

Decision No. 84339**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF THE COUNTY OF LOS )  
 ANGELES FOR THE CONSTRUCTION OF A )  
 GRADE SEPARATION OF HACIENDA )  
 BOULEVARD UNDER THE SOUTHERN )  
 PACIFIC TRANSPORTATION COMPANY )  
 TRACKS, CROSSING NO. B-500.5 IN )  
 THE CITY OF INDUSTRY, COUNTY OF )  
 LOS ANGELES. )

Application No. 55223  
 (Filed October 1, 1974)

ORDER DENYING REHEARING AND  
MODIFYING DECISION NO. 84088

By Application No. 55223, filed October 1, 1974, the County of Los Angeles (County) proposed the construction of a grade separation project known as the Hacienda Boulevard grade separation project, which is listed as Project No. 6 on the 1974-1975 grade separation priority list. A hearing was held in which the County, the Southern Pacific Transportation Company (SP), the State of California Department of Transportation (DOT), the City of Industry, and the Commission Staff participated.

On February 11, 1975, Decision No. 84088 was issued. The order contained therein authorized the County to construct a three track grade separation structure at the Hacienda Boulevard crossing, and apportioned 90 percent of the cost of the entire structure to the County, and 10 percent to SP.

On February 21, 1975, DOT filed a petition for rehearing of Decision No. 84088. This petition alleges primary error in that (1) the Commission has "... mistakenly conceived and overlooked ..." (Petition, p. 1) the effect of exhibits attached to the County's application showing a third track as part of the project, and therefore improperly concluded that the County must be viewed as the initiator of the three track structure, rather than a two track structure, and (2) in apportioning 90 percent of the costs to the County and 10 percent to SP.

As we noted in Decision No. 84088, the County maintained throughout the proceeding that it was the initiator of a two track structure and should pay its statutory portion, or 90 percent, of the cost of the two track structure, but that SP should be viewed as the initiator and should bear the cost of the third track. We also noted in Decision No. 84088 that under Section 2400(a) and (b) of the Streets and Highways Code, the project must be viewed as "... the grade separation and all approaches, ramps, etc., and since the grade separation is defined as the actual structure which separates the roadway from the railroad tracks, it is not reasonable to take the position that the third track portion of the structure is a separate project." (Decision No. 84088, p. 7.)

Section 1202.5(e) of the Public Utilities Code provides as follows:

"(e) In the event the commission finds that a particular project does not clearly fall within the provisions of any one of the above categories, the commission shall make a specific finding of fact on the relation of the project to each of the categories, and in apportioning the cost, it shall assess against the railroad a reasonable percentage, if any, of the cost not exceeding the percentage specified in subsection (b), dependent on the findings of the commission with respect to the relation of the project to each category. The remainder of such cost shall be apportioned against the public agency or agencies affected by the project."

Under Section 1202.5(b) of the Public Utilities Code, 10 percent of the cost of a grade separation project may be apportioned to the railroad. Viewing the three track structure as one project, it is clear that under Section 1202.5(e), no more than 10 percent of the cost of the third track could be apportioned to SP in any event. We conclude, therefore, that our determination as to apportionment of costs set forth in Decision No. 84088 should be reaffirmed.

Having reviewed each of petitioners' arguments, we are

therefore of the opinion that good cause for rehearing of Decision No. 84088 has not been made to appear. However, we are persuaded that our finding that "The County initiated the instant grade separation project" (Decision No. 84088, Finding No. 4), and our finding regarding apportionment of costs should be modified to more fully explain the relationship of the instant project to each of the categories set forth in Section 1202.5 of the Public Utilities Code and to more clearly set forth the basis for our apportionment of costs.

IT IS THEREFORE ORDERED that:

1. Rehearing of Decision No. 84088 is hereby denied.
2. Findings Nos. 4 and 5 of Decision No. 84088 are hereby modified to read as follows:


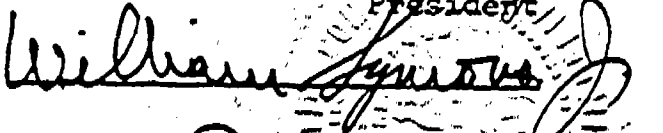

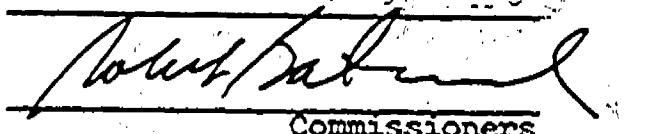
"4. The County has maintained throughout these proceedings that it should be viewed as the initiator of a two track project with costs apportioned in accordance with Section 1202.5(b) of the Public Utilities Code, but that the railroad should be viewed as the initiator and bear the cost of the third track portion of the project. Under the definition contained in Section 2400 of the Streets and Highways Code the entire three track structure proposed, must, however, be viewed as one project. In view of the substantial disagreement between the parties herein as to the extent of the project proposed by the County, it is not clear that the entire project can properly be viewed as having been initiated by the County. Inasmuch as the elimination of an existing grade crossing is involved, and it is clear that the railroad cannot properly be viewed as initiator of the project with respect to the initial two tracks, this project does not clearly fall within any of the categories set forth in Sections 1202.5(a)

through (d) of the Public Utilities Code. Apportionment of costs should therefore be made in accordance with Section 1202.5(e)."

"5. The cost for the project should be apportioned as follows: 90 percent of the cost of the project borne by the County of Los Angeles and 10 percent of the cost of the project borne by the Southern Pacific Transportation Company. This apportionment of costs is in accordance with the provisions of Section 1202.5(e)."

The effective date of this order is the date hereof.

Dated at San Francisco, California, on this 15<sup>th</sup> day of APRIL, 1975.

  
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President  
  
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Commissioners

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