

Decision No. ✓

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of constructing street crossings at grade over the tracks of Pacific Electric Railway at Chestnut Street and Seventh Street, in the City of Glendale, Los Angeles County, California.

Case No. 680

Decision No. 1924

W. E. Evans and Frank Muhleman for
City of Glendale
Frank Karr for Pacific Electric
Railway Company.

EDGERTON, Commissioner.

O P I N I O N

On June 6, 1914, the Board of Trustees of the City of Glendale filed an application with the Commission for permission to construct Seventh Street and Chestnut Street, in the City of Glendale, at grade over the tracks of Pacific Electric Railway Company. On June 26, 1914, a hearing was held and later an order was entered denying the application. Upon representation thereafter, from the City of Glendale, that they had further evidence which they wished to introduce, the Commission, on September 18, 1914, instituted on its own motion an investigation into the matter, and on October 6, 1914, a public hearing was held in Los Angeles.

While the decision in this case is different than that arrived at in Application No. 1172, it should be remembered that the matter was more fully presented in this case than in the other and hence the different conclusion.

The Pacific Electric Railway runs through the City of Glendale in a north and south direction, and south of Sixth Street it operates over a forty-foot private right-

of-way on each side of which is Brand Boulevard, which is 40 feet wide from the line of the Pacific Electric's right-of-way to the opposite side of the street. The streets crossed by the Pacific Electric Railway Company in this vicinity are streets which were laid out when this subdivision was thrown open some time before the Pacific Electric's entrance into Glendale and before the city was incorporated. The 40 foot strip of private right of way originally extended from Sixth Street north but recently this private right of way has been thrown open and become a part of the street.

From Sixth Street south the streets now open and those which the city wishes to open, in their order from the north, are Sixth Street, Seventh Street, Lomita Avenue, Chestnut Street and Maple Street. The distance between Sixth and Seventh Streets is 295 feet; between Seventh and Lomita 292 feet; between Lomita and Chestnut 350 feet, and between Chestnut and Maple 350 feet.

It is the contention of the City that since Sixth, Lomita and Maple streets were opened, the City has increased largely in population, and Seventh and Chestnut Streets should now be opened to serve the convenience of the residents of this district and that the drivers of vehicles, especially delivery wagons, are put to considerable inconvenience by having these streets closed. It contends further that property on these two streets is not as valuable as it would be with the streets opened across the tracks, and that the territory north of Maple and south of Sixth Street is the natural place for future business extension to take place, and that these crossings are needed to bring this about.

On the other hand, the Pacific Electric asserts that the time has not yet arrived when public need requires these

crossings; that each additional crossing adds to the hazard of operation and the liability to accident, and that each additional crossing tends to decrease the speed of operation with consequent inconvenience to all who use its service. It has still another ground for objection. As previously stated, Brand Boulevard parallels, and is on both sides of its right of way. It has been the company's experience that in many places where a similar condition has prevailed it has first, as an abutting property owner, been compelled to pay a proportion of the cost of paving the streets on both sides of its property; has next, with the growth of the community, been deprived of its property when it has been taken as part of the street, and has finally been compelled to stand not only the expense of paving over its tracks and to a certain distance outside of them, as well as a part of the remaining portion of the street, but also of lowering those tracks when the grades of the streets and of the tracks failed to coincide. When the right of way becomes part of the street the company has, of course, an easement to operate over it, but the courts have held that since its use was not diminished it was entitled to no damages for the right of way of which it had been deprived. All this means the expenditure of considerable money with no increase of earnings. In this particular case the grade of Brand Boulevard is from 18 inches to 2 feet lower than the grade of the tracks, and the Pacific Electric fears that grading down its tracks to the grade of the street will be a further item of expense to the Company if these crossings are granted.

The section of Glendale in which these streets are located is immediately south of the business portion of the town and by a recent ordinance the Trustees have placed such building restriction on the territory north of Maple and south of Sixth Street that it can probably be developed only by build-

ings erected for business purposes. One block north of Seventh Street the right of way has been recently taken for street purposes and become part of Brand Boulevard, and with the growth of Glendale it is a question of but a short time until the same thing will be done with the right of way as far south as Maple.

The evidence shows that the lack of crossings was the cause of inconvenience to the people living on these two streets and in the neighborhood, and particularly to drivers of delivery wagons and other vehicles who have business in this section of the town.

The agitation for the opening of these two streets dates back to 1910, when the population was considerably less than it is now, and these are the only streets along the Boulevard not open across the tracks.

I believe that the city has sustained its contentions that public convenience requires the opening of these streets and that they are needed to bring about the development of this section into a business district, but the question remains as to whether the objections of the Pacific Electric are important enough to offset this need. There is no question but what each additional grade crossing carries with it a certain amount of hazard. I find, however, that ^{if} these two crossings ^{are} will be open ^{ed} that a good view of the tracks in both directions can be had by drivers of vehicles and that the speed of operation of trains is not high. Lomita Avenue, a crossing now open between these two streets, has been free from accidents for five years and I believe that these crossings will be reasonably safe.

If the Glendale line extended many miles beyond Glendale and carried many people from beyond the city to and from Los Angeles, there would be considerable force to the argument that the installation of these crossings would inconvenience the traveling public, but I find that this condition does not exist.

This line runs but a few miles beyond the city and the small delay caused by the slowing down of cars over these two crossings will be negligible in its effect on passengers living beyond these points.

The Commission's action in this case is taken under Section 43 of the Public Utilities Act, which gives the Commission power to determine and prescribe the manner and the particular point of crossing, and this is not the proper place to consider the question of compensation for rights of way taken or damages sustained. I am satisfied that this Commission will have the opportunity under its wide powers to prevent injustice being done this railroad where its property has been taken from it for little or no compensation.

On the whole I believe that the need of the city of Glendale for these crossings, to serve public convenience and necessity, is great enough to offset any objections which have been or can be raised against their construction, and I am of the opinion that satisfactory crossings can be made at the present grade of the Pacific Electric tracks.

I recommend the following form of order:

ORDER

The Commission having instituted this case for the purpose of investigating the grade crossing situation over the tracks of Pacific Electric Railway Company on Brand Boulevard, at Seventh and Chestnut Streets, and a public hearing having been held, and it appearing to the Commission that for the reasons set forth in the opinion, that the City of Glendale should be permitted to construct Seventh Street and Chestnut Street at grade across the tracks of Pacific Electric Railway Company,

IT IS HEREBY ORDERED, That City of Glendale be and the same hereby is granted permission to construct Seventh and Chest-

Streets at grade across the tracks of Pacific Electric Railway Company, subject to the following conditions, viz:

1. The crossings shall be constructed to conform to the grade of Pacific Electric Railway Company, as now established, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.
2. The entire expense of constructing the crossings shall be borne by the city.
3. The expense of maintaining the crossings on each side of the track and up to two (2) feet thereof, shall be borne by the city.
4. The entire expense of maintaining the crossing over the track and to a distance of two (2) feet outside of the rails shall be borne by Pacific Electric Railway Company.
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 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 6th day
of ~~October~~ ^{NOVEMBER}, 1914.

H. S. Loveland
Chas. G. Foster
Max Thelen
Edwin D. Edgerton
Commissioners.