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Decision 79927

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the safety, maintenance, operation, use and protection of a crossing at grade of San Pablo Avenue (State Route No. 123) across the tracks of The Atchison, Topeka and Santa Fe Railway Company, identified as Crossing No. 2K-10.8, in the Town of Emeryville, County of Alameda.

Case No. 9297
(Filed November 30, 1971)

Neal W. McCrory, Attorney at Law, for The Atchison, Topeka and Santa Fe Railway Company; Melvin R. Dykman, Attorney at Law, for Department of Public Works, State of California; and C. E. Fletcher, Attorney at Law, for the City of Emeryville; respondents.
Elmer Siostrom, Attorney at Law, for the Commission staff.

O P I N I O N

By its order dated November 30, 1971, the Commission instituted an investigation into the safety, maintenance, operation, use and protection of a crossing at grade of San Pablo Avenue (State Route No. 123) across the tracks of The Atchison, Topeka and Santa Fe Railway Company (AT&SF) identified as Crossing No. 2K-10.8 in the Town of Emeryville, County of Alameda.

A public hearing was held before Examiner O'Leary on January 8, 1972 at San Francisco. The matter was submitted subject to the filing of the transcript which was filed on February 8, 1972.

An Assistant Transportation Engineer of the Commission staff prepared and presented a report (Exhibit 1) covering his analysis and recommendations for improved protection at the crossing. Exhibit 1 sets forth the following information.

San Pablo Avenue, including the grade crossing involved, is under the jurisdiction of the State Division of Highways. In conjunction with a state-wide program to upgrade protection on state highway grade crossings, the Commission staff in October of 1968 recommended that automatic gates be installed at the San Pablo Avenue grade crossing. It was subsequently placed on a priority list of approximately 40 grade crossings at which automatic gates were to be installed during the fiscal year 1968-69. In response to this recommendation service contracts were executed by the railroad and the State Department of Public Works to install automatic gates.

When the installation was approximately 50 percent completed, the railroad was forced to stop work because of intervention of city forces. The city representatives claimed that the railroad failed to obtain the required permits and easements to install this protection.

The San Pablo Avenue Grade Crossing No. 2K-10.8 is presently protected with two Standard No. 8 flashing light signals supplemented with flashing light signals on cantilever arms, which were installed and placed in service May 22, 1962. There are presently five tracks across this roadway but train operations are limited to two tracks with the others removed from service by missing rails or spiked switches. Train traffic consists of four scheduled moves per day with switching moves as required. Vehicular traffic is approximately 20,000 vehicles per day including many local and commute buses. Sight distances in three quadrants are inadequate.

The exhibit also discloses that between January 1, 1962 and December 30, 1971 there were three accidents at the crossing which occurred on March 12, 1963, October 6, 1966 and January 29, 1968. There were no injuries or fatalities in any of the accidents.

The Department of Public Works of the State of California and AT&SF do not oppose the installation of the automatic gates. The Department of Public Works and AT&SF entered into a service contract dated April 7, 1970 to install the automatic gates. A copy of said contract was received in evidence as Exhibit No. 3. The contract provides that costs will be borne equally by the Department of Public Works and AT&SF.

Emeryville is opposed to the installation of automatic gates. The city engineer of Emeryville testified there is very little train traffic and that although Exhibit 1 states there are four movements a day his observations disclose only two movements per day. He also testified that the trains move across San Pablo Avenue at a rate of speed not in excess of five miles per hour and that when the trains cross San Pablo Avenue, there is a flagman or a flare is tossed into the street while the No. 8 lights are operating. It is the opinion of the engineer that this is a safe way to stop traffic. The city engineer further testified that he was informed that gates were removed from a crossing in the past because they hindered rather than helped the situation. The record does not disclose whether the gates in question were automatic or manually operated. With respect to the three accidents set forth in Exhibit 1 the engineer testified that he checked Emeryville's records and found that the 1968 accident involved an automobile running into the side of the train. It is his opinion that automatic gates would not have prevented the accident. The city engineer also testified that the installation of the automatic gates would result in the stoppage of traffic for longer periods than needed.

Based upon the evidence adduced, the Commission finds that:

1. Approximately 20,000 vehicles including local and commute buses traverse the crossing daily.
2. There are at least two train movements daily.
3. Sight distances in three quadrants are inadequate.
4. Between January 1, 1962 and December 31, 1971 there were three accidents at the crossing. There were no injuries or fatalities in any of the accidents.
5. Public health, safety and welfare require that the crossing be protected by automatic gates in addition to the present Standard No. 8 flashing light signals.

The Commission concludes that such additional protection should be ordered.

O R D E R

IT IS ORDERED that:


1. Within one year after the effective date hereof, two automatic gate arms (General Order No. 75-B) shall be installed at San Pablo Avenue (State Route No. 123) Crossing No. 2K-10.8 to augment the existing Standard No. 8 flashing light signals.

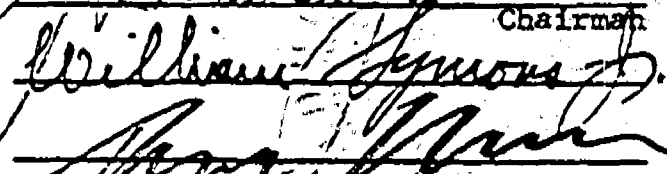
2. The cost of installing the automatic protection shall be apportioned 50 percent to The Atchison, Topeka and Santa Fe Railway Company and 50 percent to the State of California, Department of Public Works, and the cost of maintenance thereof shall be apportioned 50 percent to The Atchison Topeka and Santa Fe Railway Company and 50 percent to the State of California, Department of Public Works, pursuant to Section 1202.2 of the Public Utilities Code.

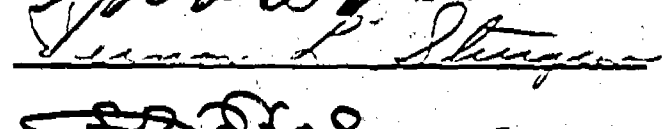
3. Within thirty days after completion of the work to be performed, The Atchison, Topeka and Santa Fe Railway Company shall so advise the Commission in writing.

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

Dated at San Francisco, California, this 11th day of APRIL, 1972.



Chairman


John L. Stenger


Commissioners