

Decision 83 05 037 May 4, 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Department of Transportation,  
State of California,

Complainant,

v.

Southern Pacific Transportation  
Company,

Defendant.

Case 82-08-01  
(Filed August 4, 1982)

ORDER MODIFYING DECISION 83-02-079  
AND DENYING REHEARING

An application for rehearing of Decision(D.) 83-02-079 has been filed by the Southern Pacific Transportation Company (SP). We have carefully considered every allegation of error raised in the application, and are of the opinion that no good cause for granting rehearing has been shown. However, we will make several modifications to D.83-02-079, as provided below. Therefore,

IT IS ORDERED that D.83-02-079 is modified as follows:

1. The last paragraph on page 6, continuing onto page 7, is modified to read:

"We look upon the decision of SP not to run the service on two successive days as two separate violations of our previous orders. We will impose the maximum penalty as provided by law for each day the trains required by the schedule on file with the Commission did not run - i.e., on February 7 and 8, 1983.

However, Section 2007 of the Public Utilities Code is not applicable to contempt proceedings. Rather, Section 2113 of the Public Utilities Code authorizes the Commission to punish for contempt in the same manner and to the same extent as may be done by courts of record. Such punishment is thus governed by the contempt provisions of the Code of Civil Procedure (CCP). CCP §1218 provides for a maximum penalty of \$500 for each separate offense. The penalty will thus be \$1,000."

2. Finding No. 8 is modified to read:

"8. Public Utilities Code §2113 and Code of Civil Procedure §1218 provide for a maximum fine of \$500 for each separate offense."

3. Ordering Paragraph 2 is modified to read:

"SP, McNear, and Weber are fined \$500 for each offense under the provisions of Public Utilities Code §2113 and Code of Civil Procedure §1218, for a total fine of \$1,000."

4. Ordering Paragraph 5 is added to read:

"SP, McNear, and Weber shall make the payment specified in Ordering Paragraph 2 within 15 days of the effective date of this order."

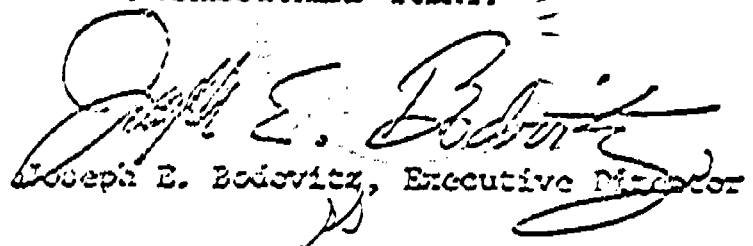
5. Except as modified herein, rehearing of D.83-02-079 is denied.

This order is effective today.

Dated May 4, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bolovitz, Executive Director



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Dated MAY 4 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL

Commissioners

5. Except as modified herein, rehearing  
of D.83-02-079 is denied. ✓