

FINANCE-30400

INTERSTATE COMMERCE COMMISSION

DECISION NO. 21

Finance Docket No. 30400^{1/}3392
SERVICE DATE

DEC 16 1985

SANTA FE SOUTHERN PACIFIC CORPORATION -
CONTROL - SOUTHERN PACIFIC TRANSPORTATION COMPANY

Decided: December 9, 1985

By emergency petition for extraordinary relief filed October 31, 1985, the Atchison, Topeka and Santa Fe Railway Company (ATSF), Southern Pacific Transportation Company (SPT), and Santa Fe Southern Pacific Corporation (SFSP), (the railroads), seek an order authorizing ATSF and SPT to compel rail labor unions to enter into negotiations, and ultimately binding arbitration, concerning implementation of rail employee protective conditions. These negotiations would be conducted in anticipation of possible approval of the consolidations that are presently being considered by the Commission. While not asking the Commission to determine, at this time, whether to approve the merger, or what level of employee protection will be imposed if approved, applicants seek a determination concerning the appropriate procedures for resolving any disputes that may arise in connection with negotiating changes in labor agreements necessary to implement the transactions if approved. This would involve prescribing procedures, under 49 U.S.C. 11341, so as to displace the procedures established under any contrary provisions of the Railway Labor Act, 45 U.S.C. 151 et seq. (RLA). The Railway Labor Executives' Association (RLEA) has replied. The railroads filed a petition for leave to file a reply to RLEA's reply. The railroads simultaneously filed a reply. The petition for leave to file a reply is granted and the reply is accepted into the record.

As pertinent here, RLEA argues that in order to make the findings necessary to remove the entire transaction from the RLA at this time, the Commission must prejudice the merits of the consolidation and alter prior labor agreements. It is suggested that seniority and other rights of rail employees will be ignored or subjected to unilateral changes as the result of imposing, at this time, the procedures set out in New York Dock Ry - Control - Brooklyn Eastern Dist., 360 I.C.C. 60 (1979). The unions request oral argument.

The petition presents two issues -- whether we have the authority to grant the relief and, if so, whether we should do so. Applicants have not persuaded us on either basis that we could or should supercede RLA and alter existing labor agreements in advance of a decision on the merits of this case or a determination of the level of employee protection that may be imposed if the merger is approved. The decision in Southern Ry. -- Purchase -- Kentucky & Indiana Terminal R.R., F.D. No. 29690, served March 3, 1982 (unpublished), (K&ITR), does not support applicants' request. There we declined to get involved in the collective bargaining process by enjoining, at the request of rail labor, negotiations that were proceeding under the New York Dock conditions. Here we are again being asked to affirmatively become involved in the collective bargaining process by mandating negotiations and, if necessary, binding arbitration and we similarly decline to do so. Therefore, we will deny the petition.

^{1/} Embraces Finance Docket No. 30400 (Sub-Nos. 1-20 and MC-F-15628).

This decision will not significantly effect the quality of the human environment or energy conservation.

It is ordered:

1. The petition for leave to file a reply to a reply is granted.
2. The emergency petition for extraordinary relief is denied.
3. RLEA's request for oral argument is denied.
4. This decision is effective on the date of service.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lambolely, and Strenio. Vice Chairman Gradison dissented. She would have dismissed the petition for extraordinary relief as premature.

(SEAL)

James H. Bayne
Secretary