

ORIGINAL

Decision No. 52025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN PACIFIC COMPANY for an)
order authorizing the construction)
at grade of drill track and three)
spur tracks across Mary Avenue in)
the City of Sunnyvale, County of)
Santa Clara, State of California.)

Application No. 35258

R. S. Myers for applicant.
Mario J. Russo for National Can Corporation,
interested party.
James K. Gibson for the Commission staff.

O P I N I O N

By application filed March 18, 1954, Southern Pacific Company requested authority to construct, maintain and operate in the City of Sunnyvale, County of Santa Clara, a drill track and three industrial spur tracks at grade across Mary Avenue to serve Pacific Can Company.

In view of the urgent need for the additional tracks, as alleged in the application, the requested construction was authorized with continuance of the existing protection pending a hearing to determine the nature and kind of permanent protection required. This authority was granted by Interim Order in Decision No. 49881 dated April 6, 1954, in Application No. 35258. Said decision ordered that a public hearing be held at a time and place to be designated. This hearing was required to determine the extent to which the four additional tracks would result in additional hazards over and above those then existing at the crossing, and consequently the extent additional protection was required.

Public hearing was held July 7, 1955, before Examiner Rowe in San Francisco at which time evidence both oral and documentary was

adduced and the matter duly submitted.

The evidence submitted by the Commission staff supports the finding which the Commission now makes that additional hazards were created by Southern Pacific Company when it installed the drill and spur tracks and that such increased hazards require the installation and maintenance by Southern Pacific Company of flashing light signals equipped with automatic crossing gates at Mary Avenue, replacing the present wigwag signals.

Subsequent to the hearing, Southern Pacific Company on July 15, 1955, filed its Petition To Reopen Proceedings requesting that a determination be made that the cost of any further protection found to be required at Mary Avenue crossing be assessed fifty per cent against petitioner and fifty per cent against the City of Sunnyvale.

Because of the fact that the Commission was considering an investigation involving most of the important crossings on the Peninsula with the view of increasing protection, the decision in this matter was delayed.

In order to expedite action in procuring adequate protection at Mary Avenue the City of Sunnyvale, by letter dated March 22, 1956, signed by its City Manager, has stated that the city would be in accord with paying for crossing gates on the basis of allocating 25 per cent of the cost to the City and 75 per cent to the Southern Pacific Company. By allocating costs on such a basis the necessity for a formal Commission investigation joining the railway and the city can be obviated. This result appears fair as the railroad is applicant for the increased trackage which necessitates the additional protection. The following order will so provide.

O R D E R

Application for the construction of a drill track and three spur tracks at Mary Avenue in Sunnyvale having been filed, hearing having been duly held, and the Commission having found that crossing gates are necessary,

IT IS ORDERED:

- (1) That the grade crossings over the Southern Pacific Company's tracks by Mary Avenue, in Sunnyvale (E-37.9) shall within 120 days be protected by the installation and maintenance by Southern Pacific Company of flashing light signals equipped with automatic crossing gates, replacing the present wigwag signals.
- (2) That except as modified by ordering paragraph (1) hereof the Interim Order contained in Decision No. 49881 dated April 6, 1954, in Application No. 35258 is made permanent.
- (3) That the entire cost of acquiring and installing said flashing light signals equipped with automatic crossing gates shall be borne 75 per cent by applicant and 25 per cent by the City of Sunnyvale.
- (4) That the entire cost of maintaining said flashing light signals equipped with automatic crossing gates shall be borne by applicant.
- (5) That within thirty days thereafter applicant shall give the Commission written notice of the completion of all said construction and replacement and of its compliance with the terms hereof.
- (6) That the Petition To Reopen Proceedings filed by Southern Pacific Company on July 15, 1955, is denied.

(7) That the Secretary is directed to serve a certified copy of this decision upon applicant and upon the City of Sunnyvale within five days after the date hereof.

The effective date of this order shall be twenty days after the mailing of said certified copies of this decision.

Dated at San Francisco, California, this 7th day of May, 1956.

John E. Mitchell President
Justin F. Casper
Randy W. ...
...
B. ... Commissioners