

I.C.C. Signal Hearing

Forms calling for information on train speeds, systems of signaling and other items are to be returned by railroads by August 10, and hearing set tentatively for September 9-12, inclusive, in Chicago

ON June 18, the Interstate Commerce Commission, Commissioner Patterson in charge, held a preliminary hearing with reference to the order issued May 20, having to do with an investigation concerning proposed signaling on territory where trains are operated at 50 or more miles per hour, as given in more detail on page 417 of *Railway Signaling* for June. Abstracts of the proceedings of the hearing on June 18 are as follows.

Proceedings

Commr. Patterson: This proceeding was instituted by the Commission, on its own motion, under Section 25 (formerly 26) of the Interstate Commerce Act, primarily to determine whether it is necessary, in the public interest, to require any respondent to install block signal system, interlocking, automatic train stop, train control or cab signal devices, or other similar appliances, methods, and systems intended to promote safety of railroad operation upon the whole or any part of its railroad on which any train is operated at a speed of fifty miles or more per hour.

The Commission's order of June 13, 1922, required 49 railroads to install automatic train stop or train control devices on designated portions of their lines, and its order of January 14, 1924, required additional installations on 47 of these 49 roads.

As stated in the Commission's report of November 26, 1928 (148 I.C.C. 188) which was issued following a further investigation in respect to block signal systems and automatic train control devices, it was concluded not to require by order at that time further installations of automatic train stop or train control devices. It was stated, however, that expenditures for the preservation of human life should be generous and should be so distributed that the greatest possible measure of protection would be afforded. The Commission stated that the carriers should be diligent in their efforts to provide adequate protection against accidents due to grade crossings, derailments, collisions in territory not protected by block signals, failure of wooden bridges and trestles, and the use of wooden passenger-train cars, but that this in no way relieved the carriers from the responsibility which rested upon them to provide additional

protection where needed in territory equipped with block signals.

Since completion of the installations which were required by the automatic train control orders of 1922 and 1924, the carriers have been, for the most part, free to exercise their own judgment as to the amounts of their expenditures to promote safety and the manner in which such funds should be used. During the 22 years that have elapsed since the order of 1924, and especially during the past few years, traffic has increased enormously, heavier and faster motive power has been introduced, streamlined trains have come into use on many railroads, and higher maximum authorized speeds and faster schedules have quite generally been adopted. The occurrence of disastrous accidents in recent years, many of which have resulted in considerable loss of life and injuries to many passengers and employees, has raised a serious question whether the means employed to promote safety have kept pace with the needs of modern railroad operation and the increased hazards. Accordingly, the Commission has instituted this investigation as to the need for and the available means and methods of safeguarding railroad operation against the occurrence of such accidents.

The investigation is also to determine whether the Commission's definition of the term "medium speed" should be revised and whether the Commission's order of April 13, 1939, should be revised to include a definition of the term "low (restricted) speed."

The Commission's present definition of "medium speed" is a "speed not exceeding one-half authorized speed." On some railroads there is no authorized speed, which renders the Commission's definition meaningless on those railroads. "Low (restricted) speed" does not now appear in the Rules, Standards and Instructions, prescribed by the Commission's order of April 13, 1939, and the question is whether it should not be therein defined.

The purpose of this prehearing conference is to meet informally with respondents, and agree upon a method of procedure, what information the Commission will request respondents to furnish, the form in which it should be submitted, and the time and place

of hearing. Forms are now being distributed to be used by respondents for furnishing certain information for the Commission to have in connection with this investigation. These forms will be discussed later. While these forms are being distributed, I would like to have some indication as to how these various parties might be organized for the purpose of prosecuting this investigation. I think Mr. Hungerford perhaps has a statement to make in that connection.

Clark Hungerford (vice-president in charge of operations and maintenance, Association of American Railroads): The railroads, members of the association, have given consideration to the subject matter of this proceeding. They regard safety in operation as a primary responsibility of management, and they wish to be helpful to the Commission in the discharge of its obligation under the law in respect to the matter of safety. Representatives of the member lines have met together on two occasions prior to this prehearing conference, and it is the expressed attitude and purpose of the industry as a whole to work with the Commission to find the best practicable solution of the problem with which we are confronted.

Anything I may say or propose is necessarily subject to the right of individual railroads to take such position, express such views or offer such proposals as its judgment dictates. Nevertheless, it is the sense of the industry that it can perhaps be of material assistance to the Commission through the organization of a committee which would treat tentatively with the Commission looking to the best possible solution of the general problem before us. To this end, at a meeting of member lines held here in Chicago yesterday, a committee was designated, and I am authorized to offer you the cooperation of that committee in seeking the formulation of standard requirements which would be practically feasible as applied perhaps to the average railroad.

We have devoted much thought to the question how this proceeding could best be handled with a view to minimizing the number, scope and duration of hearings which might be necessary and the volume of testimony to be adduced. Our best thought, which we offer as our suggestion in that connec-

tion, substantially is as follows:

We understand, as you have outlined here, that you propose to issue a questionnaire designed to elicit the necessary basic information. Should you so desire, the committee I have mentioned would be glad to review with you or your designated representatives the form and content of such questionnaire, it being possible that the committee might be able to make helpful suggestions.

The committee could, however, work with the Commission in devising a tentative program of standard requirements, and our suggestion would be that such requirements be incorporated in a show cause order to be served upon the railroads with full opportunity for any individual railroad to come before the Commission and ask that exceptions or modifications be made with respect to it.

The names of the committee, Mr. Commissioner, that has been selected are as follows: J. J. Brinkworth, vice-president and general manager of the New York Central, Cincinnati, chairman, W. R. Triem, general superintendent telephone and telegraph, Pennsylvania Railroad, Philadelphia; R. C. White, chief operating officer, Missouri Pacific Lines, St. Louis; J. H. Aydelott, general manager, Chicago, Burlington & Quincy, Chicago; R. G. Henley, general superintendent motive power, Norfolk & Western, Roanoke; Armstrong Chinn, chief executive officer, Alton, Chicago; G. K. Thomas, signal engineer, Atchison, Topeka & Santa Fe, Topeka; E. W. Reich, superintendent telegraph and signals, Reading Company, Philadelphia; L. C. Walters, assistant to vice-president, signals and electrical, southern railway system, Washington; L. D. Dickinson, general signal engineer, Union Pacific, Omaha; A. S. Hunt, chief engineer communications and signals, Baltimore & Ohio, Baltimore; E. E. Mayo, chief engineer, Southern Pacific, San Francisco.

Representatives of the Railway Labor Executives Association, the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen were also heard at the meeting and were granted the privilege of participating in further hearings.

Commr. Patterson: With respect to Form RR-1 it was unanimously agreed that there should be an additional column in Form RR-1 showing the train density on Form No. 1 with one column showing the train density as of July 1. Otherwise the forms were agreed upon as submitted by the Commission. It is understood that so far as the railroads are concerned these forms will be circulated by the railroads to the respondents and they

will be responsible for the return of the forms by the member lines. The forms will be returnable to the Commission by August 10.

Mr. Hungerford: Mr. Commissioner, we were discussing the matter of hearing and this morning we were talking about the question of procedure. I would like to have T. L. Preston of our committee here, our counsel, give you our idea of procedure to limit the testimony to the real issues that the Commission has in mind, sir.

Commr. Patterson: All right, Mr. Preston.

Mr. Preston: As we understand now, this hearing tentatively scheduled for September 9 will result in the introduction into the record of the data which will be collected pursuant to the questionnaires we have been discussing. The individual railroads would, I take it, be compelled to assume that when that hearing was completed the record would be closed and there would be no guarantee to any individual railroad of a subsequent opportunity to develop any situation peculiar to itself.

Commr. Patterson: The subject that we would deal with at the hearing in September, if it is set down in September, would be limited to the issues set out in the commission's order. We would not go beyond the limits of the issues set out in the order itself. Now, if what they are worried about is issues with respect to the movement of trains of less than 50 miles an hour, you might have that in mind, that that would not be within the issues of the hearing that has already been set down.

Mr. Preston: I understand that, Mr. Commissioner, but we would not know whether perhaps the individual railroad will have to assume as a possibility that the Commission might require automatic train control everywhere a train was operated, a freight train, over 50 miles an hour, we will say. They will not know in any degree of detail what requirements the Commission will want.

Now, our thought is this—and we think there is precedence for it—we would suggest that the hearing go forward as planned and that the railroads be advised that they are expected at that time to adduce testimony which would deal with this question from a national standpoint, the Commission advising the railroads in advance of that hearing that the record there made will be the basis for a show cause order which would incorporate the Commission's conclusions as to what the national solution of this problem is in terms of standards and requirements in this matter being discussed.

Commr. Patterson: I have no ob-

jection to a show cause order other than the delay that might be involved as a result of a show cause order and the return time necessary.

Mr. Preston: Now, Mr. Commissioner, we think that substantially the same result could possibly be obtained through proceeding in this manner: Let the Commission, in its notice calling the hearing in September, outline as best it can be done what is intended to be dealt with there and let the Commission authoritatively advise the railroads, the respondents, in that notice or in some authoritative manner that that testimony be confined to the presentation of the thing from a national standpoint; the order following that presentation will be designed to meet the situation from a national standpoint, and subsequent to the making of the order individual railroads which believe they have situations calling for further hearing and reconsideration and possible modifications or exceptions with respect to them will be afforded.

Commr. Patterson: The effective date of any order the Commission might make as a result of the hearing that might be held in September would have an effective date sufficiently in advance of the date of the hearing to give any party in this case, any one of the respondents, an opportunity to ask for relief or to ask for exemption, if they thought they might have an exemption coming. The Commission would not make an order, the effective date of which would be coincident with the date of the order, of course.

Mr. Preston: I understand that, but my apprehension, Mr. Commissioner, is that unless the individual railroads are assured by the Commission in advance of a right to individual subsequent hearings they will be apprehensive of passing up this first hearing and would prolong that hearing through introducing testimony going to their particular situation.

Commr. Patterson: Well, we will take that under consideration, Mr. Preston, and I can assure you that any order the Commission might make as a result of the hearing that would be held in September would have an effective date sufficiently in advance to give any individual railroad that might feel they needed some relief or protection, as it might be, an opportunity to make a proper application.

Mr. Preston: And an opportunity to be heard.

Commr. Patterson: That is right. You have that assurance.

Mr. Preston: I think, sir, if that could take some formal shape it would go a long way toward relieving this possible situation that might occur.