

Decision No. 35000

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LOS ANGELES & SALT LAKE RAILROAD COMPANY, a corporation, and UNION PACIFIC RAILROAD COMPANY, a corporation, for authority to construct a railroad track at grade across Henry Ford Avenue in the City of Los Angeles, and to construct said track across railroad tracks of the Pacific Electric Railway Company on said Henry Ford Avenue.

ORIGINAL

) Application
) No. 25459

ED. C. RENWICK, for Applicant
E. D. YEOMANS, for Pacific Electric Railway Company
M. G. MONTGOMERY, for Maritime Commission

BY THE COMMISSION:

SUPPLEMENTAL OPINION

In this proceeding Los Angeles and Salt Lake Railroad Company and Union Pacific Railroad Company sought authority to construct a railroad track at grade across Henry Ford Avenue and the tracks of Pacific Electric Railway Company in the harbor area of the City of Los Angeles.

By Decision No. 36250, dated March 23, 1943, authority was granted to construct said crossings. In connection with the crossing over the tracks of Pacific Electric Railway Company the order provided as follows:

- (3) The cost of said crossing, including the protection required herein, shall be in accordance with agreement between the parties or, if the parties fail to agree, fixed by further order of the Commission.

Counsel for applicant advised the Commission that the parties were unable to agree upon the allocation of costs, and requested a hearing. The Commission thereupon reopened the proceeding and a public hearing was held before Examiner Hall in Los Angeles on June 29, 1945, for the purpose of receiving evidence in connection with the allocation of costs of the crossing of said track over tracks of Pacific Electric Railway Company.

The double-track of Pacific Electric Railway Company over

which said connecting track of Union Pacific Company crosses, is owned by Maritime Commission. Pacific Electric Railway Company acts as operating agent for said Commission. The Maritime Commission constructed its railroad for the purpose of transporting passengers to and from California Shipbuilding Company's shipyards on Terminal Island and is proposed to be operated only for the war period.

The rail crossing was constructed by Pacific Electric Railway Company at a cost of \$9,065.48, which company in turn submitted its bill to Union Pacific Railroad Company who undertook negotiations with the United States Attorney's office in charge of condemnation case for right of way for the Maritime Commission railroad extension, with the expectation of securing a cancellation of the bill for the crossing. This was not accomplished and in view of the fact that the parties could not reach an agreement with respect to the cost, this Commission was requested to make an apportionment of such cost.

The double-track railroad of Maritime Commission was constructed prior to the construction of the connecting track of Union Pacific Railroad Company, although a plan for the connecting track has been contemplated prior to the building of the double-track railroad which is of a temporary nature. Ordinarily, the newcomer would be assessed the entire cost but in this instance we have unusual war-time circumstances. The double track of Maritime Commission will have a relatively short life, whereas Union Pacific Railroad Company's track is of a permanent nature.

Under these circumstances we are convinced that each party has an obligation to fulfill and each should bear a portion of the cost. In fairness to all parties the costs should be divided equally between Union Pacific Railroad Company and Pacific Electric Railway Company, excluding interlocking plant maintenance and operation. The allocation of cost of maintenance and operation of interlocking for this connecting track was taken under consideration when the Commission issued its order in Decision No. 37598 in Application No. 25157,

apportioning the cost of operation and maintenance for the interlocking plant protecting the various rail crossings involved when the double track of the Pacific Electric Railway Company was built. We believe this allocation should be undisturbed.

SUPPLEMENTAL ORDER

A public hearing having been held and the matter being under submission;

IT IS HEREBY ORDERED that:

I. The cost of construction and maintenance of a railroad track at grade over the double-track line of Pacific Electric Railway Company at Henry Ford Avenue in the City of Los Angeles, as shown by the map (Exhibit 1), filed in this proceeding, exclusive of interlocking plant maintenance and operation, shall be borne 50 per cent by applicant and 50 per cent by Pacific Electric Railway Company.

II. The cost of maintenance and operation of interlocking facilities of said crossing shall be borne in accordance with the provisions prescribed in the Order of Decision No. 37598 in Application No. 25157.

In all other respects Decision No. 36250 shall remain in full force and effect.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 27th day of July, 1945.

Harold Culver
Justice F. Cassen
Howard
James F. Duice
 COMMISSIONERS