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MAR 3 2005
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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760, SUB-FILE 42

IN THE MATTER OF ARBITRATION BETWEEN UNION PACIFIC RAILROAD COMPANY AND JOHN E. GROTHER,
NEW YORK DOCK ARBITRATION

(Arbitration Review)

ENTERED
Office of Proceedings
MAR - 3 2005
Part of
Public Record

CARRIER'S MOTION FOR EXTENSION OF TIME
TO FILE A RESPONSE TO PETITIONER'S APPEAL BRIEF

COMES NOW Union Pacific Railroad Company ("Carrier"), by and through counsel, and requests that the Board permit the Carrier until April 8, 2005, to file its reply to Petitioner's appeal from the arbitration award of Arbitrator Lynette Ross in the above-referenced docket. In support of this motion, Carrier states as follows:

1. This case arises out of the 1997 transfer and demotion of John E. Grother ("Petitioner"), a manager of the Carrier. On May 12, 2003, almost six years following this transfer and demotion, Petitioner sought displacement benefits under the New York Dock conditions, New York Dock Ry. - Control - Brooklyn Eastern District, 360 I.C.C. 60 (1979), aff'd sub nom. New York Dock Ry. v. United States, 609 F.2d 83 (2nd Cir. 1979) (New York Dock").

2. On December 21, 2004, Arbitrator Ross issued her Award ("Ross Award") denying Petitioner's claim for displacement benefits under New York Dock. Specifically, the Arbitrator concluded that (1) Petitioner's claim was barred by the doctrine of laches; (2)

Petitioner was not an "employee" within the meaning of 49 U.S.C. § 11326 and New York Dock; (3) no causal nexus existed between Petitioner's alleged displacement and the merger of Carrier and the Southern Pacific Transportation Company in Union Pacific Corp. – Control and Merger – Southern Pacific Transportation Co., STB Finance Docket No. 32760 (served August 12, 1996).

3. On January 10, 2005, Petitioner filed an appeal of the Ross Award. Petitioner requested until March 14 to file his brief. On January 12, 2005, the Board granted Petitioner's request in part, allowing him until February 22, 2005, to file his brief. On February 22, 2005, Petitioner filed his brief and Petition to Exceed the Page Limit.

4. Pursuant to 49 C.F.R. § 1104.13(a), Carrier's reply to Petitioner's brief must be filed within 20 days. Accordingly, Carrier's reply is due on or before March 14, 2005.

5. Under 49 C.F.R. § 1104.7(b), the Board is authorized to grant extensions of filing deadlines "for good cause." Such requests must be made at least ten (10) days before the due date. Carrier's reply is currently due on March 14, 2005 and therefore this request for an extension is timely.

6. Carrier has recently retained the undersigned counsel to respond to Petitioner's brief on behalf of Carrier. Counsel was not involved in the underlying arbitration and is not yet familiar with the facts or the award. Due to this fact and other pressing matters, counsel requests an additional twenty-five (25) days to review the parties' pleadings and the award, and prepare a response to Petitioner's brief. Petitioner will not be prejudiced by this delay.

WHEREFORE, and for good cause as shown, the Carrier respectfully request that the Surface Transportation Board enter an Order granting the Carrier until April 8, 2005, to file its reply to Petitioner's appeal of the Ross Award, and for such other relief as is warranted.

Respectfully submitted,

THOMPSON COBURN LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on this 3rd day of March 2005 on:

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Attorney for Petitioner

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