

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44929  
Docket No. SG-47192  
23-3-NRAB-00003-220095**

**The Third Division consisted of the regular members and in addition Referee Kathryn A. VanDagens when award was rendered.**

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Union Pacific Railroad**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:**

**Claim on behalf of G.L. Fountain, M.L. Martin, J.K. Nau, A.E. Nutt, and J.C. Sanders, for 1640 hours divided equally among the Claimants at their respective rates of pay and continuing until the contractor is no longer performing scope-covered work; account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it assigned a contractor Reinhold Electric to install 3/2 power cable for signal equipment beginning on August 5, 2020, between Mile Post 282 thru 289 on the Del Rio Subdivision, thereby causing the Claimants a loss of work opportunity. Carrier’s File No. 1743893, General Chairman’s File No. S-SR-95, BRS File Case No. 4628, NMB Code No. 312 - Contract Rules: Scope.”**

**FINDINGS:**

**The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:**

**The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.**

**This Division of the Adjustment Board has jurisdiction over the dispute involved herein.**

Parties to said dispute were given due notice of hearing thereon.

At the time this dispute arose, the Claimants were assigned to the Carrier's Signal Department with daily tasks that involved installing all signal appurtenances. On August 5, 2020, the Carrier assigned an outside contractor, Reinhold Electric, to plow in 3/2 signal power cable from M.P. 282 through M.P. 289 on the Del Rio Subdivision. The cable was installed to provide power to the signal cabins.

In a letter dated October 2, 2020, the Organization filed a claim on behalf of the Claimants. The Carrier denied the claim in a letter dated November 24, 2020. Following discussion of this dispute in conference, the positions of the parties remained unchanged, and this dispute is now properly before the Board for adjudication.

The Organization contends that the Carrier has violated the Scope Rule in the parties' Agreement. The Organization contends that the language of the Scope Rule is simple and clear and reserves the right to the Claimants to install any component, appurtenances, and apparatus of the signal system. The Organization contends that plowing and the installation of cable for the purpose of new signal cables exclusively pertains to signal. The Scope Rule provides,

This agreement governs the rate of pay, hours of service and working conditions of employees in the Signal Department, who construct, install, test, inspect, maintain or repair the following:

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2. High tension or other lines of the Signal Department, overhead or underground, poles and fixtures, conduits, transformers, arrestors and distributing blocks, track bonding, wires or cables, pertaining to railroad signaling, interlocking, and other systems and devices listed in (1) above.

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NOTE 5: It is understood that this agreement is the result of the consolidation of several collective bargaining agreements with differences as to what work is performed by signal department employees. It is not the intent of the parties signatory hereto to either assign to employees subject to this agreement work reserved to another craft or to assign to another craft work reserved to signal department employees.

The Organization contends that it provided evidence dating back to 1967 demonstrating that Signal employees have installed power cables and associated

equipment from the power feed to the signal equipment, utilizing equipment that the Carrier owns or has rented. The Organization contends that the Carrier assured the Signal employees that the Scope Rule would be applied at Mile Post 24.12 on the Little Rock Subdivision for the same type of work.

The Organization contends that the Board has held that if the purpose of the work is exclusively for the Signal System, it is Signalmen's work. The Organization contends that the Carrier has failed to present evidence to support its affirmative defense that the power cable was for dual use. The Organization contends that the Carrier has a contractual obligation to apply the Agreement as written and not assign Scope-covered work to individuals not covered by the Agreement.

The Organization contends that the Claimants have suffered a lost work opportunity, and so should be granted compensation.

The Carrier contends that the contractors from Reinhold Electric Company install high voltage distribution lines at the location and run commercial power cables to a riser and disconnect box. This work occurred near Milepost 282 - 289 on the Del Rio Subdivision. The Signal employees are responsible for installing the cable from the disconnect box to the signal house. The Carrier contends that it provided a statement from Signal Director Mike Choate that the disputed work was not solely for signal use, and that this work has historically been performed by IBEW employees and contractors.

The Carrier contends that the Organization failed to prove that its members have exclusive right to perform work that was not for the sole use and benefit of the Signal department. In this project, the contractors supplied commercial AC power from the source to Signal equipment. All Signal specific cables were handled/connected by the Claimants. The Carrier contends that the contract employees did not perform any scope-covered work.

The Carrier contends that the Organization has not satisfied the heightened level of proof needed in a jurisdictional dispute. The Carrier contends that it was not a violation of the Agreement to use contractors to perform this work. The Carrier contends that this dispute has already been decided in its favor.

Having reviewed the entire record, the Board finds that the Organization has failed to meet its burden of proving a violation of the parties' Agreement. The evidence shows that the benefit of the project of installing high voltage distribution

lines at the location, and running commercial power cables to a riser and disconnect box was for the signal and communication departments. Thus, it was a mixed-use project. The Carrier does not violate the Agreement when it subcontracts work that is not Scope-covered and there is no past practice of assigning it exclusively to the Signal employees.

**AWARD**

Claim denied.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 21<sup>st</sup> day of April 2023.