

BNSF MERGER IMPLEMENTING AGREEMENT 14
Between
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
And The
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

The purpose of this agreement is to provide for expedited changes in services, facilities, operations, seniority districts, and existing collective bargaining agreements to effectuate the common control approved by the I.C.C. in Finance Docket No. 32549. The purpose is also to enable the company created by consummation of the merger proposed in that Finance Docket to be immediately operated in the most efficient manner as one completely integrated railroad.

Operations between Oklahoma City, OK., and Tulsa, OK.

IT IS AGREED:

1. Unassigned through-freight service, subject to the terms and conditions associated with the collective bargaining agreements applicable to the former St. Louis-San Francisco Railway Company (Frisco) may operate between Oklahoma City, OK. and Tulsa, OK. on either of the following routes:

1.1 The route that is subject to the Frisco collective bargaining agreements that runs northeast out of Oklahoma City to Tulsa via Sapulpa.

1.2 The route that was, prior to the effective date of this Agreement, subject to the collective bargaining agreements applicable to the former Santa Fe Railway Company that runs north out of Oklahoma City to Black Bear and then east on track subject to the Frisco collective bargaining agreements from Black Bear to Tulsa.

1.3 It is recognized that these crews may perform any necessary work, at any location, on either route, under the terms of the Frisco collective bargaining agreements.

2. The Stillwater Local shall not be eliminated due to the terms and conditions contained in this agreement.

3. This Agreement shall become effective on the date indicated below and may later be changed by mutual agreement or in accord with applicable law.

Signed at Oklahoma City, OK on _____, 1998, and effective _____, 1998.

FOR THE BROTHERHOOD OF
LOCOMOTIVE ENGINEERS:

T.R. Murphy
General Chairman

H.D. Miller
General Chairman

Approved:

D.M. Miller
International Vice President

FOR THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY CO.:

Mike Sussman
Assistant Vice President Labor Relations

[Signature]
General Director Labor Relations

J.C. [Signature]
Assistant Director Labor Relations

ARBITRATION UNDER THE NEW YORK DOCK PROTECTIVE CONDITIONS

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VS.

UNITED TRANSPORTATION UNION

QUESTION AT ISSUE:

Under what conditions may the Carrier implement the changes in operation for traffic between Oklahoma City and Tulsa, Ok. under the Section 4 Notice dated September 2, 1997?

Background:

On September 2, 1997 the Carrier served a Section 4 Notice under the provisions of New York Dock Protective Conditions as was imposed by the Interstate Commerce Commission in the Merger of the Burlington Northern Railroad and the Santa Fe Railroad. This Section 4 Notice proposed a change in train operations between Oklahoma City and Tulsa, Ok. The changes involved the handling of traffic between Oklahoma City and Tulsa. The changes involved the establishment of unassigned pool freight at Oklahoma City that would allow for movement between the two (2) terminals utilizing either the former BN route (via Sapulpa) or over the former ATSF route to Black Bear and then on the former BN route from Black Bear to Tulsa with crews subject to the "Frisco" Collective Bargaining Agreement. After numerous meetings between the parties, a Tentative Agreement was initialed and the Organization sent it out for ratification. The employees represented by the General Committee having jurisdiction on the Santa Fe portion of this Carrier overwhelmingly opposed ratification of the Tentative Agreement, while the employees represented by the General Committee having jurisdiction on the Burlington Northern portion of this Carrier overwhelmingly ratified the Tentative Agreement.

The Positions:

The General Committee having jurisdiction on the Burlington Northern portion of this Carrier (hereinafter referred to as the BN General Committee) contends that the overwhelming vote in favor of ratification shows no problems inherent in the Tentative Agreement. This BN General Committee states that the traffic is simply being rerouted from one line to another line and that the membership has the right to follow their work under the provisions of New York Dock Protective Conditions. The BN General Committee argues that the failed Tentative Agreement should be imposed on the parties.

The General Committee having jurisdiction on the Santa Fe portion of this Carrier (hereinafter referred to as the SF General Committee) contends that their members will be losing work opportunities as a result of this rerouting of BN traffic from the BN route over to the Santa Fe route and point to 1.3 of the failed Agreement as proof of this statement. They further contend that the new routing may well result in new business and that their membership should have the right to share in any new business. The SF General Committee points to the New York Dock Arbitration Awards rendered on this property by H. Raymond Cluster and Robert Richter as proof of this statement. The SF General Committee argues vigorously that their membership is entitled to a percentage of the work being rerouted and base that argument on possible lost business and a possible gain in new business.

The Carrier argues that should the SF Committee be given rights to work that was not their work to begin with, the costs associated with the merger would be considerably higher account the potential of protective benefits payable to employees represented by the BN Committee due to work improperly allocated to the SF Committee. Additionally, the Carrier points to certain efficiencies attendant to a merged railroad and that the preservation of a distinction, or allocation, concerning certain work, or possibly trains, would cause additional expense and tend to perpetuate a separation between the two railroads, as opposed to a merging thereof. Finally, the Carrier points out that the SF Committee is arguing equity where they cannot prove that there is any equity present.

Findings and Opinion of the Board:

The conditions in the Tentative Agreement identified as Merger Implementing Agreement Number 14 are reasonable, fair, and equitable.

In so far as the SF General Committee's position that they are entitled to a percentage of new business is concerned, this contention goes beyond the provisions of New York Dock. New York Dock provides protective conditions only for those people adversely affected. It does not address "new business." Therefore, this Board shall not address equity in "new business."

Award:

The conditions under which the Carrier may effect the changes in handling of traffic between Oklahoma City and Tulsa, OK. are the conditions in the Tentative Agreement identified as Merger Implementing Agreement Number 14, attached hereto, and the Board incorporates said Tentative Agreement as part of this Award.



Joseph Lazar

Neutral and Sole Board Member

Dated: May 26, 1978