

ORIGINALDecision No. 62012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Santa Fe Springs, a General Law City, for Authority to Construct Pioneer Boulevard, a Public Highway, at Grade Across Tracks of Pacific Electric Railroad and Southern Pacific Company in the City of Santa Fe Springs.

Application No. 40725

William Camil for the City of Santa Fe Springs, applicant.
 E. D. Yeomans and Walt A. Steiger, by Walt A. Steiger, for the Southern Pacific Company and Pacific Electric Railway Company, protestants.
Howard F. Christenson for the Commission staff.

OPINION ON REHEARING

By Decision No. 60315 dated June 28, 1960, in Application No. 40725, the Commission (1) authorized the City of Santa Fe Springs to construct Pioneer Boulevard at grade across the tracks of the protestant railroads; (2) ordered that the construction expense of the crossing, including automatic warning signals, should be apportioned 85% to the City and 15% to the Pacific Electric Railway; (3) ordered that maintenance costs at Pioneer Boulevard outside of lines two feet outside of rails should be borne by the City and between such lines by the Pacific Electric Railway Company and Southern Pacific Company; and (4) ordered that prior to or upon completion of the proposed crossing, the De Costa Avenue crossing of The Atchison, Topeka and Santa Fe Railway Company tracks and the protestants' crossing of De Costa Avenue at Los Nietos Avenue (Road)

should be abandoned and physically closed, the costs thereof to be borne by the applicant.

The applicant petitioned for a rehearing alleging there was insufficient evidence to sustain the order with respect to the De Costa Avenue closings.

The protestants petitioned for a rehearing alleging (1) that the decision is not supported by the evidence, but is contrary thereto in that there was no consideration as to constructing a crossing at separate grades if a crossing should be necessary; and that a crossing at grade would be contrary to the interests of the protestants and of the travelling public; (2) that wherein the decision assesses 15% of the cost of the grade crossing (to the protestant) it is not supported by the evidence and is contrary to the established practice of the Commission in allocating costs; (3) that the decision fails to determine a material issue presented at the hearing, to-wit, the allocation of costs of damage to the crossing gates by vehicular traffic; and (4) that the decision will confiscate protestants' property and will deprive them of their property without due process of law, and denies protestants the equal protection of the laws.

Pursuant to order of the Commission a rehearing was held before Examiner Kent C. Rogers in Los Angeles on February 7, 1961, at which time evidence was presented and the matter was submitted subject to the filing of statements by the parties. These statements have been filed and the evidence presented at both hearings has been considered.

At present De Costa Avenue crosses the protestants' tracks at grade, and also crosses the track of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) at grade. Both crossings are approximately 2,200 feet east of Pioneer Boulevard. The latter street extends from the north across the Santa Fe tracks at grade and continues approximately 1,150 feet to the north side of protestants' right of way where it terminates. It again commences on the south side of the protestants' right of way. There are five parcels of land owned by one couple between the Santa Fe and protestants' rights of way on the west side of De Costa Avenue and one parcel on the east side of De Costa Avenue similarly situated. The only ingress and egress these parcels have is via De Costa Avenue. There is a private street extending west from Pioneer Boulevard approximately midway between the protestants' and the Santa Fe's right of way, a distance of approximately 750 feet to a recently abandoned street which formerly crossed Santa Fe's tracks at grade. If De Costa Street is closed at each crossing as required by Decision No. 60315, it will be necessary to provide access to the properties referred to, supra, by extending a road from Pioneer Boulevard to De Costa Avenue. This road will cost a total of \$85,500 as follows:

Right of way 60 feet in width	\$66,000
Curb and gutters	6,100
Pavement	<u>13,400</u>
Total	\$85,500

The Pioneer Boulevard crossing of the protestants' tracks will cost a total of \$50,460, as follows:

Signal work, crossing protection, and moving existing switch at the site of the crossing	\$35,670
Street improvements, including street construction and necessary drainage in protestant's right of way	<u>14,790</u>
Total cost of crossing.	\$50,460

The estimated total cost of the Pioneer Boulevard crossing and the proposed new access road from Pioneer Boulevard to De Costa Avenue, not including the cost of the physical closings of the Santa Fe's and the protestant's crossings of De Costa Avenue \$135,960

Under the terms of the existing order herein the City would pay \$128,396 of the total, and protestant Pacific Electric Railway would pay \$7,569.

The protestants urge that the proposed drainage facilities at the new Pioneer Boulevard crossing are not necessary. The cost of these facilities is estimated to be \$9,000 out of the total of \$14,790 estimated cost of street improvements at said crossing. The City Engineer stated that in his opinion such facilities are necessary, and we so find.

The record herein fails to provide any basis for an order requiring the closing of De Costa Avenue at the Santa Fe tracks, and the portion of the order closing such crossing is hereby set aside and vacated. This will leave an ingress and egress to and from that portion of De Costa Avenue north of the Pacific Electric Railway track. With access to this portion of De Costa Avenue remaining, there is no need for the construction of a public road between De Costa Avenue and Pioneer Boulevard.

There was no objection to the closing of De Costa Avenue across the Pacific Electric Railway tracks as required by the order, and this portion of the order will be affirmed.

The evidence fully supports the order authorizing the construction of Pioneer Boulevard at grade. No additional evidence was presented relative to the need for a separation of grades at Pioneer Boulevard, and the record at the original hearing supports the finding that a crossing is needed at Pioneer Boulevard and that a grade separation is not practicable.

The protestants objected to being charged with any portion of the cost of the Pioneer Boulevard crossing on the ground that it is a new crossing and should be entirely paid for by the city, or that, if any portion of such cost is charged to protestants, such portion should only be equivalent to the benefit to the railroad from the closing of De Costa Avenue. The protestants showed that the annual cost to them of maintaining the De Costa Avenue crossing is \$160, or \$3,200 capitalized on a 20-year basis. This sum represents the fair value to the protestants of the closure of De Costa Avenue and is a proper measure of the benefit to them. The protestants will be required to pay \$3,200 toward the cost of the Pioneer Boulevard opening and Decision No. 60315 will be modified by substituting said sum in lieu of 15 percent of the cost of opening Pioneer Boulevard.

The protestants also request that the Commission not require automatic crossing gates, or that if such gates are required the allocation of costs of repairs be determined by the Commission.

The record herein shows that there are approximately 31 train movements of both protestants across the site of the proposed crossing each 24 hours. Pioneer Boulevard will eventually extend from Long Beach to the San Bernardino Freeway, and we find that public safety requires that the crossing involved should be protected with automatic crossing gates.

The protestants presented evidence to show that the Pacific Electric crossings where there are automatic crossing gates average 8.9 accidents involving damage to crossing gates per year and that the average cost per accident is \$133 (Exhibit No. 7). Capitalized on a 20-year basis, this would require approximately \$23,680 to pay for such damages. The protestant's witness stated that the cost of only about one accident out of ten is recovered from the driver of the vehicle involved.

Findings and Conclusions on Rehearing

Upon full consideration of the entire record herein, the Commission is of the opinion that, except as herein modified, the findings and conclusions contained in Decision No. 60315, dated June 28, 1960, in Application No. 40725, should be, and they hereby are, affirmed. The conclusion that The Atchison, Topeka and Santa Fe Railway Company's main line tracks at Crossing No. 2-152.7 should be legally abandoned and physically closed by said City of Santa Fe Springs is stricken and said crossing will remain open.

Apportionment of Costs

The finding in Decision No. 60315 that the City of Santa Fe Springs pay 85 percent of the construction cost and expense of the Pioneer Boulevard crossing proposed in the application and that the Pacific Electric Railway Company pay 15 percent of the costs is modified to the extent that it is hereby found and concluded that the proper allocation of costs is that the protestant Pacific Electric Railway should pay \$3,200 of the cost thereof and that the applicant should pay the entire balance thereof. Such allocation requires the protestant Pacific Electric Railway to pay a sum equivalent to the savings it will realize through having De Costa Avenue closed as a thoroughfare across its line.

Determination of apportionment of costs of replacing crossing gates damaged by vehicular traffic will be deferred until a decision is issued in Application No. 39208 and Case No. 6144 which have been consolidated for hearing and which will be held December 13, 1961. The issue in the consolidated proceeding is financial responsibility for damaged gate arms. When a decision is reached in the latter matters a supplemental order will be issued herein in consonance therewith.

Maintenance costs of Pioneer Boulevard outside of lines two feet outside of rails, including replacement of crossing gates, shall be borne by applicant, and between such lines by protestants.

ORDER ON REHEARING

Public hearings having been held, the matter being submitted, and the Commission being fully advised,

IT IS ORDERED that:

1. The City of Santa Fe Springs is authorized to construct Pioneer Boulevard at grade across the tracks of Pacific Electric

Railway Company and Southern Pacific Company in the City of Santa Fe Springs, Los Angeles County, at the location described in the application, to be identified as Crossing No. 6C-13.71. The width of this crossing shall be not less than 64 feet and grades of approach not greater than three percent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72. Protection shall be by two Standard No. 8 flashing light signals (General Order No. 75-8), supplemented with automatic crossing gates.

2. Construction expense of the crossing, including the installation of automatic crossing signals, shall be borne to the extent of \$3,200 by the Pacific Electric Railway Company and the Southern Pacific Company, and the balance by the City of Santa Fe Springs.

3. Maintenance costs at Pioneer Boulevard outside of lines two feet outside of rails, shall be borne by the City of Santa Fe Springs, and between said lines by the Pacific Electric Railway Company and Southern Pacific Company.

4. Prior to or upon the completion of Crossing No. 6C-13.71, De Costa Avenue at Los Nietos Avenue (Crossing No. 6C-14.16) shall be legally abandoned, physically closed, and the pavement shall be removed on the portions of the crossing within the railroad right of way limits of the applicant. Costs for this closure and removal shall be borne by applicant.

5. 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 after the effective date of this decision 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.

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

Dated at San Francisco, California, this 18th day of May, 1961.

Curtis B. Page
 President

John Mitchell

D. Lynn Fox

Commissioners

Commissioner George C. Groves, being necessarily absent, did not participate in the disposition of this proceeding.