

ORIGINAL

Decision No. 47420

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the CITY OF GLENDALE, a municipal corporation, for an order or orders authorizing and requiring the construction of a grade separation of the crossing of Los Feliz Road and the railroad of the SOUTHERN PACIFIC COMPANY, designating the portions of the work to be done respectively by said City, THE CITY OF LOS ANGELES and said railroad corporation, and allocating the cost thereof among said Cities and said railroad corporation.

Application No. 32385

In the Matter of the Investigation on the Commission's own motion as to the necessity of effecting a grade separation between the tracks of the Southern Pacific Company and Los Feliz Boulevard in the cities of Los Angeles and Glendale, County of Los Angeles, State of California, and the division among the affected parties of the cost incident to such separation.

Case No. 5327

John H. Lauten, Assistant City Attorney, for the City of Glendale, petitioner. Randolph H. Karr, for Southern Pacific Company, respondent. Roger Arnebergh, Assistant Attorney, for the City of Los Angeles and Councilman John C. Holland and Councilman Ernest E. Debs, and Hugo Winter of City Engineer's Office, and Mr. T. M. Chubb, Chief Engineer and General Manager of the Department of Public Utilities and Transportation; Hodge L. Dolle for Department of Public Works, and George Langsner, Engineer, John N. McLaurin for the Department of Public Works, and Herbert J. Williams, Department of Public Works; Robert W. Walker and Joseph R. Cummins for The Atchison, Topeka and Santa Fe Railway Company; E. E. Bennett for the Union Pacific Railroad Company; Sam R. Kennedy, Road Commissioner, County of Los Angeles, Charles W. Sprutte, Construction Engineer, Road Department of Los Angeles, for the County of Los Angeles; John P. Commons for the Regional Planning Commission, Los Angeles County; H. F. Holley, Assistant Chief Engineer for the Auto Club of Southern California, for the Los Angeles County Grade Crossing Committee;

H. Allen Smith, Assemblyman 43rd District, for the City of Glendale as a member of the California State Assembly, and Fred G. Seig, Legislative Representative, for the Order of Railway Conductors, interested parties. Hal F. Wiggins for the Commission staff.

O P I N I O N

This matter concerns an existing grade crossing at the intersection of the tracks of the Southern Pacific Company and Los Feliz Road in Glendale and Los Feliz Boulevard in Los Angeles. The tracks, consisting of two standard gauge main tracks, one standard gauge passing track and two standard gauge yard tracks, run in a northwesterly-southeasterly direction, while Los Feliz, designated as a road in Glendale and a boulevard in Los Angeles, runs in a northeasterly-southwesterly direction. The boundary line between the two cities parallels the tracks in the area of the intersection. Four of the above-mentioned tracks are in Glendale, and one, a yard track, is in Los Angeles. The grade crossing is designated as Crossing No. B-476.8, and the legal description of that portion in Glendale is as follows:

That portion of the right-of-way (100 feet wide) of the Southern Pacific described in deeds recorded in Book 14094, page 214, and in Book 17837, page 49, Official Records in the office of the Recorder of Los Angeles County, California.

The legal description of that portion of the grade crossing in Los Angeles is as follows:

A strip of land having a uniform width of 30 feet, its northeasterly line being coincident and identical with the southwesterly

line of the Southern Pacific main line right-of-way (100 feet wide), said strip of land extending from the southeasterly line of Los Feliz (100 feet wide) to the northwesterly line of said Los Feliz.

Applicant, the City of Glendale, requests an order authorizing and requiring the construction of a grade separation at the above-described crossing and further requests that there be in the order a designation of the portions of the work and construction to be done by Glendale, Los Angeles and the Southern Pacific, respectively, as well as an allocation of the costs thereof.

Subsequent to the filing of the application on May 7, 1951, this Commission on September 25, 1951, issued an Order of Investigation to determine whether or not, "in the interest of public safety, convenience and necessity", the grade separation should be constructed and also to determine "the proportions in which the expense of constructing and maintaining such a separation shall be divided among the Southern Pacific Company, the City of Los Angeles, the City of Glendale, the County of Los Angeles, the Department of Public Works, Division of Highways, of the State of California, or other political subdivisions affected ..."

Public hearings were held in Los Angeles before Commissioner Huls and Examiner Syphers on October 3, November 1 and 29, 1951, during which evidence was adduced, and on the last-named date the matter was submitted with the parties being granted the right to file briefs. Briefs now have been filed and the matter is ready for decision.

At the outset of the hearings the City of Los Angeles

introduced into evidence Exhibit No. 1, which is a copy of a resolution of the City Council of Los Angeles, dated October 1, 1951. This resolution adopted a report of a joint committee previously appointed by the council, which report states that since the proposed grade separation lies completely within the City of Glendale and that, therefore, the Public Utilities Commission has no jurisdiction to require the City of Los Angeles to pay any portion of the cost, nevertheless the City of Los Angeles is not opposed to a Commission order which would allocate some costs to the City of Los Angeles subject to the City's agreeing to pay.

The representative of the Department of Public Works of the State of California stated the position of that department to be that, since the proposed grade separation would not be of any benefit to a state highway nor benefit the nearest state highway which is approximately 1,000 feet away, the Public Utilities Commission is without jurisdiction to impose any portion of the costs on the Department of Public Works, Division of Highways.

The Chairman of the Board of Supervisors of Los Angeles County, during the course of the hearings, stated that in his opinion the County of Los Angeles would probably contribute to the cost of the proposed grade separation.

As a result of a prehearing conference, at which all of the parties hereto were represented, held prior to the commencement of the formal hearings, a committee was appointed to make a study and prepare an engineering report. This committee, under the chairmanship of the Chief Engineer of this Commission, presented such a report as Exhibit No. 2, various parts thereof

being explained by various members of the committee during the course of the hearings.

The Chief Engineer of the Public Utilities Commission, in presenting the first part of this report, outlined the historical background of the matter in question. By Decision No. 17330, dated September 10, 1926, this Commission issued an order directing the elimination of the grade crossings at Los Feliz Boulevard (that here being considered) and also at Brand Boulevard. The decision recommended an underpass be constructed at each location. Subsequently, alleging that finances were not available for such construction, the parties requested dismissal of the proceedings and the matter was dismissed by Decision No. 27098, dated May 28, 1934.

By House Resolution No. 24 of the California Legislature, at its 1949 session, the Commission was directed to initiate proceedings with a view to obtaining grade separations at Los Feliz Boulevard, Glendale-Brand Boulevards, and Fletcher Drive. As a result of this resolution the President of the Public Utilities Commission transmitted a report to the Assembly, dated March 6, 1950, setting forth the results of an engineering study showing the estimated costs, economic justification, and problems of financing of the proposed grade separations. Subsequently, the Legislature, by Assembly Concurrent Resolution No. 88 of the 1951 session directed the Commission to hold hearings on the Los Feliz crossing, and the Commission's investigation was instituted accordingly.

A portion of Exhibit No. 2, relating to the importance of the proposed grade separation and its relation to the freeway plan and to major highway arteries, was presented by the Planning Director of the City of Glendale. It was the testimony of this

witness that the proposed grade separation is of utmost importance due to the heavy population of the area and to the daily flow of vehicles and trains at that intersection. This grade separation project was number one on the priority list of the Los Angeles County Grade Crossing Committee in 1923, and the ensuing years have not decreased its importance. Los Feliz Boulevard, according to this witness, has reached its capacity and at the present time is carrying an overload. This situation has made it urgent to effect the grade separation. Exhibit No. 5 is a map showing the crossing herein considered and the adjoining area.

In connection with this testimony the City Engineer and Street Superintendent of the City of Glendale presented that part of Exhibit No. 2 relating to traffic checks which were made in the area of the present grade crossing. Likewise, this witness presented Exhibit No. 4, which is a more detailed study of these traffic checks. This exhibit shows the number of motor vehicles and the number of pedestrians at the crossing during 24-hour periods on June 17, 18, and 20, 1951, and also shows the delay in vehicles caused by freight trains during these same periods.

The Principal Traffic Engineer of the City of Los Angeles presented testimony relating to the grade crossing and stated that, in his opinion, a grade separation was needed. He pointed out that the stoppage of traffic at the railroad crossing at Los Feliz would cause a "backlash" of traffic which would affect traffic on San Fernando Road. The distance between the railroad crossing and San Fernando Road is approximately 820 feet, which distance is equivalent to a storage capacity of approximately 38 cars in each of the three lanes of traffic. Checks have

disclosed that there are times when more than 38 automobiles in each lane are held up due to a train blocking the crossing and, as a result, the "backlash" of these automobiles congests San Fernando Road. Therefore, in the opinion of this witness, a grade separation would not only relieve congestion at this particular crossing but would also relieve congestion on San Fernando Road.

The Assistant District Traffic Engineer of the California Division of Highways likewise presented testimony relating to a traffic count made for four hours during the evening peak on October 15 and four hours during the morning peak on October 16, 1951. As a result of this check it was the opinion of this witness that train movements across the existing crossing occasionally affect San Fernando Road traffic but are usually minor in effect. He was of the further opinion that the total benefits to Route No. 4 (San Fernando Road) due to the proposed grade separation on Los Feliz Road would be negligible in amount. Exhibit No. 9 is a report of the study made by this witness.

The Street and Parkway Design Engineer of the Bureau of Engineering, City of Los Angeles, presented testimony as to that part of Exhibit No. 2 relating to the estimate of cost. Under the plan proposed, Los Feliz Boulevard is to pass under the Southern Pacific Company's tracks. There will be two 40-foot roadways separated by a median strip with five-foot sidewalks along each side of the boulevard. The structure will be 105 feet wide and the underpass will have 5% and 6% grades on the westerly and easterly approaches, respectively. During the course of

construction there will be a full-width detour for traffic.

Three possible methods of handling the storm waters were studied and, in the opinion of this witness, the most desirable would be to construct a storm drain which would be a portion of a permanent drainage system in the area. The other two methods were a gravity storm drain in Los Feliz Boulevard and a storm drain based on a storage basin and limited outflow by pump to Los Feliz Boulevard. Inasmuch as the gravity storm drain was estimated to be the least expensive of the three methods, it was used in the estimate of costs presented. The summarized estimate of cost for the underpass is set out hereinbelow:

Bridge	\$ 403,200
Streetwork (includes excavation, paving, sidewalk, curb, guardrail) outer highway (South side - between Gardena Ave. and Railroad St. in Glendale)	127,100 6,600
Proposed Street (between Fernando Ct. and Los Feliz Boulevard in Glendale)	11,500
Sanitary sewers	14,500
Storm drains	249,100
Retaining walls	52,000
Detour (Street)	28,800
Railroad shoofly	96,500
Railroad signal work	4,000
Right of way	497,000
Total	\$ 1,490,300
Engineering & contingencies (15%)	223,500
Grand Total	\$ 1,713,800

This witness also presented testimony as to the possibility of creating an overpass so that the street would go over the railroad but this method was found to be considerably more expensive than the underpass and accordingly was not recommended.

Exhibit No. 3 consists of photographs, maps, plans and profiles of the proposed grade separation.

A section of Exhibit No. 2, devoted to the economic justification for the proposed separation, was presented by a Supervising Transportation Engineer of the Public Utilities Commission. This portion of the study purported to assign a monetary value to certain benefits which might accrue from the construction of this grade separation. The results of this study are set out hereinbelow:

Vehicular Delay	\$ 57,362	
Railroad operation cost, gatemmen, maintenance	14,053	
Accident damages paid by railroad	<u>475</u>	\$71,890
Depreciation on railroad portion of structure	6,991	
Maintenance on same (Excluding track)	<u>1,620</u>	<u>8,611</u>
Net annual savings		\$63,279
Above savings capitalized at 3%	\$ 2,109,000	
Above savings capitalized at 4%	1,582,000	
Above savings capitalized at 5%	1,266,000	

It should be noted that a bank official testified that the present cost to Southern Pacific to obtain money on a long-term basis is 5%.

While the foregoing study indicates that the railroad would receive monetary benefits from the construction of the proposed grade separation, this theory was contested by testimony presented by railroad witnesses. The Superintendent of the Los Angeles Division of the Southern Pacific Company testified that the separation of grade at this crossing would be of no benefit to the railroad. He pointed out that the passenger trains using the line do not need to block Los Feliz since they are main line trains and proceed through without any delay. While the passenger

trains stop at the Glendale Station, there is ample room for west-bound trains without affecting Los Feliz Boulevard, and the eastbound trains can be stopped so as to clear Los Feliz.

Freight trains, according to the witness, normally do not stop at the Glendale Station, and he stated there is a company instruction that the maximum number of freight cars on any freight train in the Los Angeles Division be limited to 100 cars. The switching in this area is done during night hours and, according to the testimony of this witness, is of such a small amount that it causes no serious obstruction to traffic. This witness was of the further opinion that there would be no saving to the company in money paid to employees, for, although a grade separation might save a little time so far as the work of the yard crews is concerned, yet these same crews would be required to be on duty for the same number of hours as at present.

The Road Foreman of Engines of the Los Angeles Division of the Southern Pacific Company described the switching performed in the vicinity of the Los Feliz crossing, and corroborated the testimony of the above witness to the effect that a grade separation would be of no benefit to the railroad inasmuch as the switching movements are very short. He likewise corroborated the testimony that the expense to the railroad in the form of employees' wages would not decrease were a separation constructed.

The last portion of Exhibit No. 2, relating to the availability of critical materials, was presented by the Assistant to the Chief Engineer of the Southern Pacific Company. It was his testimony that the possibility of securing steel and other necessary metals and cement for the project was very uncertain. This

witness also testified as to the estimated monetary benefits to the railroad through the construction of a separation, and concluded that the net annual benefit would amount to \$5,917. These estimates are set out in Exhibit No. 20, and are listed hereinbelow:

Railroad operation cost, (gatemen, maintenance)	\$14,053	
Accident damages paid by RR	<u>475</u>	\$14,528
Depreciation on RR portion of structure	6,991	
Maintenance of same, ex- cluding track	<u>1,620</u>	<u>8,611</u>
<u>Net annual benefit to railroad</u>		\$5,917

It will be noted that the figures of the Assistant Chief Engineer of the Southern Pacific Company are identical with those of the Supervising Engineer of the Public Utilities Commission except that the former has not included any estimate as to vehicular delay, it being his contention that the elimination of delay to motor vehicles would not be a benefit to the railroad. It was the opinion of this witness that the above estimated annual benefit to the railroad, capitalized at 5%, should constitute the maximum amount which the Southern Pacific Company should be required to contribute to the cost of construction of the proposed overpass. This amount is \$118,340.

This same witness presented testimony as to the drainage problem in the vicinity. It was his opinion that the drainage problem should be solved before any grade separation is contemplated. He pointed out that Exhibit No. 2 estimates the cost of storm drains to be \$249,100. These costs should not be assessed to the structure. This witness further estimated that the storm drains could be constructed for \$28,500 instead of the larger figure

shown above. This would reduce the cost of the proposed structure from \$1,713,800 to \$1,460,155. Exhibit No. 21 shows these estimates. It should be noted that the storm drain proposed by this witness would provide drainage for the structure only. His estimate of the cost of this type of storm drain is set out hereinbelow:

Rainfall area 125,630 sq. ft.	
Gallons per minute 1,650	
Pumphouse & storage box	\$15,500
Pumps & electric equipment	10,500
500' 18" RCP-in place - 35.00 lin. ft.	<u>2,500</u>
Total	\$28,500

Further testimony relating to the drainage problem in this area was presented by an engineer of the Bureau of Engineering Storm Drain and Design Division of the City of Los Angeles. He presented Exhibits Nos. 22 and 23, drainage maps of the area showing the elevations and the general slope. Concerning the estimate of the Engineer for the Southern Pacific Company as to a proposed drainage system consisting of a sump and pump which would cost approximately \$28,500, this witness contended that that estimate did not include any allowance for maintenance and that, in his opinion, a gravity flow system would be more satisfactory and provide a safer drainage operation. This opinion was corroborated by additional testimony presented by the Street and Parkway Design Engineer of the Bureau of Engineering of the City of Los Angeles.

The railroad presented testimony through its Lease Clerk showing historical data as to the railroad right of way in the area. Exhibit No. 10 shows that the Southern Pacific Company

acquired the land in 1873, and Exhibits Nos. 11 to 15, inclusive, relate to various deeds and indentures concerning the property rights of way and easements in the area. Additional testimony in this respect was presented by the Chief Draftsman of the Southern Pacific Company which tended to show that the railroad was established in the area prior to the establishment of Los Feliz. It was stipulated between the parties that the grade crossing was first established some time between 1887 and 1912. Exhibits Nos. 16 to 18 are profile and strip maps of the railroad in that area, while Exhibit No. 19 is a blueprint showing the plan of the Southern Pacific Company's station at Glendale as of May 1951.

After a full consideration of all of the evidence and having the benefit of the briefs filed by the parties in this matter, we hereby find it to be in the interest of public safety, convenience and necessity and that it would be practicable to require the construction of a grade separation at the intersection of the tracks of the Southern Pacific Company and Los Feliz Road and that the plan prepared by the subcommittee, as presented in Exhibit No. 2 and hereinbefore described, sets out the construction which would be most practicable and would best meet the public safety, convenience and necessity in this matter.

Concerning the allocation of costs of this construction, we find from this record that the proposed construction does not concern a state highway and that, accordingly, the Department of Public Works of the State of California is not directly involved. However, we are cognizant of the positions of the City of Los Angeles and of Los Angeles County, as stated during the course of the hearings.

While the railroad contended that the costs should be assessed according to the so-called "benefits" theory, we affirm our holding in Decision No. 47344, dated June 24, 1952, on Application No. 29396, wherein it was held that the authority of this Commission to allocate costs stems primarily from Section 1202 of the Public Utilities Code and 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. Therefore, we are not bound to follow the so-called "benefits" theory, although it is appropriate to observe that the proposed grade separation will obviously be of benefit to the railroad. Both the testimony of the Supervising Transportation Engineer of the Public Utilities Commission and of the Assistant to the Chief Engineer of the Southern Pacific Company, as set out hereinbefore, show various estimated benefits. The City of Glendale in its brief takes the position that, in the absence of the railroad, the present highway would be adequate and no grade separation would be necessary. Therefore, that City contends that all of the costs should be borne by the railroad. We do not subscribe to this contention, for the evidence shows that the great increase in automotive vehicular traffic is one of the reasons for constructing a grade separation.

According to the evidence the estimated cost of the entire project amounts to \$1,713,800. Of this amount, \$249,100 is for a gravity storm drain extending from a point easterly of the underpass to the Los Angeles River. Another estimate submitted showed that a sump and pump storm drain for the structure alone could be constructed for \$28,500. We are of the opinion

and hereby find that, while the more elaborate gravity storm drain is a desirable construction, yet it would provide drainage for more than the structure area. Accordingly, the entire cost of such a storm drain should not be included in any costs which are apportioned to the railroad. Deducting the difference in cost of the storm drains, the allocable cost of the structure is hereby found to be \$1,493,200. This amount of the cost should be allocated amongst the Southern Pacific Company, the Cities of Glendale and Los Angeles and the County of Los Angeles. In making an allocation of these costs we have in mind the contention of the City of Los Angeles on brief that the proposed grade separation would be entirely within the City of Glendale and that that City, therefore, should bear the larger allocation so far as the municipal entities are concerned. Nevertheless, the evidence in this case shows that the westerly approach to the underpass will be in the City of Los Angeles and further that all of the traffic using this underpass either goes to or from the City of Los Angeles. In addition, one of the spur tracks which is directly involved is now within the City of Los Angeles. We likewise have in mind the position of the Chairman of the Board of Supervisors of the County of Los Angeles to the effect that the County would probably contribute to the cost. Therefore, in view of all of the evidence in this case and considering the positions of the respective parties hereto, we hereby find that, of the allocable cost of \$1,493,200, the Southern Pacific Company should bear 50 per cent, or \$746,000, the County of Los Angeles 25 per cent, or \$373,300, and the Cities of Glendale and Los Angeles 12-1/2 per cent each, or \$186,650 apiece.

O R D E R

Application as above entitled having been filed, public hearings having been held thereon, and the Commission being fully advised in the premises,

IT IS ORDERED that the City of Glendale be authorized and it hereby is directed to separate the grades of Los Feliz Road and the tracks of the Southern Pacific Company in the manner and at the location more particularly described in the foregoing opinion and substantially in accordance with the plan introduced in this proceeding, subject to the following conditions:

1. Of the total cost of the proposed structure, as set out in the foregoing opinion which is estimated to be \$1,493,200, fifty per cent (50%) shall be borne by the Southern Pacific Company, twenty-five per cent (25%) by the County of Los Angeles, twelve and one-half per cent (12½%) by the City of Glendale, and twelve and one-half per cent (12½%) by the City of Los Angeles.
2. Upon completion of the construction of said grade separation, the cost of maintaining those portions of the separation, which for the purpose of this decision shall be referred to as the superstructure and be deemed to be everything above the bridge seats, shall be borne by the Southern Pacific Company. The remainder of the maintenance of the grade separation structure shall be borne by applicant.
3. The City of Glendale shall prepare detail plans and specifications for the construction of the grade separation, as referred to above, to carry Los Feliz Road under the tracks of Southern Pacific Company in the City of Glendale, the City of Glendale to submit said plans and specifications to the other interested parties and to the Commission for its approval within one hundred and twenty (120) days from the date hereof. Should they fail to agree on the plans, such disagreement shall be reported to the Commission, whereupon an appropriate order will be entered.
4. The City of Glendale shall undertake the construction of the separation referred to herein and upon receiving the approval of the Commission of the plans to be submitted, shall begin construction of the separation and shall be responsible for its completion.

5. Upon completion of the various phases of this project as the monies become payable and upon the presentation of proper bills therefor, the County of Los Angeles, the City of Los Angeles, and the Southern Pacific Company shall pay to the City of Glendale the costs apportioned to said agencies by this order.
6. The grade separation structure shall be constructed with clearances conforming to the provisions of General Order No. 26-D of this Commission.
7. The construction herein ordered shall be commenced within one year and completed within two years after the date hereof, unless further time is granted by subsequent order.
8. Within thirty (30) days thereafter, applicant shall notify this Commission in writing of the completion of the construction of said grade separation and of its compliance with the conditions hereof.

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

Dated at San Francisco, California, this 30th day of June, 1952.

[Signature]

 President

[Signature]

[Signature]
[Signature]

Commissioners

Justus E. Craemer
 Commissioner....., being
 necessarily absent, did not participate
 in the disposition of this proceeding.