

**ORIGINAL**Decision No. 63915

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety, use, and )  
 protection of the grade crossing of )  
 Brookside Drive and the tracks of The )  
 Atchison, Topeka and Santa Fe Railway )  
 Company in the City of Richmond, Crossing )  
 No. 2-1187.2. )

Case No. 7292  
 (Filed March 13, 1962)

James P. O'Drain, for the City of Richmond,  
 respondent.

Hugh N. Orr and James K. Gibson, for the  
 Commission staff.

O P I N I O N

This Commission, upon its own motion, ordered an investigation into the safety, maintenance, operation, use, and protection of the grade crossing of Brookside Drive and The Atchison, Topeka and Santa Fe Railway Company tracks in the City of Richmond for the following purposes:

1. To determine whether or not public safety and health require the installation and maintenance of additional or improved protection.
2. To determine whether or not public safety and health require the relocation, widening, or other alteration of the crossing.
3. To prescribe the terms on which any such installation and maintenance of protection, or relocation, widening, or other alteration shall be done, and to make such apportionment of costs among respondents as may appear just and reasonable.
4. To enter any other order that may be appropriate in the lawful exercise of the Commission's jurisdiction.

A copy of the order instituting investigation was duly served upon the respondents City of Richmond and The Atchison, Topeka and Santa Fe Railway who were also advised of the hearing thereon. Public hearing was held in San Francisco on May 17, 1962, before Examiner Rowe.

The staff introduced evidence showing that public safety and health required the installation of two No. 8 flashing light signals as described in the Commission's General Order No. 75-B. This recommendation was made because of train and vehicular use of the crossing, because the grade crossing of Southern Pacific Company less than one fifth of a mile to the west is provided with automatic protection, and because the crossing involved here is frequently used by heavy trucks. Many of such units are tank trailers transporting flammables. The estimated cost of this protection is stated as \$11,235. The accident record at the crossing shows two deaths in 1947 and one in 1956 as well as one personal injury in 1942 and another in 1947. The speed of both passenger and freight trains at this point is 45 miles per hour.

The City Attorney, in his appearance, stated that the City Council had not then agreed with the railroad to bear the total cost equally with it. However, on June 4, 1962, the City Council authorized payment of one half of the cost of acquiring and constructing two standard No. 8 flashing light signals at this grade crossing.

The Railway Company made no appearance at the hearing but at the request of the examiner sent a letter to him as follows:

"May 16, 1962 .....  
Dear Mr. Rowe

"This letter is in reference to Case No. 7292, in regard to the Santa Fe crossing at Brookside Drive, and is written pursuant to our telephone conversation this morning.

"It is my understanding that the City of Richmond has been considering the possibility of obtaining a contribution in respect to the cost of crossing protection from the Pacific Intermountain Express Company and that this issue was originally to be raised before the Commission. The Santa Fe is sympathetic to the position of the City of Richmond, if the necessity of upgrading protection is largely a result of the increased Pacific Intermountain Express truck traffic across this particular crossing, however, we can see no means by which the Commission can exercise jurisdiction over Pacific Intermountain Express Company. I understand that the legal staff of the City of Richmond is also of the same opinion. We do not intend, therefore, to put on any case in support of the City.

"We do not intend to oppose an order upgrading the protection of this crossing and are agreeable to the normal distribution of costs; that being fifty percent on the part of the local political unit. Since the City of Richmond's desire to contribute only one-third of cost was based upon the assumption that a third party would also contribute one third; we feel, and have been informed, that since such third contribution will not be forthcoming by order of the commission, the city will not oppose the normal distribution of costs referred to above.

"In view of the foregoing, we will not be present at the hearing scheduled for May 17, 1962. Should the city desire to put on a case to the effect that the upgrading of protection has been necessitated by increased rail rather than motor vehicle traffic and that a different formula should be applied, it is our intention to introduce evidence to the contrary.

"Thank you for your consideration and cooperation.

Very truly yours,

/s/ Mirko A. Milicevich

Mirko A. Milicevich"

The evidence is uncontradicted and convincing and the Commission finds that the use of this crossing, both by the public

on the street and by the railroad over the tracks, is such that public safety and health require that two standard No. 8 flashing light signals be installed and maintained to protect this grade crossing. It is found that the cost of this construction and installation should be borne 50 percent by the City and 50 percent by the railroad company.

O R D E R

Investigation on the Commission's own motion having been instituted, public hearing having been held thereon, and the matter having been duly submitted,

IT IS ORDERED that:

1. The grade crossing, No. 2-1187.2, of The Atchison, Topeka and Santa Fe Railway Company's main line tracks and Brookside Drive in the City of Richmond be further protected by the installation and construction of two standard No. 8 flashing light signals, being the type shown in General Order No. 75-B equipped with reflectorized "Stop on Red Signal" signs.
2. The acquisition and construction of said flashing light signals at Brookside Drive required by ordering paragraph 1 shall be effected by The Atchison, Topeka and Santa Fe Railway Company within six months after the effective date of this order and the expense thereof shall be borne 50 percent by said railway company and 50 percent by the City of Richmond.
3. Within thirty days after the acquisition and construction required by ordering paragraph 1 have been completed, The Atchison,

Topeka and Santa Fe Railway Company shall give the Commission written notice of compliance with the terms of this order.

4. The investigation in Case No. 7292 is hereby discontinued.

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

Dated at San Francisco, California, this 10<sup>th</sup> day of July, 1962.

George F. Crowe  
President  
John C. Mitchell  
Richard Fox  
Arnell H. Keagy  
Fredrick B. Hirschhoff  
Commissioners