

ORIGINALDecision No. 76243

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety,
 maintenance, operation, use and
 protection of the following
 crossings of Southern Pacific
 Company in the City of Guadalupe,
 County of Santa Barbara, Crossing
 No. E275.8, Crossing No. E275.9,
 Crossing No. E276.0, and adjacent
 trackage.

Case No. 7405

Harold S. Lentz, for Southern Pacific Company;
John L. Seitz and Gerald W. Shipsey, for
 the City of Guadalupe; Thomas P. Anderle,
James J. Oppen, and George P. Kading, for
 the County of Santa Barbara; respondents.
B. A. Peeters, Counsel, and William L. Oliver,
 for the Commission staff.

OPINION ON REHEARING

By Decision No. 69497, the Commission ordered the closing of the Ninth Street crossing in the City of Guadalupe (City) over the tracks of the Southern Pacific Company (Railroad) to pedestrian and vehicular traffic and the construction of a pedestrian bridge over the tracks. Ordering paragraph 2 of the decision, as amended by Decision No. 69690, directed City to construct and maintain the bridge and also a wire mesh fence at said crossing. Other provisions of Decision No. 69497 ordered Railroad to improve the protection of the Tenth and Eleventh Street crossings and provided for the allocation of construction costs at the three crossings between Railroad, City and the County of Santa Barbara (County), the three respondents herein. The time within which City was to comply with ordering paragraph 2 was extended by Decision No. 71789.

The Ninth Street crossing has been barricaded to vehicular traffic only. Railroad has a watchman on duty during school hours while it is in session and maintains an automatic signal at said crossing. The required improvement in protection at the Tenth and Eleventh Street crossings has been installed. All installation costs to date have been paid by Railroad.

A Petition for Rehearing by City with respect to said ordering paragraph 2 was granted by Decision No. 72636. Said decision set aside ordering paragraph 2 and reopened the proceeding for further hearing limited to the issues of the need for a pedestrian bridge over the Ninth Street crossing and, if such bridge be required, the terms upon which such bridge shall be constructed and the allocation of the costs of construction and maintenance thereof.

Public hearing in the reopened proceeding was held before Examiner Power on January 22, 1968, and before Examiner Mooney on March 12 and June 10, 1969, in Guadalupe. On the latter date, the three respondents stipulated that said ordering paragraph 2 should be reinstated. They asserted that an agreement which would resolve all of the differences between the parties was being negotiated and that upon execution thereof by all of the respondents, a copy would be filed with the Commission. The copy of the agreement was furnished to the Commission on September 2, 1969, and has been received in evidence as Late Filed Exhibit 21. The matter was submitted on said date.

According to the agreement, the cost of constructing the pedestrian bridge and fence would exceed the capitalized savings to Railroad resulting from the elimination of the watchman at the

Ninth Street crossing. The pertinent provisions of the agreement are as follows: Railroad will assume City's responsibility under said ordering paragraph 2 to construct the pedestrian overpass and fence; the overpass is to be constructed in accordance with the plans and elevations shown on Railroad's C.E. Drawing 35908, Sheet 2 of 12, revised May 12, 1969, a copy of which is attached to the agreement; Railroad shall bear the entire cost of such construction with the exception of any cost or expense incurred in acquiring any necessary property or property rights or relocating any utilities or obstructions other than Western Union Telegraph Company lines; City shall be liable for such acquisitions and relocations; City shall furnish Railroad with all plans, specifications and engineering data for said project heretofore prepared by civil engineers for City, and Railroad shall pay City the amount expended by City in connection therewith; upon completion of the construction of the overpass and fence, they shall become the property of City and shall be maintained by it. The agreement also states that construction costs of the improved protection at the Tenth and Eleventh Street crossings shall be allocated between respondents in accordance with the provisions of Decision No. 69497.

All parties agreed that the pedestrian overpass should be completed within 18 months after the issuance of an order by the Commission herein.

The Commission finds that:

1. The Ninth Street crossing has been barricaded to vehicular traffic only.
2. Said Ninth Street crossing is dangerous to public health and safety and should also be closed to pedestrian traffic at grade by the construction of a wire mesh fence thereat.

3. Public health, convenience and safety require that a pedestrian bridge be constructed over said Ninth Street crossing. Until the bridge is constructed, the watchman and automatic protection should be continued at the crossing.

4. The cost of construction of said pedestrian bridge and fence will exceed the capitalized savings to Railroad resulting from the elimination of the watchman and the closing of said Ninth Street crossing.

5. The costs of construction of said pedestrian bridge, the relocation of utilities and the acquisition of any necessary property or property rights in connection therewith and the cost of maintaining said structure should be in accordance with the terms of the agreement between Railroad, City and County set forth in Late Filed Exhibit 21.

The Commission concludes that subject to the modifications in the order which follows, ordering paragraph 2 of Decision No. 69497, as amended by Decision No. 69690, should be reinstated.

ORDER ON REHEARING

IT IS ORDERED that:

1. Subject to the following modifications, ordering paragraph 2 of Decision No. 69497, as amended by Decision No. 69690, is hereby reinstated:
 - a. The construction, maintenance and allocation of costs shall be in accordance with the agreement set forth in Late Filed Exhibit 21.
 - b. Any revisions or changes in the plans and specifications attached to the agreement

in Late Filed Exhibit 21 for the construction ordered herein shall be filed with the Commission prior to the commencement of construction.

- c. The construction ordered herein shall be completed within 18 months from the effective date hereof.
- d. Within thirty days after completion of work pursuant to this order, Southern Pacific Company and the City of Guadalupe shall each so advise this Commission in writing.

2. In all other respects, Decision No. 69497, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 30th day of SEPTEMBER, 1969.

William J. ...
President

[Signature]

[Signature]

Yvonne L. ...
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.