

Decision SS 05 027 MAY 10 1989**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
Own Motion into the Operations and
Practice of Southern Pacific
Transportation Company, a corporation.

I.85-01-002
(Filed January 3, 1985)

In the Matter of the Application of
Southern Pacific Transportation
Company for Authority to Deviate from
the Provisions of General Order No.
118 on a Portion of its White Hills
Branch in Santa Barbara County,
California.

Application 85-03-052
(Filed March 12, 1985)

ORDER MODIFYING DECISION 89-02-032 AND
DENYING APPLICATION FOR REHEARING FILED BY
SOUTHERN PACIFIC TRANSPORTATION COMPANY

Southern Pacific Transportation Company (SP) has filed an application for rehearing of Decision 89-02-032. Upon review of each and every allegation of error raised in SP's application, we have concluded that sufficient grounds for rehearing have not been shown. However, upon further reflection, we have determined that the decision requires modification. Therefore,

IT IS ORDERED that:

1) On page 2, the sixth sentence of the second full paragraph is modified to state: "In order to weigh the contradictory assertions of the parties it was both appropriate and necessary to review, using the record and notes preserved in the 1963 Case 7306 file, the circumstances, events, and negotiations (i.e., the "legislative history") leading to GO 118 and the subsequently-filed standards (hereinafter referred to as the "GO 118 standards")."

2) On page 4, the fifth sentence of the first full paragraph is modified to state: "GO 118, however, provides in

Paragraph 6 for a program of improvement designed to bring walkways in certain switching areas, along main, branch, and industrial trackage into substantial conformity with the general order."

3) On page 48, the second sentence of the third full paragraph is modified to state: "SP's testimony was that there is nothing about operating the daily train to J-M that requires employees to be on the ground on that south side; that crews have been assigned radios to facilitate north side switching; that its crew members have been ordered not to be in that south side area; that signs have been posted reminding them of this order; and that the same instructions have been incorporated in their general order."

4) On page 52, the third sentence of the fifth full paragraph is modified to state: "SP acknowledged, upon cross-examination, that Johns-Manville owned the property on either side of the right of way and that SP has not explored the option of discussing with Johns-Manville the possibility of expanding that right of way."

5) On page 64, the last sentence of Finding of Fact No. 34 is deleted.

6) On page 72, Subdivision (1) of Conclusion of Law No. 21 is modified to state: "that compliance with GO 118 walkway standards is physically impossible, or that compliance is physically very difficult and can be achieved only at a cost that is unreasonable in light of the safety benefit gained[.]"

IT IS FURTHER ORDERED that:

1. Rehearing of Decision 89-02-032, as modified herein, is denied.

This Order is effective today.

Dated May 10, 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Stanley W. Hulett
being necessarily absent, did
not participate.

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

Victor Weiss

Victor Weiss, Executive Director

Paragraph 6 for a program of improvement designed to bring walkways in certain switching areas, along main, branch, and industrial trackage into substantial conformity with the general order."

3) On page 48, the second sentence of the third full paragraph is modified to state: "SP's testimony was that there is nothing about operating the daily train to J-M that requires employees to be on the ground on that south side; that crews have been assigned radios to facilitate north side switching; that its crew members have been ordered not to be in that south side area; that signs have been posted reminding them of this order; and that the same instructions have been incorporated in their general order."

4) On page 52, the third sentence of the fifth full paragraph is modified to state: "SP acknowledged, upon cross-examination, that Johns-Manville owned the property on either side of the right of way and that SP has not explored the option of discussing with Johns-Manville the possibility of expanding that right of way."

5) On page 64, the last sentence of Finding of Fact No. 34 is deleted.

6) On page 72, Subdivision (1) of Conclusion of Law No. 21 is modified to state: "that compliance with CO 118 walkway standards is physically impossible, or that compliance is physically very difficult and can be achieved only at a cost that is unreasonable in light of the safety benefit gained[.]"

IT IS FURTHER ORDERED that:

1. Rehearing of Decision 89-02-032, as modified herein, is denied.

This Order is effective today.

Dated MAY 10 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners