

**ORIGINAL**Decision No. 47231

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Bethlehem Pacific Coast Steel Corporation,

Complainant,

vs.

Pacific Electric Railway Company, and  
The Atchison, Topeka and Santa Fe Rail-  
way Company,

Defendants.

Case No. 5285

ORDER MODIFYING DECISION, DENYING REHEARING,  
LEAVE TO INTERVENE AND PETITION TO SET ASIDE DECISION

Pacific Electric Railway Company, defendant herein, has filed its petition for rehearing respecting Decision No. 47162, rendered herein on May 13, 1952, which awarded reparation to the plaintiff, herein, and ordered said defendant to amend its tariff relating to demurrage so as to exempt from the operation of said tariff leased private cars held on private tracks where the lessee of the cars is also the owner of the tracks. Also, The Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, Union Pacific Railroad Company and Western Pacific Railroad Company have filed a joint petition to set aside said Decision No. 47162, for rehearing and for leave to intervene herein.

The Commission has considered these petitions and is of the opinion that they are without merit as applied to the award of reparation, herein. As to that part of Decision No. 47162 which orders and directs Pacific Electric Railway Company to amend its tariff, as aforesaid, we are of the opinion that the record in this case does not require the issuance of such an order. This is not to be understood as

expressing our approval of said tariff. On the contrary, said tariff, in our opinion, appears too extreme and it is not understood what possible public interest it serves, if it be meant to apply to cars that are private in fact and are owned or leased by and are standing on the private tracks of the shipper. However, we do not deem it necessary in this proceeding to invalidate said tariff in the particulars, heretofore enumerated, although we find that its attempted application to the matters involved herein was and is unreasonable and unlawful.

IT IS, THEREFORE, ORDERED that said Decision No. 47162 be and the same is hereby modified by striking out that part of said decision which orders and directs Pacific Electric Railway Company to amend said tariff as in said decision provided. In all other respects, said decision is hereby affirmed.

IT IS FURTHER ORDERED that the petition for rehearing filed by Pacific Electric Railway Company and the joint petition to set aside Decision No. 47162, for rehearing and for leave to intervene filed by The Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, Union Pacific Railroad Company and Western Pacific Railroad Company be and the same are hereby denied.

The effective date of Decision No. 47162 shall be twenty (20) days after the date hereof.

Dated, Los Angeles, California, this 5<sup>th</sup> day of June, 1952.

[Signature]  
President  
[Signature]  
[Signature]  
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Commissioners