

**ORIGINAL**Decision No. 65682

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations and  
practices of THE ATCHISON, TOPEKA  
AND SANTA FE RAILWAY COMPANY, a  
corporation, with respect to the  
use in service of cabooses in con-  
formity with provisions of General  
Order No. 114.

Case No. 7497

John J. Balluff and Henry M. Moffat, for respondent.  
George W. Ballard, for Brotherhood of Railroad Trainmen,  
AFL-CIO; Leonard M. Wickliffe and Charles E.  
Lewis, for California State Legislative  
Committee, Order of Railway Conductors and  
Brakemen; interested parties.  
Hugh N. Orr, Claude D. Carlock and Clent E.  
Milne, for the Commission staff.

O P I N I O N

This investigation was instituted by the Commission on December 4, 1962, and was heard and submitted before Examiner Thompson at Los Angeles on January 16, 1963.

The principal issue is whether respondent has operated any caboose in service within the State of California since October 2, 1962, in violation of the provisions of General Order No. 114. The General Order (Appendix A of Decision No. 62558 in Case No. 7002) was issued September 12, 1961, and prescribes requirements concerning the construction and the furnishing of facilities and supplies on cabooses so as to promote and safeguard the health and safety of railroad employees. Certain requirements were to be fulfilled prior to October 2, 1962; others, which involve major reconstruction of cabooses, are to be met by October 2, 1963. We are concerned here only with the former.

Respondent operates approximately 218 cabooses in the State of California. It conducts train operations daily in this State. During the period October 23 to November 1, 1962, inclusive, and on November 14, 1962, a member of the Safety Section of the Commission inspected a total of 109 of respondent's cabooses at some thirteen locations in California. He testified concerning the results of those inspections. The legislative representative of the California State Legislative Committee, Order of Railway Conductors and Brakemen, testified concerning reports submitted to him by conductors of respondent regarding the conditions of the cabooses used in service. A conductor employed by respondent testified regarding cabooses he inspected during the period January 5, 1963, through January 14, 1963. Respondent's mechanical superintendent of its Coast Line Division testified concerning the action being taken by respondent to effect compliance with the General Order.

A recitation of the testimony of the Safety Section representative concerning the conditions of every caboose he inspected would be lengthy and would not serve any useful purpose. Respondent, through the testimony of its mechanical superintendent, admits, in effect, that cabooses were used in service which did not meet the requirements of General Order No. 114. For the purposes here, we will summarize the nature of the requirements with which respondent failed to comply.

Section 3 of General Order No. 114 provides that trucks of cabooses shall be equipped with steel wheels. Two wheels of Caboose No. 1503 and six wheels of Caboose No. 2160 were cast iron.

Section 8 requires that each caboose shall have a bunk not less than 72 inches in length and 24 inches in width with a cushion of the same dimensions. Of the 109 cabooses inspected by the Safety Section representative, 99 had bunk cushions less than 72 inches in length.

Section 9(a) of the General Order provides that all windows shall have safety glass. Cabooses Nos. 2105, 572, 534, 2073 and 555 were not fully equipped with safety glass.

Section 10 provides that weather stripping or weather-proof sash shall be installed and maintained at all windows and doors to protect against weather and the seepage of dirt or dust. Of the 109 cabooses inspected, 64 had weatherstripping which was ineffective against weather and the seepage of dirt or dust.

Section 11 requires that all windows, except those in bays or cupolas, be equipped with shades. One hundred seven of the 109 cabooses were not fully equipped with shades.

Section 12 provides that stanchions, grab handles, or bars shall be installed at entrances and exits and at other locations within convenient reach of employees moving about the caboose while a train is in motion. None of the cabooses was equipped with grab irons or stanchions at the exits of the caboose.

Section 15 provides that cabooses used in road service shall be equipped with an effective means of extinguishing minor fires. Ninety-three of the 109 cabooses did not have fire extinguishers.

Section 16 provides that every caboose should carry a first aid kit which shall be fully equipped and maintained in good condition. Eleven of the cabooses were without first aid

kits. Four others had first aid kits with the seals broken and portions of the kit removed.

Section 17 provides that supplies, including hand soap or other cleansing agent in appropriate dispensers, shall be furnished. Respondent furnishes hand soap. None of the cabooses had a soap dish or other dispenser for the soap.

The testimony of the legislative representative of the Order of Railway Conductors and Brakemen together with that of the conductor shows similar conditions of cabooses at various times during the period October 4, 1962 to January 15, 1963. Further discussion of that testimony is not necessary. The testimony of respondent's mechanical superintendent shows that the conditions listed above existed during that period.

The superintendent testified that respondent initiated a crash program to bring all of the 218 cabooses into compliance with the requirements of General Order No. 114. The program consisted of shopping cabooses at a rate of 5 per day. It takes 5 days to complete the work on each caboose so that there are 25 cabooses in the shop at any given time. The first five were completed on January 7, 1963. It was estimated that the 218 cabooses would be completed by March 8, 1963.<sup>1</sup> According to the superintendent the modifications to the cabooses required by the General Order were not made prior to October 2, 1962, because with respect to some items, such as fire extinguishers and grab irons, management desired to study and evaluate various types and installations so as to provide the facilities best suited to Santa Fe's operations.

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The Commission is informed that the last of the 218 cabooses was released from the shops on March 5, 1963.

The respondent has offered evidence seeking to justify its delay in accomplishing the modifications required. We point out that said modifications were initiated by respondent ninety days after they were required to be completed. The delay in complying with the provisions of General Order No. 114, in the first instance, is inexcusable. The cabooses could easily have been placed in proper condition for service prior to October 2, 1962.

We find that:

1. Respondent was served with a copy of Decision No. 62553 (General Order No. 114) on or about September 20, 1961, and at all times subsequent thereto had knowledge of the requirements of said order.
2. On or after October 2, 1962, respondent was required by said General Order to provide and maintain on all cabooses used in service the equipment, facilities and supplies specified in Sections 3, 8, 9(a), 10, 11, 12, 15, 16 and 17 of said General Order.
3. During the period October 2, 1962 to January 15, 1963, respondent used cabooses in service that were not provided with the equipment, facilities and supplies required by the aforementioned sections of General Order No. 114, the conditions of the cabooses having been as described above in this opinion.
4. On or about January 1, 1963, respondent initiated a program to effect compliance with General Order No. 114.

Based on the foregoing findings of fact we conclude that respondent violated Section 702 of the Public Utilities Code by failing to comply with General Order No. 114 and should be ordered to cease and desist from any future violations of said General Order. As an additional sanction, the Commission will cause

appropriate penalty actions to be instituted against respondent. It will also give consideration to the institution of proceedings for contempt.

O R D E R

IT IS ORDERED that The Atchison, Topeka and Santa Fe Railway Company, a corporation, shall cease and desist from failing to comply with any of the requirements of General Order No. 114.

The Secretary of the Commission is directed to cause a certified copy of this order to be personally served upon respondent and the effective date of this order shall be twenty days after such service.

Dated at San Francisco, California, this 7th day of JULY, 1963.

Helen M. Bennett  
President

Carl L. Fisher

Walter W. Boye

George G. Traver

Friedrich B. Halbach  
Commissioners