

**SURFACE TRANSPORTATION BOARD GRANTS WISCONSIN CENTRAL'S
ACQUISITION OF 2 UNION PACIFIC LINES, ADOPTS STATUTORILY REQUIRED LABOR-
PROTECTIVE STANDARDS FOR SUCH "CLASS II" TRANSACTIONS**

FOR RELEASE: i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
i:½ i:½ Contact: Dennis Watson
Thursday, April 17, 1997 i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
i:½ i:½ i:½ (202) 565-1596
No. 97-25 i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½
i:½ i:½ i:½ i:½ i:½ TDD (202) 927-1695

**SURFACE TRANSPORTATION BOARD GRANTS
WISCONSIN CENTRAL'S ACQUISITION OF 2 UNION PACIFIC LINES,
ADOPTS STATUTORILY REQUIRED LABOR-PROTECTIVE STANDARDS
FOR SUCH "CLASS II" TRANSACTIONS**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that, in the first case in which the matter has come before it, the Board has adopted procedural standards for the protection of railroad employees in railroad line acquisitions by Class II carriers. The standards were announced in the Board's decision today granting Wisconsin Central Ltd.'s (WCL) request for an exemption from the Board's prior-approval regulations to allow WCL to acquire certain Union Pacific Railroad Company (UP) lines in Wisconsin, and imposing an employee-protective arrangement proposed by WCL and modified by the Board in accordance with the law.

The Board granted WCL an exemption allowing its acquisition of 17.8 miles of track composed of UP's "Hayward Line," between Hayward and Hayward Junction, and the "Wausau Pocket," between Kelly and Wausau-Schofield, in central Wisconsin, under Section 10902 of Title 49, United States Code (49 U.S.C. 10902). Section 10902 is a new statutory provision governing purchases of rail

lines by Class II carriers ("mid-sized" carriers such as WCL with earnings of between \$20 million and \$250 million) and Class III carriers ("small" carriers with earnings of \$20 million or less). Introduced by the ICC Termination Act of 1995, Section 10902 requires the Board, after receipt of an application from a Class II or III rail carrier, to issue a certificate authorizing the requested transaction "unless the Board finds that such activities are inconsistent with the public convenience and necessity."

Although the new provision prohibits the Board from imposing labor-protective conditions on a Class III carrier, it directs the Board to require that Class II carriers "provide a fair and equitable arrangement for the protection of the interests of

employees who may be affected” by a proposed transaction. Subsection 10902(d) also provides that a Class II carrier’s labor-protective arrangement consist exclusively of one year of severance pay equal to an employee’s earnings during the 12 months preceding the filing date of the railroad’s application concerning a proposed transaction. An employee’s severance pay is to be reduced by the amount of earnings from railroad employment with the acquiring carrier during the 12-month period immediately following consummation of the proposed acquisition.

In imposing the labor-protective arrangements, the Board stated that it has the authority to consider procedural standards for the implementation of labor-protective requirements in such transactions involving Class II carriers as sought by the Transportation Trades Department of the AFL-CIO because Subsection 10902(d) requires that a Class II carrier’s labor-protective arrangement must be “fair and equitable,” in addition to the Board’s inherent authority to oversee the implementation of transactions the Board authorizes.

Under WCL’s protective arrangement as modified and imposed by the Board, WCL will pay any severed UP employee not hired by WCL a single payment equal to the employee’s railroad earnings for the 12-month period ending October 18, 1996. Employees severed from UP and hired by WCL will receive severance payments for one year on a prorated, monthly basis, reduced each month by the employee’s WCL earnings for the corresponding month. Relative to this arrangement, the Board found that WCL had provided UP employees who had worked on the lines with sufficient advance notice setting forth employment terms and selection principles to be followed by WCL. The Board stated, however, that it would seek public comments in a separate proceeding on whether to require a minimum of 60 days’ notice to employees in future such transactions.

The Board also found that affected employees entitled to protection under Section 10902 should include not only employees losing positions from a selling carrier, but also employees who

are adversely affected by other employees of the selling carrier who--to preserve their own positions with the selling carrier--must exercise seniority rights. Such employees adversely affected by their co-workers’ exercise of seniority would also be subject to the same reduction in benefits as provided by statute for employees of the selling carrier who are hired by the acquiring carrier. The Board additionally found that the acquiring carrier must make labor-protection payments to any employee adversely affected by the exercise of seniority in the form of incremental, monthly payments, with any reduction based on the employee’s average monthly time-paid-for--compared with average monthly earnings in the 12 months prior to the transaction--using the same number of hours worked during each comparable month before and after the transaction.

The Board agreed with the arguments of certain parties in this case that the acquiring carrier is under no obligation to offer employment to the seller’s employees, and that the seller’s employees are not obliged to accept work with the acquiring carrier, if offered. The Board also agreed with the parties in the case who argued that a preconsummation implementing agreement between rail employees and the acquiring carrier is unnecessary. The Board found that disputes arising over the application of the labor protection requirements of Section 10902 should be resolved by arbitration, with arbitral decisions subject to appeal to the Board under well established, but narrow, standards for reviewing such decisions.

The Board issued its decision in the case entitled Wisconsin Central Ltd.-- Acquisition Exemption--Lines of Union Pacific Railroad Company, STB Finance Docket No. 33116, on April 17, 1997. Chairman Morgan commented on the decision in a separate expression.

###