

**ORIGINAL**Decision No. 47344

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 The City of Los Angeles, a municipal )  
 corporation, for an order or orders )  
 authorizing and requiring the widening, )  
 increasing the vertical clearance and )  
 improving the crossings of Washington )  
 Boulevard and the Harbor Branch Line )  
 and the Main Line railroads of The )  
 Atchison, Topeka and Santa Fe Railway )  
 Company, designating the portions of )  
 the work to be done respectively by )  
 said City and by said railroad )  
 corporation and allocating the cost )  
 thereof between the City and said )  
 railroad corporation. )

Application No. 29396

Roger Arnebergh, Assistant City Attorney for the City of Los Angeles, applicant. Joseph H. Cummins and Robert W. Walker, for The Atchison, Topeka & Santa Fe Railway Company, protestant. E. E. Bennett, for Union Pacific Railroad Company, Randolph Karr, for Southern Pacific Company, W. G. O'Barr, for Los Angeles Chamber of Commerce, Fred G. Seig, for Order of Railway Conductors, and Robert C. Neill, for California Fruit Growers Exchange, interested parties.

OPINION ON REHEARING

By Decision No. 43374, dated October 4, 1949, on Application No. 29396, the City of Los Angeles was authorized to widen and increase the height of the existing underpasses of Washington Boulevard and the Harbor Branch Line and the main line railroads of The Atchison, Topeka & Santa Fe Railway Company, in the manner therein prescribed and subject to certain specified conditions. The decision further provided that the expense of constructing the undergrade crossings was to be borne by the City of Los Angeles with the exception of the sum of \$95,160, which amount was to be borne by The Atchison, Topeka & Santa Fe Railway Company. Subsequently, the effective date of this order was extended sixty days.

Under date of November 22, 1949, the City of Los Angeles filed a petition for rehearing alleging that the decision was contrary to the law and the facts in that it assumed the City to be the principal beneficiary and disregarded the City's right to require the railroad to remove the tracks, that the proposed widening and increasing of the height of the underpasses are necessary in order to remove the railroad's interference with the City's easement for street purposes, which easement allegedly includes the "right to prevent any use of the ground beneath or the space above the easement in any manner which directly or indirectly interferes with the full utilization of such easement for street purposes", that the order of the Commission is in conflict with the Constitution of the State of California, Sections 6 and 8 of Article XI, in that the City "receives no legal benefit from the grade separation" since it allegedly has the right to "use its streets unimpeded and unhindered by the existence of the tracks", that the formula adopted by the Commission to allocate costs is prejudicial to the City and has been improperly and incorrectly applied, and that the railroad should be required "to pay the full cost of the proposed improvement which is attributable to the presence of protestant's tracks."

Under date of December 2, 1949, The Atchison, Topeka & Santa Fe Railway Company likewise filed a petition for rehearing alleging that the Commission's conclusion is erroneous and contrary to law in assessing certain costs to the railroad since the City is the sole beneficiary of the proposed structure, that the proposed structure actually will be a detriment to the railroad, that the "benefit" theory should be followed in assessing costs, and that the assessing of costs to the railroad amounts to a taking of

property without due process of law, contrary to the Fourteenth Amendment of the Constitution of the United States and Article I, Section 13 of the Constitution of the State of California.

The Commission's order granting a rehearing was issued March 28, 1950, and public hearings were held thereon before Commissioner Huls and Examiner Syphers on December 27 and 28, 1950, February 2 and 5 and March 19, 1951. On these dates evidence was adduced and on the last-named date the matter was submitted, with the parties being given the right to file briefs. The last of these briefs was filed June 29, 1951. At the request of the parties, the Commission en banc heard oral argument on this matter on November 28, 1951. It is now ready for decision.

At the hearing all parties entered into a stipulation to the effect that all evidence in the prior hearings in this matter, leading to Decision No. 43374, supra, be incorporated in this record. This stipulation was accepted.

The crossings which it is proposed to widen and to increase in height are described as follows: Crossing No. 2H-0.1-B is the numerical designation of the crossing of Washington Boulevard and the Harbor Branch line. Its legal description is:

That portion of the right of way, 66 feet wide, of The Atchison, Topeka & Santa Fe Railway Company (formerly of the California Central Railway Company), described in Deed recorded in Book 491, page 106, of Deeds, Records of said County, included within the lines of Washington Boulevard, 90 feet wide, at Harriett Street.

Crossing No. 2-143.2-B is the numerical designation of the crossing of Washington Boulevard and the main line of applicant. Its legal description is:

That portion of the right of way, 100 feet wide, of The Atchison, Topeka & Santa Fe Railway Company (formerly of the California Central Railway Company), described in Judgment of Condemnation had in Case No. 6855 of the Superior Court of the State of California in and for the County of Los Angeles, a copy of which judgment is recorded in Book 361, page 77, of Deeds, Records of said County, included within the lines of Washington Boulevard, 90 feet wide, at Harriett Street.

The record discloses that Washington Boulevard is a public street extending from the westerly boundary of the City of Los Angeles at the Pacific Ocean in the Venice area, and easterly through the entire breadth of the City and then for a distance of several miles east of the easterly boundary of the City. The grade separations are in the City in an area which constitutes one of the principal industrial districts. Washington Boulevard throughout most of its length has a paved surface of at least 60 feet in width, with a few exceptions where the pavement width varies from 40 to 60 feet. At the site of the existing grade separations, here under consideration, the roadway narrows down to 20 feet in width, and the vertical clearance is between 13 feet and 14 feet. The City's easement at this point is 90 feet.

The evidence in this case discloses that the rail lines in the area of Washington Boulevard were first turned over to the railroad's operating department on September 23, 1887, for the harbor line, and November 24, 1888, for the main line (Exhibit No. 64 R.H.).

The present grade separations were constructed in 1914 in accordance with an agreement between the City of Los Angeles and The Atchison, Topeka & Santa Fe Railway Company. The costs of the structures were borne one-half by the City and one-half by the railway. In 1926 an additional superstructure for another track was installed, and the cost of this addition was paid for in

its entirety by the railway.

The applicant City of Los Angeles, during the course of the original hearings, presented three proposals: (1) to fill in the present separation and have the crossings at grade (2) to use the present grade separations for eastbound traffic and to build a new westbound roadway at grade and (3) to widen and increase the height of the existing underpasses. This third proposal is the one which is preferred by applicant. At the second hearing an engineer for the Bridge Division of the City of Los Angeles testified that this proposal, as shown on Exhibit No. 13 of the original hearing, is still included in the City's plans.

The original estimated cost of this proposal was as follows:

Two span-deck girder railway bridges,		
One west of Harriett Street	\$192,000	
One east of Harriett Street	<u>204,000</u>	\$396,000
Structure wing walls and walls between structures		79,800
Storm drain, sewer		240,550
Slope rights		<u>5,750</u>
	Total	\$722,100

However, at the rehearing, the prior estimates of cost (Exhibits No. 14 and No. 15) were revised upwards as set out in Exhibits No. 21 R.H. and No. 22 R.H. The preferred proposal contemplates two bridges with deck girders of rolled, wide flange beam construction on two spans, providing two 43.5-foot openings with a median pier. Each opening would have a 33-foot roadway for three lanes of traffic and a 7-foot pedestrian walk.

(1) The exhibits introduced at the original hearing were numbered from 1 to 20, inclusive, those at the rehearing from 21 R.H. to 63 R.H.

(2) The details of this proposal are set out in Exhibits 9, 10, 11 and 13.

There was also advanced another proposal to have two 70-foot clear span, through-girder type of bridges, having a single roadway of 56 feet between curbs and two 7-foot walks for pedestrians.

The revised estimates of costs of these proposed structures follow:

Two clear span bridges:

Bridge aA-1	\$ 252,700	
Bridge aA-144	<u>258,600</u>	\$ 511,300
Retaining and wing walls		<u>57,845</u>
		\$ 569,145

Two divided span bridges:

Bridge aA-1	\$ 234,000	
Bridge aA-144	<u>246,200</u>	\$ 480,200
Retaining and wing walls		<u>89,155</u>
		\$ 569,355

In addition to the foregoing costs, there will be additional costs for a storm drain sewer and also for slope rights.

In Decision No. 43374 we pointed out that the roadway on the Washington Boulevard bridge crossing the Los Angeles River is only 56 feet in width. Because there are no intervening streets between this bridge and the underpasses here in question and because of the short distance between the underpasses and the bridge, the width of the bridge roadway was held to be a limitation to the carrying capacity of the street.

The engineer for the Bridge Division of the City of Los Angeles presented testimony to the effect that it is entirely practical to widen this bridge. Exhibit No. 23 R.H. shows three possible ways of doing this and Exhibit No. 24 R.H. shows the estimates as to costs thereof. The plan preferred

by the witness would provide a 66-foot roadway with two 5-foot 10-inch sidewalks and would cost \$122,081. One of the other plans would provide a 60-foot roadway and two 5-foot 10-inch sidewalks at a cost of \$100,959, while the remaining plan would provide a 60-foot roadway and one 5-foot 10-inch sidewalk at a cost of \$17,580.

While the City of Los Angeles has no immediate plans for widening this bridge, it was the opinion of the witness that this should be done if the underpasses are widened as proposed.

The engineer of Street and Parkway Design for the City of Los Angeles testified that, in his opinion, the proposed underpass should make full use of the present 90-foot right of way and that to construct an underpass of 56 feet now would not be wise since it would be too difficult to widen in the future. Also, it was pointed out that the advisable procedure would be to widen the underpass first and then widen the Los Angeles River bridge, the contention being made that the traffic needs justify such construction.

If the two divided span bridges are constructed, as recommended by the City, there would be two 33-foot roadways, permitting three 11-foot lanes in each direction. In addition, sidewalk facilities should be provided and the recommendation was that they be seven feet wide, one for each roadway.

Exhibit No. 25 shows the estimated total cost of this construction to be as follows:

Bridges	\$ 480,200	
Walls	89,155	
Slopes	5,750	\$ 575,105
Storm drain		152,660
Street work		72,810
Sewer	10,350	
Traffic safety devices	1,840	
		<u>12,190</u>
		\$ 812,765

Of the above amounts it was estimated that all of the cost of the bridges, walls and slopes, amounting to \$575,105, and slightly more than one-third of the cost of the storm drain and street work, amounting to \$125,910, or a total of \$701,015, were costs necessitated by the presence of the railway. In other words, the cost to the City, if the railroad were not present, would be as follows:

Storm drain	\$50,900	
Street work	48,660	
Sewer	10,350	
Traffic safety devices	<u>1,840</u>	\$ 111,750

If this construction is carried out, the costs will have to be met without any help from state funds, according to this record.

Further testimony indicated that the bridge over the Los Angeles River was built in 1931 and it was then that Washington Boulevard became a through street. Prior to that time the existing underpasses were adequate, since they were used only by garbage trucks.

The principal traffic engineer of the City of Los Angeles referred to the prior record, Decision No. 43374, supra, and indicated that the present volume of traffic in the vicinity of the underpass exceeds by five per cent the volume as shown by said prior record. Likewise he reiterated that traffic which normally would use Washington Boulevard is now being diverted to other streets. Exhibit No. 26 R.H. shows the traffic volume in the area, as of Wednesday, December 1, 1948, and also as of Wednesday, December 13, 1950. This exhibit corroborates the above testimony. Exhibit No. 27 R.H., a speed and delay study of this area, also indicates the present underpass to be a bottleneck to traffic.



Exhibit No. 28 R.H. is a record of the accidents which occurred in the area and were reported to the Police Department during the period from February 2, 1948 to February 2, 1951. In this connection the general claim agent for the Santa Fe presented testimony that the railroad has had no costs for property damage or personal injury claims at this underpass. There has been but one claim, wherein an automobile hit the bridge but there was no liability on the part of the railroad.

A consulting engineer, testifying on behalf of the railroad, presented testimony and exhibits in relation to the problem. It was his opinion that widening the underpasses would increase the railroad's costs but would not increase its business. Further, any need for widening or increasing the height of the underpasses is occasioned by highway traffic and not by railroad operations. In the opinion of this witness, the financial soundness of a railroad could be undermined by placing on it too great a share of the cost of grade separations. In this instance, he pointed out, the widening of the underpasses would provide no benefit to the railroad, but actually would be a detriment because of the added expense to the railroad of maintaining a larger structure.

Exhibit No. 29 R.H. is a study compiled by this witness in support of the opinions hereinabove indicated, containing a rather detailed study of the relationship of highways to railroads and the resultant problems of their crossings both at separations and at grade. Among other items, this exhibit contains data showing the grade separations constructed in California during 1948 and 1949, the cost, and the railroads' contributions, if any. Out of the thirty cases listed, five were financed under the Federal Aid Secondary Program and twenty-five were financed out of State

funds. Twenty-seven were cases in which the railroad made no contribution, while in the remaining three, one Federal Aid and two State fund projects, the railroads' contribution ranged from 0.5 per cent to 15.4 per cent. All of these thirty constructions were new grade separations and not, as herein proposed, widening of existing overpasses. It was the opinion of this witness that a railroad derived more benefit from a new separation, where the disadvantages of a grade crossing are removed, than from the enlarging of existing structures where the railroad already has the advantage of an existing separation.

In Exhibit No. 31 R.H., this witness amplified this testimony by listing all of the grade separations constructed in California since 1920, showing the percentage of cost allocated to the railroad in each instance, and in Exhibit No. 30 R.H. he set out the total revenues of the various types of carriers in California. The revenues of highway carriers varied from 65.9 per cent of the total for all carriers in 1938, to 73.7 per cent in 1949, the low during this period occurring in 1940 at 65.3 per cent and the high in 1946 at 74.1 per cent.

This witness likewise presented a suggested plan for allocating costs of construction at grade crossings, which plan is set out in Exhibit No. 32 R.H. Further testimony of this witness related to population and motor vehicle registrations (Exhibit No. 33 R.H.), the highways in the area (Exhibit No. 34 R.H.), the general background of rail and highway development, and also some material on the present needs of the highway traffic in the area concerned.

Other witnesses for the railroad reiterated the contention that the widening of these underpasses would provide no benefit to the railroad. The annual reports of the Santa Fe to this

Commission were placed in this record by stipulation. While they indicate the railroad to be receiving a rate of return of five per cent net in 1949, yet the witnesses strongly contended that to assess any part of the cost of this grade separation to the railroad would place a financial burden on it without any benefit to the railroad being derived therefrom.

A representative of the Order of Railway Conductors testified that in the opinion of the group he represented the cost to the railroad should be limited to ten per cent.

The executive director of the League of California Cities filed a resolution, Exhibit No. 53 R.H., which resolution approved a formula of allocating costs, whereby the municipality would stand that portion of the total costs of building the improvements if there were no railroad tracks involved and that the railroad would bear that portion of the cost occasioned by the presence of the railroad tracks.

Additional testimony produced by the railroad related to the average annual rate of return from 1930 to 1949 for all class one railroads in the United States and, individually, for The Atchison, Topeka & Santa Fe, Southern Pacific and Union Pacific railroads (Exhibit No. 35 R.H.). The same witness also testified, upon cross-examination, that the Santa Fe stock now sells for about \$169 whereas ten years ago it was below \$100.

The income of the railroad, as shown by its Federal income tax returns for the years 1930 to 1949, was received in evidence as Exhibit No. 63 R.H.

It was also pointed out that recently this company has started a motor carrier operation in California known as the Santa Fe Transportation Company.

Exhibits 37 and 38 R.H. show the accident record and

claim costs for a five-year period at certain crossings of the Santa Fe Railroad with various highways. The railroad contended that the most hazardous crossings are in rural areas where there is high-speed auto travel and also high-speed train travel and that there are less accidents at city crossings.

A three-day traffic count of motor vehicles using Washington Boulevard was made in the vicinity of the underpasses here concerned during the days of November 27 and 29 and December 1, 1950 (Exhibits Nos. 39, 40 and 41 R.H.). It was stated by the railroad witness that the only congestion during this traffic count was on eastbound traffic which was blocked at Soto Street.

The bridge engineer for the railroad presented estimates as to the costs of various types of bridges which could be constructed to replace the existing structures (Exhibit No. 42 R.H.). He also called attention to the fact that the Union Pacific Railroad has a bridge across Washington Street east of Soto Street. This bridge provides for four lanes of traffic and could not be widened without great expense. Photographs of this bridge were presented as Exhibits Nos. 43 to 46 R.H. and an elevation drawing of this bridge was submitted as Exhibit No. 47 R.H. This same witness likewise presented the "as built" plans for the existing underpasses here in question, Exhibits 48 and 49 R.H. Other railroad witnesses testified that a four-lane bridge at the existing underpasses might sufficiently meet the needs of traffic.

The manager of the Metropolitan Traffic and Transit Department of the Los Angeles Chamber of Commerce stated he believed the traffic in the area to be sufficient to justify construction of a six-lane underpass.

Various documents of title were introduced into the record both by the Santa Fe and the City of Los Angeles. Exhibits

Nos. 50 to 52 R.H. show the Santa Fe's deeds relating to the right of way for the rail tracks in the area, and Exhibits Nos. 54 to 58 R.H. are additional documents introduced by the City relative to the right of way.

Exhibit No. 59 R.H. is composed of copies of franchises from the City of Los Angeles issued to the Santa Fe Railroad covering various crossings and, in particular, one of the underpasses here under consideration.

An engineer of the City of Los Angeles presented testimony pertaining to several grade separations which have been built in recent years in the Los Angeles area. Exhibit No. 60 R.H. shows details of some of these underpasses. Exhibit No. 61 R.H. shows the "live loading" standards of railroad bridges as set out under the specifications of the American Railway Engineers' Association, as well as the recommendations made by that body. According to the witness, the present structures here under consideration were not in accordance with the recommended standards.

The City of Los Angeles further presented a land use map of Washington Boulevard between Alameda Street and Soto Street (Exhibit No. 62 R.H.) tending to show that Washington Boulevard in the vicinity of the underpasses here in question is not a freeway but is used as an access street to the adjacent properties.

After a careful consideration of all of the evidence adduced herein, and in the light of the evidence adduced in the original hearings, having the benefit of the briefs and oral arguments which have been presented, we conclude to affirm our prior findings to the effect that there is a need for widening and increasing the height of the existing underpasses.

We also find that the preferred plan of the City of Los Angeles, as set out in Exhibit No. 13, heretofore described, sets out the construction which would be most practicable and best meet the public safety, convenience and necessity in this matter.

Our question herein, therefore, is primarily one of cost. If the proposed underpasses are constructed, who shall bear the expense? The positions of the parties have not changed since the prior hearings. Throughout these proceedings the City of Los Angeles has contended that the railroad should pay that portion of the total cost which is attributable to the presence of the railroad tracks. Under this contention it is the City's position that it should pay only that cost of widening the street which it would pay if there were no railroad crossing, and all other costs, including the cost of the bridge and its supports, should be borne by the railroad.

It has been the position of the railroad throughout these proceedings that the costs should be allocated according to benefits received. It contends that the railroad will receive no benefits from the proposed structures since it now is operating in a satisfactory manner over the present structures, and the widening of the street will in no way change these operations. As a matter of fact, it is the railroad's position that the construction of new structures will actually be a detriment, since there will be increased

costs in their maintenance. The railroad further contends that the need for new structures has not arisen because of any railroad operations, but rather because of the increased motor vehicle and pedestrian traffic in the vicinity.

In the light of the particular facts in this record, we do not subscribe to either contention. Previously, in Decision No. 43374, we held that, due to the width of the existing bridge over the Los Angeles River, and giving consideration to the length of the proposed structure, as well as to the length of the existing structure, 40 per cent of the cost attributable to the presence of the railroad tracks should be allocated one-half to the railroad and one-half to the City.

In the light of the facts presented at the rehearing, particularly with reference to the possibilities of widening the existing bridge over the Los Angeles River, and also with reference to the costs of the various structures proposed, as hereinbefore set out, we find that the method of allocating costs, as set out in Decision No. 43374, should be discarded.

The authority of this Commission to allocate costs in this matter stems primarily from Section 1202 of the Public Utilities Code, from which we quote in part:

"The commission has the exclusive power:

- "(b) To alter, relocate, or abolish by physical closing any such crossing heretofore or hereafter established.
- "(c) To require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the State, county, city, or other political subdivision affected."

There is no statutory requirement that this Commission follow any particular theory of allocation of costs. Under the theory advanced by the City of Los Angeles that the railroad should pay the additional costs of construction resulting from the presence of the tracks, the railroad's share would amount to about 86 per cent of the total costs. Under the theory advanced by the railroad that it should pay only according to the benefits it receives, and considering its contention that it receives no benefits, its contribution would be nothing.

The authority of this Commission to allocate costs, as designated in Section 1202 of the Public Utilities Code, supra, is an exercise of the police power on the part of the State of California through the medium of its agency, the Public Utilities Commission. We hold that the law is well established that under the exercise of the police power a state may regulate the crossings of railroads with its highways, and may require grade separations to be erected and maintained, apportioning the costs in the exercise of its sound discretion. (Erie Railroad Company v. Board of Public Utility Commissioners, 1920, 254 U. S. 394; 65 L. ed. 322; Chicago, Milwaukee and Saint Paul Railway Company v. Minneapolis, 1914, 232 U. S. 430; 58 L. ed. 671; Missouri Pacific Railway Company v. Omaha, 1914, 235 U. S. 121; 59 L. ed. 157; Lehigh Valley Railroad Company v. Board of Public Utility Commissioners, 1928, 278 U. S. 24; 73 L. ed. 161).

The railroad here contends that the modern development of the law in regard to apportionment of costs in grade separation cases has been toward the allocating of such costs according to the benefits received by the parties involved. In 1932, we are reminded, these same parties were before this Commission in a similar proceeding involving a proposed



widening of the same two crossings. (Decision No. 25069, dated August 15, 1932, in Application No. 18063, 37 C.R.C. 784). The Commission's order authorized the widening, and held that the costs should be borne "25 per cent by The Atchison, Topeka & Santa Fe Railway Company and 75 per cent by applicant". The Commission then said, "In apportioning the costs of constructing these separations between applicant and the railroad company, due consideration should be given to the obligations of each party, as well as to the benefits derived." However, this record discloses that material changes have taken place in conditions at the present time as compared to those in 1932. As we said in Decision 43374, supra, "The great increase in population and the tremendous increase in motor vehicle traffic present a new problem."

Likewise, the railroad relies rather strongly on the decision of the United States Supreme Court in Nashville, Chattanooga and St. Louis Railway v. Walters, 1934, 294 U. S. 405; 79 L. ed. 949. There an order of the State Commissioner of Highways requiring the railroad to construct and pay one-half the cost of an underpass at the intersection of the tracks and a proposed state highway was held to be arbitrary and unreasonable since the railroad received no benefits from the proposed construction. In that case the highway involved was not designed to meet local transportation needs, but was a state highway intended to be a link in the national transportation system, and the financing thereof was to come largely through Federal aid.

In the instant case, the proposed widening of Washington Boulevard is to meet local transportation needs, and the City's contribution thereto must come entirely from local funds.

In Decision No. 43374, supra, we said "the railroad has a continuing obligation to participate in the cost of such an improvement as is contemplated". While we hold that the allocation of costs herein is an exercise of the police power, and that we are not bound to follow the benefit theory, we observe that this proposed improvement is not without benefits to the railroad. Because of the grade separation it can operate longer trains without experiencing delays at this location and without the hazard of grade crossing accidents. The proposed structure would result in a new bridge to replace one that is 75 per cent depreciated, and the new bridge would conform to the recommended "live loading" standards or cooper ratings, whereas the present structures do not.

As previously pointed out herein, the estimated costs of the proposed structures which may be said to be attributable to the presence of the railroad tracks for two divided span bridges is \$569,355. The remaining costs are clearly attributable to the paving and widening of the street. We find that this amount of \$569,355 is the amount of costs which should be allocated in this proceeding.

After a full consideration of all of the evidence, briefs and oral argument presented in this matter, we hereby find it to be in the public interest to authorize the widening and increasing of the height of the existing underpasses of Washington Boulevard and the Harbor Branch Line and the main line railroads of The Atchison, Topeka & Santa Fe Railway Company, in accordance with the preferred plan of the City of Los Angeles as previously described herein. We further find that The Atchison, Topeka & Santa Fe Railway Company shall bear fifty per cent (50%) of the said amount of \$569,355, the costs to be allocated, hereinabove indicated, and the City of Los Angeles the remainder.

ORDER ON REHEARING

Application as above entitled having been filed, a hearing and rehearing having been held thereon, and the Commission being fully advised in the premises,

IT IS ORDERED that the City of Los Angeles be, and it hereby is, authorized to widen and increase the height of the existing underpasses of Washington Boulevard and the Harbor Branch Line and the main line railroads of The Atchison, Topeka & Santa Fe Railway Company in the manner and at the locations more particularly described in the foregoing opinion, and substantially in accordance with the plan introduced in evidence in this proceeding, subject to the following conditions:

1. Fifty per cent (50%) of the costs of the proposed structures attributable to the presence of the railroad tracks, as defined in the foregoing opinion, excluding the costs attributable to the paving and widening of the street, shall be borne by The Atchison, Topeka & Santa Fe Railway Company, and the remainder of the costs shall be borne by the City of Los Angeles.
2. In the event applicant elects to construct said undergrade crossings, the cost of maintaining those portions of the separations which, for the purpose of this decision, shall be referred to as the superstructures, which shall be deemed to be everything above the bridge seats, shall be borne by The Atchison, Topeka & Santa Fe Railway Company. The remainder of the maintenance of said structures shall be borne by applicant.
3. Prior to the commencement of construction, applicant shall file with this Commission for approval a set of plans for the proposed alterations of the grade separation crossings, which plans shall have been approved by The Atchison, Topeka & Santa Fe Railway Company, or bear a statement as to why the said railway company refuses to approve such plans. In the event the said railway company refuses to approve such plans, this Commission may issue supplementary orders in this matter.

- 4. The crossing shall be constructed with clearances conforming to the provisions of General Order 26D of this Commission.
- 5. Within thirty (30) days thereafter, applicant shall notify this Commission, in writing, of the completion of the installation of said crossings and of its compliance with the conditions hereof.
- 6. The authorization herein granted shall lapse if not exercised within one (1) year after the date hereof unless further time is granted by subsequent order.

The effective date of this order shall be sixty (60) days after the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of June, 1952.

P. J. [Signature]  
President

Justus F. [Signature]

Harold H. [Signature]

[Signature]

[Signature]  
Commissioners