

She sent a copy of this letter to Mr. Chesser, who gave it to me this morning. I would guess, on the basis of probabilities, there were other people who ran into the same situation.

When I found out about this by telephone, I called the Commission and asked what in the world had happened. I was told that on October 18 Mr. Marsh had sent a telegram to each member of the Commission, although he hadn't served that telegram on us, Mr. Beattie, or anyone else to my knowledge.

This telegram stated that trains 7 and 8 were losing \$10,000 a day. Their own evidence that they gave to the Commission shows that trains 7 and 8 were losing, at their figures, \$5,400 a day. He called this \$10,000-a-day loss an outright waste in cost of transportation.

I haven't seen the telegram that Mr. Marsh sent concerning trains 3 and 4, but I have been informed it was to the same effect.

Mr. Marsh said that he was aware of the technical question involved. He said,

We proposed to annul Trains 7 and 8 for the remainder of this period—

The next 23 days—

unless we are required by insistence of regulatory authority to continue for no other reason than technical compliance with procedural provisions.

He closed the telegram by saying,

We would appreciate the benefit of Commission direction in this regard as to whether you will insist on this operation pending consideration of application on which we urge prompt handling.

In short, Mr. Marsh was informing the Commission that he knew he was required by law to keep this train on for 30 days, but "unless" you tell us you insist upon our obeying that law, we will violate that law."

This was on the 18th that he sent the telegram. On the 19th, the Commission took a very unusual step. On the afternoon of the 19th, the Commission issued a press release, which it has never done before, to the effect that on the 20th it was going to issue a notice which, in effect, said the Commission was going to do nothing.

Mr. Marsh apparently took that press release as a reply to his telegram that the Commission would not insist that the Santa Fe obey the law because the Santa Fe took off all four of those trains before the Commission actually issued its notice saying it wasn't going to investigate the two cases.

Had we had the opportunity to reply to Mr. Marsh's telegram, we would have pointed out the error in the telegram's claimed loss of \$10,000 on trains 7 and 8 because the Santa Fe's own evidence showed it would lose \$5,400 a day on trains 7 and 8. As a matter of fact, we could have pointed out that, according to his own figures, all four trains, both pairs, would only lose \$7,993 a day.

We could have pointed out also the great profit of trains 7 and 8 and the fact that only \$1.6 million was being lost and they would still be profitable. We could have also pointed out a much more important thing, and that was Mr. Marsh's characterization of his obedience to statutory requirements as technical compliance with procedural provisions and his obvious intention to violate the law.

When I found out about this telegram, I wrote to the Commission immediately. A copy of that letter is attached. I presented our position. The law requires 30 days for the protection of the public, the