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PUBLIC UTILITIES - CALIFORNIA

BNSF Railway Company v. Public Utilities Commission

Court of Appeal, Third District, California - August 5, 2013 - Cal.Rptr.3d - 13 Cal. Daily Op. Serv. 8455

Railroads petitioned for writ of review challenging Public Utilities Commission's (PUC) determination that it had the authority to order railroads to stop using locomotive-mounted horns at certain pedestrian rail crossings.

The Court of Appeal held that PUC lacks authority to order railroads to stop using locomotive-mounted horns at rail crossings outside federal quiet zones.

The Federal Railroad Administration regulations making the sounding of a locomotive-mounted audible warning device at public highway-rail grade crossings a requirement of federal law leave the sounding of locomotive horns at pedestrian crossings entirely to the states to regulate.

Under the state statute mandating that "a bell, siren, horn, whistle, or similar audible warning device shall be sounded," in accordance with a federal regulation requiring that such devices be mounted on a locomotive, at any public crossing or any other rail crossing except a crossing in a federal quiet zone, the PUC lacks authority to order railroads to stop using locomotive-mounted horns at pedestrian rail crossings outside federal quiet zones.