

ORIGINAL

Decision No. 78719

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation to establish
 procedure for making allocations to
 local agencies under the "Crossing
 Protection Maintenance Fund" provided
 for in Public Utilities Code
 section 1231.1, and to determine methods
 for automatic crossing protection.

Case No. 8249

Application of County of Monterey to
 reconstruct Grade Crossing No. E-133.9,
 Corda County Road, across right of way
 of the Southern Pacific Company.

Application No. 45058

and following proceedings wherein
 petitions for modification have been
 filed:

County of Monterey, Espinosa Road
 City of Davis, Fifth Street
 City of Anaheim, Katella Avenue
 Various crossings of SP Co., UPR Co.,
 and The AT&SF Rwy. Co.
 Crossings of PE Rwy.Co., La Verne and
 Pomona.

Application No. 45735
 Application No. 45895
 Application No. 46574

Case No. 7521

Case No. 7739

Investigation of crossing of The
 Atchison, Topeka and Santa Fe Railway
 Company at Lovekin Boulevard, Riverside
 County.

Case No. 8063

and following proceedings wherein
 allocation of maintenance costs has been
 deferred:

City of Los Angeles, Alcazar Street
 County of Merced, Shaefer
 County of Stanislaus, Kiernan Avenue
 City of Riverside, Kansas Avenue
 City of San Jose, Stokes Street
 Same
 City of Los Angeles, Woodman Avenue
 City of Industry, Amar Road
 City of Brawley, K Street
 San Fernando Road, Los Angeles
 City of San Jose, Santa Clara Street
 City of Azusa, Todd Avenue
 City of Guadalupe crossings
 City of Tehachapi crossings
 City of Downey, Woodruff Street

Application No. 46864

Case No. 7983

Case No. 7982

Case No. 8057

Application No. 45927

Case No. 7872

Application No. 46151

Case No. 8107

Case No. 8108

Case No. 7999

Application No. 47421

Application No. 46876

Case No. 7405

Case No. 8082

Case No. 8110

SUPPLEMENTAL OPINION AND ORDER

Decision No. 72225 in Case No. 3249 dated March 28, 1967, established procedures for making allocation to local agencies under the "Crossing Maintenance Fund" provided for in the Public Utilities Code Section 1231.1.^{1/}

Decision No. 72226 dated March 28, 1967, in Application No. 45053 et al, among other things, provided an interpretation of the language of Public Utilities Code Section 1202.2 as to what constitutes an alteration of automatic grade crossing protection. However, the meaning of the term "altered" has been questioned since these decisions were issued.

Upon overtures from the Department of Public Works for clarification of this question, the staff held meetings with various interested parties commencing in June 1970. As a result of these meetings, the staff drafted a proposed solution and submitted it to the Department and the railroads for review and comment.

Subsequently, at further meetings between representatives of the staff, the Department of Public Works, Southern Pacific Transportation Company, The Western Pacific Railroad Company, Union Pacific Railroad Company, and The Atchison, Topeka and Santa Fe Railway Company a revision of the staff draft was developed which set forth the conditions which would qualify a project as an altered grade crossing under Section 1202.2. All parties of record in this proceeding were apprised of the suggested revised definition of the

^{1/} Decision No. 72225 has been modified by Decision No. 73559, dated January 3, 1968 and Decision No. 75264 dated January 28, 1969.

term "altered" by letter of January 29, 1971, as follows:

"Gentlemen:

"This refers to the further meeting held on January 19, 1971, in the Commission's offices in San Francisco regarding the administration of the Grade Crossing Maintenance Fund and the question of what constitutes 'altered' protection as that term is used in the first sentence of Section 1202.2.

"The participants at the meeting tentatively concluded that only the following should qualify a grade crossing project for funds pursuant to Section 1202.2 of the Public Utilities Code as 'altered' protection:

- "1. Where Standard No. 8 flashing light signals are installed replacing a lesser type of automatic protection (General Order No. 75-B, Nos. 3, 4, 5, 6 or 7).
- "2. Where automatic gate or gates are installed where a lesser type of automatic protection is in place (General Order No. 75-B, Nos. 3, 4, 5, 6, 7 or 8), or where additional automatic gate or gates are installed.
- "3. Where a cantilever or cantilevers with flashing light signals are installed at a crossing which is also protected by Standard No. 8 flashing light signals or automatic gate or gates.

"It is further concluded that no steps will be taken to amend orders or resolutions of the Commission which have already apportioned maintenance costs.

"Your concurrence or comments with respect to the foregoing conclusions are requested. In the event full concurrence is received from the parties in the revised basis for qualifying a grade crossing for maintenance funds, the staff will recommend an ex parte order to the Commission recommending their adoption in place of any current standard. This letter is also being sent to the parties of record in Application No. 4505G, et al, in the event they may have some representation to make in this matter.

"It is understood, of course, that the actual amount of maintenance money, if any, to be paid to the railroad for a qualifying project will be determined as it has been in the past, in accordance with Section 1202.2."

The foregoing letter, in listing qualifying altered grade crossing protection, eliminated predictors.

Replies have been received from the League of California Cities, the County of Los Angeles, the City of Los Angeles, the California Department of Public Works, the California Railroad Association, Burlington Northern, The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Transportation Company, Union Pacific Railroad Company and The Western Pacific Railroad Company. All of these parties either concurred or had no objection to the proposal.

The proposed revision of the standards for determining what constitutes an altered crossing pursuant to Section 1202.2 has been worked out through conferences and correspondence between the staff, the Department of Public Works and other interested parties. No party of record has offered an objection to the adoption of the proposal.

The Commission finds that the foregoing proposal is not inconsistent with the conclusions reached in Decision No. 72226, supra, and that it would result in desirable clarification.

The Commission concludes that the proposed definition of "altered" protection should be adopted for the future for the purposes of apportioning maintenance costs under Section 1202.2 and that Decision No. 72226, supra, should be amended accordingly.

IT IS ORDERED that:

1. Only the following shall constitute altered automatic grade crossing protection pursuant to Section 1202.2 of the Public Utilities Code:

- a. Where Standard No. 8 flashing light signals are installed replacing a lesser type of automatic protection (General Order No. 75-B, Nos. 3, 4, 5, 6 or 7).

- b. Where automatic gate or gates are installed where a lesser type of automatic protection is in place (General Order No. 75-B, Nos. 3, 4, 5, 6, 7 or 8), or where additional automatic gate or gates are installed.
- c. Where a cantilever or cantilevers with flashing light signals are installed at a crossing which is also protected by Standard No. 3 flashing light signals or automatic gate or gates.

2. In all other respects Decision No. 72226 shall remain in full force and effect.

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

Dated at San Francisco, California, this 25th day of MAY, 1971.

[Signature] Chairman
William J. [Signature]
[Signature]
Vernon L. Sturgeon
[Signature] Commissioners