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SEC

SERVICE DATE - SEPTEMBER 9, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 32549 (Sub-No. 21)

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES—PETITION FOR
DECLARATORY ORDER

Decided: September 8, 1998

In a petition filed May 21, 1998, the Brotherhood of Maintenance of Way Employees (BMWE) sought a declaratory order that The Burlington Northern and Santa Fe Railway Company's (BNSF) April 7, 1998 notice of proposed consolidation of seniority districts does not comply with the procedural notice requirements of Article I, section 4 of the employee protective conditions in New York Dock Ry—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).¹ Assertedly, the notice failed to provide "a full and adequate statement of the proposed changes to be effected" by the transaction. 360 I.C.C. at 85. On June 10, 1998, BNSF filed a reply in opposition.

On August 31, 1998, BMWE filed a motion to dismiss its petition for a declaratory order, stating that the threshold dispute over the scope of the notice has been resolved and the transaction has been scheduled for New York Dock arbitration. BMWE's request is reasonable and will be granted.

It is ordered:

1. BMWE's motion to dismiss is granted, and its petition to institute a declaratory order proceeding is dismissed.

¹ The New York Dock conditions had been imposed in the merger of the Burlington Northern Railroad Company (BN) and The Atchison, Topeka and Santa Fe Railway Company (ATSF). Burlington Northern Inc. and Burlington Northern Railroad Company—Control and Merger—Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company, Finance Docket No. 32549 (ICC served Aug. 23, 1995). The merger was consummated on December 31, 1996. On April 7, 1998, BNSF served written notice on various officials of BMWE, the collective bargaining representative of the affected BNSF employees, that it would combine 47 seniority districts of maintenance-of-way forces on the former BN, the former ATSF, and various predecessor carriers, into nine BNSF districts.

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2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary