

Decision No. 997.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
PACIFIC ELECTRIC RAILWAY COMPANY for)
authority to construct and maintain)
at grade a crossing with the railroad)
of The Atchison, Topeka and Santa Fe)
Railway Company in Rialto Avenue, in)
the City of San Bernardino, at a point)
approximately fifty-seven (57) feet)
westerly from the center line of I.)
Street in said City of San Bernardino.)
.....)

Application No. 504.

In the matter of the application of the)
PACIFIC ELECTRIC RAILWAY COMPANY to)
construct and maintain at grade a)
crossing with the Railroad of The Atch-)
ison, Topeka and Santa Fe Railway Com-)
pany, in Rialto Avenue, in the City of)
San Bernardino, State of California, at)
a point approximately seven hundred)
(700) feet east of the west boundary)
line of said City of San Bernardino.)
.....)

Application No. 506.

APPEARANCES.

Frank Karr, Pacific Electric Railway Company.

M. W. Reed, The Atchison, Topeka and Santa Fe Railway Com-
pany.

REPORT OF THE COMMISSION.

GORDON, Commissioner,

On April 15, 1913, the Pacific Electric Railway Company filed with the Commission two applications for permission to construct and maintain at grade two crossings over the tracks of The Atchison, Topeka and Santa Fe Railway Company, in Rialto Avenue, in the City of San Bernardino, San Bernardino County, California. These were assigned Applications Number 504 and Number 506. Application Number 504 was for permission to construct a grade crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company in Rialto Avenue, approximately fifty-seven (57) feet westerly from the center line of I. Street, and Application Number 506 was for permission to construct a grade

crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company, at a point in Rialto Avenue approximately seven hundred (700) feet east of the west boundary line of said City of San Bernardino.

Attached to each application was a letter from the Acting General Manager of The Atchison, Topeka and Santa Fe Railway Company stating that the two companies were negotiating contracts for the crossing of the tracks of the respective companies in San Bernardino and that "no differences as to the terms thereof are anticipated". By these letters the Commission was led to believe that the two companies at interest had practically reached an agreement and entered an ex parte Order in each application on April 18, 1913. Section (2) of each Order provided that "All engines, motors, trains and cars of both applicant and The Atchison, Topeka and Santa Fe Railway Company before passing over said crossing shall come to a full stop within fifty (50) feet thereof and shall not pass thereover until it has been ascertained that it is safe to do so and until proper signals have been given".

After the Commission entered its Order in these applications the railroad companies could not come to an agreement amongst themselves as to the manner and method of constructing and operating the crossings, and on August 7, 1913, the applicant, Pacific Electric Railway Company, filed supplemental applications stating that they were unable to agree with The Atchison, Topeka and Santa Fe Railway Company; that The Atchison, Topeka and Santa Fe Railway Company did not desire to have the tracks of applicant constructed across its tracks unless the crossing was protected by a standard interlocking plant. Applicant stated that they did not believe it practicable nor feasible to install an interlocking plant for the reason that a portion of the plant would be in Rialto Avenue, which is a public street. Consequently, the two companies interested were notified that a hearing in the matter would be held in San Bernardino on Thursday, October 2, 1913, at which time and place all interested parties might be present, ^{and} be given an opportunity to be heard and present such testimony as was relevant.

The two applications were made by the same Company; each application was for permission to construct a grade crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company. Both crossings applied for are in Rialto Avenue, in the City of San Bernardino, and within approximately four thousand (4000) feet of each other. Conditions at both crossings are practically the same, and any objection to the manner and method of constructing and operating one crossing would apply to both; consequently, the Commission combined the two applications in one hearing.

After the filing of the supplemental application by The Pacific Electric Railway Company, and prior to the hearing the two Companies at interest agreed amongst themselves as to the manner and method in which the two crossings should be constructed and operated and also as to the division of the construction, operation and maintenance expenses. Applicant agreed to bear the entire expense of constructing the crossings, withdraw their objections to installing an interlocking plant and agreed to bear the entire cost of installing an interlocking plant at each crossing. Witnesses for applicant testified that in their opinion an interlocking plant was entirely feasible and practicable and that the crossings would be dangerous unless a standard interlocking plant was installed. There was no controversy as to the necessity of installing an interlocking plant at each crossing, and inasmuch as applicant had agreed with The Atchison, Topeka and Santa Fe Railway Company to install an interlocking plant and to bear the entire expense of constructing same at each crossing, and the two railroad companies had agreed amongst themselves that the cost of maintenance and operation would be divided equally between them, it is not necessary that the Commission enter further into this matter.

Attorneys for both Applicant and The Atchison, Topeka and Santa Fe Railway Company stated that it was desired that the Commission in this case establish a ruling as to the cost of construction, maintenance and operation that should be borne by each company, that said

ruling might be used as a guide for apportioning construction, operation and maintenance expenses in the future, where the tracks of two railroads cross and an interlocking plant is installed. Inasmuch as the two companies at interest have agreed amongst themselves as to the division of construction, operation and maintenance costs and said agreement does not appear to the Commission to be unreasonable nor contrary to public policy, the Commission does not feel that this agreement entered into between the parties at interest should be set aside and annulled. However, it must not be construed that in approving the above agreement entered into between these two companies that the same can be used as a ruling by the Commission as to the manner and method in which construction, operation and maintenance costs shall be divided between two companies constructing an interlocking plant at a railroad grade crossing in the future where controversy between the two companies arises and where it is not possible to reach a mutual agreement between themselves.

Applicant's Operating and Engineering officials stated that an interlocking plant is necessary at each crossing and that the only means of positively safeguarding the crossings is with a standard interlocking plant. Applicant's Superintendent of Signals testified that estimates had been made as to the probable cost of constructing the two interlocking plants. The estimated cost of constructing the interlocking plant at the crossing applied for in Application Number 506, which is in Rialto Avenue, approximately seven hundred (700) feet east of the west boundary line of San Bernardino, was \$ 14,000.00, and the estimated cost of the interlocking plant at the crossing applied for in Application Number 504, which is in Rialto Avenue near "I" Street, was \$ 21,300.00.

Inasmuch as the two companies at interest have mutually agreed that an interlocking plant should be installed at each crossing, that Pacific Electric Railway Company will bear the entire cost of constructing the interlocking plants and the cost of operation and maintenance

will be borne equally by the two companies, I am of the opinion that the Commission should not annul the agreement entered into between the parties at interest.

I submit the following form of Order:-

O R D E R

By the Commission,

PACIFIC ELECTRIC RAILWAY COMPANY, a corporation, having made application to the Commission for a modification of its Orders of April 18, 1913, entered in Applications Numbers 504 and 506, and a hearing having been had in the matter, of which all parties at interest were duly notified, and it appearing to the Commission that the conditions at each crossing are practically the same and therefore the two Applications were combined in one hearing; and it further appearing that said Applications for a modification of the Commission's Orders requested an order of the Commission, prescribing the terms and conditions under which each crossing shall be installed and operated, if in the wisdom of the Commission a change should be made in the Orders entered on the 18th day of April, 1913; and it appearing that subsequent to the issuing of said Order in each application on the 18th day of April, 1913, and prior to the hearing on October 2, 1913, the two companies at interest mutually agreed amongst themselves that an interlocking plant at each crossing was a necessity, and that applicant would bear the entire expense of constructing the interlocking plant at each crossing and the cost of operation and maintenance would be borne equally between the two parties at interest,

IT IS HEREBY ORDERED that the Pacific Electric Railway Company shall install and construct at its own expense a standard interlocking plant at the crossing of its tracks with the tracks of The Atchison, Topeka and Santa Fe Railway Company in Rialto Avenue, approximately 700 feet east of the west boundary line of the City of San Bernardino, and shall also install and construct at its own expense

a standard interlocking plant at the crossing of its tracks with the tracks of The Atchison, Topeka and Santa Fe Railway Company at a point approximately fifty-seven (57) feet west from the center line of "I" Street, in Rishto Avenue, both in the said City of San Bernardino, San Bernardino County, California.

The entire expense of operating and maintaining both interlocking plants shall be borne equally by Pacific Electric Railway Company and The Atchison, Topeka and Santa Fe Railway Company.

Applicant shall submit plans and specifications for said interlocking plants to this Commission for approval within ninety (90) days after the date of this Order, and said plans and specifications shall in all manners conform to the Commission's General Order No. 33.

After the completion of said interlocking plants, upon application of the parties, the Commission will direct an inspection of same, and if completed in accordance with the plans and specifications previously approved, their operation will be authorized by special order of the Commission. Said device shall thereafter be maintained and operated in accordance with the rules and regulations prescribed in the Commission's General Order No. 33, governing in such matters.

Until said interlocking plants are completed and placed in operation under the approval of the Commission, all engines, motors, trains and cars of both applicant and The Atchison, Topeka and Santa Fe Railway Company shall come to a full stop before passing over the crossing and within fifty (50) feet thereof, and shall not pass over the crossing until the conductor, or other employee has first gone thereon and ascertained that no engine, motor, train or car is approaching from either direction. Should no engine, motor, train or car be approaching then said conductor or other employee may signal and permit his engine, motor, train or car to proceed over the crossing.

All overhead wires or obstructions constructed at the crossing shall have a clearance above the rails of either Company of twenty-two (22) feet. All pole lines, and other side obstructions, shall have a clearance from the center line of the tracks of either Company of eight (8) feet, and shall in all other manners conform to the Commission's General Order Number 26.

The Commission reserves the right to hereafter make such further orders relative to the location, construction, maintenance and operation 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.

Dated at San Francisco, California, this 8th day of October, 1913.

John W. Eschleman
A. S. Loveland
W. Gordon
Max Thelen

Commissioners.