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SEC

SERVICE DATE - MARCH 26, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 32000 (Sub-No. 12)

RIO GRANDE INDUSTRIES, INC., SPTC HOLDING, INC., AND THE DENVER AND RIO  
GRANDE WESTERN RAILROAD COMPANY  
— CONTROL —  
SOUTHERN PACIFIC TRANSPORTATION COMPANY  
(Arbitration Review)

Decided: March 21, 2001

By decision served on August 29, 2000, the Board held this proceeding in abeyance at the request of the Union Pacific Railroad Company (UP or the carrier) in order to give UP the opportunity to present allegedly new or different information to the arbitration panel. UP was directed to notify the Board either that a new arbitration ruling has been issued or that the carrier wished the Board to hear its appeal as it was originally filed.

On February 21, 2001, UP filed a status report informing the Board that the arbitrator had issued a decision on February 10, 2001, in which he refused to vacate his prior award finding that the employees represented by the Southern Pacific Empowered Employees Committee (claimants) were entitled to labor protection benefits under our New York Dock formula.<sup>1</sup> The carrier states that the February 10, 2001 decision does not affect the majority of the issues it originally raised in its petition. However, UP requests that it be allowed 30 days to make a filing addressing the impact of that decision, and that claimants be allowed 30 days to reply.

Claimants have not replied to the carrier's request.

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<sup>1</sup> See New York Dock Ry. — Control — Brooklyn Eastern Dist., 366 I.C.C. 60, 84-90 (1979) (New York Dock), aff'd, New York Dock Ry. v. United States, 609 F.2d 83 (2d Cir. 1979) (New York Dock). Under New York Dock, labor changes related to approved transactions are implemented by agreements negotiated before the changes occur. If the parties cannot agree on the nature or extent of the changes, the issues are resolved by arbitration, subject to appeal to the Board. Once the scope of the necessary changes is determined by negotiation or arbitration, employees adversely affected by them are entitled to receive comprehensive displacement and dismissal benefits for up to 6 years.

Further filings will be allowed. To give both parties an equal opportunity to address the issues, both parties will be permitted to make opening presentations and arguments and to reply to the other party's filings.

It is ordered:

1. Opening presentations and arguments are due by April 25, 2001.
2. Replies are due by May 25, 2001.
3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary