

Decision 88 10 024 OCT 14 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
 CITY OF COMPTON, )  
 Complainant, )  
 vs. )  
 SOUTHERN PACIFIC RAILROAD )  
 TRANSPORTATION COMPANY (SPTC), )  
 LOS ANGELES COUNTY TRANSPORTATION )  
 COMMISSION (LACTC), DOES 1 THROUGH )  
 100, )  
 Defendants. )

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 OCT 14 1988

Case 87-01-020  
 (Filed January 12, 1987;  
 amended March 27, 1987)

ORDER DISMISSING COMPLAINT

Statement of Facts

The Los Angeles County Transportation Commission (LACTC) was created by the California Legislature pursuant to §§ 130050 et seq. of the Public Utilities (PU) Code in order to meet the demands for an efficient public transportation system in Southern California. Its program consists of 150 miles of heavy and light rail in 13 separate corridors and is funded by a one-half percent sales tax approved by the Los Angeles County voters in 1980, is clothed with authority to use and cross public streets or other public ways, and to construct rail transit lines and to relocate other facilities. The Long Beach-Los Angeles Rail Transit Project, the subject of this case, was the first light rail project undertaken by LACTC in response to its legislative mandate.

The City of Compton is a municipal corporation duly organized and existing under the laws of the State of California in the County of Los Angeles.

The Southern Pacific Transportation Company (SP) is a wholly owned subsidiary of the Southern Pacific Company, providing railroad services primarily in the western and southwestern areas of the United States. In 1907 SP's predecessor received from the Committee of the Compton Board of Trustees a right of way through Compton on Willowbrook Avenue (the Wilmington Line). SP also has a second right of way on Alameda Street (the San Pedro Line). These lines are approximately a quarter mile apart and intersect at approximately the geographical center of the city. Between these two north-south sets of tracks is the heart of the city, including its central business district.

The Long Beach-Los Angeles light rail line was planned to run through Compton, using a mid-corridor segment MC-1, which would run light rail transit tracks alongside SP's existing freight rail tracks in the median of Willowbrook Avenue within Compton. The Final Environmental Impact Report (EIR) was adopted March 13, 1985 and the project was adopted for construction. In June 1985 LACTC entered into a right of way agreement with SP with regard to use of the Wilmington right of way.

Compton did not want the MC-1 route and did everything possible to get it changed. A city councilman challenged the adequacy of the EIR along with other claims in Los Angeles County Superior Court (this suit was dismissed in its entirety on October 22, 1986 (Maxcy Files et al. v Southern Pacific Railroad et al. SCC 11287)).

However, in May 1985, after further analysis of comments to its EIR and attempting to gain consensus for the mid-corridor segment of the Long Beach-Los Angeles line, LACTC decided to have a Subsequent EIR prepared to consider an alternative alignment - the MC-5 alignment through Compton. It was thought that this route would improve environmental conditions in Compton. The MC-5 alignment would retain the light rail in the SP Willowbrook Avenue median, but would relocate SP's freight from that branch east to

the San Pedro Branch from slightly north of Rosecrans Avenue south to Dominguez Junction. It was estimated that the cost of rail diversion alone would be an additional \$28.1 million, with freight/auto conflict resolution to depend upon options adopted. The Draft Subsequent EIR was completed, public hearing held and comment solicited with the intention of issuing a Final Subsequent EIR in February 1986 with a formal decision whether to adopt the MC-5 alternative route.

Then, on December 15, 1986 at 6:45 a.m., 7 cars of a SP freight train of 54 cars derailed directly in front of the Compton City Hall and across the street from a shopping center. Tank cars containing glycol, naphtha, and butane were involved. Evacuation of the area followed with shutdown of City Hall, courthouse, and shopping center.

On January 12, 1987 Compton filed the present complaint seeking relief from alleged surcharge of easement, breach of franchise, and public nuisance, and requesting a full investigation of the proposed light rail transit system and the completed intermodal container transfer facility.

LACTC and SP filed timely answers and asserted defenses. Then on March 17, 1987 LACTC filed a Motion to Dismiss, pointing out that underlying the complaint is Compton's assumption that the Public Utilities Commission has full and extensive jurisdiction over LACTC. LACTC denies this and asserts that the only statute giving the Commission jurisdiction over LACTC is PU Code § 99152 which involves the safety aspects of designing, constructing, and operating a light rail system. LACTC asserts that the Commission has no jurisdiction over LACTC relating to the adequacy of the LACTC EIR, alleged nuisance, and franchises and private contract rights.

Three days before a Prehearing Conference set by Administrative Law Judge (ALJ) Turkish for March 30, 1987, Compton filed an amended complaint asking that the Commission:

1. Declare the SP-LACTC right of way agreement void;
2. Consolidate any LACTC grade crossings applications of Rosecrans Avenue, Compton Blvd., Alondra Blvd., and/or Greenleaf Avenue with this complaint;
3. Find location of the proposed light rail system within the Wilmington right of way inconsistent with public safety;
4. Investigate to determine whether LACTC has fully complied with the requirements of General Order 143 relating to the design and construction of light rail transit systems.

On April 6, 1987 in view of the illness of ALJ Turkish, the matter was reassigned to ALJ Weiss. Both LACTC and SP filed answers to the amended complaint with SP asking that it be dismissed. On May 26, 1987 LACTC filed a formal Motion to Dismiss, asserting lack of Commission jurisdiction over franchise and private contract rights and the premature nature of the crossing issues, or of an investigation on the safety matters, since the Commission staff is currently reviewing LACTC's design and construction plans on an ongoing basis. On June 17, 1987 SP made its formal Motion to Dismiss, asserting PU Code § 851 is inapplicable to interstate railroads regulated by the Interstate Commerce Commission, denying that SP intends to operate "rail transit services" through Compton, and otherwise adopting LACTC's arguments with reference to contractual conveyances.

The United Transportation Union was granted intervenor status in the proceeding.

The ALJ set the Motion to Dismiss for oral argument on June 22, 1987. Meanwhile, the Compton City Manager and LACTC

personnel in association with SP began exploring possible settlement of their problems. Progress being reported, oral argument was repeatedly postponed. By year end 1987 Compton and LACTC had reached a new agreement on the project within Compton, and LACTC agreed to adopt the MC-5 alternative involving relocation of SP's freight rail facilities to the San Pedro Branch right of way. Various technical and funding issues, particularly with regard to the need for a separated grade crossing at the Alameda-Mealy Boulevard intersection remain, although progress continues.

Consequently, on August 31, 1988, having determined that it would be more appropriate to seek resolution of the remaining issues of their controversy through negotiation rather than through litigation, Compton, LACTC, and SP jointly filed a written Motion to Dismiss without prejudice Case 87-01-020.

IT IS ORDERED that Case 87-01-020 is dismissed without prejudice.

This order is effective today.

Dated OCT 14 1988, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Weisser, Executive Director