

**ORIGINAL**Decision No. 55545

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Investigation into the )  
 safety, maintenance, operations, use )  
 and protection of crossings at grade )  
 with public highways and streets and ) Case No. 5900  
 the lines of KEY SYSTEM TRANSIT LINES )  
 in the City of Oakland, County of )  
 Alameda, State of California. )

Donahue, Richards & Gallagher and George E. Thomas for Key System Transit Lines, respondent.  
E. L. Van Dellen for The Western Pacific Railroad Company and The Oakland Terminal Railway, respondents.  
 Robert W. Walker and Richard K. Knowlton for the Atchison, Topeka & Santa Fe Railway Company, respondent.  
John W. Collier and Robert E. Nisbet for the City of Oakland, respondent.  
Hector Anninos and James K. Gibson for the Commission Staff.

O P I N I O N

This Commission upon its own motion ordered an investigation into the safety, maintenance, operation, use and protection of twelve crossings at grade with public highways and streets in the City of Oakland for the following purposes:

1. To determine whether or not the public safety and health require the abolishment of one or more of said crossings.
2. To determine whether or not the public safety and health require the reconstruction, relocation, alteration or widening of one or more of the aforesaid crossings, or require the installation and maintenance of protective devices, or require the installation and maintenance of additional protective devices thereat.
3. To prescribe the terms on which any such crossing, reconstruction, relocation, alteration, widening, installation or maintenance of protection shall be done; and to apportion the cost thereof between The Western Pacific Railroad

Company, The Oakland Terminal Railway, Key System Transit Lines, The Atchison, Topeka & Santa Fe Railway Company and the City of Oakland.

4. To enter any other order that may be appropriate in the lawful exercise of the Commission's jurisdiction.

The crossings involved are as follows:

14th Street, Crossing No. 7B-8.65  
16th Street, Crossing No. 7B-8.54  
18th Street, Crossing No. 7B-8.43  
21st Street, Crossing No. 7B-8.28  
West Grand Avenue, Crossing No. 7B-8.22  
24th Street, Crossing No. 7B-8.11  
26th Street, Crossing No. 7B-7.99  
28th Street, Crossing No. 7B-7.88  
30th Street, Crossing No. 7B-7.76  
Peralta Street, Crossing No. 7B-7.74  
32nd Street, Crossing No. 7B-7.66  
34th Street, Crossing No. 7B-7.55

A public hearing was held before Examiner Rowe at San Francisco on July 17, 1957. Evidence both oral and documentary was received and the matter was duly submitted for decision. Provision was made for filing certain documents as late filed exhibits. These documents have now been filed and the matter is ready for decision.

The Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company each moved that the matter be dismissed as to them. These motions were taken under submission.

A brief history leading to this investigation appears desirable. For many years the Sacramento Northern Railway provided an entrance into the Oakland Outer Harbor area for The Western Pacific Railroad. This connection was made over the "C" line tracks of the Key System Transit Lines from 40th and Shafter in Oakland to the Outer Harbor. On November 30, 1955, the Sacramento Northern Railway requested authority from the Interstate Commerce Commission to abandon its railroad between 40th and Shafter in Oakland and Lafayette, California. This request was granted, and also The Oakland Terminal Railway and The Western Pacific Railroad Company were authorized to

build a new line of railroad connecting The Western Pacific Railroad in the vicinity of First and Magnolia Streets in Oakland with the tracks of Key System Transit Lines at Twelfth and Union Streets. This new line was constructed in Union Street and provides the connection between Western Pacific Railroad and the Outer Harbor that was formerly provided by Sacramento Northern Railway.

On July 13, 1956, The Western Pacific Railroad Company and The Oakland Terminal Railway filed Application No. 38249 with this Commission requesting authority to cross at grade a number of public streets in West Oakland along Union Street. This application was granted by Decision No. 53801 which set forth the protection to be installed by applicant railroads at Magnolia, 3rd, 5th, 7th, 8th and 10th Streets.

It is stated in Exhibit No. 1 filed by the Staff that at the time Application No. 38249 was investigated it was felt by the Commission Staff that consideration should be given to the necessity for installing additional protection along Poplar and Louise Streets over which The Oakland Terminal Railway trains would operate. The Staff felt that the operation of freight trains during the hours of darkness added a hazard to the Poplar Street operation that had not previously existed. However, there was no formal proceeding before the Commission concerning the Poplar Street situation, and in view of the fact that the Interstate Commerce Commission's decision placed a time limit on the construction of the Union Street track, it was concluded that the Poplar Street crossings should be left to a formal proceeding on the Commission's own motion. The Union Street line was completed and placed in operation in April of 1957. On February 19, 1957, the Commission instituted Case No. 5900, the present proceeding.

The tracks of the Key System Transit Lines involved extend from Tower No. 2 at Yerba Buena Avenue and Louise Street along the center of Louise Street to Poplar Street, thence along the center of Poplar Street to 12th Street. The line is double-tracked throughout. The "B" line of Key System Transit Lines diverges from the Poplar Street line just north of West Grand Avenue (formerly 22nd Street).

Industrial spurs are connected with the Poplar Street tracks at several points. The largest installation is at the Shredded Wheat plant at 12th and Poplar.

The "A" and the "B" transbay trains operate along Poplar Street. The "B" train operates as far south as West Grand Avenue where it diverges from Poplar. The "A" train operates as far south as 12th Street. The service rendered is as follows:

|           | <u>Headways</u> |             | <u>Scheduled Total<br/>Trains Per Weekday<br/>(Both Directions)</u> |
|-----------|-----------------|-------------|---|
|           | <u>Base</u>     | <u>Peak</u> |   |
| "A" Train | 30 min.         | 30 min.     | 87  |
| "B" Train | 60 min.         | 30 min.     | 52  |

The "A" line operates 24 hours per day, the "B" line from 5:00 a.m. until approximately 2:00 a.m.

The Oakland Terminal Railway provides switching service for the industries along Poplar Street and West Grand Avenue. The movements are during daylight hours and consist of a locomotive and from one to eight cars. In addition to the switching service, "W. P. Transfer" trains are operated between The Western Pacific line on First Street and the Oakland Outer harbor. By the terms of the franchise issued by the City of Oakland, Ordinance No. 4276 CMS dated November 10, 1953, these trains can operate only between 6:30 p.m. and 6:00 a.m. At the present time, approximately three train movements are made in each direction daily; two between 6:30 p.m.

and 11:00 p.m. and one between 11:00 p.m. and 6:00 a.m. The trains are limited by franchise to twenty-five cars in length. Presently they average about ten cars.

In this matter, a prehearing conference was held on March 29, 1957. At this conference a committee was appointed by stipulation for the purpose of reviewing all the crossings covered in the order of investigation and to make recommendations in order to improve the safety of these crossings to a proper standard. It was agreed that this Committee was not to make any recommendation with respect to apportioning costs.

This Committee consisted of J. Czizek, Traffic Engineer, City of Oakland; E. Sam Davis, Traffic Engineer, Key System Transit Lines; A. L. Herbert, Signal Engineer, The Western Pacific Railroad Company; O. W. Morrison, Superintendent, The Oakland Terminal Railway Company; A. M. Shelton, Assistant Engineer, The Atchison, Topeka & Santa Fe Railway Company; and J. K. Gibson of the California Public Utilities Commission who acted as Committee Chairman.

A field survey was made by all of the members of the Committee on May 27, 1957. The recommendations made by this Committee are included in Exhibit No. 1 as Table 1. Cost estimates for the various improvements were made by The Western Pacific Railroad Company for the railroad work and by the City of Oakland for the work of primary street concern.

The necessary improvements as recommended by the Committee are set forth in Table 1 to Exhibit No. 1 presented by the Staff and are as follows:

14th Street (Crossing No. 7B-8.65)

1. Add back lights on present No. 8 signals.
2. Install additional overhead light on S. W. corner.
3. Paint RKR markings on pavement.

16th Street (Crossing No. 7B-8.54)

1. Make additional traffic counts when Cypress Street Freeway is opened to traffic.
  - (a) If traffic counts justify the move, change boulevard stop signs to face 16th Street instead of Poplar Street.
  - (b) If stop signs are not moved, install two modified No. 8 signals similar to those at 14th Street with backlights.
2. Install additional overhead light on west side of street.
3. Paint RXR markings on pavement.

18th Street (Crossing No. 7B-8.43)

1. Install additional overhead light on N. W. corner.
2. Paint RXR markings on pavement.
3. Remove No. 1 signs.

21st Street (Crossing No. 7B-8.26)

1. Install one reflectorized No. 1 sign.

West Grand Avenue (22nd Street) (Crossing No. 7B-8.22)

1. Install traffic signals pre-empted by train movements.
2. Paint RXR markings on pavement.
3. Remove two No. 1 signs.

24th Street (Crossing No. 7B-8.11)

1. Install additional overhead light on N. W. corner.
2. Install two reflectorized No. 1 signs.

26th Street (Crossing No. 7B-7.99)

1. Install additional overhead light on N. W. corner.
2. Install two reflectorized No. 1 signs.

28th Street (Crossing No. 7B-7.88)

1. Install additional overhead light on S. W. corner.
2. Install two reflectorized No. 1 signs.

30th Street (Crossing No. 7B-7.76)

1. Remove No. 1 sign.

See also comments re Peralta Street crossing.

Peralta Street (Crossing No. 7B-7.74)

This crossing presents a difficult problem due to the very narrow angle of intersection between Poplar, Louise, and Peralta Streets. The only real solution would be a complete redesign and channelization of the intersection, including the 30th Street intersection. Such a treatment would probably require the moving of one or both tracks and should wait until final determination as to the fate of the Key System trains has been made. Meanwhile, the following is recommended:

1. Install three additional overhead lights on west side of Peralta at:
  - (a) Just north of Louise.
  - (b) Just south of Louise.
  - (c) About opposite the north curb line of 30th Street.

32nd Street (Crossing No. 7B-7.66)

1. Install two reflectorized No. 1 signs.

34th Street (Crossing No. 7B-7.55)

1. Install two reflectorized No. 1. signs.

The cost estimates submitted by The Western Pacific Railroad Company are as follows:

14th Street (Crossing No. 7B-8.65)

Add back lights on present No. 8 signals - Gross Cost \$475.00.

16th Street (Crossing No. 7B-8.54)

Replace existing wigwags with two modified No. 8 signals similar to those at 14th Street, with back lights if stop signs are not moved - Gross Cost, \$3,390.00.

West Grand Avenue (Crossing No. 7B-8.22)

No estimate for signal work at this crossing was requested; however, cost of installing the necessary track circuits and associated equipment to pre-empt the vehicular signals will be required to complete the costs here. This is estimated to be \$7,780.00.

21st Street (Crossing No. 7B-8.28)

Estimated cost to install one reflectorized No. 1 sign is \$60.00.

24th Street (Crossing No. 7B-8.11)

Estimated cost to install two reflectorized No. 1 signs is \$120.00.

26th Street (Crossing No. 7B-7.99)

Estimated cost to install two reflectorized No. 1 signs is \$120.00.

28th Street (Crossing No. 7B-7.88)

Estimated cost to install two reflectorized No. 1 signs is \$120.00.

32nd Street (Crossing No. 7B-7.66)

Estimated cost to install two reflectorized No. 1 signs is \$120.00.

34th Street (Crossing No. 7B-7.55)

Estimated cost to install two reflectorized No. 1 signs is \$120.00.

The cost estimates submitted by the City of Oakland are as follows:

Install standard pre-empted traffic signals at West Grand Avenue and Poplar Street - Crossing 7B-8.22 ..... \$6,250.00 ✓

Annual Cost\* ✓

14th Street (Crossing 7B-8.65)

Install one 4000 lumen light on N. W. corner.... \$ 42.60

16th Street (Crossing 7B-8.54)

Install one 4000 lumen light on N. W. corner.... 42.60

18th Street (Crossing 7B-8.43)

Install one 4000 lumen light on N. W. corner.... 42.60

24th Street (Crossing 7B-8.11)

Install one 4000 lumen light on N. W. corner.... 42.60

26th Street (Crossing 7B-7.99)

Install one 4000 lumen light on N. W. corner.... 42.60

28th Street (Crossing 7B-7.88)

Install one 4000 lumen light on N. W. corner.... 42.60

Peralta Street (Crossing 7B-7.74)

Install three additional 4000 lumen lights as follows:

(a) One at the gore of Louise and Peralta Street

(b) One on the W/S of Peralta Street at the property line of Louise Street

(c) One on the W/S of Peralta Street opposite the center of 30th Street..... 127.80

Total Annual Cost for Street Lights..... \$383.40 \* ✓

\*Pacific Gas & Electric Co. does not normally charge a special fee for installing poles and street lights if they are to be permanent. The only charge for the following lights will be the standard and monthly charge for energy and maintenance. ✓



The Commission hereby adopts the recommendation of the Committee and finds that the construction and installation therein specified is required by public safety and health. Construction of such additional protection will be herein ordered. As to the 16th Street Crossing No. 7B-8.54, the City of Oakland will be directed to make and report the results of the necessary traffic counts now that the Cypress Street Freeway is opened. This proceeding will be continued until such report has been made, at which time a further appropriate order will be entered.

Counsel for the Key System Transit Lines requested that the opinion in this decision contain a statement as to the grounds for allocating the cost of the protection between the railroads and the City of Oakland. The evidence produced by the parties in this proceeding was extremely meager for determination of this problem. The evidence consists solely of Exhibit 5, which is an accord reached August 28, 1950 by representatives of the Department of Public Works, Division of Highways, and the four major railroads operating in California. There is an absence of evidence of record to indicate that various factors are different when dividing costs between the Division of Highways and the railroads and such allocation where a city such as Oakland is involved. This accord will be used by the Commission to make the allocation. Presumably the factors here are the same; at least this will be the assumption and finding of the Commission since the parties have not seen fit to introduce any evidence indicating variations.

As to the question of how the costs should be allocated between the carriers involved, the Commission has been assisted by the introduction into evidence of a contract and its revision between the carriers, parties hereto or their predecessors which

stipulate that additions, betterments, and alterations made "solely on account of the use by Purchasing Companies of such properties for freight purposes" shall be paid for solely by said companies. The Oakland Terminal Railway has acquired all the right, title and interest of the purchasing companies and has assumed all of their obligations under the above agreement. Consequently, since the protection and improvements, which will be ordered in this proceeding, will be ordered solely on account of the use by The Oakland Terminal Railway, the burden of paying the Railway's share will be imposed upon such company. The Santa Fe Railway and Western Pacific argued that this contract, and the fact that they are merely stockholders of The Oakland Terminal Railway, removes the authority of the Commission to impose any liability upon them. The sweep of this argument is too broad. Certain factors could justify imposing liability upon these companies. However, the evidence of record would not justify doing so here. Also, this agreement, as modified, is not binding on the Commission, but in the absence of justifying evidence there is no reason why the Commission under the facts presented should not determine liability in accordance therewith. The railroad share of costs will therefore be imposed solely upon The Oakland Terminal Railway.

O R D E R

An order of investigation having been filed, public hearing having been held, the matter being under submission, and the Commission being fully advised,

IT IS ORDERED:

(1) The Oakland Terminal Railway, within ninety days after the effective date hereof, shall acquire, construct and install all the

protection specified in the Committee report set forth in the above opinion, except the possible installation of two modified No. 8 signals at 16th Street which will be covered by subsequent order, and except the construction and painting referred to in the estimate furnished by the City of Oakland and also set forth in the above opinion.

(2) That the cost of the construction to be so performed by The Oakland Terminal Railway shall be borne fifty per cent by said Railway and fifty per cent by the City of Oakland, except with respect to the reflectorized No. 1 signs. Said signs shall be erected at the sole expense of the railroad.

(3) That the City of Oakland, at its sole expense and within ninety days after the effective date hereof, shall acquire, construct and install and thereafter maintain all of the work and improvement referred to in its estimate of July 2, 1957, which is set forth in the above opinion and in said Committee report.

(4) That the cost of maintaining the protective and other devices referred to in ordering paragraph (1) herein shall be borne by The Oakland Terminal Railway and by the Key System Transit Lines in accordance with their contract arrangements.

(5) That within sixty days after the effective date of this order, the City of Oakland shall make the necessary traffic counts and report to the Commission on the advisability of reversing the boulevard stop signs at the intersection of 16th Street and Poplar Street.

(6) That the motions to dismiss are denied.

The effective date of this decision shall be twenty days after the date hereof.

Dated at San Francisco California, this 10<sup>th</sup>  
           day of SEPTEMBER, 1957.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Commissioners