

ORIGINALDecision No. 68728

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the CITY OF LOS ANGELES, a)
municipal corporation, to widen)
and improve Southern Pacific)
Company's Burbank Branch Line)
crossings of Woodman Avenue and)
Oxnard Street.)

Application No. 46151
Filed January 27, 1964

Roger Arnebergh, City Attorney, by
William B. Burge, for applicant.
E. D. Yeomans and Walt A. Steiger, by
Walt A. Steiger, for Southern
Pacific Company, respondent.
Lloyd C. Young, for the Commission staff.

O P I N I O N

The Commission, by Decision No. 67487, dated July 7, 1964, authorized the City of Los Angeles to widen the Woodman Avenue Crossing No. BY-459.4 and the Oxnard Street Crossing No. BY-459.5 and directed the installation of certain automatic crossing protection. The City of Los Angeles was directed to advance the costs and the apportionment of construction costs was reserved for this hearing.

Public hearing was held before Examiner DeWolf on September 23, 1964, at Los Angeles, at which five witnesses testified and seven exhibits were admitted into evidence pertaining to the apportionment of construction and installation costs, and the matter was submitted upon the filing of concurrent briefs.

The respondent Southern Pacific Company offered to present evidence of the increased cost of maintenance of the crossing signals. Upon rejection of the offer counsel for respondent offered for filing a 15-page document as an offer of proof of the increased maintenance

cost on signals and claims for apportionment of the costs of maintenance. The document was placed on file.

The parties are unable to agree on the apportionment of the costs of the improvement of these crossings and the installation of the crossing protection. The previous agreement thereon between the parties has been canceled. Applicant introduced into evidence Exhibits 12, 13 and 14 which are copies of its agreements with the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Union Pacific Railroad Company, and witnesses testified that the first had been canceled with the latter two still in effect. Exhibit 15 is a list of crossing improvements effected since the cancellation of applicant's agreement with the Southern Pacific Company. Applicant's witnesses testified to increased costs which will be required at this crossing and introduced Exhibit 11 which describes the same as follows:

Woodman Avenue
and
Oxnard Street Improvement

Extra costs which will be incurred by the City for the widening and improving of Woodman Avenue and Oxnard Street due to the existence of Southern Pacific Company's Burbank Branch crossing each of these streets.

Storm Drain Culverts	\$11,800
Traffic Islands for Center of Street, No.8 Flashing Light Signals	1,300
Bureau of Engineering Added Design Costs	1,000
Extra Street Lighting	2,350*
Advance Warning Signs, Pavement Markings	210**
	16,660

* Information furnished by Bureau of Street Lighting.

** Information furnished by Department of Traffic.

A witness testified at length on behalf of the Southern Pacific Company with regard to changed economic conditions affecting that company and introduced Exhibit 17 into evidence to illustrate its present position.

Applicant proposes an equal division of the costs of improving the crossing signal devices, the Railroad to bear the entire cost of preparing its track to receive pavement within the limits of the crossings and applicant City to bear the entire cost of planking and paving within the limits of the crossings conditioned upon the Railroad putting in improved ballast and heavier rails.

The Southern Pacific Company is opposed to this division for the following reasons:

Additional lanes are only being provided to expedite vehicular traffic and to eliminate delay and inconvenience to the motorists. The only justification for additional signals is to protect additional lanes of traffic. Absolutely no advantage accrues to the Railroad. Increases in vehicular traffic have necessitated the widening of the streets, not any increases in train traffic.

For these reasons the Southern Pacific Company proposes that it be charged with the obligation of maintaining the existing lanes of traffic and in the proper case to divide equally with the City costs of improving automatic protection for existing lanes; but that in all fairness, since the traveling public benefits, the City should be required to pay the costs of providing additional lanes of traffic, including additional signals, and the cost of relocating existing lights made necessary by the widening project.

The Commission finds that:

The only issues presented at this hearing concern the apportionment of the cost of the improvement of the crossings and the cost of the installation of crossing protection.

Applicant's claims for the apportionment of the cost of installation of storm drains caused by the presence of the railroad tracks as estimated in Exhibit 11 should be disallowed.

The proposal of applicant for the apportionment of the costs of the crossing protection in this matter is reasonable, and provides for payment by applicant of a larger portion of the costs than the proposals of the Southern Pacific Company.

The proposals of both applicant and the Southern Pacific Company for the establishment of guide lines or formulas in this proceeding for use in the future crossing matters should be denied for the reason that the evidence herein is insufficient to cover such contingencies.

Based upon the findings of fact, and in conformity with the policy and holding announced in Decision No. 66454, dated December 10, 1963, and Decision No. 66881, dated February 25, 1964, we conclude that the cost of maintaining protective devices at the crossings, herein concerned, should be borne exclusively by the Railroad.

O R D E R

IT IS ORDERED that:

1. The Southern Pacific Company shall bear the entire cost of preparing the tracks to receive the pavement or planking, including the installation of heavier rails, replacement of the ties and rail ballast within the limits of the crossings, as widened.
2. The City of Los Angeles shall bear the entire cost of paving or planking the track area within the limits of the widened portions of the crossings.
3. The City of Los Angeles shall bear 50 percent and the Southern Pacific Company shall bear 50 percent of the cost of

installing, moving, rearranging and improving the automatic crossing protective signals and appurtenances, and the Southern Pacific Company shall bear 100 percent of the cost of paving or planking the track area within the limits of the existing crossings.

4. The maintenance costs of the crossings between lines two feet outside rails and for the automatic protection installed at the crossings shall be borne by the Southern Pacific Company.

5. The City of Los Angeles shall bear the remainder of the expense of constructing and maintaining the proposed widened crossings and approaches.

6. Within thirty days after the completion of the work hereinabove authorized applicant and the Southern Pacific Company shall notify the Commission in writing of compliance with the conditions hereof.

7. The improvements herein provided for are to be commenced within one year from the date of this order.

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

Dated at San Francisco, California, this 4th day of MARCH, 1965.

[Signature] President

[Signature]
[Signature] Commissioners

We dissent. (1) The apportionment of installation costs is in no way explained; the Commission's action amounts to a decision without findings, contrary to Section 1765 of the Public Utilities Code. (2) The apportionment of signal maintenance costs pursuant to the alleged "policy" decision, and without affording an opportunity to be heard, is unlawful and unreasonable.

*Fredrick B. Holdhoff
George W. Crover*