

**ORIGINAL**

Decision No. 74420

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the CITY OF LOS ANGELES, a municipal corporation, to widen and improve the existing crossing at grade of TUXFORD STREET across the Southern Pacific Company's El Paso Line spur tracks north of San Fernando Road (Crossing No. B-467.46-C).

Application No. 49338

Filed May 2, 1967

Roger Arnebergh, by Charles E. Mattson,  
for the City of Los Angeles, applicant.  
Randolph Karr and Walt A. Steiger,  
for Southern Pacific Company, protestant.  
Ronald I. Hollis, for the Commission's staff.

O P I N I O N

Applicant, the City of Los Angeles, seeks authority to widen and improve the Tuxford Street grade crossing of the Southern Pacific Company's El Paso Line spur tracks north of San Fernando Road (Crossing No. B-467.46-C). It states that Tuxford Street is designated as a major highway; that the street is not fully improved near said spur tracks; that approximately 700 to 850 vehicles per hour use Crossing No. B-467.46-C during peak periods; that many of the vehicles are slow-moving trucks; that traffic tends to back up at the crossing; and that improvement of the crossing will facilitate vehicle circulation in the area.

Applicant states that as an alternative to improving the crossing at grade it has considered the feasibility of constructing a grade separation structure, and has concluded that the construction

of such a structure is not practicable at the present time because the costs thereof are excessive in relation to the benefits that would be realized. An important consideration in this respect is that there are a number of other existing crossings within the City of Los Angeles where public convenience and public safety justify construction of grade separation structures as early as funds for payment of the public share of the applicable costs can be obtained. The diversion of public funds for the separation of grades at the crossing involved herein would postpone the construction of other grade separation and improvement projects which are more urgently required.

At present the width of the Tuxford Street paved roadway at Crossing No. B-467.46-C is 60 feet. Applicant proposes to widen the roadway to 80 feet. Protection of the present crossing is by two Standard No. 1A cross-buck signs, two advance warning signs and double clearance lines pavement markings. Applicant asks that in addition to authorizing the widening and improvement of the crossing, the Commission determine the protection to be installed at the widened crossing. It also asks that the Commission direct the Southern Pacific Company to bear (a) all of the costs incurred in widening and improving the track area of the crossing, and (b) all of the costs of the crossing protection to be provided.

Public hearing on the application was held before Examiner Abernathy at Los Angeles on April 30, 1968. Evidence was presented on applicant's behalf by an engineer for the Department of Public Utilities and Transportation of the City of Los Angeles.

A brief was filed on behalf of the Southern Pacific Company. The matter was submitted for decision.

The witness for the City of Los Angeles (City) outlined the circumstances which have resulted in the proposal to improve spur track Crossing No. B-467.46-C. He said that the crossing improvement is to be accomplished in conjunction with the widening and improving of the adjacent underpass grade separation structure of Tuxford Street and the El Paso main line tracks of the Southern Pacific Company; that a contract for the widening and improvement of said grade separation structure and for the improvement of the spur track crossing was awarded on August 30, 1967; that various meetings relative to the crossing have been held with representatives of the Southern Pacific Company and of the Commission's staff; that no objections have been raised to the proposed improvements; that the protection of the crossing was discussed at the aforesaid meetings, and that the parties present at these meetings agreed that two Standard No. 8 Flashing Light Crossing Protective Signals supplemented with additional flashing light units mounted on cantilever arms would provide adequate protection for the crossing.

Applicant's witness also called attention to ordinances of the City -- Ordinances Nos. 61206 and 95072 -- which deal with the authorization, construction, operation and maintenance of spur tracks within the City. Ordinance No. 61206 purports to make said spur tracks subject to the control of the City, and imposes various obligations and duties upon the railroad constructing, operating or maintaining the spur tracks. Ordinance No. 95072 purports to grant

the Southern Pacific revocable permits for the operation and maintenance of twenty specified spur tracks within Los Angeles, including the spur track involved in this matter.<sup>1</sup>

Applicant's witness said that the Southern Pacific Company had filed a written acceptance of the permit granted by Ordinance No. 95072 and had agreed to abide by all of the terms and conditions thereof, which conditions include, by reference, requirements of Ordinance No. 61206 that in connection with the spur tracks, the railroad shall construct and maintain such safety devices as may be required for the protection of the public and shall assume any costs of changes in the position of the tracks which may be necessary in the opinion of the City's Board of Public Works. He asserted that in conformity with these terms and conditions the entire costs of the signal work, the track work, and the planking or paving of Crossing No. B-467.46-C should be borne by the Southern Pacific Company.

The allocation of the costs of the crossing in the manner urged by applicant was opposed by the Southern Pacific Company. In its brief which it filed at the close of the hearing, the Southern Pacific Company argues that in the allocation of the costs in question no effect should be given to the aforesaid ordinances of the City of Los Angeles; that under the provisions of Section 1202 of the Public Utilities Code the Commission has exclusive jurisdiction over the terms of any street crossing of a railroad or vice versa; that the Commission has so held in

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<sup>1</sup> Copies of Ordinances Nos. 61206 and 95072 are attached to Application No. 49338 as Exhibits E and D, respectively.

various (cited) decisions heretofore, and that the Courts have likewise so held (decisions cited).

Discussion, Findings, Conclusions

It is clear from applicant's showing of the flow of motor vehicular traffic along Tuxford Street in the vicinity of Crossing No. B-467.46-C that widening and improvement of Tuxford Street is needed to facilitate the movement of said traffic. With the widening and improvement of the crossing, the crossing protection should be also improved for the safety of the public. Regarding the apportionment of the costs of the improvements, said costs should be apportioned as hereinafter provided. Said apportionment is made pursuant to the authority invested in the Commission by Section 1202 of the Public Utilities Code. Insofar as Ordinance No. 61206 of the City of Los Angeles would apportion the costs, said ordinance has no force nor effect, inasmuch as the matters involved are of State concern, subject to the jurisdiction of the Commission, and do not come within the field of municipal affairs.

In its so-called "Osborne Street Decision" (Decision No. 73521, dated December 19, 1967) the Commission gave extensive consideration to the apportionment of costs in matters of this kind. It stated that "it shall be the policy of the Commission, when a grade crossing is widened and additional protective devices are installed, and there are no special conditions which require a different result, to apportion the costs of relocating existing protective devices and installing new protective devices equally

between the railroad and the public entity." The showing in this matter does not disclose the existence of any special conditions which would justify the apportionment of the costs of the improvements to the Tuxford Street crossing (Crossing No. B-467.46-C) on other than an equal basis between the Southern Pacific Company and the City of Los Angeles. The policy enunciated in the Osborne Street decision should be followed here.

Upon consideration of the record the Commission finds that:

1. The widening and improvement of the Tuxford Street crossing at grade of the Southern Pacific Company's El Paso Line spur track (Crossing No. B-467.46-C), as proposed in this matter by the City of Los Angeles, are required by public convenience and necessity.

2. Public convenience and safety require that with the widening and improvement of said crossing, the crossing shall be protected by two Standard No. 8 flashing light signals (General Order No. 75-B) with additional flashing lights with backlights mounted on cantilever mast arms.

3. The cost of installing the grade crossing protection shall be apportioned equally between the City of Los Angeles and the Southern Pacific Company.

The Commission concludes that this 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 Los Angeles is authorized to widen and improve the Tuxford Street crossing (Crossing No. B-467.46-C) of tracks of the Southern Pacific Company in accordance with the plans set forth in Application No. 49338.

2. The width of the paved roadway at said crossing shall be not less than 80 feet, and the grades of approach shall be not greater than 5.5 percent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72. Protection shall be by two Standard No. 8 flashing light signals (General Order No. 75-B) with additional flashing lights with backlights mounted on cantilever mast arms.

3. The cost of installing the grade crossing protection shall be apportioned equally between the City of Los Angeles and the Southern Pacific Company.

4. The maintenance cost of the grade crossing protection shall be apportioned equally between the City of Los Angeles and the Southern Pacific Company pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

5. The Southern Pacific Company 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.

6. The City of Los Angeles shall bear 100 percent of all other costs of widening the crossing and approaches.

7. The Southern Pacific Company shall bear the cost of maintenance of the widened crossing within lines two feet outside of outside rails and the City of Los Angeles shall bear the maintenance costs of the crossing and approaches outside of said lines.

8. Within thirty days after completion of the work herein authorized, the City of Los Angeles and the Southern Pacific Company shall each notify the Commission in writing that said work has been completed.

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

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

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of JULY 1, 1968.

William J. ...  
President  
William W. ...

Augustin  
Commissioners

Commissioner Peter E. Mitchell

Present but not participating.

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.