

ORIGINAL

Decision No. 73773

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of THE CITY OF SAN DIEGO, a  
municipal corporation, to widen  
28th Street at grade across the  
Rights of Way of the San Diego  
and Arizona Eastern Railway  
Company and The Atchison, Topeka  
and Santa Fe Railway Company.

Application No. 48438  
(Filed April 27, 1966)  
(Amended February 7, 1967)

Edward T. Butler, City Attorney,  
by John W. Witt, for applicant.  
Randolph Karr and Walt A. Steiger,  
by Walt A. Steiger, for San  
Diego and Arizona Eastern Railway  
Company, protestant.  
Robert B. Curtiss, for The Atchison,  
Topeka and Santa Fe Railway Company,  
respondent.  
William L. Oliver, for the Commission  
staff.

O P I N I O N

The City of San Diego (applicant) seeks authority to  
widen the existing crossing of 28th Street over the tracks of  
The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) and  
the San Diego and Arizona Eastern Railway Company (SD&AE).  
Appendix A attached hereto is a diagram showing details of the  
proposed crossing.

Public hearing was held before Examiner Robert Barnett  
at San Diego on November 14, 1967 at which time the matter was  
submitted.

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Twenty-eighth Street runs in a north-south direction and connects the Interstate 5 Freeway, which has an off-ramp at 28th Street, to Harbor Drive, a distance of approximately 1,220 feet. Presently, 28th Street is 40 feet wide, with one lane of traffic in each direction. Applicant proposes to widen 28th Street to 80 feet, which will accommodate four through lanes and a left turn pocket, 8 feet of emergency parking on each side, and an 8-foot raised median. Approximately 50 feet north of Harbor Drive is the track of the Santa Fe. Present protection is two Standard No. 8 flashing light signals. Approximately 100 feet to the north of the Santa Fe track is the track of the SD&AE. Present protection is also two Standard No. 8 flashing light signals. Between the tracks of the Santa Fe and the SD&AE are two parking lots, one on each side of 28th Street, which provide space for at least 400 cars; entrance and exit of each is on 28th Street. Traffic volume on 28th Street has increased from 7,700 vehicles per day in 1963 to 13,800 vehicles per day in 1967, and is expected to reach 18,000 per day at ultimate development of the area. Santa Fe has four round trip freight movements per day over its track, mostly local freight movements, and SD&AE has about the same. No passenger trains use the tracks.

There is no dispute as to the need for the street widening but there is disagreement about the nature of the grade crossing protection, apportionment of costs, and whether or not there should be a break in the median to permit cars entering or leaving the parking lots to make left turns.

The positions of the parties are:

1. Applicant proposes that a) the north side of the SD&AE crossing be protected by two No. 8 flashing light signals augmented by automatic gates; the south side by two No. 8 flashing light signals; b) the south side of the Santa Fe crossing be protected by two No. 8 flashing light signals augmented by automatic gates; the north side by two No. 8 flashing light signals; c) the median be constructed without breaks, so as to prevent vehicles from making left turns in and out of the parking lots; and d) costs of relocating the existing grade crossing protection and installing the additional grade crossing protection be apportioned equally between applicant and the railroads.

2. Santa Fe proposes that the cost of constructing the median and all signaling required by the widening be charged 100 percent to the applicant; the cost of installing automatic gates on the existing signals be shared 50-50. An engineer for Santa Fe testified that the median should have a break in it to permit vehicles using the parking lots to make left turns, and, also, that each side of the Santa Fe track should be protected by two automatic gates.

3. SD&AE proposes that the cost of constructing the median and all signaling required by the widening be charged 100 percent to the applicant; the cost of installing automatic gates on the existing signals be shared 50-50. An engineer for SD&AE opposed building a break in the median to permit left turns. He had no opinion as to whether automatic gates should be placed just south of the SD&AE track but felt that whatever protection was ordered

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at one crossing should be the same as at the other to avoid confusion.

4. The staff supported the applicant as to cost apportionment but did not take a position on the other issues.

For the reasons stated below we will authorize applicant's proposal and apportion costs of relocation of existing protection and installation of additional protection 50 percent to the applicant and 50 percent to the railroads.

An engineer for Santa Fe testified that a break should be made in the median to permit traffic entering and leaving the parking lots to make left turns. He wants to avoid the circuitry of travel that would be caused if drivers could only turn right. He further testified that by permitting left turns across 28th Street additional gates would have to be provided north of the Santa Fe track to prevent cars from being trapped at Harbor Drive by east-west traffic on Harbor Drive. His testimony is not clear on this point, but apparently he would prefer gates on both sides of the Santa Fe track even if no break is made in the median. The distance between the tracks is about 104 feet which, in the witness's opinion, requires that each crossing be considered separately with its protection not dependent on the protection at the other crossing.

Both the engineer for SD&AE and the engineer for applicant opposed a break in the median on safety grounds. And both were of the opinion that gates were not needed between the railroad tracks.

Because of the proximity of each railroad's track to each other, to permit left turns between the tracks would increase the hazard on the street. Confusion might result, and probably at a time when the drivers should be concentrating on observing the railroad signals. Also, the additional gates between the tracks might cause traffic to be blocked in the area between the two sets of tracks, resulting in vehicles being trapped on the crossing behind the gates. We conclude that there should be no break in the median, nor gates between the tracks.

The cost of grade crossing protection is approximately the same at each crossing.

No. 8's on medians . . . . .	\$ 5,420
Two hydraulic gates plus No. 8's on side of road . . . . .	11,126
Relocating two existing No. 8's . . . . .	1,488
Total . . . . .	<u>\$ 18,034</u>
For two grade crossings . . . . .	\$ 36,068

The railroads are willing to share equally with applicant the cost of installing two hydraulic gates with No. 8 flashing light signals on the side of the road but they feel that the remaining cost should be paid 100 percent by applicant. It is the position of the railroads that the widening is solely for the benefit of applicant, the railroads get no benefit from the widening and, therefore, all costs attributable to the widening should be allocated 100 percent to applicant.

Arguments similar to those advanced by the railroads were made, considered, and rejected in City of Compton (Alondra Boulevard) (Decision No. 71071 dated August 2, 1966 in Application No. 47384) where Alondra Boulevard was widened and protection

increased from Standard No. 3 wigwags to Standard No. 8 flashing lights augmented by automatic gates. All costs, those attributable to the widening as well as the upgrading, were apportioned 50-50 between the City and the railroad. A similar result was reached in City of Los Angeles (Cahuenga Boulevard) (Decision No. 71460 dated October 25, 1966 in Application No. 48545) where Cahuenga Boulevard was widened from 40 feet to 62 feet. The grade crossing protection was changed from No. 8 flashing lights to No. 8 flashing lights augmented by automatic gates. The railroad argued that the City should pay the cost of the additional protection required solely because the grade crossing was widened. The railroad's argument was rejected, citing Decision No. 71071, and all costs were apportioned 50-50. Finally, in City of Los Angeles (Osborne Street) (Decision No. 73521 dated December 19, 1967 in Application No. 48286) the Commission held that when a grade crossing is widened and additional protective devices are installed the cost of relocating existing protective devices and installing new protective devices shall be apportioned equally between the railroad and the public entity. In the case at bar the railroads asserted that the principles set forth in the Memorandum of Understanding between the railroads and the Department of Public Works support their position and should be used as a guideline in deciding this case. In addition, the railroads have brought to our attention a number of grade crossing matters where negotiated settlements were reached between the railroads and the public entities involved based on the principles advocated by the

railroads herein. In Osborne Street we considered and rejected the formula of the Memorandum of Understanding. The negotiated settlements based on the Memorandum, should have no greater weight than the Memorandum, and in any case, are not consistent with the recent decisions of this Commission cited above.

Findings of Fact

1. Applicant proposes to widen 28th Street across the tracks of the San Diego and Arizona Eastern Railway Company and The Atchison, Topeka and Santa Fe Railway Company to provide improved access from the Interstate 5 Freeway to Harbor Drive and to provide for future growth.

2. Between the tracks of the Santa Fe and the SD&AE are two parking lots, one on each side of 28th Street, which provide space for at least 400 cars; entrance and exit of each is on 28th Street. At present, vehicles make left turns into and out of the parking lots. This procedure, because of the proximity of the railroad tracks, is unsafe. Traffic hazard on the street is increased, and when trains approach confusion might result when drivers would have to contend with the approaching train, clearing the tracks, and the left-turning vehicles. As proposed by applicant, a raised median without breaks will make the two crossings safer.

3. Placing additional gates between the tracks will not materially increase safety at these crossings, but it could cause

traffic to be blocked in the area between the two sets of tracks, resulting in vehicles being trapped on the crossing behind the gates.

4. Public convenience, necessity, and safety require that the 28th Street crossings be protected as set forth in the following order.

5. Applicant and the railroads will benefit from the improved grade crossing protection.

6. Costs should be apportioned as set forth in the following order.

The Commission concludes that the application should be granted subject to the conditions set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of San Diego is authorized to widen 28th Street across the tracks of the San Diego and Arizona Eastern Railway Company and The Atchison, Topeka and Santa Fe Railway Company in accordance with the plans set forth in its application as amended.

2. There shall be installed at the San Diego and Arizona Eastern Railway Company crossing four Standard No. 8 flashing light signals. Two of these signals shall be placed at the edge of the pavement and two shall be placed on medians. The two signals north of the track shall be augmented by automatic gates. The signals and gates shall be controlled by circuits which will prevent over-ringing of the flashing lights and unnecessary down time of the gates.

3. There shall be installed at The Atchison, Topeka and Santa Fe Railway Company crossing four Standard No. 8 flashing light signals. Two of these signals shall be placed at the edge of the pavement and two shall be placed on medians. The two signals south of the track shall be augmented by automatic gates. The signals and gates shall be controlled by circuits which will prevent over-ringing of the flashing lights and unnecessary down time of the gates.



4. The cost of relocating the existing grade crossing protection and installing the additional grade crossing protection at the San Diego and Arizona Eastern Railway Company crossing shall be apportioned equally between the City of San Diego and the San Diego and Arizona Eastern Railway Company. The cost of relocating the existing grade crossing protection and installing the additional grade crossing protection at The Atchison, Topeka and Santa Fe crossing shall be apportioned equally between the City of San Diego and The Atchison, Topeka and Santa Fe Railway Company.

5. The maintenance cost of the grade crossing protection shall be apportioned pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

6. The railroad signals and adjacent traffic signals shall be interconnected so that in the preemption phase initiated by an approaching train, the traffic signals regulating movement of traffic from the crossing area shall first display a green interval of sufficient length to clear all vehicles from the track area.

7. The railroad companies shall bear 100 percent of the costs of preparing track necessary within the limits of the widened crossing, and any paving work within lines two feet outside of outside rails in the existing crossing.

8. The City of San Diego shall bear 100 percent of all other costs of widening the crossing and approaches including the cost of traffic signal coordination.

9. The railroad companies shall bear the cost of maintenance of the widened crossing within lines two feet outside of outside rails and the City of San Diego shall bear the maintenance costs of the crossing and approaches outside of said lines.

10. Within thirty days after completion of the work herein authorized, the City of San Diego and the railroad companies shall each notify the Commission in writing of its compliance with the conditions hereof.

11. All crossing protection and coordination thereof specified in this order shall be fully installed, completed, and placed in operable condition before the widened crossing is fully opened to the public.

12. The improvements and changes herein provided for are to be completed within one year of the effective date of this order unless time is extended.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of FEBRUARY, 1968.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

TO FREEWAY

A. 48198  
CITY OF SAN DIEGO  
28th STREET - WIDEN'G.

