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ORIGINAL

Decision No. 75676

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California Department of Public Works for an order authorizing alteration of two existing grade crossings, Nos. 5-262.7 and 5R-262.85, across tracks of Northwestern Pacific Railroad Company in the community of Alton, Humboldt County.	Application No. 50124 (Filed April 1, 1968)

SUPPLEMENTAL OPINION AND ORDER

By Decision No. 75033 dated December 3, 1968, a preliminary order, the State of California Department of Public Works (Department) was authorized to realign and widen grade crossings Nos. 5-262.7 and 5R-262.85 in the community of Alton, Humboldt County, as proposed in Application No. 50124 and Northwestern Pacific Railroad Company (NWP) was directed to perform the relocation, alteration and installation of improved protection at said crossings as specified in the application. Existing protection consisted of two Standard No. 8 flashing light signals at the mainline crossing and two Standard No. 1 crossbuck signs at the branchline crossing. The improved protection at each crossing is to consist of two Standard No. 8 flashing light signals augmented with automatic gate arms.

The order further provided that (1) the costs of relocation, alteration and installation of the improved crossing protection should be apportioned 50 percent to the Department and 50 percent to NWP; (2) the basis on which the cost of maintaining said improved crossing protection should be apportioned between NWP and the Department would be the subject of a further order of the Commission; and

(3) all other construction and maintenance expense should be borne in accordance with an agreement to be entered into between the parties.

The substance of the order in Decision No. 75033, as hereinabove set forth, reflects a stipulation entered into by the parties in the course of the hearings. This supplemental decision relates exclusively to the question as to the basis on which the cost of maintaining the improved crossing protection is to be apportioned between NWP and the Department.

Public hearings were held before Examiner Bishop at Eureka on July 2 and at San Francisco on September 3, 5 and 6 and October 7, 1968. With the filing of reply briefs the matter was taken under submission on January 9, 1969.

Evidence was presented on behalf of the Department through an advance planning engineer and an assistant to the agreement engineer, both of the Division of Highways. The public projects engineer-signal of Southern Pacific Company testified on behalf of NWP. An associate transportation engineer from the Commission's Transportation Division assisted in the development of the record.

With respect to apportionment of costs, evidence and argument were adduced relative to three questions as to which applicant seeks a determination by the Commission. They are:

1. In the allocation of maintenance costs under Section 1202.2 of the Public Utilities Code between NWP and the Department, should such apportionment be based on only the additional maintenance units which were created as a result of the improvement in crossing protection, or upon the total number of maintenance units associated with the improved (altered) protection.

2. Whether the proper number of maintenance units to be applied to a Standard No. 8 flashing light automatic grade-crossing signal with automatic gate is four or six units.

3. The determination of the proper number of maintenance units to be applied to each of the Alton crossings.

Each of these three questions will be considered in turn.

(1)

Section 1202.2 of the Public Utilities Code reads, in part, as follows:

> "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 situation at the Alton crossings as proposed to be "altered" is within the meaning of Section 1202.2 as construed by the Commission in Decision No. 72226, 1/ and there is no dispute between the parties on this point. As hereinbefore stated, Decision No. 75033 provides that the cost of construction of the improved crossing protection at the Alton crossings shall be apportioned 50 percent to the Department and 50 percent to NWP. Accordingly, the cost of maintenance of said protection should be 50 percent to the Department and 50 percent to NWP.

It is the position of the Department that said apportionment should be based only upon the additional maintenance units which are

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1/ Dated March 28, 1967 in Application No. 45058 and related matters (67 Cal. P.U.C. 62). The pertinent finding in the decision cited is set forth on page 68.

the result of and created by the alteration.[2] Evidence and argument adduced on behalf of the Department show that specifically in its view, the relative maintenance units to which the 50-50 apportionment is to be directed are those which represent the difference between the total number of maintenance units reflected by the crossing protection as improved and the total number of units associated with the pre-existing protection.[3]

An exhibit was introduced by applicant through the second engineer witness which illustrated the differences between maintenance cost apportionment calculated on the above-described basis and that reflected by the application of apportionment percentages to the total number of relative units in the improved protection.[4] Since the engineer testified that the number of relative units in the old protection was not known, and since the parties agreed that the number of such units in the improved protection would not be determined until the work was completed, hypothetical situations were utilized in the exhibit.

2/ By Decision No. 72225, dated March 28, 1967, in Case No. 8249, (67 CPUC 49), the Commission adopted the A.A.R. (Association of American Railroads) system of relative unit values assigned to the various components of a signal system, including grade-crossing protection. This system was devised by the A.A.R. for the determination of maintenance costs and was adopted by the Commission in said decision for administration of Section 1231.1 of the Public Utilities Code (automatic grade-crossing maintenance fund for cities, counties and cities and counties). The specific relative unit values are set forth in Appendix B of said decision.

3/ The record indicates that the costs of construction and of maintenance of the pre-existing protection at the two Alton crossings have been borne entirely by NWP.

4/ In Decision No. 72225, above, the Commission found that a cost of $30 per relative unit was fair and reasonable for determining the annual cost of maintaining automatic grade-crossing protection as to the railroads, the local public agencies and the state agencies concerned.

Seven different situations were presented. For example, where protection consisting of a Standard No. 3 wigwag is upgraded to a pair of flashing lights, assuming simplest circuitry, the number of relative maintenance units would be increased from eight to twelve, increasing the annual maintenance cost, at $30 per unit, from $240 to $360. Under the Department's interpretation of Section 1202.2 of the Public Utilities Code, the State would pay $60 (50 percent of the added maintenance cost) and the railroad would pay $300 per annum (the maintenance cost of the original installation, plus 50 percent of the added maintenance cost under the new protection). If, on the other hand, the Department were required to bear maintenance cost predicated on 50 percent of the entire maintenance cost of the new protection, the witness stated, the Department would pay $180 per annum; the railroad then would pay an equal amount, which would be $120 less than it was paying before the upgrading of the hypothetical crossing protection. In all of the examples presented by the witness, except one, the latter interpretation of Section 1202.2 would result in the railroad paying less maintenance expense under the upgraded protection than under the former installation. In the exception, it would pay the same under the new as under the old. 5/

5/ The most extreme example presented by the Department of the differences in effect of the two bases of apportionment was that in which the Marquardt predictor is substituted for existing circuitry, with no other change in automatic grade-crossing protection. In the prior condition a total of 12 maintenance units ($360) was involved. The addition of the predictors increased the units to 14 units ($420). Under the Department's interpretation it would bear only 50 percent of the additional units ($30); whereas, under a rule of 50 percent of the total maintenance cost it would pay $210 annual maintenance, and the railroad would pay only $210, as contrasted with $360 under the prior condition.

The Department argues that to construe Section 1202.2 to require it to bear 50 percent of the maintenance cost predicated on the total number of relative units assigned to the improved crossing protection at Alton would be to place an unreasonable and absurd construction on the statute; that it would violate the legislative intent, which ostensibly was to encourage the construction and upgrading of automatic protection at crossings throughout the State, whereas, such interpretation would in effect provide a subsidy to the railroads, since the constitutional provision against making gifts of public funds, i.e., the relinquishment of contractual rights, would be violated, rendering the statute unconstitutional.[6/]

Prior to the enactment of Section 1202.2, the Department points out, automatic grade-crossing protection was installed pursuant to an agreement whereby the public agency agreed to pay the construction costs in consideration of the counter promise of the railroads to bear the costs of maintenance. Surely, the Department argues, the Legislature did not intend to undo these contracts; such an intent would of necessity have been clearly expressed in the statute. Moreover, argues the Department, the Legislature does not have the power to abrogate these contractual rights, because such action would constitute the making of a gift of public funds, in violation of provisions of Article XIII, Section 25, of the California Constitution.

The position of NWP with respect to this question is that Decisions Nos. 72225 and 72226, above, together with subsequent formal actions of the Commission, and Section 1202.2 of the Public Utilities

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6/ The Department set forth certain principles, with authorities, to be observed in construing statutory provisions. Among these was the rule that words are not given their common meaning if to do so would lead to an unjust or absurd consequence.

Code, require that the entire cost of maintaining automatic grade-crossing protection be divided, even though there may have been some type of pre-existing automatic protection. NWP points out that the above-quoted portion of Section 1202.2, in setting forth the basis for apportionment of maintenance cost, reads: "In apportioning the cost of maintenance..." and "...shall divide such maintenance cost..." (emphasis supplied.) The carrier argues that, as the section reads, the apportionment must apply to the entire maintenance cost of the constructed or altered automatic grade-crossing protection and that to construe the provisions as the Department attempts to do is to read into the section the word "additional" thus: "the additional cost of maintenance..." and "such additional maintenance cost." The absence of that word or of any other word of like import in the section, it is argued, leads to the conclusion that the legislature, in enacting Section 1202.2 did not intend the words "the cost of maintenance" to mean only a portion of such cost. NWP directs attention to the rule of statutory interpretation that clear and unambiguous language cannot be contorted to reach a result other than that which obtains after a reading using the normally accepted definition of the words, citing authorities. 7/

In support of its position NWP further points out that this specific question was clearly raised before the Commission in Application No. 45058 et al., which led to Decision No. 72226, dated

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7/ Applicant considers the first sentence in Section 1202.2 to be ambiguous. It argues that the antecedent of "such maintenance cost" can be read to refer to maintenance units attributable to the alteration just as easily as to the entire maintenance cost.

March 28, 1967 (67 Cal. PUC 62); [8/] and that in those proceedings the Commission's staff, through its witness, advanced the view that the entire cost of maintenance should be divided, if there was to be any division at all, even though the crossing previously had had some type of automatic protection. Moreover, NWP argues that in Decision No. 72226 the Commission clearly adopted the staff approach.

To show that the Commission has, in effect, construed Section 1202.2 as has NWP in the instant proceeding, the carrier introduced as exhibits resolutions passed by the Commission on various dates in 1968, in which it certified certain bills to the State Controller for payment to "various railroads", or to "Southern Pacific Company", from the grade-crossing maintenance fund, of the cost to cities, counties and cities and counties of their share of the expense of maintaining automatic protection at grade crossings (P.U. Code Section 1231.1). Copies of some of the bills covered by the resolutions were also introduced. Examination of the individual bills discloses that they were prepared on the basis of computing the share of the particular public body involved in the cost of maintenance as a percentage of the total maintenance cost involved, including those instances where some form of automatic protection had previously

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8/ The records in Case No. 8249 (Decision No. 72225), above, and in Application No. 45058, et al. (Decision No. 72226) were incorporated by reference at the hearings in the instant proceeding. Although the question here at issue was raised at the hearings in Application No. 45058 it was not dealt with specifically in Decision No. 72226. In that decision the Commission construed Section 1202.2, particularly with reference to the effect of the date of October 1, 1965, and the meanings to be placed on the words "constructed" and "altered" in the first sentence of the section. The decision also made certain modifications in some outstanding orders in other proceedings, to give appropriate effect therein to Section 1202.2.

existed. Comparison of the bills with the amounts shown on the above-mentioned resolutions shows that the Commission certified said bills for payment in the amounts for which they had been prepared. Several of these bills related to crossings which had been specifically embraced by Decision No. 72226.

In the light of the above-described transactions, NWP argues that in order to adopt the contention of the Department, it would be necessary to hold that the Commission erroneously approved bills for payment and wrongfully certified them to the State Controller for payment.

With respect to the Department's contention that to apportion the entire cost would constitute an unconstitutional gift of public funds, NWP argues that this is clearly erroneous. The contention is premised on an assumption that such an apportionment would involve a "relinquishment of contractual rights". NWP finds no evidence to support such an assumption and no evidence that there are any "contractual rights" or obligations affecting the Alton crossings. The carrier further asserts that the Department's argument ignores the fact that the Legislature, in enacting Section 1202.2, was acting pursuant to authority given it by Article XII, Sections 22 and 23, of the State Constitution, and that such power is plenary and unlimited by any provisions of the Constitution.

From the foregoing it will be seen that applicant considers the language in Section 1202.2 to be ambiguous insofar as it bears on the problem under consideration, and that to construe the section as urged by NWP would create a result which is unreasonable, contrary to legislative intent, and unconstitutional. NWP, on the other hand, believes the meaning of the provisions in question to be clear, that,

in accordance with long-established principles the section must be applied as it reads, and that such reading clearly requires all of the maintenance cost to be divided, even in cases where previously some form of automatic protection existed, and including those instances where the maintenance cost of such previous protection had been borne by the railroad.

In the light of the points made by NWP, the Department's argument as to the unconstitutionality of the result stemming from the carrier's interpretation of the provisions is not persuasive. As to legislative intent, it does not necessarily follow that division of the entire maintenance cost is contrary to that intent, as conceived by the Department.[9/] With respect to the question of unreasonableness of the result stemming from the carrier's interpretation, a position could be taken, of course, that it is unreasonable for the railroad to pay less maintenance cost for improved automatic protection than it did for the pre-existing lower grade of protection, thus casting a greater burden on the State. However, when the improved safety to the general public is considered, such burden does not appear unreasonable. Additionally, the record shows that, in many instances, upgrading of the automatic protection involves not merely installing the additional components, but also replacing existing elements with newer, more effective components of the same type. It is reasonable for the State to be required to share in the maintenance cost of the latter.

9/ In its opening brief the Department states its understanding of the intent of the Legislature in enacting Section 1202.2 as being to encourage the construction and upgrading of automatic grade-crossing protection at crossings throughout the State.

The construction placed upon the statutory provisions in question by the Department, in our opinion, involves reading something into the language used therein which goes beyond the bounds of reasonableness. The fact, moreover, that the Commission has, without exception, certified to the State Controller for payment bills which have been prepared on the basis of apportionment of the entire maintenance cost, where there was previously some form of automatic protection, indicates that the Commission has already, in effect, construed Section 1202.2 as authorizing that basis.

We find that:

1. The question as to whether, under Section 1202.2 of the Public Utilities Code, the entire cost of maintenance is to be apportioned with respect to a crossing which previously had some type of automatic protection, or whether only the increased maintenance is to be divided, was raised by parties to the instant proceeding in Application No. 45058, et al., but was not specifically treated in Decision No. 72226 in those proceedings.

2. The Commission, pursuant to Decisions Nos. 72225 and 72226, has previously certified bills to the State Controller for payment, which bills have been prepared on the basis of apportioning the entire cost of maintaining automatic protection, even where there was previously existing automatic protection.

3. Section 1202.2 of the Public Utilities Code requires that when cost of maintenance is apportioned by the Commission the entire cost of maintaining the automatic protection is to be divided, even though some type of automatic protection previously existed at the crossing.

(2)

As hereinbefore stated, the specific relative unit values assigned by the Commission for determining the cost of maintaining automatic grade crossing protection, for the purposes of Section 1231.1 of the Public Utilities Code, are set forth in Appendix B of Decision No. 72225, above.

The question of the correct application of said relative unit values for determination herein concerns the number of units applicable to a Standard No. 8 flashing light signal (General Order No. 75-B) augmented with automatic crossing gate. The Department is unable to determine whether the number of units should be four or six. The following portions of Appendix B, above, are involved in the controversy:

Unit No.	Description	Relative Unit Value
20(b)	Highway grade crossing signal, wig-wag or flashing light type (one pair of flashing lights) with or without bell or reflectorized signs, per mast	2
20(d)	Each gate mechanism, automatic	4
21	Highway grade crossing gate, manual, per post	
	(a) Mechanical	1
	(b) Power	2

It is not clear, asserts the Department, whether No. 20(d) is simply a gate mechanism or whether it also includes flashing lights. Applicant contends, however, that No. 20(d) does contemplate a pair of flashing lights. Otherwise, there are two possible unit values expressed in the appendix where automatic crossing gates are involved. One would come under No. 20(d) for four units, while the other refers

to No. 21(b), for two units. According to the Department, it is inconsistent to arrive at a total of six units for flashing light signals with automatic gate (No. 20(b) plus No. 20(d)) and to make a determination of only four units for flashing light signal with power-operated manual gate (No. 20(b) plus No. 21(b)). The Department is of the opinion, therefore, that No. 20(d) contemplates flashing light signals, not just the crossing gate assembly, and that the applicable number of maintenance units for a Standard No. 8 flashing light signal with automatic crossing gate is four units.

The position of NWP on this question is that a flashing light signal augmented with an automatic crossing gate is to be assigned a total of six relative maintenance units. The carrier directs attention to the fact that in an exhibit of record herein and originally introduced in the proceeding in Case No. 8249, above, the table of relative unit values later set forth in Appendix B of Decision No. 72225 is shown, and various explanatory notes are included, taken from Interstate Commerce Commission instructions formulated for cost accounting purposes. Therein it is explained that No. 20(d), "Each gate mechanism, automatic" includes "gate arm with light or lights attached." No. 20(b) "Highway grade crossing signal... etc." is explained as covering "a mast with two flashing light units in the direction of traffic, crossbuck sign and STOP ON RED SIGNAL sign, and number of tracks sign, and takes into consideration control circuits". These explanations make it clear, NWP asserts, that No. 20(d) was not intended to include the Standard No. 8 flashing light signals as described in No. 20(b).

In further support of its position, NWP introduced copies of bills prepared by Southern Pacific Company on the basis of six

relative maintenance units (No. 20(b) plus No. 20(d)) for a flashing light signal augmented with automatic crossing gate, and copies of resolutions of this Commission (as hereinabove described) certifying said bills to the State Controller for payment to Southern Pacific Company from the grade crossing protection maintenance fund, per Section 1231.1 of the Public Utilities Code.

The carrier points out that the table of relative unit values in Appendix B of Decision No. 72225 is a system by which weights are assigned to various components of a signal system based upon the comparative cost of maintaining such components. The public projects engineer-signal testified that a Standard No. 8 flashing light signal augmented with an automatic gate arm costs approximately three times as much to maintain as does the automatic flashing light signal alone. This testimony, NWP argues, further supports its position that No. 20(d) is in addition to No. 20(b) and that a Standard No. 8 flashing light signal augmented with an automatic gate arm is to be assigned a total of six relative units.

As hereinbefore mentioned, the relative unit values set forth in Appendix B of Decision No. 72225 were prescribed in the order in that proceeding for the determination of cost of maintaining automatic grade crossing protection for the administration of Section 1231.1 of the Public Utilities Code. That section makes provision for an automatic grade-crossing protection fund for payment of the portion of maintenance costs assigned to cities, counties and cities and counties. The section does not relate to crossings over State Highways. Finding 2 of the decision reads:

"The table of relative unit values set forth in Exhibit 6 and in Appendix B hereof should be adopted for determining the cost

of automatic grade crossing protection." As also hereinbefore mentioned, the decision finds that a cost of $30 per relative unit is fair and reasonable for determining the annual cost of maintaining automatic protection as to the railroads, the local public agencies and the state agencies concerned. This, coupled with the unrestricted language in Finding 2, indicates that the decision contemplated that the set of relative units set forth in Appendix B should be considered as proper for determining maintenance costs of State highway crossings as well as other public crossings.

The investigation instituted in Case No. 8249, resulting in Decision No. 72225, was prompted by the enactment of Section 1231.1, and numbered paragraph 10 of the investigatory order related to procedures to be established in connection therewith. Numbered paragraph 2 of the order, it is noted, reads:

"To determine a method or methods of ascertaining maintenance cost of automatic grade crossing protection, both as to individual crossings and as to total requirements." No specific limitation is included in this language which would exclude State highway crossings from the scope of the proceeding. It is obvious from the record in the instant application that the parties proceeded with the tacit assumption, which appears justified, that the table of relative unit values in Appendix B is properly applicable to State highway crossings.

The interpretation placed by the Department on the description of Unit No. 21(b) appears to ignore the fact that that description refers to a manually-operated crossing gate, the mechanism of which is less complicated than that of an automatic gate with its track circuits and may therefore be reasonably expected to be less costly.

The inconsistency which applicant alleges to exist between the number of reletive units assigned to the crossing gates designated as 20(d), automatic, and 21(b), manual, is not convincing. The explanatory notes in the Interstate Commerce Commission instructions, hereinabove mentioned, make it clear in our opinion, that Unit No. 20(d) does not include a Standard No. 8 flashing light signal and that the gate and said flashing light signal with the necessary track circuits require a total of six relative maintenance units.

This view is consistent with the evidence in this record that bills have been consistently rendered by the carriers and have been certified by this Commission to the State Controller for payment on this basis; it is supported moreover by the expert testimony that the cost of maintaining a Standard No. 8 flashing light signal augmented with automatic gate is approximately three times the cost of maintaining the flashing light signal alone.

We further find that:

4. The description, "Each gate mechanism, automatic" (Unit No. 20(d) as used in Appendix B of Decision No. 72226) includes a gate arm with light or lights attached, but does not include a flashing light signal as embraced by Unit No. 20(b).

5. Pursuant to Decisions Nos. 72225 and 72226 the Commission has certified to the State Controller for payment bills presented on the basis of six relative maintenance unit values being assigned to a Standard No. 8 flashing light signal augmented with automatic gate.

6. The cost of maintaining a Standard No. 8 flashing light signal augmented with an automatic gate is approximately three times the cost of maintaining the Standard No. 8 flashing light signal alone.

7. The relative unit values to be assigned to a Standard No. 8 flashing light signal augmented with an automatic gate is six relative unit values.

(3)

The parties are in agreement and the evidence shows that a determination of the number of relative maintenance units applicable to the improved protection at the Alton crossings cannot be made until the work shall have been completed. At that time "as-built" plans can be prepared and made available by NWP. However, the parties are not agreed as to the necessity for such a determination by the Commission.

Applicant contends that, without such a determination by the Commission, the State is unable to ascertain the extent of its legal obligation, and it is therefore unable to make any payment for the maintenance in question.[10/] Applicant proposes that the Commission require NWP to file "as-built" plans with it following completion of the work and that the Commission take testimony or receive affidavits under oath containing pertinent factual matter relative to the installations, after which the Commission can then issue a supplemental order designating the proper number of maintenance units applicable to the improved crossing protection.

NWP argues that there are cogent reasons why the Commission should not make a finding as to the actual number of relative unit values to be apportioned to the State unless and until there is an actual dispute concerning the amount of the bill submitted to the State for maintenance after completion of the installation. The procedure urged by the Department, if adopted, would mean the issuance of a supplemental order (if not the holding of a second hearing) not

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10/ In the application, and at the hearing, Department requested that the Commission determine also the number of relative maintenance units presently applicable to the existing protection at the mainline crossing (No. 5-262.7). In its briefs, this point was not urged.

only in this case, but in practically every other case involving a State highway. Moreover, NWP asserts, additional orders (if not hearings) would be required whenever there might be a further modification of the crossing protection for any reason.

The carrier points out that the preliminary order in this proceeding, Decision No. 75033, simply apportions the cost of installation and alteration of the crossing protection on a 50-50 basis; that the Commission has not determined and set forth the exact amount to be paid by the State for such installation and alteration; and that it will not do so unless the parties have a dispute over the bill after it has been rendered. The carrier sees no reason why billing for maintenance costs should be treated any differently. Nor does it see why the Commission should increase its case load just because the crossing involved is a State highway.

By Decision No. 72225 (above), as amended, the Commission, in addition to its adoption of a system of relative maintenance unit values and a cost per unit, established a procedure for the billing, certification and payment of the portions of grade-crossing protection maintenance expense assigned to local bodies from the crossing protection fund created by Section 1231.1 of the Code. This procedure provides for the issuance of bills by the railroad on an annual basis, each copy of the first bill being supported by a legible copy of a layout sketch of the installation at the particular crossing involved, substantiating the number of relative units claimed, together with other supporting data, and certification by a responsible railroad officer as to the correctness of the information shown. If a similar arrangement is not in effect with respect to the billing of maintenance expense in connection with State highway crossings, it appears that it might well be adopted.

In connection with billing of protection maintenance expense under Section 1231.1 of the Code and Decision No. 72225, as amended, the bills are submitted by the carrier to the Commission for verification and certification to the State Controller for payment. It does not appear that such a procedure as proposed by the Department involving, in every instance in which an apportionment of crossing maintenance costs between a railroad and the Department has been already made by Commission order, the determination of the precise number of relative units involved and the issuance of a supplemental order, is either desirable or necessary. Verification by a responsible railroad officer as to the correctness of the billing, including the details of the "as-built" plans and supporting data, and direct handling of the matter between the carrier and the Department, should in most instances be sufficient.

Certainly, the Department can check the details of the bill against its own list of relative unit values to determine whether the units have been correctly applied, and if discrepancies are found, to handle further with the carrier for correction. In the event disagreement arises which the parties are unable to resolve, the matter can then be brought formally to the Commission's attention.

We further find that:

8. The table of relative maintenance unit values set forth in Appendix B of Decision No. 72225, together with the explanatory notes to which reference has hereinbefore been made, should furnish a sufficient guide for the Department to determine the correctness of the railroad billing of the State's portion of maintenance costs of the improved protection to be installed at the Alton crossings involved herein.

9. NWP should support its maintenance cost billings with "as-built" plans, diagrams and other supporting data, in sufficient detail to enable the Department to verify the correctness of said billings.

10. To require, in every instance, a supplemental order of the Commission, after hearing or other procedure, setting forth the total number of relative maintenance units involved in the improved Alton protection would place an undesirable and unnecessary burden on all parties concerned.

We conclude that:

1. The maintenance costs of the improved crossing protection to be installed at NWP crossings Nos. 5-262.7 and 5R-262.85 at Alton pursuant to Decision No. 75033 should be apportioned on the basis of the total number of relative maintenance units of said protection as improved.

2. In determining the total number of relative maintenance units to be assigned to said crossing protection as improved, the number of such units to be assigned to a Standard No. 8 flashing light signal augmented with an automatic gate should be six units.

3. The request of the Department for a supplemental order in this proceeding to be issued after the completion of the project authorized by Decision No. 75033, setting forth the total number of relative maintenance unit values to be assigned to the improved crossing protection should be denied.

O R D E R

IT IS ORDERED that:

1. The maintenance costs of the improved crossing protection to be installed at Northwestern Pacific Railroad Company crossings

Nos. 5-262.7 and 5R-262.85 shall be apportioned between said railroad and the California State Department of Public Works the same as is the cost of construction and installation of said improved protection, as provided in Section 1202.2 of the Public Utilities Code.

2. In apportioning said maintenance costs the percentages shall be applied to the total maintenance cost reflected by the total number of maintenance units assigned to the improved protection at said crossings.

3. In determining the total number of relative maintenance unit values applicable to said improved protection, the number of such unit values to be assigned to a Standard No. 8 flashing light signal (General Order No. 75-B) augmented with an automatic gate shall be six units.

4. Upon completion of the project authorized by Decision No. 75033, Northwestern Pacific Railroad Company shall support its maintenance cost billings with "as-built" plans, diagrams and other supporting data in sufficient detail to enable said Department to verify the correctness of said billings.

5. The request of said Department for a supplemental order in this proceeding to be issued after the completion of said projects,

setting forth the total number of relative maintenance unit values to be assigned to said improved crossing protection, is denied.

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

Dated at San Francisco, California, this 20th day of MAY, 1969.

William Symons, Jr.
President

Commissioners