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SERVICE DATE – OCTOBER 25, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35081 (Sub-No. 1)¹

CANADIAN PACIFIC RAILWAY COMPANY, ET AL.
– CONTROL –
DAKOTA, MINNESOTA & EASTERN RAILROAD CORP. ET AL.

Decided: October 22, 2010

By petition submitted on September 20, 2010, United Transportation Union Local 911 (“UTU Local 911”) asks the Board to enforce its 2008 control decision in FD 35081 by requiring the Canadian Pacific Railway Company (CP) to negotiate an implementing agreement under the New York Dock labor protection provisions.² According to UTU Local 911, an implementing agreement is required to protect its members from the adverse effects of CP’s substitution of trains crewed by the Dakota, Minnesota & Eastern Railroad/Iowa, Chicago & Eastern Railroad (DM&E/IC&E) for trains crewed by CP over a railroad line running southeast from the St. Paul, Minn. area to La Crescent, Minn.

In addition to this petition, UTU Local 911 on the same day filed a separate motion requesting, inter alia, a waiver of service requirements for its petition.

The Board will grant UTU Local 911’s motion to waive service requirements, to the extent of requiring service only on CP, DM&E/IC&E, United Transportation Union national offices (UTU), and the Brotherhood of Locomotive Engineers and Trainmen (BLET).³ To ensure that UTU Local 911 has properly served its petition on these 4 parties, the Board directs UTU Local 911 to file a certificate of service with the Board setting forth the names and

¹ For administrative convenience in creating a new service list for the relief being sought, this matter is being redocketed from FD 35081 to FD 35081 (Sub-No. 1).

² See New York Dock Ry. – Control – Brooklyn Eastern District Terminal, 360 I.C.C. 60, aff’d sub nom. New York Dock Ry. v. United States, 609 F.2d 83 (2d Cir. 1979) (New York Dock).

³ These 4 parties appear to have already been served. The certificate of service attached to UTU Local 911’s petition stated merely that “Parties of Record” had been served but did not identify the actual parties. UTU Local 911 subsequently advised the Office of Proceedings that it had served the petition on CP, DM&E/IC&E, UTU, and BLET, along with other union officials, but UTU Local 911 did not submit a formal certificate of service.

addresses of the parties served, the method of service, and the date served, certified by the person who made service. The Board believes that service on other parties of record in FD 35081 is not required because the New York Dock relief requested by UTU Local 911 would not, if it were granted, be likely to affect the other prior participants. The Board, however, is serving this decision on the entire service list in FD 35081 to give all prior parties notice of this filing. If other parties wish to participate in this matter, they may notify the Board and the parties to FD 35081 (Sub-No. 1) and become part of the service list for FD 35081 (Sub-No. 1).

It is ordered:

1. UTU Local 911's motion to waive service requirements is granted to the extent of limiting the service list in FD 35081 (Sub-No. 1) to CP, DM&E/IC&E, UTU Local 911, UTU, and BLET.
2. UTU Local 911 shall submit a certificate of service as set forth above by October 29, 2010.
3. Replies to UTU Local 911's petition are due November 19, 2010.
4. This decision will be served on all prior parties of record in FD 35081.
5. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.