

83 10 036

Decision \_\_\_\_\_ October 19, 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of UNION PACIFIC RAILROAD COMPANY, Utah, a corporation.

OII 82-10-01

ORDER EXTENDING THE EFFECTIVE DATE OF DECISION 83-10-030

Union Pacific Railroad Company (UP) applied on October 18, 1983 for an ex parte decision extending the effective date of Decision 83-10-030 until an application for exemption to General Order (G.O.) 26-D can be considered by the Commission and until UP can file a modified configuration for walkways in yards under G.O. 118 and that filing becomes final as provided in G.O. 118 or until such other date the Commission deems appropriate.

Decision 83-10-030 was issued October 5, 1983 and was personally served on UP on October 13, 1983. It becomes effective 15 days after issuance, or on October 20. Because UP did not file an application for rehearing 10 days before the effective date of the order it has lost the ability to stay the order automatically.

Decision 83-10-030 ordered UP to cease and desist from conducting operations over the tracks set forth in Finding 6 of that decision until such time as the minimum clearances between those tracks comply with G.O. 26-D and to cease and desist from conducting operations over the tracks set forth in Finding 12 until such time as Standard No. 6 walkways are installed as required by its own standards and by G.O. 118.

UP alleges in its petition that it will file applications by October 25, 1983 for an exemption from G.O. 26-D with respect to the Yermo Yard and for a deviation of its filed standards as provided for in ordering paragraph 7 of G.O. 118. It further alleges that it has made some changes in the track spacings at Yermo Yard

during the hearing in this proceeding and believes the tracks are spaced now at safe intervals and that an exception to G.O. 26-D is warranted. It states that it has adopted modern railroad practices at Yermo with regard to inspection and repair of brake parts that it believes warrant an exception to G.O. 118.

The allegations made by UP with regard to the merits of the exceptions to G.O. 26-D and 118 will, we hope, be set forth with more particularity in the applications to be filed on October 25, 1983 and we do not address the merits here.

Because UP was not served with a copy of Decision 83-10-030 until October 13 and thereby lost its opportunity to file an application for rehearing in time to stay our orders in that decision, we will grant UP's petition to extend the effective date until fifteen days from today. This will place UP in the same position it would have been in had our previous order been timely served upon it. We will not approve UP's request for an unlimited extension of the effective date of Decision 83-10-030.

This order did not appear on the Commission's public Agenda as required by the Government Code; however, a bona fide emergency exists sufficient to justify our action today under P.U. Code Section 306(b) without such public notice.

Therefore, good cause appearing, IT IS ORDERED that the effective date of Decision 83-10-030 is extended until November 3, 1983. To the extent not granted by this order, the petition of Union Pacific Railroad Company is denied.

This order is effective today.

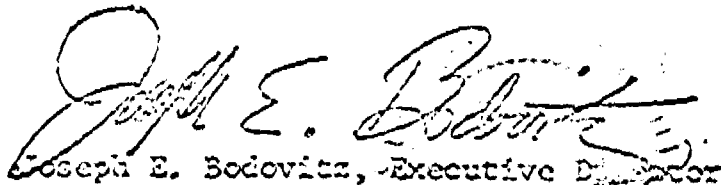
Dated October 19, 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
WILLIAM T. BAGLEY  
Commissioners

I abstain.

/s/ DONALD VIAL  
Commissioner

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

  
Joseph E. Bodovitz, Executive Director

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ORIGINAL

Decision 83 10 036 OCT 19 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations and  
practices of UNION PACIFIC RAILROAD  
COMPANY, Utah, a corporation.

OIL 82-10-01

*Extending effective date of*  
ORDER STAYING DECISION 83-10-030

Union Pacific Railroad Company (UP) applied on October 18, 1983 for an ex parte decision extending the effective date of Decision 83-10-030 until an application for exemption to General Order (G.O.) 26-D can be considered by the Commission and until UP can file a modified configuration for walkways in yards under G.O. 118 and that filing becomes final as provided in G.O. 118 or until such other date the Commission deems appropriate.

Decision 83-10-030 was issued October 5, 1983 and was personally served on UP on October 13, 1983. It becomes effective 15 days after issuance, or on October 20. Because UP did not file an application for rehearing 10 days before the effective date of the order it has lost the ability to stay the order automatically.

Decision 83-10-030 ordered UP to cease and desist from conducting operations over the tracks set forth in Finding 6 of that decision until such time as the minimum clearances between those tracks comply with G.O. 26-D and to cease and desist from conducting operations over the tracks set forth in Finding 12 until such time as Standard No. 6 walkways are installed as required by its own standards and by G.O. 118.

UP alleges in its petition that it will file applications by October 25, 1983 for an exemption from G.O. 26-D with respect to the Yermo Yard and for a deviation of its filed standards as provided for in ordering paragraph 7 of G.O. 118. It further alleges that it has made some changes in the track spacings at Yermo Yard

during the hearing in this proceeding and believes the tracks are spaced now at safe intervals and that an exception to G.O. 26-D is warranted. It states that it has adopted modern railroad practices at Yermo with regard to inspection and repair of brake parts that it believes warrant an exception to G.O. 118.

The allegations made by UP with regard to the merits of the exceptions to G.O. 26-D and 118 will, we hope, be set forth with more particularity in the applications to be filed on October 25, 1983 and we do not address the merits here. ~~Further, if we were to extend the effective date of the order it appears questionable under Public Utilities Code section 1731 whether UP could then stay the order by a timely application for rehearing and by what date such an application would have to be filed. To avoid addressing these questions, we will deny UP's request to extend the effective date of Decision 83-10-030 but we will on our own motion stay the two ordering paragraphs until further order of this Commission to permit UP to file the applications for exemption and for these applications to be considered and acted upon.~~

This order did not appear on the Commission's public Agenda as required by the Government Code, however a bona fide emergency exists sufficient to justify our action today under P.U. Code section 306(b) without such public notice.

Because UP was not served with a copy of Decision 83-10-030 until October 13 and thereby lost its opportunity to file an application for rehearing in time to stay our order in that decision, we will grant UP's petition to extend the effective date until fifteen days from today. This will place UP in the same position it would have been in had our previous order been timely served upon it. We will not approve UP's request for an unlimited extension of the effective date of Decision 83-10-030.

*the effective date of*

Therefore, good cause appearing, IT IS ORDERED that

Decision 83-10-030 is stayed until further order of this

*Commission. To the extent that granted by this order, the petition of Union Pacific Railroad Company is denied. This order is effective today.*

Dated OCT 19 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
FRISCILLA C. GREW  
WILLIAM T. BAGLEY  
Commissioners

I abstain.

DONALD VIAL, Commissioner