

Decision No. 43974**ORIGINAL**

## 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

C. E. Gooble, 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; Graham Mitchell, for 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 9, 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 Atchison, Topeka & Santa Fe Railway 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 Atchison, Topeka & Santa Fe Railway 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 Atchison, Topeka & Santa Fe Railway Company in California. During this survey, which was conducted during parts of the months of April, May, November and December, 1949, members of the staff rode on 162 freight trains covering 956 miles of main line track and 560 miles of branch line track on this railroad. Those staff members made observations and inspections as to the conditions existing, with particular reference to the number of brakemen "necessary to promote the safety of its (The Atchison, Topeka & Santa Fe Railway 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 surveys and investigations, the staff had formulated certain recommendations which were presented by this 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 in certain designated territory The Atchison, Topeka & Santa Fe Railway Company should be required to use freight train crews of at least one conductor and three brakemen. Between Hobart and Fullerton it was recommended that the local crews consist of one conductor and three assigned brakemen; while between San Bernardino and San Diego and between Barstow and Needles, it was recommended that the local freight work be performed by freight crews on which there is employed one conductor and three brakemen. So far as the operations between San Bernardino and San Diego are concerned, it was pointed out that the recommendations applied only to two trains, one in each direction each night.

This witness further testified that the employment of three brakemen, as recommended, will not, in his opinion, result in feather-bed practices.

As to through freight trains, it was recommended that this railroad employ three brakemen on the runs between Bakersfield and Mojave and between San Bernardino and Victorville.

Exhibit SF-1 is a map of The Atchison, Topeka & Santa Fe Railway Company system in California, showing in red the areas wherein it is recommended that three brakemen be employed on through freight trains, in green the areas where it is recommended that three brakemen be employed on all local freight trains and, in yellow, the areas where it is recommended that the freight trains performing local work shall

have a crew of one conductor and three brakemen. Exhibit SF-2 is a profile map of this railroad and Exhibit SF-3 consists of three time tables covering The Atchison, Topeka & Santa Fe Railway Company's operations in California. The Atchison, Topeka & Santa Fe Railway Company's operations between Mojave and Kern Junction, near Bakersfield, are conducted on Southern Pacific trackage and they are governed by Southern Pacific's San Joaquin Division Time Table, which has been introduced in this case as Exhibit SP-2 and the instructions relating to that time table have heretofore been introduced as Exhibit SP-5. The recommendations of the Commission's staff were embodied in Exhibit SF-4.

The general manager of the Coast Lines of The Atchison, Topeka & Santa Fe Railway Company testified that that railroad would conform to an order issued in accordance with the staff's recommendations as set out in Exhibit SF-4. He further testified that he did not concede that any more than two brakemen are required on freight trains of The Atchison, Topeka & Santa Fe Railway Company in order to promote safety. This witness requested that if an order conforming to the recommendations made by the Commission's staff is issued, such order be made effective upon five days from the issuance thereof. He further testified that if the additional brakemen are placed on the freight trains, as recommended by the Commission's staff, these brakemen will be used in the operation of these trains.

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

of California, require a train crew consisting of a conductor and three brakemen on each of the through freight trains of The Atchison, Topeka and Santa Fe Railway Company operating between Bakersfield and Mojave and between San Bernardino and Victorville, on each of the local trains operating between Hobart and Fullerton and on each of the freight trains doing local work between San Bernardino and San Diego and between Barstow and Needles.

We further find that the foregoing requirements as to a third brakemen 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 Atchison, Topeka & Santa Fe Railway Company, on those portions of its lines between the points hereinafter designated, shall not permit to be run any through freight train on which there is not employed at least one conductor and three brakemen:

- a. Between Bakersfield and Mojave.
- b. Between San Bernardino and Victorville.

(2) That The Atchison, Topeka & Santa Fe Railway Company shall not permit any local freight train to operate between Hobart and Fullerton on which there is not employed at least one conductor and three assigned brakemen.

(3) That The Atchison, Topeka & Santa Fe Railway Company shall employ a freight crew of at least one conductor and three brakemen on the two trains operating daily between San Bernardino and San Diego performing local freight work.

(4) That on the trains operating between Barstow and Needles performing local freight work, The Atchison, Topeka & Santa Fe Railway Company shall employ a crew of at least one conductor and three brakemen.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of

March, 1950.

R. E. Anderson

Justin F. Casner

Joseph H. Powell

Harold F. Hils

Samuel H. Patten

COMMISSIONERS