

ORIGINAL

Decision No. 86122

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of UNITED STATES STEEL
CORPORATION for permission to
maintain structures not in compliance
with General Order No. 26-D of The
Public Utilities Commission of the
State of California.

Application No. 55291

ORDER MODIFYING DECISION NO. 85687

The petition of United States Steel Corporation (USS) filed May 3, 1976 requests that the Commission modify Conclusion 2 in Decision No. 85687, effective May 3, 1976 so as to provide that public utility railroads may operate over USS's tracks designated as HL1, HL2, 55, and RD2 to perform switching services thereon for USS. The petition also requests that the effective date of Decision No. 85687 be stayed until 20 days after the day that the modifying order becomes effective and that the time limitation in which exceptions may be filed to Decision No. 85687 be amended to provide that exceptions to that decision may be filed within 20 days after the effective date of the modifying order. Petitioner states that the alleged ambiguity of Conclusion 2 makes it unable to interpret the meaning of the Commission's order.

Decision No. 85687, page 3, recites that "The evidence does not show that there are any structures or walkways not in conformance with general orders on tracks EL1, HL2, 55, or RD2." Conclusion 2 of Decision No. 85687 states:

- "2. Before USS opens any of its private trackage to railroad operations such trackage and structures and walkways adjacent thereto must be brought up to the specified minimum standards set forth in GO 26-D and GO 118."

We think the meaning of the conclusion is clear, namely, that any tracks opened for railroad operation must conform to the minimum requirements of General Orders Nos. 26-D and 118. No special authorization is needed from the Commission before railroads may operate over private tracks which meet such requirements, and since there was no controversy at the hearing that tracks HL1, HL2, 55, and RD2 did not meet the minimum requirements these tracks may be operated over by railroads so long as compliance with the minimum requirements of General Orders Nos. 26-D and 118 are met as to each of the four tracks. However, to relieve the apprehension of USS, the Commission will modify Decision No. 85687 as set out below.

USS has not given sufficient cause for our staying the effective date of Decision No. 85687 nor for our authorizing the filing of a petition for rehearing of Decision No. 85687 beyond that provided by our rules of practice and procedure.

Copies of the petition, filed May 3, 1976, were served on the parties of record. No objections to the granting of the petition have been received by the Commission.

IT IS ORDERED that:

1. Decision No. 85687 is amended to include the following finding:

- "11. As of the date of the hearings USS's tracks HL1, HL2, 55, and RD2 were shown to meet the minimum requirements of GO 26-D and GO 118."


2. Conclusion 2 of Decision No. 85687 is amended to read as follows:

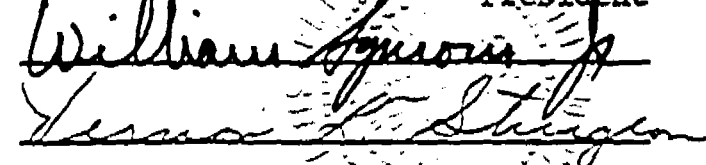
"2. Before USS opens any of its private trackage to railroad operations the opened trackage and structures and walkways adjacent to the opened trackage must be brought up to the specified minimum standards set forth in GO 26-D and GO 118."

3. The petition is in all other respects denied.

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

Dated at San Francisco, California, this 19th day of JULY, 1976.



President


Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.