

Decision No. 614
ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
NORTHERN ELECTRIC RAILWAY COMPANY for)
permission to construct its track at)
grade across the tracks of Cement,)
Tolenas and Tidewater Railroad Company)
near Cement, County of Solano, Calif.)
.....)

Application No. 459.

APPEARANCES

T. T. C. Gregory for Applicant;

F. D. Madison for Cement, Tolenas & Tidewater Railroad Company.

GORDON, Commissioner.

OPINION

On March 20, 1913, Northern Electric Railway Company filed with the Commission an application for permission to construct its main line track at grade across the tracks of Cement, Tolenas and Tidewater Railroad Company near Cement, Solano County, California. No agreements or other evidence were filed indicating that Cement, Tolenas and Tidewater Railroad Company agreed to the crossing. Although the application was for a crossing "at grade", Section III thereof contained the following statement, "that applicant believes that a separation of grades at this point would be desirable and is willing to join in such separation under such terms and conditions as may be prescribed by the Railroad Commission of the State of California."

After due notice to all interested parties, a public hearing was held before the Commission on April 3, 1913, - This hearing was adjourned to April 9, 1913, and thereafter to April 12, 1913, in order that all of the pertinent facts relating to the crossing, including the reasonableness and practicability of avoiding a grade crossing could be ascertained by the Commission and in order that the interested parties might be given the opportunity to come to terms that would be satisfactory to the Commission.

The Northern Electric Railway Company is now constructing its line of railway between the Cities of Sacramento and Vallejo and desires to cross the tracks of Cement, Tolenas and Tidewater Railroad Company at Cement station near the manufacturing plant of the Pacific-Portland Cement Company. At the point selected for the crossing Cement, Tolenas and Tidewater Railroad Company has two (2) tracks, viz., its main line and a siding which it will be necessary for applicant to cross. The proposed point of crossing is about seven hundred (700) feet east of the yard of Cement, Tolenas and Tidewater Railroad Company at Cement, where a large amount of switching of trains and cars is done, and is also about three hundred (300) feet west of the track scales of the Cement, Tolenas and Tidewater Railroad Company, upon which all loaded cars are weighed.

The proposed point of crossing is objectionable from the standpoint of the Cement, Tolenas and Tidewater Railroad Company, and this company insisted at the hearings that applicant should relocate its line and cross the Cement, Tolenas and Tidewater Railroad at a point about one-half (1/2) mile east. This change, however, in my opinion, would be decidedly unadvisable from the standpoint of both applicant and the traveling public and objectionable on the ground that it would result in the breaking of a long tangent and also introduce additional distance in the line of applicant. Such change would not result in economy in the construction of a grade crossing nor be sufficiently less dangerous to warrant its additional cost.

Cement, Tolenas and Tidewater Railroad Company also insist that a grade crossing with its tracks should be avoided if the crossing were made at the point proposed. The principal question in regard to which there was controversy was the proper division of the expense of either an undergrade or overhead crossing, between the parties. Investigation by the Engineering Department of the Commission, and also the testimony submitted, shows conclusively that a grade crossing can be avoided at a reasonable cost, and that the undergrade form of crossing is most

economical and desirable from every standpoint. The main question for the Commission to decide, therefore, is the proper proportion of the expense of such undergrade crossing which each party should assume. The testimony shows that the cost of a grade crossing protected by a standard interlocking device, such device as the Commission would approve, would cost in the neighborhood of \$12,000.00. If a grade crossing were permitted, owing to the volume and character of the traffic which would be transported over both lines of railroad, an interlocking device would be required by the Commission for its protection, hence, when considering the undergrade crossing as against a grade crossing, we will assume that the grade crossing would be interlocked. The testimony shows that the undergrade crossing will probably involve an expenditure of about \$42,000.00. In my opinion, therefore, the Commission should require that applicant shall construct an undergrade crossing, the cost thereof to be borne equally by applicant and Cement, Tolomas and Tidewater Railroad Company, after the estimated cost of the grade crossing interlocked, viz., \$12,000.00, has been deducted therefrom, the applicant to assume such estimated cost of the grade crossing interlocked. In other words, if the undergrade crossing actually costs \$42,000.00, the estimated cost of the grade crossing interlocked, viz., \$12,000.00, should be deducted from this amount and the remaining \$30,000.00 divided equally between the parties, resulting in applicant bearing \$27,000.00 of the cost of such undergrade crossing and Cement, Tolomas and Tidewater Railroad Company bearing \$15,000.00. This division of expense between the parties, in my opinion, is just and reasonable and should be ordered by the Commission.

The testimony shows that it will require approximately one (1) year to construct the undergrade crossing. Meanwhile, applicant should not be prevented from completing and placing in operation its line of railroad between Sacramento and Vallejo, and, therefore, should be permitted to construct at its own expense a temporary crossing at grade at such point in the vicinity as will not interfere with the construction of the

undergrade crossing and be permitted to operate same until the undergrade crossing is completed ready for operation. I, therefore, submit the following form of order:

O R D E R

NORTHERN ELECTRIC RAILWAY COMPANY, a corporation, having on March 20, 1913, filed with the Commission an application for permission to construct its main line track at grade across the tracks of Cement, Tolenas and Tidewater Railroad Company near Cement, Solano County, California, and public hearings having been held upon the application at which all interested parties were duly represented, and testimony having been taken concerning the matters contained in the application, including the practicability of avoiding a grade crossing, and it appearing that both applicant and Cement, Tolenas and Tidewater Railroad Company agree and the physical conditions indicate that it is reasonable and practicable to avoid a grade crossing at said proposed point of crossing and that an undergrade crossing should be constructed by applicant under the tracks of Cement, Tolenas and Tidewater Railroad Company; and it further appearing that the proper division of the cost of such undergrade crossing between the parties is to deduct from its total actual cost, the cost of a grade crossing at the same point protected by a standard interlocking device, which cost is estimated to be \$12,000.00, and to divide the remainder equally between the parties, applicant bearing the cost of such grade crossing interlocked; and it further appearing that applicant should be granted permission to construct its track temporarily at grade across the tracks of Cement, Tolenas and Tidewater Railroad Company and be permitted to operate over same until the completion of the undergrade crossing.

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that Northern Electric Railway Company be and it is hereby

directed to construct an undergrade crossing for its track under the tracks of Cement, Tolenas and Tidewater Railroad Company near Cement, Solano County, California, at the point selected for a grade crossing, subject to the following conditions, viz.:

(1) Said undergrade crossing shall be constructed to conform to the requirements of General Order No. 26 of this Commission.

(2) The maximum grade of approach of applicant's track to the undergrade crossing shall not be less than one (1) per cent.

(3) Said undergrade crossing shall be constructed in accordance with plans prepared jointly by applicant and Cement, Tolenas and Tidewater Railroad Company and shall be submitted to this Commission for its approval within ninety (90) days after the date of this order. Said crossing shall be completed ready for operation of trains within one (1) year after the date of this order. Should the parties be unable to agree upon satisfactory plans for the crossing, each party shall submit such plans as it may have made for same to the Commission, and the Commission will direct the construction to proceed in accordance with either plan or in accordance with such amended plan as it may issue or approve.

(4) The expense of constructing the undergrade crossing shall be divided between applicant and the Cement, Tolenas and Tidewater Railroad Company as follows: from the total actual cost of the undergrade crossing shall be deducted the sum of \$12,000.00 which shall be paid by applicant. The remainder of such cost shall be divided equally between applicant and Cement, Tolenas and Tidewater Railroad Company.

(5) The cost of the undergrade crossing shall include the cost of the necessary excavations together with the cost of such overhead bridges as may be necessary for the tracks of Cement, Tolenas and Tidewater Railroad Company and include the cost of maintaining the tracks of the latter company at all times in condition for the operation of its trains and cars thereover and also include such cost, including bridges and grading, of constructing public highways over the tracks of applicant.

within the limits of the excavations; such cost shall not include the laying and ballasting of tracks of applicant nor the cost of laying the tracks and installing the frogs for the temporary crossings hereinafter provided for, and

IT IS FURTHER ORDERED that the cost of hereafter maintaining the undergrade crossing shall be borne by applicant, except that Cement, Tolenas and Tidewater Railroad Company shall maintain at its own expense its track over the undergrade crossing, including the necessary bridges or girders but not the abutments and foundations thereof, and

IT IS FURTHER ORDERED that pending the completion of said undergrade crossing, applicant is hereby given permission to at once install and operate its cars and trains over temporary crossings at grade across the tracks of Cement, Tolenas and Tidewater Railroad Company at such point in the vicinity of the proposed crossing as will not interfere with the construction of said undergrade crossing. All motors, trains and cars of applicant and of Cement, Tolenas and Tidewater Railroad Company before passing over such temporary crossings shall come to a full stop within fifty (50) feet thereof and shall not pass over the crossings until it has been ascertained that it is safe to do so, and

IT IS FURTHER ORDERED that the Commission reserves the right to make such further orders relating to the construction, maintenance, operation and protection of said crossings when, in its opinion, 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 28th day of April,
1913.

John M. Eschleman
Edwin O. Edgerton
Alex Gordon

Commissioners.