

ORIGINALDecision No. 71573

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Southern Pacific Company for an order
 authorizing the construction at grade
 of an industrial drill track, in, upon
 and across Delaware and Second Streets
 in the City of Berkeley, County of Ala-
 meda, State of California.

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)
) Application No. 48950
 (Filed: November 14, 1966)
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ORDER

Southern Pacific Company is hereby authorized to construct a spur track at grade across Delaware Street at Second Street in the City of Berkeley, Alameda County, at the location described in the application, to be identified as a portion of Crossing No. A-10.0-C. Construction of said crossing shall be equal or superior to Standard No. 2 of General Order No. 72, without superelevation and of a width to conform to the portion of the street now graded, with tops of rails flush with the roadway and with grades of approach not exceeding 2 percent. Protection shall be by one Standard No. 1 crossing sign (General Order No. 75-B) reflectorized with reflex-reflective sheet material. Applicant shall bear entire construction and maintenance expense.

The application includes Resolution No. 41,481 of the City Council of Berkeley adopted September 27, 1966 granting permission to the Southern Pacific Company to construct the track in question. The resolution contains a clause to the effect that the Director of Public Works of the City of Berkeley shall have the power to prescribe the manner and terms of the installation of protection at the prescribed crossing. The Southern Pacific Company alleges that such a clause is void because the subject matter is within the exclusive jurisdiction of the Commission pursuant to Section 1202(a) and 1219 of the Public Utilities Code.

Inasmuch as no special safety devices are necessary at the crossing at this time, the Commission will not pass upon the issue raised by applicant concerning the aforesaid resolution in this decision.

Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within one year unless time be extended or if above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

Applicant declares that industry is in need of immediate service in order to avoid expensive delay in operation of its warehouse. The effective date of this order shall be the date hereof.

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

Paul E. ...
President

W. ...

William ...

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner George G. Grover did not participate in the disposition of this proceeding.