

ORIGINAL

Decision No. 38231

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations of railroad corporations to determine the sufficiency of manpower available for the efficient and safe operation of their facilities.

Case No. 4676

Leo E. Sievert, for The Atchison, Topeka and Santa Fe Railway Company.

Harry See, for Brotherhood of Railroad Trainmen:

J. H. Wasserberger, State Representative of the Order of Railway Conductors.

W. W. Stevens, for Brotherhood of Locomotive Engineers.

BY THE COMMISSION:

ORDER REVOKING DECISION NO. 36504

The Commission's Decision No. 36504 issued on July 20, 1943, was a Second Interim Opinion and Order which authorized The Atchison, Topeka & Santa Fe Railway Company to deviate from the provisions of the California Full Crew Law (Section 6902 of the Labor Code) on two specific portions of this carrier's line. That order granted Santa Fe the right, regardless of subsection (e) of the Full Crew Law, to operate freight trains in excess of seventy-five cars between Needles and the California-Arizona State line, with not more than three brakemen. It also authorized operation of eastbound freight trains between South Klondike and Siberia, without complying with the provisions of subdivision (g) of the law. The effect of that order was to permit additional relief to that first granted in Decision No. 36467 of June 30, 1943, permitting this carrier, as well as others, to deviate from the provisions of subdivisions (e), (f), and (g) of the law whenever a sufficient number of brakemen were not available.

Upon receipt from the Brotherhood of Railroad Trainmen and from the Order of Railway Conductors of written representations that there is no longer any justification existing for the continued application of the Second Interim Order in the operation of trains by the Santa Fe Railway at the above mentioned locations, the Commission on September 5, 1945, issued its order reopening the above entitled proceeding for the purpose of determining whether Decision No. 36504 should be revoked or modified. A hearing was held thereon at San Francisco on September 11, 1945.

The respondent carrier protested the granting of the request of the railway organizations. It took the position that the Commission's Second Interim Order was not premised upon the non-availability of men, but that the use at these locations of the number of brakemen required by law would occasion train delays and constitute a waste of manpower. Representatives of the Railroad Brotherhoods argued that the sole purpose of the Commission's Second Interim Order was to aid the railroad in obtaining an additional number of men to operate freight trains over the entire subdivision between Needles and Barstow, and that this was the only reason which prompted them to assent to the issuance of that order.

Evidence was introduced by the Brotherhoods to show that within recent weeks the Santa Fe has experienced considerable diminution in its traffic, with the corresponding improvement in its manpower situation within this area. They contended, therefore, that there is no necessity for the continuance of the Second Interim Order. The Santa Fe did not deny that it had sufficient men available to operate its trains in these two sectors in full compliance with the provisions of the law.

After considering the evidence and argument presented, the Commission concludes that it should revoke the Second Interim

Order. That order, like the first Interim Order issued, was rested upon the need of the carrier for relief from the existing manpower shortage. Contrary to the argument advanced by the Santa Fe in this proceeding, the Commission did not grant such relief upon the theory that the application of the provisions of the Full Crew Law for train operations in these sections would of themselves be an unreasonable and unjustifiable use of manpower. The lifting of the Second Interim Order would not deprive the Santa Fe of the right to make use of the first Interim Order whenever men are not actually available. All of the action taken by this Commission under authority of the legislative act empowering the Commission to relieve the carriers temporarily from the provisions of the Full Crew Law have been premised solely upon the existence of a manpower shortage. We are of the opinion that as the manpower situation improves in any particular area of railroad operations in this State to the extent that men will be available to permit compliance with the Full Crew Law, it is our duty, upon petition and showing made that such conditions prevail, to modify or withdraw the authority heretofore given permitting deviations from that law.

O R D E R

Based upon the conclusions and findings expressed in the foregoing opinion, and good cause appearing,

IT IS HEREBY ORDERED that the Order contained in the Commission's Decision No. 36504, issued July 20, 1943, authorizing The Atchison, Topeka & Santa Fe Railway Company to deviate from the provisions of subdivisions (e) and (g) of Section 6902 of the

Labor Code, be revoked, to become effective on the first day of
October, 1945.

Dated at San Francisco, California, this 18th day
of September, 1945.

Edward Quinn
Justin J. Casper
Richard Lachse
Thomas C. ...
James J. ...
COMMISSIONERS