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ORIGINAL

Decision No. 62844

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the City of Visalia for a Railroad)
Crossing over the Southern Pacific)
Company's Railroad in Section 30,)
T. 18S, R. 25 E., M.D.B. & M.)

Application No. 46212
(Filed February 20, 1964)

N. O. Bradley, for applicant.
Randolph Karr and Harold S. Lentz, for
Southern Pacific Company, interested
party.
William L. Oliver, for the Commission
staff.

INTERIM OPINION

The City of Visalia requests authority to construct a public grade crossing over the Southern Pacific Company's tracks approximately 240 feet east of the existing crossing of Giddings Avenue, No. BAC 252.2 in said city. The application was amended on July 16, 1964, at the hearing, by including an allegation that the Southern Pacific Company and applicant were not in agreement as to the apportionment of costs but that the city is willing to advance the amount of money reasonably necessary to enable the railroad to complete the work which must be done by it, pursuant to Section 1202.1 of the Public Utilities Code.

Public hearings were held before Examiner Rowe in Visalia on July 15 and 16, 1964, and the matter submitted on the issues of public need for the grade crossing, the conditions on which the crossing should be authorized, the type of protection required for public safety and the amounts to be advanced by applicant to enable the railroad company to complete the work which will be done by it.

Applicant produced evidence of public need for this crossing. The railroad introduced evidence to show that the crossing of Goshen Avenue being at a severe angle was dangerous and should be closed and that the crossing of Giddings Avenue will be too close to the proposed crossing, thereby presenting problems of storage space. Several witnesses who operate businesses in this area appeared in protest to both closings. They showed that there was a substantial public need for the continuance of the Giddings Avenue crossing. The need of through traffic flowing east or west for the Goshen Avenue crossing will be satisfied by the proposed crossing, as this traffic will in the future flow along Keener Street and West Murray Street instead of along Goshen Avenue. The public need for local traffic to use the Goshen crossing is much less substantial.

Because much of the work to be authorized must be performed by the railroad's employees and upon its right of way, it produced evidence of such costs. This work will consist largely of acquiring and installing protective devices. The estimates of the cost of erecting devices necessary to protect Giddings Avenue were not detailed but according to the railroad expert such costs would not exceed \$5,000 if Standard No. 8 flashing light signals were installed. If these signals were to be equipped with gates this figure would be doubled. Should the amount ordered paid by the city exceed the amount required, the railroad company will, of course, be obligated to return the excess when the work is completed.

The signals on the crossing at Keener Street-West Murray Street, Milepost 252.24, will cost \$8,100 without gates, or \$14,425 if so equipped, according to Southern Pacific Company's expert

witness. This witness stated that he recommended that automatic gates be installed with the Standard No. 8 flashing light signals at this crossing and also at the Giddings grade crossing, if it is not to be closed. While he recommended that these flashing light signals be immediately equipped with gates he conceded that they were not presently required for public safety. The reason he recommended gates now was because of his apprehension that within three or four years traffic conditions would be increased to the point that they would be needed, and their installation then would be at a much greater overall cost.

The proposed grade crossing is to be located on a new portion of road. All property and rights of way have been acquired by the city with the possible exception of a right of way for street purposes over the railroad right of way itself. This should immediately be acquired by the city.

The railroad company introduced evidence of two items of cost which require discussion. First, Exhibit No. 5 indicates that if two Standard No. 8 flashing light signals equipped with automatic gates are erected as protection of the requested grade crossing an annual maintenance and operating cost of \$644 will be sustained by it. This capitalized at 5 percent amounts to \$12,880. This evidence was offered and received as proving a portion of the ultimate cost of the project and not as an attempt to impose any portion of this maintenance and operating cost upon applicant, because such is not an issue in this phase of the proceeding. Such costs not being construction costs will not be considered as monies to be deposited with the railroad to enable it to complete the work to be done by it. The second item of cost now to be discussed, while it must be included in the amounts to be so

deposited, is not necessarily all a portion of cost to be ultimately borne by applicant. This is one of the questions reserved for later hearing and decision.

This was the testimony of the Senior Assistant Division Engineer of Southern Pacific Company. The cost, aggregating \$5,500, consisted of estimates of cost for reballasting the road bed of the railway; the substitution of heavier steel rails in the crossing area; the laying of twelve-foot cross ties instead of the usual nine-foot ties; and the laying and fastening to the ties of gum plank as a superior road surfacing instead of macadam, gravel or concrete which will be used to cover portions of the road other than the crossing.

The evidence was uncontradicted that a grade separation at this point is infeasible. 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 nothing in the record which would require the Commission to make provisions for handling highway traffic during construction.

Based upon the evidence the Commission makes the following findings and conclusions.

Findings of Fact

1. The crossing at grade of Keener Street-West Murray Street at Milepost 252.24 and the tracks of Southern Pacific Company in the City of Visalia, as described in the application and at the hearing, is immediately required by public convenience and necessity. Protection should be by the installation of two Standard No. 8 flashing light signals.

2. Public safety and convenience require that contemporaneously with the opening of said grade crossing at Milepost 252.24, the grade crossing at Goshen Avenue and the tracks of the Southern Pacific Company, Crossing No. BAC-252.1, in said city be closed, and the present grade crossing of Giddings Avenue and Southern Pacific Company tracks, Crossing No. BAC-252.2 in said city be protected by the installation of two Standard No. 8 flashing light signals.

3. The City of Visalia and Southern Pacific Company have been unable to agree as to apportionment of costs required for the completion of the work which must be done by said railroad company as hereinafter ordered.

4. As the public will not be permitted to use this crossing prior to the completion of installation of signal protection no provision need be made for handling traffic during construction of the work to be performed.

5. All of the work within two feet outside of its rails, as heretofore referred to in these findings, should be performed by Southern Pacific Company, and all work outside of two feet outside of the rails should be performed by the city.

6. The sum to be advanced by applicant to Southern Pacific Company for such work to be done by it amounts to \$18,600.

Conclusions of Law

1. An interim order should now be issued authorizing the construction of the proposed crossing, the closing of the grade crossing of Goshen Avenue and the tracks of the Southern Pacific Company, Crossing No. BAC-252.1, and the protection of proposed crossing and the crossing of Giddings Avenue and said tracks (Crossing No. BAC-252.2) with two Standard No. 8 flashing light signals as protection for each such crossing.

2. Southern Pacific Company should be ordered to proceed immediately, upon receipt of the sum of \$18,600 from the City of Visalia, to perform and integrate the work it is ordered to perform 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 matter of apportioning costs.

INTERIM ORDER

IT IS ORDERED that:

1. The City of Visalia is hereby authorized to construct Keener Street-West Murray Street at grade across the tracks of Southern Pacific Company in said city, at the location described in the application, to be identified as Crossing No. BAC-252.24. Width of the crossing shall be not less than sixty feet and grades of approach not greater than 5 percent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72, and shall be as described by the engineer witness of Southern Pacific Company. Protection shall be two Standard No. 8 flashing light signals.

2. Concurrent with the completion and opening to vehicular traffic of the crossing authorized in paragraph one, the existing grade crossing at Goshen Avenue, Crossing No. BAC-252.1, shall be closed to traffic by the railroad, and the existing crossing at Giddings Avenue, Crossing No. BAC-252.2, shall be protected by the installation of two Standard No. 8 flashing light signals.

3. Applicant city shall advance to said railroad company the sum of \$18,600 for the work to be performed by the railroad. Southern Pacific Company shall proceed without delay, upon receipt of the sum of \$18,600 to perform the work to be done by it, to integrate such work with that of applicant, or any contractor, in connection with the construction of Keener Street-West Murray Street, in such manner that neither will unreasonably obstruct nor 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.

4. 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 15th day of September, 1964.

Fredrick B. Holoboff
President
[Signature]
[Signature]

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.