

Decision No. 23366.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

WILMAR CHAMBER OF COMMERCE,
of the unincorporated area of
Wilmar within the County of
Los Angeles,

Complainant,

vs.

Case No. 2966.

PACIFIC ELECTRIC RAILWAY
COMPANY, a corporation,

Defendant.

C. A. Lyon, for Wilmar Chamber of Commerce,
Complainant.

Frank Karr and R. E. Wedekind, for Pacific Electric
Railway Company, Defendant.

Charles De Le Fond, for Doesken - De Le Fond
Corporation.

C. E. Weary, for Road Department of Los Angeles
County.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Wilmar Chamber of Commerce asks the Commission to order the installation of horizontal, gravity-operated automatic railroad crossing gates for the protection of the grade crossing of Del Mar Avenue with the tracks of Pacific Electric Railway Company's San Bernardino line at Wilmar, Los Angeles County. A public hearing was conducted by Examiner Gannon at Wilmar on January 20, 1931.

The crossing involves a double-track electric interurban

line, over which eighty-five trains are operated daily, most of them being passenger trains consisting of from one to three cars. The highway crosses at right angles and carries a moderate volume of vehicular and pedestrian traffic. Approaching motorists do not have a clear view of the tracks in all directions, due to buildings which have been erected adjacent to the railroad. The crossing at the present time is protected by one standard wigwag signal. The record shows that there have been a number of accidents at the crossing, the most recent resulting in the death of four children.

The President of the Wilmar Chamber of Commerce and four other residents of the district testified on behalf of complainant, urging the installation of automatic crossing gates. The testimony of these witnesses, as a whole, pointed to the inadequacy of the wigwag for the protection of the crossing, largely by reason of its height above the pavement and the fact that the track is somewhat above the natural ground line in the vicinity. The testimony of complainant's witnesses vary widely as to whether gate protection for pedestrians was necessary and as to whether the gate, if constructed, should extend over the entire roadway width or merely over half thereof when the gate was in a closed position.

The Superintendent of the Los Angeles County Highway Patrol testified that for the period of January to June, 1930, there were eighty-eight arrests in the territory under his jurisdiction for violation of Section 114 of the California Vehicle Act.¹ During the same period there were 446 arrests for violations of traffic signals and 714 arrests for driving on the wrong side of the highway. In

¹ This Section, in substance, provides that at railway grade crossings all vehicles must be brought to a complete stop within fifty feet of the tracks whenever a flagman or mechanical signal gives warning of the immediate approach of a steam or electric train.

the opinion of the witness, the use of highway traffic signals for controlling traffic at highway intersections has proved satisfactory and the display of such signals is respected by a majority of motorists.

The Road Department of the County of Los Angeles, represented at the hearing by its Engineer of Maintenance, is willing that the county should participate in the cost of any trial or experimental protection at this crossing as might be determined necessary by the Commission, to the extent of fifty (50) per cent of the initial cost, provided the county be not called upon to pay more than \$2,500. and provided, further, that the county be not required to contribute any portion of the expense of maintenance of such protection.

The defendant, Pacific Electric Railway Company, takes the position that the present protection afforded at this particular crossing is adequate. The record shows, however, that the company is not opposed to participating in the expense of trial installation of other types of signals or gates at a suitable location but did not consider this crossing to be a desirable location for such a trial installation. It is the company's contention that in the case of a trial installation of crossing gates it should not be called upon to bear the maintenance cost over and above that for standard wigwag protection. Evidence was presented by the defendant to show that there are no gates of the type desired by the complainant which may be accepted as proven safeguards for the protection of crossings.

The subject of the use of automatic crossing gates for grade crossing protection has been very carefully considered by this Commission in connection with other recent proceedings. From a consideration of the record in this case, as well as from the record in

in the other proceedings mentioned, we have reached the following conclusions:

(1) That the automatic crossing gate is still in an experimental stage and cannot be accepted at this time as a standard grade crossing protective device.

(2) That a further trial of automatic gates at the particular crossing herein considered will not contribute anything, in the way of additional information as to this device, which will not be demonstrated by tests already under way.

(3) That the present wigwag signal, due to the conditions at this crossing, should be lowered and an additional wigwag signal installed at the crossing.

The order which follows is based upon the above findings.

The Commission would be remiss in its obligations to the public did it not point out the impropriety, if not the positive danger, of municipalities and civic bodies placing the conduct of proceedings such as this entirely in the hands of parties who are financially or otherwise interested in some particular patented type of crossing protection. In this instance the case of the Wilmar Chamber of Commerce was conducted in its entirety by a salesman representing a particular type of automatic crossing gate, who entered his appearance, called and examined all complaining witnesses, cross-examined adverse witnesses and, in general, represented the complainant throughout the proceedings. A representative of another type of gate also entered an appearance and cross-examined certain witnesses. Were this practice to prevail, hearings of this character would soon develop into contests in salesmanship, presumably with the award going to the salesman displaying the greatest ingenuity or the highest-powered arguments.

In the first instance, these salesmen were called as witnesses by the communities to testify as to the mechanical and operative merits of their particular protective devices and we offer no

criticism of that procedure. Now, they enter into agreements with such communities to conduct the proceedings on behalf of the complainants. There is only one step remaining to complete the transformation to a wholly illogical and improper procedure, and that is for the gate companies, at the close of each hearing, to present an opinion and order for the Commission's approval.

We take it that the complaint before us is for the sole purpose of determining whether or not the protection afforded the public in its use of this particular grade crossing is adequate in all respects. If not, and additional protection is necessary, the Commission's duty is to order the installation of such device or devices as, in its judgment, will best safeguard the public using the crossing but the Commission, in the discharge of its duty in connection with these matters, most assuredly does not countenance the indefensible practice above alluded to.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted and being now ready for decision,

The Railroad Commission of the State of California
Hereby Declares that public convenience and necessity do not require the installation of automatic railroad crossing gates at the crossing of Del Mar Avenue with the tracks of Pacific Electric Railway Company at Wilmar, Los Angeles County, and

IT IS HEREBY ORDERED that

1. The complaint of the Wilmar Chamber of Commerce, seeking the installation of horizontal gravity-operated automatic railroad crossing gates at crossing No. 6T-9.47, Del Mar Avenue, Wilmar, Los Angeles County, be and the same is hereby dismissed.

2. Defendant, Pacific Electric Railway Company, shall, within thirty (30) days from the date hereof, submit a plan, for the approval of the Commission, for the installation of crossing signals which will be within the range of motorists' vision at this particular crossing, including one signal on each side of the track at the diagonally opposite corners of said crossing, and shall carry such plan to completion after approval within ninety (90) days after the date hereof.
3. The Commission reserves the right to make such further orders in this proceeding as to it may seem right and proper and to revoke this order if, in its judgment, public convenience and necessity so demand.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 5th day of February, 1931.

C. C. Scamier
Leon O'Connell
W. J. Carr

Commissioners.