

ORIGINALDecision No. 19797

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of
 SOUTHERN PACIFIC COMPANY for an
 order authorizing the construction
 at grade of a spur track along and
 across a portion of Ettie Street
 near 32nd Street, in the City of
 Oakland, County of Alameda, State
 of California.

Application No. 14,572.

BY THE COMMISSION:

ORDER

Southern Pacific Company, a corporation, filed the above entitled application with this Commission on the 4th day of April, 1928, asking for authority to construct a spur track at grade across a portion of Ettie Street in the City of Oakland, County of Alameda, State of California, as hereinafter set forth. The necessary franchise or permit (Resolution No. 41574-N.S.) has been granted by the City Council of said City for the construction of said crossing at grade.

On May 9, 1928, Southern Pacific Company filed a supplemental application in this matter in which it sets forth that the center line of the proposed spur track will be located along and four (4) feet westerly from the easterly property line of Ettie Street contrary to the provisions of Paragraph (C) of Section 2 of General Order No. 26-C, of this Commission. The purpose of this section is to provide a space in each public street in which pole lines of public utilities may be erected and lawful clearance with railroad tracks maintained. Applicant states that there are no poles in Ettie Street at this location and that it has been informed that plans for future development do not contemplate any pole lines on the easterly side of Ettie Street.

It appears to this Commission that the present proceeding is not one in which a public hearing is necessary; that it is neither reasonable nor practicable at this time to provide a grade separation or to avoid a grade crossing at the point mentioned in this application with said portion of Ettie Street; that necessity for a space in which pole lines of public utilities may be erected and lawful clearance with this proposed track maintained does not exist in this particular instance and that this application should be granted subject to the conditions hereinafter specified, therefore

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to Southern Pacific Company to construct a spur track at grade across a portion of Ettie Street in the City of Oakland, County of Alameda, State of California, at the location hereinafter particularly described and as shown by the map (Division Engineers Drawing 0-984) attached to the application.

DESCRIPTION OF CROSSING

Commencing at a point at the end of the centerline of the existing spur track constructed under authority of franchise from the City of Oakland (Resolution No. 36569 N.S.) and Decision No. 17099; of the Railroad Commission of the State of California, which point is 4.0 feet westerly at right angles from the easterly line of Ettie Street and 200.0 feet more or less, southerly from the southerly line of 32nd Street, measuring on a line parallel with Ettie Street; thence in a northerly direction on a straight line parallel with and 4.0 feet westerly at right angles from the easterly line of Ettie Street, a distance of 200.0 feet, more or less, to a point in the southerly line of 32nd Street.

Said crossing to be constructed subject to the following conditions, and not otherwise:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be so constructed that grades

of approach not exceeding one (1) per cent will be feasible in the event that the construction of roadway along said Ettie Street shall hereafter be authorized and so that said grade crossing may be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

(6) This order is made upon the express condition that Ettie Street is not now actually constructed and open to travel at the proposed crossing, and said order shall not be deemed an authorization for the construction of an opening of said street to public use across said railroad track.

IT IS HEREBY FURTHER ORDERED that authority be and it is hereby granted to Southern Pacific Company to construct said spur track in violation of Paragraph (C) Section 2 of General Order No. 26-C of this Commission and to operate its cars, trains, motors, engines or other equipment thereover subject to the following condition:

(1) Nothing in this order shall be construed as authorization by this Commission for the construction of a track in such a manner as will be contrary to any provision of General Order

No. 26-C of this Commission. except paragraph (C) of Section 2 thereof.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 23rd day of May, 1928.

Leon Whitall

O. L. Seavey

Edmund W. ...

Paul S. ...

Commissioners.