of its crossing at the

intersection of Manchester Avenue in Los Angeles County with the tracks of its Southern Division, near Graham Station, active, experienced and uniformed flagmen who will be on duty between the hours of 6:00 A.M. and 10:00 P.M., daily, such flagmen to be normally stationed in the center of said Manchester Avenue and not at the side of such avenue, and that if the necessary appointments can be secured, such flagmen should be deputized by the County of Los Angeles as deputy sheriffs or traffic policemen, or be appointed State Railroad policemen.

IT IS HEREBY FURTHER ORDERED that as to the further relief herein sought by the complainant in this proceeding this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this 10th day of April, 1925.

W. H. Brundage
Chairman
Egerton Shore
George D. Squires
Edmund Brody
COMMISSIONERS.