

L/mbh

Decision No. 92226 SEP 3 - 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the CITY OF SAN CLEMENTE to abolish)
an existing pedestrian underpass)
and, in place thereof, to construct)
a pedestrian at-grade crossing over)
the right-of-way of the Atchison,)
Topeka, and Santa Fe Railway Company.)

Application No. 55451

ORDER MODIFYING DECISION NO. 91859
AND DENYING REHEARING

The Atchison, Topeka and Santa Fe Railway has filed a petition for modification of Decision No. 91859 and the Department of Transportation of the State of California has filed a petition for rehearing of said Decision. The Commission has considered each and every allegation of said petitions and is of the opinion that said Decision should be modified as hereafter set forth, and otherwise denied, therefore,

IT IS ORDERED that Decision No. 91859 should be modified as follows:

Findings of Fact No. 37 is modified to read:

"37. The cost of constructing the at-grade crossing, the cost of the automatic protection equipment, and the cost of installing that equipment should be borne by applicant."

Finding of Fact No. 38 is modified to read:

"38. It should be the responsibility of Santa Fe to maintain the at-grade crossing area between lines two feet outside of the rails, and to maintain the automatic crossing protection. The cost of all such maintenance should be borne by applicant."

Finding of Fact No. 61 is added to read:

"61. Applicant stipulated with Santa Fe that the Commission may issue its order authorizing construction and maintenance of the private crossing described herein (which private crossing is an integral part of the combination at-grade crossing) only upon the expressed condition that before work may begin, applicant must first execute the agreement in the form attached to Exhibit 48, with costs reestimated at the level prevailing at the time of execution; and further that any order authorizing construction and maintenance of said crossing be conditioned on execution of the agreement within 18 months following its issuance, otherwise such order to be of no further force and effect."

IT IS FURTHER ORDERED that Ordering Paragraphs 14 and 15 are added to said Decision to read as follows:


"14. Before work may begin on the combination at-grade crossing authorized herein applicant must first execute the private crossing agreement in the form attached to Exhibit 48, with costs reestimated at the level prevailing at the time of execution."


"15. The authorization herein to construct a combination at-grade crossing is conditioned on execution by applicant of the private crossing agreement attached to Exhibit 48 within 18 months of the date of this order."


IT IS FURTHER ORDERED that the petition for modification and the petition for rehearing filed herein are otherwise denied.


The effective date of this order is the date hereof.


Dated SEP 3 - 1980, at San Francisco, California.



President








Commissioners