

Decision No. 25163

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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The Municipal League, a voluntary organization  
of the citizens of the City of Los Angeles,  
State of California,

Complainant

vs.

Case No. 970

The Southern Pacific Company, Atchison, Topeka  
and Santa Fe Railway Company and San Pedro,  
Los Angeles and Salt Lake Railroad Company,

Defendants.

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The Central Development Association of Los  
Angeles, a voluntary organization of the  
citizens of the City of Los Angeles, State  
of California,

Complainant

vs.

Case No. 971

The Southern Pacific Company, Atchison, Topeka  
and Santa Fe Railway Company and San Pedro,  
Los Angeles and Salt Lake Railroad Company,

Defendants.

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The Civic Center Association of Los Angeles, a  
corporation of the citizens of the City of  
Los Angeles, State of California,

Complainant

vs.

Case No. 972

The Southern Pacific Company, The Atchison,  
Topeka and Santa Fe Railway Company, San  
Pedro, Los Angeles and Salt Lake Railroad  
Company,

Defendants.

The City of Pasadena, A municipal corporation,

Complainant

vs.

Case No. 974

Pacific Electric Railway Company,  
Southern Pacific Company, Atchison,  
Topeka and Santa Fe Railway Company,  
San Pedro, Los Angeles and Salt Lake  
Railroad Company, and City of Los  
Angeles,

Defendants.

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The City of Alhambra, A municipal corporation,

Complainant

vs.

Case No. 980

Pacific Electric Railway Company,  
Southern Pacific Company, Atchison,  
Topeka and Santa Fe Railway Company,  
San Pedro, Los Angeles and Salt Lake  
Railroad Company and City of Los  
Angeles,

Defendants.

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The City of San Gabriel, A municipal corporation,

Complainant

vs.

Case No. 981

Pacific Electric Railway Company,  
Southern Pacific Company, Atchison,  
Topeka and Santa Fe Railway Company,  
San Pedro, Los Angeles and Salt Lake  
Railroad Company and City of Los  
Angeles,

Defendants.

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The City of South Pasadena, a Municipal corporation,

Complainant

vs.

Case No. 983

Pacific Electric Railway Company,  
Southern Pacific Company, Atchison,  
Topeka and Santa Fe Railway Company,  
San Pedro, Los Angeles and Salt Lake  
Railroad Company and City of Los  
Angeles,

Defendants.

In the Matter of the Application of )  
Southern Pacific Company and Los )  
Angeles and Salt Lake Railroad Com- )  
pany for approval of agreement for ) Application No. 3346  
joint terminal facilities in Los )  
Angeles, California. )

Robert Brennan, M. W. Reed, E. T. Lucey  
for The Atchison, Topeka and Santa Fe  
Railway Company

Frank Karr and C. W. Durbrow for  
Southern Pacific Company

E. E. Bennett for Los Angeles and Salt Lake  
Railroad Company

Erwin P. Werner, City Attorney, Milton Bryan,  
Executive Assistant City Attorney, and Max  
Thelen, Special Counsel for the City of Los  
Angeles

Harold P. Huls, City Attorney, and Leonard  
A. Diether, Assistant City Attorney for  
the City of Pasadena.  
BY THE COMMISSION:

OPINION AND ORDER SETTING ASIDE  
DECISION No. 24406 DATED JANUARY 18, 1932, AND FIXING  
TIME WITHIN WHICH CARRIERS SHALL AGREE UPON COSTS OF  
UNION STATION PROJECT REQUIRED BY COMMISSION'S DECISION  
NO. 18593 DATED JULY 8, 1927.

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By our order to show cause, issued in the above matters  
on August 22, 1932, the carriers, Southern Pacific Company, The  
Atchison, Topeka and Santa Fe Railway Company and the Los Angeles  
and Salt Lake Railroad Company, hereinafter referred to as Southern  
Pacific, Santa Fe and Salt Lake, respectively, and each of them, were  
directed to appear before the Commission and present evidence upon  
the particulars, if any, in which the plans approved by Decision  
No. 24406 are not in conformity with the requirements of Decision  
No. 18593, and particularly to show cause, if any they have, (1)  
why the Commission should not set aside and rescind its decision

of January 18, 1932, Decision 24406, approving certain plans for a Union Passenger Terminal at Los Angeles, and (2) why the Commission should not proceed with the taking of testimony and apportion among the carriers the costs of the Union Passenger Terminal project provided for in the Commission's order of 1927, Decision No. 18593. The hearing of the order to show cause was held before the Commission en banc on September 2, 1932, in Los Angeles.

Before discussing the showing made at the hearing on the order to show cause, and our conclusions thereon, it is appropriate and fitting to refer briefly to the circumstances which gave rise to the issuance of said order to show cause.

By our order issued in the above matters on July 8, 1927 (Decision No. 18593, 30 C.R.C. 151), the carriers named in the above paragraph and each of them were ordered to "proceed to construct and thereafter operate a Union Passenger Station within that portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River, together with such tracks, connections and all other terminal facilities, additions, extensions, improvements and changes in the existing railroad facilities of said Companies as may be reasonably necessary and incidental to the use of said Union Passenger Station, at a cost of approximately \$10,000,000, in substantial compliance with the plan outlined in Commission's Exhibit 4-B herein."

The validity of the Commission's order of 1927 was upheld by the Supreme Court of California by decision rendered May 27, 1930, The Atchison, Topeka and Santa Fe Railway Co. et al. vs. Railroad Commission, 209 Cal. 460, and the decision of the State Court was upheld by the Supreme Court of the United States on May 18, 1931, The Atchison, Topeka and Santa Fe Railway Co. et al. vs. Railroad Commission, 283 U. S. 380.

Manifesting an intention to comply with the requirements of the Commission's order of 1927, the carriers, at a conference held on December 14, 1931, submitted to the Commission for its consideration and approval, two sets of plans for a Union Passenger Station and incidental facilities in the Plaza area. The Southern Pacific and the Salt Lake presented a plan which they had jointly agreed upon, and the Santa Fe presented a separate plan. No hearing on said plans was requested by any of the parties. Thereafter on January 18, 1932, the Commission issued its Decision No. 24406 approving the said plans which had been filed by the Southern Pacific Company and Salt Lake. As appears from Decision No. 24406, the Commission, in approving said plans, acted in the belief that they were in compliance with the terms of the Commission's order issued in 1927 (Decision No. 18593.)

Subsequent to the issuance of Decision No. 24406, the Santa Fe challenged the validity of the decision in the Supreme Court of California, by petition for writ of review, and that Court, on April 8, 1932, denied said petition. Thereafter, in the District Court of the United States (Northern District of California, Southern Division) the said carrier filed a bill of complaint seeking to enjoin said Commission's Decision 24406. A motion for interlocutory injunction was made by complainant, and the Commission filed a motion to dismiss. Both motions have been argued and are to be submitted upon the filing of further briefs.

In both the state court and the federal court proceedings, the Santa Fe has contended that the Commission's order of January 18, 1932, is unlawful, for the reason that the plans approved are not in conformity with the Commission's Plan<sup>4</sup>-B referred

to and approved in the Commission's order of 1927; that said order approving plans, to be effective, should be conditioned upon the issuance of new and different certificates of public convenience and necessity from the Interstate Commerce Commission; that no new certificates have been obtained from said federal commission, and the order therefore is unlawful. Further, in both proceedings, the order approving plans was attacked by said carrier on the ground that it was afforded no opportunity to have a hearing prior to the approval of said plans.

In the light of these facts, it was apparent that the public interest required that the carriers be afforded an opportunity to demonstrate to the Commission the particulars, if any, in which the order of January 18, 1932, approving plans, was in conflict with the requirements of the order of 1927. In view of the fact that a period of more than a year has elapsed since the Supreme Court of the United States upheld the Commission's order of 1927, it was appropriate that the carriers be cited to advise the Commission of the progress which they had made in the matter of the apportionment of costs. These objectives prompted the issuance of the order to show cause of August 22, 1932.

At the hearing of the order to show cause, all carriers stated that progress had been made toward an agreement between them as to the division of the costs of the Union Station project, but that no definite agreement had yet been reached. It was the belief of the carriers that some agreement might be arrived at by October 1, 1932, or that substantial progress would be made to that end by said date.

With reference to the order of January 18, 1932, and its alleged unlawfulness, the Santa Fe, through Mr. W. K. Etter, General Manager, offered testimony to support its contentions above mentioned. The said carrier also offered affidavits of M. C. Blanchard, its Chief Engineer, to support its claims. From this testimony and other exhibits offered, the Santa Fe urges that the plan as approved (1) provides for a new railroad bridge across the Los Angeles River, which would provide a southerly access to the station for Southern Pacific and Salt Lake and be usable only by said two carriers; (2) creates a second crossing over the tracks of the Santa Fe at the throat of the station yard; (3) eliminates a substantial amount of land from the front of the station, and (4) shifts from the south side to the north side of the yard the mail and express facilities.

The Southern Pacific and the Salt Lake indicated at the outset of the hearing that whether the order of January 18, 1932, should be rescinded rested with the Commission and that they would not resist the determination of the Commission in that regard. The rescission of the order should meet with the approval of the Santa Fe, it contending that the order should be annulled for the reasons above indicated. The City of Los Angeles indicated that rescission of the said order was satisfactory to it. Under these circumstances, and with a desire to avoid further litigation and to facilitate consummation of the project, the Commission believes it desirable and appropriate that the said Decision 24406 be set aside and rescinded.

By rescission of the order of January 18, 1932, and the elimination of the questions which the order appears to have evoked, the way will be clear for the carriers to now agree upon a division of the costs of the project. The order of 1927, which order has been upheld by the Courts, will now be unaf-

ed by any subsequent order with reference to plans.

Although the Commission's order of 1927 reserved the right to make such further order or orders in the proceedings as might be determined by the Commission to be just and reasonable and required by convenience and necessity, it did not direct the carriers to submit for the consideration or approval of the Commission any specific plans. Indeed it was contemplated under the order that the carriers would agree among themselves upon the details of the project and go forward with construction in compliance with the order.

The order provided, in part, that "work upon the construction of said Union Passenger Station shall commence within ninety days after the effective date of the order and shall be completed within three years after said date."

The Supreme Court of California in its decision upholding the Commission order of 1927 stated:

"As to the objection that the order under review does not specify the details of the construction of the union station, we think it is without merit. A substantial compliance with the plans is all that is required, variation in detail being left to the discretion of the carriers. A similar situation was considered by the court in Gulf, C. & S. F. Ry. Co. v. State, (Tex. Civ. App.) 167 S.W. 192, 195, where the court said: 'It is urged by demurrer that the order was too vague and indefinite to be complied with, in that it did not designate the location of such depot, and failed to state the kind and character of building or structure required. We think it is unquestionably true that the Commission, under this statute, had the right to determine for itself the location, as well as the character and kind of a depot that should be erected; but it was permissible, we think, for it to leave these matters of detail open to appellants, for the reason that these questions might be best determined by them.'

In the instant case, the location of the union station is given, the track lay-out is fully shown, the land necessary to be taken is definitely marked out and the general dimensions of the station building are given. As to the details of the arrangement, this is left, considerably, to the discretion of the carriers and, as we have stated, a substantial compliance with the suggested plan is all that is required." (209 Cal. 460, 476)



The carriers should be able to agree among themselves upon the minutiae of construction. As was stated by the Supreme Court of California, substantial compliance with the suggested plan is all that is required by the Commission's order of 1927.

At the hearing each of the carriers manifested a willingness to cooperate with the Commission to the end that a union passenger station should be constructed in the Plaza area. In view of this attitude of the carriers and what has been said hereinabove and particularly in the light of the quotation from the decision of the Supreme Court of California indicating that a general compliance with the Commission plan is all that is required by the order, the carriers should be able to agree upon the details of construction.

If the carriers should desire a plan embodying some of the features of a through station, reflecting said station in the general area fixed by the Commission order with a probable cost within the maximum figure fixed by the Commission and should such plan meet with the unanimous approval of the carriers, there is no reason why they should not submit such plan to the Commission for an appropriate order.

It appears that a further reasonable time to be allowed the carriers within which to agree upon a division of the costs of the project required by our order of 1927, Decision 18593, is thirty (30) days from the effective date of this order, and such further time will be allowed. If at the expiration of such time, the carriers fail to file with the Commission a statement that an agreement has been made for a division or apportionment of the costs, the Commission shall set the matter down for further hearing, for the purpose of taking testimony with reference to the division of costs of said project and shall undertake to apportion among the carriers the cost to be borne by the respective carriers and the manner in which the same shall be paid or secured. Should the carriers be unable to definitely agree within the thirty-day

period, they will be expected to file a report with the Commission within said period indicating in detail the progress made in regard to the division of costs.

#### ORDER

Our order to show cause having been issued in the above matters, under date of August 22, 1932, directing the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, to show cause as outlined in the foregoing opinion, and hearing having been held on said order to show cause, and the matter having been submitted for decision and being now fully informed in the premises and basing our order upon the findings and statements of fact set forth in the foregoing opinion;

IT IS HEREBY ORDERED that the decision of this Commission issued in the above matters on January 18, 1932, Decision No. 24406, be and the same is hereby set aside and rescinded, and

IT IS HEREBY FURTHER ORDERED that the carriers, parties to the order of the Commission of 1927, Decision No. 18593, the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, are granted thirty (30) days from the effective date of this order within which to agree among themselves upon the apportionment or division of costs of the Union Station project required under the said Commission's order of 1927. If at the expiration of such time said carriers shall fail to file with the Commission a statement that an agreement has been made for a division or apportionment of the costs of said Union Station project, as required in said order of 1927, the Commission shall

set the matter down for further hearing and proceed with the taking of testimony for the purpose of making an order fixing the proportion of such cost or expense as shall be borne by each of said carriers and the manner in which the same shall be paid or secured. In the event the carriers shall fail to definitely agree among themselves upon a division of said costs within said period of time, they shall nevertheless be expected to file with the Commission a statement indicating what progress has been made in regard to a division of costs.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 7<sup>th</sup> day of September, 1932.

C. S. Weaver  
Leon Albrecht  
W. A. C.  
W. B. Vignia  
Fred G. Stewart  
Commissioners