

ORIGINAL

Decision 82 10 010 OCT 6 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

County of Los Angeles, )  
 State of California, )  
 )  
 Complainants, )  
 )  
 v. )  
 )  
 Southern Pacific Transportation )  
 Company, a corporation, )  
 )  
 Defendant. )

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Case 10575  
(Filed May 18, 1978)

ORDER DENYING PETITION TO  
REOPEN AND SET ASIDE D.82-06-045

On September 7, 1982, Southern Pacific Transportation Company (SP), respondent in this proceeding, filed its "Petition To Reopen Proceedings And Set Aside Decision No. 82-06-045." (This pleading was docketed as "Petition For Modification Of Decision 82-06-045".)

Among other things, Decision (D.) 82-06-045 directed SP to commence construction of station facilities and parking lots in order to facilitate the inauguration of rail commuter service between Los Angeles and Oxnard to be subsidized by the California Department of Transportation (CalTrans). In support of its request SP alleges that:

1. Environmental review is required, as a result of Senate Resolution No. 41 passed by the California Legislature on June 28, 1982.
2. CalTrans refuses to accept liability responsibility, which is part of the cost of its project.

3. The realistic construction time is 12 to 15 months, rather than the 90-day period ordered in D.82-06-045.
4. CalTrans is attempting to force SP to bear the consequences of CalTrans' lack of fair dealing with SP's tenants who would be impacted by the station construction.
5. CalTrans is attempting to make SP pay for CalTrans' failure to comply with the portion of D.93320 directing CalTrans to find a solution to avoid delay problems resulting from the meeting of Amtrak trains and commuter trains.
6. CalTrans is not willing to fully reimburse SP for construction to be performed by SP.
7. A cost/benefit analysis should be conducted which SP alleges would preclude funding for the commuter train service.
8. CalTrans has failed to follow Rail Service Planning Office (RSPO) standards with respect to start-up costs and for protection of SP's existing freight business.

CalTrans asks that SP's petition to reopen the proceeding be denied in its merits and because it does not comply with Rule 84 of the Commission's Rules of Practice and Procedure, which requires that a petition to set aside submission and reopen should be filed before the issuance of a decision.

CalTrans asserts that Senate Resolution No. 41 does not require further environmental review by this Commission; that resolution only expresses desire of the Legislature for local review. D.91847 dated June 3, 1980 in C.10575 found that the proposed rail commuter service required neither an alternative analysis nor an environmental impact report. That decision is final.

The other issues raised by SP as a basis for reopening C.10575 have been fully considered and D.91847 and D.82-06-045 ruling on such issues have become final. Those decisions directed that the necessary station and parking lot construction and track work be done by SP and that disputes concerning payment for such services should be settled after the work is completed. By its petition, SP apparently is not satisfied with such conditions and seeks to have them litigated prior to commencement of any work by it.

It is clear that if the rail commuter service contemplated by D.91847 and D.82-06-045 is to commence within a reasonable time, it is not possible to resolve all questions of payment for service prior to inauguration of the construction program directed in those decisions. By its own admission, SP has not proceeded beyond the development of designs and plans with that construction program.

This is an emergency order under the meaning of § 306(b) of the Public Utilities Code and is added to the Commissioner's agenda without notice in order to be signed concurrently with our order in C.82-08-01.

#### Findings of Fact

1. D.91847 and D.82-06-045 are final orders. No petition for rehearing of D.82-06-045 was filed by SP.
2. The issues raised in SP's petition were litigated in D.91847 and D.82-06-045, and findings and conclusions with respect to such issues are contained in those decisions.

#### Conclusions of Law

1. No reasons have been made to appear to reopen C.10575 or to modify our findings and conclusions or orders in D.91847 and D.82-06-045.

2. SP's petition should be denied.

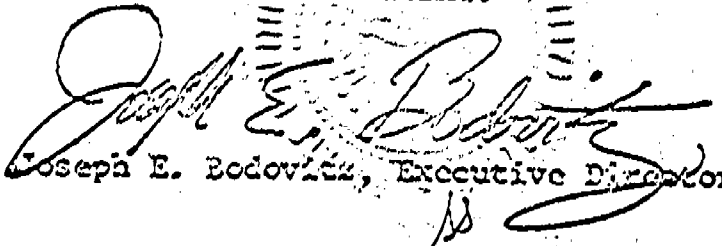
IT IS ORDERED that the pleading filed September 7, 1982 in C.10575 and docketed as Petition For Modification Of Decision 82-06-045 By Southern Pacific Transportation Company is denied.

This order becomes effective 30 days from today.

Dated OCT 6 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. GREW  
Commissioners

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

  
Joseph E. Bodovick, Executive Director