

ORIGINAL

Decision No. 75596

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Industry,
a municipal corporation to construct
a road, namely Fullerton Road, at
grade across the Union Pacific
Railroad Company's right-of-way and
to abolish crossing number 3-21.7,
at Jellick Avenue.

Application No. 50306
(Filed June 11, 1968)

Graham A. Ritchie, for applicant.
Marshall W. Vorkink, for Union Pacific Railroad
Company and G. R. Mitchell, for Brotherhood
of Locomotive Engineers, interested parties.
William L. Oliver, for the Commission staff.

O P I N I O N

Applicant herein requests an order of the Commission to permit the construction of Fullerton Road at grade across the Union Pacific Railroad Company's right-of-way and at the same time to abolish and close crossing No. 3-21.7 at Jellick Avenue, and for apportionment of the costs. Standard No. 8 flashing light signals augmented by automatic gates are to be installed at Fullerton Road.

Public hearing was held before Examiner DeWolf at Los Angeles on February 3, 1969, and the matter was submitted on the same date.

The application for the improvements is not opposed but the parties are unable to reach an agreement on apportionment of the cost.

The city manager for applicant testified that Fullerton Road has been made an off-ramp of the new Pomona Freeway increasing the flow of traffic going east and crossing the railroad tracks, but that this will decrease to some extent when the Pomona Freeway is further extended in the future. The city manager testified that during the course of discussions with a branch superintendent of the Railroad it was agreed the City and the Railroad would each bear fifty percent of the cost of establishing the new crossing and installation of the protection. ✓

The city engineer for applicant testified that a railroad crossing at Fullerton Road rather than Jellick Avenue is more efficient and provides better traffic routing, that the present width of Fullerton Road with 40-foot pavement is sufficient to accommodate the traffic pattern and that no further future widening of the crossing at Fullerton Road is planned or anticipated by the City.

Exhibit No. 1 in evidence is a letter from the Commission to applicant and states that a recent traffic count at Jellick Avenue shows that 5600 vehicles crossed in 24 hours and that this is ten times the traffic at this point prior to completion of the Pomona Freeway. The letter also states that on January 23 and February 1, 1968 there were vehicle train accidents involving two injuries. The letter recommended that the City: "enter into negotiations with Union Pacific Railroad Company to improve the Jellick Avenue grade crossing and upgrade the protection or file an application with the Commission for a new crossing at Fullerton Road and close Jellick Avenue at the railroad". ✓

The Jellick Avenue crossing is over two tracks of the railroad and presently is protected by No. 8 flashing red lights; Fullerton Avenue is about 1,380 feet west of Jellick Avenue, and will cross one track only. Both crossings would be the same width and would carry approximately the same amount of traffic with the Fullerton Road crossing being more convenient for all parties, the Industrial Park, the City, the Railroad and the public. These crossings were first considered in Decision No. 67887, dated September 22, 1964, Case No. 7521:

"7. The railroad crossings hereinafter described shall be physically closed to vehicular traffic, the work to be performed and the costs to be borne by the railroad involved.

"c. The Jellick Avenue crossing, Union Pacific No. 3-21.7, is to be closed concurrent with the opening of a separated crossing at Fullerton Road, in the City of Industry."

The Railroad did not object to the proposed improvements and called no witnesses to testify. The position of the Railroad is that this is an application for a new crossing, at Fullerton Road, and that Jellick Avenue was ordered closed by Decision No. 67887 in Case No. 7521 and that the City should pay 100 percent of the cost of the automatic protection.

The Commission staff witness agreed with the position of applicant that it is necessary for public health and safety that the Jellick Avenue crossing be closed and that the Fullerton Road crossing be opened and protected by flashing red lights and crossing gates.

The Commission staff witness testified that the cost of the automatic protection should be divided 50 percent to the City and 50 percent to the Railroad because the crossing is basically the relocation of an existing crossing, will handle the

same traffic and that it would probably cost more to install the protection at Jellick Avenue than at Fullerton Road.

The proposed crossing construction, location and installation of gates involved in this proceeding are due to increased traffic resulting from the Pomona Freeway and other increasing traffic patterns including Industrial Park, without which such changes would not be so necessary. These crossing changes are not motivated by a desire of the City to change or alter the traffic at these crossings.

In Osborne, Decision No. 73521, Application No. 48286, the Commission cited with approval County of Los Angeles (Center Street) (Decision No. 27320, Application No. 19383) in which it said:

"As a general principle, it seems equitable that where traffic conditions are materially changed at a crossing, the expense of providing additional (emphasis added) or improved protective devices should be borne one-half by the railroad and one-half by the public. Other and special conditions should be decided upon the merits in each particular case."

While the facts in the instant proceeding are not precisely four square with those in Osborne they are sufficiently apposite to warrant the application herein of the general principle immediately above set forth.

The division of the cost of the automatic protection should be apportioned 50 percent to the City and 50 percent to the Railroad.

Upon consideration of the evidence the Commission finds that:

1. Fullerton Road is a principal traffic artery in the City of Industry and in Los Angeles County.

2. Public convenience and necessity require that said road be opened and that a grade crossing over the rights-of-way of the Union Pacific Railroad Company be constructed as hereinafter set forth.

3. The distance between the proposed Fullerton Road crossing and the existing Jellick Avenue crossing is 1,380 feet.

4. Public safety requires that improved grade crossing protection, including automatic gates, would be necessary either at Jellick Avenue or Fullerton Road, and the improved protection is required by a material change in traffic conditions and not because of the change in the location of the grade crossing.

5. Public safety does not require grade crossing over said railroad both at Jellick Avenue and also at Fullerton Road in the City of Industry, and crossing at both would be a traffic hazard.

6. The opening of the proposed crossing at Fullerton Road is a necessary improvement and will provide adequately for motor vehicle movements over the right-of-way of said railroad in the surrounding area and in the vicinity of said streets.

7. Public safety and health require the closing of the existing Jellick Avenue crossing concurrently with the opening of the Fullerton Road crossing.

8. The cost of relocating the existing grade crossing protection and installing the additional grade crossing protection should be apportioned equally between the City of Industry and the Union Pacific Railroad.

O R D E R

IT IS ORDERED that:

1. The City of Industry is hereby authorized to construct Fullerton Road at grade, to be identified as Crossing No. 3-21.4, across the tracks and rights-of-way of the Union Pacific Railroad. The width of the street portion of the crossing and the grades of approach shall be in accordance with the plan and profile attached to the application. Protection shall be by two Standard No. 8 flashing light signals (General Order 75-B) supplemented by automatic crossing gates.

2. The costs of constructing the crossing and approaches shall be borne by the City of Industry, the cost of preparing the tracks to receive pavement shall be borne by the Union Pacific Railroad Company. The cost of installing the automatic crossing protection shall be borne 50 percent by the Union Pacific Railroad and 50 percent by the City of Industry.

3. The cost of maintaining the crossing between lines two feet outside of outside rails shall be borne by the Union Pacific Railroad. Cost of maintaining the crossing outside of said lines shall be borne by the City of Industry.

4. The maintenance costs for said automatic protective devices shall be divided in the same proportion as the cost of construction has been apportioned herein, in accord with and

pursuant to the provisions of Section 1202.2 of the Public Utilities Code, which is 50 percent to the Railroad and 50 percent to the City. ✓

5. Concurrently with the completion of the Fullerton Road crossing and its being opened to use by the public, the Union Pacific Railroad shall effectively close and barricade the Jellick Avenue Crossing No. 3-21.7, the cost thereof to be borne by the Railroad. ✓

6. Within thirty days after completion of the grade crossing and/or the grade crossing closure, pursuant to this order, the City of Industry and the Union Pacific Railroad shall so advise this Commission in writing. The improvements ordered herein shall be completed within one year of the effective date of this order unless extended by further order of this Commission.

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

Dated at San Francisco, California, this 29th day of APRIL, 1969.

William Symons
President

August

Frederick H. Monsey

William

Commissioners