



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference - International Brotherhood of Teamsters

GENERAL COMMITTEE OF ADJUSTMENT - CSXT WESTERN RAILROAD LINES

P.O. BOX 49, ETOWAH, TENNESSEE 37331-0049

PHONE: (423) 263-0909

FAX: (423) 263-0910

REPRESENTING

Divisions 26, 30, 38, 41, 78, 101, 129, 140, 154, 156, 190, 204,
271, 275, 332, 365, 463, 473, 489, 495, 547, 610, 698, 742,
781, 782, 829, and 830.



IN YOUR REPLY REFER TO FILE

MATT A. THORNTON
General Chairman

BILL SINGLETON
Senior Vice General Chairman

TIM BRADEN
Junior Vice General Chairman/GST

February 10, 2012

SA - 80

Myron Becker, Director
CSXT Labor Relations
6735 South Point Drive South, J455
Jacksonville, FL 32216

Dear Sir:

Please refer to your letter, dated February 1, 2012, received as an attachment via email, dated February 3, 2012, regarding CSX Transportation, Inc.'s intent to modify the operations from Loyall, Kentucky, to Erwin, Tennessee. In my email response, dated February 3, 2012, to the above mentioned email, I noted that CSXT lacked the authority to implement this service. Following our recent conference calls on February 6 and 9, 2012, I remain unmoved from that position. This Committee finds CSXT's notice to be defective based on including, but not limited to, the following reasons:

- 1) CSXT's notice, dated February 1, 2012, is in violation of the Railway Labor Act, as amended, § 152. General duties, Seventh. CSXT's notice of February 1, 2012 plainly states your intent to change rates of pay, rules and working conditions of the employees protecting the service between Loyall, Kentucky, and Erwin, Tennessee. CSXT's notice of February 1, 2012 indicates the service provided to the Customers is not changing, it still requires the service to be handled to and through Erwin, Tennessee in order to provide the product to the Customers. Therefore, it is without doubt CSXT will be changing the rates of pay, rules and working conditions of its employees as a class embodied in the agreement which was negotiated in 1985, as a coordinated agreement in order to provide service between Loyall, Kentucky and Erwin, Tennessee in order to meet the needs of the Customers.
- 2) CSXT's notice, dated February 1, 2012, does not draw it's essence from the Collective Bargaining Agreement. There is no agreement reference (Local or National) in the notice citing the authority upon which the proposed changes are based.

The CSXT has no authority under the BLET/CSXT Single System Agreement to unilaterally change this service at their whim. Our position here was affirmed in an on-property ruling in Award No. 230 of Public Law Board No. 5180, where Referee David P. Twomey ruled, in pertinent part:

“However no language in Article IX gives the Carrier the right to cancel existing Schedule Agreement Rules which set forth how extra service is protected. There is absolutely no doubt but that the ID service sought by the Carrier can be provided without abrogating existing Schedule Agreement Rules within Articles 40 and 41. This Board has no authority to delete Schedule Agreement Rules because sizable economic saving would be obtained if the rules were unenforced. It is in the best interest of the parties to provide relief to each other when clear opportunities exist. However, this Board must leave such matter to the wisdom of the parties themselves to resolve.” (Emphasis added)

In the above quoted award, CSXT was seeking to establish ID Service from Hialeah, Florida, to Ocala and Benson Junction, Florida, through the established terminals of Wildwood and Sanford, Florida. As in the instant dispute, the parties had an agreement in place to handle rock train service between these locations. Under the guise of Article IX, the Carrier sought to extend the run from Hialeah to Sanford to Benson Junction for a total of approximately seven (7) miles and the run from Hialeah to Wildwood to Ocala for approximately thirty (30) miles. They also sought to establish an extra board at these outlying locations via Article IX. Referee Twomey ultimately ruled that Article IX cannot be used to abrogate existing collective bargaining agreements, simply because those agreements contain provisions more costly provisions.

Additionally, the parties’ understanding and historical compliance with CSXT Labor Agreement 1-73-91, Agreement No. 16, since its inception in 1984 firmly establishes the mutual understanding and interpretation of the provisions contained in the agreement. Your reference in your February 1, 2012 letter to establishing “divisional service” lacks agreement support in the BLET/CSXT Single System Agreement or any National Agreement. During our discussions on this matter, you referenced Article 57 of the Single System Agreement. This Committee finds no language in Article 57 supporting the changes proposed in your February 1st letter.

1. The current operation between Loyall, Kentucky and Erwin, Tennessee, is clearly supported by the original 1984 agreement between the parties in accordance the Railway Labor Act and intentionally preserved in the 2007 BLET/CSXT Single System Agreement under Articles 80 and 86.

CSXT Labor Agreement 1-73-91, Agreement No. 16, was adopted pursuant to the April 23, 1984 Finance Dockets 29916 and 30053 to coordinate operations between Loyall, Kentucky, and Erwin, Tennessee. The service currently operates as interdivisional service under a shared equity arrangement over trackage rights that CSXT gained on the Norfolk Southern between Big Stone Gap and Frisco. These assignments have operated in this fashion since 1984. By successfully negotiating this agreement, CSXT gained an efficient route to handle coal between Loyall, Kentucky and Erwin, Tennessee. The parties, in a quid pro quo exchange of promises, have mutually benefitted from this agreement since 1984. CSXT has made hundreds of millions of dollars in profit hauling coal to the various locations on this line and BLET members have received benefitted from mutually negotiated provisions of the agreement. When the parties sat down to negotiate the BLET Single System Agreement in 2007, the framers of the agreement anticipated the need for the preservation of this type of service in Article 80, which reads in pertinent part:

“ARTICLE 80 – ESTABLISHING ASSIGNMENTS

Assigned or unassigned service may be established consistent with the provisions of this Agreement and National Agreements providing for

Interdivisional Service. Existing assignments or pools operating in two zones/districts will continue to operate under existing agreements and equity arrangements as applicable unless altered consistent with the provision set forth in Article 81 – Electronic Bid System – Standing Bid.”

By adopting the above language, the parties agreed that assigned and unassigned service may be established “consistent with the provisions of this Agreement and National Agreements providing for Interdivisional Service.” They went on to memorialize their intent and understanding in the second sentence that “existing assignments or pools operating in two zones/districts, will continue to operate under existing agreements and equity arrangements.” The above language is clear and unambiguous in defining the parties’ mutual understanding of the conditions under which new service can be established and how pre-existing service must be preserved going forward. Additionally, Article 86 of the BLET/CSXT Single Agreement memorialized the parties’ intent to preserve existing service with the following language:

“ARTICLE 86 – GENERAL PROVISIONS

B. The terms and conditions of the Agreement supersedes the prior property agreements and contemplates an efficient transition from the multiple former property agreements to this single Collective Bargaining Agreement for Engineers holding seniority on CSXT. Local Agreements not in conflict with the provisions of this Agreement will remain in effect subject to review by CSXT. Should CSXT determine a local agreement to be in conflict, CSXT will advise the appropriate General Chairman by providing a thirty (30) day notice of cancellation. Local agreements subject to the Railway Labor Act will remain in effect unless in conflict with the Single System Agreement. The implementation of this agreement will not serve to eliminate existing Interdivisional service runs nor existing coordinated/consolidated Service. Specific provisions of any agreement recognized as conflicting with or being inconsistent with the provisions of this agreement (for example the Electronic Bid System versus the conventional bid and displacement rules at Montgomery and Atlanta Terminal) will be set aside in favor of the provisions of this agreement.” (Emphasis added)

Articles 80 and 86 of the BLET/CSXT Single System Agreement clearly preserved the current operation between Loyall, Kentucky, and Erwin, Tennessee based on three (3) qualifying criteria in those agreements.

- The run is existing “interdivisional service” between two separate seniority districts.
- The run was established under a “coordinated/consolidated Service” notice as noted above.
- The agreement is only subject to change “under the Railway Labor Act.”

Even if the notice was based on Article 84, which it is not, the conditions proposed would replace existing single crew service with inefficient multiple crew operations over the same territory with but one purpose in mind, the elimination of the guarantee in this pool. This notice is nothing more than a blatant attempt on CSXT’s part to abolish the guarantee negotiated between the parties, which is clearly prohibited even under Article 84 as outlined in Issue 3 of the BLE and NCCC Informal Disputes Committee, dated March 31, 1987.

2. CSXT's plan to abolish the Erwin home terminal in this pool will result in irreparable harm to employees who will be forced to leave Erwin and seek work at other locations.

The Loyall to Erwin service was established as interdivisional service via a coordination agreement under New York Dock conditions. As noted above, the parties during the 2007 negotiations of the BLET CSX Single System Agreement both recognized the need for and preserved the collective bargaining agreement provisions associated with this service. CSX's unilateral decision to abrogate the provisions of that coordinated transaction will without question result in irreparable harm via the displacement and relocation of engineers at Erwin, TN.

Under the circumstances and for the reasons set forth above, I must take every step available to ensure that the collective bargaining agreement between CSXT and the engineers we represent is enforced, including the agreement CSXT apparently believes can be made to disappear through a click of your fingers.

Before this matter reaches that state and causes irreparable harm to the engineers we represent via CSXT's unilateral implementation of this ill-conceived plan, I suggest that we meet in conference pursuant to the requirements of the Railway Labor Act.

As has historically been the case on this Committee and without prejudice to the positions noted above, we are willing to participate in discussions aimed at exploring items of mutual benefit to both parties provided they are conducted in a manner that recognizes the contributions brought to the table by the engineers we represent.

Please acknowledge and advise.

Sincerely,



Matt A. Thornton
General Chairman

MT:st

CC: Gil Gore, BLET VP
Tony Smith, BLET GC
Rick Finamore, BLET GC
Jim Louis, BLET GC
Johnny Willis, UTU GC
D.W. Engle, L.C. and S/T, Div. 463
T.C. Tucker, L.C., Div. 781
T.A. Jaynes, Pres., Div. 463
T.G. Love, Pres., Div. 781
D. Fitzgerald, Jr., S/T, Div. 781