I. BACKGROUND

On April 8, 1985 the Carrier served notice, on the Brotherhood of Locomotive Engineers, of its intent to establish Interdivisional Pool Freight Service between Willmar, Minnesota and Dilworth, Minnesota through the terminal of Breckenridge. This notice was served pursuant to Article IX, Section I, of the May 19, 1986 Award of Arbitration Board No. 458. Several conferences were held and a tentative agreement was reached with the Organization subject to their ratification process. Subsequently, on about July 15, 1988 the General Chairman notified the Carrier that the proposed Interdivisional Agreement had failed ratification.

On July 18, 1988 under provisions of Section 3, Article IX of Arbitration Board No. 458 dated May 19, 1986, this Interdivisional Service was put into effect on a trial basis under the terms and conditions as previously agreed to between
the Carrier and the BLE. The Parties then agreed to arbitrate the dispute under provisions of Section 4 of Article IX of the 1986 Agreement. Section 4 states:

"Section 4 - Arbitration

(a) In the event the Carrier and the Organization cannot agree on the matters provided for in Section 1 and the other terms and conditions referred to in Section 2 above, the Parties agree that such dispute shall be submitted to arbitration under the Railway Labor Act, as amended, within 30 days after arbitration is requested by either party. The arbitration board shall be governed by the general and specific guidelines set forth in Section 2 above."

Subsequent to their agreement to arbitrate, the Parties selected the undersigned as Arbitrator. A hearing was scheduled and held in Eau Claire, Wisconsin on August 12, 1988.

II. DECISION

At the outset it is noted that many aspects of the ID run are undisputed between the Parties. However, in view of the fact ratification failed, certain differences still exist as to the contents of the ID Agreement. Thus, the Organization asks the Board to consider four areas of concern in determining the conditions which will govern the interdivisional service at issue. They relate generally to (A) a concern on the part of Grand Forks engineers, that their levels of compensation will be diminished and a concern that they will not be afforded the protection or moving benefits spelled out in Arbitration Award 458 (B) whether the Carrier has the right to establish the home terminal at Dilworth (C) whether the three side-letters of Agreement in
effect on the Dilworth to Mandan ID run should apply to this case and (D) whether it is proper to utilize ID Engineers to perform certain branch line work.

As noted in Section 4, the Arbitration Board is governed by the guidelines set forth in Section 2. Section 2 states:

"Section 2 - Condition

Reasonable and practical conditions shall govern the establishment of the runs described, including but not limited to, the following:

(a) Runs shall be adequate for efficient operations and reasonable in regard to the miles run, hours on duty and in regard to other conditions of work.

(b) All miles run in excess of the miles encompassed in the basic day shall be paid for at rate calculated by dividing the basic daily rate of pay in effect on October 31, 1985 by the number of miles encompassed in the basic day as of that date. Car scale and weight-on-drivers additives will apply to mileage rates calculated in accordance with this provision.

(c) When a crew is required to report for duty or is relieved from duty at a point other than the on and off duty points fixed for the service established hereunder, the Carrier shall authorize and provide suitable transportation for the crew.

"'Note: Suitable transportation includes carrier owned or provided passenger carrying motor vehicles or taxi, but excludes other forms of public transportation.'

(d) On runs established hereunder crews will be allowed a $4.15 meal allowance after 4 hours at the away-from-home terminal and another $4.15 allowance after being held an additional 8 hours.

(e) In order to expedite the movement of interdivisional runs, crews on runs of miles equal to or less than the number encompassed in the basic day will not stop to eat except in cases of emergency or unusual delays. For crews on longer runs, the Carrier shall determine the conditions under which such crews may stop to eat. When crews on such runs are not permitted to stop to eat, crew members shall be paid an allowance of $1.50 for the trip.
(f) The foregoing provisions (a) through (e) do not preclude the Parties from negotiating on other terms and conditions of work."

Keeping these conditions in mind, the Board rules as follows regarding the issues raised by the Organization.

First, with respect to earning levels, protection and moving benefits, we must state this Board has no authority to address these issues. Article IX Section 7 clearly sets forth the protection (in terms of wages and moving benefits) that employees are entitled to. We are not entitled to enhance these benefits under these circumstances. Certainly we understand the employees' concern about having lesser earnings under ID service. However, Article IX Section 7 sets forth the extent of protection in the event their earnings are diminished. If the Carrier fails to afford such protection, enforcement procedures would be available at that time.

Regarding the Carrier's designation of Dilworth as the home terminal, the Arbitrator notes the Organization argues that there is nothing in existing agreements, the May 13, 1971 National Agreement or Article IX which permits this. However, the more pertinent fact is that there is nothing in any of these agreements which prevents it either. Given the fact the Carrier's basic right in this respect is unrestricted, the only question for the Board is whether the designation of Dilworth is unreasonable or impractical. After reviewing the record, we find no evidence that it is either. Therefore, Dilworth will remain as the Home Terminal.

The record has also been reviewed with respect to the
issue of Branch Line work. While this is an area which needs to be addressed it should not be addressed here. This is because this issue has not been raised in a timely manner. The Organization raised this issue only before the hearings with the Carrier thus, the process of face to face negotiations should have a full opportunity to run their course before a Board asserts its jurisdiction. We will, however, direct and encourage the Parties to continue their efforts at finding a mutually agreeable resolution to this problem.

The last specific issue relates to the matter of the side letters. The side letters were offered by the Carrier as part of an ID Agreement originally but withdrawn after ratification. While the Carrier is under no obligation to grant in arbitration what it offered in negotiations, we do note that the side letters were part of the Mandan to Dilworth ID Agreement. This sets up a compelling equity consideration. It would not be reasonable or practical to have engineers on neighboring districts treated differently, with respect to the subjects covered by the side letters. Therefore, the 3 side letters (BLE Exhibit F) will be included as part of this ID Agreement.

In summary, as set forth above, the Arbitrator has resolved the remaining areas of disagreement in the Parties' failed negotiations for an ID Agreement covering Dilworth to Willmar. This necessarily means that the tentative agreement (Carrier Exhibit 4/Organization Exhibit D), along with the 3 side letters mentioned above, will be imposed on the Parties.
The Arbitrator cannot find anything that is more practical or reasonable than the tentative agreement, which was born of the rigors of collective bargaining. Accordingly, the Parties are directed to sign the tentative agreement and the side letters, (which are incorporated as part of this award by reference).

AWARD

The dispute is resolved in accordance with decision set forth above.

Gil Vernon, Arbitrator

Dated this 5th of September, 1988 at Eau Claire, Wisconsin.