

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 3418

ORIGINAL

In the Matter of the Application of SOUTHERN PACIFIC COMPANY for an order authorizing the construction of three spur tracks across Julian Street, one across Marshall Street and one across North Front Street in the City of Turlock, County of Stanislaus, State of California.

Application No. 2251.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

This is an application by Peoples State Bank, and others, for a rehearing on this Commission's Decision No. 3354, rendered on May 22, 1916, in the above entitled proceeding.

The petition is based principally on the claim that Southern Pacific Company has not secured from the City of Turlock a franchise or permit authorizing said company to construct its tracks across the streets referred to in the original petition herein and in this Commission's Decision No. 3354.

This contention is without merit as affecting the validity of this Commission's said Decision No. 3354. If Southern Pacific Company needs a franchise or permit from the City of Turlock and has not secured the same, the Southern Pacific Company must, of course, secure such franchise or permit before it can construct its tracks on or across the public streets. The power of the City of Turlock, however, to grant or refuse to grant franchises or permits is entirely separate and distinct from the power of the Railroad Commission to grant or refuse to grant its consent to railroad crossings of public streets at grade. Each public body acts within its own sphere. The Railroad Commission's action in its sphere does not in any way add to or subtract from the powers and duties of the City of Turlock in its sphere. The

Railroad Commission need not defer/^{action} in its own sphere until the City of Turlock has acted, nor is the validity of the Railroad Commission's consent in any way affected by any possible failure to secure the necessary franchise or permit from the City of Turlock, if such franchise or permit has not been secured. If the consent of both public authorities is necessary, Southern Pacific Company must, of course, secure such consent from each public authority.

It is not intended herein to pass on the question whether Southern Pacific Company needs or has secured a franchise or permit from the City of Turlock, that being a question to be determined by another forum.

The petition for rehearing should be denied.

ORDER ON PETITION FOR REHEARING.

PEOPLES STATE BANK, and others, having filed a petition for rehearing herein on this Commission's Decision No. 3354, rendered on May 22, 1916, in the above entitled proceeding, and careful consideration having been given to said petition, and no good reason appearing why said petition should be granted,

IT IS HEREBY ORDERED that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 14th day of June, 1916.

Max Heeler
H. D. Howard
Alex Gordon
Edwin O. Edgerton
Commissioners.