

ORIGINAL

Decision No. 59207

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of UNION PACIFIC RAILROAD COMPANY, a corporation, for an order allowing it to continue to operate in the future as it has in the past over its Spur Track No. 47, serving the plant of Brumley-Donaldson Company, located at Slauson Avenue and Boyle Avenue, Huntington Park, California.

Application No. 41128

Malcolm Davis for applicant.
George W. Ballard for Brotherhood of Railroad Trainmen,
AFL-CIO, protestant.
C. E. Milne for the Commission staff.

O P I N I O N

Public hearing was held in this matter on July 15, 1959, before Examiner Grant E. Syphers, in Los Angeles, at which time evidence was adduced and the matter submitted. It now is ready for decision.

This matter concerns the switching of cars on a spur track which connects with the tracks of the Union Pacific Railroad near Slauson and Boyle Avenues in Huntington Park, California. This spur track is approximately 600 feet in length and serves the properties of the St. Louis Fire Brick & Insulation Company and the Brumley-Donaldson Company. These plants are engaged in the manufacture of fire brick.

This spur track was constructed in 1927 by the Union Pacific Railroad Company and paid for by the St. Louis Fire Brick &

Insulation Company. The track itself is on a curve and the industries it serves are on the concave side, or inside portion, of this curved track. On this side there is not an adequate footing or toe path, and there are four instances of impaired clearances. There is a concrete base located 7 feet 8 inches from the center of the track on which is mounted some machinery. Likewise, there is a piece of loose machinery lying 9 feet from the center of the track. A wooden post supporting the roof of a shed over an open pit is 8 feet 8 inches from the center of track and a permanent conveyor is 5 feet 9 inches from the center line of the track.

General Order No. 26-D of this Commission, the successor of a series of similar orders which have been in effect continuously since 1913, prescribes that "All structures and obstructions above the top of the rail..." with certain exceptions shall have a minimum side clearance of 8 feet 6 inches from the center line of tangent standard gauge railroad track. It further provides that "structures adjacent to curved track shall have a minimum side clearance one (1) foot greater than the minimum side clearance otherwise required for tangent track."

Section 768 of the Public Utilities Code, the codification of former Section 42 of the Public Utilities Act, provides as follows:

"The Commission may, after a hearing, by general or special orders, rules, or otherwise, require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and may prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, establish uniform or other standards of construction and equipment, and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand."

In administering this section it has been the practice to consider that an adequate toe path should be about seven feet in width from the edge of the nearest rail.

As previously indicated, switching operations have been conducted over this spur track continuously since 1927, with an average delivery of 3-4 cars a day. The testimony discloses that during all of this time there has never been an injury either to train crews or to others as a result of these switching operations.

It has been, and now is the practice of train crews working on this track to use the convex side, or outside, of the curved track. Witnesses for the railroad testified that this was the logical side from which to conduct switching operations. There are no impaired clearances and there is an adequate walkway on this side with the exception of the last fifty feet of track. This last fifty feet is beyond the so-called spotting point and the railroad employees do not go beyond this point.

In short, this application presents a situation where the convex side of the spur track has adequate walkways and has no impaired clearances, whereas the concave side does not have an adequate walkway and has some impaired clearances. The railroad has conducted operations on this railroad track for more than thirty years without accident or injury and the railroad men working in the switching operations on the track have always used and now use the convex side.

The president of the St. Louis Fire Brick & Insulation Company testified that it would cost between \$20-\$30,000 to provide a walkway on the concave side of the spur track which would meet the requirements of General Order No. 26-D. The major portion of this expense would be to provide a steel structure walkway at the easterly

end of the spur, where there is a steep concrete slope on the concave side of the track. Also, an unloading hopper in this area has a clearance of but 5 feet 9 inches. According to General Order No. 26-D the clearance on the inside of a curved track should be 9 feet 6 inches. He also testified that the business would not warrant this expenditure and if it were required to make it, it would mean that the business would simply cease operations.

A witness for the Commission staff testified as to the impaired clearances and other unsafe operating conditions on the concave side of the track, and these are identifiable by station numbers through the carrier's application, Exhibit A. These conditions will be referred to by number in this opinion.

1. At Station 1+50 a concrete base on which is mounted some machinery, is 7 feet 8 inches from center line of curved track.
2. At Station No. 2+50 a large piece of loose machinery is lying 9 feet from center line of curved track.
3. At Station 4+00 the corner post of a shed is located 8 feet 8 inches from center line of curved track.
4. At Station 5+00 there is a retractable hopper permanently fastened in place at 5 feet 9 inches from center line of tangent track.
5. Between Stations 2+50 and 4+00 the walkway is uneven and abruptly slopes off until it is practically non-existent between Stations 3+50 and 4+00.
6. Between Stations 4+00 and 5+00 there are two open unloading pits located at 4 feet 8 inches from center line of track with no provision for a walkway.
7. Approximately 30 feet east of Station 5+00 there is a concreted slope over 90 feet in length with no provision for a walkway.

The staff witness testified that, excluding the unloading pits and concrete slope (Items 6 and 7 above), an adequate toepath could be established simply by adding some additional dirt fill and that the pits should be covered with metal grating or other substantial material. This witness stated that adequate walking conditions

and clearances in accordance with General Order No. 26-D are necessary on both sides of tracks for the safe performance of switching operations by railroad employees. He testified that these employees must adjust cutting levers, set hand brakes, remove blocking beneath car wheels, move machinery or other objects that might be inadvertently left afoul of cars or tracks, and inspect cars for damage. In the opinion of this witness it should be convenient for the employees to go on both sides of track in the performance of these duties.

Although the evidence discloses that the trainmen do not use the area on the concave side of the track, it is evident that due to the hazardous conditions existing in this area it would be imprudent for them to do so. Testimony on the other hand indicates that to eliminate these conditions would place a serious financial burden on the industry. However, the conditions most difficult and expensive to correct exist starting at Station 4+00, as shown on Exhibit A attached to the application and extend easterly to the tail end of the spur track or a distance of approximately 180 feet in a track area that is almost tangent. From Station 4+00 westerly to the entrance gate to the plant area, there are two impaired clearances that could be removed and an adequate walkway furnished at relatively moderate expense by adding some dirt fill.

In view of the evidence adduced herein we now find that it would be adverse to the public interest to permit the continued use of the area between Station 4+00 to the tail end of this spur track in the performance of switching operations by train or yard crews of the railroad. The record shows that the two industries on this spur track have in the past moved cars in this area by other means such as by a car puller, or mobile equipment operated by its own employees. So far as this order is concerned this practice may continue in the future. The area westerly of Station 4+00 can be safely used by

railroad operating crews, provided that the impaired clearances as described under Items 1 and 2 above be eliminated and that the conditions described in Item 5 above be corrected by providing an adequate walkway of at least 7 feet in width from edge of rail.

O R D E R

Application as above entitled having been filed, public hearing having been held thereon, the Commission being fully advised in the premises, and hereby finding it to be not adverse to the public interest,

IT IS ORDERED that the Union Pacific Railroad Company be, and it hereby is, denied permission to continue switching operations on that portion of its spur track No. 47 easterly from Station 4+00, as shown on Exhibit A attached to the application herein, in serving the plants operated by the St. Louis Fire Brick and Insulation Company and the Brumley-Donaldson Company.

IT IS FURTHER ORDERED that not less than ninety days from the effective date hereof, clearances as set forth in General Order No. 26-D shall be provided westerly from Station 4+00 to fouling point of spur track No. 47, and that an adequate walkway 7'0" from edge of rail, level with top of tie, shall be provided on both sides of track in this area, subject to the following conditions:

1. An illuminated sign shall be installed and properly maintained at Station 4+00, reading: "STOP (in 6" red letters) TRAINMEN MUST NOT OPERATE BEYOND THIS POINT." (in 3" black letters), all wording on a white background.
2. Union Pacific Railroad Company shall issue specific instructions to all employees that might perform switching operations over track 47, advising them of the impaired clearance conditions and the lack of walkway beyond Station 4+00 and forbidding them to operate beyond the illuminated signs specified in conditions 1 of this order.

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

Dated at San Francisco, California, this 27th day of October, 1959

[Signature]
President
[Signature]
[Signature]
[Signature]
Theodore Jenner
Commissioners