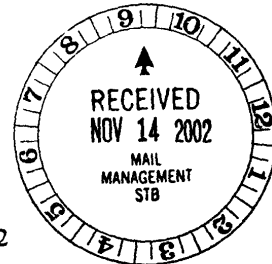


Brotherhood of Locomotive Engineers

1370 ONTARIO STREET
CLEVELAND, OHIO 44113-1702
TELEPHONE: (216) 241-2630
FAX: (216) 241-6516



November 13, 2002

UPS OVERNIGHT

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

NOV 14 2002

Part of
Public Record

Re: STB Finance Docket No. 34178

Dakota, Minnesota & Eastern Railroad Corporation and Cedar
American Rail Holdings, Inc. - - Control - - Iowa, Chicago &
Eastern Railroad Corporation

Dear Mr. Williams:

Enclosed for filing in the above-captioned proceeding are the original and twenty-five (25) copies of the Comments of the Brotherhood of Locomotive Engineers. Also enclosed is a 3.5 inch disk of this filing in Word Perfect 9 format.

Copies of the foregoing Certificate of Service have been served upon all parties of record in accordance therewith.

Please return a date-stamped copy of this letter to the undersigned. A copy of this letter and a self-addressed stamped envelope are included for that purpose.

Sincerely yours,

Harold A. Ross
General Counsel

enclosures

cc: Parties of Record

206624

BLE-3

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34178



**DAKOTA, MINNESOTA & EASTERN RAILROAD
CORPORATION AND CEDAR AMERICAN RAIL HOLDINGS, INC. - -
CONTROL - - IOWA, CHICAGO & EASTERN RAILROAD CORPORATION**

**COMMENTS OF
BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

**ENTERED
Office of Proceedings**

NOV 14 2002

**Part of
Public Record**

The Brotherhood of Locomotive Engineers ("BLE") is a railway labor organization, national in scope, and representing the craft of locomotive engineers on the nation's Class I railroads and many other railroads throughout the country, including I&M Rail Link which recently was acquired by the Iowa, Chicago and Eastern Railroad Corporation ("IC&E") in Finance Docket No. 34177. In that Docket, BLE joined with the other rail labor organizations representing employees on the I&M Rail Link to form the Cooperating Labor Organizations ("CLO").

CLO filed a petition to revoke the exemption in Finance Docket No. 34177. In that petition, CLO established that the transaction described in IC&E's Notice of Exemption should be consummated under 49 U.S.C. §11323 (a) (3) and not under 49 U.S.C. §10901 as alleged in the

Notice. Without repeating in detail the arguments propounded by CLO, it nevertheless should be noted that the Organizations showed that the transaction was in reality the acquisition by one carrier, I&M Rail Link, by another carrier, Dakota, Minnesota & Eastern Railroad ("DM&E"). They also established that Cedar American Rail Holdings, Inc. ("Holdings"), a non-carrier subsidiary wholly owned by DM&E, was created to temporarily "hold" IC&E and that this purported step was a mere legal fiction for the purpose of evading the statutory requirements for the real situation before the agency. Based upon these observations, CLO argued that the Act required that DM&E join the putative acquisition of I&M Rail Link by IC&E as a matter of law. In addition, CLO took the position that IC&E was not independent of DM&E in order to be entitled to use the class exemption set forth at 49 C.F.R. §1150.35.

CLO submitted that the purpose of the two-step procedure being followed by DM&E was purposely being taken to circumvent the collective bargaining agreements between the CLO unions, including the labor contract between BLE and I&M Rail Link, and to thereby evade any protections the employees would be entitled to if the proper filings required by the Act had been made. The Board reserved ruling upon CLO's petition until the instant case was reached.

However, as stated by BLE in its notice of intent to participate in this case, the current proceeding establishes that IC&E and Holdings are alter egos of DM&E and that the two-step procedure DM&E is following is a sham. Its sole purpose is to circumvent the requirements of the Act and the employee protections that should be applicable in this situation.

BLE, therefore, continues to oppose the grant of the application by DM&E, Holdings and IC&E seeking Board approval and authorization under 49 U.S.C. 11321-26 for DM&E's acquisition of control of IC&E through ownership of IC&E's stock by Holdings, itself a wholly owned

subsidiary of DM&E.

CONCLUSION

Based upon the above, the Brotherhood of Locomotive Engineers requests that the Board dismiss the application herein and grant the CLO's petition to revoke in Finance Docket No. 34177.

Respectfully submitted,



HAROLD A. ROSS
General Counsel
Brotherhood of Locomotive Engineers
1548 Standard Building
1370 Ontario Street
Cleveland, Ohio 44113-1740

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Facsimile - 216-696-4163

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Comments of the Brotherhood of Locomotive Engineers were served by mailing copies, first class postage prepaid, to all parties of record on this 13th day of November, 2002.



HAROLD A. ROSS
General Counsel
Brotherhood of Locomotive Engineers