


MEMORANDUM

November 12, 2010

To: All CSXT Local Chairpersons, GO-851

Cy: Membership c/o LC
Vice Local Chairpersons
James Townsend, GC (former C&O)
Randy Pullen, GC (former A&WP)
Robert Kerley, Vice President, UTU

From: John Hancock, General Chairman 

RE: FINAL DECISION & AWARD - CSRA

Enclosed please find copy of Decision and Award from Professor David P. Twomey, the Arbitrator, who handled the CSX Coordination Notice of the former A&WP, former SCL, former C&O, former L&N and former NC&StL.

During a previous decision, Professor Twomey ruled that the Consolidated Southern Region Agreement (CSRA) would govern the southern half of CSXT. He also directed the parties, pursuant to New York Dock conditions, to reach an implementing agreement concerning the coordination and his ruling, and in the event the respective parties could not reach an implementing document, he would so construct one.

As in any issue, when the parties are unable to resolve such, and a third party renders the decision, it places the parties under difficult circumstances. In this vein, the respective General Chairmen could not reach an accord on the implementing document and, therefore, it was returned to Professor Twomey to render a decision. As many of you may, nor may not be aware, Professor Twomey is the Chairman of the Law Department at Boston College. He has served on at least 5 Presidential Emergency Boards appointed by the President of the United States. He is well-versed in the matters of railroad disputes and resolution. He is well respected and is considered one of the top arbitrators in the United States.

In his Decision and Award, Professor Twomey held that train operations on the 5 former roads would be coordinated into a new single territory to be known as the Consolidated Southern Region, and that all the region would be covered by a single agreement – the Consolidated Southern Region Agreement (CSRA). Professor Twomey also held that any prior New York Dock Implementing Agreements that may be in effect on the properties would be subservient to this New York Dock Award.

In Item III of the Agreement, Professor Twomey permitted the Carrier's pool operations, as was served in its original July 1, 2010 Notice.

In Item IV, Professor Twomey held that the Carrier could implement its combined extra boards as served in its July 1, 2010 Notice.

In Item V – Seniority, Professor Twomey held that a Consolidated Southern Region Trainman’s seniority roster would be created as set forth in Article 25, Section 8 of the CSRA.

In Item VI – Employee Protection, Professor Twomey held that any employees who were adversely affected by this transaction would receive New York Dock protective benefits which means that any employee who loses their job or is placed in a worse position, with respect to compensation as a result of the implementation of this transaction, will be guaranteed for a period of their employment, but not to exceed 6 years.

While we realize that some of the effects of this Agreement may not be popular among certain employees, the issues should be understood, how the law applies and past precedence, so that failures of past endeavors will not be repeated.

As I previously stated to you in early 2009, CSXT had notified the pertinent General Chairmen that it was going to move forward in its rights granted by the Surface Transportation Board (STB), to consolidate its agreements. It intended to have an agreement on the North end and an agreement on the South end. On the South end there were 4 major agreements and, therefore, under CSX’s legal right, it served a notice to move to one agreement. The 4 General Chairpersons met with CSX and requested whether they would consider negotiating a single agreement in lieu of the coordination efforts that its rights implied upon it by the STB. They agreed and the 4 General Chairpersons negotiated the CSRA. There were some changes to the agreements on the respective properties, but none to the detriment of the properties – most of it amounted to a different change in how you claim jobs, seniority moves, etc. However, there was much obtained. There was a 6th week of vacation obtained; there were great changes to the bereavement leave rule; there were tremendous changes to the guarantee of employment; waiting time rules improved and added 20% pay raises to local freights, and the list goes on and on and on.

We believed that under the conditions we were negotiating, we achieved a very positive agreement with many enhancements for the membership. Three of the properties adopted the CSRA with 2 rejecting it; therefore, CSX moved on in its original intent and served notice on July 1, 2010 to coordinate the properties. We were unable to reach a resolution, as 2 of the properties demanded that their agreement be implemented across the entire Southern Region. The memberships of the other 3 properties rejected their position. The process went to arbitration, and now you have the result. Any time you are unable to negotiate a beneficial outcome, somebody is going to lose.

I want to salute everyone for their involvement in this process. I want to say a special thank you to the SCL membership. As your Chairman, I am placed with great responsibilities, and it weighs heavily on my shoulders as the decisions I ultimately have to make affect your livelihood, your job security, and I do not make such decisions lightly. I have endeavored to understand the law; I have studied past precedent very hard; I have counseled with my colleagues; I have obtained a College Degree in Labor Studies to understand the Collective Bargaining Processes, and then ultimately the decisions that rest on my shoulders.

I made the decision to move forward to try to negotiate an agreement because I felt that CSX was sincere, and that it was going to move forward on it is coordination. If it had moved forward without the benefits of negotiations, and the additions that we obtained, then there is simply no telling what would have happened. The Arbitrator would have been bound to pick 1 of the 5 Agreements and clearly the 5 Agreements, on their own, are inferior to the CSRA.

You trusted me – I took your trust personally, and I endeavored to uphold it, as my job is to try to improve the wages, rules and working conditions of the membership that I am charged, by election, to so represent. Part of the job as a General Chairperson is to understand, to look towards the future, and understand and set a direction that will protect the jobs, wages, rules and working conditions of the membership. It is a solemn task and one I did not take very lightly.

In my personal opinion we have, on the former SCL, come out a winner. We are on top, and our membership will bear the fruits and enjoy the benefits of the decision. When you make a decision, you never know how it's going to emerge in the end and you hope, by the Grace of God, that you have made the correct decision. In this case, at the end – we did.

There are many more battles for us to face in the future, and I bore that in mind as we negotiated the CSRA. The next prong of attack from CSX will be to attack the conductor. As we negotiated the CSRA, we put more job responsibilities on the conductor because while we may be able to negotiate the best agreement in the rule, if there is no conductor – then it doesn't matter, so we gave the conductor more job responsibilities, we took all the work that we could legally take and created that position as a necessary ingredient to the rail industry. We did this in a forward-looking position as we knew these challenges would be faced by the future leadership on this Committee, and we have made significant steps in the right direction, and continue to move in that direction protecting jobs as we are maintaining a superior wage and rule benefits package.

If any of you have any additional questions, please do not hesitate to contact the officers of this Union. I thank you for taking the time to read this memorandum, and as we approach the holiday season I wish you a very safe and happy holiday.

I encourage you to continue to look at our website at www.utu851.org as we continue to post information on a daily basis as educational information to everyone.

In The Matter of the Arbitration)	
-between-)	
UNITED TRANSPORTATION UNION)	DECISION
-and-)	AND
CSX TRANSPORTATION, INC.)	AWARD
Pursuant to Article I, Section 4 of the <i>New York Dock</i>)	
Conditions STB Finance Docket Nos. 28905, 30053,)	
30849)	

David P. Twomey
Arbitrator

A hearing was convened on October 13, 2010 at Chestnut Hill, Massachusetts to consider three Issues in connection with a Notice (Attachment A) served by CSXT on UTU dated July 1, 2010, pursuant to Article I, Section 4 of the New York Dock conditions imposed in the above captioned Finance Dockets, to coordinate the territory, train operations, employees and related facilities covered by the former Atlanta & West Point Railway Company (“A&WP”), the former Seaboard Coast Line (“SCL”), the former Chesapeake and Ohio Railway (“C&O”), the former Louisville and Nashville Railroad Company (“L&N”), and the former Nashville, Chattanooga & St. Louis (“NC&STL”) territories, to create a larger territory for train operations, to be known as the Consolidated Southern Region.

Issues No. 1 and 2 were resolved by the Board in the Award dated October 15, 2010, followed with Interpretations issued by the Board on October 22, 2010. The remaining Issue No. 3 pertained to the terms and conditions of a *New York Dock* implementing greement; and the parties were directed by the Board to meet and seek resolution within the context of the selected collective bargaining agreement.

Jurisdiction was retained by this Board in the event the parties could not reach agreement. Since the parties were unable to resolve their differences on Issue No. 3, it is the ruling of this Board that the Carrier may create the new Consolidated Southern Region and implement its proposed operations under the following terms and conditions:

I. Consolidated Territory

Train operation and the associated workforces in the former A&WP, SCL, C&O, L&N, and NC&STL territories will be coordinated into a new territory, to be known as the Consolidated Southern Region. The new consolidated region will include all of the territory of the former A&WP, SCL, C&O, L&N, and NC&STL territories (a map of which is attached as part of Attachment A).

II. Applicable Agreement

- A. The agreement applicable to the Consolidated Southern Region is the Agreement selected in the October 15, 2010 Award, as clarified by the Interpretations dated October 22, 2010 (Attachment B).
- B. In the event there is a conflict between the terms imposed by this award and any prior NYD Implementing Agreements the terms imposed by this award will prevail.

III. POOL OPERATIONS

Items 1- 12 of the July 1, 2010 notice (Attachment A) may be implemented in accordance with the provisions of Article 40 – Interdivisional Service of the Consolidated Southern Region Agreement. Equity will be proportionately resolved between the affected seniority districts.

IV. EXTRA BOARDS

Items 13 – 15 of the July 1, 2010 notice (Attachment A) may be implemented in accordance with the provisions of Article 37 – Guaranteed Extra Boards of the Consolidated Southern Region Agreement. Equity will be proportionately resolved between the affected seniority districts.

V. SENIORITY

A master Consolidated Southern Region Trainman’s seniority roster will be created as set forth in Article 25, Section 8 of the CSRA.

VI. EMPLOYEE PROTECTION

- A. The New York Dock employee protective conditions, which are attached and made a part hereof as Attachment C, shall be applicable to employees determined to be “displaced employees” or “dismissed employees” as a result of the coordination as set forth herein.
- B. In order that the provisions of the first proviso set forth in Article I, Section 3 of the New York Dock conditions may be properly administered, each employee determined to be a “displaced employee” or “dismissed employee” within the meaning of the New York Dock conditions, which definitions are incorporated into this Agreement, who is also otherwise eligible for protective benefits and conditions under some other job security or other protective conditions or arrangements shall, within thirty (30) days after having established “displaced” or “dismissed” status, elect between the benefits under such other arrangement and this Agreement. This election shall not serve to alter or affect any application of the substantive provisions of Article I, Section 3 of the New York Dock conditions.
- C. In the event an employee fails to make such an election within the said thirty (30) day period, he or she will be subject to the protective benefits of this Agreement.
- D. There shall be no duplication or pyramiding of protection benefits receivable by any employee under this Agreement and any other agreement or protective arrangement.
- E. If, subsequent to the effective date of the transaction described herein, Company officers, supervisory officials or Organization representatives exercise seniority rights in road and/or yard service, then, during the period such seniority is exercised such persons who meet the definitions of “displaced” or “dismissed” employees in this Agreement shall be entitled to the same protection afforded employees in road or yard service in which such seniority is exercised. When determining the “average monthly compensation” for such persons it is understood that:
1. As to “full time” Organization representatives, Company officers and supervisory officials who do not work in the class or classes in which they hold seniority while holding office, the

individual's average monthly compensation for the last twelve (12) months in which he performed service in a class in which he holds seniority will be determined and that amount increased by the percentage equivalent of general wage increases applicable to the class in which he last performed service prior to taking office which have been made effective while he has been serving as a "full time" Organization representative, Company office, or supervisory official.

2. As to other than "full time" Organization representative, their "average monthly compensation" will first be arrived at as provided in Section 1 above. The "average monthly compensation" as thus determined will then be increased by the amount of 1.2 basic days' pay at the rate of service in which engaged at the time the individual laid off for each date on which the individual lost time (or, in the case of an extra man, was laying off) to participate in Organization business.
3. The dates, and rate of pay applicable to each, on which the individual lost time (or, in the case of an extra man, was laying off) in order to participate in Organization business will be certified by the individual involved and by an officer of his Organization and furnished to the designated officer of the Company.

F. If, subsequent to the effective date of this Agreement, officials or supervisory personnel exercise seniority rights in the craft or class of employees protected by this Agreement, no employees subject to this Agreement shall be deprived of the protection afforded herein.

G. Each "dismissed employee" shall provide the Company with the following information for the preceding month in which he is entitled to benefits no later than the tenth day of each month on a form provided by the Company:

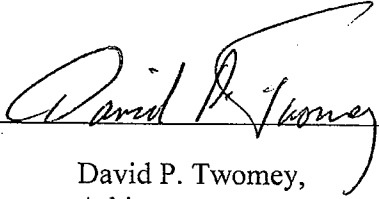
1. The day(s) claimed by such employee under any unemployment insurance act.
2. The day(s) each employee worked in other employment, the name and address of the employer and the gross earnings made by the "dismissed employee" in such other employment.

- H. In the event an employee referred to in this article is entitled to unemployment benefits under applicable law, but forfeits such unemployment benefits under any unemployment insurance law because of failure to file for such unemployment benefits (unless prevented from doing so by sickness or other valid causes) for purpose of the application of Attachment "C", he shall be considered the same as if he had filed for, and received, such unemployment benefits.
- I. If the employee referred to in this Article has nothing to report under this Article on account of not being entitled to benefits under any unemployment insurance law and having no earnings from any other employment, such employee shall submit, within the term period provided for in Section A of the this Article the appropriate form stating "Nothing to Report".
- J. The failure of any employee referred to in this Article to provide the information required in this Article shall result in the withholding of all protective benefits during the month covered by such information pending the Company's receipt of such information from the employee.
1. All claims for displacement or dismissal allowances shall be made on the appropriate claim forms provided by CSXT, and shall be postmarked within sixty (60) days preceding the month for which the claim is made. Any claims not so submitted are barred.
 2. Disallowance of a claim shall be postmarked within ninety (90) days from the date the claim is made and it shall contain the factual basis for such disallowance. If the claim is not so disallowed, the claim shall be paid; but this allowance shall apply only to the individual claim involved and shall not be considered as a precedent for similar claims, nor shall it be considered as having established a continuing entitlement, or "certification" to protective benefits.
 3. Claims for displacement or dismissal allowances made as provided for in Paragraph (1) hereof and disallowed as provided for in Paragraph (2) hereof, shall be barred, unless appeal from such disallowance is made in writing by the employee or his duly-authorized representative to the proper officer of the company within ninety (90) days from the date of notice disallowing the claim.

4. Decision by the highest officer designated to handle claims and grievances shall be final and binding and such claims and grievances shall be barred unless within one (1) year form the date of said officer's decision the employee or his duly-authorized representative invoke the dispute resolution procedure of Article I, Section 11 of the *New York Dock* conditions.

VII. ORDER AND DECISION

The terms and conditions set forth in this Decision and its Attachments satisfy the requirements set forth by the protective conditions imposed in Finance Dockets No. 28905, 30053 and 30849 and Article I, Section 4 of the New York Dock Conditions for implementing this transaction and shall be effective as of October 25, 2010:

Signed: 
David P. Twomey,
Arbitrator

Dated: 11-10-2010



Myron W. Becker
Director-Labor Relations

Writer's Direct Contact Information:
Phone: (904) 359-3524
Fax: (904) 359-4815
E-Mail: Myron_Becker@csx.com

July 1, 2010

Mr. J. C. Hancock, General Chairman
United Transportation Union
Suite 104 3560 Cardinal Point Drive
Jacksonville, FL 32257

Mr. J. R. Townsend, General Chairman
United Transportation Union
1319 Chestnut Street
Kenova, West Virginia 25530

Mr. R. A. Pullen, General Chairman
United Transportation Union
1244 Cole Creek Road
Dallas, Georgia 30157

Mr. J. R. Willis, General Chairman
United Transportation Union
3560 Cardinal Point Drive – Suite 103
Jacksonville, FL 32257

Gentlemen,

CSX Transportation, Inc. ("CSXT") is serving notice, pursuant to Article I, Section 4 of the New York Dock employee protective conditions imposed in Finance Docket No. 28905, 30053 and 30849 of its proposal to consolidate and coordinate train operations, employees, and related facilities in the territory covered by the former SCL, C&O, AWP, L&N and NC&StL.

CSXT is proposing to consolidate and coordinate train operations, employees, seniority districts/zones and related facilities covered by the former A&WP, SCL, C&O, L&N and NC&StL territories, to create a larger territory for train operations, to be known as the Consolidated Southern Region.

A copy of the New York Dock notice is attached. Pursuant to the New York Dock conditions, the parties are to meet within five days of receipt of the notice to begin negotiations for an agreement. This will confirm that the parties have agreed to meet and discuss the attached NYD Coordination Notice on July 7, 2010 at 09:00 a.m. in Atlanta, GA.

If you have any questions concerning this matter, please contact me.

Sincerely,

Myron W. Becker
Director Labor Relations
Southern Region Operations

ATTACHMENT A Pg 1

Cc: Robert Kerley
Vice President - United Transportation Union
320 Hickory Lane
Ozark, MO 65721

Cc: Cindy Sanborn, Chief of Transportation
Steve Crable, VP Labor Relations
Mike Pendergrass, VP Operations
Craig King, VP Operations
Mike Smith, VP Network Operations
Bob Frulla, Division Manager
Pete Burrus, Division Manager
Mark Mayo, Division Manager
Don Jones, Division Manager
David Hamby, Division Manager
Jermaine Swafford, Division Manager

ATTACHMENT A P62

**NOTICE PURSUANT TO ARTICLE I, SECTION 4
OF THE NEW YORK DOCK CONDITIONS
FINANCE DOCKETS NO. 28905, 30053, 30849**

CSX Transportation, Inc. ("CSXT") serves this notice pursuant to Article I, Section 4 of the New York Dock conditions imposed in Finance Dockets No. 28905, 30053, and 30849.

By this notice, CSXT is proposing to consolidate and coordinate train operations, employees, and related facilities covered by the former A&WP, SCL, C&O, L&N and NC&StL territories, to create a larger territory for train operations, to be known as the Consolidated Southern Region. The consolidation of operations in these territories will allow CSXT to better utilize train service employees, improve train service, operate trains more efficiently, realize cost savings, and improve utilization of equipment. The Consolidated Southern Region will consist of all territory currently governed by the provisions of the Consolidated Southern Region Agreement ("CSRA") and the L&N and NC&StL schedule agreements. CSXT proposes that the Consolidated Southern Region will be placed under the CSRA.

The above includes all main lines, branch lines, yard tracks, industrial leads, stations between points identified and all terminals that lie at the end of a line segment. Maps showing the current property and seniority boundaries and the proposed Consolidated Southern Region are attached to this Notice.

CSXT anticipates that the following initial operational changes will be implemented as a result of the proposed coordination.

1. Train service will be implemented between Dothan, AL (SCL) and Birmingham, AL (L&N). A new home terminal will be established at Dothan, AL operating 215 miles to the away from home terminal of Birmingham, AL. This service will eliminate the need to change crews at Montgomery, AL.
 - CSXT anticipates that approximately eight (8) SCL Trainmen will be required to transfer from Montgomery, AL to Dothan, AL. Additionally (8) L&N Trainmen positions will be abolished at Birmingham, AL.

2. New service will be implemented between Manchester, GA (SCL) and Etowah, TN (L&N). The supply point and home terminal will be Manchester operating 213 miles to the away from home terminal of Etowah eliminating the need to change crews at Atlanta, GA. Eliminating a crew change at Atlanta will greatly reduce the running time and provide operating efficiencies, improved equipment utilization and reducing congestion at Atlanta.
 - CSXT anticipates that approximately four (4) SCL Trainmen will be required to transfer to Manchester, GA to protect this service. Additionally, at least four (4) L&N Trainmen positions will be abolished at Etowah, TN.

ATTACHMENT A Pg 3

3. Initiate operations between Manchester, GA (SCL) to Chattanooga, TN (L&N). The supply point and home terminal will be Manchester operating 212 miles to the away from home terminal of Chattanooga eliminating the need to change crews at Atlanta, GA. Eliminating a crew change at Atlanta greatly reduces the operating time and provides operating efficiencies, improved equipment utilization and reduces congestion at Atlanta.
 - CSXT anticipates that approximately three (3) additional Trainmen will be required to transfer to Manchester, GA protect this service. Additionally, at least four (4) L&N Trainmen positions will be abolished at Chattanooga, TN.

4. Implement train service from Manchester, GA (SCL) to Mobile, AL (L&N), a run of 309 miles. Manchester will be the home terminal and supply point for crews operating to the away from home terminal of Mobile. In 2009, service was established between Manchester and Montgomery. Having established the value in this operation, extending the run to Mobile and eliminating a crew change at Montgomery will increase operating efficiencies and reduce the strain on manpower at Montgomery. The implementation of this service is subject to the completion of capital projects allocated to upgrade this corridor, such as the current project to extend the siding at Loachapoka, AL.
 - CSXT anticipates that approximately four (4) additional SCL Trainmen will be required at Manchester, GA to protect this service. Additionally, at least four (4) L&N Trainmen positions will be abolished at Montgomery, AL which will supplement CSXT's current shortage of Trainmen at this location.

5. Establish train service between Charlotte, NC (SCL) and Erwin, TN (L&N), a distance of 182 miles. Charlotte will be the supply point and home terminal and Erwin the away from home terminal. The establishment of the National Gateway has resulted in increased potential at Charlotte with "Shelby Grain Trains", "Terrell Coal Trains" and Intermodal Traffic. DP power has improved the coal service operating in this corridor and the elimination of the current crew change(s) will improve running time in this territory. The intermodal facility is being expanded and Charlotte is becoming a major interchange location with the NS.
 - CSXT anticipates that approximately sixteen (16) additional Trainmen will be required at Charlotte, NC to protect this service. Additionally, at least sixteen (16) L&N Trainmen positions will be abolished at Erwin, TN.

6. Implement service from Greenwood, SC (SCL) to Erwin, TN (L&N). The home terminal and supply point will be Greenwood operating 207 miles to the away from home terminal of Erwin. This service will ease manpower requirements by eliminating crew changes at Spartanburg and/or Bostic. Distributed Power has improved the coal service operating in this corridor and eliminating crew change(s) will improve running time in this territory.
 - CSXT anticipates that approximately four (4) additional Trainmen will be required at Greenwood, SC to protect this service. Additionally, at least six (6) L&N Trainmen positions will be abolished at Erwin, TN.

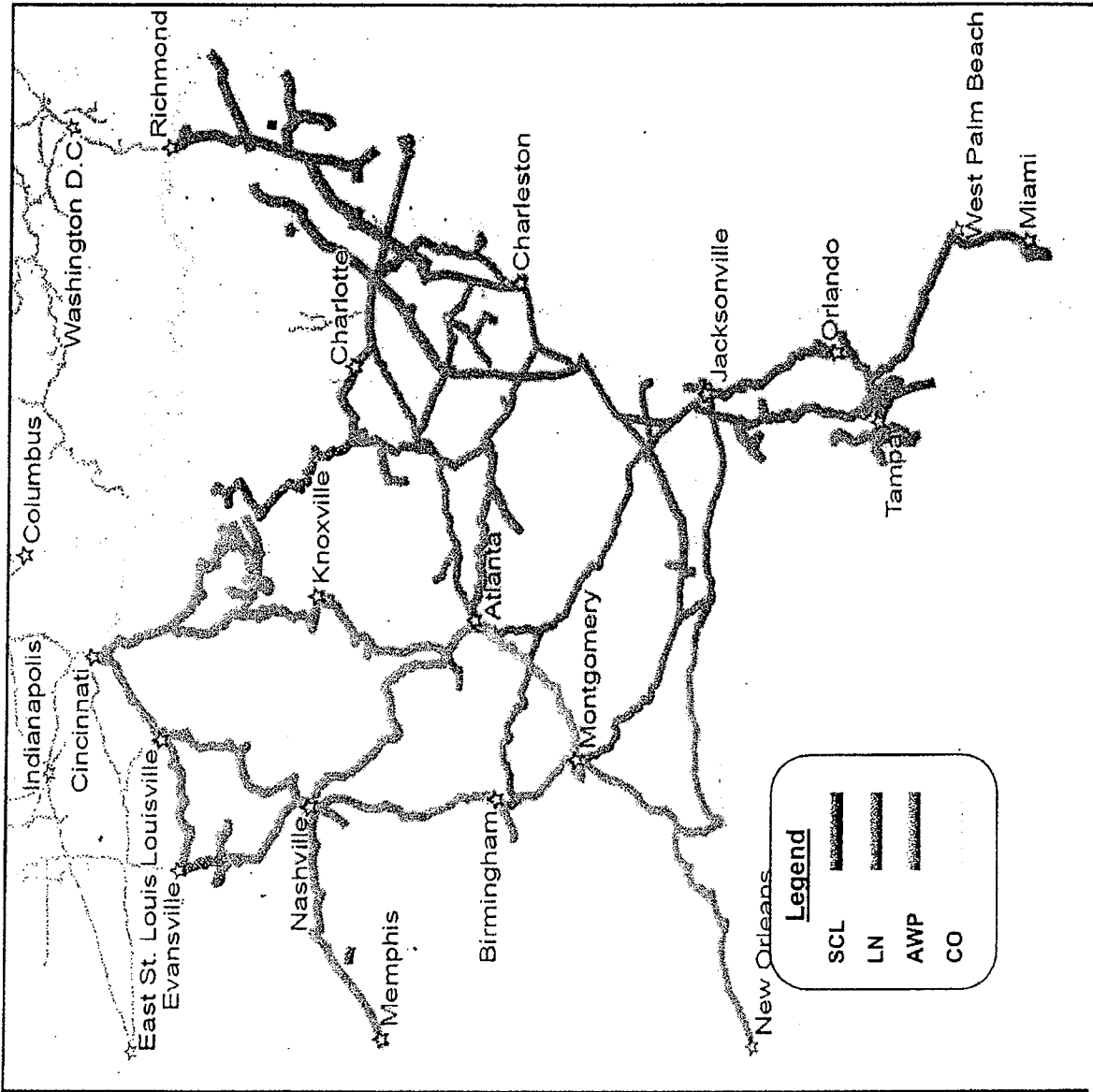
7. Extend service from Russell, KY (C&O) to Erwin, TN (L&N). This service will operate 273 miles from the home terminal of Russell to the away from home terminal of Erwin. This corridor has benefited from the addition of DP power and eliminating crew changes will improve operating efficiencies.
 - CSXT anticipates that approximately six (6) additional Trainmen will be required at Russell, KY to protect this service. Additionally, at least six (6) L&N Trainmen positions will be abolished at Erwin, TN.
8. Extend service from Russell, KY (C&O) to Ravenna, KY (L&N). The home terminal and supply point will be Russell, KY operating 264 miles to the away from home terminal of Ravenna, KY (L&N). This service will ease manpower requirements by eliminating current crew changes at Martin, KY (C&O) and Hazard KY (L&N).
 - CSXT anticipates that approximately six (6) L&N Trainmen will be required to transfer to Russell, KY from Martin, KY, Hazard, KY or Ravenna, KY.
9. Extend service from Russell, KY (C&O) to Hazard KY (L&N). The home terminal and supply point will be Russell, KY, operating 184 miles to the away from home terminal of Hazard KY. This service will ease manpower requirements by eliminating existing crew changes at Martin, KY and avoid deadheading expense.
 - CSXT anticipates that approximately three (3) Trainmen will be required to transfer to Russell from Hazard, KY.
10. Extend service from Shelby, KY (C&O) to Ravenna, KY (L&N). The home terminal and supply point will be Shelby, KY operating 215 miles to the away from home terminal of Ravenna, KY. This service will ease manpower requirements and eliminate current crew changes at Martin, KY.
 - CSXT anticipates that approximately six (6) Trainmen will be required to transfer from Ravenna, KY and /or Hazard, KY to Shelby, KY.
11. Extend service from Shelby, KY (C&O) to Hazard, KY (L&N). The home terminal and supply point will be Shelby, KY operating 116 miles to the away from home terminal of Hazard, KY. This service will ease manpower requirements by eliminating crew changes at Martin, KY and avoid existing taxi expense associated with deadheading crews home to Shelby, KY.
 - CSXT anticipates that approximately three (3) Trainmen will be required to transfer from Martin, KY to Shelby, KY.
12. Extend service from Martin, KY (C&O) to Corbin, KY (L&N). The home terminal and supply point will be Martin, KY operating 297 miles to the away from home terminal of Corbin, KY. This service will ease manpower requirements by eliminating current crew changes at Hazard, KY and Ravenna, KY.
 - CSXT anticipates that approximately three (3) Trainmen may be required to transfer from Hazard, KY and/or Ravenna, KY to Martin.

13. Consolidate extra boards (A&WP, SCL, L&N) at Montgomery, AL. Currently, all three properties operate out of Montgomery. Consolidating the boards will greatly increase operating efficiencies and provide greater use of our manpower resources at this location. As an example, manpower on the former A&WP has consistently been strained since the beginning of 2009. Consolidating the extra boards will increase the number of employees available to provide service on the former A&WP territory.
 - Today the extra boards have a combined total of thirty – six (36) Trainmen working these boards. Subsequent to qualifying affected employees and combining the three (3) extra boards into one (1) board, subject to the exigencies of service, it is anticipated that the combined extra board will require approximately seven (7) fewer employees.
14. Consolidate extra boards (A&WP, SCL, L&N) at Atlanta, GA. All three properties operate out of Atlanta. Like Montgomery, consolidating the extra boards will increase the number of employees available to provide service in this area.
 - Today the extra boards have a combined total of twenty – three (23) Trainmen working these boards. Subsequent to qualifying affected employees and combining the three (3) extra boards into one (1) board, subject to the exigencies of service, it is anticipated that the combined extra board will require approximately five (5) fewer employees.
15. Consolidate the extra boards (SCL and L&N) at Birmingham, AL. The consolidated extra board will operate out of Birmingham, AL. Like Montgomery, consolidating the extra boards will increase the number of employees available to provide service in this area.
 - Today the extra boards have a combined total of eighty – three (83) Trainmen working these boards. Subsequent to qualifying affected employees and combining the five (5) extra boards into one (1) board, subject to the exigencies of service, it is anticipated that the combined extra board will require approximately ten (10) fewer employees.

The proposed consolidation of territory and coordination of work referenced herein will result in the rearrangement of forces in CSXT's Consolidated Southern Region that will cross existing seniority boundaries. Therefore, a master seniority roster for the Consolidated Southern Region will be established that is comprised of the existing trainmen/yardmen seniority rosters of the consolidated A&WP seniority roster; the five (5) C&O Consolidated Trainmen rosters (Districts 1, 2, 3, 4 and 5); the three (3) SCL Consolidated Trainmen rosters (Districts 1, 2, and 3) as established by agreements dated July 1, 1967; and the three (3) LN Consolidated Districts (Alabama, Kentucky and Tennessee). This master Consolidated Southern Region Trainman's seniority roster will be created in the same manner as set forth in Article 25, Section 8 of the CRSA. The master roster will be created by dovetailing trainman/yardman seniority dates. Trainmen holding seniority on each of the separate seniority districts on the effective date of the New York Dock implementing agreement reached pursuant to this Notice will have prior rights to work on such former seniority districts.

CSXT will be entering into negotiations with the employees' representatives for the purpose of reaching an implementing agreement required by Article 1, Section 4 of the New York Dock conditions, within the timelines prescribed therein, which will protect the interests of employees affected by the proposed consolidation and coordination of work in the consolidated territory.

Current SCL, LN, C&O and AWP Districts:



In The Matter of the Arbitration)
-between-)
UNITED TRANSPORTATION UNION)
-and-)
CSX TRANSPORTATION, INC.)

Special Board of Arbitration Established To Dispose Of a Dispute Regarding The
Selection Of A Single Collective Bargaining Agreement Pursuant To UTU/NCC
Agreement of February 11, 2000

David P. Twomey
Arbitrator

The above-entitled matter came to be heard before the Arbitrator on October 13, 2010 at Chestnut Hill, Massachusetts. Pre-hearing submissions were received from the parties by October 6, 2010 and comprehensive oral arguments were presented at the October 13, 2010 hearing.

INTRODUCTION

This case involves the selection of a single collective bargaining agreement to apply to coordinated operations on portions of CSXT pursuant to CSXT's notice served on the affected General Chairmen on July 1, 2010, covering the former roads of the Atlanta & West Point (A&WP), Seaboard Coast Line (SCL), Chesapeake & Ohio (C&O), Louisville & Nashville (L&N) and Nashville, Chattanooga and St. Louis (NC&StL), which make up CSXT's Southern Region. Inasmuch as the involved General Chairmen were unable to select a single agreement to cover the proposed coordinated territories, a February 11, 2000 Agreement (the so-called "Cram Down" Agreement) between the United Transportation Union (UTU) and the National Carriers' Conference Committee (NCCC) requires that a neutral arbitrator will select a single governing agreement pursuant to Section 4 of the *New York Dock* conditions.

Three (A&WP, C&O and SCL) of the above five roads ratified an Agreement identified as the 2010 UTU Consolidated Southern Region Agreement (CSRA). The CSRA was implemented on June 1, 2010 on the former A&WP and former SCL, and was implemented on June 12, 2010 on the former C&O. The L&N and NC&StL rejected the proposed agreement and continue to retain their separate agreements governing train service employees. A foundation question before this Board is which of the existing collective bargaining agreements – either the Consolidated Southern Region Agreement or the L&N/NC&StL Agreements – will govern the coordinated territories?

QUESTIONS AT ISSUE

1. Is the Union's position correct that a Carrier does not have the authority to participate at the "Cram Down" Arbitration proceeding?
2. Pursuant to the "Revised Standards for Preemption of Collective Bargaining Agreements for Transactions Initiated Pursuant to Section 11323 of the Interstate Commerce Act, Consolidation or Coordination, paragraph 2., otherwise referred to as the Cram Down Agreement, requires the Union to select a single Collective Bargaining Agreement within the parameters set forth in that Agreement.

There is no dispute that the Union has failed to select a single bargaining agreement, therefore the Board is required, as referred to in the above referenced agreement, to select the agreement most beneficial to the employees involved as to rates of pay, rules and working conditions, including crew consist agreements.

3. Determine the applicability of the Carrier's proposed implementing agreement as provided for under Consolidation or Coordination paragraph 5. a), b) and c) of the Revised Standards for Preemption of Collective Bargaining Agreements for Transactions Initiated Pursuant to Section 11323 of the Interstate Commerce Act, Consolidation or Coordination, paragraph 2., otherwise referred to as the Cram Down Agreement.

AWARD

I.

The Arbitrator need not and therefore does not rule on Question No. 1 of Attachment "A".

II.

With respect to Question No. 2, after careful consideration and review of the submissions and presentations made by the parties, the Arbitrator determines that the Consolidated Southern Region Agreement is the agreement most beneficial to the employees affected by CSXT's coordination notice and will, effective October 25, 2010, become the controlling agreement on the territory encompassed by the Section 4 Notice.

In addition, the Arbitrator has determined the following provisions contained in the Consolidated Southern Region Agreement, currently not in effect on the L&N and NC & StL will on the effective date referenced above, apply to employees on the former L&N and NC & StL:

1. Crew Consist - crew consist provisions outlined in paragraph A. 1. of Side Letter 8 and paragraph A of Attachment C will be superseded by the Crew Consist provisions currently in effect on the L&N and NC & StL, as further clarified by Public Law Board 5756, Award 1, Case 1.
2. Side Letter 8 - *"The provisions of Article 12, Section 1, paragraph D., Deadheading of the former L&N Schedule Agreement will continue to apply for the term of this agreement."*
3. Article 5 - Section 3, *Lump Sum, provided for a \$1000 Lump Sum payment to former AWP, C&O and SCL Trainmen who were in active service on July 1, 2010. The Arbitrator directs CSXT provide the \$1000 Lump Sum payment to those eligible*


Trainmen on the former L&N and NC & StL, subject to the conditions provided thereto within forty-five days from the October 25, 2010 effective date.

4. Vacation Agreement - Article 29, Section 1 – provides for a sixth week of vacation after an employee achieves thirty years of active service with CSXT. The parties signatory to the Consolidated Southern Region Agreement reached an understanding that resulted in a payment in lieu of the sixth week of vacation for the 2010 calendar year. CSXT made the agreed to payment to eligible employees on August 13, 2010.

The Arbitrator directs that CSXT provide the payment in lieu of the sixth week of vacation to eligible former L&N and NC & StL Trainmen within forty-five days from the October 25, 2010 effective date.

III.

Given this decision regarding Question No. 2, the parties are directed to meet and discuss Question 3 within the context of the various provisions of the selected Agreement. The parties are further directed to advise the Arbitrator of their progress in this regard within 15 days from the date of this decision, and the Arbitrator will retain jurisdiction on such matters in the event the parties are unable to resolve their differences.

Signed: 
David P. Twomey
Arbitrator

Dated: 10-15-2010

In The Matter of the Arbitration)
-between-)
UNITED TRANSPORTATION UNION)
-and-)
CSX TRANSPORTATION, INC.)

Special Board of Arbitration Established To Dispose Of a Dispute Regarding The
Selection Of A Single Collective Bargaining Agreement Pursuant To UTU/NCC
Agreement of February 11, 2000

David P. Twomey
Arbitrator

Interpretations to the October 15, 2010 Award.

ATTACHMENT B P65

Subsequent to the issuance to the Special Board of Adjustment Award dated October 15, 2010, the parties raised two additional questions for interpretation, the questions and answers are as follows:

Interpretation Number 1.

Q.1 In compliance with the October 15, 2010 Arbitration Award specifically Item II, paragraph 1, the Company has identified brakeman positions on the former L&N and NC&StL that have previously gone "no-bid". Upon implementation of the Consolidated Southern Region Agreement, does the Company have the option of eliminating those brakeman positions identified as having gone no-bid on the attachment hereto?

A.1. Yes.

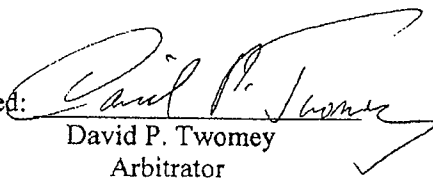
Interpretation Number 2.

Q.2. If the Answer to Q.1. is in the affirmative, how is the Company guided with respect to the elimination of any remaining brakeman positions?

A.2. The following are possible options available to eliminate remaining brakeman positions:

- (i) Normal attrition.
- (ii) When one of the remaining positions goes no-bid by a "crew consist protected employee".
- (iii) As provided for in the Consolidated Southern Region Agreement, Side Letter 8, paragraph A.2.

Signed:


David P. Twomey
Arbitrator

Dated: 10-22-2010

Attachment to October 15, 2010 Interpretation Award

Number	Div	Assignment	DistSub	Job	Road	Description	Name	Empgno	No Bid	Terminal	Date
3	HU	APCVFP	APCV	E/N Trains	LN	Coal Train Pool	Reece D	191935	Yes	Corbin	
4	HU	APCVFP	APCV	E/N Trains	LN	Coal Train Pool	Hill	192709	Yes	Corbin	
5	HU	APCVFP	APCV	E/N Trains	LN	Coal Train Pool	Burnett	193109	Yes	Corbin	
6	HU	APCVFP	APCV	E/N Trains	LN	Coal Train Pool	Scaff	193087	Yes	Corbin	
7	HU	APCVFP	APCV	E/N Trains	LN	Coal Train Pool	Taylor	192762	Yes	Corbin	
8	HU	APCVLC800	APCV	C800	LN	CORBIN ROAD SWITCHER	Martin	192030	Yes	Corbin	9/15/2009
9	HU	APDAM3pool	APDA	F890	LN	Nora Turn	Salyers	609521	TBD	Dante	
10	HU	APDAM4pool	APDA	F893	LN	Eikhart Turn	Jones	609589	TBD	Dante	
11	HU	APDAM5pool	APDA	F892/4/6/8	LN	Shelby Turns	Yates	609527	TBD	Dante	
12	HU	APDAM5pool	APDA	F892/4/6/8	LN	Shelby Turns	Helton	197303	TBD	Dante	
14	HU	APERYY101	APER	Y101	LN	MF 1ST TRICK 1ST JOB	Chapman	197289	Yes	Erwin Yd	9/17/2009
15	HU	APERYY203	APER	Y203	LN	MF 2ND TRICK 3RD JOB	Allen	609839	Yes	Erwin Yd	9/27/1997
18	HU	APERYY305	APER	Y305	LN	MF 3RD TRK 5TH YARD	Bennett	609880	Yes	Erwin Yd	7/25/2008
18	HU	APKDY101	APKD	Y101	LN	KNOX- YARD YM-WKN	Eggers	193395	Yes	Knoxville	10/20/2010
20	HU	APKPY123	APKP	Y123	LN	P 2ND YARD JOB	Dickenson	609907	Yes	Erwin/Kingsport	7/25/2008
21	HU	APKPY226	APKP	Y226	LN	MF 2ND YARD JOB	Bailey	609738	Yes	Erwin/Kingsport	4/26/2010
22	AT	ATATYY121	ATAT	Y121	LN	LN ROUNDHSE T11	Smith III	170761	Yes	Atlanta	6/16/2010
23	AT	ATATYY131	ATAT	Y131	LN	AJ HULSEY YM-T14	Odem Jr	609611	Yes	Atlanta	10/14/2006
24	AT	ATATYY132	ATAT	Y132	LN/SCL	LN HULSEY YM-T14	Holden	197400	Yes	Atlanta	
25	AT	ATATYYR41R	ATAT	YR41R	LN/SCL	SC Relief	Hill	208811	Yes	Atlanta	9/25/2010
26	AT	ATATYY231	ATAT	Y231	LN	LN HULSEY T14	Hightower	378375	Yes	Atlanta	
27	AT	ATATYY331	ATAT	Y331	LN	AJ HULSEY YM-T14	Lewis	227747	Yes	Atlanta	9/18/2010
28	AT	ATBMLM719	ATBM	M719	LN	BROOKWOOD	Long	193600	Yes	Birmingham BM	9/20/2010
29	AT	ATBMA4Pool	ATBM	M803	LN	M803 pool	Duck	377651	TBD	Birmingham BM	
30	AT	ATBTYY117	ATBT	Y117	LN	BNSF RDHO YM-BOY LN	Rooker	191850	Yes	Birmingham Terminal	2/1/2008
31	AT	ATBTYY123	ATBT	Y123	LN	MF SOUTH YARD YM-BO2	Moss	192276	Yes	Birmingham Terminal	1/6/2008
32	AT	ATCALA703	ATCA	A703	LN	B1 BLKABLE ATL SWIT	Weidman III	197388	Yes	Cartersville	2/1/2008
33	AT	ATCAY120	ATCA	Y120	LN	MF-2-15-05 YM-CAR	Chaastain	192686	Yes	Cartersville	2/11/2010
34	AT	ATCAY122	ATCA	Y122	LN	MF YARD JOB YM-CAR	Johnson	193900	Yes	Cartersville	6/8/2007
36	AT	ATFLLM701	ATFL	M701	LN	GEORGIANA SWR BKVB	Lowe	192955	Yes	Flomaton	4/23/2007
37	AT	ATFLLM703	ATFL	M703	LN	P - LOCAL	Johnson	197192	Yes	Flomaton	9/5/2007
38	AT	ATFLLM704	ATFL	M704	LN	M704 BREWTON SWR	Mize	187133	Yes	Flomaton	8/20/2007
39	AT	ATKALA704	ATKA	A704	LN	A704 TURN 00C379	Garrett	194810	Yes	Etowah/Atlanta	8/20/2007
40	AT	ATKALA718	ATKA	A718	LN	A718 00C334 T 00C422	Crady	192989	Yes	Etowah/Atlanta	11/20/2007
41	AT	ATMMLM700	ATMM	M700	LN	GEORGIANA	Graham	193799	Yes	Montgomery/Mobile/Pensa	10/2/2007
42	AT	ATMOLM724	ATMO	M724	LN	THEODORE SWITCHER	Evans	193185	Yes	Mobile/New Orleans	10/28/2007
43	AT	ATMTYR20R	ATMT	YR20R	LN	2nd Shift relief	Moncrief	193779	Yes	Montgomery Yard	7/8/2007
44	AT	ATMTYY120	ATMT	Y120	LN	LN/EN IND	Patterson	192878	Yes	Montgomery Yard	1/5/2008
46	AT	ATNOYY103	ATNO	Y103	LN	MF YD SWITCHER YM-GEN	Giarrusso	197158	Yes	New Orleans	10/15/2010
47	AT	ATSMML721	ATSM	M721	LN	M721 Calera	Ellison	194860	Yes	Birmingham SM	10/28/2007
49	NS	CGATLJ825	CGAT	J825	LN	ATKINSON#1 ROAD SWR	Overton	191481	Yes	Evansville/Nashville	1/12/08
52	NS	CGNAYY101	CGNA	Y101	LN	ROUBT #1 @ BOWL RA1	Cook	192871	Yes	Nashville Yard	4/20/2010
53	NS	CGNAYY201	CGNA	Y201	LN	ROUBT #4 @ BOWL RA0	Goodrich	182312	Yes	Nashville Yard	1/10/2008
54	NS	CGNAYY222	CGNA	Y222	LN	KAYNE AVE YM-RA3	Ford	193409	Yes	Nashville Yard	1/18/2008
55	NS	CGNAYY223	CGNA	Y223	LN	MF BOWL YM-RA1	Brim Jr	192265	Yes	Nashville Yard	12/21/2007
56	NS	CGNCLM792	CGNC	M792	LN	M792 BRUCETON	King	192977	Yes	Nashville/Chattanooga	3/10/2010
57	NS	CGNCLM796	CGNC	M796	LN	Dupont	Tummins	191995	Yes	Nashville/Chattanooga	10/8/2010
58	NS	CGNDLM781	CGND	M781	LN	Oakworth	Morton	193003	Yes	Nashville/Birmingham	10/18/2007
59	NS	CGNDLM786	CGND	M786	LN	MF - N&D LOCAL	Davison	191291	Yes	Nashville/Birmingham	3/10/2010
60	NS	CGPMLM790	CGPM	M790	LN	LEEWOOD Turn	Perkins	193839	Yes	Bruceton/Memphis	10/15/2008
61	NS	CGPMLM791	CGPM	M791	LN	Bruceton M791	Watkins	193795	Yes	Bruceton/Memphis	10/24/2007
62	NS	CGPMYY101	CGPM	Y101	LN	JACKSON YD YM-JAT	Bomar	192734	Yes	Bruceton/Memphis	10/19/2008
63	NS	CGSNLM788	CGSN	M788	LN	MF CULLMAN SWITCHER	Rigsby	194821	Yes	Birmingham/Nashville	3/10/2010
64	HU	HUEKLC841	HUEK	C841	LN	MF C841 0100 MINE UN	Coots	193633	Yes	Hazard	3/16/2008
65	HU	HUEKLC843	HUEK	C843	LN	MF C843 0530 MINE	Goosey	193523	Yes	Hazard	5/4/2007
66	HU	HUEKLC850	HUEK	C850	LN	MF C850 2300 MINE	Brashear	193758	Yes	Hazard	3/26/2010
67	AT	JXPDLM733	JXPD	M733	LN	MF-M733 LOCAL	Brown	193876	Yes	Pensacola	3/25/2010
68	JX	JXPDLM735	JXPD	M735/736	LN	Chatta Local: Pool	Hawthorne	193568	TBD	Pensacola	
69	LO	LOMSLJ760	LOMS	J760	LN	MF-GALLATIN SWR 159	Booth	193779	Yes	Louisville MS	10/2/2007

ATTACHMENT B Pg 7

NEW YORK DOCK CONDITIONS

Finance Docket No. 28250

APPENDIX III

Labor protective conditions to be imposed in railroad transactions pursuant to 49 U.S.C. 11343 et seq. (formerly Sections 5(2) and 5(3) of the Interstate Commerce Act), except for trackage rights and lease proposals which are being considered elsewhere, are as follows:

1. Definitions:

(a) "Transaction" means any action taken pursuant to authorizations of this Commission on which these provisions have been imposed.

(b) "Displaced employee" means an employee of the railroad who, as a result of a transaction is placed in a worse position with respect to his compensation and rules governing his working conditions.

(c) "Dismissed employee" means an employee of the railroad who, as a result of a transaction is deprived of employment with the railroad because of the abolition of his position or the loss thereof as the result of the exercise of seniority rights by an employee whose position is abolished as a result of a transaction.

(d) "Protective period" means the period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of 6 years therefrom, provided, however, that the protective period for any particular employee shall not continue for a longer period following the date he was displaced or dismissed than the period during which such employee was in the employ of the railroad prior to the date of his displacement or his dismissal. For purposes of this appendix, an employee's length of service shall be determined in accordance with the provisions of Section 7(b) of the Washington Job Protection Agreement of May 1936.

2. The rates of pay, rules, working conditions and all collective bargaining and other rights, privileges and benefits (including continuation of pension rights and benefits) of the railroad's employees under applicable laws and/or existing collective bargaining agreements or otherwise shall be preserved unless changed by future collective bargaining agreements or applicable statutes.

3. Nothing in this Appendix shall be construed as depriving any employee of any rights or benefits or eliminating any obligations which such employee may have under any existing job security or other protective conditions or arrangements; provided, that if an employee otherwise is eligible for protection under both this Appendix and some other job security or other protective conditions or arrangements, he shall elect between the benefits under this Appendix and similar benefits under such other arrangement and , for so long as he continues to receive such benefits under the provisions which he so elects, he shall not be entitled to the

ATTACHMENT C Pg 1

same type of benefit under the provisions which he does not so elect; provided further, that the benefits under this Appendix, or any other arrangement, shall be construed to include the conditions, responsibilities and obligations accompanying such benefits; and, provided further, that after expiration of the period for which such employee is entitled to protection under the arrangement which he so elects, he may then be entitled to protection under the other arrangement for the remainder, if any, of this protective period under that arrangement.

4. Notice and Agreement or Decision:

(a) Each railroad contemplating a transaction which is subject to these conditions and may cause the dismissal or displacement of any employees, or rearrangement of forces, shall give at least ninety (90) days' written notice of such intended transaction by posting a notice on bulletin boards convenient to the interested employees of the railroad and by sending registered mail notice to the representatives of such interested employees. Such notice shall contain a full and adequate statement of the proposed changes to be affected by such transaction, including an estimate of the number of employees of each class affected by the intended changes. Prior to consummation the parties shall negotiate in the following manner.

Within five (5) days from the date of receipt of notice, at the request of either the railroad or representatives of such interested employees, a place shall be selected to hold negotiations for the purpose of reaching agreement with respect to application of the terms and conditions of this appendix, and these negotiations shall commence immediately thereafter and continue for a least thirty (30) days. Each transaction which may result in a dismissal or displacement of employees or rearrangement of forces, shall provide for the selection of forces from all employees involved on a basis accepted as appropriate for application in the particular case and any assignment of employees made necessary by the transaction shall be made on the basis of an agreement or decision under this Section 4. If at the end of thirty (30) days there is a failure to agree, either party to the dispute may submit it for adjustment in accordance with the following procedures:

- (1) Within five (5) days from the request for arbitration the parties shall select a neutral referee and in the event they are unable to agree within said five (5) days upon the selection of said referee then the National Mediation Board shall immediately appoint a referee.
 - (2) No later than twenty (20) days after a referee has been designated a hearing on the dispute shall commence.
 - (3) The decision of the referee shall be final, binding and conclusive and shall be rendered within thirty (30) days from the commencement of the hearing of the dispute.
 - (4) The salary and expenses of the referee shall be borne equally by the parties to the proceeding; all other expenses shall be paid by the party incurring them.
- (b) No change in operations, services, facilities or equipment shall occur until after an agreement is reached or the decision of a referee has been rendered.

5. Displacement Allowances:

(a) So long after a displaced employee's displacement as he is unable, in the normal exercise of his seniority rights under existing agreements, rules and practices, to obtain a position producing compensation equal to or exceeding the compensation he received in the position from which he was displaced, he shall, during his protective period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by him in the position in which he is retained and the average monthly compensation received by him in the position from which he was displaced.

Each displaced employee's displacement allowance shall be determined by dividing separately by 12 the total compensation received by the employee and the total time for which he was paid during the last 12 months in which he performed services immediately preceding the date of his displacement as a result of the transaction (thereby producing average monthly compensation and average monthly time paid for in the test period), and provided further, that such allowance shall also be adjusted to reflect subsequent general wage increases.

If a displaced employee's compensation in his retained position in any month is less in any month in which he performs work than the aforesaid average compensation (adjusted to reflect subsequent general wage increases) to which he would have been entitled, he shall be paid the difference, less compensation for time lost on account of his voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period, but if in his retained position he works in any month in excess of the aforesaid average monthly time paid for during the test period he shall be additionally compensated for such excess time at the rate of pay of the retained position.

(b) If a displaced employee fails to exercise his seniority rights to secure another position available to him which does not require a change in his place of residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position he elects to decline.

(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for justifiable cause.

6. Dismissal allowances:

(a) A dismissed employee shall be paid a monthly dismissal allowance, from the date he is deprived of employment and continuing during his protective period, equivalent to one-twelfth (1/12) of the compensation received by him in the last 12 months of his employment in which he earned compensation prior to the date he is first deprived of employment as a result of the transaction. Such allowance shall also be adjusted to reflect subsequent general wage increases.

(b) The dismissal allowance of any dismissed employee who returns to service with the railroad shall cease while he is so reemployed. During the time of such

reemployment, he shall be entitled to protection in accordance with the provisions of Section 5.

(c) The dismissal allowance of any dismissed employee who is otherwise employed shall be reduced to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his representative, and the railroad shall agree upon a procedure by which the railroad shall be currently informed of the earnings of such employee in employment other than with the railroad, and the benefits received.

(d) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the employee's resignation, death, retirement, dismissal for justifiable cause under existing agreements, failure to return to service after being notified in accordance with the working agreement, failure without good cause to accept a comparable position which does not require a change in his place of residence for which he is qualified and eligible after appropriate notification, if his return does not infringe upon the employment rights of other employees under a working agreement.

7. Separation allowance: A dismissed employee entitled to protection under this appendix, may at his option within seven (7) days of his dismissal, resign and (in lieu of all other benefits and protections provided in this appendix) accept a lump-sum payment computed in accordance with Section 9 of the Washington Job Protection Agreement of May 1936.

8. Fringe benefits: No employee of the railroad who is affected by a transaction shall be deprived, during his protection period, of benefits attached to his previous employment, such as free transportation, hospitalization, pensions, reliefs, et cetera, under the same conditions and so long as such benefits continue to be accorded to other employees of the railroad, in active or on furlough as the case may be, to the extent that such benefits can be so maintained under present authority of law or corporate action or through future authorization which may be obtained.

9. Moving expenses: Any employee retained in the service of the railroad or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his employment as a result of the transaction, and who within his protective period is required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects for the traveling expenses of himself and members of his family, including living expenses for himself and his family and for his own actual wage loss, not to exceed 3 working days, the exact extent of the responsibility of the railroad during the time necessary for such transfer and for reasonable time thereafter and the ways and means of transportation to be agreed upon in advance by the railroad and the affected employee or his representatives; provided, however, that changes in place of residence which are not a result of the transaction, shall not be considered to be within the purview of this section; provided further, that the railroad shall, to the same extent provided above, assume the expenses, et cetera, for any employee furloughed within three (3) years after changing his point of employment as a result of a transaction, who elects to move his place of residence back to his original point of employment. No claim for reimbursement shall be paid under the provision of this section unless such claim is presented to the railroad within ninety (90) days after the date on which the expenses were incurred.

10. Should the railroad rearrange or adjust its forces in anticipation of a transaction with the purpose or effect of depriving an employee of benefits to which he otherwise would have become entitled under this appendix, this appendix will apply to such employee.

11. Arbitration of disputes:

(a) In the event the railroad and its employees or their authorized representatives cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this appendix, except Sections 4 and 12 of this Article I, within twenty (20) days after the dispute arises, it may be referred by either party to an arbitration committee. Upon notice in writing served by one party on the other of intent by that party to refer a dispute or controversy to an arbitration committee, each party shall, within ten (10) days, select one member of the committee and the members thus chosen shall select a neutral member who shall serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or the highest officer designated by the railroads, as the case may be, shall be deemed the selected member and the committee shall then function and its decision shall have the same force and effect as though all parties had selected their members. Should the members be unable to agree upon the appointment of the neutral member within ten (10) days, the parties shall then within an additional ten (10) days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation Board to designate within ten (10) days the neutral member whose designation will be binding, upon the parties.

(b) In the event a dispute involves more than one labor organization, each will be entitled to a representative on the arbitration committee, in which event the railroad will be entitled to appoint additional representatives so as to equal the number of labor organization representatives.

(c) The decision, by majority vote, of the arbitration committee shall be final, binding, and conclusive and shall be rendered within forty-five (45) days after the hearing of the dispute or controversy has been concluded and the record closed.

(d) The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

(e) In the event of any dispute as to whether or not a particular employee was affected by a transaction, it shall be his obligation to identify the transaction and specify the pertinent facts of that transaction relied upon. It shall then be the railroad's burden to prove that factors other than a transaction affected the employee.

12. Losses from home removal:

(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the railroad (or who is later restored to service after being entitled to receive a dismissal allowance) who

is required to change the point of his employment within his protective period as a result of the transaction and is therefore required to move his place of residence:

(i) If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by the railroad for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the date of the transaction so as to be unaffected thereby. The railroad shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other person.

(ii) If the employee is under a contract to purchase his home, the railroad shall protect him against loss to the extent of the fair value of equity he may have in the home and in addition shall relieve him from any further obligation under his contract.

(iii) If the employee holds an unexpired lease of a dwelling occupied by him as his home, the railroad shall protect him from all loss and cost in securing the cancellation of said lease.

(b) Changes in place of residence which are not the result of a transaction shall not be considered to be within the purview of this Section.

(c) No claim for loss shall be paid under the provisions of this Section unless such claim is presented to the railroad within one (1) year after the date the employee is required to move.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or their representatives and the railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected in the following manner. One (1) to be selected by the representatives of the employees and one (1) by the railroad, and these two (2), if unable to agree within thirty (30) days upon a valuation, shall endeavor by agreement within ten (10) days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the National Mediation Board to designate within ten (10) days a third appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

ARTICLE II

1. Any employee who is terminated or furloughed as a result of a transaction shall, if he so requests, be granted priority of employment or reemployment to fill a position comparable to that which he held when his employment was terminated or he was furloughed, even though in a different craft or class, on the railroad which he is, or by training or retraining physically and mentally can become, qualified, not, however, in contravention of collective bargaining agreements relating thereto.
2. In the event such training or retraining is requested by such employee, the railroad shall provide for such training or retraining at no cost to the employee,
3. If such a terminated or furloughed employee who had made a request under Sections 1 or 2 of the Article II fails without good cause within ten (10) calendar days to accept an offer of a position comparable to that which he held when terminated or furloughed for which he is qualified, or for which he has satisfactorily completed such training, he shall, effective at the expiration of such ten (10) day period, forfeit all rights and benefits under this appendix.

ARTICLE III

Subject to this appendix, as if employees of railroad, shall be employees, if affected by a transaction, of separately incorporated terminal companies which are owned (in whole or in part) or used by railroad and employees of any other enterprise within the definition of common carrier by railroad in Section 1(3) of Part I of the Interstate Commerce Act, as amended, in which railroad has an interest, to which railroad provides facilities, or with which railroad contracts for use of facilities, or the facilities of which railroad otherwise uses; except that the provisions of this appendix shall be suspended with respect to each such employee until and unless he applies for employment with each owning carrier and each using carrier; provided that said carriers shall establish one convenient central location for each terminal or other enterprise for receipt of one such application which will be effective as to all said carriers and railroad shall notify such employees of this requirement and of the location for receipt of the application. Such employee shall not be entitled to any of the benefits of this appendix in the case of failure, without good cause, to accept comparable employment, which does not require a change in place of residence, under the same conditions as apply to other employees under this appendix, with any carrier for which application for employment has been made in accordance with this section.

ARTICLE IV

Employees of the railroad who are not represented by a labor organization shall be afforded substantially the same levels of protection as are afforded to members of labor organizations under these terms and conditions.

In the event any dispute or controversy arises between the railroad and an employee not represented by a labor organization with respect to the interpretation, application or enforcement of any provision hereof which cannot be settled by the parties within thirty (30) days after the dispute arises, either party may refer the dispute to arbitration.

ARTICLE V

1. It is the intent of this appendix to provide employee protections which are not less than the benefits established under 49 U.S.C. 11347 before February 5, 1976, and under Section 565 of Title 45. In so doing, changes in wording and organization from arrangements earlier developed under those sections have been necessary to make such benefits applicable to transactions as defined in Article I of this appendix. In making such changes, it is not the intent of this appendix to diminish such benefits. Thus, the terms of this appendix are to be resolved in favor of this intent to provide employee protections and benefits no less than those established under 49 U.S.C. 11347 before February 5, 1976 and under Section 565 of Title 45.

2. In the event any provision of this appendix is held to be invalid or otherwise unenforceable under applicable law, the remaining provisions of this appendix shall not be affected.