

**SURFACE TRANSPORTATION BOARD
GRANTS "BMWE" REQUEST TO DISMISS APPEAL OF
ADVERSE ARBITRATION AWARD & TO
VACATE THAT AWARD FOLLOWING SETTLEMENT**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has granted a petition of the Brotherhood of Maintenance of Way Employees (BMWE) asking the Board (1) to dismiss BMWE's appeal of an adverse arbitration award and (2) to vacate that award. In granting the petition, the Board stated that its handling of this proceeding provided an opportunity for a voluntary settlement, which the parties have achieved, and which is consistent with and serves as another example of the Board's policy of encouraging private-sector dispute resolution wherever possible.

The case arose from the BMWE's 1997 appeal of an arbitration award holding that the Union Pacific Railroad Company (UP) had the right to consolidate certain railroad maintenance-of-way functions in UP's western territory following the 1996 merger of the Southern Pacific Transportation Company (SPT) and The Denver & Rio Grande Western Railroad Company (DRGW) into UP. The BMWE objected, citing UP, SPT and DRGW's participation in a 1996 Mediation Agreement with the BMWE, provisions of which applied to such consolidations, the BMWE asserted. The BMWE stated that, under the Agreement, the three railroads had agreed to maintain their old collective bargaining agreements with BMWE, but that the railroads subsequently persuaded the arbitrator to set aside those agreements as necessary to effect the approved merger.

In response to the appeal, the Board cited a provision of the Agreement stating that the railroads "would continue to operate under their old agreements." Noting its statutory requirement to "ensure a fair and equitable arrangement for the protection of employee interests," the Board issued an order (1) stating that BMWE had raised a legitimate issue of the fairness of allowing UP, after it had signed the Agreement, to abrogate SPT's and DRGW's collective bargaining agreements, and (2) seeking additional information from both UP and BMWE on this and certain other matters. Following the issuance of that order, the parties indicated to the Board that they had entered settlement negotiations. At the request of the parties, the Board extended the procedural schedule five times to facilitate ongoing negotiations. In August 1998, following the successful completion of a settlement agreement with UP, BMWE filed its motion asking the Board to dismiss its appeal and to vacate the arbitrator's award.

While agreeing with BMWE's dismissal request, UP opposed BMWE's request to vacate the disputed arbitration award. In its decision, the Board granted BMWE's request to vacate the arbitration award, finding that the parties' settlement agreement rendered the arbitration award moot.

The Board issued its decision today in the case entitled *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver Rio Grande Western Railroad Company (Arbitration Review)*, STB Finance Docket No. 32760 (Sub-No.25).

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