

ORIGINAL

Decision No. 16611.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of The Atchison, Topeka and Santa Fe Railway Company, a corporation, for approval of contract between applicant and the City of Bakersfield, covering the construction and installation of a subway at the intersection of Union Avenue and the line of railroad of applicant in the said City of Bakersfield, California.

Application No. 12,501.

BY THE COMMISSION:

O P I N I O N

The Atchison, Topeka and Santa Fe Railway Company, a corporation, filed the above entitled application on February 8th, 1925. The application recites that under date of June 8th, 1923, this Commission made its Decision No. 12,184, in Case No. 1,870, City of Bakersfield versus The Atchison, Topeka and Santa Fe Railway Company, Defendant, wherein it was ordered that the parties thereto eliminate the grade crossing of Union Avenue, in the City of Bakersfield with the main line track of the Santa Fe by the installation of a subway, the cost of which was to be divided equally between the two parties. That on June 14th, 1923, in Decision No. 12,213, in Application 8,996, this Commission ordered the grade crossing of the second main line of the Santa Fe therein authorized across Union Avenue abolished by constructing the above mentioned subway under said second main line track at the expense of the railway company.

The application further recites that the City of Bakersfield has advertised in the usual fashion for contractors to submit bids for the work of constructing the subway but that no bids were received and that the City now desires the railway company to construct the subway which the latter is willing to do.

Under date of December 1st, 1925, the City of Bakersfield and The Atchison, Topeka and Santa Fe Railway Company made and entered into a contract, subject to the approval of this Commission, covering the construction of the subway by the railway company. A copy of this contract is attached to the application as Exhibit "A". It is this contract which applicant seeks to have approved by the Commission in this proceeding.

It appears to be in the public interest that the agreement be approved subject to certain conditions and it will be so ordered.

O R D E R

IT IS HEREBY ORDERED that the contract (Exhibit A, attached to application), entered into under date of December 1st, 1925, by The Atchison, Topeka and Santa Fe Railway Company, applicant herein, and the City of Bakersfield for the construction of a subway at Union Avenue, in accordance with this Commission's Decisions No. 12,184, dated June 8, 1923, and No. 12,213, dated June 14, 1923, be and it is hereby approved, subject to the following conditions:

(1) Section (8) on Page 4 of said contract shall specify twenty (20) days for the payment after presentation to the City by the Railway Company of monthly bills covering the City's portion of the cost of construction.

(2) It shall not be construed that in the granting of its approval of the aforementioned contract (Exhibit "A") this Commission delegates to any individuals any authority invested in it as a body by law to settle any controversies which may arise between the parties to said contract over the payment of said bills or over the allocation of the items thereof.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 3^d day of May, 1926.

H. B. Rudiger

C. Henry

Ernest Beede

Commissioners.