

Decision No. 60207**ORIGINAL**

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

Application of The Atchison, Topeka and Santa Fe Railway Company, a corporation, for authority to construct, maintain and operate a spur track within 15th Street and across N Street in the City of Bakersfield, County of Kern, State of California, and to abandon certain spur tracks within an alley in Blocks 329, 330 and 331 and across N, O and P Streets in said City of Bakersfield.

Application No. 41976

Robert W. Walker and Robert B. Curtiss, for applicant.  
 Conron, Heard & James, by W. E. James, for Ray Mann  
 (Mann Distributing Co.), protestant.  
 Kenneth W. Hoagland, Assistant City Attorney, for  
 City of Bakersfield, interested party.

O P I N I O N

This proceeding was commenced by applicant on February 24, 1960. Public hearing was held before Examiner John Power at Bakersfield on May 12, 1960 and the matter was submitted.

Blocks 329, 330 and 331 of the City of Bakersfield lie between 15th and 16th Streets in the City of Bakersfield. The most westerly is Block 329. Going east, one would cross first, "N" Street, then Block 330, then "O" Street, then Block 331, then "P" Street. 15th Street lies to the south and contains a number of Santa Fe tracks, including the eastbound and westbound main tracks. 16th Street lies along the north side of the three blocks. There is in each of the three blocks an east and west alley between 15th and 16th Streets and parallel to them.

In 1926, applicant constructed a track through this alley as far as "P" Street and in 1929 this was extended to the east line of "M" Street in order to serve industries in the blocks designated above. Protestant has a spur track leading off of this alley track to serve his warehouse in the north half of Block 329. Agreement for this spur track between applicant and protestant's predecessor in interest was executed in 1946. By its terms it provides for cancellation on 6 months' written notice. Applicant gave such notice on December 31, 1959. Copies of these documents are in evidence as Exhibits Nos. 4, 5 and 6.

The people of Bakersfield have voted bonds for the construction of an auditorium. This facility will be located on four blocks, including blocks 330 and 331. The building will sit astride the site of the alley tracks. The City has notified applicant to remove its tracks from blocks 330 and 331. Applicant seeks the Commission's permission to do this in this proceeding. The City of Bakersfield is, of course, in accord.

The applicant's testimony indicated that protestant has made little use of rail service. One car was received in each of the years 1958 and 1959 which had received a Santa Fe line haul. In 1955, 1956, 1957 and 1960 through April there were no such cars at all. In addition, there have been as many as two or three cars per year that were switched in for another railroad.

Protestant testified in his own behalf and did not contradict the testimony just recited. He bases his protest on the fact that he will be deprived of the alternative application of rail rates under Minimum Rate Tariff No. 2, thus increasing his truck rates unless he relocates at a railhead point.

Protestant's principal suppliers are two breweries, one in the Los Angeles area and the other in San Francisco. All freight from these suppliers comes by truck. The occasional rail shipments have been from the east. Some, at least, have been occasioned by strikes that prevented shipments from California suppliers.

We find that public convenience and necessity no longer require the maintenance by applicant of those portions of its tracks Nos. 41 and 49 west of the easterly line of "P" Street in the City of Bakersfield.

The other (and uncontested) branch of the application concerns an industry in the south half of Block 329. This industry has been served in the past by the same alley track as protestant. However, this industry abuts on the Santa Fe main line (15th Street). Applicant proposes to construct a new spur leading out of its westward main track to serve this industry. This firm has been getting from 70 to 100 cars per year during the years 1955 through 1959. The attorney for the industry has indicated that applicant's proposal is satisfactory to his client.

#### O R D E R

Public hearing having been held and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. The Atchison, Topeka and Santa Fe Railway Company is authorized to construct a spur track at grade in 15th Street and across N Street in Bakersfield, Kern County, at the location described in the application, to be identified as a portion of

Crossing No. 2-887.1. Construction of said crossing shall be equal or superior to Standard No. 2 of G. O. No. 72, without super-elevation and of a width to conform to the portion of the streets now graded, with tops of rails flush with the roadway and with grades of approach not exceeding 2 percent. Protection shall be by the existing Standard No. 1 crossing sign reflectorized with reflex-reflective sheet material and standard No. 3 crossing signal (G. O. No. 75-B) relocated as indicated in Exhibit A to the application herein.

2. Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall become void if not exercised within one year unless time be extended or if above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

3. On or within thirty days after July 1, 1960, The Atchison, Topeka and Santa Fe Railway Company shall remove those portions of its tracks Nos. 41 and 49, shown in red on Exhibit No. 2 in evidence together with the four culverts and two Standard No. 1 crossing signs also shown in red on said exhibit.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 31st day of March, 1960.

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