Company Exhibit "B"

INLAND STEEL COMPANY
East Chicago, Indiana

and

UNITED STEELWORKERS OF AMERICA
Local Union 1010

GRIEVANCE NO. 16-C-321

AWARD AND OPINION

December 4, 1951

#59

ISSUE

"The propriety of the No. 3 Pickle Line Incentive Rate."

Joint Stipulation October 18, 1951.

BACKGROUND

The Company built a modern coil pickling line (No. 3) and placed it in operation in March, 1951. On September 12, 1951 Management made effective its proposed rate (rejected by the Union) subject to grievance procedure review after 30 days. The second pay period thereafter, the crew (transferred from the old "A" pickling line) struck, because their new actual earnings were below their previous average earnings. Thereafter an agreement to arbitrate the propriety of the rate was reached with the men to be paid previous average hourly earnings until the date of the arbitration decision.

The grievance arises under Art. V, Section 5, Sub-section 4, which provides in relevant part:

". . . the arbitration shall decide the question of equitable incentive earnings in relation to the other incentive earnings in the department or like department involved and the Previous Job Requirements and the Previous Incentive Earnings . . ."

The fundamental position of the Union is that the proposed incentive rate requires more production for the same money, and therefor

violates Art. V. It cites the company comparison which states that an output of 109 7600# coils of .080 gauge x 29" per 8-hour turn is required on the No. 3 line to earn $2.80 (Welder's Pay) whereas on the "A" line this was paid for 103 coils. The Union contends that this comparison proves that Management has increased the job requirements without increasing the pay, and that therefor the proposed incentive earnings are not equitable in relation to "the Previous Job Requirements and the Previous Incentive Earnings." As its example of the effect of the proposed rate, the Union claims that an output of 100 10,000# coils of .074 gauge x 30" is required on the No. 3 line to earn $2.769 per hour as contrasted with an output of 70 like coils on the "A" line to earn $2.80 per hour.

The fundamental position of the Company is that its proposed rate provides expected earnings higher (but at least as high) as those earned on the "A" line - that these possible earnings are equitable in relation to other incentive earnings in the department[1], in relation to Previous Job Requirements[2], and in relation to Previous Incentive Earnings[3]. The Company agrees that more coils per 8-hour turn are required to earn the same pay on the No. 3 line than on the "A" line, but points out that the No. 3 line is a modern high speed line capable of greater production than the "A" line which was installed in the early "30's".

1/ Company Exhibit 2 shows that the ratios of possible earnings to base rates on the No. 3 line jobs compare satisfactorily with the average ratio for production jobs in the department.

2/ Company Exhibit 3 shows the job content and evaluated rate of the changed job of shearman and the new job of shearman helper; (welder and feeder, the other jobs are unchanged).

3/ Company Exhibit 4 shows that the ratios of possible earnings to base rates are higher on the No. 3 line than on the "A" line.

The Union, in rebuttal, points to the actual production of the No. 3 line which has been approximately 50% less than expected by the Company, and claims therefor that Management's estimates of expected output and expected earnings on which it based its proposed rate are much too high - are, in fact, based on theory and mathematical gyrations.

On this score, the Company claimed that its proposed rate had not been fairly tested because the men had restricted output. To support its contention that the proposed rate is sound, Management submitted data on the new process and on the time and production standards used in determining the new rate (Company Exhibit 5).

The Union did not comment on this material since it took the position that it was irrelevant to the contractual question of level of earnings, and since time studies are not normally introduced into arbitration proceedings.

FINDINGS

The Union's position that the proposed rate violates Art. V, Section 5, Sub-section 4, simply because it requires more output for the same pay is denied. To sustain the Union's position would freeze output to a formula of so many cents per piece of product regardless of the equipment used or effort required. Thus if the Company paid $2.00 per hour for 1,000 tons of dirt scooped per 8-hour turn and replaced steam shovels with hand shovels the crew could work endlessly and starve, although they received the same rate for the same output. Certainly under such circumstances the Union would not say that Art. 5, Section 5, Sub-section 4, in using the words "Previous Job Requirements" meant that

an output of 1,000 tons for an 8-hour turn must be maintained to secure $2.00 per hour. This concept does not mean that previous output and previous price are not significant criteria - for they certainly are -, but it does mean that "Previous Job Requirements" and "Previous Incentive Earnings" must be related to equipment used and effort required.

When the Union says the only issue to be arbitrated is the level of earnings, and defines the level of earnings as so many coils per dollar, it oversimplifies the issue. The level of earnings is established by the criteria in Art. V, Section 5, Sub-section 4, and the question, as far as the yardsticks of "Previous Job Requirements" and "Previous Incentive Earnings" are concerned, is: Does the proposed rate maintain the contractual level of earnings by paying the same money for the same job requirements in terms of skill, responsibility and effort per output on the new equipment as was previously paid on the old equipment? The answer can result in either more or less coils for the same money.

It is true, and very important, that the parties in applying the terms "Previous Job Requirements" and "Previous Incentive Earnings" in arbitration, and the other yardsticks of Art. V, Section 5, have normally used a "comparison of earnings" approach rather than a time study or a job or work content approach. The Arbitrator therefor in speaking of skill, responsibility and effort per output is not trying to introduce a new method of approach, but rather is seeking to apply the meaning of the contractual words to the proposition that price per output must remain constant regardless of equipment used or effort required. In short, the "comparison of earnings" approach does not change the meaning of the contract words.

On the other hand, the Company's position that the proposed rate is a proper one cannot be sustained on the basis of the evidence now available.

The Company's exhibits comparing earnings on the No. 3 line with other earnings are in terms of possible or expected earnings on the No. 3 line, and therefor are not conclusive. Actual production and actual earnings have been much below expected production and earnings.

The actual production figures are not decisive because from July on, the men believed the proposed rate was a rate cut and therefor could not give it a fair try, and because earnings were guaranteed most of the period. The fact that the crew knows that the line is capable of greater output is evident by the men's willingness to accept the "A" line rates even though production on No. 3 line has been approximately 25% less than formerly made on the "A" line. Mr. Stone, grievance man, said, for example, that the fact that the men were not familiar with the unit possibly caused lower production. These facts do not show that either the Company or Union estimates of production are realistic.

The time study data submitted by the Company in support of the validity of expected earnings under its proposed rate is not conclusive. The Union challenged its validity and reserved the right to contest it if the Arbitrator should seek to base his decision upon it[1]. Moreover, if

1/ Concerning the Union's objection, the Company agreed the time study data normally is not a factor in their arbitration proceedings. In this instance, because of an alleged slowdown, the Company has introduced it to prove that the expected earnings under the proposed rate are realistic, and therefor can be compared with other actual earnings.

The Arbitrator disagrees with the Union's contention that because the contract in Art. V, Section 5, does not refer to time study data as a yardstick, it prohibits its introduction. It seems clear that time study data is one method, but certainly not the sole one, of measuring the equity of incentive earnings in relation to other incentive earnings pursuant to the criteria in Art. V. The Arbitrator is impressed, however, with the fact that the parties do not normally consider time study data, even as one of the factors, in evaluating incentive earnings, and is reluctant therefor to introduce a new method into their arbitration proceedings.

the Arbitrator accepted the validity of the time study data, the proposed rate based upon it cannot be judged proper on time study data alone. The other comparisons required by the contract would have to be made. For instance, the No. 3 line ratios of proposed earnings to base rates may be somewhat low when compared to other production job ratios in the department, if some stray ratios are discarded. Again, if the time study data for the No. 3 line is relied upon, the contract would require a comparison of the data and judgments concerning the No. 3 line with the time study data and judgments on which the "A" line rates have been based.

Accordingly, the propriety of the rate cannot be accurately judged on the basis of the evidence submitted. Moreover, the absence of a bona fide earnings and production period under the rate makes a determination of the propriety of the rate at this point very dubious procedure under the accepted comparison of earnings approach used by the parties.

The Union position that the proposed rate is a rate cut because it does not pay the same price per coil has been rejected. The Union position that the time study data is irrelevant has been rejected. Conversely the Company position that the time study data establishes the validity of the expected earnings cannot be accepted now because the Union has not yet rebutted the time study data, and because the time study data for the No. 3 line of itself cannot establish the propriety of the rate under Art. 5 of the contract. The expected earnings may be improper on other grounds.

The Arbitrator could direct the Union to study and comment on relevant time study data, and the earnings and job content comparisons

submitted, and decide the issue. He rejects this solution since the parties have traditionally used a comparison of actual earnings approach and so far there has not been a realistic production or actual earnings period on the No. 3 line. Additionally, the Union's attitude toward the time study data would be prejudiced.

The Arbitrator could refuse to decide the propriety of the rate until it has been tried by a further production period of 90 days. He believes, however, that the present attitude of the crew would make this proposal fruitless.

RULING

The Arbitrator directs that the Union (with the aid of the Union industrial engineer present at the Hearing) now proceed, with Management, to study and evaluate the time study data on which the proposed rate is based and to evaluate the proposed rate and probable earnings in light of the contract yardsticks of Art. V. On the basis of this effort, the parties shall try to reach agreement on a rate. This effort shall be completed within a period of 30 working days from the date of this award (unless extended by mutual agreement). During this period, the crew shall continue to be paid previous average earnings. If agreement is reached upon a rate, the parties shall put it into effect.

If no agreement is reached upon a rate, the Company, at the end of the 30 day period, shall install a rate based upon all the review and analysis developed during the 30 day period as well as previous knowledge. Commencing with the installation of the rate, the men shall be paid actual hourly earnings. The rate shall be effective for 90 days at the end of which period the Union may, if it chooses, request a review of the rate pursuant to Art. V, Section 5, Sub-section 4, provided that any retroactivity shall be based on a changed incentive rate.

The Arbitrator in directing this procedure does so because it is his best judgment that two factors are vital to a constructive settlement of this grievance; (1) a bona fide mutual analysis of the production possibilities of the new line and the time study and comparative data relevant to a rate, and (2) a continuing and unprejudiced production effort by the men. The 90 day production effort period specified, if agreement is not reached, is essential to secure realistic production and earnings data and falls within the 30 to 180 day time limits prescribed in Art. V for trial and review.

The Arbitrator purposely does not retain jurisdiction because he believes that to do so would interfere with open minded review and negotiations by the parties. Should a further arbitration become necessary, the parties may refer the dispute back to him or select another arbitrator.

Donald A. Crawford

DONALD A CRAWFORD
ARBITRATOR