

Decision No. 66485**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC ELECTRIC RAILWAY COMPANY for  
 an extension of time within which to  
 comply with General Order No. 114.

Application No. 45933

John J. Corrigan, for applicant.  
George W. Ballard, for Brotherhood of Railroad  
 Trainmen, AFL-CIO, protestant.  
T. E. Rogers, for the Commission staff.

O P I N I O N

This application was heard and submitted December 3, 1963 before Examiner Thompson at San Francisco.

By Decision No. 65987, dated September 10, 1963, in Application No. 45583 applicant was authorized to depart from certain requirements of General Order No. 114 (Safety Requirements of Cabooses) until January 1, 1964. Applicant here seeks an extension of that authority until February 1, 1964. Brotherhood of Railroad Trainmen protests the extension.

Applicant operates 26 cabooses on its line in the Los Angeles Metropolitan Area. It was authorized to depart from certain of the requirements of General Order No. 114 because the cabooses that it operated prior to October 2, 1963 were of such type construction that complete rebuilding of the cabooses would have been necessary in order to meet the requirements of the General Order, and more particularly Sections Nos. 2 and 4 of said order. Applicant asserted that it expected to receive 26 cabooses from Southern Pacific Company prior to January 1, 1964 to replace those which were in operation.

At the hearing applicant's vice president and general manager testified that applicant has received only 12 cabooses from the Southern Pacific Company. He said that although he expects to be furnished with the remaining 14 cabooses before January 1, 1964, the deliveries are slower than he had anticipated and he is uncertain whether all of them will be delivered within the specified time. He further stated that after the cabooses are received applicant makes certain modifications, such as the protection of windows, which it deems necessary for its operations. Those modifications require the cabooses to be in the shops and out of operation for about a week. For those reasons, applicant seeks the extension until February 1, 1964.

The assistant general manager of Southern Pacific Company, Pacific Lines Division, testified that in April 1963 Southern Pacific had placed an order with a firm in Detroit, Michigan for 100 new cabooses. It was and is the intention of Southern Pacific to furnish Pacific Electric with cabooses now operated in line haul by Southern Pacific upon the delivery of the new cabooses from the manufacturer. At the time the order was placed a schedule of delivery of cabooses was agreed upon by Southern Pacific and the manufacturer. Problems encountered by the manufacturer have necessitated revisions of that schedule on four occasions.

Schedules for Delivery of 100 Cabooses  
to Southern Pacific Company as of the  
Dates Shown - 1963

<u>Delivery Dates</u>	<u>Number of Cabooses</u>				
	<u>April 1</u>	<u>May 1</u>	<u>Aug. 1</u>	<u>Oct. 1</u>	<u>Nov. 1</u>
1963 - Aug.	18	6	0	0	0
Sept.	28	28	13	1	0
Oct.	35	33	46	15	2
Nov.	19	33	41	36	15
Dec.	-	-	-	34	32
1964 Jsn.	-	-	-	14	44
Feb.	-	-	-	-	7
Total Cabooses	100	100	100	100	100

The witness stated that the manufacturer has not made deliveries pursuant to the most recent schedule. Only 13 cabooses have been shipped as of December 2, 1963 whereas 17 were scheduled to be shipped. Southern Pacific has sent its mechanical superintendent, engineers and other of its personnel to Detroit in order to assist in the speed-up of production. Southern Pacific has released 12 of its cabooses to Pacific Electric and intends to continue to furnish cabooses just as soon as it receives the new cabooses in replacement. Because of its own requirements Southern Pacific cannot release cabooses to Pacific Electric until it receives new cabooses to replace them. Because the manufacturer has been unable to deliver the cabooses as scheduled, Southern Pacific cannot be certain that it will have 14 more new cabooses prior to January 1, 1964 so that it can furnish that number of cabooses to Pacific Electric within the time prescribed.

Brotherhood of Railroad Trainmen asserted that trainmen employed by applicant are now performing their duties on cabooses that do not meet the safety requirements and regulations of General Order No. 114. It was contended that applicant and its parent company have not demonstrated good faith in the past in connection

with providing cabooses that meet the requirements of General Order No. 114, and that continued extensions of time within which applicant can operate cabooses that do not meet the requirements are detrimental to the health, safety and comfort of the employees in train service.

The evidence herein indicates that applicant and Southern Pacific are attempting to replace the cabooses of Pacific Electric rapidly and expeditiously. There has been no delay by Southern Pacific in turning over cabooses to applicant upon the delivery of replacements. We find that the extension of time until February 1, 1964 is necessary and is warranted.

We conclude that the authority granted to applicant in Decision No. 65987 should be extended to February 1, 1964.

Applicant is hereby placed on notice that no further extensions will be granted.

O R D E R

IT IS ORDERED that:

1. Pacific Electric Railway Company, a corporation is authorized to depart from the requirements of Sections 2, 3, 4, 5, 7, 8 and 12 of General Order No. 114 until February 1, 1964, provided, however,

(a) Each caboose used in service between the following stations shall be equipped with steel wheels:

Between State Street and El Monte  
Between La Verne and San Bernardino  
Between Bellflower and West Santa Ana  
Between Stanton and Huntington Beach

(b) Each caboose used in service, other than as a rider car in yard transfer movements, shall have a bunk with

dimensions not less than seventy-two inches in length and eighteen inches in width, which shall be provided with a cushion of the same dimensions.

2. The authority granted herein is not to be construed as modifying in any way Decision No. 65375 rendered by the Commission on May 7, 1963, in Case No. 7499.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of DECEMBER, 1963.

*William L. Bennett*  
 President

*Robert E. Mitchell*

*Charles W. Papp*

*George D. Crow*

*Fredrick B. Hallock*  
 Commissioners