

ORIGINAL

Decision No. 84258

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN PACIFIC TRANSPORTATION COMPANY)
for an order authorizing use of its)
facility at Moorpark for parking mobile)
home trailers, Moorpark, County of)
Ventura, State of California.)

Application No. 53828
(Filed February 5, 1973)

William E. Still and Walt A. Steiger, by Walt A. Steiger,
Attorney at Law, for Southern Pacific Trans-
portation Company, applicant.
Don Sperling, for Ventura County, protestant.
Lionel B. Wilson, Attorney at Law, for the Commission
staff.

OPINION AND ORDER

Applicant Southern Pacific Transportation Company (SP) seeks Commission authorization to operate a mobile trailer park facility at its railroad right-of-way located at milepost 427.23 in the vicinity of Moorpark, Ventura County, pursuant to Sections 762 and 768 of the Public Utilities Code.

Hearing was held on March 28, 1974 at Los Angeles before Examiner Banks.

The mobile home trailers parked thereon will house off-duty maintenance-of-way employees who service tracks and other structures in the vicinity of Moorpark.

In support of its position, SP presented one witness who sponsored a blueprint exhibit of the proposed site. The testimony given was substantially to the effect that the requested authority was necessary to promote the security and convenience of employees as required in Sections 762 and 768 of the Public Utilities Code. During his testimony, the witness stated that SP is presently using a private trailer park located a short distance from the proposed site but that it was not as convenient nor was it always available.

The Commission staff presented no evidence or witnesses but through counsel urged that the application be dismissed without prejudice for lack of jurisdiction. They argue that the "Employee Housing Act of 1965" (Div. 2, Part 9, Chapter 4 of the Labor Code) conveys specific and definitive authority over facilities used to house employees to the Department of Housing and Community Development, that in granting the application the Commission could become embroiled in employer-employee problems, that SP has other such trailer parks currently in use throughout the State for which no Commission approval was sought or obtained, and that local zoning ordinances should govern land use as proposed herein.

The county of Ventura presented no witness or testimony but, through a County Planning Commission employee, requested that the application be dismissed since the proposed use does not conform with the local zoning ordinance nor with the county's master property use plan.

The applicant operated a mobile trailer park at the proposed site for over five years pursuant to a zoning variance granted by the county. The facility was abandoned when the county discovered that the variance had lapsed and so notified the applicant. It was at this point that the subject application was filed. Mobile trailer parks for maintenance-of-way gangs are currently being operated by the applicant at various locations throughout the State for which Commission authorization was not sought or attained. It would appear that had the county of Ventura granted an extension of the original zoning variance, the instant application would not have been filed.

Sections 762 and 768 of the Public Utilities Code confer upon the Commission jurisdiction over additions, extensions, repairs, and improvements to, or changes in, the existing plant equipment, apparatus, and other physical property of a public utility to promote

the security or convenience and safeguard the health and safety of its employees or the public. We recognize that these sections may be broadly construed so that the Commission could assert jurisdiction over the proposal herein. However, we believe the true intent of the Legislature was to provide the necessary protection of employees' health and welfare while in the performance of their duties. While the applicant here alleges that Commission approval is necessary in order to provide facilities for the "promotion of convenience and health" of its employees, there was no showing in what manner the proposal would be of assistance to employees in the performance of their duties. It can only be concluded that the facilities may be of some personal convenience to employees in their off-duty hours.

Based on the foregoing we are of the opinion that the application should be dismissed.

Findings

1. Applicant is presently using mobile trailer homes throughout the State to house off-duty maintenance-of-way forces without Commission approval.

2. Applicant proposes to operate a mobile trailer park at its Moorpark facility to house maintenance-of-way forces.

3. Applicant operated a mobile trailer park at Moorpark for over five years under a county variance permit without Commission authorization.

4. Sections 762 and 768 of the Public Utilities Code confers on the Commission jurisdiction over additions, extensions, repairs, and improvements to, or changes in, the existing plant equipment, apparatus, and other physical property of a public utility to promote the security and convenience of employees while in the performance of their duties.

6. Commission jurisdiction does not extend to facilities for employees while off-duty.

7. The application should be dismissed.

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IT IS ORDERED that Application No. 53828 of the Southern Pacific Transportation Company is dismissed.

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

Dated at San Francisco, California, this 25th day of MARCH, 1975.

Vernon L. Sturges
President
William J. Quinn
Edward R. Ross
Commissioners