

Decision No. 91392

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 and Santa Fe Railway Company, the Los Angeles & Salt Lake Railroad Company, the Pacific Electric Railway Company and the Los Angeles Railway Corporation, for a just and equitable apportionment 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.

Gibson, Dunn and Crutcher, by S. M. Haskins, and Woodward M. Taylor, for the Los Angeles Railway Corporation.

A. S. Halsted, for the Los Angeles and Salt Lake Railroad Company.

Robert Brennan, for The Atchison, Topeka and Santa Fe Railway Company.

Jess E. Stephens and Milton Bryan, for the City of Los Angeles.

J. O. Marsh and F. F. Ball, for the Board of Public Utilities and Transportation of the City of Los Angeles.

Everett Mattoon and R. W. Kinney, for the County of Los Angeles.

SEAVEY, COMMISSIONER:

O P I N I O N

This opinion and order has to do with the apportionment of cost of the Fourth Street Viaduct, which was authorized to be constructed and the plans approved under Decision No. 21160, dated May 27th, 1929, in this proceeding. Under the plans, as approved, the viaduct will extend from Fourth and Anderson Streets on the

east side of the river to Fourth and Molino Streets on the west side, having a length of approximately 2,733 feet. A second approach, approximately 455 feet long, will extend from the main viaduct down to Fourth Place and Mateo Street. The main viaduct has an overall width of 71 feet, made up of a 56-foot roadway and two 7' 6" sidewalks, and crosses at separated grades Mission Road and the Los Angeles and Salt Lake Railroad tracks, on the east side of the river, and The Atchison, Topeka and Santa Fe Railway tracks and Santa Fe Avenue, on the west side. Provision is made along the center of the viaduct for the double-track line of the Los Angeles Railway.

Public hearings were held in Los Angeles on June 27th and July 12th, 1929, with reference to the apportionment of cost of the Fourth Street Viaduct, at which latter hearing the matter was submitted.

At the hearing on June 27th, 1929, estimates were submitted by the interested parties of the cost of the viaduct and the work incidental thereto. The total cost, as shown in these estimates, follows:

MAIN VIADUCT

|                              |       |                  |
|------------------------------|-------|------------------|
| West Approaches              |       |                  |
| Fourth and Molino            | (A-1) | \$604,676.82     |
| Fourth Place and Mateo       | (A-2) | 133,918.14       |
| Crossing over Santa Fe       | (B)   | 542,235.45       |
| River Portions               |       |                  |
| Low Level Bridge             | (D)   | 210,438.36       |
| Elevated Portion             | (C)   | 306,966.84       |
| Crossing over L.A. & S.L.    | (E)   | 168,959.15       |
| East Approach                | (F)   | 194,802.22       |
| Street work at west approach |       | 20,139.33        |
| Street work at east approach |       | 4,875.66         |
| Removal of old bridges       |       | <u>16,197.50</u> |
| Total                        |       | \$2,203,209.47   |

WORK INCIDENTAL TO CONSTRUCTION OF MAIN VIADUCT

|  |                  |
|--|------------------|
| Cost of relocation of Santa Fe trackage    | \$314,297.34     |
| Cost of relocation of L.A. & S.L. trackage | 31,530.00        |
| Work in connection with L.A. Ry. trackage  | <u>93,350.00</u> |
| Total                                      | \$439,177.34     |
| GRAND TOTAL                                | \$2,642,386.81   |

There was no disagreement with the above estimates expressed by any of the interested parties and they have been used as a basis for the apportionment of costs.

At the hearing on July 12th, Assistant Engineer, J. E. Cooper, of the Transportation Division of the Commission's Engineering Department, presented a report dealing with the Fourth Street Viaduct, in which three bases of apportionment are set forth. These three bases are the same as used by the Commission's Engineering Department in its reports submitted in relation to the apportionment of costs of the Macy Street, Seventh Street and First Street viaducts and are defined in detail in Commission's Decision No. 14731, dated April 1st, 1925, in this proceeding. Briefly re-stated, these bases are as follows:

(1) Equal division of cost between the five applicants interested.

(2) A division of cost based upon consideration relating to the purpose for which the structure is to be constructed, resulting in an apportionment as follows:

- (a) The cost of bridging the river at street grades assessed to political subdivisions;
- (b) The cost of separating grades of the street with each steam railroad, including the additional height of river bridge necessary to accomplish this result, divided equally between the political subdivisions and the respective steam railroads;
- (c) The excess cost of viaduct, due to design for street loading, assessed to street railway. Also work incidental to maintenance of street railway service assessed to street railway.

(3) Same as basis 2, except Los Angeles Railway is assessed with a percentage of the amount allocated to the political subdivisions, the per cent used being determined by the relation that one-half the 20-foot strip, occupied by the street railway, bears to total width of the viaduct.

The apportionment of cost of the Fourth Street Viaduct upon a money and percentage basis, as determined by the three bases of apportionment briefly described above, follows:

|                        | Basis 1        |     | Basis 2        |       | Basis 3        |       |
|------------------------|----------------|-----|----------------|-------|----------------|-------|
|                        | Amount         | %   | Amount         | %     | Amount         | %     |
| City of Los Angeles,   | \$528,477.36   | 20  | \$666,952.94   | 25.2  | \$573,015.97   | 21.7  |
| County of Los Angeles, | 528,477.36     | 20  | 666,952.94     | 25.2  | 573,015.97     | 21.7  |
| The A.T. & S.P. Ry.,   | 528,477.36     | 20  | 866,381.18     | 32.8  | 866,381.18     | 32.8  |
| L.A. & S.L. R.R.,      | 528,477.36     | 20  | 265,761.08     | 10.1  | 265,761.08     | 10.1  |
| L.A. Railway,          | 528,477.36     | 20  | 176,338.67     | 6.7   | 364,212.61     | 13.7  |
|                        | \$2,642,386.81 | 100 | \$2,642,386.81 | 100.0 | \$2,642,386.81 | 100.0 |

The steam railroads presented testimony relating to a different basis of apportionment, with reference to which it was stated that the structures now in existence were constructed at the sole expense of the City of Los Angeles and the Los Angeles Railway, respectively, along easements granted by the steam railroads, under the terms of which the structures were to be maintained by the City and the railway, respectively, under which conditions it was reasoned that the apportionment should be the same as if a new street at separated grades were proposed to be constructed across the railroad. On such a basis the steam railroads indicated that twenty-five per cent (25%) should be assessed to them and seventy-five per cent (75%) to the political subdivision.

Representative of the County of Los Angeles stated that the Board of Supervisors of the County of Los Angeles had passed a resolution limiting the County's participation in the construction of the Fourth Street Viaduct to twenty per cent (20%) of the total cost and asked that the Commission apportion the cost between the City and County upon an equitable basis.

Full consideration has been given to all of these contentions, as well as all other facts in the record, and I am of the opinion that the apportionment, as set forth under basis (3) and shown in the above summary, is, under all the conditions existing, the most equitable one presented. Heretofore, in this proceeding, the amount assessed to the political subdivisions has been divided equally between the City of Los Angeles and the County of Los Angeles. There does not appear to be any conditions, affecting the apportionment between the City and County at the proposed viaduct at Fourth Street, that are materially different than at the viaducts already constructed at Ninth, Seventh, First and Macy Streets. It is concluded that the division, of the cost apportioned to the political subdivisions, equally between the City and County is fair and reasonable and such apportionment will be used in reference to the Fourth Street Viaduct.

The following form of order is recommended:

O R D E R

Public hearings having been held, the above entitled proceeding being submitted, in so far as the Fourth Street Viaduct is concerned, and ready for decision,

IT IS HEREBY ORDERED that the costs of the construction of the viaduct at separated grades over the tracks of The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and across the Los Angeles River in the City of Los Angeles, County of Los Angeles, State of California, including the cost of changes in tracks and yards of the above named railroads on each side of the river and the changes in tracks of the Los Angeles Railway Corporation incidental to the construction of the viaduct, be and the same shall be paid as follows:

|  |     |
|--|-----|
| City of Los Angeles                                  | 22% |
| County of Los Angeles                                | 22% |
| The Atchison, Topeka and Santa Fe<br>Railway Company | 38% |
| Los Angeles & Salt Lake Railroad Company             | 11% |
| Los Angeles Railway Corporation                      | 13% |

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

(1) The line of demarkation of track work of the steam railroads on both sides of the Los Angeles River, to be charged to the Fourth Street Viaduct, shall be placed half-way between Fourth and First Streets and half-way between Fourth and Seventh Streets.

(2) Each applicant to this proceeding, financially interested in the construction of this viaduct, shall, within sixty (60) days of the completion of its work chargeable to the viaduct, file with the Commission a completion report of that portion of the work performed by it, said report to show total cost of such work, together with quantities of material used or moved, labor charges thereon and such other expenses as may have been incurred.

(3) Clearances with the viaduct where it crosses the steam railroad tracks on both sides of the river shall conform with this Commission's General Order No. 26-C.

(4) The Commission reserves the right to make such further orders, with respect to the construction, clearances and costs of this viaduct, as to it may seem right and proper.

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.

Dated at San Francisco, California, this 29<sup>th</sup> day of July, 1929.

Wm. B. Lovett

W. C. Seavey

Leon Whittell

Commissioners.