

Decision No. 26536.

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CALIFORNIA

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

BROTHERHOOD OF RAILROAD TRAINMEN,
and HARRY SEE,

Complainants,

Vs.

Case No. 3228.

SOUTHERN PACIFIC COMPANY,

Defendant.

M. Mitchell Bourquin, for Complainants.

Henley C. Booth, for Defendant.

BY THE COMMISSION:

O P I N I O N

In this matter the Brotherhood of Railroad Trainmen ask the Commission to direct the Southern Pacific Company to afford its railway employees safer and less rigorous working conditions on the run over the Sierra Nevada Mountains between Roseville and the California-Nevada state line. The statement of their specific demands necessitates a rather extensive presentation of the physical facts and of the circumstances giving rise to the present complaint.

Extended hearings were held before Examiner Johnson, and the matter submitted after the presentation of both oral and written arguments.

The Southern Pacific railway between Roseville and Calvada at the state line is almost wholly over steep grades for

train operation. From Roseville, where the elevation is 162 feet above sea level, the track rises to a maximum elevation of 6,876 feet within a distance of about $86\frac{1}{2}$ miles. From the summit it drops again within a distance of $36\frac{1}{2}$ miles to an elevation of 2,228 feet at Calvada. The grades on either side of the summit are in excess of one and one-half per cent for much of the distance and at several sectors is in excess of two per cent. This route is wholly double tracked, but the tracks are not closely aligned. The track used for down-grade train movements in each direction is slightly steeper, but is marked by fewer tunnels than the up-grade track. Thus on the ascending grade from Roseville to Summit there are 28 tunnels having a total length of nearly 24,000 feet, while the parallel track used for descending train movements passes through only 7 tunnels of about 5,320 feet total length. East of the summit there are 8 tunnels ascending and 2 descending. In the higher mountain areas both tracks are protected by many miles of snowsheds. These are located mainly between the station of Emigrant Gap, about 21 miles west of the summit, and Andover, about $8\frac{1}{2}$ miles downward on the eastern slope. The snowfall is extremely heavy in this area as well as over most of the entire route. The winter temperatures are considerably lower on the eastern side of the range than on the westward side. At Truckee the thermometer frequently falls to zero or below during the winter months, while at stations west of the summit the temperature is not usually many degrees below freezing.

It is alleged that the operating rules of the Southern Pacific require freight train brakemen to ride out on top of cars while trains are descending grades. In many instances the overhead and side clearances of tunnels and snowsheds are less than the

standard clearances now prescribed by the Commission. The sheds are not provided with the usual "telltale" warning device. The trainmen allege that the boards of the sheds frequently become loosened and project to further impair the clearances. They allege that gas and smoke from the engines as they pass through such tunnels and sheds are exhausting and dangerous to the men exposed thereto. In substance, their allegation is that because of these facts the freight train crews operating over this division are subjected to unnecessary hardship and danger.

The relief which complainants seek, stated briefly, is that they be provided during the winter months with a second caboose to be located in the middle of trains in excess of 57 cars. This is essential, they allege, for their safety, comfort and convenience. They claim that safe and efficient train operation does not require that brakemen take positions on the outside of cars at all times while trains are moving between stations, and that the efficiency of the men will be improved as well as the safety of train operations increased by affording them the use of an additional caboose located in the middle of long trains. To make clear the basis and purpose of their demand, however, certain other facts concerning freight train movements and the work performed by the train crews should be presented.

Complaints by freight train crews in respect to operating conditions over this mountain route seem to have been coincident with the development of long train movements. Whereas in 1917 the average train length was only 45 cars, train lengths have since gradually increased until now the common practice is to include 100 cars or more. Under the full-crew law of this state

the number of brakemen increases with the number of cars hauled, depending on the steepness of the grade. Thus on a mountain grade of the character here involved a freight train up to 57 cars in length requires three, 72 cars four, 87 cars five, and 102 cars six brakemen. Safety of train operation on descending grades particularly demands frequent inspection of brakes and wheels. The heavier the train load the greater the need for constant vigilance to prevent accidents due to overheating wheels and the consequent derailment of cars. Brakemen not otherwise employed in flagging are required to engage in such inspection work at frequent stops, each man being held responsible for a particular group of cars in the train. Such inspection stops are made at approximately ten mile intervals depending on the steepness of the descending grade.

As an additional precaution against accident the Southern Pacific Company has required train crews to be on the alert for overheated wheels even during the course of the run between inspection stops. To this end it first promulgated a rule in 1907 (old Rule 861) which directed train conductors to so distribute their crews over the train as to control it most effectively and so as to be able to pass signals from any part of the train to the engineer. This rule expressly permitted conductors to allow men to ride in the caboose or engine during inclement weather so far as such practice was consistent with safety. In accordance with that rule, trainmen were ordinarily distributed upon the tops of trains at places and at times as directed by the conductor, it being the accepted interpretation of the rule, however, that the men would not be expected to ride out in that territory designated as shed territory, or when weather conditions made such practice unduly rigorous

or dangerous.

The operating rule just mentioned was somewhat but not materially altered by other rules subsequently announced by the company. What appears to have been the primary cause for the filing of the complaint now before us is the present Rule 869 issued June 15, 1930. This provides as follows:

"Trainmen must be so distributed over trains as to control it most effectually. Unless otherwise provided freight train brakemen must be on top of their train when descending steep grades and under other conditions when the safety of trains requires."

The record in this matter contains considerable testimony in respect to the intent and practical application of the latter rule. The company claims that the full direction and government of trains still remains in the train conductor, and that, even under this rule, it is not expected or required that brakemen ride outside under all conditions. It is agreed that they are not asked to ride out in the principal snowshed territory; that is, between Andover and Emigrant Gap. The trainmen claim, however, that they are regularly forced to take positions on the outside of moving trains on all other portions of the route when descending grades, regardless of weather conditions, and that in one area particularly which is marked by short stretches of snowsheds they consider such practice extremely dangerous. A number of instances were cited where discipline was imposed upon the men for their failure to fully comply with the rule.

This rather extended statement of the facts seems necessary as an approach to the real question presented;--namely, whether the safety and comfort of the train brakemen may be advanced by the addition of a second caboose, as they have suggested,

without a relaxation of the constant vigilance which must be exercised to prevent train accidents of other character. Derailed cars may result not only in substantial damage to the company's property but also may endanger the lives of the train crew or the public, particularly in the event of such an accident at the moment when a passenger train is passing upon an adjacent track.

A careful consideration of all the evidence presented in this proceeding leads to the conclusion that the placing of an additional caboose in the center of long trains during the season of heavy snowfall would not only be consistent with safety but would promote safe and efficient train operation. The purpose of the company's rule requiring the men to remain in position on the outside of trains for the purpose of guarding against accident when descending steep grades cannot be fulfilled when weather conditions so impair the vision of the men as to defeat the purpose for which the rule was intended. Their attempted movement over the tops of snow covered cars in inclement weather would become a hazard rather than a measure of safety. The men do not seek a total abrogation of the rule, but ask only that they be afforded a refuge at a central point in the train from which they can continue their duties for the protection of the train to the best advantage possible under such conditions.

The trainmen testified that under extreme weather conditions they are compelled to seek shelter in the ice-bunkers of refrigerator cars. In such a position their services would be without value in any emergency. They declare that they become so incapacitated by their exposure to snow and cold that they are unable to efficiently perform their duties when the train comes to a stop.

They claim that if permitted the use of a central caboose they can more safely and efficiently protect the train during inclement weather than when riding at any point outside. On trains of a length requiring such a second caboose, one or more brakemen will be available for assignment to this central position, the others being located in the rear or at the engine. When visibility is poor they may as efficiently watch the train from that position as when located outside. Likewise they may pass and relay signals, or in case of necessity, might use the emergency brake from that position with equal facility. A compliance with the trainmen's demand, we believe, will not only greatly advance their own comfort and safety, but will result in increased efficiency and safety of train operation.

The objection made by the company to this demand of the trainmen is directed mainly to the cost and delay which it claims will necessarily be occasioned by such a change in its train operations. Urging that the cost of furnishing such facilities would be considerable and that delays will be occasioned to interstate trains by the cutting in and setting out of a caboose, the company contends that any order requiring a compliance with the trainmen's demand would constitute an unreasonable interference with interstate commerce.

Legally, of course, any order made by this Commission must be limited to intrastate train operations. Since the company does not now have trackage facilities at Calvada adequate to permit of the addition or withdrawal of a caboose from trains at this point, it would be compelled, if the work is to be done there, to construct such facilities. The estimated cost of construction is \$6,700.00. The delay occasioned there by the necessary switching would be approximately thirty minutes.

Practically, however, no such costs or delays would be

occasioned, for obviously, if the company is required to comply with the trainmen's demand, it will actually perform such switching at Sparks, Nevada, its regular division point seventeen miles east of the state line. Under existing operating practices trains are ordinarily delayed at Sparks for about an hour. Any further delay, if any, for the cutting in or out of a caboose would not be a significant factor in freight train operation. Likewise, Roseville is a division point where trains are regularly assembled and adequate facilities available for the completion of the switching operation with the aid of yard crews without significant cost or delay.

Some increased operating costs would doubtless be incurred by the inclusion of an extra car. The company has presented a cost study showing the annual expense to be \$35,609.00 if an extra caboose is included between Roseville and Sparks, while this estimate is increased to \$48,881.00 if the operation is ended at Calvada. Such costs, however, are also largely theoretical rather than actual. Superintendence and road maintenance costs, as well as switching expenses, will actually be increased only a fraction of the above estimate. For the operation of four trains each way daily the company includes a maintenance charge of 18 caboose cars. Not more than 10 such cars would be required, and the company now has on hand a much larger number of suitable steel frame cars available for this purpose.

The conclusion must be reached that the trainmen have sufficiently demonstrated the necessity for the issuance of an order requiring the railway company to carry an additional caboose during the winter season. It has been shown that such an accommodation is

essential for the safety of the train crews themselves and for the promotion of safe and efficient train operation.

The trainmen pray that the Commission require the inclusion of such equipment from October to March, inclusive. Although the season of heavy snowfall and inclement weather may not usually begin as early as October 1st, the possibility of severe storms requiring such additional protection does exist throughout this period of the year, and when such conditions occur the train equipment should be in readiness.

It is necessary also that the company alter its existing operating rules in respect to the duties of trainmen in order to make them consistent with this new operating practice. It should again be observed that the inclusion of an additional caboose for the use of center position brakemen on long trains is for the purpose only of affording them a refuge from which point they can more safely and efficiently perform their duties when weather conditions prohibit the safe and proper performance of those duties while riding on the outside of cars. It is not our function to formulate rules to meet these conditions. But such rules should explicitly provide that brakemen shall not be required to ride outside in any portion of the route where impaired clearances exist or when weather conditions render such practice dangerous.

O R D E R

Hearing having been held on the above entitled complaint, the matter submitted and now being ready for decision, and basing its order upon the conclusions and findings expressed in the fore-

going opinion.

IT IS HEREBY ORDERED that during the period between October 1st and March 31st, each year, the Southern Pacific Company equip all freight trains in excess of 57 cars, exclusive of the rear caboose, operating in both easterly and westerly directions on that part of its line of railroad over the Sierra Nevada Mountains between Roseville, California, and the California-Nevada state line with an additional caboose car to be placed approximately midway between the rear caboose and the leading engine of said train; and

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company so modify its rules in respect to the duties of trainmen as to permit of the reasonable and necessary use of caboose cars by members of the train crew.

This order shall take effect on the 1st day of December, 1933.

Dated at San Francisco, California, this 20th day of November, 1933.

C. J. Lewis
Leon Whitely
M. J. Linn
M. B. Harris
Walter H. Hays
Commissioners.