

Decision No. 16413

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the CITY OF LOS ANGELES for an order granting permission to the City of Los Angeles to construct a temporary railroad track in Anaheim Street across a certain track of the Pacific Electric Railway Company, at grade, and determining and prescribing the manner and the terms of installation, operation, maintenance, use and protection of such crossing.

Application No. 12517.

ORIGINAL

Clyde M. Leach for the City of Los Angeles.

E. W. Camp, for The Atchison, Topeka & Santa Fe Railway Company.

Frank Karr, for Pacific Electric Railway Company and for Southern Pacific Company.

F. B. Cole for Greater Harbor Committee of 200.

Harry J. Bauer, of Bauer, Wright & MacDonald, for Greater Harbor Committee of 200.

DECOTO, COMMISSIONER:

O P I N I O N

The crossing under consideration in this proceeding is identical with the one applied for in Application No. 9712 by the City of Los Angeles and granted, subject to certain conditions and as a temporary crossing, by the Commission in Decisions Nos. 13663 and 15121, dated June 9th, 1924, and June 30th, 1925, respectively. In the latter Decision, it was provided that the Board of Harbor Commissioners file with the Commission, within ninety (90) days, a joint stipulation and agreement executed by the City and The Atchison, Topeka and Santa Fe Railway Company and its subsidiary, the Santa Fe and Los Angeles Harbor Railway Com-

pany, whereby the City was to agree to abolish said temporary crossing and remove its tracks from Anaheim Road at the expiration of the term for which the temporary permit was granted, whereby the Railway Company and its subsidiary were to agree not to oppose directly or indirectly the removal of said tracks and the abolition of said crossings over Anaheim Road at the expiration of the term for which this temporary permit was granted and wherein a satisfactory plan was to be included, whereby The Atchison, Topeka and Santa Fe Railway Company, or its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company, were to continue to have access to the harbor district without crossing Anaheim Road at grade and whereby the business developed by the Railway Company and its subsidiary were to be adequately taken care of thereafter.

Such a stipulation and agreement was not filed with the Commission within the ninety day limit of the order, which expired on September 28, 1925.

The present application was filed on February 10th, 1926, and a public hearing was held on February 23rd, 1926, at which time the matter was submitted. The application is accompanied by an agreement, (Exhibit No. 2), entered into on February 3rd, 1926, between the City, by its Board of Harbor Commissioners, and Santa Fe and Los Angeles Harbor Railway Company. This agreement, among other things, provides for permanent joint track connection between the existing tracks of said parties through and under the Dominguez Creek Viaduct and for the construction and operation of a temporary connection between the tracks of said parties across Anaheim Road at McFarland Street, to be used only during the construction of said permanent joint track connection and to be removed upon the completion of said permanent connection.

Applicant requested that the record in Application 9712

be included by stipulation as a part of the record in the present proceeding. Counsel for Pacific Electric Railway Company objected to the inclusion of all of the record but agreed to the stipulation, if the question of the temporary crossing under consideration only were involved.

The agreement (Exhibit 2) attached to the application provides that the permanent joint line hereinbefore mentioned shall cross the tracks of the Southern Pacific Company and the tracks of the Pacific Electric Railway Company at grade at the points marked "W" and "Y", "X" and "Z", respectively, as shown on Exhibit "A", attached to said agreement. It is proposed to protect three of said crossings with interlocking plants, said crossing at "Y" with Southern Pacific's Long Beach line to remain unprotected. Counsel for Pacific Electric Railway Company and Southern Pacific Company stated that those companies would object strenuously to the proposed crossing of their lines at grade with the proposed permanent Santa Fe line to the harbor. However, the manner in which these crossings are to be made is a matter which is not before the Commission for action in this proceeding and will therefore not be discussed to any further length at this time.

The important thing to be considered at this time is that the Santa Fe, through its subsidiary, and the City, through its Harbor Board, have entered into an agreement and stipulation along the lines required by the Commission in its Decision No. 15121, and as the other conditions surrounding the entrance of the Santa Fe into the harbor remain unchanged, it appears that the application of the City in this proceeding should be granted, subject to certain conditions. Among the conditions attached to the granting of the former application of the City for this temporary crossing, were certain provisions requiring the

installation of an interlocking plant, which was to include in its protection the junction of the Pacific Electric Railway Company's Wilmington-Long Beach Line with its San Pedro Line, and the installation of crossing gates for the protection of the highway traffic, the gates to be operated from the interlocking tower.

At the initial hearing in Application No. 9712, held May 10th, 1924, Mr. Ludlow, then Harbor Engineer for the City, testified (Page 11 to 19 of Reporter's Transcript) that the Board of Harbor Commissioners had always anticipated the installation of crossing gates at the proposed crossing and that the City was prepared to install whatever safety devices were ordered by this Commission and had anticipated that an interlocking system for protection of the railroad crossing would be required; that the money was available and that the fact that the municipal line was to be operated by the Pacific Electric did not alter the necessity for the interlocking plant. He further testified that the crossing gates should be operated from the tower.

Mr. C. K. Bowen, Assistant Engineer for the Pacific Electric Railway Company, testified at this hearing that the Company deemed an interlocker desirable at this intersection; that the plan was available (Pacific Electric Exhibit 1); that the entire plant was estimated to cost \$62,465., and that the Pacific Electric should be willing to stand a reasonable apportionment of the cost based on that portion of the plant devoted principally to the use of the Pacific Electric.

The Chief Engineer of the Santa Fe evidently considers an interlocking tower necessary to serve the crossing of the municipal and the Pacific Electric as he has the cost of such protection included in his estimate, (even if the connection with the harbor were to be made by a junction with the Pacific Electric tracks north of Anaheim Road.)

At the hearing on the present proceeding, held February 23rd, 1926, the Harbor Department of the City took the position that an interlocking tower was not warranted for this temporary crossing on account of the large expense involved. The City estimates its portion of the cost of an interlocker at \$36,000., the total cost being \$55,000. as compared to a cost of only \$7,000. for the track connection. It is estimated that from two to four additional trains a day will be operated through this intersection in order to serve the Santa Fe, which traffic is now handled as part of Pacific Electric trains. Counsel for the City stated that the City was ready to install whatever reasonable protection this Commission might deem necessary.

The Pacific Electric has an operating agreement with the City whereby it handles and will continue to handle all trains and cars across Anaheim Road, including those over the proposed temporary track. This agreement has been terminated as of July 1st, 1926, by notice of the City and may or may not be renewed. It is not known at this time by whom the operation of these trains will be performed after that date.

Counsel for the Pacific Electric Railway Company stated that as long as all trains through this intersection were operated by one company, the Pacific Electric did not feel an interlocker was necessary, but if any outside operation were to be injected, that they would desire the interlocking plant installed as originally contemplated. The Pacific Electric operates approximately 150 passenger trains and 30 freight trains daily over this intersection.

It may be that the existing track situation at this location justifies the installation of an interlocking plant irrespective of the effect thereon of the construction of the temporary crossing proposed herein as a connection between the City's line and the Santa Fe, but the mere installation of this temporary crossing for

a period not to exceed two years does not in itself appear to justify the installation of such an interlocker.

Before requiring the expenditure of approximately \$60,000. it would appear appropriate to inquire as to how permanent the track arrangement is which makes necessary this form of protection. It may be that the proposal to later divert the Santa Fe traffic across Anaheim Road through another route in the vicinity of Dominquez Slough will point the way to substantial changes in the present Pacific Electric facilities at this location, in order to avoid the public grade crossing hazard of Pacific Electric now existing in this vicinity.

The present record does not throw any light upon future changes, if any, that may be contemplated in these Pacific Electric facilities. It therefore appears appropriate to accede to the City's request for the omission of interlocking protection at this crossing.

A determination of whether or not the Pacific Electric's track arrangement is sufficiently hazardous and permanent at this point to justify interlocking protection can best be reached by another proceeding, inquiring into that very feature and provisions requiring interlocking protection will therefore be omitted from the accompanying order. It appears reasonable to require, in lieu of such interlocking, that all trains be required to stop before passing over this crossing and the order will so provide.

The evidence shows that Anaheim Road is one of the heaviest traveled streets in Southern California and that its location presents more than the usual hazard on such heavily traveled arteries, on account of the occurrence of fogs. This is, therefore, a highway crossing which it will be difficult to over-protect and in view of this, it is recommended that there be provided, for the protection of highway traffic at this crossing a uniformed traffic officer between the hours of 7:00 A.M. to 8:00 P.M. daily. The cost

of maintaining this uniform traffic officer should be divided equally between the City and the Pacific Electric Railway Company until such time as the City's track herein proposed shall be removed and thereafter the entire cost of maintaining the traffic officer shall be borne by the Pacific Electric Railway Company.

The following form of order is recommended:

O R D E R

City of Los Angeles, having made application to this Commission, through its Board of Harbor Commissioners, for an order granting permission to temporarily construct a railroad track at grade across Anaheim Road and at grade across certain tracks of the Pacific Electric Railway Company's San Pedro Line, as shown in red on the map (6506-A) attached to the application, public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the establishment of temporary crossings at grade at the points applied for in this application and hereinbefore mentioned, pending the construction of permanent lines of railroad to the viaduct now under construction at Dominguez Creek and Anaheim Road, as agreed to between the City, by the Board of Harbor Commissioners, and the Santa Fe and Los Angeles Harbor Railway Company on the 3rd day of February, 1926, (Exhibit No.2), therefore,

IT IS HEREBY ORDERED that permission be and it is hereby temporarily granted to the City of Los Angeles, County of Los Angeles, State of California, to construct and maintain a railroad track at grade across Anaheim Road, as shown on the map (6506-A) attached to the application, such crossing to be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the 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 crossing shall be constructed substantially in accordance with Standard No. 4, in General Order No. 72 of this Commission and shall be constructed of a width to conform to that portion of said street now graded, with the tops of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Said crossing of Anaheim Road shall be protected by the stationing thereof of a uniformed police officer in control of all traffic at the crossing during the hours of 7:00 A.M. to 8:00 P.M. daily, except Sundays and Holidays and during the hours of 8:00 A.M. to 11:00 P.M. on Sundays and Holidays. Cost of such officer or officers shall be divided equally between applicant and 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 crossing.

(5) If said crossing shall not have been installed within one 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.

(6) The authorization herein granted for the installation of said crossing shall lapse and become void two years from the date of this order whereupon said crossing shall be abolished.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said 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.

IT IS HEREBY FURTHER ORDERED that permission be and it is hereby granted to the City of Los Angeles to temporarily construct a railroad track at grade across the tracks of the San Pedro Line of the Pacific Electric Railway Company at McFarland Avenue and Ansheim Road near Wilmington, in the City of Los Angeles, County of Los Angeles, State of California, as shown in red on the map (6506-A) attached to the application, said crossings to be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class condition shall be borne by applicant.

(2) All trains, motors, engines and cars of applicant shall stop before crossing the tracks of Pacific Electric Railway and shall not proceed thereover until the conductor or other competent employee has gone upon the crossing to ascertain that it is safe so to do and shall have given a suitable signal to proceed.

(3) All trains, motors, engines or cars of Pacific Electric Railway shall stop before crossing the tracks of applicant and shall not proceed thereover until the conductor or other competent employee has gone upon the crossing to ascertain if it is safe so to do and shall have given a suitable signal to proceed.

(4) The authorization herein granted for the installation of said crossings shall lapse and become void two years from the date of this order whereupon said crossings shall be abolished.

(5) The Commission reserves the right to make such further orders, relative to the location, construction, operation, maintenance and protection of said crossings 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.

The foregoing opinion and order shall not be construed in any manner whatsoever as an approval or disapproval by this Commission of any crossings to be installed on the permanent line of the Santa Fe and Los Angeles Harbor Railway Company via the Dominguez Creek Viaduct, described in the agreement (Exhibit No.2) attached to the application.

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.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this 5th day of April, 1926.

H. B. Brundage

Albany

Ernest W. Scott

Leon Whitell

Commissioners.