

**ORIGINAL**Decision No. 70473

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Rohnert Park for a public grade crossing of the Northwestern Pacific Railroad at Wilfred Avenue in the City of Rohnert Park, County of Sonoma.

Application No. 46017  
(Filed December 4, 1963)

Investigation into the status, safety, maintenance, use and protection or closing of crossing at grade on the lines of the NORTHWESTERN PACIFIC RAILROAD COMPANY of the City of Rohnert Park with Wilfred Avenue Crossing at Milepost 48.52.

Case No. 8277  
(Filed November 8, 1965)

Richard B. Maxwell, City Attorney, for City of Rohnert Park, applicant in Application No. 46017 and respondent in Case No. 8277.

Harold S. Lentz for Northwestern Pacific Railroad Company; John S. Morken and Richard B. Backe for Regent Investment Corporation; Frank C. Lerrigo of Lerrigo, Thuesen & Thompson for Derado-Pacific Investment Corporation and for W. A. McGugin, Receiver for Derado-Pacific Investment Corporation; Paul Golis for himself, Irene M. Roche, Fred Rohnert, Rohnert Park Commercial Development Company, Dorothy Rohnert Spreckel, Rohnert Park Industrial Development Company, Maurice Fredericks, and Homestead Savings & Loan Association; Norman Spivok for Spivok Co., a joint venture composed of Norman Spivok, Harold M. Spivok, Munroe L. Spivok and Wilshire Co., a partnership composed of Norman Spivok, Munroe L. Spivok, Mrs. William Spivok and William Investment Co., a partnership composed of Nathan Spivok, Phillip R. Berger and Munroe L. Spivok, Trustees of Trust for Norman E. Spivok, and Nathan Spivok, Phillip R. Berger and Norman E. Spivok, Trustees of Trust for Harold M. Spivok, and of Trust for Munroe L. Spivok, and for each of said parties, interested parties in Application No. 46017 and respondents in Case No. 8277.

Morris M. Mawson, Deputy County Counsel, for the County of Sonoma, interested party in Application No. 46017 and Case No. 8277 for the limited purpose of objecting to being made a party which may be required to share part of the costs of the crossing.

John C. Gilman, for the Commission staff.

O P I N I O N

On June 3, 1964, this Commission issued Decision No. 67307, its Interim Opinion and Order, in Application No. 46017. In this decision the Commission resolved the issues as to the necessity for the public crossing at grade over the tracks of the Northwestern Pacific Railroad Company, hereinafter called the Railroad, at Wilfred Avenue in Rohnert Park, the approval of the location of and plans for the crossing, the provisions for handling traffic during its construction and the work to be performed by each party. The issue of apportionment of costs and the disposition of the Railroad's motions were reserved for later hearing and decision by the Commission. The Railroad had made an oral motion to require the joinder of the County of Sonoma and the Department of Public Works so that they could be required to share in the cost of the construction and maintenance. This motion is hereby denied. On March 31, 1964, Railroad filed a written motion requesting an investigation into the need for crossings in the City of Rohnert Park. Except to the extent that said motion has been granted by the institution of the Commission Investigation, Case No. 8277 herein, said motion is denied. In Decision No. 68413, Opinion and Order on Rehearing, issued in Application No. 46017 on December 30, 1964, the Commission reaffirmed the aforesaid Decision No. 67307, effective December 30, 1964.

On October 5, 1965, the Commission instituted an investigation into the status, safety, maintenance, use and protection or closing of the crossing at grade of the lines of the Railroad at Wilfred Avenue in Rohnert Park for the purposes of determining:

- (1) Whether or not the public health, safety and welfare require relocation, widening, closing or other alteration of said crossing, or require installation and maintenance of additional or improved protective devices at said crossing;

(2) Whether, if any of the above should be done, on what terms such shall be done, and to make such apportionment of costs among the affected parties as may appear just and reasonable;

(3) Whether any other order or orders that may be appropriate in the lawful exercise of the Commission's jurisdiction should issue.

On November 8, 1965, the Railroad filed its notice of motion for order bringing in new parties. Since the parties included in the motion have voluntarily appeared in these proceedings it was unnecessary for the Commission to rule on this motion.

Public hearings in these matters on a consolidated record were held before Examiner Cline at Rohnert Park on November 18, 1965, and at San Francisco on December 17, 1965. At the conclusion of the hearings the matters were taken under submission.

Exhibit No. 11 entitled "Railroad Grade Crossing at Wilfred Avenue at Milepost 48.52 of the Tracks of the Northwestern Pacific Railroad Company in the City of Rohnert Park" which was prepared by the Commission staff engineer contains the following recommendations:

"1. The crossing and approaches should be constructed to a minimum width of forty feet, and protection of two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with two such additional signals on cantilever arms should be installed within six months.

"2. The City of Rohnert Park should bear the entire cost of construction of the crossing and installation of the automatic protective devices.

"3a. The City of Rohnert Park should bear the maintenance cost of the crossing outside of lines two feet outside of rails. The Northwestern Pacific Railroad Company should bear maintenance cost of the crossing between such lines.

"3b. The maintenance costs for said automatic crossing protection should be apportioned 100 percent to the City of Rohnert Park, pursuant to the provisions of Section 1202.2 of the Public Utilities Code,

"4. The Northwestern Pacific Railroad Company should be ordered to install the automatic protective devices within six months. In the interim the railroad should install two Standard No. 1 crossing signs as protection."

The parties stipulated that the Commission may enter an order containing the above recommendations with recommendation No. 1 being revised to read:

"1. The Crossing and approaches should be constructed to a minimum width of forty feet, and protection of two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gate arms should be installed within six months."

The parties further stipulated that the automatic gate installation should be of the light weight hydraulically operated type shown on Exhibit 12.

The Commission concludes that the stipulation of the parties should be accepted and that the Commission should issue its order in conformance therewith.

#### O R D E R

IT IS ORDERED that:

1. The interim order of Decision No. 67307 issued June 3, 1964, affirmed by Decision No. 68413 issued December 30, 1964 in Application No. 46017, is rescinded.

2. The City of Rohnert Park is hereby ordered to improve the crossing of Wilfred Avenue at grade across the tracks of Northwestern Pacific Railroad Company in said city, at the location and substantially as described in Application No. 46017, to be identified as Crossing No. 5-48.5. Width of the crossing shall be not less than forty feet and grades of approach not greater than six percent.

3. Northwestern Pacific Railroad Company shall proceed to perform the work to be done by it, to integrate such work with that

of the City of Rohnert Park 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 complete project within six months from the effective date of this order. Construction of the crossing shall be equal or superior to Standard No. 2 of General Order No. 72. As protection Northwestern Pacific Railroad shall install two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gate arms of the type shown on Exhibit No. 12 herein within six months from the effective date of this order. In the interim the Northwestern Pacific Railroad Company shall install two Standard No. 1 crossing signs as protection.

4. The City of Rohnert Park shall bear the entire cost of the construction of the crossing and the installation of the automatic protective devices.

5. The City of Rohnert Park shall bear the maintenance cost of the crossing outside of lines two feet outside of rails, and the Northwestern Pacific Railroad Company shall bear the maintenance cost of the crossing between such lines.

6. The maintenance costs for the automatic crossing protection shall be apportioned 100 percent to the City of Rohnert Park, pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

7. Within thirty days after completion of the crossing and protection pursuant to this order, the City of Rohnert Park shall so advise the Commission in writing.

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

Dated at San Francisco, California, this 22nd day of MARCH, 1966.

Frederick B. Wilhoff  
President  
George G. Trover  
Commissioners