

T/RRT/dw

Decision 88 03 035 MAR 09 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Fontana for)
an Order authorizing construction of a)
crossing at separated grades between)
Sierra Avenue and the track of The)
Atchison, Topeka & Santa Fe Railway)
Company, sometimes referred to as the)
"Sierra Avenue Underpass," PUC 2-88.7)

Application 84-03-036
(Filed March 9, 1984)

ORDER OF DISMISSAL

The City of Fontana (City) has requested authority to construct Sierra Avenue Underpass at separated grades under the tracks of The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) Main Line in Fontana, San Bernardino County.

By protest filed April 12, 1984, AT&SF stated that the application was premature and should be dismissed or held in abeyance until the City had reached an agreement with the two railroads involved concerning trackage rights and other problems concerning consolidation of trackage.

By letter of July 15, 1985 the City advised the Commission staff (staff) that agreement with AT&SF had been delayed due to Interstate Commerce Commission hearings concerning the proposed Southern Pacific - Santa Fe merger. At that time the City anticipated a quick resolution to the issue of the Sierra Underpass grade separation.

By letter of October 20, 1987 the staff informed the City because of the length of time involved since the original filing date of Application A. 84-03-036 that three options appeared to present themselves to applicant:

1. City request that the application be dismissed, with the understanding that a new application could be filed any time that the prospects for construction were viable.

2. Both the city and the railroad come to an early agreement and request that the Commission issue an order authorizing the construction of the underpass.

3. City advise the Commission that both parties were unable to reach an agreement and request that the matter be set for a hearing before an Administrative Law Judge.

The staff further advised City that unless it heard from the concerned parties within 30 days it would recommend that the matter be dismissed. On January 19, 1988 staff wrote city that since no reply had been received by the Commission to the staff's letter of October 20, 1987, the application would be recommended for dismissal. City has not responded to staff's October 20, 1987 and January 19, 1988 letters and therefore A. 84-03-036 should be dismissed. A public hearing is not necessary.

IT IS ORDERED that Application 84-03-036 is dismissed without prejudice.

This order is effective 30 days from today.

Dated MAR 09 1988, at San Francisco, California

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
C. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



Victor Weisser, Executive Director