

ARBITRATION COMMITTEE
ESTABLISHED UNDER NEW YORK DOCK EMPLOYEE PROTECTION CONDITIONS

ALLIED SERVICES DIVISION/BROTHERHOOD *
OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, *
FREIGHT HANDLERS, EXPRESS AND STATION *
EMPLOYEES, AFL-CIO *
v. *
WESTERN RAILROAD TRAFFIC ASSOCIATION *

QUESTIONS AT ISSUE

1. Did the Western Railroad Traffic Association institute a transaction when effective with the close of business March 15, 1984 they reorganized their forces by the abolishment of all positions in the rate area as well as abolishing all Tariff Analysts and Assistant Analysts and re-advertised Analysts and Assistant Analysts effective March 16, 1984?
2. Shall the Western Railroad Traffic Association be required to serve the notice prescribed by Section 4 of the New York Dock III Conditions and negotiate with the Organization as provided therein?
3. If the answer to 1 and 2 are in the affirmative, shall the Western Railroad Traffic Association be required to serve an appropriate notice and enter into negotiations with the Organization for the purpose of reaching an agreement to apply the terms and conditions of the New York Dock as required by Section 4 and, in addition, compensate all affected employes for any loss suffered between March 16, 1984 and until an agreement is reached through negotiations or arbitration.

BACKGROUND

On October 14, 1980 the Staggers Rail Act was enacted which in part significantly altered the collective rate making process in the Railroad industry. Specifically, Sec. 219, 49 USC 10706 placed the following restrictions on the activities of Rate Bureaus:

(a) prohibited discussion of, or voting on, single rates (1980);

(b) prohibited discussion of, or voting on, joint line rates unless a carrier can "practicably participate" in the movement (phased in from May 21, 1981 to January 21, 1982);

(c) after January 1, 1984 prohibited discussion of joint line rates by other than carriers forming a particular route and eliminated general rate increases and broad tariff changes.

In consideration of the Staggers Rail Act, the Western Railroad Traffic Association tentatively approved a plan during the early part of 1981 to consolidate and centralize all collective rate activities and tariff publication functions into a single organization to be located in Chicago, Illinois. The activities proposed to be consolidated were centered in four separate rate jurisdictions,

namely the Trans-Continental Freight Bureau and Western Trunk Line located in Chicago, Illinois, the Southwestern Freight Bureau in St. Louis, Missouri and the North Pacific/Pacific Southcoast Freight Bureau located in San Francisco, California. The Organization served a written request, dated February 23, 1981 for an agreement to adopt the labor protective conditions set forth in New York Dock Railway-Control - Brooklyn Eastern District Terminal 360 I.C.C. 60 (1979) which was consistent with the protective requirements of Section 219 (g) of the Staggers Rail Act. This Section reads as follows:

"(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employes of such rate bureau who are affected by the amendments made by this section with fair arrangements no less protective of the interests of such employes than those established pursuant to Section 11347 of title 49, United States Code. For purposes of this subsection, the term "employes" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions."

The Board of Directors of the Western Railroad Association approved the consolidation and centralization of the four regional rate bureaus and all tariff publications and administrative activities into a single organization on October 7, 1981; and the parties after observing the