

Decision 90 12 096 DEC 19 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern Pacific
Transportation Company, for an exemp-
tion from the width restrictions of
General Order No. 26-D.

Application 90-11-005
(Filed November 5, 1990)

ORIGINAL

O P I N I O N

Southern Pacific Transportation Company (Southern Pacific) seeks an exemption from the provisions of General Order (GO) 26-D to permit the transportation of excess width cars between the California state line on the Oregon border and Hawthorne, California and other points in Southern California. The extra width is needed to accommodate large structural components for the model 747-400 aircraft which will be shipped between Hawthorne, California and Everett, Washington. The cars to be used are flat cars fitted with specialized canopies which will be custom designed for the Boeing Company (Boeing) to carry the aircraft parts to fulfill commercial and national defense contract obligations. Some of the shipments will move under government bills of lading.

The proposed exemption would cover Boeing's present fleet of 53 railcars, which Boeing proposes to retrofit in order to accommodate the 747-400 aircraft parts. These parts, which are now in production, measure 10' 9" in width and require canopies with an outside width of 11' 6". Boeing proposes to widen the existing canopies. Boeing also proposes to operate under the exemption an additional 20 railcars equipped with canopies built to the new specifications. It is possible that more excess width railcars may be added at a later date. All cars that will move subject to the exemption will be inspected and approved by the Federal Railroad Administration (FRA) and will comply with FRA regulations for stenciling and safety appliances.

Staff recommends that the application be granted subject to the requirements of Section 7 of GO 26-D except that applicant should be permitted to use computerized clearance messages, track warrants, and track bulletins for the colored paper train orders and message specified in Sections 7.5 and 7.6 of GO 26-D.

The United Transportation Union (UTU), which represents operating employees on the applicant railroad, has advised by letter that it protests the application and opposes in principle any exemption from the requirements of GO 26-D, citing concerns over the safety of its members. The UTU has further advised that, in view of the fact that the Commission has granted similar applications, it is not requesting a public hearing in this matter, but it does request that any final order reflect the safety concerns of the organization.

The General Order

GO 26-D generally prohibits the movement of railcars exceeding 10' 10" in width. Section 16.2 of GO 26-D provides for exemptions from this prohibition. The Commission has determined in past decisions (Decision (D.) 90-05-043 dated May 4, 1990 in Application (A.) 89-12-029, and in D.85-01-013, dated January 3, 1985 in A.83-10-056) that a flat car with a welded canopy cover is considered an excess width car (not a wide load) and that an exemption is required from GO 26-D before it may be legally operated within California. By those decisions, the Commission granted exemptions for the movement of cars exceeding 13' in width.

Southern Pacific has safely handled more than 200 shipments of 13' wide canopy cars under D.85-01-013 over a period of approximately 6 years. In contrast, at 11' 6", the Boeing railcars that are the subject of this application will extend only 8", or 4" per side, beyond the maximum railcar width of 10' 10" established in GO 26-D.

Discussion

We are of the opinion that with proper operating procedures these 11' 6" wide cars can be moved without unacceptable risks to employees and the exemption should be granted.

The application, which includes the verified statement of William A. Starmer, Traffic Specialist, Boeing Support Services, supports Boeing's need for exemption and establishes that the added width is needed to safely load and unload the model 747-400 aircraft parts into the railcars and to transport them by rail without sustaining serious lading damage. Mr. Starmer has demonstrated that the shipping fixture cannot be reduced in size and still protect the parts during transportation and that no alternative method of shipping exists which will meet Boeing's production schedule. The exemption is needed to promote business that is vital to the state economy and to rail employees.

The verified statement of Roger A. Forster, General Manager, Fleet Management, Southern Pacific, which is also included with the application, states that Southern Pacific routinely moves loads in open top cars that are as wide or wider over its entire 15-state rail system. Mr. Forster further states that the excess width Boeing cars which would move under the proposed exemption will be able to meet and pass trains carrying cars and loads of similar width and can safely negotiate the curves on either Southern Pacific's Coast route or its route through the San Joaquin Valley. Southern Pacific proposes to use its new computerized clearance system, which includes clearance messages, track warrants, and track bulletins, for notification to affected trains and personnel. It points out that the Commission has accepted the use of current technology for clearances in granting previous exemption applications, including the recent exemption in D.90-05-043 in A.89-12-029.

As we stated in the recent exemption, we believe that any physical damage to wide cars might provide warning of an unsafe

condition; therefore, we believe the Safety Division should be notified of any damage to the wide cars. However, as in the recent exemption in D.90-05-043, we will allow Southern Pacific to contract with the receiver of the freight to report damage. Southern Pacific will, of course, remain ultimately responsible for making such reports.

The proposed exemption is needed at the earliest possible time in order for Boeing to meet existing contract requirements. This business is important to the state economy and to rail employees.

Findings of Fact

1. Rail transportation is the most practical, economical, and efficient method of transporting the aircraft parts in question between Everett, Washington and Hawthorne, California and other points in Southern California.

2. The use of specially designed railcars equipped with permanently affixed excess width canopies described in the application is necessary to protect the aircraft parts from damage and to protect loading and unloading personnel.

3. All of the cars covered by this application have extreme width dimensions of 11' 6".

4. The cars can be moved with reasonable safety if operations are conducted under the provisions of Section 7 of GO 26-D and the requirements of this order.

5. The stenciling and safety appliances described above should be accepted as a reasonable alternative to the placarding required by GO 26-D.

6. The use of computerized clearance messages, track warrants, and track bulletins should be accepted as a reasonable alternative to the train messages required by GO 26-D.

7. Safety Division should be informed of all damage to cars. Southern Pacific should be authorized to contract with the receiver to inspect and report on damage.

8. Authority is needed at the earliest possible time so that Boeing can proceed to retrofit its fleet and begin shipping under the exemption, and the order should become effective without delay.

Conclusions of Law

1. The proposed operations are movements of wide cars, rather than wide loads.

2. The application should be granted, subject to the requirements set forth in the order. The FRA-approved striping should be authorized as a deviation from the placarding requirements of GO 26-D.

3. The railroad should be required to report all damage; however, they should be permitted to arrange for the receiver of the loads to perform inspections.

4. Approval of the exemption should be delayed.

ORDER

IT IS ORDERED that:

1. Southern Pacific Transportation Company (Southern Pacific) is authorized to deviate from General Order (GO) 26-D to operate the cars identified in Exhibit A of Application 90-11-005 with a proposed maximum width of 11' 6" between the California state line on the Oregon border and Hawthorne, California and other points within Southern California.

2. As additional excess width railcars are added to the fleet, Southern Pacific shall notify the Commission's Safety Division of the car number before the car may be operated within the state.

3. Transportation of these cars shall be subject to the conditions of Section 7 of GO 26-D, except that Federal Railroad Administration approved striping shall be authorized as a deviation from the placarding requirements of GO 26-D and computerized clearance messages, track warrants, and track bulletins shall be

authorized for the notifications required in Sections 7.5 and 7.6 of GO 26-D.

4. Southern Pacific shall notify or arrange for notice to the Safety Division of any damage to any car within 48 hours after the car's arrival at its destination. Notice shall be in writing transmitted in the most expeditious manner possible.

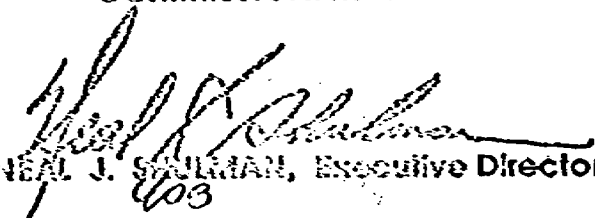
5. The application is granted, subject to the requirements and conditions noted in Ordering Paragraphs 2, 3, and 4.

This order is effective today.

Dated DEC 19 1990, at San Francisco, California.

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

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


NEAL J. SULLIVAN, Executive Director