

Decision No. 56828

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY and UNION PACIFIC
RAILROAD COMPANY for an order of
exemption from the provisions of
General Order No. 26-D, in connec-
tion with the movement of a refrigera-
tor box of a width of 11 feet 10 inches
mounted on a flat car.

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Application No. 39741

Robert W. Walker and R. K. Knowlton, for The Atchison,
Topeka and Santa Fe Railway Company.
William Irl Kennedy, for the Union Pacific Railroad
Company.
G. R. Mitchell, Brotherhood of Locomotive Engineers,
interested party.
George W. Ballard, Brotherhood of Railroad Trainmen,
AFL-CIO; George W. Ballard for William V. Ellis,
Brotherhood of Locomotive Firemen and Enginemen,
protestants.
Hugh N. Orr and L. E. Hull for the Commission staff.

O P I N I O N

Public hearing was held in this matter before Commissioner
C. Lyn Fox and Examiner Grant E. Syphers on April 21, 1958, in Los
Angeles, and before Examiner Grant E. Syphers on April 22, 1958, in
Los Angeles. On these dates evidence was adduced and on the last-
named date the matter was submitted. It now is ready for decision.

The Douglas Aircraft Company, at its Long Beach Division,
is commencing construction of the DC-8 Jet Transport which is to be
used as a commercial airliner. At the present time there are 138 of
these airships on order. In the construction, eight aluminum
sheets are used in the wings of each airplane. These aluminum

sheets are fabricated at Davenport, Iowa, by the Aluminum Company of America, and measure approximately 10 feet 5 inches in width by a little more than 47 feet in length and approximately 1/4 inch in thickness.

Due to the nature of the metal and the uses to which it is put, it is necessary to keep these aluminum sheets at a temperature of less than zero degrees Fahrenheit until they are actually molded to be placed on the airplane. Accordingly, as soon as each sheet is completed in Davenport, Iowa, the temperature of the sheet is lowered to less than zero degrees Fahrenheit and that temperature is maintained until the sheet is molded in the Douglas Plant in Long Beach. The present method of accomplishing this is to place dry ice upon each sheet as it emerges from the mill in Davenport and to keep the desired temperature by using dry ice during the transportation to Long Beach. Upon arrival at its destination these sheets are placed in a refrigerator until they are actually used in the construction of the airplane.

To date the transportation of these sheets has been performed by loading a number of them on a railroad flat car with interleaves of paper between each sheet. The entire load is wrapped along with a quantity of dry ice and transported in this manner. Each sheet weighs 1250 pounds, and the six or seven loads which have been transported have varied from 20 to 56 sheets per load. The amount of dry ice used for each load is approximately 51,000 pounds for both the packing and the shipping. This present method of shipping is very costly and the testimony indicates that it is important that these sheets be not scratched or in any way bent or marred.

The evidence discloses that the only practicable method of performing this transportation is by rail. The route of movement is via the lines of The Atchison, Topeka and Santa Fe Railway Company to Hobart Yard in Los Angeles and thence via the Union Pacific Railroad Company to point of destination.

The instant application proposes to perform this transportation by means of a specially constructed refrigerated box, 56 feet in length, 11 feet 10 inches in width, and 8 feet in height. It will have a removable top to permit flat loading of the sheets. Likewise it will have mechanical refrigeration equipment in order to maintain the temperatures needed. The box will be mounted on an ordinary flat car and, according to the record, will be used for no other transportation than that of the aluminum sheets hereinbefore described.

The problem presented by this proposal arises from the fact that the proposed box will be 11 feet 10 inches in width. General Order No. 26-D, issued by this Commission, contains provisions, in Section 7 thereof, relative to the precautions which must be taken if a wide load is transported, a wide load being defined as one which exceeds "... laterally in excess of five (5) feet five (5) inches from center line of car ...". The proposed refrigerator box would exceed this limitation by six inches on either side of the car. Section 16 of the General Order also contains provisions for obtaining exemptions from the requirements therein set out.

The position of the applicant railroads was that this proposed refrigerator box would be a wide load and accordingly could

be transported if the carriers complied with the provisions of Section 7 of General Order No. 26-D. The applicants further contended that this equipment would not constitute a wide car.

Testimony was presented to the effect that this equipment could be moved safely based principally upon the fact that many wide loads have been and are being moved safely. This record discloses no accidents on the lines of these two applicant carriers arising from the hauling of wide loads.

The application was opposed by the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Firemen and Enginemen, and the Brotherhood of Locomotive Engineers. It was the position of these organizations, and they presented testimony and evidence in support thereof, that the movement of such a box would impair side clearances so that the safety of railroad employees and others who might be located between passing trains, or a passing train and a side obstruction, would be seriously threatened. In most cases the tracks in the yards of the applicant carriers are laid on 13-foot centers. In some instances these distances have been diminished to 12 feet 10 inches because of lateral slippage of the tracks. It was pointed out that if two cars of the maximum width of 10 feet 10 inches passed on tracks with 13-foot centers, there would be a clearance between them of 26 inches. If this proposed wide box passed a car of 10-foot 10-inch width, the clearance would be reduced to 20 inches. If it should pass another wide load, the clearance would be further diminished. It was testified that such clearances are not adequate for safe working conditions, particularly in view of the fact that train crews may be called to work in foggy and stormy weather and at other times when visibility would be impaired.

The applicants relied, in part, upon Decision No. 56263, dated February 18, 1958, wherein this Commission authorized the transportation of airplane fuselage sections from San Diego to Renton, Washington, and the return of cars so used even though there were attached to these cars mounting racks or cradles which exceeded the 10-foot 10-inch prescribed width. In that decision the Commission held that these cradles constituted excess-width loads. However, it should be pointed out that those cradles were specifically constructed to transport the airplane fuselage sections. As a matter of fact, they were made to a very close tolerance so that there would be no jarring and misalignment of the sections while in transit. Likewise those cradles have the appearance of a load and, in addition to the cradles, tools used in the mounting of the airplane fuselage section on the cradle were transported. This was held to be transportation of an excess-width load and was permitted under Section 7 of General Order No. 26-D.

The matter now before us is distinguishable from that previous decision. Here we are presented with a proposal to transport a refrigerated box which, for all practicable purposes, is similar to many other box cars. While it is true that the title of this refrigerated box is to remain with the shipper, this is not a controlling element in determining whether it is a car or a load. Many freight shippers own their own box cars. The car proposed in this application would have the appearance of a box car, it would be used as a box car, and, as a matter of fact, we find that it would be a box car. While it is also true that the proposed box

would not have side attachments such as ladders and hand hooks, this does not change the essential nature of the equipment.

We therefore conclude that this proposed equipment would constitute a wide car and accordingly cannot be transported under the provisions of Section 7 of General Order No. 26-D. In this connection we observe that the evidence herein is not conclusive that the width of these proposed shipments, or the width of any car used to transport them, must exceed the 10-foot 10-inch limitation. The shipments are being transported at the present time and such shipments do not exceed 10 feet 10 inches in width. The Commission considers any requested deviation from established safety rules to require clear-cut proof that such deviation is the only solution to the problem presented. Safety rules were established only after long and careful study and are for the protection, not only of a company's employees and the general public, but of the company itself. Deviation from such safety rules should not be granted merely for economic reasons.

O R D E R

Application as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises and hereby finding that the proposal would be adverse to the public interest,

IT IS ORDERED that the application be and it hereby is denied.

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

Dated at San Francisco, California, this 10th day of June, 1958.

[Signature]
President
[Signature]
Theodore J. [Signature]

Commissioners

Ray E. Untereiner
Commissioner, Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.