

ORIGINAL

Decision No. 39105

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 THE ATCHISON, TOPEKA AND SANTA FE )  
 RAILWAY COMPANY, a corporation, for )  
 authority to construct, maintain, )  
 and operate a track across the State )  
 highway near Mojave, County of Kern, )  
 State of California. )

Application No. 26376

WILLIAM F. BROOKS, for applicant  
 RANDOLPH KARR, for Southern Pacific Company,  
 protestant in part, interested  
 party in part.

SECOND SUPPLEMENTAL OPINION AND ORDER

In this proceeding The Atchison, Topeka and Santa Fe Railway Company requested permission to construct a main line track at grade across State highway, <sup>near Mojave</sup> adjacent to the main line track of Southern Pacific Company (Crossing No. B-381.5) in the vicinity of Mojave, Kern County. In the order of Decision No. 37593, dated January 3, 1945, authority was granted to construct crossing for the duration of the war period, providing that automatic protection be prescribed by further order. By Decision No. 37666, dated February 6, 1945, the Commission prescribed that the proposed crossing and the adjacent crossing of Southern Pacific Company be protected by automatic short arm crossing gates and provided that if the parties could not agree on the allocation of construction and maintenance, said costs would be apportioned by subsequent order.

It appeared that the parties could not agree, therefore the Commission reopened the proceeding for hearing <sup>(1)</sup> to make a record with respect to the permanency of the track and apportionment of costs of protection.

The main line track of The Atchison, Topeka and Santa Fe Railway Company from Barstow joins with the Southern Pacific Company's main line from Los Angeles at Mojave. From Mojave to Kern Junction

(1) A public hearing was held before Examiner Hall in Los Angeles on April 17, 1946, at which time the matter was submitted.

(near Bakersfield) both railroads operate over the tracks of Southern Pacific Company, a distance of about 67 miles. A yard is maintained at Mojave by Southern Pacific Company and used by both companies.

Prior to the construction of the track authorized by Decision No. 37593, all trains of applicant going from or to Barstow diverted from Southern Pacific Company's main line track at about the middle of the Mojave yard. By moving trains through this route, long trains of about 85 cars could not be set over in the yard without being cut or making a movement on the main line of Southern Pacific Company west of Mojave and backing into or out of the yard.

The new tracks enter east of the east end<sup>(2)</sup> of said yard and trains can be run directly into the yard tracks without any yard movements. The tracks of the yard are sufficiently long to accommodate the longest train of either the Santa Fe or the Southern Pacific without being cut.

Due to the heavy traffic over the single track of Southern Pacific between Mojave and Kern Junction it has become necessary to run all trains to capacity. To this end the two companies have agreed to the changes at Mojave in order to facilitate train movements through the Mojave yard and between Mojave and Kern Junction.

It is clear that the track constructed in conformity with the provisions of Decision No. 37593 was needed for the war emergency and will continue to be needed for expediting the movement of peacetime traffic.<sup>(3)</sup> The old Santa Fe track and crossing over the highway (Crossing No. 2-817.9) will continue to be needed for occasional switching by both companies to reach the oil racks and industry located across the highway from the Mojave yard.

(2) All directions mentioned herein are "Railroad" directions.

(3) The Division of Highways by encroachment Permit No. 91810E granted to applicant the right to cross State Highway during the present emergency and for six months thereafter.

The second problem before us is the allocation of cost and construction of maintenance of the automatic short-arm gates for the protection of the crossing of both railroads. The movement of westbound Santa Fe freight trains very often will have to be stopped before proceeding over the crossing to await directions from the "herder" (4) before entering the Mojave Yard.

In order that the gates will not be closed when a Santa Fe train is waiting for entry into the yard the herder will have manual control of the gates until the train starts to move toward and over the crossing. At all other times the gates will be automatically operated.

The complete installation, including all necessary circuits, is estimated by Southern Pacific Company to cost in excess of \$14,000 (Exhibit 2) whereas the Santa Fe estimates the cost to be about \$15,000. The segregation of this cost between major component parts is shown on Exhibit No. 2 and summarized as follows:

1. Work on Santa Fe tracks . . . . .	\$ 1,965.00
2. Work on Southern Pacific tracks . . . . .	2,750.00
3. Crossing Gates only . . . . .	5,228.00
4. Other work - joint Santa Fe and So. Pac. . . . .	<u>4,528.00</u>
Total	\$14,471.00

At the present time the existing crossing of Southern Pacific Company is protected by Standard No. 5 (G. O. No. 75-B) flashlight signals with rotating stop banner. (5)

The record leads us to the conclusion that had the Santa Fe track not been constructed, the existing flashlight signals would

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(4) The "herder" is a Southern Pacific employee at the east end of the Mojave Yard who directs the train movement into the various tracks.

(5) By Decision No. 28321, dated November 4, 1935, in Application No. 20174, these signals were installed and paid for with federal funds.

suffice, but due to the close proximity of the new Santa Fe track to that of Southern Pacific (20 feet between track centers), and train movements in both directions on both tracks, the short-arm gate protection becomes necessary. We conclude, therefore that the cost of installing these gates should be borne by The Atchison, Topeka and Santa Fe Railway Company and the maintenance thereof is an obligation of both companies and should be equally divided between them. The following order will so provide. Upon placing said crossing gates in operation, the crossing watchman now protecting said crossing may be dispensed with.

O R D E R

A public hearing having been held and the matter being under submission;

IT IS HEREBY ORDERED that:

I. The provision in the Order of Decision No. 37593, reading as follows:

"Unless time be extended by further order, the crossing herein authorized shall be removed not later than six months from the end of the present national emergency."

shall be rescinded and be of no further force and effect.

II. Applicant shall file with the Commission within ninety (90) days from the effective date hereof, a certified copy of permit from the Division of Highways approving the permanent maintenance and operation of said crossing.

III. The construction and maintenance of the protection of said crossing, as authorized by the order in Decision No. 37666, dated February 6, 1945, be and it is hereby apportioned between The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company as follows:

1. The entire expense of constructing and placing in operation of the protection by short-arm automatic gates shall be borne by applicant.
2. The cost of maintenance of said protection shall be divided equally between applicant and Southern Pacific Company.

IV. Upon completion of the construction and placing in operation of said short-arm automatic gates, temporary human flagman protection, as authorized by Decision No. 37666, may be discontinued.

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

In all other respects Decisions Nos. 37593 and 37666 shall remain in full force and effect.

Dated at San Francisco, California, June 18 1946

Harold Culver  
Justice F. Coe  
Thomas G. ...  
...  
Harold ...  
COMMISSIONERS