

ARBITRATION AWARD

In the Matter of Arbitration

between

ALLIED SERVICES DIVISION/BROTHERHOOD OF
RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION
EMPLOYES, AFL-CIO

and

SOUTHERN FREIGHT TARIFF BUREAU

FINDINGS & AWARD

STATEMENT OF CLAIM NO. 1

"1. The Southern Freight Tariff Bureau violated the current working agreement, as well as the protective conditions mandated by the Interstate Commerce Commission known as the New York Dock III Condition, when D. H. Cooper, J. S. Cochran, H. E. Trammell, R. J. Smith, M. D. Perry and J. L. Alexander, Jr. were furloughed as a result of the abolishment of positions formerly held by rate clerks J. N. Anderson, M. P. Hallman, R. Y. Mitchell, G. N. Christopher, J. D. Whitaker, and C. M. Banks. It is the consensus of the committee that the reduction in work force is a direct result of declining business under the passage of the Stagger's Rail Act of 1980.

2. The Bureau shall now be required to compensate the following employees as set forth in the New York Dock Condition: Mr. Cooper, Mr. Cochran, Mr. Trammell, Mr. Smith, Mr. Perry and Mr. Alexander for any loss in salary which is to include their regular rate of pay, overtime and/or holidays for the period beginning February 1, 1983 and to run continuously [until] resolved."

STATEMENT OF CLAIM NO. 2

"1. The Southern Freight Tariff Bureau violated the current working agreement, as well as the protective conditions mandated by the Interstate Commerce Commission, known as the New York Dock III Conditions, when D. M. Kern, D. B. Hollis, V. L. Lemon, P. M. George, J. B. Harper and D. H. Leslie were furloughed as a result of the abolishment of positions formerly held by Rate Clerks J. L. Alexander, Jr., J. D. Cook, B. F. Hillhouse, S. A. Lathem, R. L. Parrish, and T. D. Spratlin. It is the consensus of the committee that the reduction in work force is a direct result of declining business under the passage of the Staggers Rail Act of 1980.

2. The Bureau shall now be required to compensate the following employees as set forth in the New York Dock Conditions: Mrs. Kern, Mrs. Hollis, Ms. Lemon, Mrs. George, Mrs. Harper and Mr. Leslie, for any loss in salary which is to include their regular rate of pay, overtime and/or holidays for the period beginning July 1, 1982, and to run continuously until this claim is resolved."

INTRODUCTION

The claims here at issue essentially concern a determination as to whether the Claimants were "adversely affected" as a direct result of changes to antitrust immunity for collective ratemaking by reason of enactment and application of the Staggers Rail Act of 1980 (94 Stat. 1928, 49 U.S.C. §10706), and thereby entitled to protection as stipulated in Section 219(g) of that Act, which provides in pertinent part:

"The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees 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 employees than those established pursuant to Section 11347 of Title 49, United States Code."

The protective conditions in question are those developed by the Interstate Commerce Commission (ICC) pursuant to 49 U.S.C. §11347, and set forth in New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C. 60, aff'd sub nom. New York Dock Ry. v. United States, 609 F.2nd 83 (2d Cir. 1979 (New York Dock Conditions).

There is no question that the Claimants are in fact, for the purposes of Section 219(g) of the Staggers Act of 1980, employees of a rate bureau. There is likewise no dispute that the Claimants were furloughed as the result of the abolishment of positions by the Southern Freight Tariff Bureau (SFTB) effective July 1, 1982 as concerns certain of the Claimants and effective February 1, 1983 with

regard to the remaining Claimants. Further, that all the named Claimants are employees of SFTB represented by the Allied Services Division, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, AFL-CIO (BRAC).

CONTENTIONS OF THE PARTIES

BRAC, in urging that an understanding of the changes made by Section 219 of the Staggers Rail Act of 1980 is necessary to recognition of what it terms "drastically reduced" work level activity at rate bureaus, offers a comprehensive review as to the manner it says the Act substantially amended the ICC's regulation of collective rate-making agreements among railroads. In this respect, it directs particular attention to those provisions of Section 219 which prevent discussion, participation or voting on single-line movements within and/or under the protective cloak of the anti-trust immunity of the member rail carriers of organizations such as the SFTB and those provisions which allow two or more carriers to discuss and participate in agreements outside of organizations such as the SFTB under the auspice of independent publication instructions (IPIs).

BRAC, therefore, says increased use of IPIs as opposed to the past use of disposition advices (DAs) as prepared by the SFTB, as well as the use of disposition notices (DNs), created a reduction in the workload of SFTB's tariff and rate departments and led to the job abolishments which caused the Claimants to be furloughed in a chain reaction of the exercise of seniority amongst the SFTB employees.

In its submission to this Arbitration Board, BRAC offered the

following statement relative to its position that IPIs required far less effort or manhours to produce as opposed to DAs:

"In Exhibit No. 16, we show the number of dispositions advices (DA) in several years. A disposition advice is the vehicle which was used to change rates. An independent notice (IPI) existed prior to Staggers but not used as it is after Staggers because of its limited use. While the rate clerk handles both D.A. and I.P.I., the number of I.P.I. needed to replace just one D.A. in terms of man hours expended would be at least eight (8) times greater. To demonstrate in more vivid terms even though the total number of Carrier publications in 1982 were greater, the actual number of man hours necessary to produce them was considerably less and thus resulted in the abolishment of these six rate jobs."

As concerns its position relative to the changes which the Staggers Rail Act of 1980 brought to the workload of employees of the SFTB with respect to the independent action of carriers, BRAC states:

"The net result of the carriers' switch from predominantly open docketing (under the cloak of immunity from Antitrust) is that carriers are now issuing independent action closed handling and subject to Antitrust. This has eliminated untold hours of work for the Bureau employees in research (compilation) and routine daily duties. These independent actions both, single-line and joint-line, constitute approximately two-thirds of the publications handled by the Bureau, and would increase to 95% by December, 1983. These independent (I.P.I.) publications are in a much simpler form and expressed in more concise terms, and with relatively few exceptions do not apply to voluminous tariff changes. * * *

With the IPI, no public docketing is necessary prior to the issuance of final disposition notice. The IPI represents final disposition. IPI's were not reproduced and distributed by the Southern Freight Tariff Bureau's Distribution Department clerks. Necessary copies of IPI are reproduced as Xerox copies by Southern Freight Association clerks, not Southern Freight

Tariff Bureau clerks, from the time of their inception until January, 1984.

[Also, the advent of IPI heavily impacts on the manpower requirement of the Southern Freight Tariff Bureau Distribution Department by replacing the need to reproduce and distribute about 200 copies (about 100 copies of proposal and 100 of Disposition Notice) which would have been reproduced by Southern Freight Tariff Bureau clerks on printing offset equipment, as opposed to six Xerox copies (IPI) made by Southern Freight Association clerks."

BRAC also contends that there was a "loss of work due to the decrease in the issuance of publication instructions to the Southern Freight Tariff Bureau, in the form of a Southern Freight Association letter." In this respect, BRAC states:

"There are no easily available figures on the number of Southern Freight Association letter authorities issued (and subsequently reproduced and distributed by the Southern Freight Tariff Bureau) prior to the Staggers Rail Act; however, it is estimated that they did not exceed one percent of the total number of Southern Freight Association authorities. Due to the fact that Southern Freight Association letters were previously used for such things as mail vote letters to the carrier and assumed concurrence of all if specific objection was not received from a member carrier, such letters have now become practically obsolete and are very little used. New procedures made necessary by the Staggers Rail Act require the carriers' specific concurrence in rate matters. Even though small, this clerical work loss is not reflected in the publication authorities' loss figures of BRAC Exhibit 16."

As concerns both BRAC Exhibit 16 and BRAC Exhibit 17, they were described by BRAC in its submission in the following manner:

"BRAC Exhibit 16, attached hereto, provided a numerical accounting of publication authorities (excluding SFA letter authorities but including IPI) passed from the Southern Freight Association to the Southern Freight Tariff Bureau during the two years subsequent to the Staggers Rail Act. The IPI publication trend is evident.

BRAC Exhibit 17, attached hereto, provided a numerical accounting of the number of items (offset plates) reproduced and distributed by the Southern Freight Tariff Bureau Distribution and Correspondence Departments. The figures exclude publication of supplements but include such items as rate proposals (other than IPI), publication authorities (DA or DN) and SFA and SFTB information mailings to carriers. The recent loss of work in this area is evident.

The figures shown in BRAC Exhibits 16 and 17 are only approximations but are extremely close to the actual count. Amendments to the formerly used Disposition Advices (about 20 amendments per 100 DA's) are not shown in the figures to Exhibit 16, but are reflected in the offset plate count shown in BRAC Exhibit 17.

It is important to note here that publication authorities issued prior to the Staggers Rail Act did, by their open nature, lend themselves to significant amendment for account of carriers not originally participating. Such latter action was normally handled in an amendment to the original publication authority. Handled under separately numbered publication authority, the figures shown in Exhibit 16 for the period prior to the Staggers Rail Act would have been approximately 20% higher. While not reflected in the numerical count, such amendments provided a significant volume of work for all Southern Freight Tariff Bureau clerks. Subsequent to the Staggers Rail Act carriers' parallel but separate rate actions normally have been handled as separately numbered publication instructions and are, for the most part, reflected in the figures for the period subsequent to the Staggers Rail Act, as shown in Exhibit 17. Such separate handling of parallel actions actually inflates the figures shown in Exhibit 17 when compared to pre-Staggers procedures."

BRAC offers further written argument and exhibits relative to the organizational structure of the SFTB, the duties and functions of employees in the various sections of SFTB, and job changes and abolishments which took place both before and after the Staggers Act of 1980. Basically, as one BRAC witness stated at the Board's hearings, the

position of BRAC is that the effect of all changes from or since enactment of the Staggers Rail Act of 1980 is not limited to one set area; SFTB work goes beyond the reissue section; and, there have been significant changes in work throughout the SFTB.

BRAC disputes SFTB contentions that a computerization program and rate factor project had brought about the need for a lesser work force at the SFTB. In this regard, BRAC states:

"Computerization program began October 1, 1969 and turned the corner toward completion well before the furloughs began July 1, 1982, some 13 years after commencement of the program. Furthermore, SFTB force reduction through attrition from 125 employees (active, see Exhibit 18) on July 1, 1970 to only 104 (active, see Exhibit 19) as of July, 1982, (the date Staggers furloughs began) more nearly reflects the loss appropriate to an ongoing computerization program. Attached Exhibit 24 proves that SFTB turned the corner well before July 1, 1982. In fact, most tariff computerized by that date were 3rd and 4th generation. Tariff SFA 4847-B was ninth generation computer."

* * * * *

"Generally speaking, obsolete tariff rates comprised a minor employment necessity. Obsolete rates were naturally not active rates. Much like obsolete files in any office merit a minimum of attention so then do obsolete rates merit little attention. The core of SFTB's work and the reason for SFTB's existence has been its active freight rates. SFTB's employment level of 107 at the time Staggers became effective (October 1, 1980) was justified at that time because of the carriers' method of rate publication. Changes in Section 219 of the Staggers Rail Act drastically altered the carriers' need for SFTB, thus the reduction to the present 65 employees."

Finally, BRAC maintains that notwithstanding its belief that it has shown abundant direct and indirect effect on the Claimants as a result of the Staggers Rail Act of 1980, that it is only necessary it show

"some effect" on the employees and that it need not show that "except for" the Staggers Rail Act of 1980 the positions would not have been abolished and the Claimants furloughed.

Turning now to SFTB's defense of its position, it maintains all the evidence shows that SFTB abolished the twelve positions in the re-issue section solely as a direct result of an earlier decision to computerize SFTB's tariff publishing system, and not as a direct or even indirect result of the narrowing of the antitrust exemption accomplished by Section 219 of the Staggers Rail Act of 1980. It says Section 219(g) does not apply, and the grievants are not entitled to compensatory benefits.

As concerns its computerization program, which the SFTB submits resulted from a decision made in 1968, or more than 12 years prior to the enactment of the Staggers Rail Act of 1980, it says that it had assigned the task of computerizing its tariff publishing system to the reissue section, one of the two sections within SFTB's tariff and rate department ordinarily responsible for compiling and publishing tariffs. In this respect, SFTB submits that it added almost 24 employees to the reissue section to undertake this task, and more were added in subsequent years. Further, that these and other reissue section employees also later participated in two related tasks, including what it terms a "tariff cleanup" campaign, which was designed to remove obsolete matter from the tariffs, and an additional effort to introduce an improved and simplified tariff format called the "rate factor format" to the computerized tariffs.

SFTB maintains that by the time the job abolishments that are

the subject of this arbitration, the reissue section had virtually completed the task of computerizing SFTB's tariff publishing system, and it was closely approaching the completion of the two other related tasks. As a result, SFTB says, the workload of the reissue section attributable to these tasks had greatly declined, and job abolishments were inevitable.

SFTB also asserts the job abolishments were inevitable for another reason, namely, that the workload of the reissue section attributable to the regular reissue work of compiling and publishing tariffs had significantly declined. It says the decline had occurred because employees in the reissue section could now perform regular reissue work more efficiently, primarily as a result of the availability of computerized tariffs.

SFTB gives a background sketch of the history and workings of its organizational structure. It offers an explanation of SFTB's overall functions, especially as to the manner work has been and is assigned to or divided between the "supplemental" and "reissue" sections of the tariff and rate department. In this same connection, it presents a detailed rundown as to the manner positions and work were handled over the years as related to the actual task of converting tariffs from a manual format to a computer format.

SFTB says that over the years, the distinction in the reissue section between employees who were assigned to the computer conversion program and those who were assigned to regular reissue work gradually disappeared; most of the employees assigned to regular reissue work became exposed to the task of converting tariffs from a manual format to a computer format.

In regard to its "tariff cleanup" project, SFTB submits it embarked upon such program in 1975, utilizing computerized traffic movement data, which was designed to remove obsolete rates and provisions from the standing tariff library. It says that following the commencement of this accelerated "tariff cleanup" campaign, it was discovered that the standing tariff library in fact contained what it states were "literally thousands of pages of obsolete rates and provisions." Further, that the responsibility for ultimate removal of the rates determined to be obsolete as a result of this accelerated campaign was assigned to the employees in the reissue section since they were already responsible for the computer conversion program.

SFTB says that by the fall of 1979, or one year prior to the enactment of the Staggers Rail Act of 1980, the reissue section had converted "almost 50 percent" of the tariffs in the standing tariff library, which it says "represented approximately 80 percent of the tariffs that were considered suitable for conversion from a manual format to a computer format." In this same respect, SFTB says the reissue section had also begun to convert most of the remaining tariffs, and as a result, the workload of the reissue section had diminished, and fewer rate clerks were needed to complete the conversion of the remaining tariffs. Furthermore, SFTB says, as a result of the greater efficiency realized in regular reissue work through use of the computerized tariffs and as a result of the progress of the accelerated "tariff cleanup" campaign, the work of the reissue section had also begun to diminish.

The SFTB then says that because of the foregoing developments, it had to decide whether to abolish several positions in the reissue section or, alternatively, to pursue the conversion of the computerized tariffs to the rate factor format more seriously, the reissue section having reportedly converted the computerized tariffs to the rate factor format only on a very limited basis. Thereafter, SFTB states:

"In November of 1979, at the request of SFA member railroads, SFTB prepared a memorandum discussing three alternatives involving the rate factor format. These alternatives included: (1) reduce the number of employees in the reissue section from 39 to 19, the number that would allow the reissue section both to keep up with its regular reissue work, which at the time had been increased due to several recent carrier mergers, and to comply with the mandates of SFA's carrier members to convert routes to the Explanation of Routes Tariffs; (2) reduce the number of employees in the reissue section from 39 to 29, or fifty percent of the reduction contemplated in the first alternative listed above, and pursue the conversion of the computerized tariffs to the rate factor format; and (3) pursue the conversion of the computerized tariffs to the rate factor format on an accelerated basis utilizing all existing reissue section personnel."

SFTB says that because of the considerable advantages of the rate factor format, it recommended to SFA member railroads that they adopt the third alternative listed above and pursue the conversion of the computerized tariffs to the rate factor format on an accelerated basis, and that the member railroads subsequently adopted SFTB's recommendation, but also instructed SFTB to abolish positions as attrition occurred and not to hire any new employees to aid in the conversion of the computerized tariffs to the rate factor format. Accordingly, SFTB states, in January of 1980, most of the employees in the reissue section previously assigned to the computer conversion

program began to convert the computerized tariffs to the rate factor format where feasible.

The SFTB next says that by June of 1982, or the time of the first set of job abolishments at issue in this proceeding, the re-issue section had converted to the rate factor format "approximately 69 percent of the computerized tariffs suitable for conversion," and it had completed "almost all of the compilation work on an additional 12 percent," in addition to having initiated work on most of the remaining computerized tariffs suitable for conversion and having virtually completed the computer conversion program. SFTB also says that at this time the reissue section was "within three months of concluding the accelerated 'tariff cleanup' campaign."

For all of these reasons and because the employees in the re-issue section could now perform regular reissue work more efficiently, SFTB submits that on June 30, 1982 it abolished six rate clerk positions in the reissue section which then resulted in the furloughing of Claimants Kern, Hollis, Lemon, George, Harper and Leslie after a series of displacements.

As concerns job abolishments affecting the other Claimants, SFTB in its submission states that following the aforementioned job abolishments, the number of employees in the reissue section decreased from 41 to 35; the remaining 35 employees still numbered 16 more than the minimum complement of employees necessary to perform all regular reissue work as estimated by SFTB officers in the fall of 1979, or one year prior to the enactment of the Staggers Act, when SFTB was considering whether to embark on a concerted effort to introduce the rate

factor format to the computerized tariffs. In this same regard, SFTB submits that the remaining 35 employees also numbered 19 more than were working in the reissue section prior to the commencement of the computer conversion program in the fall of 1968, when the employees in the reissue section performed only regular reissue work.

Furthermore, SFTB says, seven months later, the workload of the reissue section had only declined more, and that it had converted from a manual format to a computer format "92 to 93 percent of the tariffs in SFTB's standing tariff library suitable for conversion, and it had completed almost all of the compilation work on an additional 2 or 3 percent." SFTB also says that, in addition, the accelerated "tariff cleanup" campaign had been concluded, and the reissue section had introduced the rate factor format into "approximately 84 percent of the computerized tariffs for which it was feasible, and almost all of the compilation work on an additional 12 percent had been completed.

Therefore, SFTB submits, with this further increased efficiency of rate clerks in the reissue section in performing regular reissue work, it determined it appropriate to abolish six more rate clerk positions in the reissue section; these job abolishments resulting in the furloughs of Claimants Cooper, Cochran, Trammell, Smith, Perry and Alexander.

SFTB states that following these job abolishments, the number of employees in the reissue section decreased from 35 to 29; the remaining 29 employees still numbered 10 more than the minimum complement of employees necessary to perform all regular reissue work as estimated by SFTB officers in the fall of 1979 and, in addition,

numbered 13 more than were working in the reissue section prior to the commencement of the computer conversion program.

The SFTB offers varied arguments in support of its position that even after the enactment of the Staggers Rail Act of 1980, the workload of the reissue section attributable to regular reissue work did not decline, suggesting that it may even have increased, at least until the time of the two sets of job abolishments, although the computerization of the tariffs had purportedly by then greatly increased the rate clerks' efficiency in performing regular reissue work.

The SFTB in its written submission to the Board also states:

"[E]ven if it is assumed arguendo that the enactment of Section 219 of the Staggers Act had caused a relatively immediate decline in the workload of the supplemental section by requiring fewer or less substantial changes to be made to tariffs updated in the supplements. The workload of the reissue section attributable to regular reissue work at a particular time is not determined by the workload of the supplemental section at or even shortly before that time. Rather, the workload of the reissue section depends primarily on two factors, the rate of tariff reissue progress and the rate of activity in the supplemental section, over a period of at least the preceding four to six years. As these factors suggest, there is almost always a sizeable backlog of tariffs in need of, or approaching need of, reissue. Consequently, even assuming arguendo that the enactment of Section 219 did cause a relatively immediate decline in the workload of the supplemental section, the workload of the reissue section would not have been affected noticeably for four to six years. The workload of the reissue section certainly would not have been affected noticeably by June of 1982 or January of 1983, approximately two years after the enactment of the Staggers Act."

Finally, SFTB offers extensive written and oral argument in opposition to BRAC's contentions and submits that Section 219(g) of

the Staggers Rail Act of 1980 requires that there be a direct causal relationship between the enactment of Section 219 and any adverse effects suffered by the Claimants before the Claimants are entitled to compensatory benefits under the New York Dock Conditions, an element which SFTB asserts to be essential and which it maintains BRAC has not been able to show as having been the cause for SFTB's job abolishments and the subsequent furloughing of the Claimants.

DISCUSSIONS AND FINDINGS OF THE BOARD

The Board has given lengthy and studied consideration to the extensively prepared presentations of the parties. It has carefully read and studied the written pre-hearing and post-hearing briefs as filed with the Board. It has reviewed those copious notes which the Board took at hearings on the dispute, most especially the statements of witnesses on both direct and cross examination. The Board has also taken under advisement and examination protests voiced to it that certain statements, exhibits and witness testimony fabricates, misleads, or distorts conclusions to be drawn from the record as otherwise presented.

No useful purpose would be served by the Board here setting forth for the record any analysis or summary of all the protests. The positions of the parties on all such issues are, for the most part, set forth in the post-hearing briefs.

Essentially, the Board is of the opinion and belief that it may be properly concluded from the overall record as presented and developed that it fails to show a clearly discernible relationship between the

enactment of Section 219 of the Staggers Rail Act of 1980 and SFTB's abolishment of the positions in question which had resulted in the furloughing of the Claimants.

While it may be, as BRAC states, that changes brought about by the Staggers Rail Act of 1980 and, specifically, Section 219, took away the cumbersome provisions that the antitrust immunity provisions required all rate and tariff bureaus to follow, this Board does not find such happenstance to have been the direct causal nexus for SFTB to have freed itself of the need for the services of the positions in question. Rather, and contrary to BRAC contentions, the Board finds the record shows there was indeed a direct retention of employment relationship as concerned a number of SFTB positions and eventual completion of extraordinary programs or projects which SFTB had undertaken to streamline ordinary every-day operation of its tariff and rate department. Simply put, the Board finds no reason to hold that once the identifiable programs and projects were completed that SFTB had either a statutory or agreement obligation to retain positions related to such programs and projects or to extend protective benefits status to employees furloughed as a result of the abolishment of such positions.

Although it might seem illogical to conclude at first blush the position abolishments are related to a decision made in 1968 by SFTB to computerize its tariff publishing system, or that a program estimated to initially take between four and six years to complete, would take over twice such period of time, the Board believes SFTB has demonstrated as plainly as possible why it took such prolonged number of years for it to realize an extent of benefits or advantage of changed

procedures so as to permit it to reduce the excess workforce which had been employed for special projects.

That SETB had gotten off to a slow start with the computerization program, or took longer than anticipated to complete it, in no way detracts from the fact positions had been specifically added over the years for work on such program and retained thereafter for work on ancillary projects, such as the "tariff cleanup" campaign and "rate factor format" project. Actually, it would appear from analysis of all data that had SFTB concentrated efforts of its additional workforce on the computerization program and not meantime decided to also have such force work on the additional projects, SFTB could have provided for the force reductions at much earlier dates than those here at issue.

The Board is also not persuaded that merely because it may be shown a realignment of duties of some SFTB employees over the past years had had them participate in regular on-going work in addition to work on the computerization program and the other special projects, that such action somehow intertwined the work of all employees and that any change brought about by enactment of the Staggers Rail Act of 1980 must then be looked upon as the cause of any force reduction. Thus, while it might be that the enactment of the Staggers Rail Act of 1980 may have helped to hasten the ability of SFTB to provide for completion of the work of the special workforce positions, there is no probative evidence of record to suggest, much less hold, that the Act itself was the direct cause for abolishment of positions related to the computerization program and the special projects.

It may be unfortunate that certain employees hired over the past years as a consequence of SFTB's on-going special project needs may not have fully recognized the temporary nature of their employment with SFTB, and would, therefore, be inclined to wrongfully conclude that enactment of the Staggers Rail Act of 1980 rather than the completion of special projects, would be the result of their having to be furloughed in a force reduction. However, this Board is without authority to stretch the protective benefits coverage of Section 219(g) to include all employees of a rate bureau as protected employees regardless of the nature of those internal work needs of the bureau which caused a loss of employment opportunities.

As previously indicated, Section 219(g) calls for "fair arrangements no less protective of the interests of such employees than those established pursuant to [the New York Dock Conditions]." Since these Conditions necessitate an aggrieved party show a direct causal nexus between a transaction and an adverse affect upon their employment relationship, the Board believes it proper to conclude that Section 219(g) likewise contemplates protective coverage only in those instances when it can be shown that an employee of a rate bureau has been adversely affected as the direct result of enactment of the Staggers Rail Act of 1980 and not that there might have been some indirect affect as the result of such Act. Certainly, if it had been the intent of Section 219(g) to have provided otherwise, the framers of such section would have said so in unequivocal language.

For the reasons as stated above, the Board must conclude that since there is no evidence of a discernible direct causal nexus between

the claims as purused and enactment of Section 219 of the Staggers Rail Act of 1980, the claims must be denied.

AWARD

Claims denied.


Robert E. Peterson, Chairman
and Neutral Member


L. E. Bosher, BRAC Member


K. J. O'Brien, SFTB Member

Atlanta, GA
August 16, 1985