SPECIAL BOARD OF ARBITRATION
CREATED PURSUANT TO ARTICLE IV,
SECTIONS 2 AND 3 OF THE OCTOBER 27, 1992
NEW YORK DOCK IMPLEMENTING AGREEMENT

PARTIES	SOUTHERN PACIFIC LINES	)	
		)	AWARD NO. 9
TO	AND	)	
		)	CASE NO. 9
DISPUTE	TRANSPORTATION-COMMUNICATIONS	)	
	INTERNATIONAL UNION	)	

CARRIER'S STATEMENT OF ISSUE:

In computing K. V. (Paulson) McAvoy's TPA, did the Carrier comply with the spirit and intent of the New York Dock Conditions and the October 27, 1992, Implementing Agreement, Article I, when Carrier excluded Claimant's non-agreement officer earnings from her TPA calculation, inasmuch as such earnings would not have continued even in the absence of the New York Dock transaction?

EMPLOYEES' STATEMENT OF ISSUES:

(1) Did the Carrier comply with New York Dock Conditions, Article I, Section 5, and the October 27, 1992, Implementing Agreement, Article I, when it failed to include both agreement and non-agreement earnings in computing Mrs. K. V. (Paulson) McAvoy's TPA?

(2) If yes, the Carrier shall now be required to adjust Mrs. McAvoy's TPA to include all agreement and non-agreement earnings received in the twelve (12) month period in which she performed service immediately preceding the date she was affected.

HISTORY OF DISPUTE:

The issues in this case and the underlying dispute arose against the background outlined in Award No. 1, Case No. 1 decided by this Board. In the interest of brevity that background will not be reviewed here.

The issues and underlying dispute in this case were generated by the Carrier's refusal to include in the calculation of displaced Employee K. V. McAvoy's test period average (TPA) under Article I, Section 5(a) of the New York Dock Conditions the earnings of her nonagreement Corridor Manager position during the twelve months immediately preceding her displacement as a result of the transaction under the October 27, 1992 New York Dock Implementing Agreement (Implementing Agreement). The Organization challenged the Carrier's action. They could not resolve the dispute. Accordingly, pursuant to Article IV, Sections 2 and 3 of the Implementing Agreement the parties placed the foregoing issues before this Board.

The Board heard this case in Houston, Texas on June 28, 1995. The parties presented written submissions and oral argument. No bench decision provided in Article IV, Section 3 of the Implementing Agreement was issued at the hearing. The parties extended the time provided therein within which this Board must render a decision in this case.

FINDINGS:

The Board finds that the parties have complied with all procedural requirements to bring the issues in this case and the underlying dispute before this Board for adjudication. The Board also finds that it has jurisdiction to decide the issues and the

dispute. The Board further finds that all parties to the case were given due notice of the hearing before this Board.

By way of background, on September 30, 1993 the Carrier eliminated Employee McAvoy's officer position of Corridor Manager in Denver, Colorado as part of a downsizing in the Company's labor force. On October 1, 1993 she exercised her seniority as a Denver Crew Caller to Position No. RC750. On February 4, 1994 she was displaced from her Crew Caller position as a result of the consolidation of the Waybill, Accessorial and Industrial Service Operations in Houston, Texas and Monterey Park, California into the Denver Customer Service Center (DCSC). That consolidation constituted a New York Dock transaction covered by the Implementing Agreement.

As a result of her displacement Employee McAvoy exercised her seniority to the position of Waybill Monitor Representative in the DCSC. She currently works that position.

On February 8, 1994 Employee McAvoy requested the Carrier to provide her with her TPA for purposes of determining her displacement allowance under Article I, Section 5(a) of the New York Dock Conditions as provided in Article I of the Implementing Agreement. In response the Carrier furnished a TPA (compensation and hours worked) based upon the four months she had worked the Crew Caller position and eight previous months worked by the next junior clerk. By letter of March 29, 1994 Employee McAvoy rejected the Carrier's calculation of her test period average alleging that

the calculation should have been based on her earnings in the Corridor Manager position during the eight months prior to the time she assumed the Denver Crew Caller position and not upon the eight months' earnings of the next junior clerk.

The Carrier responded by letter of June 23, 1994 with a recalculation of Employee McAvoy's TPA producing an average based solely upon Claimant's earnings during the four months she worked the Denver Crew Caller position. Employee McAvoy responded by rejecting the Carrier's calculation and referring the Carrier to her calculation of her TPA in her letter of March 29, 1994 and further asserting that her calculated TPA should be increased to reflect a four percent wage increase.

By letter of July 6, 1994 the Carrier refused to recalculate Employee McAvoy's TPA and referred her to the Organization if she wished to appeal the Carrier's decision. She appealed through the Organization.

Subsequent correspondence between the Organization and the Carrier clarified the parties' positions. The Carrier insisted that Employee McAvoy's TPA should be calculated solely upon her four months' earnings in the agreement covered Denver Crew Caller position. The Organization maintained that the calculation of Employee McAvoy's TPA should be based upon not only her earnings in the Crew Caller position during the four months before she was displaced therefrom but also upon her earnings from her Corridor Manager position during the eight months preceding the time that