

PUBLIC LAW BOARD NO. 7265

PARTIES TO THE DISPUTE:

Brotherhood of Locomotive Engineers and Trainmen
(CSXT Western Lines General Committee of Adjustment)
(CSXT Northern Lines General Committee of Adjustment)

Case No. 19
Award No. 19

-and-

CSX Transportation, Inc.

QUESTIONS AT ISSUE:

1. Is the Carrier's April 12, 2016 notice to run trains over the LIRC served pursuant to Article 1 Section 4 of Norfolk & Western Protective Conditions dated May 23, 2014 and subsequently modified on April 12, 2016 proper?
2. If Question 1 is answered in the affirmative, what is the proper proration of work between the BLET Northern Lines and BLET Western Lines General Committees of Adjustment for manning trains run on the CSXT LIRC trackage rights?

FINDINGS:

This Public Law Board No. 7265 finds that the parties herein are Carrier and Employee, within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction of this dispute pursuant to Article 1, Section 4, of the Norfolk & Western (N&W) employee protection conditions.

BACKGROUND TO DISPUTE

CSXT obtained trackage rights from Louisville, Kentucky to Indianapolis, Indiana to operate over the Louisville and Indiana Railroad (LIRC) from the Surface Transportation Board (STB) on June 21, 2001. From that date forward, CSXT train traffic was sporadically operated over the LIRC under the provisions of Side Letter 5 of the 1999 Western District Implementing

Agreement. On May 23, 2014, CSXT served the notice to the BLET Western Lines and Northern Lines General Committees (herein after referred to as the Organizations) to operate trains over the LIRC pursuant to Article 1, Section 4, of the Norfolk & Western (N&W) employee protection conditions. On April 12, 2016, CSXT modified their original notice and proposed an amended implementing provisions by modifying the work allocation of all the trains routed over the LIRC, including trains operating Louisville to Cincinnati, via LIRC at Seymour, Indiana as follows:

ARTICLE I-WORK ALLOCATION

- A. All Trains Routed Over LIRC including Trains Operating Louisville-Cincinnati, OH (via LIRC at Seymour, IN)
 - 1. For trains that operate over the LIRC to Indianapolis and trains that operate Louisville to Cincinnati, OH (via Seymour, IN), assignments will first be awarded to prior rights engineers with prior rights on the former L&N Kentucky District.
 - 2. If no such prior rights engineer bids, the assignment will be awarded to employees with common rights engineer seniority in the Louisville District.
 - 3. If no such common rights engineer bids, the assignment will be awarded to employees with prior rights seniority on the former B&O Western District.
 - 4. If no such prior rights B&O Western District employee bids, the assignment will be awarded to employees with common rights NOMAD seniority.
 - 5. If no such common rights engineer bids, the assignment will be awarded to employees with common rights engineer seniority in the Louisville District.

ARTICLE II—GENERAL

- A. For trains that operate over any portion of the LIRC, the home terminal or supply point is Louisville, provided that CSXT may also establish Indianapolis as a home terminal and supply point for positions to crew trains operating over the LIRC.

- B. The Single System Agreement will be the applicable agreement for all train operations over the LIRC or any part thereof.
- C. Extra boards established at Louisville under the Single System Agreement will be utilized to protect service over the LIRC.
- D. To the extent that there is a conflict between this and any other agreement, this agreement controls.

The Parties have been unable to reach a settlement concerning their disputes and have presented them to this Board under the provisions of Article 1, Section 4, of the Norfolk & Western (N&W) employee protection conditions for final and binding resolution.

I.

CONTENTIONS OF THE PARTIES ON QUESTION 1

The Carrier contends that the notices were proper and served in accordance with the findings of the Interstate Commerce Commission in its decisions on Finance Dockets 28256 and 23387

(Mendocino Coast and Norfolk & Western). It asserts that the Organization has failed to meet its burden of proof that the notices were improper.

The BLET Western Lines General Committee accepts the Carrier's April 12, 2016 N&W notice as proper and reasonable.

The BLET Northern Lines General Committee did not procedurally challenge the Carrier's right to serve the N&W notice, but rather objected to the work equity arrangement proposed in the April 12, 2016 notice.

ANSWER TO QUESTION 1

Question 1 is answered in the affirmative. The Board finds CSXT's notices under Article I, Section 4 of the Norfolk & Western employee protective conditions were proper except for the

Carrier's proposed work equity arrangement for manning trains over the territory which the Board will address in answering Question 2 below.

II.

CONTENTIONS OF THE PARTIES ON QUESTION 2

The Carrier contends the notices were proper and that the proposed terms and conditions of operation were reasonable therefore the Board need not address Question 2.

Both General Committees have essentially based their positions on Side Letter 5, Items 1 and 5 of the 1999 Conrail Implementing Agreement which read in pertinent part:

1. Louisville, KY – Cincinnati, OH Road Territory

The former B&O Engineers of the Western Consolidated District will maintain prior rights to positions on 2 trains each way per day (regular assigned service to the extent possible) operating between Cincinnati and Louisville (home terminal Cincinnati). The concerned Local Chairmen will cooperate with the designated Carrier representative in selecting the assignments. These positions will be eliminated through attrition. Attrition will be complete when all Western Consolidated District engineers holding seniority rights on the day prior to implementation of the Master Implementing Agreement leave the service of CSXT. Positions not filled by former B&O Engineers will be filled by former L&N Engineers.

5. Louisville, KY – Indianapolis, IN

The former L&N Kentucky district initially will have two (2) Engineer positions (representing traffic rerouted off the former L&N) protecting service between Louisville and Indianapolis via the LIRC route. Should other traffic be diverted from the LCL route to the LIRC route the concerned General Chairmen may request a conference to discuss the effects of the diversion and appropriate resolution. All other traffic operated by CSXT on the LIRC will be manned by former B&O Western District Engineers.

The BLET Northern Lines General Committee (NLGCA) contends that the B&O Western District is entitled to 100% of the positions operating on the LIRC trackage rights based

on the last sentence of Item 5, with exception made for the two (2) former L&N positions provided earlier in Item 5.

The BLET Western Lines General Committee (WLGCA) contends it is entitled to 100% of the positions in the pool operating Louisville to Indianapolis and 65% of the positions operating in the pool Louisville to Cincinnati via Seymour. The WLGCA contends that the service proposed by the Carrier is a new route involving traffic previously operated exclusively over the LCL, therefore they are entitled to 100% of the assignments operating on the LIRC. The WLGCA recognizes the NLGCA (B&O Western District) has exclusive seniority rights to the 106 miles between Seymour and Cincinnati and the existing equity provided in Side Letter 1, which would entitle the NLGCA to 35% of the assignments established to operate Louisville to Cincinnati via Seymour.

ANSWER TO QUESTION 2

After a thorough review of the documentation and arguments of the parties, the Board notes this is a very complex dispute. Strictly limited to the unique facts and circumstances of this particular record, we point out that this decision is intended to settle this dispute only and should not be used as precedent in future disputes.

Unlike most equity disputes, this dispute lacks traditional information such as car counts, job starts or engine hours, etc. sometimes used to calculate equity entitlement. Therefore, the Board will have to use the current agreement language and mileage to calculate the equity entitlement in this dispute. The mileage between the various points on the LIRC, WLGCA and NLGCA is as follows:

Louisville, KY to Indianapolis, IN LIRC	107 miles
Seymore, IN to Cincinnati, OH NLGCA	106 miles
Louisville, IN to Cincinnati, OH WLGCA	127 miles

340 miles total

Based on the above mileage calculations and the provisions of Side Letter 5, the NLGCA (B&O) is entitled to 60% of the work and the WLGCA (L&N) is entitled to forty (40) percent of the work between Louisville, Cincinnati and Indianapolis. The WLGCA is entitled to 100% of the work on the extra board at Louisville.

The Board's decision on the conditions under Article 1, Section 4, of the Norfolk & Western (N&W) employee protection conditions is as follows:

ARTICLE I-WORK ALLOCATION

- A. All Trains Routed Over LIRC including Trains Operating Louisville-Cincinnati, OH (via LIRC at Seymour, IN)
 - 1. For trains that operate over the LIRC to Indianapolis and trains that operate Louisville to Cincinnati, OH (via Seymour, IN), assignments will be awarded on a prorated equity basis of 60% former B&O and 40% former L&N.
 - 2. If a B&O Western District engineer fails to bid an assignment, it will be awarded to employees with Louisville District prior rights and then to common rights seniority in the Louisville District.

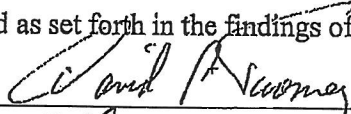
ARTICLE II—GENERAL

- A. For trains that operate over any portion of the LIRC, initially the home terminal or supply point will be Louisville.
- B. The Single System Agreement will be the applicable agreement for all train operations over the LIRC or any part thereof.
- C. Extra boards established at Louisville under the Single System Agreement will be utilized to protect service over the LIRC and be manned by L&N Louisville District Engineers.
- D. To the extent that there is a conflict between this and any other agreement, this agreement controls.

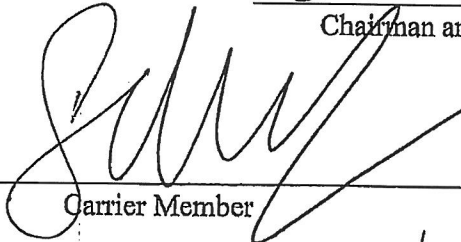
AWARD

Question 1 is answered in the affirmative.

Question 2 is answered as set forth in the findings of this award.



Chairman and Neutral Member



Carrier Member



Organization Member

Dated

