

NATIONAL RAILWAY LABOR CONFERENCE

1225 CONNECTICUT AVENUE, N.W., WASHINGTON, D. C. 20036/AREA CODE: 202-659-9320

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May 23, 1972

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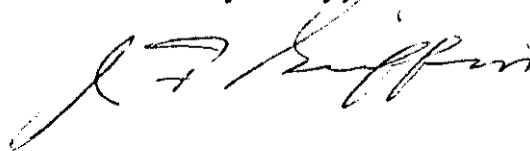
Mr. Nicholas H. Zumas
1225 - 19th Street, N. W.
Washington, D. C. 20036

Gentlemen:

This will supplement our previous letters with which we forwarded to you copies of Awards of Special Board of Adjustment No. 605 established by Article VII of the February 7, 1965 Agreement.

There are attached copies of Awards Nos. 297 to 304 inclusive, dated May 19, 1972, rendered by Special Board of Adjustment No. 605.

Yours very truly,



cc: Messrs.

G. E. Leighty
C. L. Dennis (2)
C. J. Chamberlain (2)
M. B. Frye
H. C. Crotty
✓ J. J. Berta
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gcm: 4
PARTIES) The Cincinnati Union Terminal Company
TO THE) and
DISPUTE) Transportation-Communication Division of the
Brotherhood of Railway and Airline Clerks

QUESTIONS

- AT ISSUE:
1. Does the substitution of data covering "total engines and cars handled" added to "Freight Movements and Detour Movements computed on the basis that three such train movements equal one car count" for "gross operating revenues" and "net revenue ton miles" respectively, as those terms are used in Article I, Sections 3 and 4 of the Agreement of February 7, 1965, provide an appropriate measure of volume of business of the Cincinnati Union Terminal Company for this craft?
 2. If the answer to Question No. 1 is affirmative, should the Agreement proposed by the Carrier, attached hereto as Carrier's Exhibit No. 10, be entered into by the Organization representative in disposition of this matter?
 3. If the answer to Question No. 1 is negative, what data should be substituted to provide an appropriate measure of volume of business or in what manner or to what extent should the Carrier's proposed Agreement (Carrier's Exhibit No. 10) be amended or revised?

OPINION

OF BOARD: Carrier is a passenger terminal company whose connection with freight trains is limited to their movement through the terminal. The business had always largely been one of handling passenger trains, which now has diminished virtually to the point of total disappearance.

What is an appropriate objective measure for determining the extent of the decline in Carrier's business under Article I, Section 3? The Answer to Question No. 4 on page 7

of the November 24 Interpretations states that terminal companies and Organizations should agree upon equivalent measures of volume of business in place of "net revenue ton miles or gross operating revenues."

Dollar income in this case is not a meaningful figure; the railroads which are participants in the operation of the terminal company simply make up the annual deficit. Thus it is not an equivalent figure to the revenues derived from business generated by customers of railroads. Even if virtually no work were performed, the Carriers who own the terminal still would each year contribute the amounts necessary to pay the bills--including the wages of all employees who had been on the protected list.

The measure to be used must therefore reflect the volume of work of the terminal rather than "revenues." The parties had long before agreed to this general approach, but disagreed on how to evaluate the relative contribution of passenger cars and freight trains. According to Carrier, in terms of cost and the amount of work involved, each passenger car is the equivalent of one-third of an entire freight train. The Organization contends that a more accurate parallel would be to equate a passenger car with a freight car. The two approaches would have altogether different results, since passenger-car traffic has virtually disappeared while the number of freight cars passing through the terminal has increased markedly.

During its consideration of this case the Board had rendered an Award directing the parties to submit data which would show the amount of time spent in the actual handling of passenger-car work and freight-train work. A joint study, as requested, was not produced. The data submitted were not particularly revealing since time-study information for 1963 and 1964 was not obtainable.

Moreover, a basic discrepancy between the approaches of the Organization and Carrier was revealed. Carrier measured the time involved in handling freight movements in terms of the time it took an operator to perform actual work in connection with the passing freight train, while the Organization showed elapsed time extending from a point before the train entered until after it had left terminal property.

The evidence indicates that, considering the actual work involved, Carrier's position is the sounder. One indication is that cost accounting a number of years before the February 7 Agreement had devised the proposed ratio of one passenger car to one-third of a freight-train movement, based upon experience. The contributing railroads paid accordingly. The objectivity of this approach is manifest, it was said, since each participating railroad was interested in obtaining a uniformly fair formula. In addition, the evidence demonstrates that freight movements which involve no switching, repairs, and the like, have never consumed any meaningful amount of employees' actual work-time. Consequently, there is no persuasive evidence justifying either the Organization's approach or one similar to it.

It would be inaccurate to count as an operator's work-time the time in which a freight train is merely passing through station property, since the operator could and would do other work during that tour, if work were available.

Therefore, the measure proposed by Carrier is held to be valid and should be incorporated in an Agreement between the parties, pursuant to Article 1, Section 3, of the Agreement and the Interpretations.

AWARD

The Answer to Question Nos. 1 and 2 is Yes.

Milton Friedman

Milton Friedman
Neutral Member

Dated: May 19, 1972
Washington, D. C.