

ORIGINAL

Decision No. 38516

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN DIEGO )  
 ELECTRIC RAILWAY COMPANY, a corporation, to )  
 (1) establish bus service on certain new routes; )  
 (2) reroute certain present bus lines; (3) abandon )  
 bus service on certain routes in connection )  
 with the proposed rerouting; (4) provide for ) Application  
 crossing protection where buses will cross main ) No. 26570  
 line railroad tracks and to apportion cost among ) Amended  
 interested carriers; and (5) provide for the in- )  
 stallation of "Exempt Signs" in accordance with )  
 Section 576 of the Vehicle Code and Rule 2.214 of )  
 General Order No. 93-A of the Railroad Commission, )  
 at crossings of spur tracks by busses. )

In the Matter of the Application of SAN DIEGO )  
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 establish bus service on certain new routes; (2) )  
 reroute certain present bus lines; (3) abandon )  
 bus service on certain routes in connection with )  
 the proposed rerouting; (4) provide for crossing ) Application  
 protection where buses will cross main line rail- ) No. 26737  
 road tracks and to apportion cost among interested )  
 carriers; and (5) provide for the installation of )  
 "Exempt Signs" in accordance with Section 576 of )  
 the Vehicle Code and Rule 2.214 of General Order )  
 No. 93-A of the Railroad Commission, at crossings )  
 of spur tracks by buses. )

In the Matter of the Commission's Investigation )  
 into the protection of the crossing at grade of )  
 Fifth Avenue, City of San Diego, over the tracks )  
 of The Atchison, Topeka and Santa Fe Railway )  
 Company (Crossing No. 2-268.5) and the tracks of ) Case No. 4795  
 the San Diego and Arizona Eastern Railway Company )  
 (Crossing No. 36-0.9) and the apportionment of )  
 cost of said protection. )

MORRISON, HOHFELD, FOERSTER, SHUMAN & CLARK, by FORREST A. COBB,  
for San Diego Electric Railway Company

S. E. MASON, Vice President and General Manager,  
for San Diego Electric Railway Company

GERALD BROWN, for The Atchison, Topeka and Santa Fe Railway  
Company, interested party.

GREY, CARY, AMES & DRISCOLL; by H. PITTS MACK, for San Diego  
and Arizona Eastern Railway Company, interested party.

J. F. DU PAUL, City Attorney, by EDWARD H. LAW and J. H. MCKENNEY,  
Deputy City Attorneys, for City of San Diego, interested party.

SHELLEY WIGGINS, Secretary of Transportation Committee of San  
Diego Chamber of Commerce, for San Diego Chamber of Commerce,  
interested party.

BY THE COMMISSION:

O P I N I O N

In the above applications orders have already been issued covering all matters involved except the request of San Diego Electric Railway Company for the establishment of a human flagman at the crossings at grade of Fifth Avenue in San Diego with the tracks of The Atchison, Topeka and Santa Fe Railway Company (Crossing No. 2-268.5) and the San Diego and Arizona Eastern Railway Company (Crossing No. 36-0.9). This matter was left for future determination.

In Case No. 4795 the Commission, on its own motion, instituted a proceeding for the purpose of: (a) ascertaining and determining whether the existing protection at said crossings is sufficient for the safe passage of vehicles and other road traffic; and (b) ascertaining and determining the apportionment of cost among the parties for any additional protection which might be necessary.

Public hearings were held in these proceedings before Examiner Hall on September 6th and 7th, 1945, and the matters were submitted upon the filing of briefs. In lieu of formal briefs the San Diego Electric Railway Company, The Atchison, Topeka and Santa Fe Railway Company, and the San Diego and Arizona Eastern Railway Company filed letters which have been made a part of the record.

At the hearings the scope of the proceedings was limited to the need of additional protection at the crossings at grade of Fifth Avenue, San Diego, with the tracks of The Atchison, Topeka and Santa Fe Railway Company and the San Diego and Arizona Eastern Railway Company, and the apportionment of cost of any additional protection which might be ordered.

The tracks of the two carriers run approximately parallel with each other and with Harbor Drive, a new thoroughfare recently constructed between San Diego and National City, immediately south of

the Santa Fe tracks. Fifth Avenue is a north and south street and crosses the tracks to a connection with Harbor Drive in the vicinity of its intersection with "E" Street. Seven tracks are involved in these crossings, the three southerly ones being operated over by Santa Fe and the four northerly ones by San Diego and Arizona Eastern Railway. Fifth Avenue not only carries regular vehicular traffic but also a large number of buses of the San Diego Electric Railway Company. The crossings are now protected by Standard No. 1 crossing signs. Upon the establishment of bus service over these crossings by San Diego Electric Railway Company a watchman was stationed there by them to notify their bus drivers of the approach of trains.

During the 24-hour period of August 10, 1945, the Santa Fe operated 48 trains over Crossing No. 2-268.5, 41 being switch movements and 7 being freight train movements. Train movements of the Santa Fe are on tracks 1 and 2, and are all slow speed. It was testified that wherever possible when two trains are about to meet at the crossing, the first train slows up in order that the train coming in the opposite direction may get on the crossing before the first train clears. All switching movements are of slow speed, prepared to stop, and all these movements over Fifth Avenue are protected by a member of the train crew.

During the same period San Diego and Arizona Eastern Railway Company operated 39 trains over Crossing No. 36-0.9, 32 being switch movements and 7 being passenger train movements. Of these passenger trains two are on regular schedule and operate at a maximum speed limit in this territory of 15 miles per hour, while the remainder are being switched at this point. The switching movements of this company operate at an average speed of from 5 to 8 miles per hour.

For this same 24-hour period the vehicular traffic over these crossings was 4,347 automobiles, 964 trucks, and 553 buses of the San Diego Electric Railway Company.

The Traffic Engineer of the City of San Diego testified that the City contemplates improving Fifth Avenue over the tracks of the two railroads, as shown by Exhibit No. 6, by widening the crossings so that they will conform to the existing lines of Fifth Avenue; and installing a medial center separation from "L" Street to Harbor Drive in order to separate the lines of travel over the railroad. This improvement is expected to be consummated just as soon as men and material become available. This witness also testified that the greatest potential hazard is the spotting of freight cars in close proximity to the crossings, thus blinding the view of approaching trains; also that at times two trains on the Santa Fe tracks pass over the crossing at the same time thus developing a second-train hazard. From his knowledge of the Santa Fe crossing this condition has occurred about twice during the last year. It is his opinion that if cars are spotted a sufficient distance away from the crossings the view of approaching trains would be improved and the accident hazard minimized.

The letter-brief filed by the San Diego Electric Railway Company states that conditions at the Fifth Avenue grade crossings have changed since the date of hearing, therefore the company has changed its position with reference to the necessity of a human flagman. This company now agrees with both the railroads and the City of San Diego (1) that crossing protection by human flagman is not necessary under present conditions provided that: (1) cars be spotted within a specific distance from the highway; (2) wigwags be specified for the main lines; (3) a "slow order" be issued for all main line movements; and (4) all other railroad movements over the crossing be protected by human flagman.

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(1) The witnesses of the two railroads and of the City testified that human flagman protection was not necessary.

The Atchison, Topeka and Santa Fe Railway Company and the San Diego and Arizona Eastern Railway Company in their replies to this letter-brief assert that they have no objection to items 1, 3, and 4 above but that they do object to the request in provision 2 which specifies that wigwags be installed for the main lines. Both companies contend that wigwag signals are unnecessary due to the small accident record,<sup>(2)</sup> the relatively large amount of switching movements, and the slow movement of trains.

After a review of the entire testimony in these proceedings we are convinced that these crossings, on account of their combined width and the large amount of switching movements could not be satisfactorily protected by human flagmen; and furthermore, due to the relatively slow movement of trains and the protection of switching movements by trainmen, the need for any mechanical signals is not warranted at this time, provided, however, that conditions 1, 3 and 4 referred to above are complied with. The following order will so provide.

O R D E R

Public hearings having been held in the above entitled proceedings and the matters having been duly submitted;

IT IS HEREBY ORDERED that:

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- (2) In the testimony it was stated that the records of the San Diego and Arizona Eastern Railway Company show but one accident at this crossing in 23 years, and the records of the Santa Fe show that three accidents occurred at this crossing since May 1938. All of the accidents on both railroads were of a minor nature with no personal injuries.

I. The Atchison, Topoka and Santa Fe Railway Company and the San Diego and Arizona Eastern Railway Company be and they are hereby directed to abide by the following conditions in their operation over Crossing No. 2-268.5 and Crossing No. 36-0.9 with Fifth Avenue, San Diego:

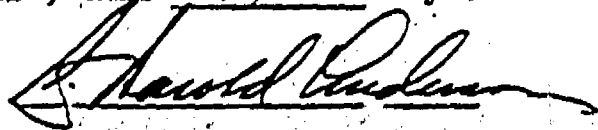
- (1) No cars shall be spotted within 100 feet of the curb lines of Fifth Avenue.
- (2) All switching movements over said crossings shall be protected by a member of the train crew or other competent employee acting as flagman.
- (3) All main line movements over said crossings shall not exceed a speed of 15 miles per hour.
- (4) Said carriers shall file with the Commission within thirty (30) days from the effective date of this order, copies of bulletins or other instructions issued to their employeos, carrying out the provisions of conditions 1 to 3, inclusive.


II. San Diego Electric Railway Company is authorized to abandon its watchman at said crossings.

III. Those portions of Applications Nos. 26570 and 26737 requesting the installation of a human flagman at said crossings be and they are hereby dismissed.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of December, 1945.









Commissioners