

Decision No. 25093.

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 drill tracks and industrial spur tracks in and along and across certain streets and avenues in the City and County of San Francisco, State of California.

Application No. 17723.

In the matter of application of WESTERN PACIFIC CALIFORNIA RAILROAD COMPANY for permission to construct, maintain and operate five spur tracks at grade along and across certain streets and avenues in the City and County of San Francisco, State of California.

ORIGINAL

Application No. 17772.

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER

Southern Pacific Company, on July 25, 1932, requested that certain changes be made in the Commission's Order of its Decision No. 24595, dated March 21, 1932, in the above entitled proceedings, to the effect that Condition (5) of Part I of said Order be eliminated and Condition (1) of Part IV be revised to specifically provide that the tracks to be open for joint usage are confined to those located in public highways.

Condition (5) of Part I reads as follows:

"The above authority is granted on the express condition that Southern Pacific Company in constructing its drill tracks across Bancroft Avenue, Armstrong Avenue, Wallace Avenue, Van Dyke Avenue and Underwood Avenue does so with the understanding that Western Pacific California Railroad Company has declared its intention to construct spur tracks along said streets which will involve track crossings with the proposed tracks of Southern Pacific Company, and that Southern Pacific Company will not oppose the construction of said track crossings or use the prior construction of its tracks as a basis in determining the apportionment of the cost of effecting said track crossings."

Condition (1) of Part IV reads as follows:

"Applicants shall permit joint operation of the tracks which create the crossings herein authorized upon application by any other railroad corporation which may desire to join in such joint usage, under terms and conditions which shall meet the approval of this Commission."

This request of Southern Pacific Company was referred to the Western Pacific California Railroad Company, the other applicant in these proceedings, and it has reported that it is opposed to the granting of Southern Pacific Company's request to eliminate Condition (5) of Part I from the Order in said Decision No. 24595, but is agreeable to the suggested modification in Condition (1) of Part IV of this Order. In Southern Pacific Company's application there is nothing to show that conditions have changed subsequent to the time said Decision No. 24595 was issued, which was some four months prior to the time the application for a modification was filed, which would tend to justify the proposed change in Condition (5) of Part I of this decision, therefore this request should be denied without further hearings since the allowed time for filing for rehearing, as prescribed by Rule X, Section 7, of the Commission's Rules of Procedure, and Section 66, of the Public Utilities Act, has passed.

With respect to the proposed modification in Condition (1) of Part IV, the Commission is agreeable to making this change in its order, therefore,

IT IS HEREBY ORDERED that Condition (1) of Part IV of the Commission's Decision No. 24595 in the above entitled application be and it is hereby modified to read as follows:

"Applicants shall permit joint operation of those portions of the tracks herein authorized which are located in the public streets upon application by any other railroad corporation which may desire to join in such joint usage under such reasonable terms and conditions as may be agreed upon between the interested parties, and approved by this Commission."

In all other respects the above referred to decision shall remain in full force and effect.

Dated at San Francisco, California, this 22^d day of August, 1932.

W. J. Seavey
Leon Whiteley
W. J. Carr
W. B. Harris
(Commissioners)