

ORIGINAL

Decision No. 63668

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

Application of CITY OF FRESNO for  
an order directing the abandonment  
of trackage in and adjacent to  
McKinley Avenue in the City of  
Fresno, between the Atchison,  
Topeka and Santa Fe main track  
and Fresno Street.

Application No. 43859

Investigation to determine whether  
The Atchison, Topeka and Santa Fe  
Railway Company should be authorized  
or directed to abandon certain  
trackage, establish substitute  
facilities, and eliminate certain  
grade crossings, all in the City of  
Fresno.

Case No. 7221

John H. Lauten, City Attorney, and M. J. Carozza,  
for the City of Fresno, applicant.  
Robert B. Curtiss and John A. Willey, for The  
Atchison, Topeka and Santa Fe Railway Company,  
respondent.  
Gerald M. Beck, for the Rush More Lumber Company,  
and Charles D. Dart, for the K-Y Lumber  
Company, protestants.

O P I N I O N

The City of Fresno by Application No. 43859, filed on October 18, 1961, requests an order directing The Atchison, Topeka and Santa Fe Railway Company to abandon and remove all spur and industrial trackage on and adjacent to McKinley Avenue in the City of Fresno, extending in an easterly direction approximately one-half mile from the intersection of McKinley Avenue and Blackstone Avenue. The map introduced in evidence as Exhibit No. 13 shows these tracks in blue and yellow. (The track outlined in red was never installed.) The application alleges that the tracks to be

abandoned were constructed by The Atchison, Topeka and Santa Fe Railway Company and that Franchise No. 5647 granted to the railroad by the City of Fresno on September 17, 1959 authorized the railroad to use the tracks temporarily; also that on October 22, 1959, the railroad filed a written acceptance of the franchise upon the terms of the ordinance granting the franchise; and that by filing the written acceptance, under the terms of the ordinance, the railroad evidenced an agreement to remove and relocate the trackage concerned herein in accordance with the plan for such relocation presently on file in the office of the Fresno City Clerk. The application further alleges that McKinley Avenue is to be widened and improved if the tracks are removed. It is then to be developed as the principal route from downtown Fresno to the new Fresno Air Terminal, which is now being built. The application suggests in the last paragraph that the railroad be authorized to establish substitute track facilities on property owned by the railroad southerly of the Fresno Interurban Railway Company main track and westerly of Clark Avenue.

The Order of Investigation in Case No. 7221 was filed on November 7, 1961, to determine whether the respondent railroad should be authorized or directed to abandon certain trackage in and adjacent to McKinley Avenue, establish substitute facilities and eliminate certain grade crossings, all in the City of Fresno.

Public hearing was held in Fresno before Examiner Edward G. Fraser, on February 5, 1962, and the matter was submitted. Evidence was presented by the staff of the Commission, the City of Fresno, The Atchison, Topeka and Santa Fe Railway Company and by two shippers who were protesting the removal of the tracks from McKinley Avenue.

A transportation engineer from the Commission staff testified briefly and introduced his engineering report as Exhibit No. 1.

The City of Fresno introduced (Exhibit No. 5) a certified copy of their Ordinance No. 5647, with the written acceptance of The Atchison, Topeka and Santa Fe Railway Company attached thereto. The Director of Public Works of the City testified that the street where the rails are located was not in the city limits of Fresno at the time the railroad was constructed. The entire area is now a part of the city and McKinley Avenue is to become a main east-west thoroughfare serving the new Fresno Air Terminal and the heavy industrial area east of the terminal. He further testified that it will be necessary to remove the track which extends down the middle of McKinley Avenue and the additional service track which runs along the side of and parallel to the pavement because the street must be widened to four lanes to handle the additional traffic expected and proper drainage must be provided. The witness stated that the main tracks of The Atchison, Topeka and Santa Fe Railway Company cross McKinley and Blackstone Avenues at grade. This is a dangerous condition and if McKinley Avenue is improved the city will present a plan whereby underpasses would be constructed at the points where McKinley and Blackstone Avenues intersect the main line tracks (Exhibits Nos. 10-A and 10-B).

The witness stated that the City of Fresno has suggested an alternate position for the tracks to be removed, located approximately 1,500 feet east of McKinley Avenue. The proposed spur would branch off an auxiliary track next to the main line, in the vicinity of Hedges Avenue, and extend in a northeasterly

direction approximately 800 feet. If this plan is adopted, the City of Fresno will extend Clark Avenue in a southerly direction from its intersection with McKinley to Floradora Street, thence across the tracks of the Fresno Interurban Branch of The Atchison, Topeka and Santa Fe Railway Company to the northern terminus of the proposed new spur. Clark Avenue is now an unimproved dirt road, but the city will widen, grade and blacktop Clark Avenue if the track transfer is approved. The avenue is not graded at the point of intersection with the tracks of the Santa Fe and has not as yet been declared an official railroad crossing by this Commission. A second approach to the proposed new track is provided by a dirt road which extends northerly along the railroad right of way from Hammond Avenue to the southern end of the contemplated installation. This road is inadequate to serve the spur in its present condition and there is no plan to widen or improve it.

The City Engineer of Fresno stated that McKinley Avenue is occasionally flooded during heavy rains. This condition (Exhibits 12-A, 12-B, 12-C, 12-D) is partially due to the location of the Santa Fe tracks and will be relieved when the rails are removed. The Fresno Traffic Engineer testified as the last witness for the city. He presented a traffic study which showed 7,000 automobiles a day now use McKinley Avenue between Blackstone and Fresno Streets. The traffic survey plus available statistics indicate 20,000 automobiles will be using McKinley Avenue by the year 1920.

The Santa Fe Railway Company placed a map (Exhibit No. 13) and testimony by its regional engineer and the Fresno freight agent in evidence. The engineer stated the red outlined area on

Exhibit No. 13, which parallels and extends beyond the proposed new track, shows the area to be paved by the railroad to furnish shippers a loading area. He affirmed that a railroad crossbuck would be sufficient protection at the proposed Clark Avenue crossing over the Santa Fe railroad tracks and that the new spur would be a satisfactory substitute for the McKinley Avenue installation. The freight agent attested that the K-Y and Rush More Lumber companies have been the only shippers to express an objection to the removal of the McKinley Avenue installation. He testified he does not believe the other shippers will be inconvenienced by the relocation of the track.

Two shippers appeared and presented testimony in opposition to the relocation of the McKinley Avenue track. A witness for Rush More Lumber Company stated they have been using the present track for 15 years. Their property adjoins the track in question and unloading is now accomplished in an hour with a forklift and one man. If the new track is installed, the operation will take two men with a truck and forklift at least a day. The witness testified their increased unloading costs if the track is moved will total \$11,000 annually. The president of the K-Y Lumber Company asserted that his company has been using the McKinley siding for 20 years. The company property is adjacent to the track in question. A forklift with one man is now used to unload from freight cars directly into their storage yard. If the K-Y Lumber Company is required to use the new track it will be necessary to use a traveling forklift or two forklifts and a truck. This will increase unloading costs by \$10,500 a year. The witness stated he prefers to receive goods shipped by rail because it is cheaper than truck transportation. The shipper witnesses emphasized that

if a change is made, the old track should not be removed until the new track is in operation.

After carefully considering the record in this proceeding, the Commission finds and concludes that the public health, safety and welfare require that Application No. 43859 should be granted and that a railroad crossing (to be identified as No. 2G-0.2) should be constructed and maintained at the crossing of Clark Avenue over the tracks of the Fresno Interurban Branch of The Atchison, Topeka and Santa Fe Railway Company. It is suggested that the relocation of track should be scheduled so as to leave the present installation in operation until the new facility is ready for use.

#### ORDER

A public hearing having been held and the matter being now ready for decision,

IT IS ORDERED that:

1. The Atchison, Topeka and Santa Fe Railway Company is hereby directed to abandon and remove the spur and industrial trackage extending easterly on and adjacent to McKinley Avenue from its intersection with Blackstone Avenue, in the City of Fresno, State of California, more particularly shown on the map filed as Exhibit No. 13 in the present action. The entire cost of removing the tracks described herein shall be borne by The Atchison, Topeka and Santa Fe Railway Company. The work shall be completed within 180 days of the effective date of this order.

2. Within thirty days after the removal of said tracks as provided herein, the railroad shall so advise the Commission in writing.

3. The Atchison, Topeka and Santa Fe Railway Company is hereby directed to relocate, construct and maintain a substitute industrial spur track in the City of Fresno, State of California, substantially at the location described herein and as shown on the map filed as Exhibit No. 13. The entire cost of constructing and relocating this facility shall be borne by the railroad.

4. Within thirty days after the construction referred to in the previous paragraph is completed, the railroad shall so advise the Commission in writing.

5.a. The City of Fresno is hereby authorized to construct Clark Avenue at grade across the tracks of the Fresno Interurban Branch of The Atchison, Topeka and Santa Fe Railway Company, in the City of Fresno, at the location described herein and to be identified as Crossing No. 2G-0.2. The City of Fresno shall bear the entire construction expense, also maintenance cost outside of lines two feet outside of rails. The Atchison, Topeka and Santa Fe Railway Company shall bear maintenance cost between such lines. Width of crossing shall be not less than 24 feet and grades of approach not greater than 3 percent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72.

b. Protection shall be by two Standard No. 1 Crossing Signs (General Order No. 75-B), equipped with reflex-reflective sheet materials.

c. Within thirty days after completion of the crossing pursuant to this order, the City of Fresno shall so advise the Commission in writing.

6. The authorization to construct a crossing shall expire if not exercised within two years from the date of this order, unless time be extended, or if the above conditions are not complied with. Authorization may be

revoked or modified if public convenience, necessity, or safety so require.

7. The Commission investigation in Case No. 7221 is hereby discontinued.

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

Dated at San Francisco, California, this 8th day of MAY 4, 1962.

Charles A. Rago  
President  
W. E. D. Hill  
E. J. Fox  
George L. Crover  
Fredrick B. Hallock  
Commissioners