

ORIGINALDecision No. 42830

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

City of Belmont, a municipal corporation,)

Complainant,)

vs.)

Southern Pacific Company, a corporation,)

Defendant.)

Case No. 5087

Paul A. McCarthy, City Attorney, and Lyle Jones,
for the City of Belmont
R. S. Myers, for Southern Pacific Company

O P I N I O N

Complainant city instituted this proceeding to determine the reasonableness of a plan and cost estimates submitted to it by defendant for the installation of automatic gates in lieu of existing automatic flashing signals at the crossing of Ralston Avenue and defendant's tracks, in the City of Belmont, San Mateo County. Allocation of the costs of the installation is also an issue.

The case was heard at Belmont on July 20, 1949, before Commissioner Huls and Examiner Gregory, and was submitted subject to the filing of memoranda, which have since been received. After submission, the city asked and was granted leave to amend its complaint in order to make parties to the proceeding the State Department of Public Works and the Division of Highways, following an amendment to Section 508, Streets and Highways Code, authorizing incorporation of Ralston Avenue, between Bayshore Highway and Skyline Boulevard, in the state highway system. The Department of Public Works disclaimed jurisdiction upon the ground that the Highway Commission had not adopted any part of Ralston Avenue, in the City of Belmont, as a state highway and had not in fact made any location

for Route 214 in Belmont. (Streets and Highways Code, Section 2109).

According^{ly}, on January 5, 1950, the case was resubmitted without participation by the Department and is now ready for decision.

In substance, the complaint alleges that present safety devices at the crossing of Ralston Avenue and defendant's tracks in Belmont are inadequate for protection of vehicular traffic, chiefly non-local, and should be replaced with automatic gates and flasher signals; that defendant operates an average of 85 through and local passenger and freight trains daily through Belmont, some at a high rate of speed; that defendant has presented to the city a plan and cost estimate for installation of automatic gates and flashes which is both complex and costly due to provision having to be made for industrial switching east of the main tracks near the crossing^{##}; and that the railroad freight business at Belmont is primarily for the benefit of defendant and its customers. The Commission is asked to determine the propriety of the proposed installation, the reasonableness of the cost thereof, and to make an order for the imposition of costs of installation and maintenance of the improved protection devices.

Defendant, in its answer to the complaint, admits that there is a hazard but alleges that the present signal system would be sufficient if the city would properly police the crossing; otherwise, defendant admits that automatic gates would provide the most adequate protection. Defendant admits that 85 trains pass through Belmont on week days but alleges that 45 trains pass through the city on Sundays; denies that vehicular traffic at the crossing is not of local origin; denies that the freight service at Belmont between the main line and the spur track is primarily or at all for defendant's convenience but alleges, rather, that the use of the spur is necessary in the proper performance of its common carrier service to the public. Defendant

asks for dismissal of the complaint, or, in the alternative, that the Commission determine what further protection is needed at the crossing and impose the cost thereof on the city.

At the hearing, the position of the City of Belmont was developed by Bayley Kohlmeier, Mayor and Chairman of the City Council, by Dr. Frank M. Stanger, a man versed in the history of San Mateo County, by Chief O. Walter Lindholm and Sergeant James W. Lyall, of the Belmont Police Department and by Lyle L. Jones, an attorney and member of the City Council. Evidence on behalf of the Southern Pacific Company was presented by Thomas Armstrong, Signal Supervisor, Coast Division, by Ray C. Slade, Assistant Superintendent, Coast Division, and by Walker Paul, Assistant to the Chief Engineer.

The evidence shows that Ralston Avenue has been used since about 1850 as a connecting highway between old El Camino Real (now a county road east of the Southern Pacific Company tracks) and the coast. The rail line was built along the present right of way in Belmont in 1863. After World War I El Camino Real was relocated west of the tracks. The east line of the highway is 84 feet west of the outside eastbound rail. ⁽¹⁾ Ralston Avenue was later extended to Bayshore Highway and now forms an important link for automobile and truck traffic between that arterial and the Coast Highway (State Highway No. 1), as well as a connection between Belmont and nearby residential and industrial areas east of the tracks. The Southern Pacific station at Belmont is located west of the tracks and north of Ralston Avenue. There is an inhabited building south of the crossing east of and near the tracks.

There are two spur tracks in the vicinity of the crossing. One, a house track west of the main tracks, crosses Ralston Avenue

(1) Railroad directions are used throughout this opinion when referring to the tracks; i.e., eastbound means toward San Jose and westbound means toward San Francisco. Otherwise, normal geographical directions are intended.

and is used by the Southern Pacific for rail freight service to and from Belmont. The other spur takes off to the east about 800 feet south of Ralston Avenue and was originally installed to serve industry in the area east of the tracks. It is now used principally as a team track for truck operations. The main tracks are connected by a cross-over from the westbound to the eastbound rails about 600 feet south of Ralston Avenue. The crossing is now protected with two train-actuated, flashing light-rotating stop banners (General Order 75-B, Standard No. 5) which operate as long as trains are approaching or occupy the crossing.

Total activity at the crossing for a 24-hour period in July, 1949 (11 a.m. 7-12-49 to 11 a.m. 7-13-49), stated to be characteristic, was as follows (Exhibit 3):

HIGHWAY TRAFFIC

Pedestrians.....	493
Automobiles.....	3953
Trucks.....	565
Motorcycles.....	16
Busses.....	9
Bicycles.....	89

HIGHWAY TRAFFIC DELAYS - 42.5 minutes

RAILROAD TRAFFIC

Eastbound -	43
Westbound -	42
Total	85

During this period there were no switching movements over the crossing on the house track, but the signals were actuated a total of 8.5 minutes due to local freight switching on the spur east of the crossing not involving movements over the crossing itself. The period of greatest activity, as indicated by the exhibit, was from 6 a.m. to 9 p.m., with peak concentration occurring from 7-9 a.m., during the noon hours, and in the latter part of the afternoon until about 7 p.m. A check of house track switching movements for five days

in June, 1949, indicated seven such movements ranging from five to ten minutes each. Switching over the house track is protected by flagging and would continue to be so protected if automatic gates were installed. Maximum rail speed limits through Belmont range from 75 m.p.h. for passenger trains to 50 m.p.h. for freight trains.

There are automatic signals at the intersection of El Camino Real and Ralston Avenue which are actuated by vehicular traffic for east-west movements across the main highway. The record is conflicting as to the necessity for synchronizing the highway signals with those to be operated in connection with the automatic gates. The railroad's position was that no synchronization would be necessary if the extra circuits, designed to control switching movements, were installed in accordance with the proposed plan. The position of the city, on the other hand, was that synchronization was necessary and would cost about \$1000.

As the evidence points to the probability of increased travel on Ralston Avenue in connection with Bayshore Highway, it would seem that serious consideration might be given by the appropriate authorities to the question of synchronization of highway and rail signals in order to reduce to a minimum delays to highway traffic occasioned by train movements.

In addition to the protection afforded by existing signals the railroad crossing, as well as the highway intersection, is policed by the City of Belmont during the morning, noon and late afternoon peak hours from Monday through Friday, and, when possible, during periods when school children may be crossing the tracks. During the morning and early evening hours, however, there is only one police officer on duty in the city out of a force of seven. According to Mayor Kohlmeier, the city cannot afford the services of another police officer at present; moreover, the necessity for policing

the crossing tends to render general police protection less available in other parts of the city.

The primary determination which must be made here is that of the necessity for and feasibility of improved safety devices to be maintained by the railroad at the Ralston Avenue crossing, together with an equitable allocation of the costs of installation and maintenance of facilities at the point of the crossing (including necessary switching controls) as between the railroad and the city. We are thus brought to a consideration of the accident hazard at this crossing and the effect of the proposed installations upon that hazard.

In the 23-year period from 1926 to 1948 there were 12 accidents at the Ralston Avenue crossing, resulting in eight deaths and four non-fatal injuries. Six of these accidents, involving five of the deaths and the four injuries, occurred subsequent to the installation, on May 20, 1938, of the present flashing signals. In 10 of the 12 accidents both the train and vehicle involved were proceeding westbound; that is, the train was proceeding toward San Francisco and the vehicle was moving westward toward El Camino Real. In several instances the vehicle was hit by a second train after the driver had let the first go by. In an accident which occurred in April, 1948, an automobile was knocked by a train into a crowd of early morning commuters, injuring several. One of the police officers who testified stated he had witnessed two near accidents at the crossing during the preceding half year.

Although one of the railroad officials expressed the opinion that the present signals were adequate if the City of Belmont continued to provide police protection, he stated that automatic gates were more effective and that if no police protection were provided the gates should be installed. Future police protection at the crossing, if gates are installed, would depend upon a survey and report to the

City Council and action by that body, according to the Belmont Chief of Police. Both the city and the railroad agreed that the installation depicted on a blueprint prepared by the railroad (Exhibit 1) were appropriate for protection of the crossing.

The record conclusively establishes, and we accordingly find, that the existing railroad crossing protection at Ralston Avenue, in the City of Belmont, is inadequate and that said crossing should be protected by automatic gates, flasher signals and switching controls as provided in the plan presented by the railroad to the City of Belmont and detailed by evidence in this record.

There remains for consideration the question of allocating the costs of installation and maintenance of the improvements. The proposed installation, including spur track and switching circuits, is estimated to cost \$13,106 with maintenance at \$824 annually. The railroad insists that the city pay for the entire cost of installation upon the alleged ground that (a) the increased use of the highway, and not any increased use of the rails, is responsible for the increased hazard; (b) the switching circuits are of no benefit to the railroad, which can perform the movements whether the gates are up or down, but are designed to prevent highway traffic delays. The city, on the other hand, argues that as a municipality it has no legal obligation to protect life and property at the crossing and that the highway traffic requiring protection is largely non-local. The city urges, therefore, that it should not be required to assume more than the cost of the gates, plus the proportion of labor and other expense directly attributable to their installation, in all amounting to approximately \$5000, and that the railroad should be required to bear the cost of the track circuit installation occasioned by the complicated spur and switching layout in the vicinity of the crossing, amounting to the balance of about \$8000. (2)

(2) The estimated costs are itemized in Exhibit No. 2.

We have concluded that a proper division of costs would require assumption by the railroad of the expense of installing and maintaining the track circuits, relays and other devices required by the somewhat complicated spur track and switching layout in the vicinity of Ralston Avenue, and the assumption by the city of the cost of procurement and installation of the automatic gates, with each party bearing the share of labor and other expense attributable to the respective installations for which they are responsible. The railroad should bear the expense of maintaining the entire installation.

O R D E R

A public hearing having been held in the above entitled and numbered proceeding, the case having been submitted for decision, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Southern Pacific Company, defendant herein, within 180 days from the effective date of this order and in substantial accordance with the plan shown on Exhibit No. 1 herein, shall install automatic gates and track circuits at and in the vicinity of the crossing of Ralston Avenue with defendant's tracks, in the City of Belmont, in lieu of the existing automatic flashing signals at said crossing, and shall thereafter maintain said automatic gates and track circuits in workable order.

(2) That the City of Belmont shall make available to Southern Pacific Company, within the time provided herein for completion of said crossing protection, a sum sufficient to defray the cost of procurement and installation of two automatic gates, with guards and foundations, and of the labor and other expense directly attributable

to such installation, in all not to exceed the sum of \$5000.

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

Dated at San Francisco, California, this 14th day of February, 1950.

A. E. Anderson
Justice J. Carr
Dir. of Prisons
Harold F. Hill
Penitentiary (Patten)

COMMISSIONERS