

ORIGINAL

Decision No. 72428

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint
Application of the Cities of
Vernon and Huntington Park to
Construct a Public Street Across
the Right-of-Way of the Southern
Pacific Company at Randolph Street.

Application No. 48075
(Filed November 24, 1965)
(Amended January 25, 1966)

FINAL OPINION

By Decision No. 70846 dated June 14, 1966 in the above application, the Cities of Vernon and Huntington Park were authorized to construct a new crossing at Randolph Street over the tracks of the Southern Pacific Company (Crossing No. 6C-6.06) and to change the protection at the adjacent crossing of Boyle Avenue-State Street (Crossing No. 6C-6.09). At each crossing the work between lines two feet outside the rails and work relative to signal protection was to be done by the railroad. The allocation of all costs was deferred pending further order of this Commission.

Prior to the time the application was filed, the parties had executed an agreement dated October 12, 1965 (Exhibit 'C' on the application), whereby the Cities agreed to reimburse the Railroad for the expenses incurred by the Railroad in constructing the new crossing (6C-6.06) and installing protection at the new crossing, and at the existing crossing (6C-6.09). The pertinent provisions of this agreement are:

3. City agrees to reimburse Railroad promptly upon receipt of bills therefor for all costs and expense incurred by Railroad in connection with the work outlined in Section I hereof.
4. After installation of said signals has been completed, Railroad shall physically maintain them so long as they remain in place. The obligation to bear the cost of maintenance of said signals, including the crossing gate arms and appurtenances, shall be in accordance with . . . " Section 1202.2 of the Public Utilities Code.

By Decision No. 71801 dated December 30, 1966 as amended by Decision No. 72056 dated February 28, 1967, the Commission found that it is not bound by the terms of the agreement referred to; that under Section 1202 of the Public Utilities Code it has the power and duty to apportion the cost of construction, alteration, protection and maintenance of protection at each of the crossings considered; and that in the absence of an agreement to the contrary, the costs of construction and protection at Crossing No. 6C-6.06 should be borne one hundred percent by the Cities of Vernon and Huntington Park, and all of the costs of protection at Crossing No. 6C-6.09 should be borne fifty percent by the Railroad and fifty percent by the Cities of Vernon and Huntington Park.

On March 14, 1967 the Cities and the Railroad executed an agreement (Exhibit I) affirming the terms of the October 12, 1965 agreement except that they amended paragraph 4 thereof to read:

"After installation of said signals has been completed, Railroad shall physically maintain them so long as they remain in place. The obligation to bear the cost of maintenance of said signals, including the crossing gate arms and appurtenances, at the new Randolph Street crossing (Crossing No. 6C-6.06) shall be in accordance with provisions of law. The obligation to bear said maintenance cost at the existing Boyle Avenue-State Street crossing (Crossing No. 6C-6.09) shall be shared equally by the parties, one-half to be paid by Railroad and one-half by City."

We find that the agreement between the Cities and the Railroad as executed on October 12, 1965 and amended on March 14, 1967 is reasonable and not adverse to the public interest.

We conclude that the application should be granted and a final order issued as hereinafter set forth.

FINAL ORDER

IT IS ORDERED that:

1. The cost of the removal, construction and installation of the crossings and crossing protection shall be paid by the Cities of Vernon and Huntington Park in accordance with the agreement of October 12, 1965.
2. After installation of the signals has been completed the Railroad shall physically maintain them so long as they remain in place.
3. Maintenance cost of the automatic protection at Randolph Street (Crossing No. 6C-6.06) shall be in accordance with Section 1202.2 of the Public Utilities Code.

4. Maintenance cost of the automatic protection at the Boyle Avenue-State Street crossing (Crossing No. 6C-6.09) shall be paid fifty percent by the Cities and fifty percent by the Railroad.

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

Dated at San Francisco, California, this 16th day of MAY, 1967.

[Signature]
President

[Signature]

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Commissioners