

Opinion No. 15-1511

April 28, 1915

BY: FRANK W. CLANCY, Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico.

Power of State Corporation Commission to require railroad companies to provide necessary crossings.

OPINION

{*100} In response to your inquiry as to your power to require railroad companies to provide and maintain necessary crossings, as to which I understand that some objection is made by the Southern Pacific Company on the ground that the company ought not to be required to provide and maintain a crossing unless a public highway has been established crossing the railroad track, I must say that I am unable to agree that your power is limited in any such way. The constitutional provision authorizes you to require railway companies to provide and maintain necessary crossings whenever, in your judgment, the public interests demand, and as may be reasonable and just. The only limitation to be found is that it must be reasonable and just to require a crossing to be established, and I am strongly of opinion that you are not limited to requiring companies to maintain crossings at public roads. I can easily imagine cases where, even though there were no public highways, it would be reasonable and just to require the railroad company to put in crossings.

Of course if the company persists in refusing to establish the crossing, a hearing should be ordered, and if either side is not satisfied with your decision it can take an appeal to the supreme court and have your decision reviewed.