

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the United Transportation Union, Lincoln, Nebraska,)	Formal Complaint No. 1189
Complainant, vs. the Chicago North Western Railroad Company, Chicago, Illinois, Respondent.)	Complaint Sustained
)	ENTERED: December 5, 1984

APPEARANCES:

Appearing for Complainant:

Craig D. Wittstruck
Attorney at Law
P.O. Box 4554
Lincoln, Nebraska 68504

Appearing for Respondent:

Harry B. Otis, Attorney at Law
10050 Regency Circle
Omaha, Nebraska 68114

BY THE COMMISSION:

OPINION AND FINDINGS

On May 15, 1984, United Transportation Union, hereinafter referred to as Complainant, filed a formal complaint against the Chicago and North Western Transportation Company, Chicago, Illinois, hereinafter referred to as Respondent, alleging that the Respondent had failed in the past and is presently not providing sterilized non-contaminated drinking water for its train employees. A copy of Formal Complaint No. 1189 was sent by First Class mail to the Respondent on May 16, 1984 and on June 18, 1984, Respondent filed an answer which denied all material allegations.

On June 25, 1984, the Secretary of the Commission sent a notice of hearing by certified mail to all interested parties. Hearing was held on July 31, 1984, in the Commission Hearing Room before Chairman Harold Simpson and Commissioners Eric Rasmussen and Duane Gay.

Mr. Charles Faulder, Commission Railroad Equipment Inspector, testified that in Fremont, Nebraska, he inspected several locomotives belonging to the Respondent and found gallon containers of drinking water, some half filled, some empty, in and about the toilets and the locomotive cabs. He stated that these jugs were similar to plastic milk containers and were stenciled "drinking water only." The witness explained that the bottle had either the screw type or plastic top that could be pushed on. The witness explained that any number of people could drink out of the same bottle. The locomotive cabs are often dusty with dirt flying around and the crew, if they do not have paper cups, have to drink out of the gallon water bottles.

Mr. Faulder stated that the only water containers he observed on any North Western locomotives or cabooses was the gallon type bottle. He explained that those that he saw were sometimes full and sometimes half full and some were kept in coolers either of the ice chest type or refrigerated coolers on the locomotives. He testified that when he took an empty or half full bottle and turned it on its side, he could see particles floating in the water.

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Ray L. Lineweber, State Legislative Director for the United Transportation Union, testified that he had received complaints from the Local Members in Fremont, Nebraska concerning their concern over unpalatable drinking water and unsanitary toilets in engines and cabooses in service on the Chicago North Western Railroad between Boone, Iowa and Fremont, Nebraska. These members express their concern regarding unsealed plastic gallon containers. Mr. Lineweber explained that they had contacted officials of the Respondent concerning this problem and had received no answer. The witness explained that the toilet facilities and engines are roughly 3'x 3' so that it is possible that the water containers could come in contact with body waste if the containers were stored in the toilet facilities. The train crew has no way of knowing where or when the water containers were supplied from and by whom. He stated that they were concerned because the cabooses and engines often remain unoccupied and unlocked and that transits or others could have access to these water containers. He testified that he had observed operating trains on the Chicago North Western and had seen the same conditions as Mr. Faulder had testified to. He stated that the other railroads operating in Nebraska, namely, the Burlington Northern, Union Pacific, and the Missouri Pacific had all voluntarily supplied a sealed pint container of drinking water for their employees and they felt that the Chicago and North Western should do the same. He explained that the United Transportation Union is attempting to head off the possibility of injury to employees becoming in contact with the denatured alcohol as happened on the Burlington Northern Railroad. He explained that the sealed containers, if tampered with, could easily be ascertained by the user. This witness explained that the small sealed containers as entered into evidence was Adams Ale drinking water which is currently supplied by the Burlington Northern Railroad. The sealed container has a plastic sealed ring on the cap and if it is removed, it becomes a non-sealed container and that the six pack of containers are themselves sealed in a plastic envelope.

It was the contention of the Complainant that the small sealed containers of drinking water were much more safe from contamination than the large unsealed gallon jugs. It was brought out at the hearing that all of the other railroads serving Nebraska now use the small sealed container and in fact, the Respondent uses the small sealed container on its trains coming out of the Power River Basin.

The Respondent produced two witnesses. Mr. Robert Brownell, Assistant to the General Manager, testified that the Respondent's train coming out of the coal fields were using the small sealed containers of water because all of their facilities such as wells are not in place yet. He explained that the engines and cabooses are cleaned and supplied out of the Proviso yard in Chicago and the gallon containers of water are stored in ice boxes with water from the City of Chicago. He explained, also, that paper cups were furnished and that trains do not operate in a sterile environment. It was stated that the cups and the small sealed water containers would cause a litter problem on the track right of way.

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DISCUSSION

Section 74-915 R.R.S., 1943, provides that all railroads operating in Nebraska will supply cool, sanitary water for drinking purposes to all of its employees along with individual paper drinking cups. Section 74-918 R.R.S., 1943, states that the Public Service Commission shall specify the type of facilities that shall be installed on each railroad locomotive and weigh car.

Chapter IV, Article VI, Sanitation Safety, Section 1(b) of the Commissions Rules and Regulations states that after investigation, notice, and hearing, the Public Service Commission may order a railroad carrier to provide sanitary drinking water and toilet facilities. The Rules and Regulations provide that an adequate supply of drinking water in containers thoroughly cleansed and disinfected as often as necessary to ensure a sanitary unpalatable drinking water supply. The Rules also state that the single or common drinking cups are prohibited.

The evidence clearly shows that the use of the large gallon water jugs leave a lot to be desired as far as sanitation of drinking water for human consumption aboard the locomotives and weigh cars on the Respondent's railroad.

It is the opinion of this Commission that those employees of the Respondent operating between Boone, Iowa and Fremont, Nebraska should be issued the small sealed containers of water as shown in Exhibit No. 3. The use of this container would ensure the palatability of the water. This is especially true since the Respondent's railroad crews on the new connector line in Wyoming and western Nebraska are now using the small sanitary sealed containers.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that the Chicago and North Western Railroad Company, Chicago, Illinois, be and it is hereby ordered to institute appropriate procedures to furnish its employees an adequate supply of sanitary drinking water in sealed pint bottles as provided in Exhibit No. 3.

Made and entered in Lincoln, Nebraska, this 5th day of December, 1984.

NEBRASKA PUBLIC SERVICE COMMISSION

Harold D. Simpson

Chairman

ATTEST:

Donald Adams

Executive Secretary

COMMISSIONERS CONCURRING:

Duane D. Lay

