

ORIGINAL

Decision No. 65832

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF RIALTO to construct pedestrian crosswalks across the right-of-way of the PACIFIC ELECTRIC RAILWAY.

Application No. 44952
(Filed November 16, 1962)

Robert A. McGill, for applicant.
E. D. Yeomans and James W. O'Brien, by
James W. O'Brien, for Pacific Electric
Railway Company.
John P. Ukleja, for the Commission staff.

O P I N I O N

The City of Rialto, a city located in western San Bernardino County north of the San Bernardino Freeway, seeks authority to construct concrete pedestrian sidewalks at grade across the right of way of the Pacific Electric Railway Company at five street crossings within the city limits.

A public hearing was held in the City of Rialto on February 19, 1963, before Examiner DeWolf, at which time evidence was presented and the matter submitted, subject to the filing of briefs which are now on file.

The proposed crossings in the City of Rialto, County of San Bernardino, State of California, are at the following described intersections:

The existing 60-foot right of way at the intersection of the Pacific Electric Railway with Eucalyptus Avenue, Acacia Avenue, Sycamore Avenue,

Willow Avenue, and Lilac Avenue. It is proposed to construct concrete sidewalks, 4 feet wide, 4 inches thick, 25-1/2 feet from the center of each street. Concrete sidewalks will be constructed parallel to the center of the street for the full width of the railway right of way, except for the area 2 feet outside of rails where the walks will be asphaltic concrete.

The numbers of the crossings are as follows:

Eucalyptus Avenue	6 T-53.67
Acacia Avenue	6 T-53.42
Lilac Avenue	6 T-52.42
Willow Avenue	6 T-52.67
Sycamore Avenue	6 T-53.17

The proposed crossing improvement is at the existing grade, and within the existing right of way. There will be no street widening, no additional vehicular lanes will be created, and no obstructions to visibility will be constructed as part of this project. The signs, signals, and protective devices are to remain the same.

Evidence presented by the city indicated that the proposed crossing improvements are needed in order to provide a safe and dry place for children and other pedestrians to travel on foot to and from school and along the streets. The city council has unanimously adopted a resolution stating that these sidewalks are necessary for the safety of pupils.

The City Administrator testified that prior to filing the application, the city had commenced improvements under the 1911 Improvement Act, Sidewalk Assessment District 3-61, and sidewalks were installed at the Pacific Electric right of way with Sycamore, Acacia and Eucalyptus Avenues, and the railway was assessed for its share of the improvement in the sum of

\$893.40, which it paid under protest. The other two crossings remain to be improved. The testimony is that the assessment made against the railway was the same as that made against the other adjoining property owners.

This application was opposed by the railway only as to the cost of the improvements. Two witnesses for the railroad testified that there is no benefit whatsoever to Pacific Electric Railway Company arising out of the construction of these sidewalks. Counsel for the Railroad also maintained that the allocation of costs for the alteration of the crossings is clearly and exclusively within the jurisdiction of the Public Utilities Commission, and that the Commission should allocate the costs of the installation of these sidewalks 100 percent against the city.

Findings and Conclusions

Upon full consideration of the record, the Commission finds that the present and future growth of the City of Rialto require the construction of paved sidewalks across the railway right of way at the crossings described above for the safety and comfort of pedestrians; that the proposed improvement to the existing crossings is a matter of statewide concern; that the allocation of costs for the alteration of the crossings is exclusively within the jurisdiction of the Public Utilities Commission; that no benefit whatsoever accrues to the Pacific Electric Railway Company arising out of the construction of the

sidewalks; that applicant should be authorized to alter grade crossings as hereinafter set forth; that the City of Rialto shall bear the cost of construction of said walks as hereinafter set forth; and that public convenience and necessity and safety require that the application be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Rialto is authorized to alter the grade crossings at Eucalyptus Avenue, 6T-53.67; Acacia Avenue, 6T-53.42; Lilac Avenue, 6T-52.42; Willow Avenue, 6T-52.67; Sycamore Avenue, 6T-53.17; by constructing pedestrian walks substantially in the manner and in accordance with the plans introduced in this proceeding, subject to the following conditions.
2. The work required to be performed at each of said crossings between lines two feet outside of rails shall be performed by Pacific Electric Railway Company.
3. Pacific Electric Railway Company shall bear the cost of preparing tracks to receive pavement for the walks between lines two feet outside of rails.
4. Pacific Electric Railway Company shall bear the maintenance cost of the walks between lines two feet outside of rails.
5. The City of Rialto shall perform all necessary work outside of said lines and shall bear the remainder of the costs of construction and maintenance of said walks and their approaches.

6. 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 6th day of AUGUST, 1963.

William L. Bernard
 President

George H. Trover

Fredrick B. Hallock
 Commissioners