

Decision No. 83446

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the blocking of  
public grade crossings by rail-  
roads.

Case No. 8949

ORDER DISCONTINUING INVESTIGATION  
AND ADOPTING GENERAL ORDER

This is an investigation on the Commission's own motion into the blocking of public grade crossings by railroads. It was instituted for the purpose of determining:

1. Whether Commission Resolution No. S-1278, which now prescribes rules to be adopted by railroads regarding occupancy of public grade crossings, should be revised or revoked; and
2. Whether a general order should be promulgated regulating the occupancy of grade crossings by trains.

Public hearings were held, briefs were filed, and on November 9, 1970 a Proposed Report was issued. Exceptions to the Proposed Report and replies thereto were filed.

On August 14, 1973, an Interim Opinion was issued. Noting that Resolution S-1278 had "substantial deficiencies," it called on the Commission staff to consult further with the parties to the proceeding. Specifically, the staff was directed to prepare the following:

- (a) A suggested General Order providing for the regulation of the occupancy of public and publicly used grade crossings by railroad corporations;
- (b) Suggested procedural rules that may be required to implement the provisions of the General Order; and

- (c) Suggested procedures to be followed by the Commission to implement enforcement of the regulations by the district attorney of the proper county or city and county pursuant to the provisions of Section 2101 of the Public Utilities Code.

Accordingly the staff scheduled a meeting of all interested parties on March 14, 1974. The staff presented a proposed general order at the meeting for consideration and discussion. Suggested procedural provisions also were presented.

A second general meeting for all parties was held on May 8, 1974. Following this meeting the staff mailed to all interested parties a revised draft of the proposed general order, updated to reflect numerous revisions, including many that were suggested at the two meetings. All interested parties were asked to forward to the staff written comments and any suggested revisions of the proposed general order. The resulting written submissions, as well as other suggested changes, were discussed on July 9 at a third general meeting. A tentative concurrence on a proposed general order was reached at this July session.

Copies of the proposed general order then were mailed to all interested parties. All were informed that unless substantial objections were received within 20 days of the mailing, it was the staff's intention to recommend to the Commission the adoption of the proposed general order. No objections were received.

#### Findings of Fact

Upon consideration of the entire record and the results of the meetings that we ordered the staff to conduct, we find that:

1. The blocking of public grade crossings interferes with the freedom of access of the public using the streets and highways and can result in substantial traffic problems for the public agencies responsible for the control of traffic upon such streets and highways.

2. Public convenience and necessity require regulations which will require the clearing of crossings so as to result in the minimum delay to the public, and which will require the railroads to do their utmost to assist public agencies in combating the problems of blocking.

3. The regulations of Resolution No. S-1278 do not satisfy the requirements of public convenience and necessity.

4. The occupancy and blocking of public grade crossings by railroads and the clearing of such crossings by railroads necessarily involve the safety of railroad operations and are matters of statewide concern.

5. The regulations in the general order attached hereto as Appendix A will require the clearing of crossings so as to result in minimum delay to the public, will require the railroads to do their utmost, consistent with the requirements of safety and State and Federal regulations, to assist public agencies in combatting the problems of blocking, give due effect to the requirements of safety of railroad operations, and they are reasonable.

6. Effective enforcement of the regulations of the general order attached hereto requires that district attorneys prosecute noncompliance with said regulations by means of the issuance of misdemeanor complaints.

#### Conclusions of Law

1. The regulation of the occupancy or blocking of public grade crossings by railroads is a matter of statewide concern, is solely or primarily within the jurisdiction of the Commission, and is not a matter subject to municipal ordinances.

2. The Commission has the authority to promulgate regulations governing the occupancy or blocking of public grade crossings by railroads.

3. The Commission has the authority to delegate to local district attorneys the prosecution of violations of Commission regulations regarding the occupancy or blocking of public grade crossings by railroads.

The Commission finds that no further public hearings in this case are necessary and that the attached General Order should be adopted. ✓

O R D E R

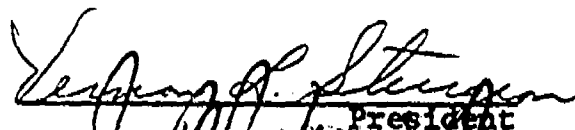
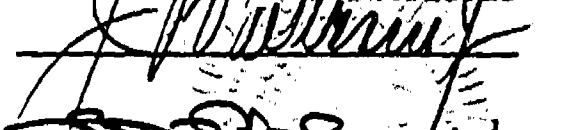
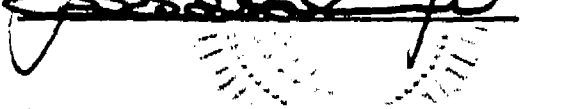
IT IS ORDERED that:

1. Resolution No. S-1278 and all filings of rules and regulations pursuant to said resolution are hereby cancelled. ✓
2. Case No. 8949 is hereby discontinued.
3. General Order No. 135, attached hereto as Appendix A, is adopted.

The Secretary of the Commission shall cause a copy of this order to be served upon all the railroad corporations operating in California and upon all parties who have indicated an interest in receiving further mailings in this proceeding.

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

Dated at San Francisco, California, this 11th day of September, 1974.

  
President  
  


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

PROPOSED GENERAL ORDER RE RAILROAD OPERATIONS OVER PUBLIC GRADE CROSSINGS

General Order No. 135

PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA

REGULATIONS GOVERNING THE OCCUPANCY OF PUBLIC GRADE CROSSINGS BY RAILROADS.

Adopted September 11, 1974 . Effective November 1, 1974 .

Decision No. 83446 in Case No. 8949.

IT IS ORDERED by the Public Utilities Commission of the State of California that each railroad corporation operating in the State of California shall observe the following regulations in conducting operations on and across public grade crossings:

1. TRAIN MOVEMENTS--Except as provided in Paragraph 5, a public grade crossing which is blocked by a stopped train, other than a passenger train, must be opened within 10 minutes, unless no vehicle or pedestrian is waiting at the crossing. Such a cleared crossing must be left open until it is known that the train is ready to depart. When recoupling such a train at the crossing, movement must be made promptly, consistent with safety.
2. SWITCHING MOVEMENTS--Switching over public grade crossings should be avoided whenever reasonably possible. If not reasonably possible, such crossings must be cleared frequently to allow a vehicle or pedestrian to pass and must not be occupied continuously for longer than 10 minutes unless no vehicle or pedestrian is waiting at the crossing.
3. GRADE CROSSING PROTECTION CIRCUITS--Cars or locomotives must not be left standing nor switches left open within the controlling circuits of automatic gate protection devices unless time-out features are provided to allow the gate arms to rise.

4. There are no time restrictions for crossing occupancy for a moving train continuing in the same direction.
5. These time limit provisions shall not apply to any blocking resulting from compliance with State and Federal laws and regulations, terrain and physical conditions, adverse weather conditions, conditions rendering the roadbed or track structure unsafe, mechanical failures, train accidents, or other occurrences over which the railroad has no control, except that such crossing shall be cleared with reasonable dispatch.
6. In the event of any uncontrolled blockage involving more than one grade crossing and a peace officer is on the scene, primary consideration shall be given to the clearing of that crossing which, in the peace officer's judgment, will result in the minimum delay to vehicular traffic.
7. A crew member of a train blocking a public crossing shall immediately take all reasonable steps, consistent with the safe operation of such train, to clear the crossing upon receiving information from a peace officer, member of any fire department, as defined in Section 2801 of the Vehicle Code, or operator of an emergency vehicle, as defined in Section 165 of the Vehicle Code, that emergency circumstances require the clearing of the crossing.
8. Any agreement between a railroad and a public agency in effect on the effective date hereof or, in accordance with Attachment A, subsequently approved by this Commission permitting certain crossings to be blocked for a time period other than specified herein shall prevail.

9. Any railroad or public agency<sup>1/</sup> may, by formal application to this Commission, request a variance from the regulations prescribed herein or have different regulations provided in connection with operations over a specific crossing where local conditions so require. The contents of the application shall be in accord with Rule 15 of the Commission's Rules of Practice and Procedure. The application shall detail any previous steps that may have been taken in an attempt to reach an agreement on the proposed variance and shall list any public agencies within the geographic area or any railroads that might be affected by the variance. A copy of the application shall be mailed to all such public agencies and railroads and a certificate of service regarding such mailings shall accompany the application filed with the Commission.
10. The district attorney of the proper county or the city attorney designated to prosecute misdemeanors in his stead shall prosecute noncompliance with this General Order by means of a misdemeanor complaint issued against the railroad corporation in accordance with Chapter 11, Part 1, Division 1 of the Public Utilities Code.

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<sup>1/</sup>Public Agency - The term "public agency" as used herein shall include the State, a county, an incorporated city or town, or any authorized agencies thereof.

This order shall become effective November 1, 1974.

Approved and dated at San Francisco, California, this 11th day of September, 1974.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

*William R. Johnson*  
By WILLIAM R. JOHNSON, Secretary



ATTACHMENT A  
(AGREEMENT re VARIANCE)

The following procedures shall be followed when Commission approval is sought for an agreement between a railroad and a public agency regarding any proposed variance from this General Order that is reached subsequent to the effective date of the general order.

A letter jointly signed by the parties to the agreement shall be filed with the Commission. Said letter shall state all information pertinent to the proposed variance agreed upon by the parties, including a traffic count for the crossing for which the variance is sought. In addition to the signing parties, the letter shall specify any other railroads or any other public agencies within the geographic area that might be affected by the variance, including the California Highway Patrol, the sheriff, and police and fire departments. A copy of the letter shall be mailed to all such public agencies and railroads and a certificate of service regarding such mailings shall accompany the letter filed with the Commission. Any affected public agency or railroad may file with the Commission an objection to the proposed variance no later than 20 days after the date on which the variance-request letter was mailed to the Commission.

Any variance granted shall be by a resolution adopted by the Commission after the Commission has determined that such variance would be in the public interest. The Commission will notify all parties and specified public agencies and railroads of whatever action it may take regarding the proposed variance, and will forward a copy of the resolution, if granted, to the parties. If not granted the parties may file a formal application seeking to obtain such variance.