

Decision 82 05 063 MAY 17 1982

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF SOUTHERN PACIFIC )  
TRANSPORTATION COMPANY, a )  
corporation, for a determination )  
and variance under the require- )  
ments of General Order No. 26-D, )  
Section 3.16. )

Application 61102  
(Filed December 2, 1981)

O P I N I O N

By this application Southern Pacific Transportation Company (SP) requests a determination of limited space, as provided in General Order 26-D (G.O. 26-D), Paragraph 3.16. G.O. 26-D requires, generally, a minimum side clearance of 8' 6" from the center line of tangent track and 9' 6" from the center line of curved track. Paragraph 3.16 specifies additionally:

" . . . Where the Commission has determined that space is limited, the minimum side clearances for structures adjacent to tracks of not over twelve (12) degree curvature may be the same as for tangent track, but where track curvature exceeds twelve (12) degrees, one-half (1/2) inch for each degree of the curve shall be added to the minimum side clearance required for tangent track."

The track involved is an 800' long siding which parallels the eastbound and westbound mainline tracks, immediately adjacent to the eastbound mainline. The affected siding involves a portion of curved track in the vicinity of Glendale Station, north of Los Feliz Boulevard and south of Taylor Yard, between Mile Post 476.7 and Mile Post 478.15. Track centers between the siding track and the eastbound mainline vary from 14.10' to 14.50'. G.O. 26-D, Paragraph 5.1, requires a minimum distance between such track centers of at least 14'.

SP alleges that, in 1959, it sold certain real property adjacent to the siding to "General Pipe and Supply Company" for industrial rail-served development; that the purchaser never completed the proposed development but, instead, resold the property to "Extra Space Company of Madison, Wisconsin"; and that this company in 1979 constructed several prefabricated sheet metal buildings on reinforced concrete slab foundation immediately adjacent to its northerly property line adjoining SP's right of way (between Mile Post 476.85 to Mile Post 477.12). As a result of the construction of the buildings a side clearance problem has arisen, with distances from the center line of the passing track and the structures varying from 8.22' to 8.42' in the area in question.

SP is agreeable to shifting the siding approximately 0.290' northerly of its present location to permit 14' track centers between it and the eastbound mainline and to permit a clearance of 8' 6" from the center line of the track to the adjacent buildings. SP alleges that it cannot provide the required 9' 6" side clearance for curved track to the buildings without moving all tracks or relocating the buildings, "all at enormous expense". Because the affected track is only slightly curved, approximately one-half degree or  $0^{\circ} 30''$  to  $0^{\circ} 40''$ , SP seeks to invoke the provisions of G.O. 26-D, Paragraph 3.16, whereby the Commission can determine that space is limited and minimum side clearances for structures adjacent to tracks of not over  $12^{\circ}$  curvature may be the same as for tangent track.

By Petition to Intervene filed January 19, 1982, United Transportation Union (UTU), which represents all conductors, brakemen, switchmen, firemen, and a portion of the engineers, who are employees of the SP, protested the application and requested that a public hearing be held to develop a record on the matter. It alleges that the provisions of Paragraph 3.16 of G.O. 26-D, whereby the Commission may consider slightly curved track as tangent track, apply only to new construction, not to existing clearance violations and that SP is at fault for selling excess

land to a private party. UTU further maintains that the application fails to identify the volume of traffic in the area or the number of railroad employees potentially exposed to the impaired clearance. Finally UTU argues that, given the existing clearances of between 8.22' and 8.42', the Commission would be granting a deviation in excess of one foot of the minimum side clearances required by G.O. 26-D.

Discussion

The Commission notes that SP did not monitor its past land sales to allow itself clearance easements or to prohibit building construction that now compel it to violate a literal interpretation of G.O. 26-D. However, given the limited degree of curvature involved and the cost of moving all the tracks in the area to permit a 9' 6" side clearance to the buildings, the Commission does not believe the expenditure to be justified. Although the questioned provisions of G.O. 26-D, Paragraph 3.16, apply to new construction, the Commission can apply that language to existing conditions.

This interpretation, however, is limited to the immediate situation and will not necessarily be invoked if, in the future, the railroad is again found to be remiss in anticipating specified clearance requirements of this Commission.

UTU alleges that the Commission would be granting a deviation in excess of one foot. SP proposes to relocate its passing track 0.290' northerly of its present location to provide a minimum side clearance of 8' 6" from center line as allowed by Paragraph 3.16 of G.O. 26-D.

As the issues and alleged impact on UTU constituents have been clearly brought to the Commission's attention through UTU's petition, there is no apparent need to further develop a record on this matter. To alert trainmen to the reduced clearance at this location, the ensuing order will require SP to issue a timetable bulletin concerning this permanent condition. A public hearing is not necessary.

Findings of Fact

1. In 1959 SP sold certain real property adjoining its right of way between Mile Post 476.85 and Mile Post 477.12, so that eventually buildings were constructed on the property, impacting the railroad's normal clearance obligations to the Public Utilities Commission G.O. 26-D, Paragraph 3.16.

2. By General Order 26-D, Paragraph 3.16, the Commission, if it determines that the space is limited, may consider minimum side clearances for structures adjacent to tracks of not over 12° curvature the same as for tangent track.

3. SP cannot relocate the siding to permit the required 9' 6" side clearance without moving all its tracks in the area or by moving adjacent structures.

4. SP is agreeable to relocating the siding to permit 8' 6" between its center line and the adjoining southerly structures and to permit 14' centers between its center line and that of the adjacent mainline track.

5. The benefits to be gained from relocating all the tracks in the area or from moving the buildings do not justify the expense required thereby.

6. To address UTU's concern for the safety of its constituents, the Commission will order SP to issue a timetable bulletin to alert trainmen to the existing side clearance.

7. This interpretation is applicable only to the situation described between Mile Post 476.85 and Mile Post 477.12 and should not be deemed necessarily to reflect future Commission policy.

8. Although UTU filed a Petition to Intervene in opposition to the application a public hearing is not necessary.

Conclusions of Law

1. The Commission has determined that space is limited and the curvature of the trackage is less than 12°.

2. The request to relocate the above-described siding to a minimum clearance of 8' 6" from the structure and 14' from the eastbound mainline track center line should be granted.

3. This determination is applicable only to the situation described between Mile Post 476.85 and Mile Post 477.12 and does not reflect future Commission policy.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Transportation Company is authorized to relocate its siding, consisting of approximately 1/2° curved track, between Mile Post 476.85 and Mile Post 477.12, to provide a minimum clearance of 8' 6" from the center line of all structures and a minimum of 14' 0" between the center lines of the adjacent siding and the eastbound mainline track at Glendale.

2. Southern Pacific Transportation Company shall issue and file with this Commission, a timetable bulletin advising all affected employees of the above restricted side clearance on curved track to remain in effect as long as track remains in service.

This order becomes effective 30 days from today.

Dated MAY 17 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. GREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director



land to a private party. UTU further maintains that the application fails to identify the volume of traffic in the area or the number of railroad employees potentially exposed to the impaired clearance. Finally UTU argues that, given the existing clearances of between 8.22' and 8.42', the Commission would be granting a deviation in excess of one foot of the minimum side clearances required by G.O. 26-D.

Discussion

The Commission notes that SP did not monitor its past land sales to allow itself clearance easements or to prohibit building construction that now compel it to violate a literal interpretation of G.O. 26-D. However, given the limited degree of curvature involved and the ~~enormous~~ costs of moving all the tracks in the area to permit a 9' 6" side clearance to the buildings, the Commission does not ~~view that the benefits exceed the costs.~~ *believe the expenditures to be justified.* Although the questioned provisions of G.O. 26-D, Paragraph 3.16, apply to new construction, the Commission can apply that language to existing conditions.

This interpretation, however, is limited to the immediate situation and will not necessarily be invoked if, in the future, the railroad is again found to be remiss in anticipating specified clearance requirements of this Commission.

UTU alleges that the Commission would be granting a deviation in excess of one foot. ~~This is clearly not the case.~~ SP *KL* proposes to relocate its passing track 0.290' northerly of its present location to provide a minimum side clearance of 8' 6" from center line as allowed by Paragraph 3.16 of G.O. 26-D.

As the issues and alleged impact on UTU constituents have been clearly brought to the Commission's attention through UTU's petition, there is no apparent need to further develop a record on this matter. To alert trainmen to the reduced clearance at this location, the ensuing order will require SP to issue a timetable bulletin concerning this permanent condition. A public hearing is not necessary.

Findings of Fact

1. In 1959 SP sold certain real property adjoining its right of way between Mile Post 476.85 and Mile Post 477.12, so that eventually buildings were constructed on the property, impacting the railroad's normal clearance obligations to the Public Utilities Commission G.O. 26-D, Paragraph 3.16.

2. By General Order 26-D, Paragraph 3.16, the Commission, if it determines that the space is limited, may consider minimum side clearances for structures adjacent to tracks of not over 12° curvature the same as for tangent track.

3. SP cannot relocate the siding to permit the required 9' 6" side clearance without moving all its tracks in the area or by moving adjacent structures.

4. SP is agreeable to relocating the siding to permit 8' 6" between its center line and the adjoining southerly structures and to permit 14' centers between its center line and that of the adjacent mainline track.

5. The benefits <sup>to be</sup> gained from relocating all the tracks in the area or from moving the buildings <sup>do not justify the expense required.</sup> ~~would not exceed their costs.~~ *Kn*

6. ~~Although UTU filed a Petition to Intervene in opposition to the application a public hearing is not necessary to develop a record as the facts relating to SP's request and UTU's concern for its constituents' safety are quite clear to the Commission.~~ *Kn*

6. ~~To address UTU's concern for the safety of its constituents, the Commission will order SP to issue a timetable bulletin to alert trainmen to the existing side clearance.~~ *Kn*

7. ~~This interpretation is applicable only to the situation described between Mile Post 476.85 and Mile Post 477.12 and should not be deemed necessarily to reflect future Commission policy.~~ *Kn*

Conclusions of Law

1. The Commission has determined that space is limited and the curvature of the trackage is less than 12°.