

Decision No. 24505.



BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
on the Commission's own motion to
consider the promulgation of a
General Order dealing with regula-
tions governing the improvement of
existing grade crossings.

Case No. 3145.

SEAVEY, COMMISSIONER:

O P I N I O N

This proceeding was instituted on the Commission's own motion, in the interest of simplifying the procedure to be followed in the widening of existing grade crossings. Public hearings were held at both Los Angeles and San Francisco and many appearances were entered, representing the railroads, city, county and state bodies.

In the past it has been the practice to file applications for authority to widen existing grade crossings. This plan required the preparation of a formal application by the public authority, a report from the carrier and, after due consideration by the Commission, the issuance of an order, all of which required considerable time.

The increasing program of widening public highways, especially on state and county roads, has increased, proportionately, the number of applications for authority to widen grade

crossings. The number now being filed with the Commission seems to justify an investigation on the Commission's own motion, looking toward a more flexible means of handling this matter. To this end, a suggested form of General Order was prepared, a copy of which was furnished all the public officials having jurisdiction over public highways where grade crossings were involved, including city, county and state bodies, as well as all steam and electric railroads operating in California.

Section I of the proposed General Order provides that where the public authorities having jurisdiction over the highway involved and the railroad corporation are in agreement as to plan of improving an existing crossing, as well as the apportionment of the cost of the same, the parties are authorized to proceed with such work, provided the Commission is given not less than twenty days' notice in advance of the time it is planned to commence the work. In addition to the notice, the applicant is required to furnish certain information as to physical conditions of the existing crossing.

Section II of the said proposed order provides that if, on the other hand, the parties are not in agreement as to either the method of improving the crossing or apportionment of cost of the same, or both, the applicant must follow the present procedure of filing an application. Upon receipt of such an application, each case will be decided upon the conditions prevailing, as is the present practice.

Contained in Section III of the proposed draft was a suggested apportionment of cost to cover the ordinary case of widening a crossing over a track where no special conditions prevail. The order specifically stated, however, that if, in any particular case, either party could show that the apportionment

of cost, as set forth, was not reasonable, it would be afforded an opportunity to present evidence along this line.

The other sections of the General Order announce the responsibility for the protection of the crossing during the time the work is under way and other explanatory conditions of the order, which do not appear to require any special comment.

The record shows that the various interested parties are particularly interested in the promulgation of a General Order which will constitute authority, where all are in agreement, to proceed with the work upon filing notice with the Commission and furnishing the required information, without having to make application, which very often results in considerable inconvenience, due to loss of time in making the necessary investigations and preparing the required formal documents.

The only substantial objection to the proposed General Order was directed to Section III, which outlines a suggested apportionment of cost. The political subdivisions, particularly the cities, contended that the announcing of an apportionment of cost in the General Order might, in some cases, work adversely to their interests, particularly when tracks were constructed under certain franchise requirements. The representatives of the State Highway Commission testified that, from their standpoint, it would make little difference whether or not such a schedule was included in the General Order. The inclusion of such a schedule for the apportionment of cost in a normal case might afford the railroads and the public bodies the advantage of having a ready reference to the Commission's policy for the apportionment of cost in such cases. On the other hand, however, the State Highway representatives admitted that they might legally negotiate with the railroads

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without such a guide and might, with equal propriety, base their negotiations upon the precedents established by the Commission in formal cases.

The representative from the County of Los Angeles testified practically along the same line as the state representatives.

A number of interested parties filed different schedules of suggested apportionments of cost, all of which vary somewhat from the one set forth in the Commission's Order.

After carefully reviewing the file in this proceeding, it appears that a General Order should be issued, authorizing the parties, where they are in agreement, to proceed with the widening of existing crossings, without any reference to apportionment of cost; therefore, the following Order is recommended:

O R D E R

An investigation having been instituted on the Commission's own motion in the above entitled proceeding, public hearings having been had and the matter now being under submission and ready for decision,

The Railroad Commission of the State of California Hereby Finds as a Fact that public convenience and necessity will be served through the issuance of a General Order authorizing the alteration of existing grade crossings, therefore,

IT IS HEREBY ORDERED that when the public authority having jurisdiction over the highway and the railroad corporation are in agreement as to the plan of alteration of an existing grade crossing, as well as apportionment of cost of the same, the parties are hereby authorized to make such changes under the conditions prescribed by the Railroad Commission of the State of

California in its General Order No. 88.

The effective date of said General Order No. 88
shall be March 15, 1932.

The foregoing Opinion and Order are hereby approved
and ordered filed as the Opinion and Order of the Railroad Com-
mission of the State of California.

Dated at San Francisco, California, this 23rd day
of February, 1932.

CC. J. J. J.
Tom. J. J.
W. A. J.
M. B. J.
Fred G. J.
Commissioners.

GENERAL ORDER NO. 88.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATIONS GOVERNING THE ALTERATION OF EXISTING GRADE CROSSINGS OF PUBLIC ROADS, HIGHWAYS OR STREETS WITH RAILROADS IN THE STATE OF CALIFORNIA.

Issued under authority of the Public Utilities Act.

Approved February 23, 1932. Effective March 15, 1932.

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that, unless otherwise directed by the Commission, all railroad corporations, as defined in the Public Utilities Act, operating in California shall be governed by the following regulations whenever an existing grade crossing of a public road, highway or street with a railroad is altered as a result of widening the crossing or changing the elevation or alignment of the tracks.

I. Authorization when the Parties are in Complete Agreement.

In cases where the public authorities, having jurisdiction over the highway involved, and the railroad corporation are in agreement as to public necessity for altering an existing crossing at grade and as to a plan of such improvement, as well as apportionment of cost of the same, the parties are hereby authorized to make such changes, in connection with alterations in the width, alignment, grades of approach and necessary changes in the protection of an existing grade crossing, after having given the Commission notice thereof not less than twenty (20) days in advance of the time it is planned to commence the work of such an improvement; provided, further, that such plans do not conflict with any of the requirements of the Commission's General Orders Nos. 72 and 75. Such notice shall be filed in duplicate by the party initiating the improvement and shall include the following information:

- (a) The assigned number of the crossing proposed to be altered.
- (b) A statement showing the public benefit to be obtained by the proposed alteration.
- (c) A statement showing why a separation of grades is not practicable under the circumstances.

- (d) A statement indicating the existing and proposed signs, signals or other protection provided or to be provided at the crossing proposed to be widened.
- (e) A map of the immediate vicinity of the crossing proposed to be altered, on a scale of from 50 to 200 feet per inch, showing the locations of streets and roads, property lines, tracks and buildings and other obstructions to the view of the crossing proposed to be altered, the present character of surface or pavement and width of same, on the street or road adjacent to the crossing, and the nature of the proposed improvement.
- (f) A profile showing the ground line and the present and proposed grade lines.
- (g) Evidence of agreement between the parties relative to the proposed alteration.

Where the alterations of the crossing are of a minor nature, such as changes of elevation of eight (8) inches or less, or a total widening of six (6) feet or less and no additional protection or change in existing protection is proposed, the notice to the Commission may be handled informally by letter and items (c), (d), (e) and (f) may be omitted from the notice.

II. Application Required where the Parties are not in Agreement.

Where the parties are not in agreement as to the public necessity for the plan of alteration and/or apportionment of cost of a proposed change in an existing grade crossing, the party desiring the change shall make formal application to the Commission, seeking authority for such alteration.

III. Responsibility for Performance of Physical Work During Construction.

All work in connection with the alteration of crossings at grade between the rails of a railroad and within two (2) feet outside of the rails, shall be performed under the supervision of the railroad company. The railroad shall be responsible for the physical construction of additional protection or any changes in the existing protective devices of the crossing. Traffic on the railroad and highway must be given reasonable and adequate protection during the time the crossing is being altered.

IV. Application Must be Made for New Crossings
(Section 43, Public Utilities Act).

Nothing contained herein shall be construed as authorizing the construction of a new crossing of a railroad over a public street or highway at grade or the construction of a public street or highway over the tracks of a railroad corporation at grade in this state.

The Commission reserves the right to modify any of the provisions of these rules when, in its opinion, public interest would be served by so doing.

This order shall become effective on and after the
Seventeenth day of March, 1932.

Approved and dated at San Francisco, California, this
Twenty-third day of February, 1932.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,

By H. G. MATHEWSON, Secretary.