

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 32858

ILLINOIS CENTRAL CORPORATION AND ILLINOIS CENTRAL RAILROAD COMPANY--CONTROL--CCP HOLDINGS, INC., CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY AND CEDAR RIVER RAILROAD COMPANY

Decided: November 22, 1996

On November 18, 1996, United Transportation Union (UTU) filed a petition for an emergency order requiring the Illinois Central Corporation (IC Corp.) and Illinois Central Railroad Company (ICR) (collectively, IC) to cease and desist from prematurely implementing the transaction approved in this proceeding by decision served May 14, 1996.

UTU represents that it has engaged in implementing agreement negotiations pursuant to Article I, Section 4, of New York Dock Ry.--Control--Brooklyn Eastern Term. Dist., 360 I.C.C. 60 (1979) (New York Dock), but that the parties have not yet reached an agreement. Even though an implementing agreement is not yet in place, UTU maintains that IC has begun to implement the transaction. Specifically, UTU alleges that IC is having the Chicago, Central & Pacific Railroad Company (CCPR) crews, on other than train units, report for work at IC Markham Yard, to transfer cars between Markham and Hawthorne Yards. UTU also alleges that IC is requiring "eastbound road through freights," operating out of Freeport, IL, to pick up cars at Hawthorne Yard for transfer to Markham Yard, and having CCPR crews deliver IC cars to other carriers while on IC territory. UTU notes that it filed a formal complaint with IC but that it has not responded.

By letter dated November 21, 1996, IC disputes UTU's claim that there is an emergency that would warrant emergency relief. IC maintains that, based upon its preliminary investigation, the actions about which UTU is complaining "stem from a routine operating decision to shift the IC-[CCPR] interchange point for certain traffic from one Chicago yard to another, as has been done for years prior to the acquisition of control under pre-existing collective bargaining agreements and trackage rights." IC also maintains that "no change in operations has been undertaken contrary to the New York Dock conditions."

IC states that no IC or CCPR operating employees have been dismissed or displaced as a result of common control and it alleges that any loss of pay can be remedied by the time claims employees have already filed. Thus, IC submits that no injury exists that would warrant emergency relief. Accordingly, IC argues that the normal period for replies should be permitted and it commits to filing a reply by December 5, 1996.

It cannot be determined on the present record whether the actions by IC constitute actions that implement the transaction approved by the Board in this proceeding and implement changes that must await execution of an implementing agreement under the terms of the New York Dock conditions. If, in fact, such improper premature implementation is occurring, an expeditious determination is warranted. Therefore, IC will be directed to respond to UTU's allegations no later than November 27, 1996. UTU will be required to submit any rebuttal by December 2, 1996.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. IC is directed to respond to the petition of UTU by November 27, 1996.
2. UTU is directed to file any rebuttal by December 2, 1996.
3. This decision is effective on its service date.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams
Secretary