

ORIGINAL

Decision No. 2704

Decision No. _____.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
MODESTO AND EMPIRE TRACTION COMPANY)
for permission to construct a spur)
track at grade along "B" Street,)
in the City of Modesto, Stanislaus)
County, California.)
.....

Application No. 1720.

L. L. Dennitt, for applicant

W. C. Peck, for Tidewater Southern Railway Company

GORDON, Commissioner,

O P I N I O N

This application was filed with the Commission on June 10, 1915. The Commission is asked herein to grant permission to applicant to construct a spur track along "B" Street, in Modesto, crossing Eighth, Ninth, Tenth and Eleventh Streets at grade. Exhibit "A", attached to the application, is a copy of a franchise granted by the City Council of Modesto on June 9, 1915, giving permission to the applicant to construct its spur track at grade along "B" Street and across the four streets mentioned.

Shortly after this application was filed the Tidewater Southern Railway Company constructed a track along Ninth Street and across "B" Street, and it is consequently necessary to consider the crossing of the tracks of the two railroads in connection with this application. The track of the Tidewater Southern was laid in accordance with a franchise obtained from the City of Modesto some three years ago, about which time also permission for this construction was obtained from this Commission.

The track the applicant proposes to construct is a spur track to serve the Pratt-Lowe Preserving Company. Service will be infrequent over it, and since the streets to be crossed at grade are open at their intersections with "B" Street, and with the proposed track of the applicant, there is no objection to granting permission to cross these streets, as proposed.

Applicant has been negotiating with the Tidewater Southern, for an agreement covering the crossing of that Company's line, since this application was filed, and the day previous to the hearing the latter Company presented to applicant a tentative agreement covering the matter. A copy of this agreement was filed with the Commission as Tidewater Southern Railway Company's Exhibit "A". It is drawn up in the usual terms and provides that applicant shall pay the entire cost of installing the crossing, that the Tidewater Southern shall maintain it at a cost to be borne equally between the two companies, and that the track of the applicant shall be protected by suitable derails. This tentative agreement, with the exception of the clause requiring the installation of derails, is entirely agreeable to the applicant.

The installation of derails furnishes a cheap and efficient form of protection for railroad crossings. It makes certain that cars along the tracks on which they are located will stop before crossing the track intersections and protects the crossing from runaway cars. I believe that applicant can very well be required to install derails to protect its track at this crossing and am of the opinion that this application should be granted, subject to that condition and certain other conditions to be hereinafter specified, and I recommend the following form of order:-

O R D E R

MODESTO AND EMPIRE TRACTION COMPANY, a corporation, having on June 10, 1915, applied to the Commission for permission to construct a spur track along "B" Street at grade, in the City of Modesto, Stanislaus County, California, and a public hearing having been held, at which all interested parties were represented, and it appearing that this application should be granted, subject to the conditions hereinafter specified,

IT IS HEREBY ORDERED, That applicant be and hereby is granted permission to construct its spur track at grade along "B" Street and across Eighth, Ninth, Tenth and Eleventh Streets at grade, and also across the track of Tidewater Southern Railway Company, at the intersection of Ninth and "B" Streets, in the City of Modesto, Stanislaus County, California, subject to the following conditions and not otherwise viz.:-

(1) The entire expense of constructing the spur track along "B" Street and across Eighth, Ninth, Tenth and Eleventh Streets shall be borne by applicant.

(2) The crossings of Eighth, Ninth, Tenth and Eleventh Streets shall be constructed of a width and type of construction to conform to the portions of those streets now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(3) The crossing with the track of Tidewater Southern Railway Company shall be installed and maintained in accordance with the terms of the tentative agreement submitted to applicant by Tidewater Southern Railway Company and filed with this Commission as Tidewater Southern Railway Company's Exhibit "A".

(4) After the installation of the crossing frogs at the intersection of the track of Tidewater Southern Railway Company

with that of applicant, applicant shall, at its own expense, install, and thereafter maintain in proper operation, suitable derails on its track, and no engine, train, motor or car of applicant shall proceed over this crossing until it has been ascertained that it is entirely safe to do so.

(5) All engines, trains, motors and cars of Tidewater Southern Railway Company, after the installation of the crossing frogs, shall approach this crossing under full control.

(6) 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.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of August, 1915.

Max Thelen
H. J. Kovalasch
Wm. Gordon
Frank Deblin

Commissioners.