

ORIGINALDecision No. 67307

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF ROHNERT
 PARK for a public grade crossing
 over the NORTHWESTERN PACIFIC RAIL-
 ROAD at Wilfred Avenue in the City
 of Rohnert Park, County of Sonoma.

Application No. 46017
 (Filed December 4, 1963)

Richard B. Maxwell, for applicant.
Randolph Karr and Harold Lentz, for Northwestern
 Pacific Railroad Company, protestant.
George D. Moe, for the State Department of Public
 Works and Robert A. Rehberg, for the County of
 Sonoma, interested parties.
Kenneth G. Soderlund, for the Commission staff.

INTERIM OPINION

The City of Rohnert Park requests authority to construct a public grade crossing over the Northwestern Pacific Railroad Company tracks at Wilfred Avenue in said city. The application was amended on March 26, 1964, by adding the following allegation:

"That the parties are not in agreement as to apportionment of costs, but the applicant is willing to advance the amount of money reasonably necessary to enable the respondent to complete the work which must be done by it. It is requested that the proceedings under this application be conducted in accordance with the provisions of Section 1202.1 of the Public Utilities Code of the State of California."

Public hearings were held in Rohnert Park on March 25 and 26, and April 7, 1964. Prior to the receipt of evidence, protestant railroad company made an oral motion to require the joinder of the County of Sonoma and the Department of Public Works, State of California, so that they could be required to share in the cost of construction and maintenance.

Thereafter on March 31, 1964, said protestant filed said motion in written form with the Commission together with a notice of motion requesting an investigation, returnable at the April 7, 1964 hearing. At the hearings evidence was received as to: (a) the necessity of the project; (b) the approval of the location and plans, including provisions for handling traffic during construction and the work to be performed by each party; and (c) the sum necessary to be advanced by applicant for the work to be done by protestant.

On April 7, 1964, the matter was submitted on the issues as to the necessity for the project, the approval of the location and plans, the provisions for handling traffic during construction and the work to be performed by each party. The issue of apportionment of costs and any determination as to protestant's motions were reserved for later hearing and decision by the Commission.

The City of Rohnert Park seeks authority to construct a public crossing at grade at a new street to be named Wilfred Avenue over protestant's tracks at a location which is presently a private unimproved crossing. This, together with the improvement of Wilfred Avenue on both sides of the tracks will provide the first access by the public to a public golf course which is expected to be operational in September of this year. It will also provide the only improved access to the eastern portion of the city, which is otherwise ready for subdivision, from the western portion where some 3,800 people reside and where the business section of the city and the City Hall are located. It is expected that as soon as the crossing is constructed its use by the public will require protection with automatic signals.

According to protestant's evidence the total construction cost of the crossing upon its right-of-way amounts to \$10,550. Protestant also proved that by a rather devious route, largely outside the city limits, and the construction by the city of a new highway of approximately 2,300 feet from the north, the public could reach the area without crossing the tracks. Access is also possible from the east, but this possible route would require more road construction and would not be convenient for future residents or patrons of the golf course.

The evidence was uncontradicted that a grade separation at this point is infeasible. Protestant's expert testified that the crossing should be at least 40 feet of paved road and that the protection should consist of two Standard No. 8 Crossing Signals (General Order No. 75-B) supplemented with two such additional signals on cantilever arms. Protestant introduced evidence to show that the protection above described would be needed as soon as the crossing would be opened and that its cost would be \$10,550 if constructed by the railroad company. No evidence was introduced which would justify the use by the public of this crossing prior to the installation of the above-described protection. Consequently, there is no evidence which would require the Commission to make provisions for handling highway traffic during construction.

Based upon the evidence of record the Commission makes the following findings and conclusions:

Findings of Fact

1. The crossing at grade of Wilfred Avenue and the tracks of Northwestern Pacific Railroad Company in the City of Rohnert Park at Mile Post 48.52 is required by public convenience and necessity

and this need is the result of the normal, planned and expected growth of said city.

2. The City of Rohnert Park and Northwestern Pacific Railroad Company have been unable to agree as to apportionment of costs required for the completion of the work which must be done by the protestant railroad as hereinafter ordered.

3. The opening of the above-described grade crossing and the work required to be performed by said protestant is immediately necessary.

4. The Commission approves the location of the crossing at said Mile Post 48.52 and the plans for construction as described by protestant at the hearings herein. As the public will not be permitted to use this crossing prior to the completion of installation of signal protection as above described and prior to the completion of all other construction, no provision need be made for handling street traffic during construction of the work to be performed.

5. The sum to be advanced by applicant to protestant for such work amounts to \$10,550.

Conclusions of Law

1. An interim order should now be issued authorizing the construction of the crossing, and ordering the above-described signal protection.

2. Northwestern Pacific Railroad Company should be ordered to proceed immediately, upon receipt of the sum of \$10,550 from the City of Rohnert Park, to integrate the work with that of applicant or its contractor in such manner that neither will unreasonably obstruct or delay the work of the other to the end

that the people of the State of California may have the use of the project at the earliest possible date.

3. The Commission should reserve for later hearing and decision the matters of apportioning costs and disposition of protestant's motions.

INTERIM ORDER

IT IS ORDERED that the City of Rohnert Park is hereby authorized to construct Wilfred Avenue at grade across the tracks of Northwestern Pacific Railroad Company in said city, at the location described in Application No. 46017, to be identified as Crossing No. 5-48.5. Applicant City shall initially bear the entire construction cost and shall immediately advance to said railroad company the sum of \$10,550. Applicant shall bear all maintenance costs outside of lines two feet outside of the rails. Width of crossing shall be not less than forty feet and grades of approach not greater than six percent.

IT IS FURTHER ORDERED that Northwestern Pacific Railroad Company shall proceed, without delay, upon receipt of the sum of \$10,550 to be advanced by applicant to perform the work to be done by it, to integrate such work with that of the applicant, or any contractor in connection with the construction of Wilfred Avenue in such manner that neither will unreasonably obstruct or delay the work of the other to the end that the people of the State may have the use of the project at the earliest possible date. Construction shall be equal or superior to Standard No. 2 of General Order No. 72. Protection shall be by two Standard No. 8 crossing signals (General Order No. 75-B) supplemented with two

such additional signals on cantilever arms. Maintenance and construction costs of crossing protection herein ordered or the allocation thereof shall be as provided by future order of this Commission after hearing if requested by protestant railroad company or applicant or some other party within one year after the effective date hereof.

Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall expire if not executed within one year unless time be extended or if the above provisions are not complied with.

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

Dated at San Francisco, California, this 3rd day of JUNE, 1964.

William L. Bennett
President

George H. Trover
Commissioners

Frederic B. Hallock
Commissioners