

ORIGINALDecision No. 53921

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THE CITY OF MODESTO, CALIFORNIA,
a Municipal Corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,
a corporation,

Defendant.

Case No. 5767

ORDER DENYING REHEARING

The original complaint herein named as defendants the Southern Pacific Company and the State of California, Department of Public Works, Division of Highways. It alleged inadequacy of protection at two grade crossings of railroad tracks and city streets.

(H Street, Crossing No. B-113.1 and I Street, Crossing No. B-113.0.)

Like inadequacy of protection was alleged as to the grade crossing of L Street and railroad tracks, L Street being a State highway. Complainant requested an order directing Southern Pacific Company to enter into an agreement with complainant to install crossing gates at the H and I Street crossings, and directing the two defendants to enter into an agreement to install such gates at the L Street crossing.


Answers were filed. Southern Pacific Company filed a motion to dismiss. An amended complaint was thereupon filed, omitting reference to the L Street crossing, eliminating the State as a defendant, and requesting an order directing the installation of

gates at the other two crossings and apportioning costs between the parties. Southern Pacific Company's amended motion to dismiss the amended complaint was denied by Decision No. 53750. Southern Pacific Company has petitioned for rehearing, raising a number of procedural objections to the sufficiency of the complaint as a proper legal vehicle to invoke the Commission's jurisdiction.

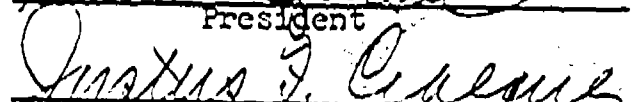
Being of the opinion that complainant has followed the proper procedure, and that no good cause has been shown for the granting of a rehearing, IT IS ORDERED that the petition for rehearing is hereby denied.

Notwithstanding the above action, and in order to eliminate procedural objections to consideration of the real issue of adequacy of protection at these crossings, concurrently herewith the Commission is instituting an investigation on its own motion into the adequacy of protection at the three crossings.


Dated at San Francisco, California, this 16th day of October, 1956.




President



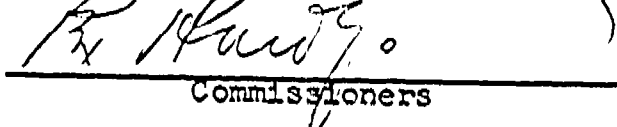
Justus J. Caserio



Paul Tentavine



William J. Dool



Commissioners