

Santa Fe has been contacted with regard to this violation of law and the injury inflicted upon their employees between October 19, 1967, and the date the trains legally could have been discontinued—November 10, 1967—but refused to do anything about that injury.

On October 24, 1967, the Railway Labor Executives' Association delivered a letter to Mr. Richard Block with copies for the members of division 3 requesting immediate action to require restoration of these trains to November 10, 1967. Association counsel was told a reply could be expected before November 10, 1967.

The principle here involved is unique in the history of the administration of section 13a(1) of the Interstate Commerce Act and one which will affect many if not all future passenger train discontinuances under those provisions. It is submitted that the discontinuance of a train in disregard of the 30-day restriction in the statute and in disregard of the railroad's posted notice regarding that discontinuance violates the intent and purpose of the 30-day notice restriction in section 13a(1). Commission concurrence in Santa Fe's actions would effectively remove the 30-day notice provision from the statute.

The approximately 100 employees of the Santa Fe will shortly commence the irreversible process of "bumping" in the exercise of their seniority rights. It is therefore respectfully requested that the full Commission treat this matter as one of general transportation importance and order the Santa Fe immediately to restore the operation of trains 7 and 8 and 3 and 4, and to repost and refile a proper 30-day notice with which the Santa Fe shall comply.

Fourteen copies of this telegram are being filed this date with the Office of the Secretary of the Commission in compliance with rule 101(4) of the Commission's Rules of Practice.

This telegram furnished all members of the Commission, Secretary Garson, and Starr Thomas, vice president, law, Santa Fe.

Respectfully submitted.

WILLIAM G. MAHONEY,
Attorney for Railway Labor Executives' Association.

APPENDIX 6

ORDER—OCTOBER 31, 1967

At a Session of the Interstate Commerce Commission, Division 3, acting as an Appellate Division, held at its office in Washington, D.C., on the 30th day of October A.D. 1967.

(Finance Docket No. 24772)

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. DISCONTINUANCE OF TRAINS
Nos. 3 AND 4 BETWEEN KANSAS CITY, MO., AND GALLUP, N. MEX.

Upon consideration of the matters in this proceedings, including the notice and supporting statement filed October 9, 1967, by the Atchison, Topeka, and Santa Fe Railway Company under section 13a(1) of the Interstate Commerce Act proposing discontinuance, effective November 10, 1967, of its trains Nos. 3 and 4 between Kansas City, Mo., and Gallup, N. Mex.; the notice served October 20, 1967, by the Commission, Division 3, that it had concluded not to enter upon an investigation of the proposed discontinuance; protests by certain States, individuals, associations, and communities, and railway employees; the letter of October 25, 1967, by the Railway Labor Executives' Association, treated here as a petition for reconsideration of the notice served October 20, 1967, and stating that the subject trains were discontinued on October 19 or 20, 1967:

It appearing, That section 13a(1) of the statute specifically prescribes that notice of a proposed discontinuance be properly posted and filed "at least thirty days in advance of any such proposed discontinuance or change" and that the carrier may discontinue or change any such operation or service "pursuant to such notice . . .";

It further appearing, That the discontinuance of the said trains by the Atchison, Topeka and Santa Fe Railway Company prior to the expiration of this 30-day period was a breach of its own notice and of this provision of the statute and therefore vitiates our jurisdiction in this matter;

It is ordered, That the notice and supporting data filed herein, be, and they are hereby, dismissed for failure by the carrier to sustain the jurisdiction of this Commission.

By the Commission, Division 3, acting as an Appellate Division.

[SEAL]

H. NEIL GARSON, *Secretary.*