

Decision 88 06 008 JUN. 8 1988.

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Atchison, Topeka)
and Santa Fe Railway Company for)
an order modifying Decisions 92641,)
92899, 93658 and 84-06-112 relating)
to operation of excess-width cars)
over its lines in California.)

Application 60009
(Filed October 17, 1980)

Application 60849
(Filed August 26, 1981)

And Related Matters.)

Application 84-03-31
(Filed March 8, 1984)

Case 8464
(Filed June 15, 1987)

R. Curtis Ballantyne, Attorney at Law, for The
Atchison, Topeka and Santa Fe Railway
Company, applicant and respondent.
William H. Well, for the Transportation
Division.

OPINION

On May 26, 1987, The Atchison, Topeka and Santa Fe
Railway Company (AT&SF) filed a petition to modify Decisions (D.)
92641 and 92899 in Application (A.) 60009, D.93658 in A.60849, and
D.84-06-112 in A.84-03-031. These decisions authorize AT&SF to
move certain excess width cars over its lines in California. The
authorizations are subject to certain conditions and restrictions
including the following:

"Such cars shall be operated subject to the
provisions of Section 7 of General Order 26-D.

"The train order or message required by Sub-
Sections 7.5 and 7.6 shall include the wide
car's number. If a message is used, the car
number shall be cross-referenced onto the

train's clearance card. Where clearance cards are not required, procedures shall be established to notify crew of train carrying the cars and of opposing trains. A method of record retention, subject to audit by the Commission's staff, shall be established to indicate to whom the required notification has been provided and the method of notification."

The petition alleges that as a result of recent changes implemented by AT&SF in its operations train orders and clearance cards are no longer used. Those documents have been replaced by track warrants and track bulletins which accomplish the same purpose. AT&SF requests that the decisions be modified to find that its use of track warrants and track bulletins complies with the provisions of Section 7 of General Order (GO) 26-D and a modification of the decisions to permit their use in lieu of train orders. It also requests that the decisions be modified to reflect AT&SF's current method of record retention.

On May 26, 1987, AT&SF also filed a petition to modify D.72345 in Case 8464.

On June 15, 1987, the United Transportation Union State Legislative Board (UTU) filed a petition of protest and request for hearing to both of the petitions. By letter dated December 21, 1987 addressed to the ALJ UTU advised that it was withdrawing its protests to both petitions.

The petitions for modifications were consolidated for hearing which was held before Administrative Law Judge (ALJ) O'Leary at Los Angeles on February 2, 1988 at which time the matter was submitted.

The Commission's Transportation Division staff presented Exhibit 1 which is entitled "Report of the Acceptance of Track Warrant Control as a Method of Authorizing the Movement of Trains." The exhibit's Conclusion and Recommendation states the following:

"The Code of Federal Regulations, Title 49, Part 221.5, paragraph (e) defines Train Order as '...mandatory directives issued as authority

for the conduct of a railroad operations outside of yard limits.' Track Warrant Control demonstrably meets the criteria set out in this definition. Further, Track Warrant Control is in wide use in the industry in lieu of train orders."

Since GO 26-D does not contain a definition of train order we will accept the above definition as being an appropriate definition of train order. In view of this no modification of the decisions authorizing the movements of excess width cars is necessary.

We now turn to the requested modification of D.72345. D.72345 sets forth certain requirements governing AT&SF's railroad operations over its branch lines in California. The petition states that since the issuance of D.72345 certain portions of AT&SF's branch lines have been abandoned and operations thereover have ceased as follows:

Los Angeles Division

4. A portion of the Redland District. Mentone to Del Rosa - 8.0 miles.
6. Elsinore District. Porphyry to Elsinore - 21.9 miles.
7. Fallbrook District. Fallbrook Junction to Fallbrook - 16.9 miles.

Old Los Angeles Terminal Division (Now Part of Los Angeles Division)

2. Redondo District. El Segundo to Redondo Beach - 5.4 miles.

Valley Division

3. Laton District. Laton to Lanare - 17.4 miles.
4. A portion of the Fresno Interurban District (M.P. 6 to Belmont Avenue.) - 10.9 miles.

6. Wahtoke District. Reedley to Minkler - 10.1 miles.
8. A portion of the Porterville-Orosi District. Orange Cove to Minkler - 8.9 miles.

San Francisco Terminal Division

1. Oakland District. Richmond to Oakland - 10.9 miles.

The ALJ's proposed decision was filed and mailed to the parties on April 29, 1988. Comments on the proposed decision were filed by Commission Staff on May 16, 1988. On May 20, 1988, AT&SF filed its reply to the staff comments, wherein it advised it had no objection to the staff suggested revisions with the exception of the staff suggestion that certain language be added to General Provision 5 of Appendix A. We concur with AT&SF that the suggested modification of General Provision 5 should not be adopted. This decision incorporates all other suggestions contained in the staff comments together with certain other minor corrections to the ALJ's proposed decision.

Findings of Fact

1. GO 26-D does not define "train order."
2. Train order is defined in the Code of Federal Regulations Title 49, Part 221.5 paragraph (e) as:
"...mandatory directives issued as authority for the conduct of a railroad operation outside of yard limits."
3. Certain portions of AT&SF's branch lines have been abandoned and operations thereover have ceased.
4. AT&SF has changed its operation to track warrant control movement.

Conclusions of Law

1. Track Warrants and Track Bulletins fall within the definition of Train Order as set forth in Finding 2.

2. Track Warrant Control is a system which uses track warrants and track bulletins as mandatory directives which fall within the definition of Train Order as set forth in Finding 2.

3. Modification of D.92641, D.92899, D.93658, and D.84-06-112 is not necessary and the petition to modify those decisions should be denied.

4. The petition to modify D.72345 should be granted as set forth in the ensuing order.

ORDER

IT IS ORDERED that:

1. The Petition for Modification of D.92641, D.92899, D.93658, and D.84-06-112 is denied.

2. Pages 2, 3, and 4 of D.72345 are modified as set forth in Appendix A.

This order becomes effective 30 days from today.

Dated June 8, 1988, at Carson, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Stanley W. Hulett
President

APPENDIX A

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IT IS ORDERED that the Atchison, Topeka and Santa Fe Railway Company (AT&SF) shall hereafter observe the following requirements governing railroad operations on its branch lines in the State of California:

Wherever the term "programmed" appears in this order it shall require that supervision shall be maintained to provide train and engine crews with the necessary information to prevent conflicts with other movements.

Wherever "Rules 93 and 105" are mentioned in this order it shall be construed as referring to General Code of Operating Rules 93 and 105 in effect on the effective date of this order and filed with the Commission in compliance with General Order 108.

Los Angeles Division

1. Cadiz Subdivision. Cadiz to Parker - 84.7 miles. Movements shall be in accordance with Track Warrant Control.
2. Ripley Subdivision. Ripley to Rice - 49.4 miles. From Milepost 0.0 to Milepost 41.0, movements shall be made in accordance with Track Warrant Control. From Milepost 41.0 to Milepost 49.4, movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time such movements shall be programmed to prevent conflicts.
3. Lucerne Valley Subdivision. Hesperia to Cushenbury - 29.2 miles. Movements shall be made in accordance with Track Warrant Control.
4. Redlands Subdivision. San Bernardino to Mentone - 13.4 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time such movements shall be programmed to prevent conflicts.

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5. San Jacinto Subdivision. Highgrove to San Jacinto - 37.5 miles. Movements shall be made in accordance with Track Warrant Control.
6. Escondido Subdivision. Escondido Junction to Escondido 21.8 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time, such movements shall be programmed to prevent conflicts.
7. Harbor Subdivision. Redondo Junction to Watson - 26.6 miles. From Redondo Junction (Milepost 0.0) to Nadeau (Milepost 2.5), movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time, such movements shall be programmed to prevent conflicts. From Nadeau (Milepost 2.5) to Watson (Milepost 26.6), movements shall be made in accordance with Track Warrant Control.

Valley Division

1. Arvin Subdivision. Magurden to Arvin 16.5 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time, such movements shall be programmed to prevent conflicts.
2. Oil City Subdivision. Oil Junction to Oil City - 5.1 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time, such movements shall be programmed to prevent conflicts.
3. Fresno Interurban Subdivision. Hammond (Milepost 0.0) to Cameo (Milepost 6) - 6 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time, such movements shall be programmed to prevent conflicts.

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4. Visalia Subdivision. Corcoran to Calwa - 68.6 miles. Movements shall be made in accordance with Track Warrant Control. ✓
5. Porterville - Oroshi Subdivision. Jastro to Oil Junction - 3.3 miles. Movements shall be made in accordance with Rule 93, except that when more than one movement is made at any one time such movements shall be programmed to prevent conflicts.
6. Porterville - Oroshi Subdivision. Ducor to Orange Cove - 63.0 miles. Movements shall be made in accordance with Track Warrant Control. ✓

General Provisions

1. The AT&SF shall advise train and engine crews of the location of track and structure work. However, this requirement shall not be construed to relieve maintenance-of-way crews of protecting against train and engine movements.
2. Unattended cars shall not be left on any branch line main track, unless train and engine crews and employees operating mobile equipment are notified of the location of any such cars.
3. AT&SF shall require crews to leave all unattended branch line main track switches lined and locked or latched for the main track.
4. In addition to the filings required by General Order 108 of this Commission, the AT&SF shall issue, and file with the Commission, prior to the effective date of this order, bulletins, special instructions and supplements or amendments thereto implementing the requirements set forth in this order and such bulletins, instructions and supplements or amendments thereto shall remain in effect until further order of this Commission. ✓

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5. Nothing in this order shall be construed as prohibiting AT&SF from issuing train orders to govern movements of trains or engines on branch lines or portions of branch lines instead of the methods of operations otherwise prescribed by this order.
6. The branch line operations as prescribed by this order shall not apply in cases of emergency involving the safety of trains or engines or in the movement of trains or engines during emergency conditions created by storm, flood, earthquake, derailment, or wreck, provided that appropriate supervision is maintained during such emergencies.

(END OF APPENDIX A)

Decision PROPOSED DECISION OF ALJ O'LEARY

(Mailed 4/29/88)

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and Santa Fe Railway Company for)
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car's number. If a message is used, the car
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for the conduct of a railroad operations outside of yard limits.' Track Warrant Control demonstrably meets the criteria set out in this definition. Further, Track Warrant Control is in wide use in the industry in lieu of train orders."

Since GO 26-A does not contain a definition of train order we will accept the above definition as being an appropriate definition of train order. In view of this no modification of the decisions authorizing the movements of excess width cars is necessary.

We now turn to the requested modification of D.72345. D.72345 sets forth certain requirements governing AT&SF's railroad operations over its branch lines in California. The petition states that since the issuance of D.72345 certain portions of AT&SF's branch lines have been abandoned and operations thereover have ceased as follows:

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8. A portion of the Porterville-Orosi District. Orange Cove to Minkler - 8.9 miles.

San Francisco Terminal Division

1. Oakland District. Richmond to Oakland - 10.9 miles.

Findings of Fact

1. GO 26-A does not define "train order."
2. Train order is defined in the Code of Federal Regulations Title 49, Part 225 paragraph (e) as:
"...mandatory directives issued as authority for the conduct of a railroad operation outside of yard limits."
3. Certain portions of AT&SF's branch lines have been abandoned and operations thereover have ceased.
4. AT&SF has changed its operation to track warrant control movement.

Conclusions of Law

1. Track Warrants and Track Bulletins fall within the definition of Train Order as set forth in Finding 2.
2. Modification of D.92641, D.92899, D.93658, and D.84-06-112 is not necessary and the petition to modify those decisions should be denied.
3. The petition to modify D.72345 should be granted as set forth in the ensuing order.

ORDER

IT IS ORDERED that:

1. The Petition for Modification of D.92641, D.92899, D.93658, and D.84-06-112 is denied.

2. Pages 2, 3, and 4 of D.72345 are modified as set forth in Appendix A.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

A.60009 et al. ALJ/FJO/ra *

2. Track Warrant Control is a system which uses track warrants and track bulletins as mandatory directives which fall within the definition of Train Order as set forth in Finding 2.

3. Modification of D.92641, D.92899, D.93658, and D.84-06-112 is not necessary and the petition to modify those decisions should be denied.

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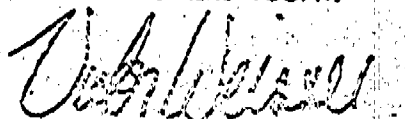
This order becomes effective 30 days from today.

Dated JUN 8 1988 at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weisner, Executive Director

APPENDIX A
Page 1

IT IS ORDERED that the Atchison, Topeka and Santa Fe Railway Company (AT&SF) shall hereafter observe the following requirements governing railroad operations on its branch lines in the State of California:

Wherever the term "programmed" appears in this order it shall require that supervision shall be maintained to provide train and engine crews with the necessary information to prevent conflicts with other movements.

Wherever "Rules 93 and 105" are mentioned in this order it shall be construed as referring to AT&SF Operating Department Rules 93 and 105 in effect on the effective date of this order and filed with the Commission in compliance with General Order 108.

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2. Unattended cars shall not be left on any branch line main track, unless train and engine crews and employees operating mobile equipment are notified of the location of any such cars.
3. AT&SF shall require crews to leave all unattended branch line main track switches lined and locked or latched for the main track.
4. In addition to the filings required by General Order 108 of this Commission, the AT&SF shall issue, and file with the Commission, prior to the effective date of this order, bulletins, special instructions and supplements or amendments thereto implementing the requirements set forth in this order and such bulletins, instructions

APPENDIX A

Page 4

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5. Nothing in this order shall be construed as prohibiting AT&SF from issuing train orders to govern movements of trains or engines on branch lines or portions of branch lines instead of the methods of operations otherwise prescribed by this order.
6. The branch line operations as prescribed by this order shall not apply in cases of emergency involving the safety of trains or engines or in the movement of trains or engines during emergency conditions created by storm, flood, earthquake, derailment, or wreck, provided that appropriate supervision is maintained during such emergencies.

(END OF APPENDIX A)