

**ORIGINAL**

Decision No. 56893

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BROTHERHOOD OF LOCOMOTIVE  
FIREMEN AND ENGINEMEN,  
  
Complainant,

vs.

Case No. 6055

SOUTHERN PACIFIC COMPANY,  
a corporation,  
  
Defendant.

BROTHERHOOD OF LOCOMOTIVE  
FIREMEN AND ENGINEMEN,  
  
Complainant,

vs.

Case No. 6056

SOUTHERN PACIFIC COMPANY,  
a corporation,  
  
Defendant.

D. W. Brobst, for complainant.  
R. E. Wedekind, for defendant.  
George W. Ballard, for Brotherhood of Railroad  
Trainmen, interested party.

O P I N I O N

The complaint, filed February 6, 1958, in Case No. 6055, refers to a new type of station mile boards as creating an unsafe condition and prays that the Commission request action by the appropriate district attorney. The complaint in Case No. 6056, filed February 6, 1958, refers to the fact that a herder is not provided in connection with backing diesel engines of one and two units from the Oakland Pier to the roundhouse area. This complaint contains a similar prayer. Because these two complaints were filed by the same complainant

against the same defendant and involved safety matters they will be disposed of by one decision although they were not consolidated for hearing.

Public hearing was held in each matter on May 5, 1958 in San Francisco before Examiner Rowe. Evidence was adduced and the matters were duly submitted for decision upon the filing of points and authorities by complainant, which have been received.

In Case No. 6055 the evidence indicates that the station signs now in use do not include the name of the station being approached. However, especially at night they are more readily discernible as they are reflectorized and the lettering being ~~brief~~ is more easily read. The Commission finds that the new sign complained about presents no unusual safety hazard.

The evidence in Case No. 6056 supports a finding and the Commission so finds that the tracks between the Oakland Pier and the roundhouse area cross no public highways or streets, that the rear of each engine unit is equipped with or has had attached in each instance of backing an adequate light, and that the backing of one or two diesel engine units between the Oakland Pier and the roundhouse area presents no unusual safety hazard. Consequently, the Commission is of the opinion and finds that no relief should be granted in either Case No. 6055 or Case No. 6056.

In each case the defendant filed a written motion to dismiss the complaint. From a study of the complaint in each case it appears that this motion is well taken and should be granted for the following reasons:

1. Rule 10 of the Commission's Rules of Procedure requires that the complaint shall set forth fully and clearly the specific

acts complained of in ordinary and concise language and shall be so drawn as to advise the parties and the Commission completely of the facts constituting the grounds of complaint. By merely quoting letters written to and by the Commission staff, complainant, in each case, has failed to comply with this rule.

2. By alleging that complainant represents the craft of firemen on defendant's railroad and acts on their behalf in matters concerning working conditions, the complaint suggests that as to working conditions at least the jurisdiction is exclusively pursuant to the Railway Labor Act.

3. Section 1701 of the Public Utilities Code provides that complaint may be made, setting forth any act or thing done or omitted, "in violation or claimed to be in violation, of any provision of law or of any order or rule of the Commission." The complaint in neither Case No. 6055 nor Case No. 6056 purports to assert the violation of law or of any order or rule of the Commission.

4. Finally any complaint should contain a prayer requesting relief from the Commission. The prayer of the complainant in the cases under consideration merely asked that the Commission request the appropriate District Attorney to take action. No such request is a prerequisite to action by a District Attorney. If complainant believes that particular acts or omissions warrant action by a District Attorney, the facts may be brought directly to the latter's attention. A preliminary formal complaint proceeding before this Commission is not necessary.

ORDER

Public hearing having been held and the Commission being fully advised in the premises,

IT IS ORDERED that said complaints are dismissed.

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

Dated at San Francisco, California, this 24<sup>th</sup> day of June, 1958.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Theodore James  
Commissioners