

ORIGINAL

Decision No. 73486

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, road and highways in said county.

Case No. 8135

Order Granting Rehearing
issued May 16, 1967

E. H. Robinson, Jr., for County of San Bernardino, petitioner.
Norman T. Ollestad, for Southern Pacific Company, respondent.
William L. Oliver, for the Commission staff.

OPINION ON REHEARING

The Commission by its order issued May 16, 1967, has granted rehearing pursuant to the petition of the County of San Bernardino in which the county seeks to set aside the Order for closure of Whittier Avenue (Southern Pacific Crossing No. B-544.5) contained in Decision No. 72106 dated March 7, 1967.

Rehearing was held before Examiner DeWolf in San Bernardino on October 25, 1967, for the limited purpose of adducing evidence regarding the Whittier Avenue crossing and the matter was submitted.

The Commission's Decision No. 72106 provides for the closing and/or the improvement of the protection of many railroad grade crossings and for the apportionment of the costs. All parties who appeared at the original hearing were notified of the rehearing.

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 the rehearing insofar as it is material to the crossing involved.

The position of the County of San Bernardino is that the Whittier Avenue crossing should not be closed as provided in Decision No. 72106.

Nine witnesses testified at length concerning the need for the Whittier Avenue crossing. Eight of them are owners or operators of farms or citrus orchards, a majority of whom testified that they had lived near this crossing all of their lives and are familiar with it. The traffic engineer for the County of San Bernardino testified and made recommendations to retain the crossing and for protection which should be provided.

The witnesses testified that for many years this crossing has been largely used by the farmers and citrus growers in the vicinity for their trucks and farm vehicles in hauling heavy loads of produce, oil for smudging and other farm uses, back and forth between farms, markets and suppliers.

The witnesses testified that closure of the Whittier Avenue crossing would create dangerous and extensive detours for these farm vehicles and would cause all of the farmers and suppliers in this vicinity a great deal of inconvenience and create additional hazards in the operation of their farms and the disposal of their produce. These inconveniences were described as being due to road conditions caused by flood control dikes, grades, bridges and ditches on and along the road detours to be traveled by the heavily loaded farm vehicles which are susceptible to load shifts and braking hazards.

The County Traffic Engineer testified that he made a review of the safety factors involved at this crossing and recommended that automatic gates be installed at this crossing scheduled for completion by June 30, 1969; expense to be borne 50 percent by County of San Bernardino and 50 percent by the Southern Pacific Company. The engineer estimated the cost of installation of the protection at \$24,000.

The traffic engineer for San Bernardino County, who had testified at the previous hearing, testified that the previous study did not include the nature and type of traffic using this crossing and that since his previous testimony he has made a recent study and traffic count at this intersection in February, 1967, using a counting device which counted 390 vehicles for the 24-hour period.

Pages 8, 9, and 10 of Decision No. 72106 describe the physical characteristics of the Whittier Avenue crossing, show that 49 trains and 105 vehicles pass over the crossing each day and that train speeds are 60 MPH.

The engineer for the County of San Bernardino recommended that the Whittier Avenue crossing should not be closed and the protection should be upgraded by installation of Standard No. 8 flashing lights and automatic gates by June 30, 1969, with the installation cost to be apportioned 50 percent to the railroad and 50 percent to San Bernardino County.

A Commission staff engineer testified that any crossing authorized to remain open at Whittier Avenue should be protected by automatic crossing gates and the installation cost should be borne 50 percent by the County and 50 percent by the railroad.

The Southern Pacific Company did not offer any further testimony in this case and did not offer any argument in opposition to the recommendation made by the County of San Bernardino.

Upon consideration of the evidence the Commission finds that public safety, convenience and necessity require that the Whittier Avenue crossing at the Southern Pacific Company Railroad Crossing No. B-544.5 should remain open and be protected by installation of Standard No. 8 flashing lights supplemented with automatic crossing gates as set out in the order herein.

The cost of installing the protective devices should be apportioned 50 percent to the Southern Pacific Company and 50 percent to San Bernardino County.

The cost of maintenance of the protection should be divided equally between the Southern Pacific Railroad and San Bernardino County in accordance with the provisions of Section 1202.2 of the Public Utilities Code.

The Commission concludes that the findings in Decision No. 72106 should be modified and amended in accordance with the findings herein by striking out that portion of Finding No. 7 on page 27 as follows: "and the Whittier Avenue crossing at the Southern Pacific Company (B-544.5)". The relief requested by the County of San Bernardino will be granted.

ORDER ON REHEARING

IT IS ORDERED that:

1. Finding No. 7 on page 27 in Decision No. 72106 is modified by revoking that portion thereof which provides that Whittier Avenue crossing with Southern Pacific Company (B-544.5) be closed, and paragraph 9 on page 32 of Decision No. 72106 is hereby revoked.
2. The Southern Pacific Company shall replace the existing crossing protection at Whittier Avenue, Crossing No. B-544.5, with two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic crossing gates.

3. All costs of said protection and installation thereof shall be apportioned 50 percent to the Southern Pacific Company and 50 percent to the County of San Bernardino.

4. Maintenance cost of the automatic protection shall be divided equally between the Southern Pacific Company and the County of San Bernardino pursuant to Section 1202.2 of the Public Utilities Code.

The improvements provided for herein are to be completed on or before June 30, 1969. In all other respects Decision No. 72106 shall remain in full force and effect.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent. The effective date of this order shall be twenty days after the completion of such service.

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

[Signature]
President

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Commissioners