

ORIGINAL

Decision No. 4988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation, on)
 the Commission's own motion, into the)
 number of brakemen that should be em-)
 ployed by railroad corporations on their) Case No. 4988
 trains operating within this State as are)
 necessary to promote the safety of the)
 employees of such railroad corporations,)
 their passengers, and the public.)

C. E. Goeble, State Legislative Representative, Order of Railway Conductors; Clifton Hildebrand, for Transportation Brotherhood, Brotherhood of Railroad Trainmen, Order of Railway Conductors, Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Order of Railroad Telegraphers; George W. Ballard, Chairman, California Legislative Board, Brotherhood of Railroad Trainmen, for A. W. Harris, General Chairman, Western Pacific Brotherhood of Railroad Trainmen; Frank G. Pellett, State Representative, for Brotherhood of Railroad Trainmen; W. W. Stevens, State Legislative Representative, for Brotherhood of Locomotive Engineers; G. F. Irvine, State Legislative Representative, Brotherhood of Locomotive Firemen and Enginemen; J. E. Cardwell, Chairman, California State Legislative Committee, Order of Railway Conductors; Harvey McKee, for W. W. Stevens for Brotherhood of Locomotive Engineers; Wills & McCarthy, by Pat McCarthy, for Brotherhoods; C. E. Whitman, for Brotherhood of Locomotive Firemen and Enginemen; J. F. Graham, General Chairman for Brotherhood of Railroad Trainmen; H. F. Brown, Vice General Chairman, Order of Railway Conductors; W. O. Parks, General Chairman, Order of Railway Conductors; L. T. Foley, General Chairman, Brotherhood of Railroad Trainmen; Clyde E. Whitman, General Chairman, Western Pacific Railroad, Brotherhood of Locomotive Firemen and Enginemen; William P. Avery, State Legislative Representative, Switchmen's Union of North America;

E. E. Bennett, for Union Pacific Railroad Company; Robert W. Walker, for The Atchison, Topeka & Santa Fe Railway Company; C. W. Dooling, for Western Pacific Railroad Company, Tidewater Southern Railway Company and Sacramento Northern Railway; R. E. Wedekind and H. Burton Mason, for Southern Pacific Company, Northwestern Pacific Railroad Company, Visalia Electric Railway Company, Holton Inter-Urban Railway Company, Sunset Railway Company, Petaluma & Santa Rosa Railroad Company, San Diego and Arizona Eastern Railway Company, and Central California Traction Company; A. Larsson, for Arcata & Mad River Railroad; Clair W. MacLeod and J. L. Robinson, for Trona Railway Company; P. N. Myers and Clair W. MacLeod, for McCloud River Railroad; A. T. Nelson and Clair W. MacLeod, for California Western Railroad Company; Clyde E. Brown and Clair W. MacLeod, for San Francisco and Napa Valley Railroad; C. W. Cornell and R. E. Wedekind, for Pacific Electric Railway Company; Lester T. Davis, State Assemblyman, George Miller, Jr., Member of State Legislature, Chris J. Jespersen, Member of State Senate, and Robert L. Condon, Member of State Legislature; J. T. Phelps, for Operations-Safety Division, Public Utilities Commission.

O P I N I O N

On January 30, 1950, at Los Angeles, California, public hearings were held in this matter before Commissioner Potter and Examiner Syphers. At that time testimony was presented relating to the lines of the Union Pacific Railroad Company in California. Hearings previously have been held in connection with the Western Pacific Railroad and this Commission has issued Decision No. 43373, dated October 4, 1949, as a result of those hearings. Inasmuch as this is a continuing proceeding and in conformity with the policy announced at the prior hearings, the evidence therein adduced, which is relevant to the instant matter, will be considered in reaching a decision concerning the lines of the Union Pacific Railroad Company.

The causes giving rise to these proceedings and the nature and extent of this Commission's jurisdiction in this connection were set out in Decision No. 43373, supra.

A member of the staff of the Operations-Safety Division of this Commission testified that this Division had conducted a field survey of all of the lines of the Union Pacific Railroad Company in California. During this survey, which was conducted between May 10 and May 23, 1949, members of the staff rode on 50 freight trains making observations and inspections as to the conditions existing, with particular reference to the number of brakemen "necessary to promote the safety of its (Union Pacific Railroad Company's) employees, passengers, and the public;" as set out in Section 6902.5 of the Labor Code of the State of California.

As a result of these investigations, the staff had formulated certain recommendations which were presented by the

witness. These recommendations generally were divided into two classes; those relating to local freight service, and those relating to through freight trains.

As to local freight service, it was the opinion of the staff that it is not necessary to require the employment of additional brakemen on local freight trains at this time, inasmuch as they found in the survey that three brakemen are assigned to those local freight trains where the nature of the operations indicates a need for a third brakeman.

As to through freight trains, it was recommended that the Union Pacific Railroad Company employ three brakemen on through freight trains between San Bernardino and Victorville and also between Kelso and Cima. It was also recommended that at Barstow during the process of picking up and setting out, through freight train crews consisting of not more than a conductor and two brakemen be not permitted to handle more than 30 cars in any one cut to or from their trains, with the exception that cars already on the tracks may be coupled with such cuts of cars and moved in either direction during the course of pick ups and set outs. It was the opinion of the witness for the Operations-Safety Division of the Commission's staff that the recommendations submitted were necessary to promote safety of the railroad's employees, its passengers and the public and further that the carrying out of these recommendations would not result in feather-bedding.

Exhibit No. 1 is a blue print showing a profile and alignment map of the Union Pacific Railroad Company in California. On this exhibit there is marked in red those portions of the lines

wherein it is recommended that a third brakeman is necessary to promote safety of operations. Exhibit No. 2 is a time table for the California Division of Union Pacific Railroad Company and Exhibit No. 3 is a document entitled "Special Rules" relating to this company. The recommendations of the Commission's staff were embodied in Exhibit No. 4.

A special representative of the Vice President of Operations of the Union Pacific Railroad Company testified that the company was agreeable at this time to any order which followed the recommendations of the Operations-Safety Division. He further stated that he did not concede that any more than two brakemen are required on through freight trains on the lines of the Union Pacific Railroad Company in order to promote safety. This witness requested on behalf of the railroad company that, if an order conforming to the recommendations made by the Commission's staff be issued in this matter, such order be made effective upon five days from the issuance thereof.

Representatives of the Order of Railway Conductors and of the Brotherhood of Railroad Trainmen each concurred in the Operations-Safety Division's recommendations.

After a careful consideration of all of the evidence presented in this matter and having in mind the principles previously enunciated in Decision No. 43373, supra, we find that safe operations as defined in Section 6902.5 of the Labor Code of California require a train crew consisting of a conductor and three brakemen on each of the through freight trains heretofore set out in the recommendations of the Commission's staff. We

further find upon this record that the promotion of safety does not require the employment of additional brakemen on local freight trains at this time beyond the current practices of the company and that the foregoing requirements as to a third brakeman will not result in feather-bed practices.

O R D E R

A proceeding having been instituted upon the Commission's own motion, public hearings having been held, and the Commission being fully advised in the premises and hereby finding that the promotion of the safety of railroad employees, passengers and the public so require,

IT IS ORDERED:

(1) That the Union Pacific Railroad Company, on those portions of its lines between the points hereinafter designated, shall not permit to be run on any part of the main tracks or branch lines any through freight train on which there is not employed at least one conductor and three brakemen:

- a. Between San Bernardino and Victorville.
- b. Between Kelso and Cima.

(2) That the Union Pacific Railroad Company shall not permit through freight train crews consisting of not more than a conductor and two brakemen to handle more than 30 cars in any one cut to and from their trains at Barstow during the process of picking up and setting out cars, except that cars already on the tracks may be coupled with such cuts of cars and moved in either direction during the course of such pick ups and set outs.

The effective date of this order shall be five (5) days after the date hereof.

Dated at San Francisco, California, this 7th day of March, 1950.

R. E. Anderson
Justice F. C. Brewer
Justice S. J. Ladd

Harold P. Kirk

COMMISSIONERS
Commissioner Harold P. Kirk, being necessarily absent, did not participate in the disposition of this proceeding.