

**ORIGINAL**

Decision No. 74741

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of SOUTHERN PACIFIC COMPANY for  
apportionment of maintenance costs  
of automatic protection at Alabama  
Street, Crossing No. BP-546.3, in  
the County of San Bernardino,  
California.

Application No. 50101  
(Filed March 21, 1968)

O P I N I O N

The Southern Pacific Company (Railroad) requests an order from this Commission apportioning between it and the County of San Bernardino (County) the annual maintenance costs of the automatic grade crossing protective devices at its Alabama Street crossing (Crossing No. BP-546.3) in the County.

On December 7, 1964, the Railroad and the County executed an agreement (Appendix A to the application) for the installation by the Railroad of automatic grade crossing protective devices at the Alabama Street grade crossing. The agreement specifies that the protection to be installed should consist of two flashing light grade crossing signals equipped with automatic gate arms, actuating and operating circuits, adequate instrument housing, and two train-actuated, illuminated "no-turn" signs. The agreement further provides that the County will reimburse the Railroad for 50 percent of all costs and expenses incurred by the Railroad in connection with the furnishing and installation of the said protective devices, and that:

"After installation of the said flashing light grade crossing signals has been completed, Railroad shall physically maintain them so long as they may remain in place. The obligation to bear the cost of maintenance of said signals shall be determined or apportioned by subsequent agreement between the parties or by applicable law. In the event there is no agreement between the parties nor applicable law enacted prior to December 31, 1964, then either party hereto may file an application with the Public Utilities Commission of the State of California to seek a determination of this question by that body."

The agreement states that the installation of the automatic protection includes the removal of two existing Standard No. 1 crossing signs.

The improved crossing protection was installed voluntarily by the parties (General Order No. 88).

The application alleges that the signal installation which was the subject of the agreement was commenced on September 13, 1965; that due to a delay by the County in completing its work of widening the crossing, the signal installation was not completed and placed in service until July 6, 1967; that approximately 64 hours of work were performed prior to October 1, 1965; and that approximately 260 hours of work were performed on and after October 1, 1965.

Section 1202.2 of the Public Utilities Code, added in 1965, provides:

"In apportioning the cost of maintenance of automatic grade crossing protection constructed or altered after October 1, 1965 under Section 1202, as between the railroad or street railroad corporations, and the public agencies affected, the Commission shall divide such maintenance cost in the same proportion as the cost of constructing such automatic grade crossing protection is divided . . ."

By Decision No. 72226 dated March 28, 1967, the Commission apportioned maintenance costs on the same percentage basis as construction costs in two instances where part of the alteration of crossing protection was done prior to October 1, 1965 and the work was completed after said date.

The San Bernardino County counsel has advised the Commission in writing that it has no objection to the apportionment of maintenance costs on the same basis as the installation costs.

We find that:

1. The division of construction costs of the crossing protective devices at the Alabama Street crossing as set forth in the agreement of December 7, 1964 is reasonable and is hereby approved.

2. The maintenance costs of the crossing protective devices at the Alabama Street crossing should be apportioned 50 percent to the Southern Pacific Company and 50 percent to the County of San Bernardino in accordance with Section 1202.2 of the Public Utilities Code.

We conclude that the said maintenance costs should be apportioned as set forth in the order herein.

A public hearing is not necessary.

O R D E R

IT IS ORDERED that the cost of maintaining the automatic protection specified in paragraph 1 on page 1 of the agreement of

December 7, 1964 between the Southern Pacific Company and the County of San Bernardino (Appendix A to the application) is apportioned on the basis of 50 percent to be paid by the County of San Bernardino and 50 percent to be paid by the Southern Pacific Company, said apportionment to be of all maintenance costs commencing on July 6, 1967. Said apportionment is made pursuant to the provisions of Section 1202.2 of the Public Utilities Code and allows participation by the County of San Bernardino in the fund established pursuant to Section 1231.1 of the Public Utilities Code.

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

Dated at San Francisco, California, this 1<sup>st</sup> day of OCTOBER, 1968.

William Spurner Jr.  
President  
William L. Bunker  
Augusta  
David B. Morrissey  
Commissioners