

DECISIONS OF

**Pennsylvania Public Utility  
Commission**

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**VOLUME 30**



HARRISBURG, PENNSYLVANIA

1954

(a) Infringe upon a field of regulation which has been exclusively delegated to, and exercised by, the Interstate Commerce Commission under the provisions of Section 25 of the Interstate Commerce Act.

(b) Result in a lack of uniformity in the operation of the cab-signal apparatus on respondent's system.

(c) Be an unwarranted restriction upon, adversely affect and unduly impede the interstate movement of passengers and property in cab-signal territory.

The power of the several states to enact safety measures for railroad operations that may in some manner affect interstate commerce has been reviewed by the Supreme Court of the United States. See *Southern Pacific Co. v. Arizona Ex Rel. Sullivan, Attorney General*, 325 U. S. 761 (1945) where at page 767 the Court speaks as follows:

“But ever since *Gibbons v. Ogden*, 9 Wheat. 1, the states have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate those phases of the national commerce which, because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority.”

It is apparent that the subject matter of our order of March 17, 1952 has been vested in the Interstate Commerce Commission and has been and is being exercised by that Commission; **THEREFORE,**

**IT IS ORDERED:** That the motion of The Pennsylvania Railroad Company to discontinue the complaint docketed at C. 15670 be and the same is hereby granted.

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

DELAWARE, LACKAWANNA AND WESTERN  
RAILROAD COMPANY

## COMPLAINT DOCKET No. 15672

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*Interstate Commerce—Jurisdiction—Railroad Companies—Operating Rules—Public Safety—Interstate Commerce Commission—Safety Measures for Railroad Operations.*

Since the subject matter of a railroad company's operating rules were vested in the Interstate Commerce Commission and had been and were being exercised by that Commission, the Pennsylvania Public Utility Commission terminated its endeavor to modify such operating rules.

*Interstate Commerce—Jurisdiction—Federal and State Power—Railroad Companies—Safety Measures—National Uniformity.*

The power of the several states to enact safety measures for railroad operations that may in some manner affect interstate commerce has been reviewed by the United States Supreme Court which held that the states have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate these phases of the national commerce which because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority.

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*Gomer W. Morgan*, for Delaware, Lackawanna and Western Railroad Company.

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BY THE COMMISSION, *May 26, 1952*:

This matter comes before us upon the motion of The Delaware, Lackawanna and Western Railroad Company to dismiss the above-captioned complaint.

On March 17, 1952, we instituted an investigation upon our own motion under the provisions of the Public Utility Law for the purpose of determining whether, in order to provide and maintain adequate, efficient, safe and reasonable service and facilities in Pennsylvania, respondent railroad company should not be required to modify its operating Rule 686F which reads as follows:

“Enginemen must be governed by cab signal indications, and by the most restrictive indications displayed by either fixed signals or cab signals. After passing a fixed signal the

cab signal indication will govern until the next fixed signal is reached,"

to read as follows:

"Enginemen must be governed by cab signal indications and by the most restrictive indications displayed by either fixed signals or cab signals. Cab signal indications do not supersede fixed signal indications except when cab signal changes to a more restrictive indication after passing a fixed signal,"

and to annul its operating rule 686H, which reads as follows:

"When cab signal changes to Clear while a train is proceeding under a Restricting signal, speed may be resumed after the entire train passes the point where the indication changed."

On April 30, 1952, respondent railroad company filed its motion to dismiss the instant complaint and in support of its motion substantially avers:

1. That respondent operates its line of railroad interstate in and through the states of New York, New Jersey and Pennsylvania and, therefore, is subject in such interstate operations to the jurisdiction of the Interstate Commerce Commission.

2. That jurisdiction over the subject matter of the instant complaint is vested solely in the Interstate Commerce Commission under Section 25 of the Interstate Commerce Act (49 U. S. C. §26) and such jurisdiction has been and is being exercised by the Interstate Commerce Commission in respect to the respondent.

3. That two of the rules, standards and instructions as set forth in I. C. C. order of June 29, 1950, in Ex Parte No. 171 read as follows:

"§136. 514 *Interconnection of cab-signal system with roadway-signal system.*—The automatic cab-signal system shall be interconnected with the roadway-signal system so that the cab-signal-indication will not authorize operation of the train at a speed higher than that authorized by the indication of the roadway signal that governed the movement of a train into a block except when conditions affecting movement of trains in the block change after the train passes the signal."

“§136. 568 *Difference between speeds authorized by roadway signal and cab signal, action required.*—If for any reason a cab signal authorizes a speed different from that authorized by a roadway signal, when a train enters the block governed by such roadway signal, the lower speed shall not be exceeded.”

4. That respondent's operating rules Nos. 686F and 686H which the Pennsylvania Commission's order of March 17, 1952 seeks to revise or annul are in accordance with the orders of the Interstate Commerce Commission and said rules and regulations adopted by the Interstate Commerce Commission.

5. That the changes proposed by the Pennsylvania Commission in respondent's rules 686F and 686H would impose an undue and unreasonable burden upon and interference with interstate commerce, in that if the state authorities are permitted to regulate and prescribe railroad operating rules, respondent will be subject to regulation which is not uniform in its application.

6. That the Interstate Commerce Commission having authority and jurisdiction by law and having assumed and exercised such authority and jurisdiction over respondent and its operations and rules, the Pennsylvania Public Utility Commission is without jurisdiction to make, issue or enforce its order of March 17, 1952.

The power of the several states to enact safety measures for railroad operations that may in some manner affect interstate commerce has been reviewed by the Supreme Court of the United States. See *Southern Pacific Co. v. Arizona Ex Rel. Sullivan, Attorney General*, 325 U. S. 761 (1945) where at page 767 the Court speaks as follows:

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It is apparent that the subject matter of our order of March 17, 1952 has been vested in the Interstate Commerce Commission and has been and is being exercised by that Commission; **THEREFORE,**

**IT IS ORDERED:** That the motion of The Delaware, Lackawanna and Western Railroad Company to dismiss the complaint docketed at C. 15672 be and the same is hereby granted.