

ORIGINAL

Decision No. 2096

Decision No. _____.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
THE ATCHISON, TOPEKA & SANTA FE RAIL-)
WAY COMPANY for permission to lay)
additional railway tracks at grade)
in and across a portion of "B" Street,)
in the City of San Diego, San Diego)
County, California.)
.....)

Application No. 1461.

U. T. Clotfelter for The Atchison, Topeka & Santa Fe Railway Co.,
E. B. Cosgrove for the City of San Diego,
M. A. Luce for the "B" Street property owners.

GORDON, Commissioner.

O P I N I O N

On December 17, 1914 The Atchison, Topeka and Santa Fe Railway Company filed with the Commission its application for permission to cross "B" Street at grade in the City of San Diego, with a number of railroad tracks. The Commission was unwilling to make an ex parte order granting the application without a hearing, and the matter was set down for a hearing in San Diego on January 12, 1915. The applicant, the City of San Diego, and the interested property owners on "B" Street were represented at that hearing; a large amount of testimony was taken; and a decision can now be made.

The circumstances surrounding this crossing are discussed partly in the petition and answer filed by the City of San Diego, and were further brought out by the investigation undertaken on behalf of the Commission. It will be necessary to consider the situation in some detail.

The City of San Diego has, during the past year, been engaged in the work of preparation for an exposition in commemoration of the opening of the Panama Canal, which exposition was

opened to the public on January 1, 1915; and being widely advertised throughout the United States and other countries, undoubtedly will attract large numbers of people. At the present time the applicant's line of railway is the only one entering San Diego from transcontinental points, and a large portion of travel to the exposition will be carried over that line. The applicant has, for the purpose of providing ample and comfortable facilities for handling this traffic, and also in order to provide for future growth of business, spent a large sum of money in demolishing its old facilities and building new ones, consisting of new passenger and freight depots and of changes in the yards and terminal layouts necessary to utilize these new facilities. The new passenger depot is practically completed at this time, but among other things still required to be done by the applicant is the tearing down and removing of its old passenger depot, the installation, in addition to the existing tracks, of a number of additional tracks across that portion of "B" Street in San Diego/^{city} lying within the station grounds, as shown on the map and profile filed with the application. There also remains to be done the re-arrangement of some of the existing tracks and the laying down of vitrified brick pavement, a portion of which will be within the boundaries of "B" Street; so that passengers alighting from trains will not be compelled to land in dust or mud.

It was the desire and intention of the applicant to have all this work completed by the time the exposition was to open. It appears that the applicant petitioned the Common Council of the City of San Diego to vacate and close that portion of "B" Street lying within the boundaries of the station grounds, and that the petition was joined in by all commercial organizations of the City; also that a petition praying that the Common Council vacate and close this portion of "B" Street was also filed by a

number of the property owners along "B" Street. It further appears that pursuant to these requests the City Council passed a resolution, which I will quote, as follows:

"Resolution No. 18728. Be it resolved by the Common Council of the City of San Diego as follows:

That the City Attorney be and he is hereby authorized and directed to prepare and file with this Council the necessary papers to enable this Council to declare "B" Street, in said City, between a point 100 feet west of the west line of Arctic and the east line of Atlantic Street, unsafe and dangerous for public travel and use and closing said street between said points to public travel, such closing to be for a period of two years, and at the same time to prepare and submit to this Council the necessary papers to authorize the Atchison, Topeka and Santa Fe Railway Company to lay in said "B" Street between said points such railway tracks as may be necessary to conduct the business of said railway."

After the passage of this resolution the Council passed another resolution, No. 18781, which reads:

"Resolution No. 18781. FOR THAT WHEREAS the Atchison, Topeka & Santa Fe Railway Company, a corporation, has or is about to make application to the Railroad Commission of the State of California for permission to lay its tracks across "B" Street between Arctic Street and Atlantic Street in the City of San Diego; and

WHEREAS, this Common Council believes that the granting of said permission to the Atchison, Topeka & Santa Fe Railway Company to lay said tracks will inure to the benefit of the inhabitants of the City of San Diego, NOW THEREFORE,

BE IT RESOLVED, By the Common Council of the City of San Diego, as follows:

That the Common Council of the City of San Diego hereby express their willingness and consent that the Railroad Commission of the State of California grant the Atchison, Topeka & Santa Fe Railway Company, a corporation, permission to lay its railroad tracks across "B" Street between Arctic Street and Atlantic Street in the City of San Diego."

It would seem, therefore, that the Common Council of San Diego realized that this crossing would be unsafe and dangerous, but nevertheless was willing that this Commission should grant the application. If the application were granted there would operate over this crossing daily from 16 to 20 regular passenger trains, and in addition to the regular service there would be a practically continuous switching movement across "B" Street; and as there is between "B" Street and the next ^{open} street

south thereof, standing room for only 7 passenger cars, the applicant would be required to cut all trains of a greater number of cars if "B" Street is to be kept open. There will necessarily be many trains of more than 7 cars.

Long experience all over the country has shown that neither gates, automatic flagmen nor human flagmen can be an effective protection under such circumstances. A solution of the problem by means of a separation of grades was considered. The applicant claims that the cost incident to such a separation, either by means of a subway or a viaduct, is so large that neither one should be required, in view of the fact that there is not now, and in all probability will not be for several years, any development of the waterfront at the foot of "B" Street that would justify an order separating the grades and its attendant large expense; and even when and after any extensive developments of the waterfront at the foot of "B" Street shall have taken place, there is convenient and easy access thereto by way of Arctic Street, which the applicant is paving at its expense, "D" Street and Atlantic Street, or by way of a detour of one short block.

The City of San Diego in its petition and answer denies that a separation of grades is ^{not} now, or will ^{not} be hereafter, justified. Its Common Council on December 3, 1914 passed a resolution, No. 18692, as follows:

"Resolution No. 18692. BE IT RESOLVED By the Common Council of the City of San Diego, as follows:

That the sense of the Common Council, in regard to the closing of a portion of "B" Street, in said City, is as follows:-

That the Common Council favors the closing of "B" Street, provided that at the expiration of two (2) years' time the Atchison, Topeka & Santa Fe Railway Company shall within six months following official demand by the City of San Diego, construct at the expense of said Railway Company a viaduct or subway along, across and over that portion of said "B" Street, petitioned to be closed in Document No. 83416, on file in the office of the City Clerk of said City.

Said viaduct or subway to be constructed to the satisfaction and to the approval of the City Engineer of said City. Provided, however, that in the event the above demand is not complied with in the time specified, said closing of said "B" Street to be null, void and of no effect."

The City now prays that the Commission make its order separating the grades at the foot of "B" Street, and at the point where said "B" Street crosses the tracks of the Atchison, Topeka and Santa Fe Railway Company; and that it grant to the applicant authority and consent to install 9 additional tracks across "B" Street at the points mentioned in petition. The City desires that this grant be made upon condition that the City of San Diego shall pass such resolutions and ordinances which may, under the law, be required to close "B" Street at said point, and upon the further condition that at the expiration of not less than two years the applicant shall, within six months following official demand by the City of San Diego, construct a viaduct or subway along, across and over the portion of said "B" Street sought to be closed; and that the cost of said viaduct or subway and the approaches thereto shall be borne by applicant.

There was no disagreement among the interested parties at the hearing as to the dangerous condition of a grade crossing at the point in question, and I am thoroughly convinced that the application should not be granted in the form prayed for by applicant. Even if the crossing, in a measure, were protected by the installation of gates and the placing of a watchman, the situation would be unsatisfactory both to the City and to the applicant. Inasmuch as there would be an almost continuous movement of trains and switch engines, the gates would be down during most of the time, and the street would, in effect, be practically closed.

As between a separation of the grades by a subway and a viaduct, the subway appears to be impracticable for engineering

reasons, and an overhead crossing would have to be constructed. A tentative plan for such a structure shows that it would be 1625 feet long, extending from Columbia Street on the east to within 200 feet of the bulkhead line on the west, and that it would cost between two and three hundred thousand dollars. The grades of approach would be 6.75% from the city side and 5% from the waterfront, respectively, and the viaduct would have to span, with a 22-ft. clearance, not only the 18 tracks of the applicant but also the right of way of the San Diego and Arizona Railway Company and the track of the Los Angeles and San Diego Beach Railway. It would be a very large and expensive structure. The witnesses at the hearing in San Diego were unanimous in their testimony that such a viaduct was not now needed. Practically no travel by vehicles or pedestrians exists at this time between the territory on the east side and the west side of the applicant's line in the neighborhood of "B" Street; and this condition will not change until the City's tidelands have been further developed. This work, however, is now under way, and provision will have to be made to make these tidelands in the future readily accessible to the City.

It is my opinion that the traffic over "B" Street at this point should be suspended for at least three years. If it should thereafter appear desirable to resume traffic at this point, either at grade or by a separation of grades, the City of San Diego can bring the matter before the Commission. I am convinced that it is absolutely necessary, not only for the applicant but for the City as well, to have the railway tracks laid across "B" Street. The new depot cannot be put into use and the old facilities removed until these tracks have been put down. I recommend, therefore, that the City suspend traffic over "B" Street for the necessary distance for a period of three years and that applicant be authorized after the passage

by the city of the necessary resolution so suspending traffic to lay its rails across "B" Street in the number and manner specified in the petition herein.

I submit the following form of order:

O R D E R

The Atchison, Topeka & Santa Fe Railway Company, having filed with this Commission its application for permission to lay additional railway tracks and make certain changes in the existing tracks, in and across "B" Street, in the City of San Diego, San Diego County, California, as shown on the map and profile attached to the petition; and the City of San Diego having joined in this application; and a hearing having been held, and testimony having been taken; and it appearing to the Commission that the tracks, 18 in all, are necessary for the transaction of the applicant's business and for the convenience of the public, and therefore should be laid; and it further appearing that a grade crossing at this point would be extremely dangerous and could not be made reasonably safe if public traffic via "B" Street continues at this point; and that a separation of grades, by reason of its extreme cost, is not now practical; and that traffic over "B" Street across the tracks of The Atchison, Topeka and Santa Fe Railway Company should be suspended as hereinafter indicated.

IT IS HEREBY ORDERED That permission be hereby granted The Atchison, Topeka & Santa Fe Railway Company to construct its tracks across "B" Street between Arctic and Atlantic Streets, in the City of San Diego, as shown by the map and profile attached to the application and subject to the following conditions; viz.,

(1) The City of San Diego, through its Common Council, shall suspend traffic over "B" Street between Arctic and

Atlantic Streets for a period of three (3) years.

(2) The entire expense of constructing these crossings shall be borne by applicant.

(3) 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 20th day of January, 1915.

Wm. Thelen
A. J. ...
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Commissioners.