

ORIGINAL

Decision 92658 OCT 20 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE ATCHISON, TOPEKA)
AND SANTA FE RAILWAY COMPANY for)
exemption from General Order 26-D)
as to three addt'l cars, commensurate)
with exemption previously granted.)

Application 60849
(Filed August 25, 1981)

O P I N I O N

Decision (D.) 92899 dated April 7, 1981 in Application (A.) 60009 made permanent the interim authority granted by D.92641 dated January 21, 1981 to The Atchison, Topeka and Santa Fe Railway Company (AT&SF) to move two excess-width railway cars (13 feet wide) over its lines in California. These cars are Southern Pacific Transportation Company (SP) Nos. 598376 and 598380 and are used to transport military F-18 fighter aircraft fuselage assemblies from Northrup Corporation (Northrup) at El Segundo, California to McDonnell Douglas Corporation (Douglas) at Robertson, Missouri. The authorization is an exemption from General Order (GO) 26-D and is subject to the same seven conditions and restrictions contained in D.89639 dated November 9, 1973 which authorized SP to operate the same two cars over its lines.

By this application, AT&SF seeks authority for three additional cars of identical design and dimension as authorized by D.92899. These cars are to carry the same type aircraft assemblies as the SP cars and are to move between the same two points.

The application states that the aircraft has now gone into actual production (as distinguished from shipments in connection with manufacture of prototype), and the military has advanced delivery dates and ordered additional aircraft. This has necessitated additional and more frequent shipments of fuselage sections to maintain production and delivery schedules. The application states that the additional cars will be identical in design and dimensions to those already in operation. While not now identifiable by number, AT&SF will identify the cars and advise the Commission when they are placed in service.

The application states that there have been two hearings with respect to the need for excess-size cars to move fuselage sections and that the application and accompanying affidavits affirm the evidence previously presented showing why three additional cars are needed. An expedited ex parte decision is requested so that the first car may go into service by November 1, 1961. It is alleged that such an order would be in the public interest enabling the parties to meet the requirements of the United States military.

Attached to the application were the affidavits of Melvin D. McKinney, manager-traffic and transportation for Douglas and R. E. Beck, assistant general superintendent of transportation for AT&SF. McKinney reaffirms his affidavit and testimony presented in A.60009 stating that the circumstances surrounding the need for the three additional cars are the same as in A.60009 except that the delivery dates for the military aircraft have been advanced and there has been an increase in numbers to be manufactured. He stated that the fuselage sections are to be delivered in an assembled state and there is no practical way for them to be enclosed in a smaller canopy as cover. Beck's affidavit supports the application stating that the cars are required to meet the movement schedules of the aircraft.

On September 2, 1981 the United Transportation Union (UTU) filed a protest and request for public hearing to determine what, if any, new, additional, and changed circumstances are now in place which require the exemption of three additional cars. The protest stated that the points and authority in opposition would, if a hearing was held, be identical to those presented in opposition to A.60009 expressing concern as to the pressing need for three additional cars. UTU stated its concern was why the need for more extra-width cars was not addressed during public hearing on A.60009, but that it did not wish to broaden the issues as presently defined.

On September 8, 1981, AT&SF filed an answer to the UTU filing. It states that D.89639 distinguishes the three excess-width cars authorized for use by Lockheed and the two for use by Northrup. It points out that the two Northrup cars were for the movement of center and aft fuselage and tail sections of the F-18. It states that the UTU protest is an attempt to mislead the Commission into believing that the requested three cars are not needed since the three Lockheed cars authorized by D.89639 have been returned to regular service. AT&SF states that D.89639 distinguishes the Lockheed cars and those authorized for Northrup. It points out that the Lockheed cars were for movement of wings, wing stubs, and cockpits for four-engine turbo aircraft while the Northrup cars were for the movement of center and aft fuselage and tail sections of the F-18 aircraft. It states that the hearing in A.60009 was limited to the existing need for cars and the need for a quick decision before the interim authority authorized by D.92641 expired.

The Commission staff takes the position that if the application is granted the decision should make clear that all provisions of GC 25-D would apply to the operation of the cars as well as to any additional excess-width cars required for the movement of F-18 fuselage sections.

Review of the application and filings lead to the conclusion that the application should be granted. A public hearing is not necessary; a hearing would adduce no new facts or considerations not previously addressed in A.60009. The excess-width cars are required in order to enclose the outer dimensions of the F-18. The additional cars are necessary if the production and delivery schedules to the military are to be maintained, which is clearly essential to military defense. The circumstances surrounding the need for the cars are the same as those in A.60009 except for the advanced delivery schedule. The conditions and restrictions imposed on SP cars Nos. 598376 and 598380 by D.92641 will be made applicable to the three cars requested. There is no evidence that movement of previously authorized excess-width cars has been unsafe or has created any problems.

With respect to the UTU request for a hearing, the petition states that the points of authority in opposition would be identical to those presented in A.60009. It should be noted that at the hearing in A.60009, UTU opposed the application on the basis of safety but sponsored no witnesses or evidence. While not precluding any showing it may wish to make, the pleadings are clear that UTU has no plans for an affirmative showing.

Findings of Fact

1. By D.89639 dated November 9, 1978 SP was authorized, among other things, to operate two excess-width cars (12 feet wide) in California. These were SP cars Nos. 598376 and 598380.
2. By D.92641 dated January 21, 1981 AT&SF was authorized to operate the same two SP excess-width cars in California on an interim basis to and including April 21, 1981.
3. By D.92899 dated April 7, 1981 the interim authority in D.92641 was made permanent.
4. Use of the excess-width cars is required in order to enclose the outer dimensions of Douglas F-18 Hornet center-aft fuselage sections manufactured by Northrup, El Segundo. One of the sections fills an excess-width car with only about two inches to spare on each side.

5. Northrup moved its F-18 fuselage section production from Hawthorne, served only by SP, to El Segundo, served only by AT&SF.

6. If AT&SF is not authorized to move the three additional excess-width cars Northrup will have to truck the fuselage sections from its El Segundo plant to some rail car loading point on SF such as Hawthorne. This will cause delay in transit to Douglas at Robertson, Missouri.

7. Physical transfer of the fuselage sections from trucks to the excess-width rail cars involved adds to the cost of transportation and to risk of damage.

8. Because of the oversize nature of the fuselage sections involved, truck movements require that special measures be taken which can contribute to congestion on streets and highways in the vicinity of Los Angeles International Airport, even between midnight and 6 a.m.

9. Railroad transportation of the fuselage sections involved between El Segundo, California, and Robertson, Missouri, is essential to the national defense.

10. The three additional rail cars involved are to be constructed by permanently welding excess-width bodies to open top (flat) cars.

11. Containers, the same size and shape as the bodies of the three additional excess-width cars involved, could be temporarily fastened to open top cars and operated by AT&SF subject to the provisions of Section 7 of GO 26-D without the type of exemption requested.

12. All relevant provisions of GO 26-D will apply to movement of the three excess-width cars.

13. Conditions and restrictions in the order in D.92641 will greatly reduce risk to the public, to railroad operating personnel, and to railroad equipment in connection with the operation of the three additional excess-width cars.

14. The record does not show that it would be hazardous to operate three additional excess-width cars.

Conclusions of Law

1. The authority granted in D.92899 should be extended to the three additional excess-width cars described in A.60849.

2. Because of the need to meet the contract delivery schedules, the decision should be made effective today.

O R D E R

IT IS ORDERED that The Atchison, Topeka and Santa Fe Railway Company is authorized to operate three additional excess-width cars over its line in California from El Segundo en route to McDonnell Douglas Corporation at Robertson, Missouri, subject to the conditions and restrictions set forth in Decisions 92641 and 92899.

This order is effective today.

Dated OCT 20 1981, 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 National Commissioners today.

