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Decision No. 18217

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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HARRY V. MASSENA,

Complainant,

-vs-

ATCHISON TOPEKA & SANTA FE RAILWAY  
COMPANY,

Defendant.

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:

)Case No. 2004

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Alfred Siemon for Complainant

Robert Brennan for Defendant.

BY THE COMMISSION:

O P I N I O N

Harry V. Massena, operating a hotel in the City of Bakersfield, complains that the operation by defendant, Atchison, Topeka and Santa Fe Railway Company, of its railroad in the City of Bakersfield is so conducted that it causes public inconvenience and annoyance, unnecessarily interrupts highway traffic at railroad crossings, and the enjoyment of private property. Complainant alleges that crossing bells, which are a portion of automatic protective devices at crossings, ring unnecessarily and when no protection is afforded by such ringing; that switching operations are performed over "F" Street Crossing which are unnecessary and create a hazard of accident and an interference with highway traffic desiring to use said

"F" Street crossing; that all of the crossings of the defendant company are in bad condition in that they are rough, uneven and unpaved; and that unnecessary noises are made in switching operations.

Defendant herein duly filed its answer and amended answer in which a general denial of the allegations of the complaint was made.

A public hearing on this complaint was conducted by Examiner Handford at Bakersfield on October 17, 1924, at which time the matter was duly submitted and it is now ready for decision.

At the hearing it was stipulated that all but one of the items of complaint had been corrected by the defendant to such extent that reasonable cause for complaint was no longer present and that as to such items the complaint could be dismissed.

By reason of this stipulation the only issue to be determined herein is the complaint regarding the blocking of street crossings by the switching operations of defendant company and the inconvenience and annoyance caused by the noise of engine bells, escaping steam from locomotives and the handling of cars incidental to switching over lead tracks at the east end of defendant's Bakersfield Yard.

The Bakersfield freight yard of the Atchison, Topeka and Santa Fe Railway Company is located in the westerly portion of the city and generally within the area bounded on the north by Fifteenth Street, on the east by "F" Street, on the south by Thirteenth Street, and on the west by Oak Street. Switching operations are conducted from lead tracks at both the west and east ends of the yard. In switching from lead tracks at the

east end of the yard, operations are conducted across "F", "G", "H", "I", Streets, Chester Avenue, "K", "L" and "M" Streets, and these streets are crossed most frequently in the order named. It was testified by witnesses for complainant that the switching over the lead at the east end of the yard often resulted in the blocking of these crossings, especially the crossing at "F" Street, which is the heaviest travelled street and is one used by residents of the southwesterly portion of Bakersfield and particularly as a method of access to the Kern County Union High School. The intersection of "F" Street and Fifteenth Street is also the terminus of one of the lines of the Bakersfield & Kern Electric Railway and connection is made with bus line feeders operated by such company, passengers being required to walk across the tracks of the defendant company at the "F" Street crossing in making transfer between the bus and street car.

Witnesses for complainant also testified as to the annoyance caused by the noise of switch and road engines both as to switching operations and by reason of the ringing of locomotive bells, escaping steam from locomotive safety valves and exhaust from locomotives when same were unable to secure proper traction and drivers were slipping. These annoyances are claimed to be particularly objectionable during the night hours in that they interfere with the rest of residents living adjacent to the tracks of the defendant.

It appears from the evidence of witnesses for defendant that due to the physical layout of Bakersfield Yard it is impossible to handle the freight business of defendant by concentrating all the classification and other switching upon the lead tracks at the west end of the yard, but that at present

and for some time past approximately two-thirds of the switching has been handled over the lead tracks at such end of the yard. There is some switching, however, that must be done from the lead tracks at the east end of the yard and also certain industries that must be served in the handling of their carload shipments over these lead tracks. Witnesses produced by defendant testified that they had frequently used the "F" Street crossing and while at times they had been compelled to wait for a train to clear the crossing it was more noticeable when a long freight train was passing than when switching operations were being conducted, and that in general no unreasonable delay had been experienced or observed.

Bakersfield is a point on the line of defendant's railroad where two divisions are served by the freight yard. Trains arriving from Valley Division points pull into the yard from the west end and are then switched and classified as to local business for Bakersfield, cars for the Sunset Railway, and for eastern movement over the Tehachapi mountains. Perishables are often re-iced for the beginning of their trip over the mountains and across the desert. In like manner trains arriving from the Arizona Division and passing into the yard over the easterly lead tracks require to be broken up and classified for their movement to San Joaquin Valley points, to San Francisco Bay points and to northern connections. Trains received from the east require handling in their break-up and classification principally over the lead tracks at the east end of Bakersfield Yard and such switching is the cause of some obstruction to the crossings herein referred to. It is clearly shown by the evidence herein that the use of a switching lead at the east end of the Bakersfield Yard of defendant railway is necessary for the proper and expeditious handling of defendant's trains and the elimination of the interference with

highway traffic on the streets can only be accomplished by either an entire rearrangement of the yard and its possible re-establishment in some other location or a separation of grades at the "F" Street crossing. Either of these definite solutions of the problem would require a considerable capital expenditure on the part of defendant, and in the case of a separation of grades at "F" Street crossing some portion of the resultant cost would require to be met by the City of Bakersfield. It has not been shown herein that the complaint justifies the considerable expenditure that would be necessary to furnish the complete relief that would be accorded by the ultimate solution proposed.

As to the complaint arising from the noise of locomotive bells, escaping steam from locomotives and locomotive exhausts, Statutory provisions govern the matter of the use of locomotive bells as contained in the following code provisions:

Paragraph 390 - Penal Code of California.

"Every person in charge of a locomotive-engine who, before crossing any traveled public way, omits to cause a bell to ring or steam-whistle to sound at the distance of at least eighty rods from the crossing, and up to it, is guilty of a misdemeanor."

Paragraph 486 - Civil Code of California.

"A bell, of at least twenty pounds weight, must be placed on each locomotive-engine, and be rung at a distance of at least eighty rods from the place where the railroad crosses any street, road or highway, and be kept ringing until it has crossed such street, road or highway; or a steam-whistle must be attached, and be sounded, except in cities, at the like distance, and be kept sounding at intervals until it has crossed the same, under a penalty of one hundred dollars for every neglect, to

be paid by the corporation operating the railroad, which may be recovered in an action prosecuted by the district attorney of the proper county for the use of the state. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train or cars, when the provisions of this section are not complied with."

The locomotive bells of the defendant company are mechanically operated by a bell-ringing device, and while it is necessary that the provisions of the statutory law be complied with, it is apparent that any unnecessary ringing, beyond that prescribed by law, should be dispensed with.

As regards the noise of escaping steam from locomotives, this is principally caused by excess steam pressure resulting in safety or "pop" valves acting and allowing the excessive pressure to be relieved. The remedy for this condition is well known to the defendant company and the cause of complaint can be eliminated by enginemen making proper use of the locomotive injector and not permitting the steam pressure to raise to a point where the "pop" or safety valve will operate.

As regards the unnecessary noise from locomotive exhaust when same is caused by driving wheels slipping. This also is a matter that can be cared for by proper handling by the locomotive engineer and the cause of complaint thus greatly reduced, if not entirely eliminated.

The blocking of the crossings can be cared for by a full compliance with the railroad regulation that crossings must not be blocked for a longer period than five minutes, and if necessary trains should be "cut" to permit users of the highway to pass over the crossing.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission now being fully advised,

IT IS HEREBY ORDERED that defendant, Atchison, Topeka and Santa Fe Railway Company, be and it hereby is directed to eliminate in-so-far as may be possible in connection with the operation of its station yard at Bakersfield all switching on the main line and lead tracks at the east end of said Bakersfield yard; to eliminate all noises arising from the unnecessary ringing of locomotive bells, escaping steam from locomotives, or locomotive exhausts; and to so arrange its switching and other operations that the least interference possible may result to the free use of the highway crossings in the City of Bakersfield east of its Bakersfield Station, especially as to the "F" Street crossing; and to issue such instructions to its agent or representative at Bakersfield empowering him with full supervision and authority over all yard, train and engine employees respecting compliance with the terms of this order, a copy of such instructions to be forwarded to this Commission within twenty (20) days from the date of this order.

IT IS HEREBY FURTHER ORDERED that as to the other matters herein complained of that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this 28<sup>th</sup> day of October, 1924.

C. L. Weaver  
H. B. Dunning  
Lawrence Martin  
Ernest Shaw  
J. T. Whittey  
Commissioners