

Decision No. 23744.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 the City of Los Angeles and the
 Southern Pacific Company for appor-
 tionment of the cost of construction
 of an automatic flagman at the grade
 crossing of Sepulveda Boulevard over
 the tracks of the Coast Line of the
 Southern Pacific Company in the San
 Fernando Valley in the City of Los
 Angeles.

ORIGINAL

Application No. 17306.

Frank Kerr and C. W. Cornell, for Southern
Pacific Company.

Milton Bryan and J. O. Marsh, for City of
Los Angeles.

BY THE COMMISSION:

O P I N I O N

The City of Los Angeles and Southern Pacific Company petitioned the Commission for an order apportioning the cost of installing an automatic flagman for the protection of the grade crossing of Sepulveda Boulevard with the tracks of Southern Pacific Company in San Fernando Valley, in the City of Los Angeles.

A public hearing on this application was held in Los Angeles on May 8th, 1931, at which time the matter was duly submitted.

The grade crossing of Sepulveda Boulevard was constructed in 1925 by the City of Los Angeles. At the time the crossing was opened, neither the city nor the railroad considered that special protection was necessary. Present day conditions, however, have materially changed this situation and not it is the opinion of both

applicants that there exists a necessity for such protection.

The city and railroad, therefore, have stipulated as to the necessity for automatic protection at this crossing and, in the absence of evidence to the contrary, it becomes unnecessary further to discuss that phase in the opinion. The only issue to be determined in this proceeding is the apportionment of cost of the protective device to be installed.

The railroad representatives were of the opinion that the necessity for automatic protection was created by the increase in vehicular traffic over this crossing; also, contending that the apportionment of cost incident to the installation of automatic protective devices should follow the same principle as that adhered to by the Commission in apportioning the cost of constructing grade separations, namely, 50 per cent to the railroad and 50 per cent to the public, in this case the City of Los Angeles, as in each case the money is spent largely for the convenience and protection of the motoring public. Representatives for the Los Angeles Chamber of Commerce, Los Angeles Traffic Association and the Automobile Club of Southern California more or less concurred in this contention. Counsel for the City of Los Angeles, however, did not subscribe to this theory but, on the other hand, took the position that the railroad should bear the entire expense of providing this protection, on the ground that it is an existing crossing and that it was the railroad's obligation to protect it.

It always has been the policy of the Commission to assess the cost of providing protection at grade crossings in accordance with the equities in each individual instance. In the present case, we have a condition in which the safety for the movement of vehicular traffic across a main line railroad requires special protection, not because of any change in the character of operation of the railroad but because of a change in the highway situation, brought about by

the development of Sepulveda Boulevard by city authorities. For this reason, we are of the opinion that the city has a definite obligation in this case to participate in the cost of effecting such special protection.

On the other hand, we are not unmindful of the well established principle that a railroad has a continuing obligation to reduce to a minimum the hazards at all points of highway crossings with its line. Because of the obligations and responsibilities on the part of both parties in this case, we are of the opinion that, in fairness, the cost of installing the necessary protection at this crossing should be divided equally between the railroad and the city. The cost of maintaining this protection thereafter should be assessed to the railroad and the order herein will so provide.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that Southern Pacific Company shall install a Standard No. 3 wigwag, as specified in General Order No. 75 of this Commission, for the protection of the grade crossing of Sepulveda Boulevard and the tracks of its Coast Line (Crossing No. E-453.9), in the City of Los Angeles, to be completed on or before July 30th, 1931, subject to the following conditions:

- (1) The entire cost of installing said wigwag shall be borne equally by the City of Los Angeles and Southern Pacific Company, applicants herein.
- (2) The maintenance of said wigwag shall be borne by Southern Pacific Company.

- (3) The Commission reserves the right to make such further orders, relative to the protection of said crossing, as to it may seem right and proper or as public convenience and necessity may demand.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 1st day of June, 1931.

C. S. ...

Leon ...

M. J. ...

M. B. Harris

Fred G. Stern

Commissioners.