

ALJ/PSW/avs

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Decision 99-02-030 February 4, 1999

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

City of San Leandro,

Complainant,

vs.

Southern Pacific Lines, Inc., a California
Corporation,

Defendant.

Case 95-08-061
(Filed August 16, 1995)

O P I N I O N

Summary

We accept a stipulated dismissal regarding the complaint of the City of San Leandro concerning the state of repair of certain crossings.

Discussion

On August 16, 1995, the City of San Leandro (San Leandro) filed this complaint against Southern Pacific Lines, Inc. (an often confused name for Southern Pacific Transportation Company) (Southern Pacific). San Leandro complained about disrepair of certain railroad crossings on San Leandro's streets.

At the urging of the Administrative Law Judge, several meetings occurred between San Leandro, Southern Pacific and the Commission's staff in an effort to resolve these matters. Two prehearing conferences were held. During the course of this complaint, Southern Pacific was acquired by Union Pacific Railroad Company. Over the period of time from the filing of the complaint until

November 12, 1998, the parties made various agreements and the crossings were finally brought into acceptable condition. As a result, on November 12, 1998, San Leandro and Southern Pacific filed a Stipulated Dismissal. This document indicates that the crossings specified in the complaint have been repaired, with the exception of one crossing that was deleted from the complaint. In filing this Stipulated Dismissal, San Leandro preserved its rights to file a new complaint if conditions at the crossings deteriorate or if any other facts warrant. Similarly, both parties reserve the right to continue to work together toward a permanent upgrade of the crossings within San Leandro.

Although the initial complaint was contested, this disposition is not and this order grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. San Leandro filed a complaint concerning the conditions of specified crossings of its streets by Southern Pacific.
2. The parties have resolved the dispute by the repair of these crossings, except for one crossing which has been deleted from the complaint
3. San Leandro and Southern Pacific have signed and filed a Stipulated Dismissal, indicating that the issues in the complaint have been resolved; therefore the relief granted in this order is the relief requested and is uncontested.

Conclusions of Law

1. The issues in this complaint have been resolved and the Stipulated Dismissal signed by both parties should be granted.
2. Since there is no longer an issue between the parties, this order should become effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. The Stipulated Dismissal filed by the City of San Leandro and Southern Pacific Transportation Company is accepted and the case is dismissed.
2. This proceeding is closed.

This order is effective today.

Dated February 4, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners