

Decision No. 85836

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF THE CITY OF SAN DIEGO }
FOR THE RECONSTRUCTION OF THE EXISTING }
SAN DIEGO AND ARIZONA EASTERN RAILWAY }
COMPANY OVERCROSSING (PUC CROSSING NO. }
36-D-3.1-B) OF IMPERIAL AVENUE IN THE }
CITY OF SAN DIEGO. }

Application No. 56218
(Filed January 21, 1976)

John Witt, City Attorney, by Robert
W. Mac Cartee, Deputy City Attorney,
David H. Twomey, and James K. Meehan,
for the City of San Diego, applicant.
Walt A. Steiger, Attorney at Law, for
the San Diego and Arizona Eastern
Railway Company, respondent.
Albert A. Arellano, Jr., for the
Commission staff.

O P I N I O N

This application by the city of San Diego (City) is for the reconstruction of the existing 54 year old San Diego and Arizona Eastern Railway Company (Railway) timber trestle overcrossing (PUC No. 36D-3.1-B) of Imperial Avenue in the city of San Diego. Imperial Avenue is a major street in City's Select Street System and is presently a substandard width, two lane roadway between 32nd Street and State Route 15 and narrows to approximately 20 feet under the overcrossing. Because of the volume of about 8,500 vehicles per day, the substandard width and the close proximity of the trestle supports to the roadway, the accident rate for Imperial Avenue is in excess of three times the city wide average for major streets. City desires to

eliminate this hazardous situation by widening Imperial Avenue to four lane major street standards. A prerequisite for this project is to reconstruct the subject overcrossing. There is no dispute over the desirability and necessity of this project. The two issues that were submitted for this Commission's resolution at the prehearing conference held before Examiner Phillip E. Blecher on March 25, 1976 were:

1. City's request for an order upon Railway to furnish overcrossing maintenance records and to allow City to enter Railway property to conduct an in-depth structural analysis.
2. Railway's request that City bear all extraordinary roadbed maintenance costs for a five year period following completion of this project.

These matters were effectively resolved by the parties in accordance with the findings, and order hereinafter set forth.

Findings

1. Public interest and necessity require the reconstruction of the grade separation at Imperial Avenue under the Railway's existing overcrossing No. 36D-3.1-B. in the city of San Diego.
2. The grade separation reconstruction project was initiated by City.
3. The parties contemplate entering into a construction agreement for this project, whereby City will be responsible for the overcrossing reconstruction. In the event the parties fail to reach such an agreement, either party has the right to seek Commission determination thereof. A copy of the executed agreement should be filed with the Commission within 30 days after execution.

4. City contemplates engaging a contractor to complete the land fill and embankment portions of the reconstruction project. Such contractor shall be required to furnish City with a guarantee of such work for one year from the acceptance of such work by City. During that same year City will be responsible to Railway for any costs incurred by Railway for track restoration due to the failure of the fill guaranteed by City's contractor.

5. Railway shall provide City, within 30 days after the effective date of this order, with the following:

- a. All maintenance records for the subject over-crossing, including written explanations for any missing records, and written evidence of a search for all such records;
- b. Written analysis executed by a state licensed structural engineer setting forth the facts and Railway's position as to use of the bridge, loads placed upon the bridge, equipment used upon the bridge, and its structural safety for present and future use.

6. The existing track and bridge shall be used as a shoofly until the project is completed, when it will be removed.

7. The cost for the project should be apportioned, under Section 1202.5(b) of the Public Utilities Code, as follows: 90 percent of the project cost borne by the city of San Diego and 10 percent of the project cost borne by Railway. This apportionment is just and reasonable.

8. Railway should be responsible for full maintenance of the structure above the bridge seats including all maintenance on the embankments and fills. It shall not be responsible for failure of the fill for one year, as provided in Finding 4 above.

9. City is the lead agency for this project pursuant to the California Environmental Quality Act of 1970, as amended, and on April 25, 1974 approved its Negative Declaration which has been filed with the Commission. The Commission has considered the Negative Declaration in rendering its decision on this project and finds that:

- a. The environmental impact of the proposed action is insignificant.
- b. The planned construction is the most feasible that will avoid any possible environmental impact.

Conclusion

The application should be granted in accordance with the ensuing order.

O R D E R

IT IS ORDERED that:

1. The city of San Diego is authorized to reconstruct the existing San Diego and Arizona Eastern Railway Company overcrossing (PUC No. 36D-3.1-B) of Imperial Avenue in the city of San Diego, substantially in accord with the plans attached to the application as Exhibit A.

2. The cost of the reconstruction project shall be apportioned as follows: 90 percent of the cost to be borne by the city of San Diego and 10 percent of the cost borne by the San Diego and Arizona Eastern Railway Company.

3. Upon completion of the project the existing overcrossing and any temporary construction shall be removed.

4. The completed structure and all temporary construction shall comply with the minimum clearances required in General Order No. 26-D.

5. The construction agreement between the parties shall be filed with the Commission within 30 days after execution, and shall comply with the requirements of Findings 3, 4, 5, and 8, above.

6. Within thirty days after completion, pursuant to this order, applicant shall so advise the Commission in writing.

This authorization shall expire if not exercised within three years 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.

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

Dated at San Francisco, California, this 18th day of MAY, 1976.

William J. S. [Signature] President
[Signature] Secretary
[Signature] [Title]
Robert Bateman Commissioners