

Decision No. 68346**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety, use,)
 and protection of the grade crossings)
 of SOUTHERN PACIFIC COMPANY in the)
 City of Modesto, State of California,)
 being Crossing Nos. B-112.3, B-112.7,)
 B-112.8, B-113.0, B-113.1, B-113.2)
 and B-113.6.)

Case No. 7832
 (Filed February 4, 1964)

Allen Grimes and Elwyn L. Johnson, both City
 Attorneys for the City of Modesto; 1/
George D. Moe and Melvin R. Dykman, for
 State of California, Division of Highways; 1/
Randolph Karr and Harold S. Lentz, for Southern
 Pacific Company, respondents.
William C. Bricca and M. E. Getchel, for the
 Commission staff.

O P I N I O N

Public hearings were held before Examiner Power at Modesto on May 27 and 28, 1964. The city attorney, it developed, had resigned his office as of the end of May and therefore the matter was continued to a date to be set. The city having indicated a desire for a further hearing after the new city attorney took office on July 1, one was held on September 18, 1964, and the matter was submitted.

This is an investigation of seven grade crossings in the City of Modesto. The original order included the issues of abolishment, reconstruction, relocation, alteration and installation and maintenance of additional protective devices. The hearing evidence confined itself to the issue of protective devices and their maintenance. From Northwest to Southeast the crossings investigated are:

1/ Both the City and Division filed appearances as interested parties, however, in fact, they were named in the order as respondents.

<u>No.</u>	<u>Street</u>	<u>Present Protection</u>	<u>Vehicular Traffic</u>
B-112.3	Kansas Avenue	2 No. 3 (1)	5,200
B-112.7	"L" Street	2 No. 8 W/C (2) (3)	11,500
B-112.8	"K" Street	2 No. 3 (1)	2,800
B-113.0	"I" Street	2 No. 3 (1)	8,800
B-113.1	"H" Street	2 No. 3 (1)	8,900
B-113.2	"G" Street	2 No. 3 (1)	6,100
B-113.6	"B" Street	2 No. 3 (1)	7,000

- (1) No. 3 Standard No. 3 (G.O. 75-B) Wigwag signals.
 (2) No. 8 Standard No. 8 (G.O. 75-B) Flashing light signals.
 (3) W/C With cantilever arms.

Daily train traffic 2 passenger, 30 freight, 30 switching.

"L" Street is a State Highway, all the others are city streets.

"H" and "I" Streets are paired one-way streets, "H" Street being eastbound and "I" Street westbound.

The Commission staff recommended No. 8 flashing light signals equipped with automatic gate arms at each crossing. Pre-emption of street traffic signals was recommended at three adjacent intersections.

The railroad and the State Division of Highways accepted the staff recommendations. The City opposed them.

The staff adduced evidence to support the contentions set forth below:

First, except for "L" Street (State Route 110) the signals have not been upgraded since 1931 when the wigwag signals were installed.

Secondly, U. S. Highway No. 99 will be converted to a freeway through Modesto. This work is now in the final stages. Completion is anticipated between February and May, 1965 depending on the weather. The seven streets involved in this proceeding are major access streets from Modesto to the new freeway. Highway No. 99 now goes through Modesto east of the tracks on 9th Street. The freeway will be west of the tracks.

Thirdly, both train and vehicular traffic are high. Vehicular traffic varies from 2,800 to 11,500 at the different crossings. The product of train times vehicular traffic thus varies from 173,600 to 713,000.

Fourthly, the upgrading of signal protection at Modesto has already been delayed for several years due to various causes related to street work done or proposed in the city.

The staff recommended an even division of the cost between the railroad, (as to seven crossings), the city (as to six crossings), and the Division of Highways (as to one crossing). It further recommended that maintenance of the railroad signals be allocated entirely to the railroad.

The railroad accepted the staff proposal on costs except that it took exception to the allocation to it of the total cost of signal maintenance. On June 5 it filed an offer of proof on this subject.

The City opposed the staff proposal. It advanced three principal contentions. These were: 1. That city has other and more important traffic matters to attend to; 2. The staff solution is premature in that there may be changes in the street pattern in Modesto which may include the construction of one or two grade separations; 3. That since the object of the signal upgrading is to provide for an increase in the train speed limits through Modesto, Modesto ought not to have to pay half the signal upgrading costs of the six city street crossings.

A Commission staff engineer estimated the City's net cost for six crossings would be as follows:

Cost of gates (estimated by Southern Pacific Company, Exhibit No. 2)	\$61,680	
Less 1/2 to railroad	<u>30,840</u>	\$30,840
Less allocation from grade crossing protection fund		<u>15,420</u>
City contribution		15,420
Pre-emption of street signals		
9th & L (City share 1/4)*		750
9th & H (City share 2/4)*		1,500
7th & B (City share 4/4)*		<u>3,000</u>
Total cost to City		\$20,670

* These allocations are based on a proration frequently used between the Division of Highways and political subdivisions.

Total project cost \$79,420 including pre-emption. Late filed Exhibit No. 7 reveals that Modesto spent \$69,599.46 for traffic signals, safety lighting and one intersection realignment during the Fiscal Year, 1963-1964. In view of this, the pre-emption of less than one third of the annual signal construction budget of the City for a nonrecurring expenditure should not seriously retard the City's traffic programs.

The City also contended under point one that the accident rates at the crossings do not justify the expenditures proposed. This contention ignores the fact that the function of signals at railroad crossings is to prevent future accidents.

The second contention of the City cannot be entertained. Because of growth in the State the street patterns of most of its communities will not be frozen within the foreseeable future. To withhold better protection on this account would simply eliminate improvement. Insofar as the separations in State Routes 109 and 110 are concerned, the Division has agreed to enter into conversations with the City respecting these after the new freeway is completed. Completion would be many years in the future.

The third principal contention of the City is one based on the record made in another case. The record in this case is completely silent on the question of train speeds. No evidence at all was presented on that subject. As a result no finding could be made on the subject.

In the Commission's opinion the staff proposal is reasonable and should be adopted.

We have heretofore decided that the cost of maintaining signal protection is to be assessed against the railroads. (Decision No. 66861, Cases Nos. 7463 and 7464.) The order which follows the findings and conclusions hereinafter set forth will provide such costs shall be met by Southern Pacific Company.

The Commission finds that:

1. Public health and safety require that the signal protection at the following grade crossings in the City of Modesto should be Standard No. 8 flashing light signals equipped with automatic crossing gate arms:

<u>Street</u>	<u>Crossing Number</u>
(a) Kansas Avenue	B-112.3
(b) "L" Street (State Route No. 110)	B-112.7
(c) "K" Street	B-112.8
(d) "I" Street	B-113.0
(e) "H" Street	B-113.1
(f) "G" Street	B-113.2
(g) "B" Street	B-113.6

2. It is fair and reasonable for the cost of increased protection and of the necessary preemption of street signals to be allocated as provided by the following order.

The Commission concludes that the signal protection of the seven grade crossings enumerated in finding No. 1 should be increased to the levels provided by the following order.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Company shall within six months after the effective date of this order improve the protection of the crossings at grade designated in Finding No. 1 in the foregoing opinion in the City of Modesto to the standards set forth in said finding.

2. The cost of the installations required by paragraph 1 of this order shall be allocated to respondents, Southern Pacific Company, 50 percent; City of Modesto 50 percent of the cost of installations at Kansas Avenue, "K", "I", "H", "G" and "B" Streets. State Division of Highways 50 percent of the cost of installation at "L" Street.

3. Southern Pacific Company shall bear all costs of maintenance of the crossing signals installed hereunder.

4. The signals controlling vehicular traffic at the intersections of 9th and "L" Streets, 9th and "H" Streets, and 7th and "B" Streets shall be interconnected with the crossing signals at the adjacent railroad crossings and pre-empted by train movements, and a green clearance period provided by the traffic signals so that vehicles may be cleared from the track area.

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

Dated at San Francisco, California, this 15th day of DECEMBER, 1964.

[Signature] President

[Signature]

[Signature]

Commissioners

*We concur in the order except as to Ordering Paragraph 3. We dissent as to Ordering Paragraph 3.
George G. Traver
Frederick B. Hallock*