

**CANADIAN RAILWAY OFFICE OF ARBITRATION**  
**& DISPUTE RESOLUTION**  
**CASE NO. 4212**

Heard in Edmonton, June 11, 2013

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Applicability of the Material Change Provisions of Agreement 4.3 with respect to the transfer of operations on the Elrose, Conquest and Mantario Subdivisions and the allowance of running rights over the Rosetown, Watrous and Craik subdivisions to Big Sky / Last Mountain Rail.

**EXPARTE STATEMENT OF ISSUE:**

On August 16, 2011, the Company issued a bulletin advising that several CN subdivisions under the jurisdiction of Saskatoon terminal were being transferred to Big Sky Rail Company effective September 2, 2011. The Union contacted the Company and advised that no such transfer could take place unless and until the provisions of Article 139 of Agreement 4.3 had been complied with. The Company sought and received permission from the Union to implement the change, and acknowledged that it would properly and promptly commence discussions as contemplated within Article 139.

The Parties met on September 7 and 8 to discuss the matter at which time additional information was sought by the Union. The Company agreed to provide such information. The Company failed to respond. The Union requested that the Parties meet to discuss this matter as soon as possible but the Company would not agree to meet until August 7 and 8, 2012, almost one year after the implementation.

At that time the Union advised the Company that it had concerns with respect to the appropriateness of the Material change notice that was ultimately issued as it was apparent that the Short Line Rail operator was performing much more work than the Company had originally indicated. A grievance was filed on August 13, 2012.

It is the Union's position that the Company is improperly attempting to utilize the material change provisions of the collective agreement, contrary to Article 139, and that the Company is refusing to acknowledge the true scope of the material change or that the granting of running rights over CN subdivisions results in a loss of work to members of the bargaining unit.

The Company has not responded to this grievance.

**FOR THE UNION:**  
**(SGD.) R. Hackl**  
**General Chairman**

**FOR THE COMPANY:**  
**(SGD.)**

There appeared on behalf of the Company:

K. Morris	– Senior Manager Labour Relations, Edmonton
D. Brodie	– Manager Labour Relations, Edmonton
P. Payne	– Manager Labour Relations, Edmonton
D. VanCauwenbergh	– Director Labour Relations, Toronto

G. Guest – Assistant Superintendent OPS, Melville

There appeared on behalf of the Union:

M. Church	– Counsel, Toronto
R. Hackl	– General Chairman, Saskatoon
R. Thompson	– Vice General Chairman, Saskatoon
B. Boechler	– Retired General Chairman, Edmonton
B. Willows	– General Chairman, Edmonton
B. Ermet	– Vice General Chairman, Edmonton

### **PRELIMINARY AWARD OF THE ARBITRATOR**

The Union has requested the production of documents in relation to the sale of 3 subdivisions and the granting of running rights over certain other territory. Having heard the submissions of both parties the Arbitrator directs the Company to produce documents in accordance with the following: any and all agreements, notes and correspondence pertaining to such and documents (however stored, including electronically) between CN and Big Sky / Last Mountain Rail in respect to the transfer of operations on the Elrose, Conquest and Montario Subdivisions and the allowance of rights over the Rosetown, Watrous and Craik subdivisions to Big Sky / Las Mountain Rail.

This includes any Lease Agreements, Trackage Rights Agreements, Operating Agreements, Marketing and Interchange Agreements. This also includes any notes, documents or discussions in connection with the new proposed K&S Potash Canada, Potash Mine Mega Project.

June 14, 2013

---

MICHEL G. PICHER  
ARBITRATOR