

Decision No. 71956

**ORIGINAL**

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 8th Street East and 10th )  
 Street East in the City of Palmdale, )  
 County of Los Angeles, State of Cali- )  
 fornia. )

Application No. 48919  
 (Filed November 1, 1966)

O R D E R

Southern Pacific Company is hereby authorized to construct a drill track at grade across 8th Street East and 10th Street East near the City of Palmdale in Los Angeles County at the locations described in the application to be identified as Crossings Nos. B-412.53-C and B-412.78-C, respectively.

Construction of said crossings shall be equal or superior to Standard No. 2 of General Order No. 72, and in accordance with the plan attached to the application. Protection shall be by two (2) Standard No. 8 flashing light signals (General Order No. 75-B) at each crossing.

Applicant shall bear entire construction and maintenance expense.

Applicant by letter alleges that the industries to be served by said trackage are in need of immediate service and requests permission to construct and operate over the crossings in advance of the installation of any automatic protection. Applicant is granted temporary authority to operate over said crossings provided said operations shall be first brought to a stop and traffic on the highway protected by a member of the train crew or other competent

employee of the applicant acting as flagman. This authorization shall expire within 60 days after completion of said trackage or sooner upon completion of installation of all the required automatic protection.

The application includes Ordinance No. 9171, adopted on August 23, 1966 by the Board of Supervisors of the County of Los Angeles, granting permission to the Southern Pacific Company to construct the track in question. The ordinance contains a clause to the effect that any costs for crossing protection that may become necessary will be borne by the Southern Pacific Company. 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 Sections 1202 (a) and 1219 of the Public Utilities Code. The County of Los Angeles objects to this allegation. It is the County's position that Section 1202.1 of the Public Utilities Code not only permits but contemplates an agreement between the parties as to the apportionment of costs, without in any way disturbing the Commission's exclusive powers under Section 1202 (a).

Inasmuch as protection will be provided by two Standard No. 8 flashing light signals (General Order No. 75-B) at each crossing and no additional safety devices are necessary at the subject crossings at this time, the Commission will not pass upon the issue raised by applicant concerning the ordinance adopted August 23, 1966 by the County of Los Angeles in this decision.

Within 30 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. Authori-  
zation may be revoked or modified if public convenience, necessity  
or safety so require.

Applicant, also because of the desire for immediate  
industry service, requests waiver of the twenty-day waiting period.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 31<sup>st</sup> day  
of JANUARY, 1967.

*W. E. Rutledge* President  
*William M. Bennett*  
*Augustus*  
*William Lyons, Jr.*  
*Harold P. Morssett* Commissioners