

ORIGINAL

Decision No. 74820

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 Holt
Avenue, Crossing No. BM-521.78,
in the City of Tustin, County of
Orange, California.

Application No. 50130
(Filed April 1, 1968)

O P I N I O N

The Southern Pacific Company (Railroad) requests an order from this Commission apportioning between it and the City of Tustin (City) annual maintenance costs of the automatic grade crossing protective devices at the Holt Avenue crossing (Crossing Number BM-521.78) in the City.

By Decision No. 67458 dated June 30, 1964, in Application No. 46116, the City was authorized to construct the grade crossing. This decision stated that the City should bear the entire construction expense.

On February 15, 1965, the Railroad and the City executed an agreement (Exhibit 1). The Railroad agreed to construct the crossing and to install automatic protective devices thereat. The parties further agreed that the cost of maintaining the crossing signals and appurtenances were to be apportioned between the parties as prescribed by law or by agreement of the parties, and that, in the event there was no applicable law or agreement apportioning such cost by March 31, 1965, the parties would submit the apportionment of such maintenance expenses to the decision of the Public

Utilities Commission. When the herein considered application was filed the parties had not agreed on the apportionment of maintenance costs.

The application alleges that the signal installation which was the subject of the agreement of February 15, 1965, was completed and placed in service 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 ..."

The section further provides that the railroad and the public agency affected may agree on a different division of maintenance cost but if the public agency assumes a greater proportion of cost of maintenance than the apportionment of the cost of construction the difference shall be paid by the public agency from funds other than the State Highway Fund or any other state fund.

By letter dated August 30, 1968 (Exhibit 2), the Railroad advised the Commission that it is willing to pay 50 percent of the maintenance cost of the crossing protection.

The City has advised the Commission in writing that it has no objection to the apportionment of maintenance costs on a 50-50 basis.

We find that:

1. Decision No. 67458 authorized the City of Tustin to construct the Holt Avenue crossing, the complete construction costs thereof to be borne by the City.

2. The division of maintenance costs of the crossing protection devices at the Holt Avenue crossing on a 50-50 basis is reasonable.

We conclude that, in accordance with the agreement of the parties, the maintenance costs of the crossing protective devices at the Holt Avenue crossing should be apportioned 50 percent to the Southern Pacific Company and 50 percent to the City of Tustin.

A public hearing is not necessary.

ORDER

IT IS ORDERED that the cost of maintaining the automatic protection specified in the agreement of February 15, 1965, between the Southern Pacific Company and the City of Tustin, is apportioned on the basis of 50 percent to the Southern Pacific Company and 50 percent to the City of Tustin, pursuant to the provisions of Section 1202.2 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 15th day of OCTOBER, 1968.

William Spurney, Jr.
President

Richard E. Smith

Stallman, Bernard

Augustan

Ed P. Monsey
Commissioners