

Decision No. 92943 APR 21 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Davis, a
Municipal corporation, to maintain
pedestrian and bicycle grade cross-
ing across the right of way of
Southern Pacific.

Application No. 58422
(Filed October 20, 1978)

Louis B. Green, City Attorney, for applicant.
Harold S. Lentz, Attorney at Law, for
Southern Pacific Transportation Company,
respondent.
Robert W. Stich, for the Commission staff.

ORDER OF DISMISSAL

This is an application by the city of Davis (City) seeking authority to maintain a pedestrian and bicycle crossing at grade across the right-of-way of the Southern Pacific Transportation Company (SP).

A duly noticed public hearing was held in this matter before Administrative Law Judge Donald B. Jarvis in Davis on February 21, 1979 and in San Francisco on April 24, 1979. The evidence adduced at the hearing indicated that the crossing was not a public crossing or a publicly used one as defined in Section 1202.3 of the Public Utilities Code. The proposed crossing would go from private property across the SP right-of-way to property owned by SP.

The presiding ALJ temporarily removed the matter from the Commission's calendar to afford City the opportunity to secure the dedication required by Section 1202.3(a) or otherwise take appropriate action to confer jurisdiction on the Commission. The presiding ALJ granted leave to amend the application to show the facts conferring jurisdiction under Section 1202.3 and to comply with Rule 38 in

describing the crossing. He indicated that when an appropriate amendment was filed the matter would be expeditiously recalendared.


On November 28, 1980, the presiding ALJ directed an inquiry to City about the status of the matter. On February 2, 1981 City filed a request for dismissal of the application without prejudice. The request indicates that despite its attempts, it has been unable to secure the dedication of roadway on the adjoining private property.


The Commission is of the opinion that the application should be dismissed without prejudice.

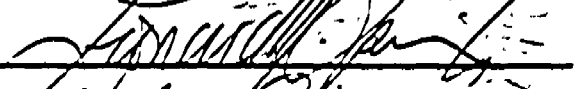
IT IS ORDERED that Application No. 58422 is dismissed without prejudice.


The effective date of this order shall be thirty days after the date hereof.


Dated APR 21 1981, at San Francisco, California.



President







Commissioners