

ORIGINALDecision No. 53016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
 City of Roseville, the County of Placer,)
 and the Roseville Chamber of Commerce) Application No. 36235,
 for an order reopening Lincoln Street) as amended
 in Roseville across the tracks of Southern)
 Pacific Company.)

Bertram S. Silver and Edward M. Berol, for the
 County of Placer and, with Robert A. Boon,
 Assistant City Attorney, for the City of
 Roseville.

Randolph Karr and R. S. Myers, for Southern Pacific
 Company, protestant.

George D. Moe and Wilbur Robison, for State
 Department of Public Works; Joe B. Stallworth
 and James R. Belote, for Brotherhood of
 Locomotive Engineers, Division 415; Graham R.
Mitchell, for Brotherhood of Locomotive
 Engineers; Roseville Chamber of Commerce,
 interested parties.

Luther H. Gulick, for the Commission staff.

O P I N I O NNature of Proceeding

On November 19, 1954, the City of Roseville, the County
 of Placer and the Roseville Chamber of Commerce, ¹ alleging incon-
 venience and hardship to merchants and citizens of Roseville, joined
 in an application, under Sections 1201 and 1202 of the Public
 Utilities Code of California, for an order directing Southern Pacific
 Company, at its sole expense, to reopen and protect a crossing at
 grade at Lincoln Street, in Roseville. The Commission, in 1948,
 had ordered the crossing closed and barricaded upon the opening, on
 April 1, 1950, of a vehicular and pedestrian underpass on Washington
 Street, one block west (Decision No. 41198, February 10, 1948, Appli-
 cation No. 28460), and rejected, after hearing, subsequent petitions
 by the Chamber of Commerce and the City to secure a reversal

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This applicant later changed its status to that of "interested
 party."

of its decision (Decision No. 41432, April 6, 1948, Application No. 28460 - rehearing; Decision No. 45034, November 21, 1950, Application No. 31457).

The application was amended twice, to conform with Rule 30 of the Commission's Rules of Procedure.² Applicants, by their second amendment, also modified the prayer of their original pleading to request that the Commission, instead of directing the railroad to install and protect the crossing at its sole expense, issue an order "authorizing" the alteration or construction of the crossing, order necessary protection, and "authorize" the construction upon the terms and division of costs to be set forth in an agreement to be entered into between the company, the city and the county. If the parties should fail to agree, applicants requested that the Commission itself determine the division of costs "as provided by law."

Motions to Dismiss

Southern Pacific Company, by motions to dismiss the application, as amended, and to stay further proceedings until the State Department of Public Works should be brought in as a necessary party, raised certain jurisdictional and constitutional issues related, primarily, to the sufficiency of the application as one claimed by the railroad to be a petition to condemn title to the railroad right-of-way for a public street, as provided by Sections 1401 et seq. of the Public Utilities Code. The company also alleged that the present proceeding was barred by the two decisions, previously adverted to, which rejected petitions to reopen the crossing.³

² Rule 30 prescribes the data to be included in crossing applications.

³ Oral argument on the motions to dismiss the original application and the first amendment thereto was held on January 24, 1955, and the motions were then taken under submission, but a ruling thereon was reserved. The application was thereafter set down for hearing on the merits.

In our view, disposition of this proceeding on its merits, as well as applicants' disclaimer, on the record, of any intention to proceed otherwise than under Sections 1201 and 1202 of the Public Utilities Code to obtain the permissive order referred to in Section 1201, renders unnecessary further consideration of the issues raised by the company's motions, including the one addressed to the second amendment to the application.

Public Hearings

The application was taken under submission on October 4, 1955, after nine days of hearings before Commissioner Justus F. Craemer and Examiner John M. Gregory at Roseville and San Francisco and oral argument before the Commission en banc. The record includes 1,341 pages of transcribed testimony and 106 documentary exhibits.

Physical Situation in Area of Proposed Crossing and Vicinity

The City of Roseville, incorporated April 10, 1909, and having an estimated population, in 1955, of about 10,000 is situated approximately 18 miles east of Sacramento. It is an important Southern Pacific railroad center and is also the junction of U. S. Highway 99E, leading north through the Sacramento Valley and U. S. Highway 40, one of the main east-west transcontinental routes. A newly constructed freeway by-passes the city to the southeast and joins U. S. Highway 40 a short distance beyond the easterly city limits.

The Southern Pacific Company's main-line tracks from Oakland to Reno, Nevada, and beyond, as well as its main-line tracks north to Gerber and on to Portland, Oregon, converge at the company's freight and passenger stations, located immediately east of the former grade crossing at Lincoln Street in the heart of the city's business district. Lincoln Street, prior to opening the Washington Street underpass, was also the principal connecting link between U. S.

Compass, not railroad, directions are used throughout.

Highways 40 and 99E in Roseville. West of Lincoln Street, and extending for a considerable distance west of the westerly city limits, are the Southern Pacific's Jennings Yard facilities, the largest west of the Mississippi River. These yards include engine shops, roundhouses, classification and hump yards, arrival and departure tracks, Pacific Fruit Express icing docks and other facilities, as well as main-line and switching tracks. Lincoln Street, until its closing in 1950, crossed the easterly throat of this yard at which are located eight tracks, including main-line, yard and house tracks, and numerous switching facilities used in main-line and yard movements, both freight and passenger.

After opening the Jennings Yard, in December, 1952, Southern Pacific rerouted northbound traffic from Oakland and San Francisco to Roseville for all switching for terminals en route to Portland, which resulted in reducing running time between Oakland and Portland and also increased materially the movements over the former crossing area. The company has extended its use of diesel engines and the length of its trains to a point where several trains of up to 125 cars of perishables, with five or more diesel power units, depart daily east-bound during periods of peak operations and trains of similar length are received from eastern points. The company has plans to expand trackage and other yard facilities in the former crossing area and to the east and west thereof, in order better to accommodate long trains moving to and from Ogden, Utah, Portland, Oregon, and other points.

Applicants' Position and Supporting Evidence

Applicants maintain, and offered evidence to show, that the closing of Lincoln Street to public transit has resulted in deterioration of the business area on Lincoln Street north of the Southern Pacific tracks; that pedestrian shoppers are compelled to use the more circuitous route through the Washington Street subway

to reach the Lincoln Street stores and business offices; that loitering by undesirable persons and bicycle riding constitute serious hazards in the use of the pedestrian walkway in the underpass; that school children and other trespassers, entering the station area from the east, proceeding along the tracks and exiting through openings (maintained for those having railroad business) in the fences north and south of the station area, create hazards for themselves and for the railroad; that opening of the crossing at Lincoln Street would relieve the underpass of much local traffic, which would not only benefit the business area north of the tracks and decrease the possibility of accidents, but also would afford another route for police and fire vehicles having occasion to move between the northern and southern sections of the city.

Southern Pacific Company's Position and Supporting Evidence

Southern Pacific Company, through its officials, offered evidence to show that more than 8,000 cars per day are handled in the Jennings Yard during seasonal peak operations; that physical conditions in the Dry Creek area west of the city preclude extension of yard trackage in that direction and require, instead, that track expansion be made to the east, thus increasing the use of the former crossing area; that the crossing, if opened and even though properly protected, would be blocked to vehicular traffic by trains, light engines and switching movements which would occupy the tracks more than five or six hours daily, or about 22 per cent to 28 per cent, or more, of the time, based on observations of such movements in the off-peak months of January and May, 1955; that business and commercial activities in the city have gravitated to the area along Vernon Street, one block south of and parallel to the tracks, and would not return to Lincoln Street north of the tracks even if the crossing were opened; that opening of the crossing would be extremely detrimental

to the present and projected operations of the yard, which is the heart of the Southern Pacific freight system.

Positions of Brotherhood of Locomotive Engineers and Department of Public Works

The Brotherhood of Locomotive Engineers and the State Department of Public Works, through their respective officials, opposed the opening of a crossing at grade at Lincoln Street.

The railroad brotherhood asserted that operation of long, diesel-powered trains would create additional hazards for employees engaged in main-line and switching movements at the crossing, due to the necessity of watching for vehicular traffic, making sudden train or engine stops to avoid accidents, and to the hazardous nature of conducting reverse movements over the crossing with diesel engines which have no controls at the rear end.

The Department of Public Works, which constructed the Washington Street underpass at a cost, exclusive of right-of-way, in excess of \$1.5 million, to which the Southern Pacific contributed \$107,837.47, based its objection to opening the crossing on the fact, among others, that it would be required by its contract with the railroad, in the event the crossing were opened again, to assume the obligation of maintaining the superstructure of the Washington Street underpass at an estimated annual cost of \$2,500. The record also shows that the Department would not have constructed the underpass had the Lincoln Street crossing been allowed to remain open.

Accident records at Lincoln Street Crossing and on Washington Boulevard

The record shows that from January 1, 1926, to March 24, 1950, there occurred at the crossing of Lincoln Street, in Roseville, with the tracks of Southern Pacific Company, a total of 126 accidents, including one person killed and 39 persons injured. The record does not reveal the accident history in this crossing area since April 1, 1950, when it was closed to public transit.

Summary, Findings and Conclusions

This proceeding presents, for the third time in the last eight years, a conflict in interest between those in the City of Roseville who desire to have the former crossing at Lincoln Street reopened, and the Southern Pacific Company, the Brotherhood of Locomotive Engineers and the State Department of Public Works, who are united in opposing that result.

The record is voluminous. It contains much that is of historical interest as well as factual data more closely related to the main issue again before us for decision. That issue is simple and the facts upon which its determination must rest are not substantially in dispute.

The Commission is asked, in essence, to find that conditions created in Roseville by the closing of the former crossing at Lincoln Street are now such as to require a reversal of its previous judgment that the crossing should remain closed. The burden of establishing a foundation which would justify the Commission in taking such action rests upon applicants and it is not a light one.

The Commission has the exclusive power to grant or refuse permission for the construction of a public street across the tracks of any railroad corporation at grade, or by a separation of grades; to prescribe the manner and terms of installation and use of such crossings and their protection, and to alter, relocate, or abolish by physical closing any such crossing "heretofore or hereafter established." (Public Utilities Code, Sections 1201, 1202. See also, Northwestern Pacific Railroad Co. v. Superior Court (1949) 34 Cal 2d 454, 211 Pac 2d 571.)

In Decision No. 45034, issued in Application No. 31457, the 1950 proceeding in which the City of Roseville sought to have the crossing opened, we said:

"From the record in Application No. 28460 the Commission could not justify the opening of the grade separation at Washington Street unless the Lincoln Street grade crossing was closed, particularly due to their proximity to each other and the interference to free flow of traffic by train movements at the Lincoln Street crossing, nor was anything developed in the instant record to justify any change in the order of Decision No. 41198 on Application No. 28460."

* * *

"The entire record in both this proceeding and in Application No. 28460 impels the conclusion that a grade crossing should not be established at Lincoln Street, even if the City of Roseville had the funds to construct and protect it, and the application should be denied."

It is clear from this record that there has been a steady and healthy business and residential growth in the City of Roseville and the surrounding Placer County and Sacramento County areas during the postwar years. Development and revision of highway routes, particularly the new U. S. Highway 40 Freeway southeast of the City, will greatly relieve the traffic congestion caused by intermingling on city streets of through traffic with local vehicles.

Greatly revised and expanded freight train operations since the Lincoln Street crossing was closed has made the Jannings yard one of the most extensive freight handling yards in the West. Projected yard expansion beyond present installations is limited on the west by physical conditions thus requiring that any extension of trackage or switching facilities for the handling of longer trains will be, of necessity, in the area of the former grade crossing and eastward.

It is abundantly clear, therefore, that the opening of the crossing at Lincoln Street, at grade, would create substantial and

irritating delays, with attendant hazards, to any traffic, either pedestrian or vehicle, which would attempt to use the crossing.

We find from the evidence that no public necessity exists for a crossing, at grade, of Lincoln Street, in the City of Roseville, over the tracks of Southern Pacific Company and that the opening of such a crossing would create a hazard to public safety and would be contrary to the public interest.

It is also clear, from the record, that the track area east of Lincoln Street, as far as Yosemite Street, constitutes a serious hazard for school children and others who may attempt to use it in order to pass between the northern and southern sections of the city. The Southern Pacific Company should proceed to fence its property along Atlantic Street, between Lincoln and Yosemite Streets, in a manner that would restrict access to its track and station areas as completely as possible under existing and projected conditions of use by the railroad and by authorized members of the public.

The application, as amended, should be denied. In view of the action to be taken, it will be unnecessary to rule on the various motions filed by Southern Pacific Company.

O R D E R

Public hearing having been held on the application herein, as amended, evidence and argument having been received and considered, the matter 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 that Application No. 36235, as amended, be and it hereby is denied.

IT IS FURTHER ORDERED that Southern Pacific Company advise the Commission, in writing, within thirty days after the date of issuance of this decision, what, if any, further plans it may have adopted or carried into execution relative to restricting access to its properties along Atlantic Street, between Lincoln or Washington Streets and Yosemite Street, in the City of Roseville.

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

Dated at San Francisco, California, this 1st day of May, 1956

E. Mitchell
 President

Justin F. Gaeumel

Paul L. Linterman

Maxwell D. Cook

 Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.