

Decision No. 43966

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)
 trains operating within this State as are)
 necessary to promote the safety of the)
 employees of such railroad corporations,)
 their passengers, and the public.)

Case No. 4988

ORIGINAL

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 February 6, 1950, at San Francisco, 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 Northwestern 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 Northwestern 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 Northwestern Pacific Railroad Company in California. During this survey, which was conducted during the period from January 4 to January 13, 1950, members of the staff rode on 24 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 (Northwestern 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 Northwestern Pacific Railroad Company, on each through freight train in either direction between Redwood Valley and Willits, shall employ a train crew consisting of one conductor and not less than three brakemen.

Exhibit No. NWP-1 is a map of the Northwestern Pacific Railroad Company lines in California showing in red that portion of the line wherein it is recommended that a third brakeman is necessary to promote safety of operations. Exhibit No. NWP-2 is a profile map of this railroad and Exhibit No. NWP-3 is a book of rules and regulations. Exhibit No. NWP-4 is a time table of the Northwestern Pacific Railroad Company showing the California operations. The recommendations of the Commission's staff were set out in Exhibit No. NWP-5.

The Vice President and General Manager of this railroad testified that the company would not oppose any order of the Commission 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 freight trains to promote the safety of employees, passengers or the public. This witness further testified that in his opinion the use of three brakemen as recommended by the Commission's staff would not result in feather-bed practices.

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 that the Northwestern Pacific Railroad Company shall not permit to be run any through freight train between Redwood Valley and Willits on which there is not employed at least one conductor and three brakemen.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 21st day of March, 1950.

A. Z. Friedman
Justin F. Cooney
Frank Lawrence
Harold A. Kule
Penelope Lottus
COMMISSIONERS