

ORIGINAL

Decision No. 92993 MAY 5 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Gabriel, California for an order authorizing lowering of the main line of the Southern Pacific Transportation Company and the construction of Ramona Street, Mission Drive, Del Mar Avenue, and San Gabriel Boulevard at separated grades, in the City of San Gabriel, Los Angeles County.

Application No. 55947 (Filed September 19, 1975; Reopened May 6, 1980 by Resolution No. EX-1273)

Dwight F. French and Frank Forbes, for applicant. William E. Still, Attorney at Law, for Southern Pacific Transportation Company; Richard M. Carman, for Better Government Association of California; Earl L. Friend, for himself; and Mrs. Dorothy F. Schneider, for herself; protestants. Robert W. Stich, for the Commission staff.

OPINION AND ORDER ON REQUEST FOR EXTENSION OF TIME

By Application No. 55947, filed on September 19, 1975, the city of San Gabriel (City) sought an order authorizing the lowering of the main line tracks of the Southern Pacific Transportation Company (SP) and the construction of crossings at separated grades at Ramona Street, Mission Drive, Del Mar Avenue, and San Gabriel Boulevard. Two days of public hearing were held on August 24 and 25, 1976. Decision No. 87032 was issued on March 1, 1977, authorizing the project.

The order in Decision No. 87032 required that the project be constructed substantially in accord with the plans attached to Application No. 55947 as Exhibit B and that the construction and maintenance costs be borne in accordance with an agreement to be entered into between the parties, or should the parties fail to agree, costs would be apportioned by further order of the Commission. The order also provided that plans of the project should be subject to the approval of SP and allowed the City three years within which to exercise the authority granted.

By a petition dated April 29, 1977, the City requested that Decision No. 87032 be modified with regard to the protection to be provided at the temporary detour crossings required during the construction of the lowering project. The requested modifications to Decision No. 87032 were granted by Decision No. 88323 dated January 10, 1978.

By a letter dated December 14, 1979, the City requested an additional three years within which to exercise the authority granted by Decision No. 87032, as modified by Decision No. 88323, which authority was due to expire on March 1, 1980. In justification therefor, the City alleged that project funding was being actively pursued and that it appeared funding for the project would be available within the next year. SP, by its letter of February 20, 1980, strongly opposed the City's request for an extension of time. In that letter SP alleged that there has been a change of circumstances in various material respects since the issuance of Decision No. 87032. By Resolution No. ET-1273, dated May 6, 1980, the Commission granted an interim extension of time on the authority granted in Decision No. 87032 "for the sole purpose of allowing the Commission to hear the matter and determine whether a permanent extension should be granted."

The public hearing called for by the above resolution was held before Administrative Law Judge Main on October 1, 1980 in Los Angeles. At the conclusion of the hearing, the matter was submitted subject to opening briefs being filed by December 5, 1980 and optional reply briefs by December 16, 1980.

Position of the City

The City has been working for more than 10 years to eliminate the four at-grade crossings and has expended over \$500,000 for plans and engineering. The City recognizes that some revisions will be necessary to the plans but is reluctant to expend further sums for that purpose until it can obtain some assurance that the project can be funded.

Subsequent to obtaining the authority to construct in March 1977 (Decision No. 87032, supra), the criteria for obtaining state funding changed, making it impossible to obtain funding for this project, because of its cost exceeding \$5 million, without securing passage of implementing legislation. Three bills have been submitted to the State Legislature for that purpose.

The City believes that it will be successful in obtaining the necessary funding provided it is permitted to negotiate with the Legislature in its present posture of having an order from the Commission in effect authorizing construction of the project. Conversely, the City believes that if the authority to construct is allowed to expire, the City will be unable to persuade the Legislature to provide the necessary funding for this project for that reason alone.

Should the requested extension of time be denied, it would be necessary for the City to file a new application for authority to construct the project and be subjected to further hearings to again prove to the Commission that this is a well-planned and much-needed project. Although individual opponents of the project circulated numerous postcards and created considerable confusion in connection with the prior hearings, only a handful of persons actually opposed the project. The City is reluctant to involve the community in a repetition of the turmoil which a new application could engender.

Position of the SP

SP opposes the granting of the extension of time, contending that the existing plans for construction of this project require extensive revisions, that those revisions will demonstrate drastic changes in originally planned costs, and that a project of this magnitude and cost requires a full technical scrutiny. Moreover, SP stresses that, without definitive plans for the construction of the project which are a prerequisite to valid cost estimates, it has not even been able to quantify what its financial obligation would be (i.e., what the dollar value of its portion of the funding of the project would be under a cost apportionment agreement).

Position of the Staff

The staff recommends that the City be granted a three-year extension of time within which to construct its lowering project. In evaluating this matter the staff reached a number of conclusions, the first three of which were:

1. The City is diligently pursuing sources of funding for the lowering project.
2. Denial of the requested extension of time would hinder the City's efforts to seek sources of funding.

3. It is not reasonable to require the City to suspend several hundred thousand dollars at this time to prepare final plans, specifications, and cost estimates.

#### Discussion

By Decision 87032, dated March 1, 1977, we authorized the City of San Gabriel to construct a grade separation project at the intersection of Ramona Street, Mission Drive, Del Mar Avenue, and San Gabriel Boulevard in the City of San Gabriel. (Ordering Paragraph 1.) At the time we authorized construction of the project, the City had submitted specific plans indicating project costs at approximately \$7.5 million. We recognize that from the date of authorization to the present time, the City has experienced some difficulty in obtaining funding for the project due to changes in state funding criteria. We further recognize that project costs have increased in the intervening years and that the City's original plans for construction have changed. Nowwithstanding increased project costs and required changes in project design, we are still of the opinion that the proposed project is worthwhile and necessary to ensure public safety. While Southern Pacific points out that no definitive plans exist for the project as currently contemplated and that, as a result, Southern Pacific cannot project its proportionate costs, we are not persuaded that this factor is determinative of whether we should grant the City an extension of our authorization to construct the project.

Clearly, the project is needed. Moreover, the fact that the City is actively and diligently seeking legislative funding persuades us to support the City in its efforts. We believe that our renewed support of the project will buttress the City's bid for funding from the State Legislature. To withdraw our support at this time by denying an extension of project authorization would serve no useful purpose, and since the underlying urgency and necessity for the project continues to exist, the City would only be forced to apply again at a future date at additional expense and time. Furthermore, an extension of time to allow the City to obtain funding for the project places no undue burden on Southern Pacific.

Accordingly, we believe that the City should be given a one year extension of project authorization to obtain funding for the project from the State Legislature. If funding is obtained, the Commission will require the City to submit its revised construction plans and cost estimates for review. At that time the Commission shall decide whether further hearing is necessary. In the event State funding is not obtained, the City may file a petition to show why Commission authorization for the project should again be extended.

Findings of Fact

1. The City's grade separation project, authorized by Decision 87032, dated March 1, 1977, is still worthwhile and necessary to ensure public safety.

2. The City has been attempting to eliminate the four at-grade crossings at Ramona Street, Mission Drive, Del Mar Avenue, and San Gabriel Boulevard for more than ten years.

3. The City has experienced difficulty in obtaining funding for the project due to changes in criteria for State funding.

4. An extension of California Public Utilities Commission's authorization for the project would allow the City to continue to seek project funding from the State Legislature.

Conclusion of Law

A one-year extension of time within which to exercise the authority given in Decision 87032 to construct the City's grade separation project should be granted in order to allow the City to continue efforts to seek funding from the State Legislature.



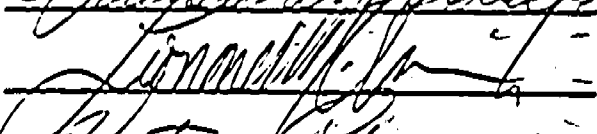
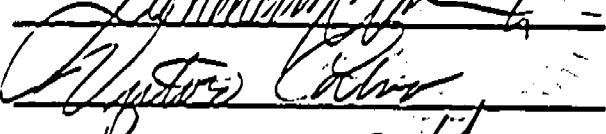
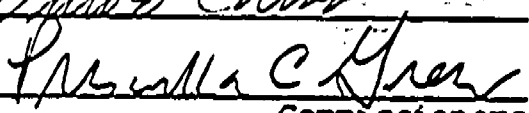
IT IS ORDERED that the City of San Gabriel shall be given a one-year extension of time within which to exercise the authority to construct the City's grade separation project authorized in Decision 87032. Said extension of time shall begin

on the effective date of this decision and expire one year thereafter. Upon obtaining funding for the project within the one-year period, the City shall file within 90 days an amended application detailing revised project construction plans and cost estimates for the Commission's review.

The Commission will thereafter determine whether further hearings on the project and/or additional extensions of Commission authorization for the project are necessary. In the event that the City is unable to obtain funding at the expiration of the one-year extension authorized herein, the City may file a petition to show why Commission authorization for the project should be continued.

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

Dated                     MAY 5 1981                     at San Francisco,  
California.

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President  
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Commissioners