

**ORIGINAL**

Decision No. 73485

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the status, safety, maintenance, use and protection or closing of various crossings at grade of the lines of Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Union Pacific Railroad Company and Pacific Electric Railway Company in the County of San Bernardino, California, with various streets, roads and highways in said county.

Case No. 8135  
Petition Filed July 21, 1967  
for Modification of Decision  
No. 72106, Case No. 8135.

E. H. Robinson, Jr., for County  
of San Bernardino, petitioner.  
Philip E. Mead, for City of Fontana,  
respondent.  
William L. Oliver, for the  
Commission staff.

OPINION ON PETITION FOR MODIFICATION

The County of San Bernardino on July 21, 1967, filed a petition to modify a portion of Decision No. 72106, dated March 7, 1967, providing for the closing and/or the improvement of the protection of many railroad grade crossings and requiring the County of San Bernardino and the City of Fontana to pay installation cost of the signal work apportioned 50 percent to the railroad and 50 percent to the public agencies involved.

Further public hearing was held in San Bernardino on October 26, 1967, and the matter was submitted. All parties who appeared at the original hearing were notified.

The County of San Bernardino requests modification of the order to correct a mistake of fact and asks to be relieved of the obligation for payment of any part of the cost of installation

of the crossing gates at two crossings, Alder Avenue, No. 2-87.7, and Citrus Avenue, No. 2-89.7, for the reason that the entire intersections with Citrus Avenue and Alder Avenue, which form said crossings, are entirely within the City of Fontana, and that the costs for said automatic protection should, therefore, be apportioned to the City of Fontana.

The County of San Bernardino alleged that Decision No. 72106 made findings of fact that these two crossings are located within the joint jurisdiction of the County of San Bernardino and the City of Fontana, and that this finding was based upon the fact that these crossings were partly in the City and partly in the County when in truth and in fact they are entirely within the corporate limits of the City of Fontana, and that Decision No. 72106 in this regard is based upon an erroneous assumption of fact.

All of the parties appearing at the rehearing stipulated that all of the evidence introduced at the original hearing may be received in evidence at this hearing insofar as it is material to the crossing involved.

Three expert engineers testified, one each from the County, the City and the Commission staff. All of the witnesses agreed that the city limit boundaries of the City of Fontana did not extend to the center of the streets involved but that the outside boundary of each of said streets coincides with the city boundary of the City of Fontana so that each of said railroad crossings and adjoining streets are all within the city limits and jurisdiction of the City of Fontana.

The representative for the City of Fontana stated that it is the purpose of the City of Fontana to maintain jurisdiction over said streets and railroad crossings.

The Atchison, Topeka and Santa Fe Railway Company did not appear at said hearing. The City of Fontana has no objection to the County of San Bernardino being relieved of the costs.

Upon consideration of the record herein the Commission finds as follows:

1. The highway crossings of Alder Avenue, No. 2-87.7, and Citrus Avenue, No. 2-89.7, with the Santa Fe Railway are wholly within the City of Fontana.

2. Commission Decision No. 72106 should be amended on pages 12, 21 and 28 of the order to delete the County of San Bernardino as a public governmental agency involved at the crossing of Alder Avenue, No. 2-87.7, and amended on pages 12, 14 and 31 to delete San Bernardino County as a public governmental agency involved at the crossing of Citrus Avenue, No. 2-89.7, all with the Santa Fe Railway.

3. The cost of installing the protective devices at each crossing at Alder and Citrus Avenues should be allocated 50 percent to the railway and 50 percent to the City of Fontana, which is the public agency involved.

Based upon the foregoing findings the Commission concludes that Decision No. 72106 should be amended as hereinafter set forth. The petition of the County of San Bernardino will be granted.

ORDER ON PETITION FOR MODIFICATION

IT IS ORDERED that:

1. Decision No. 72106 of Case No. 8135 is hereby amended by striking out the words "County of San Bernardino" as a governmental agency involved in the apportionment of costs for installation of crossing protection at the crossings located on Alder Avenue, No. 2-87.7, and Citrus Avenue, No. 2-89.7, said crossings being entirely within the City of Fontana, and installation cost for the signal work at said crossings shall be apportioned 50 percent to The Archison, Topeka and Santa Fe Railway Company and 50 percent to the City of Fontana.

2. Decision No. 72106 is amended to read as follows on pages 12, 14, 21 and 31 of the order:

<u>Crossing Number</u>	<u>Street Name</u>	<u>Governmental Agency</u>
2-87.7	Alder Avenue	City of Fontana
2-89.7	Citrus Avenue	City of Fontana

In all other respects Decision No. 72106 shall remain in full force and effect.

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

Dated at San Bernardino, California, this 19th day of DECEMBER, 1967.

Richard E. Mitchell  
President

Augusta

William J. ...

Fred P. ...  
Commissioners