

ORIGINAL

66069

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety,)
 maintenance, operation, use and)
 protection of the following)
 crossing at grade with the lines)
 of The Western Pacific Railroad)
 Company in or near the City of)
 San Jose, County of Santa Clara,)
 California: Crossing No. 4-G-17.2,)
 San Antonio Street. }

Case No. 7639
 (Filed June 4, 1963)

Elmer Sjostrom, for the Commission staff.
Walter G. Treanor, for The Western Pacific Railroad
 Company; Marvin G. Haun, for the County of Santa
 Clara; Donald C. Atkinson, for the City of San
 Jose; respondents.

INTERIM OPINION

The Commission on its own motion ordered an investigation into the safety, maintenance, operation, use and protection of the crossing at grade of The Western Pacific Railroad Company at San Antonio Street, designated as Crossing No. 4-G-17.2, for the following purposes:

1. To determine whether or not the public health, safety and welfare require the installation and maintenance of additional or improved protective devices at said crossing.
2. To determine whether or not the public health, safety and welfare require the relocation, widening or other alteration of said crossing.
3. To prescribe the terms on which any such installation and maintenance of additional or improved protective devices, relocation, widening, or other alterations shall be done, and to make such

apportionment of costs, including maintenance costs, among the respondents, or any of them, as may appear just and reasonable.

4. To enter any other order or orders that may be appropriate in the lawful exercise of the Commission's jurisdiction.

A public hearing was held in San Jose on August 21, 1963, and the matter submitted on all issues except the question of whether the public bodies should be required to pay a portion of maintenance expense. On this issue the parties were granted leave to file concurrent briefs within sixty days.

Counsel for the staff and each respondent entered into a stipulation that the Commission should issue the following order requiring the construction and installation of two Standard No. 8 flashing light signals as added protection at this grade crossing and dividing construction costs 50 percent to be borne by the railroad and 25 percent each by the City and by the County. Prior to this stipulation, the staff expert witness testified as to this needed protection. The Commission finds that this grade crossing should be protected by two Standard No. 8 flashing light signals and that the cost thereof should be borne 50 percent by The Western Pacific Railroad Company, 25 percent by the City of San Jose and 25 percent by the County of Santa Clara. Based upon the above finding the Commission concludes that this should be authorized and required by the following interim order. The question of whether the City and County should share in the maintenance of these signals will be reserved for the final decision herein after the receipt of briefs.

INTERIM ORDER

IT IS ORDERED that:

1. Within one hundred and twenty days after the effective date hereof, The Western Pacific Railroad Company shall construct and install at the grade crossing of its tracks over San Antonio Street in and near the City of San Jose and Santa Clara County, being designated Crossing No. 4-G-17.2, two Standard No. 8 flashing light signals as described in General Order No. 75-B.

2. The entire cost of acquiring and installing such flashing light signals shall be borne fifty percent by The Western Pacific Railroad Company and twenty-five percent by the City of San Jose and twenty-five percent by the County of Santa Clara.

3. Until the further order of the Commission the cost of maintaining said flashing light signals shall be borne by The Western Pacific Railroad Company.

4. Within thirty days after the acquisition and construction required by ordering paragraph 1 herein have been completed, The Western Pacific Railroad Company shall give the Commission written notice of compliance with the terms of this order.

5. The investigation in Case No. 7639 shall continue until the final order herein shall be entered.

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

Dated at San Francisco, California, this 24th day of SEPTEMBER, 1963.

Hollman M. Bennett
 President

George F. Trover

Frederick B. Holbrook
 Commissioners