

Arbitration pursuant to Article I - Section 11 of the
employee protective conditions developed in New York
Dock Ry.-Control-Brooklyn Eastern Dist., 360 I.C.C.
60 (1979) as provided in ICC Finance Docket No. 30,000

PARTIES	UNION PACIFIC RAILROAD COMPANY)	
	MISSOURI PACIFIC RAILROAD COMPANY)	
)	CASE NO. 2
TO	AND)	
)	DECISION
	UNITED TRANSPORTATION UNION (C&T))	
DISPUTE)	

ORGANIZATION'S QUESTION AT ISSUE:

Claim of UP crews pulled from Council Bluffs-
Marysville Interdivisional Pool for protection under
New York Dock as a result of transfer of Crete
Subdivision from Missouri Pacific to Union Pacific on
May 8, 1985.

CARRIER'S QUESTION AT ISSUE:

Was the abolishment of the Council Bluffs-Marysville
pool turn pursuant to a transaction, thereby entitling
the involved employees to protection under New York Dock?

BACKGROUND:

a. History of Dispute

On February 9, 1984 the Interstate Commerce Commission (ICC)
served a Notice of Exemption in Finance Docket No. 30396 approving the
acquisition by the Union Pacific Railroad Company (UP) of a nineteen mile
portion of the Missouri Pacific Railroad Company's (MP) Crete Subdivision
extending from near Hickman, Nebraska to Crete, Nebraska. The ICC imposed
conditions for the protection of employees set forth in New York Dock Ry.-
Control-Brooklyn Eastern District, 350 I.C.C. 60 (1979) (New York Dock
Conditions).

On January 27, 1984 the Carriers served notice under Article I, Section 4 of the New York Dock Conditions stating in pertinent part that:

All work between Aldo Junction and Crete (Milepost 467.9 to Milepost 486.8) will be performed by UP under applicable UP Schedule Rules. All traffic moving from and to Aldo Junction will be handled in the manner achieving maximum efficiency.

The notice also estimated that the following employees would be affected:

1 MP fireman, 1 MP conductor, 2 MP brakemen, 2 UP conductors, and 4 UP brakemen.

The parties entered into negotiations for an implementing agreement as also provided in Article I, Section 4 of the New York Dock Conditions. Certain threshold issues could not be resolved and the matter was submitted to arbitration as further provided in Article I, Section 4.

-- After the arbitration award issued resolving those issues, the parties again entered into negotiations which resulted in agreement on May 7, 1985.

The transfer was effectuated on May 8, 1985.

Prior to May 8, 1985 an MP local operated between Crete and Aldo Junction to the east delivering traffic to Aldo Junction for handling by UP trains. A UP local operated between Lincoln, Nebraska through Aldo Junction to Beatrice, Nebraska to the south. Another local operated from Bestwall, Kansas through Marysville, Kansas to Beatrice to the north handling traffic destined for Crete and Lincoln. UP Interdivisional pool service operated between Council Bluffs, Iowa and Marysville, Kansas to the south. At Aldo Junction the Lincoln local handled traffic brought to Aldo Junction from Crete by the MP local. However, when the Lincoln

local did not operate the Council Bluffs-Marysville I. D. pool service performed the work of the Lincoln local, including the work at Aldo Junction.

On May 8, 1985 the MP local operating between Crete and Aldo Junction was eliminated. The Lincoln local went through Aldo Junction into Crete, thus absorbing the work of the MP local. Pick ups and set outs at Aldo Junction were eliminated.

On May 10, 1985 a First District pool turn in the I.D. service operating between Council Bluffs and Marysville was abolished at the request of the UP Local Chairman. Subsequently, the Organization contended that the pool turn was abolished as a result of the transfer of the Crete Subdivision and filed the claim on behalf of UP crews pulled from service as a result of the abolishment of the pool turn. The Carrier denied the claim on the ground that abolishment of the pool turn was not a result of the Crete transaction.

The parties were unable to resolve their dispute. Arbitration was invoked under Article I, Section 11 of the New York Dock Conditions. Hearing in this case was held on April 15, 1986 in Omaha, Nebraska. The parties filed prehearing submissions and presented oral arguments at the hearing. The parties agreed to extend the time within which this Committee would render its decision.

b. Parties' Positions

The Organization argues that the abolishment of the Council Bluffs-Marysville pool turn resulted from the Crete transaction. The