

Decision No. 84338**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application  
of SOUTHERN CALIFORNIA RAPID  
TRANSIT DISTRICT, a public  
corporation of the State of  
California, for a finding and  
determination of public interest  
and necessity and authorizing  
the taking or acquisition of  
certain railroad trackage rights  
and ancillary facilities over a  
portion of the Coast Main Line  
route of the Southern Pacific  
Transportation Company.

Application No. 55378  
(Filed December 10, 1974)

ORDER GRANTING REHEARING

On February 28, 1975 Southern Pacific Transportation Company (petitioner) filed a petition for rehearing of Decision No. 84125. On March 10, 1975 Southern California Rapid Transit District (applicant) filed a reply to the petition for rehearing. The Commission, after considering each and every allegation of the petition, is of the opinion that good cause for rehearing of Decision No. 84125 has been shown.

A review of the pleadings herein shows that applicant, pursuant to Section 30503 of the Public Utilities Code, is seeking only determinations by this Commission that "public interest and necessity" require applicant's taking or acquisition of certain of petitioner's trackage rights and ancillary facilities over a portion of the Coast Main Line Route between Santa Barbara and Los Angeles, and that such taking or acquisition will not unreasonably impair petitioner's ability to provide safe, adequate, economical and efficient service.

The pleadings herein also show that assuming such findings by this Commission applicant will then exercise its option under Section 30503 of the Public Utilities Code to commence eminent domain proceedings in the appropriate superior court of this State in accordance with Sections 1237 et seq. of the Code of Civil Procedure. In other words applicant does not intend to exercise its other option under Section 30503 of the Public Utilities Code to seek a determination by this Commission, pursuant to Sections 1401 et seq. of the Public Utilities Code, of just compensation for such taking or acquisition.

Based on the foregoing, the finding in Decision No. 84125 that Application No. 55378 was brought pursuant to Sections 1401 et seq. of the Public Utilities Code is incorrect, and the order to show cause issued pursuant to Section 1405 of the Public Utilities Code, why the Commission should not fix the just compensation to be paid for the trackage rights and ancillary facilities should be vacated.

However, it is still appropriate that Application No. 55378 be set for hearing in order to determine whether the public interest and necessity require applicant's taking or acquisition of petitioner's trackage rights and ancillary facilities described in Application No. 55378, and whether such taking or acquisition will unreasonably impair petitioner's ability to provide safe, adequate, economical and efficient service. Such a hearing will not contravene any provisions of the United States Constitution or the California Constitution nor will such a hearing violate any state or federal statutes.

THEREFORE, IT IS ORDERED that:

1. Rehearing of Decision No. 84125 is hereby granted, said rehearing to be devoted to the issue of whether the public interest and necessity require applicant's taking or acquisition of petitioner's trackage rights and ancillary facilities described in Application No. 55378, and the issue of whether such taking or

acquisition will unreasonably impair petitioner's ability to provide safe, adequate, economical, and efficient service.

2. Said rehearing shall be held before Examiner Blecher on May 21, 1975 at 10:00 a.m. in the Commission Courtroom at 107 South Broadway, Los Angeles, California.

3. The respondent Southern Pacific Transportation Company shall file its response to the application not later than April 30, 1975.

4. The order to show cause issued in Decision No. 84125 is hereby vacated.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of APRIL, 1975.

Vernon L. Sturgeon  
President

William J. Quinn

[Signature]

Robert [Signature]  
Commissioners

Commissioner Leonard Ford, being necessarily absent, did not participate in the disposition of this proceeding.