

ORIGINALDecision No. 75664

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California
 Department of Public Works for an
 order authorizing construction of nine
 crossings at separated grades, and
 related work, over tracks of Southern
 Pacific Company, The Atchison, Topeka
 and Santa Fe Railway Company and the
 U.S. Government in connection with
 construction of a viaduct to connect
 the East Approach of the San Francisco-
 Oakland Bay Bridge to West Grand Avenue
 at Peralta Street in the City of Oakland,
 referred to as "West Grand Avenue
 Viaduct".

Application No. 48399

ORDER ON MOTION
 TO EXCUSE PARTY
FROM FURTHER PARTICIPATION

By Decision No. 75486, dated March 25, 1969, the City of Oakland (City) was brought into this proceeding as a necessary and proper party. That action was prompted by a motion of Southern Pacific Company on the ground that City has received certain substantial benefits from the West Grand Avenue project to the cost of which Southern Pacific might be required to contribute.

At the adjourned hearings counsel for City moved that it be excused from further participation in the proceeding since the Department of Public Works (Department) had entered into an agreement, preliminary to commencement of construction of the viaduct, to the effect that all expenses incurred by City in connection with the project would be borne by Department. Counsel drew attention to paragraph (h) of Section 1202.5 of the Public Utilities Code which states that no provision of that section or of the Code shall

be construed as in any way limiting the right of public agencies or railroads to negotiate agreements apportioning costs of grade separations.

A copy of the above mentioned agreement has been received as late-filed Exhibit No. 28. In effect it provides, inter alia, that Department shall bear all project costs incurred by City, except certain specified portions which are to be borne by the latter entity.

Copies of Exhibit No. 28 were served on all parties to the proceeding. No objection to granting of City's motion has been received.

The Commission having found that said motion should be granted,

IT IS ORDERED that the City of Oakland is excused from further participation as a necessary and proper party to the proceeding in Application No. 48399.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 13th day of MAY, 1969.

William Symons, Jr.
President

George A. ...
Richard P. ...
(P. H. ...)

[Signature]
Commissioners