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MAY 19, 1986

APPENDIX B

AWARD  
of  
ARBITRATION BOARD NO. 458  
DATED MAY 19, 1986  
between railroads represented by the  
NATIONAL CARRIERS' CONFERENCE COMMITTEE

and

employees of such railroads represented by the  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

IT IS HEREBY AGREED:

ARTICLE 1 - GENERAL WAGE INCREASES

Section 1 - First General Wage Increase

(a) Effective July 1, 1986, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect on June 30, 1986 shall be increased by one (1) percent.

(b) In computing the increase under paragraph (a) above, one (1) percent shall be applied to the standard basic daily rates of pay applicable in the following weight-on-drivers brackets, and the amounts so produced shall be added to each standard basic daily rate of pay:

650,000 pounds	Passenger	- 600,000 and less than
1,000,000 pounds	Freight	- 950,000 and less than
		(through freight rates)
	Yard Engineers	- Less than 500,000 pounds
	Yard Firemen	- Less than 500,000 pounds

(separate computation covering five-day rates and other than five-day rates)

Section 2 - Second General Wage Increase

Effective July 1, 1986, following application of the wage increase provided for in Section 1(a) above, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect shall be further increased by two (2) percent, computed and applied in the manner prescribed in Section 1 above.

Section 3 - Third General Wage Increase

Effective October 1, 1986, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect on September 30, 1986, shall be increased by one and one-half (1.5) percent, computed and applied in the manner prescribed in Section 1 above.

#### Section 4 - Fourth General Wage Increase

Effective January 1, 1987, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect on December 31, 1986, shall be increased by two and one-quarter (2.25) percent, computed and applied in the manner prescribed in Section 1 above.

#### Section 5 - Fifth General Wage Increase

Effective July 1, 1987, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect on June 30, 1987, shall be increased by one and one-half (1.5) percent, computed and applied in the manner prescribed in Section 1 above.

#### Section 6 - Sixth General Wage Increase

Effective January 1, 1988, all standard basic daily rates of pay (excluding cost-of-living allowance) of employees represented by the Brotherhood of Locomotive Engineers in effect on December 31, 1987, shall be increased by two and one-quarter (2.25) percent, computed and applied in the manner prescribed in Section 1 above.

#### Section 7 - Standard Rates

The standard basic daily rates of pay (excluding cost-of-living allowance) produced by application of the increases provided for in this Article are set forth in Appendix 1, which is a part of this Agreement.

#### Section 8 - Application of Wage Increases

(a) Duplicate time payments, including arbitraries and special allowances that are expressed in time, miles or fixed amounts of money, and mileage rates of pay for miles run in excess of the number of miles comprising a basic day, will not be subject to the adjustments provided for in this Article.

(b) Miscellaneous rates based upon hourly or daily rates of pay, as provided in the schedules or wage agreements, shall be adjusted under this Agreement in the same manner as heretofore increased under previous wage agreements.

(c) In determining new hourly rates, fractions of a cent will be disposed of by applying the next higher quarter of a cent.

(d) Daily earnings minima shall be changed by the amount of the respective daily adjustments.

(e) Existing money differentials above existing standard daily rates shall be maintained.

(f) In local freight service, the same differential in excess of through freight rates shall be maintained.

(g) The differential of \$4.00 per basic day in freight and yard service, and \$.04 per mile for miles in excess of the number of miles encompassed in the basic day in freight service, will be maintained for engineers working without firemen on locomotives on which under the former National Diesel Agreement of 1950 firemen would have been required. Such differential will continue to be applied in the same manner as the local freight differential.

(h) In computing the first increase in rates of pay effective July 1, 1986, under Section 1 for firemen employed in local freight service, or on road switchers, roustabout runs, mine runs, or in other miscellaneous service, on runs of miles equal to or less than the number comprising a basic day, which are therefore paid on a daily basis without a mileage component, whose rates had been increased by an additional \$.40" effective July 1, 1968, the one (1) percent increase shall be applied to daily rates in effect June 30, 1986, exclusive of local freight differentials and any other money differential above existing standard daily rates. For firemen, the rates applicable in the weight-on-drivers bracket 950,000 and less than 1,000,000 pounds shall be utilized in computing the amount of increase. The same procedure shall be followed in computing the second increase effective July 1, 1986, and the subsequent increases effective October 1, 1986, January 1, 1987, July 1, 1987 and January 1, 1988. The rates produced by application of the standard local freight differentials and the above-referred-to special increase of an additional \$.40" to standard basic through freight rates of pay are set forth in Appendix 1 which is a part of this Agreement.

(i) Other than standard rates:

(i) Existing basic daily rates of pay other than standard shall be changed, effective as of the dates specified in Sections 1 through 6 hereof, by the same respective percentages as set forth therein, computed and applied in the same manner as the standard rates were determined.

(ii) The differential of \$4.00 per basic day in freight and yard service, and \$.04 per mile for miles in excess of the number encompassed in the basic day in freight service, will be maintained for engineers working without firemen on locomotives on which under the former National Diesel Agreement of 1950 firemen would have been required.

(iii) Daily rates of pay, other than standard, of firemen employed in local freight service, or on road switchers, roustabout runs, mine runs, or in other miscellaneous service, on runs of miles equal to or less than the number encompassed in the basic day, which are therefore paid on a daily basis without a mileage component, shall be increased as of the effective dates specified in Sections 1 through 6 hereof, by the same respective percentages as set forth therein, computed and applied in the same manner as provided in paragraph (i) (i) above.

(j) Wage rates resulting from the increases provided for in Sections 1 through 6 of this Article I, and in Section 1(d) of Article II, will not be reduced under Article II.

ARTICLE II - COST-OF-LIVING ADJUSTMENTS

Section 1 - Amount and Effective Dates of Cost-of-Living Adjustments

(a) The cost-of-living allowance which, on September 30, 1986 will be 13 cents per hour, will subsequently be adjusted, in the manner set forth in and subject to all the provisions of paragraphs (e) and (g) below, on the basis of the 'Consumer Price Index for Urban Wage Earners and Clerical Workers (Revised Series) (CPI-W)" (1967 = 100), U.S. Index, all items - unadjusted, as published by the Bureau of Labor Statistics, U.S. Department of Labor, and hereinafter referred to as the BLS Consumer Price Index. The first such cost-of-living adjustment shall be made effective October 1, 1986, based (subject to paragraph (e) (i) below) on the BLS Consumer Price Index for March 1986 as compared with the index for September 1985. Such adjustment, and further cost-of-living adjustments which will be made effective as described below, will be based on the change in the BLS Consumer Price Index during the respective measurement periods shown in the following table subject to the exception in paragraph (e) (ii) below, according to the formula set forth in paragraph (f) below as limited by paragraph (g) below:

Effective Date	Measurement Periods	
of Adjustment	Measurement Month	
Base Month	(1)	(2)
(3)		
September 1985	March 1986	
October 1, 1986	March 1986	September 1986
January 1, 1987	September 1986	March 1987
July 1, 1987		
March 1987	September 1987	
January 1, 1988		

(b) While a cost-of-living allowance is in effect, such cost-of-living allowance will apply to straight time, overtime, vacations, holidays and to special allowances in the same manner as basic wage adjustments have been applied in the past, except that any part of such allowance generated after September 30, 1986 shall not apply to duplicate time payments, including arbitraries and special allowances that are expressed in time, miles or fixed

amounts of money or to mileage rates of pay for miles run in excess of the number of miles comprising a basic day.

(c) The amount of the cost-of-living allowance, if any, which will be effective from one adjustment date to the next may be equal to, or greater or less than, the cost-of-living allowance in effect in the preceding adjustment period.

(d) On June 30, 1988 all of the cost-of-living allowance then in effect shall be rolled into basic rates of pay and the cost-of-living allowance in effect will be reduced to zero. Accordingly, the amount rolled in will not apply to duplicate time payments, including arbitraries and special allowances that are expressed in time, miles or fixed amounts of money, and mileage rates of pay for miles run in excess of the number of miles comprising a basic day, except to the extent that it includes part or all of the 13 cents per hour allowance in effect on September 30, 1986.

(e) Cap. (i) In calculations under paragraph (f) below, the maximum increase in the BLS Consumer Price Index (C.P.I.) which will be taken into account will be as follows:

Effective Date	Maximum C.P.I. Increase of Adjustment	Which May Be
	Taken into Account (1)	
	(2)	
October 1, 1986	4% of September 1985 CPI	
January 1, 1987	8% of September 1985 CPI, less the increase from September 1985 to March 1986	
July 1, 1987	4% of September 1986 CPI	
January 1, 1988	8% of September 1986 CPI, less the increase from Septem- ber 1986 to March 1987	

(ii) If the increase in the BLS Consumer Price Index from the base month of September 1985 to the measurement month of March 1986, exceeds 4% of the September base index, the measurement period which will be used for determining the cost-of-living adjustment to be effective the following January will be the twelve-month period from such base month of September; the increase in the index which will be taken into account will be limited to that portion of increase which is in excess of 4% of such September base index, and the maximum increase in that portion of the index which may be taken into account will be 8% of such September base index less the 4% mentioned in the preceding clause, to which will be added any residual tenths of points which had been dropped under paragraph (f) below in calculation of the cost-of-living adjustment which will have become effective October 1 during such measurement period.

(iii) Any increase in the BLS Consumer Price Index from the base month of September of one year to the measurement month of September of the following year in excess of 8% of the September base month index, will not be taken into account in the determination of subsequent cost-of-living adjustments.

(f) Formula. The number of points change in the BLS Consumer Price Index during a measurement period, as limited by paragraph (e) above, will be converted into cents on the basis of one cent equals 0.3 full points. (By 0.3 full points' it is intended that any remainder of 0.1 point or 0.2 point of change after the conversion will not be counted).

The cost-of-living allowance in effect on September 30, 1986 will be adjusted (increased or decreased) effective October 1, 1986 by the whole number of cents produced by dividing by 0.3 the number of points (including tenths of points) change, as limited by paragraph (e) above, in the BLS Consumer Price Index during the measurement period from the base month of September 1985 to the measurement month of March 1986. Any residual tenths of a point resulting from such division will be dropped. The result of such division will be added to the amount of the cost-of-living allowance in effect on September 30, 1986 if the Consumer Price Index will have been higher at the end than at the beginning of the measurement period, and subtracted therefrom only if the index will have been lower at the end than at the beginning of the measurement period and then, only, to the extent that the allowance remains at zero or above.

The same procedure will be followed in applying subsequent adjustments.

(g) Offsets. The amounts calculated in accordance with the formula set forth in paragraph (f) will be offset by the third through the sixth increases provided for in Article I of this Agreement as applied on an annual basis against a starting rate of \$12.92 per hour. This will result in the cost-of-living increases, if any, being subject to the limitations herein described:

(i) Any increase to be paid effective October 1, 1986 is limited to that in excess of 19 cents per hour.

(ii) The combined increases, if any, to be paid as a result of the adjustments effective October 1, 1986 and January 1, 1987 are limited to those in excess of 48 cents per hour.

(iii) Any increase to be paid effective July 1, 1987 is limited to that in excess of 20 cents per hour.

(iv) The combined increases, if any, to be paid as a result of the adjustments effective July 1, 1987 and January 1, 1988 are limited to those in excess of 51 cents per hour.

(h) Continuance of the cost-of-living adjustments is dependent upon the availability of the official monthly BLS Consumer Price Index (CPI-W) calculated on the same basis as such Index, except that, if the Bureau of Labor Statistics, U.S. Department of Labor, should during the effective period of this Agreement revise or change the methods or basic data used in calculating the BLS Consumer Price Index in such a way as to affect the direct comparability of such revised or changed index with the CPI-W Index during a measurement period, then that Bureau shall be requested to furnish a conversion factor designed to adjust the newly revised index to the basis of the CPI-W Index during such measurement period.

## Section 2 - Application of Cost-of-Living Adjustments

In application of the cost-of-living adjustments provided for by Section 1 of this Article II, the cost-of-living allowance will not become part of basic rates of pay except as provided in Section 1(d). In application of such allowance, each one cent per hour of cost-of-living allowance will be treated as an increase of 8 cents in the basic daily rates of pay produced by application of Article I and by Section 1(d) of this Article II. The cost-of-living allowance will otherwise be applied in keeping with the provisions of Section 8 of Article I.

## ARTICLE III - LUMP SUM PAYMENT

A lump sum payment, calculated as described below, will be paid to each employee subject to this Agreement who established an employment relationship prior to the date of this Agreement and has retained that relationship or has retired or died.

Employees with 2,150 or more straight time hours paid for (not including any such hours reported to the Interstate Commerce Commission as constructive allowances except vacations and holidays) during the period July 1, 1984 through July 31, 1985 will be paid \$565.00. Those employees with fewer straight time hours paid for will be paid an amount derived by multiplying \$565.00 by the number of straight time hours (including vacations and holidays, as described above) paid for during that period divided by 2,150.

There shall be no duplication of lump-sum payments by virtue of employment under an agreement with another organization.

ARTICLE IV - PAY RULES

Section 1 - Mileage Rates

(a) Mileage rates of pay for miles run in excess of the number of miles comprising a basic day will not be subject to general, cost-of-living, or other forms of wage increases.

(b) Mileage rates of pay, as defined above, applicable to interdivisional, interseniority district, intradivisional and/or intraseniority district service runs now existing or to be established in the future shall not exceed the applicable rates as of June 30, 1986. Such rates shall be exempted from wage increases as provided in Section 1(a) of this Article. Weight-on-drivers additives will apply to mileage rates calculated in accordance with this provision.

Section 2 - Miles In Basic Day and Overtime Divisor

(a) The miles encompassed in the basic day in through freight and through passenger service and the divisor used to determine when overtime begins will be changed as provided below:

Effective Date Service of Change	Through Freight Service		Through Passenger	
	Basic	Overtime	Overtime	Miles in
Day	Day	Day	Divisor	Divisor
July 1, 1986 20.8	104	13.0	104	104
July 1, 1987 21.2	106	13.25	106	106
June 30, 1988 21.6	108	13.5	108	108

(b) Mileage rates will be paid only for miles run in excess of the minimum number specified in (a) above.

(c) The number of hours that must lapse before overtime begins on a trip in through freight or through passenger service is calculated by dividing the miles of the trip or the number of miles encompassed in a basic day in that class of service, whichever is greater, by the appropriate overtime divisor. Thus after June 30, 1988, overtime will begin on a trip of 125 miles in through freight service after  $125/13.5 = 9.26$  hours or 9 hours and 16 minutes. In through freight service, overtime will not be paid prior to the completion of 8 hours of service.

Section 3 - Conversion to Local Rate

When employees in through freight service become entitled to the local rate of pay under applicable conversion rules, the daily local freight differential (56 cents for engineers and 43 cents for firemen under national

agreements) will be added to their basic daily rate and the combined rate will be used as the basis for calculating hourly rates, including overtime. The local freight mileage differential (56 cents per mile for engineers and 43 cents for firemen under national agreements) will be added to the through freight mileage rates, and miles in excess of the number encompassed in the basic day in through freight service will be paid at the combined rate.

#### Section 4 - Engine Exchange (Including Adding and Subtracting of Units) And Other Related Arbitraries

(a) Effective July 1, 1986 all arbitrary allowances provided to employees for exchanging engines, including adding and subtracting units, preparing one or more units for tow, handling locomotive units not connected in multiple, and coupling and/or uncoupling appurtenances such as signal hose and control cables are reduced by an amount equal to two-thirds of the allowance in effect as of June 30, 1986.

(b) Effective July 1, 1987, all arbitrary allowances provided to employees for performing work described in paragraph (a) above are eliminated.

#### Section 5 - Duplicate Time Payments

(a) Duplicate time payments, including arbitraries and special allowances that are expressed in time or miles or fixed amounts of money, shall not apply to employees whose seniority in engine or train service is established on or after November 1, 1985.

(b) Duplicate time payments, including arbitraries and special allowances that are expressed in time or miles or fixed amounts of money, not eliminated by this Agreement shall not be subject to general, cost-of-living or other forms of wage increases.

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#### Section 6 - Rate Progression - New Hires

In any class of service or job classification, rates of pay, additives, and other applicable elements of compensation for an employee whose seniority in engine or train service is established on or after November 1, 1985, will be 75% of the rate for present employees and will increase in increments of 5 percentage points for each year of active service in engine and/or train service until the new employee's rate is equal to that of present employees. A year of active service shall consist of a period of 365 calendar days in which the employee performs a total of 80 or more tours of duty.

### ARTICLE V - FINAL TERMINAL DELAY, FREIGHT SERVICE

#### Section 1 - Computation of Time

In freight service all time, in excess of 60 minutes, computed from the time engine reaches switch, or signal governing same, used in entering final terminal yard where train is to be left or yarded, until finally relieved from duty, shall be paid for as final terminal delay; provided, that if a train is deliberately delayed between the last siding or station and such switch or signal, the time held at such point will be added to any time calculated as final terminal delay.

## Section 2 - Extension of Time

Where mileage is allowed between the point where final terminal delay time begins and the point where finally relieved, each mile so allowed will extend the 60 minute period after which final terminal delay payment begins by the number of minutes equal to 60 divided by the applicable overtime divisor (60/12.5 = 4.8; 60/13 = 4.6; 60/13.25 = 4.5; 60/13.5 = 4.4, etc.).

## Section 3 - Payment Computation

All final terminal delay, computed as provided for in this Article, shall be paid for, on the minute basis, at one-eighth (1/8th) of the basic daily rate in effect as of June 30, 1986, according to class of service and engine used, in addition to full mileage of the trip, with the understanding that the actual time consumed in the performance of service in the final terminal for which an arbitrary allowance of any kind is paid shall be deducted from the final terminal time under this Article. The rate of pay for final terminal delay allowance shall not be subject to increases of any kind.

After road overtime commences, final terminal delay shall not apply and road overtime shall be paid until finally relieved from duty

NOTE: The phrase "relieved from duty" as used in this Article includes time required to make inspection, complete all necessary reports and/or register off duty.

#### Section 4 - Multiple Trips

When a tour of duty is composed of a series of trips, final terminal delay will be computed on only the last trip of the tour of duty.

#### Section 5 - Exceptions

This Article shall not apply to pusher, helper, mine run, shifter, roustabout, transfer, belt line, work, wreck, construction, road switcher or district run service. This Article shall not apply to circus train service where special rates or allowances are paid for such service.

NOTE: The question as to what particular service is covered by the designations used in Section 5 shall be determined on each individual railroad in accordance with the rules and practices in effect thereon.

#### Section 6 - Local Freight Service

In local freight service, time consumed in switching at final terminal shall not be included in the computation of final terminal delay time.

This Article shall become effective July 1, 1986 except on such carriers as may elect to preserve existing rules or practices and so notify the authorized employee representatives on or before such date.

### ARTICLE VI - DEADHEADING

Existing rules covering deadheading are revised as follows:

#### Section 1 - Payment When Deadheading and Service Are Combined

(a) Deadheading and service may be combined in any manner that traffic conditions require, and when so combined employees shall be paid actual miles or hours on a continuous time basis, with not less than a minimum day, for the combined service and deadheading. However, when deadheading from the away-from-home terminal to the home terminal is combined with a service trip from such home terminal to such away-from-home terminal and the distance between the two terminals exceeds the applicable mileage for a basic day, the rate paid for the basic day mileage portions of the service trip and deadhead shall be at the full basic daily rate.

#### Section 2 - Payment For Deadheading Separate From Service

When deadheading is paid for separate and apart from service:

(a) For Present Employees\*

A minimum day, at the basic rate applicable to the class of service in connection with which deadheading is performed, shall be allowed for the deadheading, unless actual time consumed is greater, in which event the latter amount shall be allowed.

(b) For New Employees\*\*

Compensation on a minute basis, at the basic rate applicable to the class of service in connection with which deadheading is performed, shall be allowed. However, if service after deadheading to other than the employee's home terminal does not begin within 16 hours after completion of deadhead, a minimum of a basic day at such rate will be paid. If deadheading from service at other than the employee's home terminal does not commence within 16 hours of completion of service, a minimum of a basic day at such rate will be paid.

A minimum of a basic day also will be allowed where two separate deadhead trips, the second of which is out of other than the home terminal, are made with no intervening service performed. Non-service payments such as held-away-from-home terminal allowance will count toward the minimum of a basic day provided in this Section 2(b).

\* Employees whose seniority in engine or train service precedes November 1, 1985.

\*\* Employees whose earliest seniority date in engine or train service is established on or after November 1, 1985.

### Section 3 - Applications

Deadheading will not be paid where not paid under existing rules.

This Article shall become effective July 1, 1986 except on such carriers as may elect to preserve existing rules or practices and

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so notify the authorized employee representatives on or before such date.

## ARTICLE VII - ROAD SWITCHERS ETC.

### Section 1 - Reduction in Work Week

(a) Carriers with road switcher (or similar operations), mine run or roustabout agreements in effect prior to the date of this Agreement that do not have the right to reduce six or seven-day assignments to not less than five, or to establish new assignments to work five days per week, shall have that right.

(b) The work days of five-day assignments reduced or established pursuant to Section 1(a) of this Article shall be consecutive. The five-day yard rate shall apply to new assignments established pursuant to Section 1(a) of this Article. Assignments reduced pursuant to Section 1(a) shall be compensated in accordance with the provisions of Section 1(c).

(c) If the working days of an existing assignment as described in Section 1(a) are reduced under this Article, an allowance of 48 minutes at the existing straight time rate of that assignment in addition to the rate of pay for that assignment will be provided. Such allowance will continue for a period of three years from the date such assignment was first reduced. However, such allowance will not be made to employees who establish seniority in train or engine service on or after November 1, 1985. Upon expiration of the three year period described above, the five day yard rate will apply to any assignment reduced to working less than six or seven days a week pursuant to this Article.

(d) The annulment or abolishment and subsequent reestablishment of an assignment to which the allowance provided for above applies shall not serve to make the allowance inapplicable to the assignment upon its restoration.

## Section 2 - New Road Switcher Agreements

(a) Carriers that do not have rules or agreements that allow them to establish road switcher assignments throughout their system may serve a proposal for such a rule upon the interested general chairman or chairmen. If agreement is not reached on the proposal within 20 days, the question shall be submitted to arbitration.

(b) The arbitrator shall be selected by the parties or, if they fail to agree, the National Mediation Board will be requested to name an arbitrator.

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(c) The arbitrator shall render a decision within 30 days from the date he accepts appointment. The decision shall not deal with the right of the carrier to establish road switcher assignments (such right is recognized), but shall be restricted to enumerating the terms and conditions under which such assignments shall be compensated and operated.

(d) In determining the terms and conditions under which road switcher assignments shall be compensated and operated, the arbitrator will be guided by and confined to what are the prevailing features of other road switcher agreements found on Class I railroads, except that the five day yard rate shall apply to any assignment established under this Section.

## ARTICLE VIII - ROAD, YARD AND INCIDENTAL WORK

### Section 1 - Road Crews

Road crews may perform the following work in connection with their own trains without additional compensation:

(a) Get or leave their train at any location within the initial and final terminals and handle their own switches. When a crew is required to report for duty or is relieved from duty at a point other than the on and off duty point fixed for that assignment and such point is not within reasonable walking distance of the on and off duty point, transportation will be provided.

(b) Make up to two straight pick-ups at other location(s) in the initial terminal in addition to picking up the train and up to two straight set-outs at other location(s) in the final terminal in addition to yarding the train; and, in connection therewith, spot, pull, couple, or uncouple cars set out or picked up by them and reset any cars disturbed.

(c) In connection with straight pick-ups and/or set-outs within switching limits at intermediate points where yard crews are on duty, spot, pull, couple or uncouple cars set out or picked up by them and reset any cars disturbed in connection therewith.

(d) Perform switching within switching limits at times no yard crew is on duty. On carriers on which the provisions of Section 1 of Article V of the June 25, 1964 Agreement are applicable, time consumed in switching under this provision shall continue to be counted as switching time. Switching allowances, where applicable, under Article V, Section 7 of the June 25, 1964 Agreement or under individual railroad agreements, payable to road crews, shall continue with respect to employees whose seniority in engine or train service precedes the date of this Agreement and such allowances are not subject to general or other wage increases.

(e) At locations outside of switching limits there shall be no restrictions on holding onto cars in making set-outs or pick-ups, including coupling or shoving cars disturbed in making set-outs or pick-ups.

## Section 2 - Yard Crews

(a) Yard crews may perform the following work outside of switching limits without additional compensation except as provided below:

(i) Bring in disabled train or trains whose crews have tied up under the Hours of Service Law from locations up to 25 miles outside of switching limits.

(ii) Complete the work that would normally be handled by the crews of trains that have been disabled or tied up under the Hours of Service Law and are being brought into the terminal by those yard crews. This paragraph does not apply to work train or wrecking service.

Note: For performing the service provided in (a)(i) and (ii) above, yard crews shall be paid miles or hours, whichever is the greater, with a minimum of one (1) hour for the class of service performed (except where existing agreements require payment at yard rates) for all time consumed outside of switching limits. This allowance shall be in addition to the regular yard pay and without any deduction therefrom for the time consumed outside of switching limits. Such payments are limited to employees whose seniority date in engine or train service precedes November 1, 1985 and is not subject to general or other wage increases.

(iii) Perform service to customers up to 20 miles outside switching limits provided such service does not result in the elimination of a road crew or crews in the territory. The use of a yard crew in accordance with this paragraph will not be construed as giving yard crews exclusive rights to such work. This paragraph does not contemplate the use of yard crews to perform work train or wrecking service outside switching limits.

(iv) Nothing in this Article will serve to prevent or affect in any way a carrier's right to extend switching limits in accordance with applicable agreements. However, the distances prescribed in this Article shall continue to be measured from switching limits as they existed as of July 26, 1978, except by mutual agreement.

(b) Yard crews may perform hostling work without additional payment or penalty.

Section 3 - Incidental Work

Road and yard employees in engine service and qualified ground service employees may perform the following items of work in connection with their own assignments without additional compensation:

- (a) Handle switches
- (b) Move, turn, spot and fuel locomotives
- (c) Supply locomotives except for heavy equipment and supplies placed on locomotives by employees of other crafts
- (d) Inspect locomotives
- (e) Start or shutdown locomotives
- (f) Make head-end air tests
- (g) Prepare reports while under pay
- (h) Use communication devices; copy and handle train orders, clearances and/or other messages.
- (i) Any duties formerly performed by firemen.

Section 4 - Construction of Article

Nothing in this Article is intended to restrict any of the existing rights of a carrier.

This Article shall become effective June 1, 1986 except on such carriers as may elect to preserve existing rules or practices and so notify the authorized employee representatives on or before such date.

ARTICLE IX - INTERDIVISIONAL SERVICE

Note: As used in this Agreement, the term interdivisional service includes interdivisional, interseniority district, intradivisional and/or intraseniority district service.

An individual carrier may establish interdivisional service, in freight or passenger service, subject to the following procedure.

Section 1 - Notice

An individual carrier seeking to establish interdivisional service shall give at least twenty days' written notice to the organization of its desire to establish service, specify the service it proposes to establish and the conditions, if any, which it proposes shall govern the establishment of such service.

## Section 2 - Conditions

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 a rate calculated by dividing the basic daily rate of pay in effect on May 31, 1986 by the number of miles encompassed in the basic day as of that date. 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.

### Section 3 - Procedure

Upon the serving of a notice under Section 1, the parties will discuss the details of operation and working conditions of the proposed runs during a period of 20 days following the date of the notice. If they are unable to agree, at the end of the 20-day period, with respect to runs which do not operate through a home terminal or home terminals of previously existing runs which are to be extended, such run or runs will be operated on a trial basis until completion of the procedures referred to in Section 4. This trial basis operation will not be applicable to runs which operate through home terminals.

### 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.

(b) The decision of the arbitration board shall be final and binding upon both parties, except that the award shall not require the carrier to establish interdivisional service in the particular territory involved in each such dispute but shall be accepted by the parties as the conditions which shall be met by the carrier if and when such interdivisional service is established in that territory. Provided further, however, if carrier elects not to put the award into effect, carrier shall be deemed to have waived any right to renew the same request for a period of one year following the date of said award, except by consent of the organization party to said arbitration.

### Section 5 - Existing Interdivisional Service

Interdivisional service in effect on the date of this Agreement is not affected by this Article.

### Section 6 - Construction of Article

The foregoing provisions are not intended to impose restrictions with respect to establishing interdivisional service where restrictions did not exist prior to the date of this Agreement.

### Section 7 - Protection

Every employee adversely affected either directly or indirectly as a result of the application of this rule shall receive

the protection afforded by Sections 6, 7, 8 and 9 of the Washington Job Protection Agreement of May 1936, except that for the purposes of this Agreement Section 7(a) is amended to read 100% (less earnings in outside employment) instead of 60% and extended to provide period of payment equivalent to length of service not to exceed 6 years and to provide further that allowances in Sections 6 and 7 be increased by subsequent general wage increases.

Any employee required to change his residence shall be subject to the benefits contained in Sections 10 and 11 of the Washington Job Protection Agreement and in addition to such benefits shall receive a transfer allowance of four hundred dollars (\$400.00) and five working days instead of the "two working days" provided by Section 10(a) of said agreement. Under this Section, change of residence shall not be considered "required" if the reporting point to which the employee is changed is not more than 30 miles from his former reporting point.

If any protective benefits greater than those provided in this Article are available under existing agreements, such greater benefits shall apply subject to the terms and obligations of both the carrier and employee under such agreements, in lieu of the benefits provided in this Article.

This Article shall become effective June 1, 1986 except on such carriers as may elect to preserve existing rules or practices and so notify the authorized employee representatives on or before such date. Article VIII of the May 13, 1971 Agreement shall not apply on any carrier on which this Article becomes effective.

#### ARTICLE X - LOCOMOTIVE STANDARDS

In run-through service, a locomotive which meets the basic minimum standards of the home railroad or section of the home railroad may be operated on any part of the home railroad or any other railroad.

A locomotive which meets the basic minimum standards of a component of a merged or affiliated rail system may be operated on any part of such system.

#### ARTICLE XI - TERMINATION OF SENIORITY

The seniority of any employee whose seniority-in engine or train service is established on or after November 1, 1985 and who is furloughed for 365 consecutive days will be terminated if such employee has less than three (3) years of seniority.

#### ARTICLE XII - FIREMFN

A. On carriers where the Brotherhood of Locomotive Engineers represents firemen and the provisions of the July 19, 1972 Manning and Training Agreements, as amended, are in effect, the following will apply:

The craft or class of firemen (helpers) shall be eliminated through attrition except to the extent necessary to provide the source of supply for engineers and for designated passenger firemen, hostler and hostler helper positions.

Section 1 - Amendments to July 19, 1972 Manning and Training Agreements

(1) Change Article I, Section 1(a) to read as follows:

"(a) For fulfilling needs arising as the result of assignments and vacancies, temporary or otherwise, in designated passenger service and in hostler, hostler-helper service, pursuant to mileage or other regulating factors on individual carriers and in accordance with Article IV of this Agreement."

(2) Change Article I, Section 3(a) to read as follows:

"(a) Determinations of the number of employees required on each seniority district will be based on the maximum applicable regulating factor for each class of service contained in the rules on each carrier relating to increasing or decreasing the force of locomotive engineers."

(3) Change Article I, Section 3(e) to read as follows:

"(e) The number of employees required as of each determination period will be based on engineer service during the twelve months' period as follows:

Passenger service

Total hours paid for multiplied by the number of miles encompassed in a minimum day divided by the number of hours encompassed in a minimum day.

Freight service

Total hours paid for plus one-half overtime hours, multiplied by the number of miles encompassed in a minimum day divided by the number of hours encompassed in a minimum day.

Yard service

Total hours paid for plus one-half overtime hours, divided by 8.

The results thus obtained shall be divided by the maximum applicable regulating factor as provided in paragraph (a) of this Section 3. The sum of employees thus determined will be increased by 10% to cover vacations and layoffs.

NOTE: As used in this paragraph, the term 'total hours paid for' includes all straight time hours paid for including hours paid for while working during scheduled vacation periods and the basic day's pay for holidays as such, all overtime hours paid for including overtime paid for working on holidays, and the hourly equivalent of arbitraries and special allowances provided for in the schedule agreements. The term does not include the hourly equivalent of vacation allowances or allowances in lieu of vacations, or payments arising out of violations of the schedule agreement."

(4) Change Article I, Section 3(f) by inserting "and on furlough" in the first and second sentences after "the number of firemen in active service" and by eliminating (1) to the NOTE and renumbering the remaining three enumerated items.

(5) Eliminate Section 3(h) of Article I and reletter the subsequent subsection.

(6) Change Article III, Section 1 to read as follows:

"Section 1 - Firemen (helpers) whose seniority as such was established prior to November 1, 1985 shall have the right to exercise their seniority on assignments on which, under the National Diesel Agreement of 1950 (as in effect on January 24, 1964), the use of firemen (helpers) would have been required, and on available hostler and hostler helper assignments subject to the following exceptions:

(a) When required to fulfill experience requirements for promotion, or engaged in a scheduled training program.

(b) When their services are required to qualify for or fill passenger or hostler or hostler helper

vacancies in accordance with Article IV of this Agreement.

(c) When restricted to specific assignments as referred to in Article VI of this Agreement.

(d) When required to fill engineer vacancies or assignments.

The exercise of seniority under this Article will be subject to the advertisement, bidding, assignment, displacement and mileage rules on the individual carriers.

NOTE: As to any carrier not subject to the National Diesel Agreement of 1950 on January 24, 1964, the term 'the rules in effect on January 24, 1964 respecting assignments (other than hostling assignments) to be manned by firemen (helpers)' shall be substituted in this Article for the term 'the National Diesel Agreement of 1950.''

"Section 1.5 - Firemen (helpers) whose seniority as such is established on or after November 1, 1985 will have the right to exercise seniority limited to designated positions of passenger fireman, hostler or hostler helper. The seniority rights of such firemen are subject to the following exceptions:

(a) When required to fulfill experience requirements for promotion, or engaged in a scheduled training program.

(b) When required to fill engineer vacancies or assignments.

This will not preclude the carrier from requiring firemen to maintain proficiency as engineer and familiarity with operations and territories by working specified assignments."

(7) Change Article III, Section 4 to read as follows:

"Section 4(a) - All firemen (helpers) whose seniority as such was established prior to November 1, 1985 will be provided employment in accordance with the provisions of this Article until they retire, resign, are discharged

for good cause, or are otherwise severed by natural attrition; provided, however, that such firemen (helpers) may be furloughed if no assignment working without a fireman (helper) exists on their seniority district which would have been available to firemen (helpers) under the National Diesel Agreement of 1950 (as in effect on January 24, 1964), and if no position on an extra list as required in Section 3 above exists on their seniority district, subject to Section 5 of this Article."

"Section 4(b) - Firemen whose seniority as such is established on or after November 1, 1985 may be furloughed when not utilized pursuant to Section 1.5 of this Article."

(8) Change Article III, Section 5(a) to read as follows:

"Section 5(a) - With respect to firemen (helpers) employed after July 19, 1972 and prior to November 1, 1985 the provisions of Section 4(a) above will be temporarily suspended on any seniority district to the extent provided in this Section 5 if there is a decline in business within the meaning of this Section."

(9) Change Article IV, Section 1 to read as follows:

"Section 1 - Firemen (helpers) who established a seniority date as fireman prior to November 1, 1985 shall be used on assignments in passenger service on which under agreements in effect immediately prior to August 1, 1972, the use of firemen (helpers) would have been required. The use in passenger service of firemen (helpers) who establish seniority as firemen on or after November 1, 1985 will be confined to assignments designated by the carrier."

(10) Change Article IV, Section 2 to read as follows:

"(a) Except as modified hereinafter, assignments in hostling service will continue to be filled when required by agreements in effect on individual carriers.

(b) The carriers may discontinue using employees represented by the Brotherhood of Locomotive Engineers as hostlers or hostler helpers provided that it does not result in furlough of a fireman who established

seniority prior to November 1, 1985 nor the establishment of a hostler position represented by another organization, and provided, further, that this provision will not act to displace any employee who established seniority prior to November 1, 1985 and who has no rights to service except as hostler or hostler helper.

(c) Employees in engine service who established seniority prior to November 1, 1985 will continue to fill hostler and hostler helper positions and vacancies thereon in accordance with agreements in effect as of that date. If such position cannot be filled by such employees, and it is not discontinued pursuant to Paragraph (b) above, other qualified employees may be used.

(d) Yard crews may perform hostling work without additional payment or penalty to the carrier.'

(11) Change Article VIII to read as follows:

ARTICLE - VIII - RESERVE FIREMEN

The carrier shall have the right to offer 'Reserve Fireman' status to any number of active firemen, working as such, with seniority as firemen prior to November 1, 1985 (who are subject to work as locomotive engineers). Where applied, Reserve Fireman status shall be granted in seniority order on a seniority district or home zone basis under the terms listed below:

(1) An employee who chooses Reserve Fireman status must remain in that status until he either (i) is recalled and returns to hostler or engine service pursuant to Paragraph (2), (ii) is discharged from employment by the carrier pursuant to Paragraph (2), (iii) is discharged from employment by the carrier for other good cause, (iv) resigns from employment by the carrier, (v) retires on an annuity (including a disability annuity) under the Railroad Retirement Act, or (vi) otherwise would not be entitled to free exercise of seniority under this Fireman Manning Agreement; whichever occurs first. If not

sooner terminated, Reserve Fireman status and all other employment rights of a Reserve Fireman shall terminate when he attains age 70.

(2) Reserve Firemen must maintain their engine service and hostler proficiencies while in such status, including successfully completing any retraining or refresher programs that the carrier may require and passing any tests or examinations (including physical examinations) administered for purposes of determining whether such proficiencies and abilities have been maintained. Reserve Firemen also must hold themselves available for return to hostler and engine service upon seven days' notice, and must return to hostler or engine service in compliance with such notice. Reserve Firemen shall be recalled in reverse seniority order unless recalled for service as engineer. Failure to comply with any of these requirements will result in forfeiture of all seniority rights.

(3) Reserve Firemen shall be paid at 70% of the basic yard fireman's rate for five days per week. No other payments shall be made to or on behalf of a Reserve Fireman except (i) payment of premiums under applicable health and welfare plans and, (ii) as may otherwise be provided for in this Article. No deductions from pay shall be made on behalf of a Reserve Fireman except (i) deductions of income, employment or payroll taxes (including railroad retirement taxes) pursuant to federal, state or local law; (ii) deductions of dues pursuant to an applicable union shop agreement and any other deductions authorized by agreement, (iii) as may otherwise be authorized by this Article and (iv) any other legally required deduction.

(4) Reserve Firemen shall be considered in active service for the purpose of this Fireman Manning Agreement, including application of the decline in business formula.

(5) Other non-railroad employment while in Reserve Fireman status is permissible so long as there is no conflict of interest. There shall be no offset for outside earnings.

(6) Vacation pay received while in Reserve Fireman status will offset pay received under paragraph (3). Time spent in reserve status will not count toward determining whether the employee is eligible for vacation in succeeding years. It will count as time in determining the length of the vacation to which an employee, otherwise eligible, is entitled.

(7) Reserve Firemen are not eligible for:

- Holiday Pay
- Personal Leave
- Bereavement Leave
- Jury Pay
- Other similar special allowances

(8) Reserve Firemen are covered by:

- Health and Welfare Plans
- Union Shop
- Dues Check-off
- Discipline Rule
- Grievance Procedure

that are applicable to firemen (helpers) in active service.

(9) When junior employees are in 'Reserve Fireman' status, a senior active fireman may request such status. The carrier shall grant such a request and, at its discretion, recall the junior 'Reserve Fireman.'

## Section 2 - Application

Any conflict between the changes set forth herein and the provisions of the July 19, 1972 Manning Agreement, as revised, shall be resolved in accordance with the provisions of this Agreement.

B. On carriers where the Brotherhood of Locomotive Engineers represents firemen and the provisions of the July 19, 1972 Manning and Training Agreements, as amended, are not in effect, the following will apply:

(1) The craft or class of firemen\* shall be eliminated through attrition except to the extent necessary to provide the source of supply for engineers and for designated passenger firemen, hostlers and hostler helper positions.

\*The term firemen as used in this Article, includes any position, including apprentice, assistant or reserve engineer, the occupant of which is in training for position of engineer or who is a qualified engineer unable, because of seniority, to hold a position as engineer.

(2) Firemen whose seniority as such was established prior to November 1, 1985 shall have the right to exercise their seniority on assignments, on which immediately preceding the date of this agreement, they were permitted to exercise seniority as firemen, and on available hostler and hostler helper assignments subject to the following exceptions:

(a) when required to fulfill experience requirements for promotion, or engaged in a scheduled training program

(b) when their services are required to qualify or fill passenger or hostler or hostler helper vacancies under existing agreements

(c) when restricted to a particular position, assignment or type of service for reasons including but not limited to physical disability, discipline, failure to pass promotional examination or other cause

(d) when required to fill engineer vacancies or assignments.

The exercise of seniority under this Article will be subject to the advertisement, bidding, assignment, displacement and mileage rules on the individual carriers.

(3) Firemen whose seniority as such is established on or after November 1, 1985 will have the right to exercise seniority limited to designated positions of passenger fireman, hostler or hostler helper. The seniority rights of such firemen are subject to the following exceptions:

(a) when required to fulfill experience requirements for promotion, or engaged in a scheduled training program

(b) when required to fill engineer vacancies or assignments.

This will not preclude the carrier from requiring firemen to maintain proficiency as engineer and familiarity with operations and territories by working specified assignments.

(4) All firemen whose seniority as such was established prior to November 1, 1985 will be provided employment in accordance with the provisions of this Article until they retire, resign, are discharged for good cause, or are otherwise severed by natural attrition provided, however, that such firemen may be furloughed if no assignment working without a fireman exists on their seniority district which would have been available to firemen under agreements in effect immediately preceding the date of this agreement and if no position on a fireman's extra list exists on their seniority district.

(5) Firemen whose seniority as such is established on or after November 1, 1985 may be furloughed when not utilized under paragraph (3) of this Article.

(6) Firemen who established a seniority date as fireman prior to November 1, 1985 shall be used on assignments in passenger service on which, under agreements in effect immediately prior to the date of this agreement, the use of firemen would have been required. The use in passenger service of firemen who establish seniority as firemen on or after November 1, 1985 will be confined to assignments designated by the carrier.

(7) (a) Except as modified hereinafter, assignments in hostling service will continue to be filled when required by assignments in effect on individual carriers.

(b) The carriers may discontinue using employees represented by the Brotherhood of Locomotive Engineers as hostlers or hostler helpers provided it does not result in furlough of a fireman who established seniority prior to November 1, 1985 nor the establishment of a hostler position represented by another organization, and provided further that this provision will not act to displace any employee who established seniority prior to November 1, 1985 and who has no rights to service except as hostler or hostler helper.

(c) Employees in engine service who established seniority prior to November 1, 1985 will continue to fill hostler and hostler

helper positions and vacancies thereon in accordance with agreements in effect as of that date.

(d) Yard crews may perform hostling work without additional payment or penalty to the carrier.

(8) The carrier shall have the right to offer "Reserve Fireman" status to any number of active firemen, working as such, with seniority as firemen prior to November 1, 1985 (who are subject to work as locomotive engineers). Where applied, Reserve Fireman status shall be granted in seniority order on a seniority district or home zone basis under the terms listed below:

(a) An employee who chooses Reserve Fireman status must remain in that status until he either (i) is recalled and returns to hostler or engine service pursuant to Paragraph (b), (ii) is discharged from employment by the carrier, pursuant to Paragraph (b), (iii) is discharged from employment by the carrier for other good cause, (iv) resigns from employment by the carrier, (v) retires on an annuity (including a disability annuity) under the Railroad Retirement Act, or (vi) otherwise would not be entitled to free exercise of seniority; whichever occurs first. If not sooner terminated, Reserve Fireman status and all other employment rights of a Reserve Fireman shall terminate when he attains age 70.

(b) Reserve Firemen must maintain their engine service and hostler proficiencies while in such status, including successfully completing any retraining or refresher programs that the carrier may require and passing any test or examinations (including physical examinations) administered for purposes of determining whether such proficiencies and abilities have been maintained. Reserve Firemen also must hold themselves available for return to hostler and engine service upon seven days' notice, and must return to hostler or engine service in compliance with such notice. Reserve Firemen shall be recalled in reverse seniority order unless recalled for service as engineer. Failure to comply with any of these requirements will result in forfeiture of all seniority rights.

(c) Reserve Firemen shall be paid at 70% of the basic yard fireman's rate for five days per week. No other payments shall be made to or on behalf of a Reserve Fireman except (i) payment of premiums under applicable health and welfare plans and, (ii) as may otherwise be provided for in this Article. No deductions from pay shall be made on behalf of a Reserve Fireman except (i) deductions of income, employment or payroll taxes (including railroad retirement taxes) pursuant to federal, state or local law; (ii) deductions of dues pursuant to an applicable union shop agreement and any other deductions authorized by agreement, (iii) as may otherwise be authorized by this Article and (iv) any other legally required deduction.

(d) Reserve Firemen shall be considered in active service for the purpose of any agreement respecting firemen's rights to work or in any decline in business formula.

(e) Other non-railroad employment while in Reserve Fireman status is permissible so long as there is no conflict of interest. There shall be no offset for outside earnings.

(f) Vacation pay received while in Reserve Fireman status will offset pay received under paragraph (c). Time spent in reserve status will not count toward determining whether the employee is eligible for vacation in succeeding years. It will count as time in determining the length of the vacation to which an employee, otherwise eligible, is entitled.

(g) Reserve Firemen are not eligible for:

- Holiday Pay
- Personal Leave
- Bereavement Leave
- Jury Pay
- Other similar special allowances

- (h) Reserve Firemen are covered by:
- Health and Welfare Plans
  - Union Shop
  - Dues Check-off
  - Discipline Rule
  - Grievance Procedure

that are applicable to firemen in active service.

(i) When junior employees are in "Reserve Fireman" status, a senior active fireman may request such status. The carrier shall grant such a request and, at its discretion, recall the junior "Reserve Fireman."

(9) Existing agreements providing for the furloughing of firemen in event of decline in business or under emergency conditions shall continue to apply.

(10) Any conflict between the changes set forth herein and the provisions of existing agreements shall be resolved in accordance with the provisions of this Agreement.

#### ARTICLE XIII - RETENTION OF SENIORITY

Any existing condition which requires a locomotive engineer (1) to forfeit ground service seniority, or (2) to forfeit locomotive engineer seniority when working in ground service, is eliminated.

#### ARTICLE XIV - EXPENSES AWAY FROM HOME

Effective July 1, 1986, the meal allowance provided for in Article II, Section 2 of the June 25, 1964 National Agreement, as amended, is increased from \$3.85 to \$4.15.

#### ARTICLE XV - BENEFITS PROVIDED UNDER THE RAILROAD EMPLOYEES NATIONAL HEALTH AND WELFARE PLAN

##### Section 1 - Continuation of Plan

Except as provided in this Article, the benefits and other provisions under the Railroad Employees National Health and Welfare Plan will be continued. Contributions to the Plan will be offset by the expeditious use of such amounts as may at any time be in Special Account A or in one or more special accounts or funds maintained by the insurer in connection with Group Policy Contract GA-23000, and by the use of funds held in trust that are not otherwise needed to pay claims, premiums or administrative expenses which are payable from trust.

##### Section 2 - Benefit Changes

The following changes in benefits provided under the Plan and in matters related to such benefits will be made:

(a) Hospital Pre-Admission - Utilization Review Program This program shall include a comprehensive guidance and support structure for employees and other

beneficiaries covered by the Plan and their physicians beginning prior to planned hospitalization and continuing through recovery period. The program shall include, among other things, review of the propriety of hospital admission (including the feasibility of ambulatory center or out-patient treatment), the plan of treatment including the length of confinement, the appropriateness of a second surgical opinion, discharge planning and the use of effective alternative facilities during convalescence. Reduced benefits will be provided if the program is not fully complied with. This program shall become effective as soon as practicable in order to provide adequate time to set up and communicate the program.

(b) Extension of Benefits - Vacation pay received by a furloughed employee shall not qualify such employee for any benefits under the Plan and will not generate premium payments on his behalf. This change shall become effective January 1, 1988.

(c) Reinsurance - Reinsurance will be discontinued as soon as practicable.

### Section 3 - Special Committee

(a) A Special Committee selected by the parties will be established for the purpose of reviewing and making recommendations concerning ways to contain health care costs consistent with maintaining the quality of medical care; and reviewing the existing Plan structure and financing and making recommendations in connection therewith. In addition, the Committee may review and make recommendations with respect to any other matter included in the parties' notices with respect to the health care plan.

(b) The Committee shall retain the services of a recognized expert on health care systems to serve as a neutral chairman. The fees and expenses of the chairman shall be paid by the parties.

(c) The Committee shall be convened as promptly as possible and meet periodically until all of the matters that it considers are resolved. However, if the Committee has not resolved all issues by August 1, 1986, the neutral chairman will make recommendations on such unresolved issues no later than September 1, 1986. Upon voluntary resolution of all issues or upon issuance of recommendations by the neutral chairman, whichever is later, the Committee shall be dissolved.

(d) The proposals of the parties concerning health benefits (specifically, the organization's proposals dated January 17, 1984, entitled "Revise Contract Policy GA-23000" and the carriers' proposals dated on or about January 23, 1984, entitled "C. Insured Benefits") shall not be subject to the moratorium provisions of this Agreement, but, rather, shall be held in abeyance pending efforts to resolve these issues through the procedure established above. If, after 60 days from the date the neutral Chairman makes his recommendations, the parties have not reached agreement on all unresolved issues, the notices may be progressed under the procedures of the Railway Labor Act, as amended.

(e) Agreement reached by the parties on these issues will provide for a contract duration consistent with the provisions of Article XVIII of the Agreement, regardless of whether such agreement occurs during the time that the proposals of the parties are held in abeyance or subsequent to the time that they may be progressed in accordance with the procedures of the Railway Labor Act as provided for above.

#### ARTICLE XVI - INFORMAL DISPUTES COMMITTEE

Disputes arising over the application or interpretation of this agreement will, in the absence of a contrary provision, be referred to an Informal Disputes Committee consisting of an equal number of representatives of both parties.

If the Committee is unable to resolve a dispute, it may consider submitting the dispute to arbitration on a national basis for the purpose of ensuring a uniform application of the provisions of this Agreement.

#### ARTICLE -VII - LOCOMOTIVE DESIGN, CONSTRUCTION AND MAINTENANCE

##### Section 1 - Maintenance Of Locomotives

The parties recognize the importance of maintaining safe, sanitary, and healthful cab conditions on locomotives.

This Agreement affirms the carriers' responsibility to provide and maintain the aforementioned conditions particularly, although not limited to, such locomotive cab conditions as: heating, watercoolers, toilet facilities, insulation, ventilation-fumes, level of cab noise, visibility, lighting and footing.

The parties recognize that one way to achieve and maintain safe, sanitary, and healthful cab conditions on locomotives is by establishing procedures on each railroad for monitoring cab conditions and expediting the reporting and correction of maintenance deficiencies.

#### A. Local Implimentation

Each individual carrier will designate an appropriate official(s) who will contact the BLE General Chairman (Chairmen) and arrange a meeting within 30 days from the date of this Agreement for the following purpose:

(a) Review the policies on the individual railroad concerning the existing procedures for reporting and correcting locomotive deficiencies, assess the effectiveness of such procedures, and, where appropriate, establish methods for obtaining more satisfactory results.

(b) Institute a program whereby the Local BLE representative and the carrier's supervisors at each facility will participate in direct discussions regarding any maintenance problems at the locations under their jurisdiction for the purpose of carrying out the intent of this understanding, including evaluating the reports and suggestions of either party and implementing agreed-upon solutions thereto.

#### B. National Committee

A national committee will be established within 30 days from the date of this Agreement, consisting of two members of the National Carriers' Conference Committee and two representatives of the BLE. The Committee may review and make recommendations with respect to any maintenance problem on an individual property that is referred to it by either party after efforts to resolve such matter on the individual property have been exhausted.

The Committee may also consider any matter where the parties on an individual property have jointly concluded that the subject matter is one that may be addressed more appropriately on a national level.

#### Section 2 - Dispatchment Of Locomotive-

A locomotive will not be dispatched in road service from engine maintenance facilities where maintenance personnel are readily available, and an engineer will not be required to operate the locomotive pending corrective action, if the engineer registers a timely complaint with supervision with respect to the controlling unit of the consist that is determined on investigation to be valid concerning -

(a) the existence of a federal defect, as defined by the Federal Railroad Administration, with respect to the following matters:

Exhaust gases (ventilation)

Cab lights  
Locomotive cab noise  
Cabs, floors and passageways (footing) (cab seats)  
(vision) (heat) and (b) other conditions as follows:  
Lack of clean, sanitary toilet  
Lack of adequate cooled, potable water  
Lack of adequate toilet paper or hand towels

Should the complaint be found valid, and if there is another unit in that consist or otherwise readily available which will eliminate the protest, the units will be rearranged provided such rearrangement will not result in unreasonable delay to the train. If the engineer performs the work to accomplish the rearrangement, no additional payment(s) will be allowed. If, however, the official makes a good faith determination that the locomotive is suitable for dispatch, the engineer will proceed with the assignment.

An engineer will invoke the foregoing right in good faith and where a reasonable person would conclude that the carrier is in substantial non-compliance, i.e. more than technical non-compliance.

In determining the reasonableness of an engineer's complaint, among the factors to be considered are the timeliness of the complaint, the accessibility of the means to take corrective action, the seriousness of the deficiency, the engineer's ability or inability to correct the deficiency with means at his disposal and whether or not an unreasonable train delay would be incurred.

### Section 3 - Locomotive Design and Construction

In recognition of the desirability of consultation with the General Chairman (Chairmen) prior to the ordering of new Locomotives, or while formulating plans to modify or retrofit existing locomotives, the parties agree that, before any design and construction changes in

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locomotives are made which change safety or comfort features of the locomotive, the designated officer of each individual railroad will contact the General Chairman (Chairmen) providing him with the opportunity to furnish the carrier with his recommendations for full and thoughtful consideration by the carrier.

This Section 3 does not disturb existing local agreements that set forth required specifications for particular locomotive appurtenances or components.

## ARTICLE XVIII - GENERAL PROVISIONS

### Section 1 - Court Approval

This Agreement is subject to approval of the courts with respect to participating carriers in the hands of receivers or trustees.

### Section 2 - Effect of this Agreement

(a) The purpose of this Agreement is to fix the general level of compensation during the period of the Agreement and is in settlement of the dispute growing out of the notices served upon the carriers listed in Exhibit A

by the organization signatory hereto dated on or about October 20, 1979, January 3, 1984 and January 17, 1984, and the notices served on or about January 23, 1984 by the carriers.

(b) This Agreement shall be construed as a separate agreement by and on behalf of each of said carriers and their employees represented by the organization signatory hereto, and shall remain in effect through June 30, 1988 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.

(c) Except as provided in Sections 2(d) and 2(e) of this Article, the parties to this Agreement shall not serve nor progress prior to April 1, 1988 (not to become effective before July 1, 1988) any notice or proposal for changing any matter contained in:

- (1) this Agreement,
- (2) the proposals of the parties identified in Section 2(a) of this Article, and
- (3) Section 2(c)(3) of Article VIII of the Agreement of March 6, 1975,

and any pending notices which propose such matters are hereby withdrawn.

(d) The notices of the parties referred to in Article XV of this Agreement may be progressed in accordance with the provisions of Section 3(d) of that Article.

(e) New notices or pending notices that are permitted under the terms of the Letter Agreement of this date concerning intercraft pay relationships shall be governed by the terms of that Letter Agreement.

(f) Pending notices and new proposals properly served under the Railway Labor Act covering subject matters not specifically dealt with in Sections 2(c), 2(d) and 2(e) of this Article and which do not request compensation may be progressed under the provisions of the Railway Labor Act, as amended.

(g) This Article will not bar management and committees on individual railroads from agreeing upon any subject of mutual interest.

DATED THIS 19th DAY OF MAY, 1986, AT WASHINGTON, D.C.

Rodney E. Dennis

Chairman of Arbitration Board

Charles I. Hopkins, Jr.

W. J. Wanke

Carrier Member      Organization Member

- 3-

The following examples illustrate the application of the rule to employees whose earliest seniority date in engine or train service is established on or after November 1, 1985:

1. An engineer is called to deadhead from his home terminal to an away-from-home point. He last performed service 30 hours prior to commencing the deadhead trip. The deadhead trip consumed 5 hours and was not combined with the service trip. The service trip out of the away-from-home terminal began within 6 hours from the time the deadhead trip was completed. What payment is due?

A. 5 hours at the straight time rate.

2. What payment would have been made to the engineer in example 1 if the service trip out of the away-from-home terminal had begun 17 hours after the time the deadhead trip ended, and the held-away rule was not applicable?

A. A minimum day for the deadhead.

3. What payment would have been made to the engineer in example 1 if the service trip out of the away-from-home terminal had begun 18 hours after the time the deadhead trip ended, and the engineer received 2 hours pay under the held-away rule?

A. 6 hours at the straight time rate.

4. An engineer is deadheaded to the home terminal after having performed service into the away-from-home terminal. The deadhead trip, which consumed 5 hours and was not combined with the service trip, commenced 8 hours after the service trip ended. What payment is due?

A. 5 hours at the straight time rate.

5. What payment would have been made to the engineer in example 4 if the deadhead trip had begun 18 hours after the service trip ended and the held-away rule was not applicable.

A. A minimum day for the deadhead.

6. What payment would have been made to the engineer in example 4 if the deadhead trip had begun 18 hours after the time the service trip ended and the engineer received 2 hours pay under the held-away rule?

A. 6 hours at the straight time rate.

7. An engineer is deadheaded from the home terminal to an away-from-home location. Ten (10) hours after completion of the trip, he is deadheaded to the home terminal without having performed service. The deadhead trips each consumed two hours. What payment is due?

A. A minimum day for the combined deadhead trips.

\* NOTE: The amount of over-miles shown in the examples are on the basis of a 100 mile day. The number of over-miles will be reduced in accordance with the application of Article IV, Section 2, of this Agreement.

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VII, Road Switchers of the Agreement of this date.

In the application of Section 1(c) of the Article, it was understood that if a carrier without a pre-existing right to reduce a seven day assignment described in Section 1(a) to a lesser number of days reduces such an assignment to six days per week, the 48-minute allowance will be payable to employees on the assignment whose seniority date in engine or train service precedes November 1, 1985. If the carrier reduces the same assignment from seven days to five, an allowance of 96 minutes would be payable.

Conversely, if the carrier had the pre-existing right to reduce a seven day assignment described in Section 1(a) to six days per week, but not to five days, and reduced the seven day assignment to six days per week, no allowance would be payable. If it reduced the assignment from seven days to five days, an allowance of 48 minutes would be payable.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C.I. Hopkins

I agree:

John F. Sytsma

#6

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VIII, Section 1(b), of the Agreement of this date which provides that only two straight pickups or setouts will be made. This does not allow cars to be cut in behind other cars already in the tracks or cars to be picked up from behind other cars already in the tracks. It does permit the cutting of crossings, cross-walks, etc., the spotting of cars set-out, and the re-spotting of cars that may be moved off spot in the making of the two straight setouts or pickups.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#6A

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Section 1(b) of Article VIII of the Agreement of this date which provides that two straight pickups or setouts may be made without additional compensation.

It is understood that Section 1(b) of Article VIII does not modify the provisions in Article V of the May 13, 1971 National Agreement pertaining to road crews handling solid trains in interchange to or from a foreign carrier.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET, N W WASHINGTON D C 20036/AREA CODE: 202-862-7200

CHA~UESLHOPK nNS, Jr

D. P. I~E                    G. F. DANEIS  
Vic~ Q~ ~d                Vice C~  
Ga~ Ca~                    R T. Kdl~  
                            Du~ar d l~r R~

#7

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VIII - Road, Yard and Incidental Work - of the Agreement of this date.

This confirms the understanding that the provisions in Section 3 thereof, concerning incidental work, are intended to remove any existing restrictions upon the use of employees represented by the BLE to perform the described categories of work and to remove any existing requirements that such employees, if used to perform the work, be paid an arbitrary or penalty amount over and above the normal compensation for their assignment. Such provisions are not intended to infringe upon the work rights of another craft as established on any railroad.

It is further understood that paragraphs (a) and (c) of Section 3 do not contemplate that the engineer will perform such incidental work when other members of the crew are present and available.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1 901 L STREET. N W WASHINGTON. O C 20036/AREA CODE: 202-862 7200

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CHARLES HOPKIN~Jr

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#8

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Section 3, Incidental Work, of Article VIII.

It was understood that the reference to moving, turning, spotting and fueling locomotives contained in Section 3(b) includes the assembling of locomotive power, such as rearranging, increasing or decrea~ing the locomotive consist. It is not contemplated that an engineer will be required to place fuel oil or other supplies on a locomotive if another qualified employee is available for that purpose.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

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I sgree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1 90t L STREET. N W. WASHlNGToN C) C. 20036/AREA CO~E: 2c2-862-72oo

CHARUESLHOPKIN~Jr.

Chairma~t G. F. DANEIS

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Ga~l Coun~ R T. Kdl9

D~r~ d 1~ Rd~

#9

January 31, 1986

Mr. John F. Sytsma President Brotherhood of Locomotive Engineers 1112 Engineers  
Building 1365 Ontario Street Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to Article IX  
Interdivisional Service of the Agreement of this date.

On railroads that elect to preserve existing rules or practices with  
respect to interdivisional runs, the rates paid for miles in excess of the  
number encompassed in a basic dsy will not exceed those paid for under Article  
IX, Section 2(b) of the Agreement of this date.

Please indicate your agreement by signing your name in the space  
provided below.

Yery truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

901 L STREET N W WASHINGTON (~ C 20036/AREA CODE 202-~62-720 o

CHARLES I. HOPKINS Jr

D. P. LEE                      G. F. DANEIS  
V~ Ch~ ~                      Vi~ Ch~  
Ga~ Cau bd R T. Kdly  
Du~ d l~bor Rd~

#9A

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article IX, Interdivisional Service, of the Agreement of this date.

It was understood that except as provided herein, other articles contained in this Agreement, such as (but not limited to) the final terminal delay and deadhead articles, apply to employees working in interdivisional service regardless of when or how such service was or is established. However, overtime rules in interdivisional service that are more favorable to the employee than Article IV, Section 2, of this Agreement will continue to apply to employees who established seniority in engine service prior to November 1, 1985 while such employees are working interdivisional runs established prior to June 1, 1986.

Illustrations of maintaining present overtime rule for existing interdivisional runs without standard overtime rules are shown below: [Based on 104 mile basic day which becomes effective July 1, 1986~ Overtime calculated on basis of 25 m.p.h.,

250 mile run  
On duty 11 hours (1 Hour overtime)  
Basic day of 104 miles  
Daily rate \$111.43  
Mileage rate \$1.0819

Pay:  
Basic day     \$111.43  
Overmiles (250-104)x\$1.0819     157.96  
Overtime 11-(250/25) x (111.43/8)x1.5     20.89

Total \$290.28



Overtime calculated after 9.5 Hours on duty

200 mile run  
On duty 10 hours  
Basic day of 104 miles  
Daily rate \$111.43  
Mileage rate \$1.0819

Pay:

Basic day \$111.43  
Overmiles (200-104)x\$1.0819 103.86  
Overtime 10-9.5x(\$111.43/8)x1.5 10.45

Total \$225.74

The overtime provisions of Article IV, Section 2, of this Agreement will apply to employees who established seniority in engine service prior to November 1, 1985 while such employees are working interdivisional runs established subsequent to June 1, 1986. They will also apply to employees who established seniority in engine service on or after November 1, 1985 regardless of when the interdivisional runs on which they are working were established.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 LSTREET.NW WASHINGTON DC 20036/ AREACODE 202-862-720 o

CHARLES L HOPKINS Jr

D. P. IFE                      G. F. DANIELS  
V, ~ C ~ ~                      V, ~ au ~  
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#10

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article X of the National Agreement of this date permitting certain locomotives which meet the basic minimum standards of the home railroad or section of the home railroad to operate on other railroads or sections of the home railroad.

In reviewing the current standards that exist on the major railroads with respect to such locomotives, we recognized that while the standards varied from one property to another with respect to various details, the standards on all such railroads complied with the minimum essential requirements necessary to permit their use in the manner provided in Article X. For example, such minimum standards for locomotives would include a requirement that there are a sufficient number of seats for all crew members riding in the locomotive consist.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma



NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET N \A/ WASHINGTON, DC 20036/A~ EA COC)E 202-862-7200

CHARLES I HOPKINS, Jr

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Ga~ Ca~                      R T. Kdly

Director of Labor Relations

#11

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that where hostler positions are filled by employees not having firemen's seniority, that before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement, it will be offered to furloughed hostlers who have seniority prior to November 1, 1985, to work as hostler or hostler helper at that location. If such hostlers only have point seniority and there are no furloughed hostlers at such point, but there are such hostlers on furlough with seniority prior to November 1, 1985 at another point in the same geographical area, a vacancy will be offered to such hostlers before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement.

Please indicate your agreement by signing your name in the space provided below.  
Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma



NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET. N W . WASHINGTON, D C 20036/AREA COOE: 202-862-7200

CHARLES I HOPKIN~Ir.

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Ga ler l Co l~            R T. Kdl~

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#12

May 19, 1986

Mr. John F. Sytsma President Brotherhood of Locomotive Engineers 1 1 12  
Engineers Building 1365 Ontario Avenue Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement, it will be offered to furloughed firemen who have seniority prior to November 1, 1985, to work as hostler or hostler helper at location where hostler or hostler helper job is to be discontinued. Such employee will retain recall rights to engine service in accordance with existing agreements.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 LSTREET.NW WASHINGTON DC 20036/AREACO~)E:202-862-7200

CHARLES L HOPKINS, JR.

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#12A

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding that the reference to "another organization" in Article XII, Part A, Section 1 (10)(b), and Part B, Section (7)(b) refers to a labor organization which does not hold representation rights for engine or train service employees on the particular railroad involved.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

t 901 L STREET. N W WASHINGTON 0 C. 20036/AREA COOE 202-862-7200

CHARLES L. HOPKINS, JR.

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#13

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that the term "active firemen, working as such", appearing in Part A, Section 1, Paragraph (11) or Part B, Section 8 of Article XII, includes hostlers who have the right to work as locomotive engineers.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET NW WASHINGTON, DC 20036/AREACODE 202-862 7200

CHARLES I. HOPKINS, Jr.

D. P. IFE C G. F. DANIELS  
Vice Chairman Vice President  
General Manager R. T. ICDL

Director of Labor Relations

#14

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding that in implementation of Article XII, Part B, of the Agreement reached this date, each carrier on which Part B will become effective will meet with the appropriate BLE General Chairman within 10 days for the purpose of reaching an understanding with respect to existing rules covering locomotive firemen and hostlers which will remain in effect, it being the intention of the parties that railroads which are subject to Part B receive the same benefits therefrom as railroads which are subject to Part A. Existing pay rates will remain in effect provided such railroads continue to receive the benefits obtained when such pay rates were negotiated.

In the event a carrier and the appropriate General Chairman do not reach a satisfactory resolution within thirty days from the date of this Agreement, the matter will be referred to the Informal Disputes Committee established pursuant to Article XVI for expedited handling and final and binding arbitration if required.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

901 L S TREET. N W WASHINGTON. D C 20036/ARE A COC)E 2o2-862-72oo

CHUR1ESI HOPK~N~Jr

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# 15

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to our discussions leading to the Agreement of this date, particularly those provisions that relate to firemen. The carriers explained that subject to legal requirements the source of supply for firemen positions would be train service personnel as provided in the recent UTU Agreement. We also explained tha. companion thereto in order to expand the employment potential for present engineers and firemen, whether represented by the BLE or UTU, all of these engine service personnel will be placed in seniority order at the bottom of the appropriate train and/or ground service seniority roster.

The BLE stated that in i;s capacity as ;he authorized representative of employees who have seniority as engineers or who have seniority as firemen, apprentice engineers or other comparable positions it had a legitimate bargaining interes; in negotiating the issue of providing ground service seniority to such employees not now having such seniority even where the ground service crafts are represented by another organization, and insofar as engineers and firemen who now hold or at one time did hold seniority in ground service is concerned, BLE proposed that such employees should be granted seniority as of their original date of hire as brakemen or groundmen.

The BLE also stated that in its capaci.y as the authorized representative of employees who have seniority as engineers and/or firemen, apprentice engineers or other comparable posi;ions, it has a legitimate bargaining interest in negotia;ing the issue of providing engine servlce seniority to train and ground service employees not now having engine service seniority where the ground service crafts are represented by another organization.

-2-

The carriers responded that in their view the matter of providing brakemen seniority to such BLE represented employees is a matter between the carriers and the organization representing brakemen and groundmen, not between the carriers and the BLE that does not represent those classifications. However, the BLE, UTU and carriers, agree on the desirability of engineers and firemen who do not have seniority in train or ground service being given such seniority if they so desire. Therefore this will be done without prejudice to the position of the BLE or the carriers to the extent those positions differ as stated above. However, where this occurs the carriers were not agreeable that such seniority should be retroactive to date of hire of brakemen or groundmen.

Insofar as providing engine service seniority to ground service employees, the carriers position was that this was a matter between the carriers and the organization representing firemen, which in many cases is not the BLE; however, it was unnecessary to address any differences among the parties because here, also, all parties agree that the source of supply for engine service should be ground service employees, and will provide preferential promotional opportunities on that basis.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

.

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

901 L STREET, NW WASHINGTON, DC 20036/AREACODE 202-862-7200

CHARLES L. HOPKIN, Jr.

D. P. IVEY                      G. F. DANEIS  
Vice Chairman                      Vice Chairman  
Camden, NJ                      R. T. KIDLING

Director of Labor Relations

# 16

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to incorporating a Hospital Pre-Admission and Utilization Review Program as part of the benefits provided under the Railroad Employees National Health and Welfare Plan in accordance with Article XV, Section 2(a) of the Agreement of this date.

By agreeing to this benefit program, our principal objectives are to reduce inpatient hospital utilization thereby minimizing exposure to risks of hospitalization or unduly prolonged hospitalization and the risks of unnecessary surgery by encouraging both employee and physician to make the most patient-sensitive and at the same time cost-effective decisions about treatment alternatives.

The program accomplishes these objectives by providing to employees and other beneficiaries ready access to knowledgeable professional personnel when making decisions about their health care. A number of patient-centered services are provided and designed in a manner so as not to impose significant added burdens on individual employees. The comprehensive guidance and support structure begins prior to planned hospitalization and continues through any recovery period.

Specifically, the program shall include review of the propriety of hospital admission (including consideration of health care alternatives such as the use of ambulatory centers or out-patient treatment) benefit counseling, the plan of treatment including the length of confinement, the appropriateness of a second surgical opinion, discharge planning and the use of effective alternative facilities during convalescence.

-2-

We have attached to this letter descriptions of programs currently offered by three leaders in this field that describe in greater detail the operations of these programs and what specifically is involved. These attachments are intended as informational only, describing the kind of program we will establish, and do not suggest that the program we ultimately adopt is limited to what is described or is to be administered by these particular parties.

In order that the program achieves its intended objectives, we have agreed to institute appropriate incentives. For those employees who use the program, plan benefits will be paid as provided and the employee and family will receive the full protection and security of professionals managing their hospital confinement and recovery. For employees who do not use the program, plan benefits will be paid only under the Major Medical Expense Benefit portion of the Plan with the Plan paying 65%, rather than 80%, of covered expenses. However, a maximum total employee expense limitation - "stop-loss" will be maintained.

We recognize that the program described cannot be implemented overnight but will require careful review and examination on the part of us all and will include, as well, time to inform the employees and other beneficiaries covered under the Plan. Furthermore, it is anticipated that the program will include use of alternative facilities, such as home health care options, hospices, office surgery, ambulatory surgi-centers and birthing centers, some of which are either not covered under the Plan now or are not available in the manner envisioned under this new program. Thus, for these reasons we have agreed that implementation of the program will not occur until practicable and that the intervening time will be used to assure that its adoption shall be a constructive and useful addition to the benefits currently provided under the Plan.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

Attachments (Descriptive material furnished BLE)

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET. N W, WASHINGTON. D C 20036/AREA CODE 202-862-720 0

CHARLES I. HOPKINS, JR.

D. P. IRELAND C. G. F. DANEIS

Vice President of the Brotherhood of Locomotive Engineers

General Secretary

Director of Labor Relations

#17

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to the appointment of a neutral person to serve as chairman of the Special Committee established pursuant to Article XV, Section 3, of the Agreement of this date.

In the event we are unable to agree on such a person, the parties will seek the assistance of an appropriate third party for the purpose of providing assistance in identifying individuals qualified to serve in this capacity.

Please indicate your agreement by signing your name in the space provided below.  
Very truly yours,

C. I. Hopkins, Jr.

I agree: -

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET~ N W WASHINGTON. ~C 20036/AREA CO~E: 202-862-7200

CHAPUESLHOPKLN~Jr.

D. P. II~E                    G. F. DANEIS  
Vrc~                        v~a~  
Gcn~l Ca l~ R T. Kdl~

Dulxlor d l~bar R~

#18

May 19, 1986

Mr. Charles I. Hopkins, Jr.  
Chairman  
National Railway Labor Conference  
1901 L Street, N.W., Suite 500  
Washington, DC 20036

Dear Mr. Hopkins:

This is to advise you that I am agreeable to the provisions of Article XV Health and Welfare Plan except .hat in Section 2 (a), "Hospital Pre-Admission and Utilization Review Program", I will agree to the concept of the "Pre-Admission and Utilization Review Program" and will agree to its implementation after the Policyholders have met jointly with representatives of Travelers and have agreed on the changes and understandings that will be necessary to implement the program. There must be ample lead .ime to insure that all covered employees can be notified of the implementation date and will have adequate information about the plan so that they can comply with their responsiblilties in the event they qualify for benefits under the plan.

I take no exception~ to the use of surplus funds, the Reinsurance proposal, the Special Committee and/or the moratorium proposals.

Very truly yours,

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET, N W WASHINGTON, D C 20036/AREA CODE 202-862-7200

CHARLES L. HOPKINS, Jr

D. P. IFE                      G. F. DANIELS  
Vice Chairman and                      via: Cable  
General Counsel                      R. T. Indly

Director of Labor Relations

#19

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to incorporating a Hospital Pre-Admission and Utilization Review Program as part of the benefits provided under the Railroad Employees National Health and Welfare Plan in accordance with Article XV, Section 2(a) of the Agreement of this date.

We recognize that a similar program would be equally appropriate to include as part of the Early Retirement Major Medical Benefit Plan.

Therefore, this confirms our understanding that the program developed for the Health and Welfare Plan shall also be incorporated, with appropriate revisions, if necessary, as part of the Early Retirement Major Medical Benefit Plan as well.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET. N W WASHINGTON D C 20036/ AREA CODE 202-862-7200

CHARLES I HOPKINS, Jr

D. P. IEE                      G. F. DANIEL  
Vice President                  Director

General Counsel                R. T. KIDLING

Director of Labor Relations

#20

May 19, 1986

Mr. John F. Sytsma President Brotherhood of Locomotive Engineers 1112 Engineers  
Building 1365 Ontario Avenue Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding with respect to the pay differential for an engineer working without a fireman and other related matters:

(1) Pay Differential

(a) Notwithstanding the provisions of Article 1, Section 8(g) and (i) (ii) and Article IV, Section 1(a) of the Agreement of this date, the differential of \$4.00 per basic day in freight and yard service and 4 cents per mile for miles in excess of the number of miles encompassed in the basic day in freight service, currently payable to an engineer working without a fireman on locomotives on which under the former National Diesel Agreement of 1950 firemen would have been required, shall be increased to \$6.00 in three installments, \$1.00 effective July 1, 1986, \$.50 effective January 1, 1987; and \$.50 effective January 1, 1988, and to 6 cents per mile in three installments of 1 cent, one-half cent, and one-half cent, respectively, on the same effective dates.

(b) An engineer working with a reduced train crew (established pursuant to a crew consist agreement made subsequent to January 1, 1978) and without a fireman will be allowed the standard reduced train crew allowance for that trip unless the engineer allowance for working without a fireman is greater. In no event will there be any duplication or pyramiding of payments. The term "standard reduced crew allowance" referred to herein, is the \$4.00 paid originally to the members of reduced train crews as that amount has been modified by subsequent general and cost-of-living wage increases.

- 2 -

(c) Existing notices with respect to adjusting the pay differential for an engineer working without a fireman are disposed of by this Agreement and notices concerning this subject are governed by the moratorium provisions of Article XVIII, Section 2 of this Agreement. Existing notices designed to change the compensation relationships between the engineer and other members of the crew where such relationships have been changed because of a crew consist agreement are disposed of by this Agreement and notices concerning this subject shall not be served. However, if the special allowance currently payable to a conductor working with one brakeman is subsequently increased for a conductor working without any brakemen, the organization may serve and pursue to a conclusion as hereafter provided proposals pursuant to the provisions of the Railway Labor Act seeking to adjust compensation relationships for engineers on conductor only assignments.

(d) Any additional allowance shall be limited in amount so that when combined with the differential payable to an engineer working without a fireman, the total amount for that trip or tour of duty shall be no greater than the allowance paid to the conductor of that crew unless the present engineer allowance for working without a fireman is greater. Where the present engineer allowance is greater it shall be converted to the allowance payable to the conductor when the latter allowance exceeds the former.

(e) Where the organization serves such a proposal as above provided, the carrier may serve proposals pursuant to the provisions of the Railway Labor Act for concurrent handling therewith that would achieve offsetting productivity improvements and/or cost savings.

(f) In the event the parties on any carrier are unable to resolve the respective proposals by agreement, the entire dispute will be submitted to final and binding arbitration at the request of either party.

(2) Guaranteed Extra Boards

(a) Carriers that do not have the right to establish additional extra boards or discontinue an extra board shall have that right.

(b) Upon thirty days' advance notice to the appropriate general chairman, a carrier may establish additional extra boards. Upon request of the general chairman, a meeting will be held to discuss the proposed action. However, this shall not serve to delay the establishment of any extra board.

(c) When an extra board is established under this rule it will, unless the general chairman is notified otherwise, protect all jobs on that seniority district whose laying off and reporting points are closer to the location of the extra board than to the locations of other extra boards on that seniority district.

(d) The carrier will regulate the number of employees, if any, assigned to such extra boards and will have the right to discontinue such boards.

(e) While on an extra board established under this rule, each employee will be guaranteed the equivalent of 3000 miles at the basic through freight rate for each calendar month unless the employee is assigned to an exclusive yard service extra board in which event the guarantee will be the equivalent of 22 days' pay at the minimum 5-day yard rate for each calendar month. All earnings during the month will apply against the guarantee. The guarantees of employees who are on the extra board for part of a calendar month will be pro rated.

(f) Except as hereinafter provided, if an employee is suspended as a result of disciplinary action, lays off at his own request with permission, is not available for personal reasons, or misses a call, earnings lost as a result thereof will be deducted from the monthly guarantee. Unless the needs of the service dictate otherwise, employees assigned to an extra board which protects yard service exclusively may lay off for a maximum of two days per month without the earnings lost as a result thereof being deducted from the monthly guarantee.

(g) The maximum number of guaranteed extra boards that can be in operation on a carrier at any one time under this provision is three in the territory of each regular source of supply point on that carrier.

(h) No existing guaranteed extra board will be supplanted by a guaranteed extra board under this rule if the sole reason for the change is to reduce the guarantee applicable to employees on the extra board.

(i) This rule will not be construed as restricting any existing rights of a carrier to establish or discontinue extra boards. The rights conferred by this rule are in addition to preexisting rights.

-4-

This letter of understanding shall not apply on carriers that have agreements with the organization adjusting the compensation of engineers in response to the change in compensation relationships between engineers and other members of the crew brought about by crew consist agreements unless the appropriate BLE General Chairman elects to adopt this letter agreement in lieu of the compensation adjustments provided in such agreement. Such election must be exercised on or before 45 days following the date of this Agreement. If such election is made, the provisions of such local agreements concerning matters other than compensation shall be retained.

Where the General Chairman does not elect to substitute this letter of understanding as provided for in the paragraph above and, therefore, the local agreement remains in effect in its entirety and such local agreement contains a moratorium provision, it is agreed that any special allowance provided for therein that is subject to being increased by general wage increases shall be excluded from the provisions of Article I, Section 8(a), Article II, Section 1(b) and (d), and Article IV, Section 5(a) and (b).

.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

901 L STREET. !~ w WASHINGTON. D C 20036/AREA CO~E 2o2-862-72oo

CHARLES I HOPKINS, Jr

D. P. I~E                    G. F. DANE15  
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G~ Cauad                    R T. Kdly

Di~r d l~r Rd~o~

#20A

May 19, 1986

Mr. John F. Sytsma President Brotherhood of Locomotive Engineers 1112 Engineers Building 1365 Ontario Street Cleveland, OH 44114

Dear Mr. Sytsma:

This refers ;o Letter of Understanding No. 20 and the application of paragraph (b) of (1) Pay Differential with respect to railroads where the BLE has outstanding Section 6 notices to change the compensation relationships between the engineer and other members of the crew where such relationships have been changed because of a crew consist agreement subsequent to January 1, 1978.

This confirms our understanding .hat on such properties the provisions of paragraph (b) apply automatically without further need to confer.

Futhermore, when, in the future, any carrier makes a crew consist agreement as described in the first paragraph, the provision of paragraph (b) under Pay Differential will automatically apply.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

APPLICATION OF LETTER AGREEMENT WITH  
RESPECT TO INTERCRAFT PAY RELATIONSHIPS

The following examples illustrate the maximum allowances that can be obtained under the letter agreement of this date with respect to intercraft pay relationships:

Example 1 - An engineer is on a reduced crew operating a distance of 127 miles in a class of service which has a basic day encompassing 104 miles (July 1, 1986). There is no fireman on the crew, the time consumed on the trip is 9 hours. No duplicate time payments expressed in hours or miles are paid. The conductor is receiving a reduced crew allowance of \$7.31. What would the engineer be paid?

A. The differential provided in letter agreement #20 for operating without a fireman would pay him:

104 miles	\$5.00
23 miles	1.15

TOTAL            \$6.15

Since this is less than the amount the conductor is receiving, the engineer would be paid the \$7.31 reduced crew allowance.

Example 2 - What would the engineer in example 1 be paid if the allowance paid to the conductor was subsequently increased to \$8.00?

A. The engineer would be paid \$8.00

Example 3 - What would the allowance be if the engineer in example 1 were on an assignment operating a distance of 204 miles?

A. The differential provided in letter agreement #20 for operating without a fireman would pay the engineer \$10.00. Since this is more than the amount the conductor is receiving, the engineer would receive nothing additional.

Example 4 - What would the allowance be if the engineer in example 1 had earned two hours overtime on the trip?

A. The standard rule for operating without a fireman would pay the engineer as follows~

Basic Day	\$5.00	
Over-miles (23)	1.15	
Overtime (2 hours)		1.88

TOTAL            \$8.03

This is more than what the conductor received, so the engineer would receive nothing additional,

Example 5 - An engineer is on a reduced crew operating a distance of 127 miles in a class of service which has a basic day encompassing 106 miles (January 1, 1988). There is no fireman on the crew. The time consumed on the trip is 9 hours. No duplicate time payments expressed in hours or miles are paid. The conductor on that railroad is receiving a reduced crew allowance of \$7.87. What would the engineer be paid?

A. The differential provided in letter agreement #20 for operating without a fireman would pay him:

106 miles	\$6.00	21 miles	1.26
TOTAL	\$7.26		

Since this is less than the amount the conductor is receiving, the engineer would be paid the reduced crew allowance of \$7.87.

NATIONAL RAILWAY LABOR CONFERENCE

1901 L STREET, N W . WASHINGTON, D C 20036/AREA CODE 202-62-7200

CHARLES HOPKINS, Jr

D. P. I~E Chairman G. F. DANIELS  
vicr C~ a~ vitr C~

G~ Ca~ R T. Kc{ly

#22

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

During the negotiations that led to the Agreement of this date, the representatives of the Brotherhood of Locomotive Engineers expressed concern as to the possible erosion of the traditional authority and responsibility vested in the engineer while operating a locomotive in those situations where the conductor and any other train crew members are located on the locomotive because of the elimination of the caboose.

The carriers responded that the responsibility and authority of the engineer is not a collective bargaining subject; rather it is a matter of operational policy subject to operating rules and/or other management instructions. The BLE did not agree on this point but the matter was resolved on the basis of the carriers' statement that the removal of cabooses and the consequent relocation of train crew personnel to the locomotive cab did not diminish nor otherwise alter the authority and responsibility of the engineer.

Because of the significance the BLE attaches to this matter, I am sending a copy of this letter to the Member Lines to advise them that while nothing has been said or done in our negotiations to change any railroad's rules, policies or management practices, we have assured the BLE that the elimination of cabooses and relocation of train service personnel does not alter those rules, policies or management practices.

Very truly yours,

C. I. Hopkins, Jr.



JOINT STATEMENT CONCERNING EFFORTS TO IMPROVE THE  
COMPETITIVE ABILITIES OF THE INDUSTRY

This refers to our discussions during the recent negotiations with respect to improving our industry's ability to compete effectively with other modes of transportation and to attract new business to the railroads.

We recognize that opportunities will present themselves on railroads to promote new business and preserve existing business by providing more efficient and more expedient service. It is our mutual objective to provide this improved service by making changes, as may be necessary, in operations and with agreement rule exceptions and accommodations in specific situations and circumstances.

It is difficult to list specific rules or operations that might need modifications or exceptions in order to provide the services that may be necessary to obtain and operate new business that can be obtained from other modes of transportation. We are in agreement, however, that necessary operational changes and rules modifications or exceptions should be encouraged to obtain new business, preserve specifically endangered business currently being hauled, or to significantly improve the transit time of existing freight movements.

We recognize that attracting new business and retaining present business depends not only on reducing service costs, but also on improving service to customers.

During our discussions, the Lake Erie Plan was advanced by BLE, in part, as a collective bargaining proposal and as a representation of the BLE's search for a possible approach to enhanced competitive strength for the industry. Although the significance of the plan may not necessarily be in the specifics, the underlying goal of realizing the industry's full potential in the transportation marketplace is such that further consideration of such concepts may be warranted as a means of achieving this goal by cooperative, aggressive undertakings by the BLE, the UTU and the railroads.

The Informal Disputes Committee will encourage expedited resolutions on individual railroads consistent with these goals and will provide counsel, guidelines and other assistance in making necessary operational and or agreement rule changes to provide the type service necessary to meet these goals.

We sincerely believe that cooperation between the management and the employees will result in more business and job opportunities and better service which will insure our industry's future strength and growth.

John F. Sytsma  
Chairman Brotherhood of Locomotive  
Engineers Committee

C. I. Hopkins, Jr. President  
National Carriers' Conference



SIDE LETTERS TO THE AWARD OF ARBITRATION BOARD NO. 458

# 1

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

In accordance with our understanding, this is to confirm that the carriers will make their best efforts to provide the lump sum payment provided for in Article III of this Agreement in a single, separate check within sixty (60) days.

If a carrier finds it impossible to make such payments within sixty (60) days, it is understood that such carrier will notify the General Chairmen, in writing, as to why such payments have not been made and indicate when it will be possible to make such payments.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#2

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

It is understood that the lump sum payment provided in Article III of the Agreement of this date will not be used to offset, construct or increase guarantees in protective agreements or arrangements.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#3

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding that the provisions of Article IX - Entry Rates of the July 26, 1978 National Agreement shall no longer apply on railroads parties to this Agreement except, however, that such Article or local rules or practices pertaining to this subject shall continue to apply to employees previously covered by such rules.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#3A

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article V of the Agreement of this date concerning the final terminal delay rule, particularly our understanding with respect to the use of the term "deliberately delayed" in Section 1 of that Article.

During the discussions that led to our Agreement, you expressed concern with situations where a crew was instructed to stop and was held outside the terminal between the last siding or station and the point where final terminal delay begins and there was no operational impediment to the crew bringing its train into the terminal; i.e., the train was deliberately delayed by yard supervision. Accordingly, we agreed that Section 1 would comprehend such situations.

On the other hand, the carriers were concerned that the term "deliberately delayed" not be construed in such a manner as to include time when crews were held between the last siding or station and the point where final terminal delay begins because of typical railroad operations, emergency conditions, or appropriate managerial decisions. A number of examples were cited including, among others, situations where a train is stopped: to allow another train to run around it; for a crew to check for hot boxes or defective equipment; for a crew to switch a plant; at a red signal (except if stopped because of a preceding train which has arrived at final terminal delay point and is on final terminal time, the time of such delay by the crew so stopped will be calculated as final terminal delay); because of track or signal maintenance or construction work; to allow an outbound train to come out of the yard; and because of a derailment inside the yard which prevents the train held from being yarded on the desired track, e.g., the receiving track. We agreed that Section 1 did not comprehend such conditions.

#3A

-2-

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#3B

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article V of the Agreement of this date concerning the payment of mileage operated in the final terminal in the application of the final terminal delay rule.

In accordance with Article V, final terminal delay is to be computed from the time the engine reaches the switch used in entering the final yard within a terminal where the train is to be left or yarded until finally relieved from duty.

In the application of such provision, on railroads where road mileage ends at present FTD points, road mileage will be adjusted by the distance between the present FTD point(s) and new FTD point(s) established by this Article V.

On railroads which presently compute trip mileage (1) from center of the yard at the initial terminal to center of the yard at the final terminal, (2) from roundhouse at the initial terminal to the roundhouse at the final terminal, (3) on basis of established mileage as agreed upon regardless of the location in the final terminal where trains are actually yarded, or (4) under similar situations, such trip mileage will continue to apply and the 60-minute period referred to in Article V will be extended pursuant to Section 2 thereof for trip mileage allowed after passing new FTD point(s).

- 2 -

Please indicate your agreement by signing your name in the space provided below:

truly yours,

Very

I. Hopkins, Jr.

C.

I agree:

John F. Sytsma

#4

EXAMPLES OF APPLICATION OF DEADHEAD RULE, ARTICLE

VI

The following examples illustrate application of the rule to all employees regardless of when their seniority date in engine service was established, except where specifically stated otherwise:

1. What payment would be due an engineer who performed road service from A, the home terminal, to B, the away-from-home terminal, a distance of 170 miles, and deadheaded from B to A, with the service and deadhead combined between A-B-A?

A. A minimum day and 70 over-miles for the service and a minimum day and 70 over-miles for the deadhead.

2. What would be the payment under Question 1 if the distance between A and B were 75 miles?

A. A minimum day and 50 over-miles.

3. What payment would be due an engineer who performed road service from A to B, a distance of 170 miles, taking rest at B, and then being deadheaded separate and apart from service from B to A, with the deadhead consuming 8 hours?

A. A minimum day and 70 over-miles for the service trip from A to B, and a minimum day at the basic rate applicable to the class of service in connection with which the deadheading is performed.

4. What payment would be due an engineer who performed road service from A to B, a distance of 170 miles, taking rest at B, and then deadheading separately from service B to A, with the deadhead being completed in 10 hours?

A. He would be paid a minimum day and 70 over-miles for the service trip from A to B, and 10 hours straight time rate of pay at the basic rate applicable to the class of service in connection with which the deadheading is performed.

5. An engineer operates a train from his home terminal, point A, to the away-from-home terminal, point B, a distance of 170 miles. Upon arrival at the away-from-home terminal, he is ordered to deadhead, separate and apart from service, to the home terminal. The time deadheading is 5 hours. What payment is due?

A. A minimum day plus 70 over-miles for service. A minimum day for deadhead if employees' seniority in engine or train service antedates November 1, 1985; otherwise, 5 hours.

6. Would at least a minimum day at the basic rate applicable to the class of service in connection with which the deadheading is performed be paid when a deadhead is separate and apart from service and the actual time consumed is the equivalent of a minimum day or less?

A. Yes, for employees whose seniority in engine or train service antedates November 1, 1985. Actual time will be paid to others.

7. An engineer is called to deadhead from point A to point B, a distance of 50 miles, to operate a train back to point A. He is instructed to combine deadhead and service. Total elapsed time for the deadhead and service is 7 hours, 30 minutes. What payment is due?

A. A minimum day.

8. An engineer is called to deadhead from point A to point B, a distance of 50 miles, to operate a train from point B to point C, a distance of 75 miles. He is instructed to combine deadhead and service. Total elapsed time is 10 hours. What payment is due?

A. A minimum day plus 25 over-miles.

9. An engineer operates a train from point A to point B, a distance of 50 miles. He is ordered to deadhead back to point A, service and deadhead combined. Total elapsed time, 8 hours, 30 minutes. What payment is due?

A. A minimum day plus 30 minutes overtime.

10. An engineer operates a train from his home terminal, point A, to the away-from-home terminal, point B, a distance of 275 miles. After rest, he is ordered to deadhead, separate and apart from service, to the home terminal. Time deadheading is 9 hours, 10 minutes. What payment is due?

A. A minimum day plus 175 over-miles for service, 9 hours, 10 minutes straight time for the deadhead.

11. How is an engineer to know whether or not deadheading is combined with service?

A. When deadheading for which called is combined with subsequent service, the engineer should be notified when called. When deadheading is to be combined with prior service, the engineer should be notified before being relieved from service. If not so notified, deadheading and service cannot be combined.

- 3-

The following examples illustrate the application of the rule to employees whose earliest seniority date in engine or train service is established on or after November 1, 1985:

1. An engineer is called to deadhead from his home terminal to an away-from-home point. He last performed service 30 hours prior to commencing the deadhead trip. The deadhead trip consumed 5 hours and was not combined with the service trip. The service trip out of the away-from-home terminal began within 6 hours from the time the deadhead trip was completed. What payment is due?

A. 5 hours at the straight time rate.

2. What payment would have been made to the engineer in example 1 if the service trip out of the away-from-home terminal had begun 17 hours after the time the deadhead trip ended, and the held-away rule was not applicable?

A. A minimum day for the deadhead.

3. What payment would have been made to the engineer in example 1 if the service trip out of the away-from-home terminal had begun 18 hours after the time the deadhead trip ended, and the engineer received 2 hours pay under the held-away rule?

A. 6 hours at the straight time rate.

4. An engineer is deadheaded to the home terminal after having performed service into the away-from-home terminal. The deadhead trip, which consumed 5 hours and was not combined with the service trip, commenced 8 hours after the service trip ended. What payment is due?

A. 5 hours at the straight time rate.

5. What payment would have been made to the engineer in example 4 if the deadhead trip had begun 18 hours after the service trip ended and the held-away rule was not applicable.

A. A minimum day for the deadhead.

6. What payment would have been made to the engineer in example 4 if the deadhead trip had begun 18 hours after the time the service trip ended and the engineer received 2 hours pay under the held-away rule?

A. 6 hours at the straight time rate.

7. An engineer is deadheaded from the home terminal to an away-from-home location. Ten (10) hours after completion of the trip, he is deadheaded to the home terminal without having performed service. The deadhead trips each consumed two hours. What payment is due?

A. A minimum day for the combined deadhead trips.

\* NOTE: The amount of over-miles shown in the examples are on the basis of a 100 mile day. The number of over-miles will be reduced in accordance with the application of Article IV, Section 2, of this Agreement.

#5

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VII, Road Switchers of the Agreement of this date.

In the application of Section 1(c) of the Article, it was understood that if a carrier without a pre-existing right to reduce a seven day assignment described in Section 1(a) to a lesser number of days reduces such an assignment to six days per week, the 48-minute allowance will be payable to employees on the assignment whose seniority date in engine or train service precedes November 1, 1985. If the carrier reduces the same assignment from seven days to five, an allowance of 96 minutes would be payable.

Conversely, if the carrier had the pre-existing right to reduce a seven day assignment described in Section 1(a) to six days per week, but not to five days, and reduced the seven day assignment to six days per week, no allowance would be payable. If it reduced the assignment from seven days to five days, an allowance of 48 minutes would be payable.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#6

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VIII, Section 1(b), of the Agreement of this date which provides that only two straight pickups or setouts will be made. This does not allow cars to be cut in behind other cars already in the tracks or cars to be picked up from behind other cars already in the tracks. It does permit the cutting of crossings, cross-walks, etc., the spotting of cars set-out, and the re-spotting of cars that may be moved off spot in the making of the two straight setouts or pickups.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Section 1(b) of Article VIII of the Agreement of this date which provides that two straight pickups or setouts may be made without additional compensation.

It is understood that Section 1(b) of Article VIII does not modify the provisions in Article V of the May 13, 1971 National Agreement pertaining to road crews handling solid trains in interchange to or from a foreign carrier.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

I. Hopkins, Jr.

C.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article VIII - Road, Yard and Incidental Work - of the Agreement of this date.

This confirms the understanding that the provisions in Section 3 thereof, concerning incidental work, are intended to remove any existing restrictions upon the use of employees represented by the BLE to perform the described categories of work and to remove any existing requirements that such employees, if used to perform the work, be paid an arbitrary or penalty amount over and above the normal compensation for their assignment. Such provisions are not intended to infringe upon the work rights of another craft as established on any railroad.

It is further understood that paragraphs (a) and (c) of Section 3 do not contemplate that the engineer will perform such incidental work when other members of the crew are present and available.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#8

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Section 3, Incidental Work, of Article VIII.

It was understood that the reference to moving, turning, spotting and fueling locomotives contained in Section 3(b) includes the assembling of locomotive power, such as rearranging, increasing or decreasing the locomotive consist. It is not contemplated that an engineer will be required to place fuel oil or other supplies on a locomotive if another qualified employee is available for that purpose.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

January 31, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to Article IX  
Interdivisional Service of the Agreement of this date.

On railroads that elect to preserve existing rules or practices with  
respect to interdivisional runs, the rates paid for miles in excess of the  
number encompassed in a basic dsy will not exceed those paid for under Article  
IX, Section 2(b) of the Agreement of this date.

Please indicate your agreement by signing your name in the space  
provided below.

Very truly yours,

I. Hopkins, Jr.

C.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article IX, Interdivisional Service, of the Agreement of this date.

It was understood that except as provided herein, other articles contained in this Agreement, such as (but not limited to) the final terminal delay and deadhead articles, apply to employees working in interdivisional service regardless of when or how such service was or is established. However, overtime rules in interdivisional service that are more favorable to the employee than Article IV, Section 2, of this Agreement will continue to apply to employees who established seniority in engine service prior to November 1, 1985 while such employees are working interdivisional runs established prior to June 1, 1986.

Illustrations of maintaining present overtime rule for existing interdivisional runs without standard overtime rules are shown below: (Based on 104 mile basic day which becomes effective July 1, 1986)

Overtime calculated on basis of 25 m.p.h.,

250 mile run  
On duty 11 hours (1 Hour overtime)  
Basic day of 104 miles  
Daily rate \$111.43  
Mileage rate \$1.0819

Pay:  
Basic day

\$111.43	
Overmiles (250-104)x\$1.0819	157.96
Overtime 11 - (250/25)x(111.43/8)x1.5	20.89
	Total
\$290.28	

Overtime calculated after 9.5 hours on duty

200 mile run  
On duty 10 hours  
Basic day of 104 miles  
Daily rate \$111.43  
Mileage rate \$1.0819

Pay:  
Basic Day \$111.43  
Overmiles (200-104)x\$1.0819 103.86  
Overtime 10-9.5x(\$111.43/8)x1.5 10.45

Total \$225.74

The overtilme provisions of Article IV, Section 2, of this Agreement will apply to employees who established seniority in engine service prior to November 1, 1985 while such employees are working interdivisional runs established subsequent to June 1, 1986. They will also apply to employees who established seniority in engine service on or after November 1, 1985 regardless of when the interdivisional runs on which they are working were established.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C.I. Hopkins, Jr.

I agree:

John F. Sytsma

NATIONAL RAILWAY LABOR CONFERENCE

#10

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Article X of the National Agreement of this date permitting certain locomotives which meet the basic minimum standards of the home railroad or section of the home railroad to operate on other railroads or sections of the home railroad.

In reviewing the current standards that exist on the major railroads with respect to such locomotives, we recognized that while the standards varied from one property to another with respect to various details, the standards on all such railroads complied with the minimum essential requirements necessary to permit their use in the manner provided in Article X. For example, such minimum standards for locomotives would include a requirement that there are a sufficient number of seats for all crew members riding in the locomotive consist.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.  
I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that where hostler positions are filled by employees not having firemen's seniority, that before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement, it will be offered to furloughed hostlers who have seniority prior to November 1, 1985, to work as hostler or hostler helper at that location. If such hostlers only have point seniority and there are no furloughed hostlers at such point, but there are such hostlers on furlough with seniority prior to November 1, 1985 at another point in the same geographical area, a vacancy will be offered to such hostlers before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

I. Hopkins, Jr.

C.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that before a carrier discontinues a hostler or hostler helper position pursuant to Article XII, Part A, Section 1(10) or Part B, Section 7(b) of this Agreement, it will be offered to furloughed firemen who have seniority prior to November 1, 1985, to work as hostler or hostler helper at location where hostler or hostler helper job is to be discontinued. Such employees will retain recall rights to engine service in accordance with existing agreements.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

#12A

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding that the reference to "another organization" in Article XII, Part A, Section 1 (10) (b), and Part B, Section (7) (b) refers to a labor organization which does not hold representation rights for engine or train service employees on the particular railroad involved.

Please indicate your agreement by signing your name in the space provided below.

yours,

Very truly

Hopkins, Jr.

C. I.

I agree:

John F. Sytsma

#13

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding during the negotiations of the Agreement of this date that the term "active firemen, working as such", appearing in Part A, Section 1, Paragraph (11) or Part B, Section 8 of Article XII, includes hostlers who have the right to work as locomotive engineers.

Please indicate your agreement by signing your name in the space provided below.

truly yours,

Very

Hopkins, Jr.

C. I.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding that in implementation of Article XII, Part B, of the Agreement reached this date, each carrier on which Part B will become effective will meet with the appropriate BLE General Chairman within 10 days for the purpose of reaching an understanding with respect to existing rules covering locomotive firemen and hostlers which will remain in effect, it being the intention of the parties that railroads which are subject to Part B receive the same benefits therefrom as railroads which are subject to Part A. Existing pay rates will remain in effect provided such railroads continue to receive the benefits obtained when such pay rates were negotiated.

In the event a carrier and the appropriate General Chairman do not reach a satisfactory resolution within thirty days from the date of this Agreement, the matter will be referred to the Informal Disputes Committee established pursuant to Article XVI for expedited handling and final and binding arbitration if required.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to our discussions leading to the Agreement of this date, particularly those provisions that relate to firemen. The carriers explained that subject to legal requirements the source of supply for firemen positions would be train service personnel as provided in the recent UTU Agreement. We also explained that companion thereto in order to expand the employment potential for present engineers and firemen, whether represented by the BLE or UTU, all of these engine service personnel will be placed in seniority order at the bottom of the appropriate train and/or ground service seniority roster.

The BLE stated that in its capacity as the authorized representative of employees who have seniority as engineers or who have seniority as firemen, apprentice engineers or other comparable positions it had a legitimate bargaining interest in negotiating the issue of providing ground service seniority to such employees not now having such seniority even where the ground service crafts are represented by another organization, and insofar as engineers and firemen who now hold or at one time did hold seniority in ground service is concerned, BLE proposed that such employees should be granted seniority as of their original date of hire as brakemen or groundmen.

The BLE also stated that in its capacity as the authorized representative of employees who have seniority as engineers and/or firemen, apprentice engineers or other comparable positions, it has a legitimate bargaining interest in negotiating the issue of providing engine service seniority to train and ground service employees not now having engine service seniority where the ground service crafts are represented by another organization.

-2-

The carriers responded that in their view the matter of providing brakemen seniority to such BLE represented employees is a matter between the carriers and the organization representing brakemen and groundmen, not between the carriers and the BLE that does not represent those classifications. However, the BLE, UTU and carriers, agree on the desirability of engineers and firemen who do not have seniority in train or ground service being given such seniority if they so desire. Therefore this will be done without prejudice to the position of the BLE or the carriers to the extent those positions differ as stated above. However, where this occurs the carriers were not agreeable that such seniority should be retroactive to date of hire as brakemen or groundmen.

Insofar as providing engine service seniority to ground service employees, the carriers position was that this was a matter between the carriers and the organization representing firemen, which in many cases is not the BLE; however, it was unnecessary to address any differences among the parties because here, also, all parties agree that the source of supply for engine service should be ground service employees, and will provide preferential promotional opportunities on that basis.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

I. Hopkins, Jr.

I agree:

.

John F. Sytsma

C.

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to incorporating a Hospital Pre-Admission and Utilization Review Program as part of the benefits provided under the Railroad Employees National Health and Welfare Plan in accordance with Article XV, Section 2(a) of the Agreement of this date.

By agreeing to this benefit program, our principal objectives are to reduce in-patient hospital utilization thereby minimizing exposure to risks of hospitalization or unduly prolonged hospitalization and the risks of unnecessary surgery by encouraging both employee and physician to make the most patient-sensitive and at the same time cost-effective decisions about treatment alternatives.

The program accomplishes these objectives by providing to employees and other beneficiaries ready access to knowledgeable professional personnel when making decisions about their health care. A number of patient-centered services are provided and designed in a manner so as not to impose significant added burdens on individual employees. The comprehensive guidance and support structure begins prior to planned hospitalization and continues through any recovery period.

Specifically, the program shall include review of the propriety of hospital admission (including consideration of health care alternatives such as the use of ambulatory centers or out-patient treatment) benefit counseling, the plan of treatment including the length of confinement, the appropriateness of a second surgical opinion, discharge planning and the use of effective alternative facilities during convalescence.

-2-

We have attached to this letter descriptions of programs currently offered by three leaders in this field that describe in greater detail the operations of these programs and what specifically is involved. These attachments are intended as informational only, describing the kind of program we will establish, and do not suggest that the program we ultimately adopt is limited to what is described or is to be administered by these particular parties.

In order that the program achieves its intended objectives, we have agreed to institute appropriate incentives. For those employees who use the program, plan benefits will be paid as provided and the employee and family will receive the full protection and security of professionals managing their hospital confinement and recovery. For employees who do not use the program, plan benefits will be paid only under the Major Medical Expense Benefit portion of the Plan with the Plan paying 65%, rather than 80%, of covered expenses. However, a maximum total employee expense limitation - "stop-loss" will be maintained.

We recognize that the program described cannot be implemented overnight but will require careful review and examination on the part of us all and will include, as well, time to inform the employees and other beneficiaries covered under the Plan. Furthermore, it is anticipated that the program will include use of alternative facilities, such as home health care options, hospices, office surgery, ambulatory surgi-centers and birthing centers, some of which are either not covered under the Plan now or are not available in the manner envisioned under this new program. Thus, for these reasons we have agreed that implementation of the program will not occur until practicable and that the intervening time will be used to assure that its adoption shall be a constructive and useful addition to the benefits currently provided under the Plan.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.  
Attachments (Descriptive material furnished BLE)  
I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to the appointment of a neutral person to serve as chairman of the Special Committee established pursuant to Article XV, Section 3, of the Agreement of this date.

In the event we are unable to agree on such a person, the parties will seek the assistance of an appropriate third party for the purpose of providing assistance in identifying individuals qualified to serve in this capacity.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree: -

John F. Sytsma

May 19, 1986

Mr. Charles I. Hopkins, Jr.  
Chairman  
National Railway Labor Conference  
1901 L Street, N.W., Suite 500  
Washington, DC 20036

Dear Mr. Hopkins:

This is to advise you that I am agreeable to the provisions of Article XV Health and Welfare Plan except that in Section 2 (a), "Hospital Pre-Admission and Utilization Review Program", I will agree to the concept of the "Pre-Admission and Utilization Review Program" and will agree to its implementation after the Policyholders have met jointly with representatives of Travelers and have agreed on the changes and understandings that will be necessary to implement the program. There must be ample lead time to insure that all covered employees can be notified of the implementation date and will have adequate information about the plan so that they can comply with their responsibilities in the event they qualify for benefits under the plan.

I take no exceptions to the use of surplus funds, the Reinsurance proposal, the Special Committee and/or the moratorium proposals.

Very truly yours,

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This confirms our understanding with respect to incorporating a Hospital Pre-Admission and Utilization Review Program as part of the benefits provided under the Railroad Employees National Health and Welfare Plan in accordance with Article XV, Section 2(a) of the Agreement of this date.

We recognize that a similar program would be equally appropriate to include as part of the Early Retirement Major Medical Benefit Plan.

Therefore, this confirms our understanding that the program developed for the Health and Welfare Plan shall also be incorporated, with appropriate revisions, if necessary, as part of the Early Retirement Major Medical Benefit Plan as well.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Avenue  
Cleveland, OH 44114

Dear Mr. Sytsma:

This will confirm our understanding with respect to the pay differential for an engineer working without a fireman and other related matters:

(1) Pay Differential

(a) Notwithstanding the provisions of Article 1, Section 8(g) and (i) (ii) and Article IV, Section 1(a) of the Agreement of this date, the differential of \$4.00 per basic day in freight and yard service and 4 cents per mile for miles in excess of the number of miles encompassed in the basic day in freight service, currently payable to an engineer working without a fireman on locomotives on which under the former National Diesel Agreement of 1950 firemen would have been required, shall be increased to \$6.00 in three installments, \$1.00 effective July 1, 1986, \$.50 effective January 1, 1987; and \$.50 effective January 1, 1988, and to 6 cents per mile in three installments of 1 cent, one-half cent, and one-half cent, respectively, on the same effective dates.

(b) An engineer working with a reduced train crew (established pursuant to a crew consist agreement made subsequent to January 1, 1978) and without a fireman will be allowed the standard reduced train crew allowance for that trip unless the engineer allowance for working without a fireman is greater. In no event will there be any duplication or pyramiding of payments. The term "standard reduced crew allowance" referred to herein, is the \$4.00 paid originally to the members of reduced train crews as that amount has been modified by subsequent general and cost-of-living wage increases.

- 2 -

(c) Existing notices with respect to adjusting the pay differential for an engineer working without a fireman are disposed of by this Agreement and notices concerning this subject are governed by the moratorium provisions of Article XVIII, Section 2 of this Agreement. Existing notices designed to change the compensation relationships between the engineer and other members of the crew where such relationships have been changed because of a crew consist agreement are disposed of by this Agreement and notices concerning this subject shall not be served. However, if the special allowance currently payable to a conductor working with one brakeman is subsequently increased for a conductor working without any brakemen, the organization may serve and pursue to a conclusion as hereafter provided proposals pursuant to the provisions of the Railway Labor Act seeking to adjust compensation relationships for engineers on conductor only assignments.

(d) Any additional allowance shall be limited in amount so that when combined with the differential payable to an engineer working without a fireman, the total amount for that trip or tour of duty shall be no greater than the allowance paid to the conductor of that crew unless the present engineer allowance for working without a fireman is greater. Where the present engineer allowance is greater it shall be converted to the allowance payable to the conductor when the latter allowance exceeds the former.

(e) Where the organization serves such a proposal as above provided, the carrier may serve proposals pursuant to the provisions of the Railway Labor Act for concurrent handling therewith that would achieve offsetting productivity improvements and/or cost savings.

(f) In the event the parties on any carrier are unable to resolve the respective proposals by agreement, the entire dispute will be submitted to final and binding arbitration at the request of either party.

(2) Guaranteed Extra Boards

(a) Carriers that do not have the right to establish additional extra boards or discontinue an extra board shall have that right.

(b) Upon thirty days' advance notice to the appropriate general chairman, a carrier may establish additional extra boards. Upon request of the general chairman, a meeting will be held to discuss the proposed action. However, this shall not serve to delay the establishment of any extra board.

(c) When an extra board is established under this rule it will, unless the general chairman is notified otherwise, protect all jobs on that seniority district whose laying off and reporting points are closer to the location of the extra board than to the locations of other extra boards on that seniority district.

(d) The carrier will regulate the number of employees, if any, assigned to such extra boards and will have the right to discontinue such boards.

(e) While on an extra board established under this rule, each employee will be guaranteed the equivalent of 3000 miles at the basic through freight rate for each calendar month unless the employee is assigned to an exclusive yard service extra board in which event the guarantee will be the equivalent of 22 days' pay at the minimum 5-day yard rate for each calendar month. All earnings during the month will apply against the guarantee. The guarantees of employees who are on the extra board for part of a calendar month will be pro rated.

(f) Except as hereinafter provided, if an employee is suspended as a result of disciplinary action, lays off at his own request with permission, is not available for personal reasons, or misses a call, earnings lost as a result thereof will be deducted from the monthly guarantee. Unless the needs of the service dictate otherwise, employees assigned to an extra board which protects yard service exclusively may lay off for a maximum of two days per month without the earnings lost as a result thereof being deducted from the monthly guarantee.

(g) The maximum number of guaranteed extra boards that can be in operation on a carrier at any one time under this provision is three in the territory of each regular source of supply point on that carrier.

(h) No existing guaranteed extra board will be supplanted by a guaranteed extra board under this rule if the sole reason for the change is to reduce the guarantee applicable to employees on the extra board.

(i) This rule will not be construed as restricting any existing rights of a carrier to establish or discontinue extra boards. The rights conferred by this rule are in addition to preexisting rights.

-4-

This letter of understanding shall not apply on carriers that have agreements with the organization adjusting the compensation of engineers in response to the change in compensation relationships between engineers and other members of the crew brought about by crew consist agreements unless the appropriate BLE General Chairman elects to adopt this letter agreement in lieu of the compensation adjustments provided in such agreement. Such election must be exercised on or before 45 days following the date of this Agreement. If such election is made, the provisions of such local agreements concerning matters other than compensation shall be retained.

Where the General Chairman does not elect to substitute this letter of understanding as provided for in the paragraph above and, therefore, the local agreement remains in effect in its entirety and such local agreement contains a moratorium provision, it is agreed that any special allowance provided for therein that is subject to being increased by general wage increases shall be excluded from the provisions of Article I, Section 8(a), Article II, Section 1(b) and (d), and Article IV, Section 5(a) and (b).

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

This refers to Letter of Understanding No. 20 and the application of paragraph (b) of (1) Pay Differential with respect to railroads where the BLE has outstanding Section 6 notices to change the compensation relationships between the engineer and other members of the crew where such relationships have been changed because of a crew consist agreement subsequent to January 1, 1978.

This confirms our understanding that on such properties the provisions of paragraph (b) apply automatically without further need to confer.

Futhermore, when, in the future, any carrier makes a crew consist agreement as described in the first paragraph, the provision of paragraph (b) under Pay Differential will automatically apply.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

C. I. Hopkins, Jr.

I agree:

John F. Sytsma

APPLICATION OF LETTER AGREEMENT WITH  
RESPECT TO INTERCRAFT PAY RELATIONSHIPS

The following examples illustrate the maximum allowances that can be obtained under the letter agreement of this date with respect to intercraft pay relationships:

Example 1 - An engineer is on a reduced crew operating a distance of 127 miles in a class of service which has a basic day encompassing 104 miles (July 1, 1986). There is no fireman on the crew, The time consumed on the trip is 9 hours. No duplicate time payments expressed in hours or miles are paid. The conductor is receiving a reduced crew allowance of \$7.31. What would the engineer be paid?

A. The differential provided in letter agreement #20 for operating without a fireman would pay him:

104 miles	\$5.00
23 miles	1.15

TOTAL            \$6.15

Since this is less than the amount the conductor is receiving, the engineer would be paid the \$7.31 reduced crew allowance.

Example 2 - What would the engineer in example 1 be paid if the allowance paid to the conductor was subsequently increased to \$8.00?

A. The engineer would be paid \$8.00

Example 3 - What would the allowance be if the engineer in example 1 were on an assignment operating a distance of 204 miles?

A. The differential provided in letter agreement #20 for operating without a fireman would pay the engineer \$10.00. Since this is more than the amount the conductor is receiving, the engineer would receive nothing additional.

Example 4 - What would the allowance be if the engineer in example 1 had earned two hours overtime on the trip?

A. The standard rule for operating without a fireman would pay the engineer as follows:

Basic Day	\$5.00	
Overmiles (23)		\$1.15
Overtime (2 Hours)		\$1.88
TOTAL		\$8.03

This is more than what the conductor received, so the engineer would receive nothing additional,

Example 5 - An engineer is on a reduced crew operating a distance of 127 miles in a class of service which has a basic day encompassing 106 miles (January 1, 1988). There is no fireman on the crew. The time consumed on the trip is 9 hours. No duplicate time payments expressed in hours or miles are paid. The conductor on that railroad is receiving a reduced crew allowance of \$7.87. What would the engineer be paid?

A. The differential provided in letter agreement #20 for operating without a fireman would pay him:

106 miles	\$6.00
21 miles	1.26

TOTAL           \$7.26

Since this is less than the amount the conductor is receiving, the engineer would be paid the reduced crew allowance of \$7.87.

May 19, 1986

Mr. John F. Sytsma  
President  
Brotherhood of Locomotive Engineers  
1112 Engineers Building  
1365 Ontario Street  
Cleveland, OH 44114

Dear Mr. Sytsma:

During the negotiations that led to the Agreement of this date, the representatives of the Brotherhood of Locomotive Engineers expressed concern as to the possible erosion of the traditional authority and responsibility vested in the engineer while operating a locomotive in those situations where the conductor and any other train crew members are located on the locomotive because of the elimination of the caboose.

The carriers responded that the responsibility and authority of the engineer is not a collective bargaining subject; rather it is a matter of operational policy subject to operating rules and/or other management instructions. The BLE did not agree on this point but the matter was resolved on the basis of the carriers' statement that the removal of cabooses and the consequent relocation of train crew personnel to the locomotive cab did not diminish nor otherwise alter the authority and responsibility of the engineer.

Because of the significance the BLE attaches to this matter, I am sending a copy of this letter to the Member Lines to advise them that while nothing has been said or done in our negotiations to change any railroad's rules, policies or management practices, we have assured the BLE that the elimination of cabooses and relocation of train service personnel does not alter those rules, policies or management practices.

Very truly yours,

C. I. Hopkins, Jr.

JOINT STATEMENT CONCERNING EFFORTS TO IMPROVE THE  
COMPETITIVE ABILITIES OF THE INDUSTRY

This refers to our discussions during the recent negotiations with respect to improving our industry's ability to compete effectively with other modes of transportation and to attract new business to the railroads.

We recognize that opportunities will present themselves on railroads to promote new business and preserve existing business by providing more efficient and more expedient service. It is our mutual objective to provide this improved service by making changes, as may be necessary, in operations and with agreement rule exceptions and accommodations in specific situations and circumstances.

It is difficult to list specific rules or operations that might need modifications or exceptions in order to provide the services that may be necessary to obtain and operate new business that can be obtained from other modes of transportation. We are in agreement, however, that necessary operational changes and rules modifications or exceptions should be encouraged to obtain new business, preserve specifically endangered business currently being hauled, or to significantly improve the transit time of existing freight movements.

We recognize that attracting new business and retaining present business depends not only on reducing service costs, but also on improving service to customers.

During our discussions, the Lake Erie Plan was advanced by BLE, in part, as a collective bargaining proposal and as a representation of the BLE's search for a possible approach to enhanced competitive strength for the industry. Although the significance of the plan may not necessarily be in the specifics, the underlying goal of realizing the industry's full potential in the transportation marketplace is such that further consideration of such concepts may be warranted as a means of achieving this goal by cooperative, aggressive undertakings by the BLE, the UTU and the railroads.

The Informal Disputes Committee will encourage expedited resolutions on individual railroads consistent with these goals and will provide counsel, guidelines and other assistance in making necessary operational and or agreement rule changes to provide the type service necessary to meet these goals.

We sincerely believe that cooperation between the management and the employees will result in more business and job opportunities and better service which will insure our industry's future strength and growth.

John F. Sytsma  
C. I. Hopkins, Jr.  
Chairman  
Brotherhood of Locomotive Engineers  
Carriers Conference

President

National

Committee



INFORMAL DISPUTES COMMITTEE

In the Matter of:

BROTHERHOOD OF LOCOMOTIVE ENGINEERS  
Organization,  
of the May 19, 1986

Pursuant to Article XVI

Arbitrated National  
Agreement

And

THE NATIONAL CARRIERS CONFERENCE  
COMMITTEE

MEMBERS OF THE COMMITTEE

Organization's Member: Larry D. McFather  
Carriers' Member: Charles I. Hopkins, Jr.  
Neutral Member: John B. LaRocco

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#### INTRODUCTION

The parties established an Informal Disputes Committee pursuant to Article XVI of the May 19, 1986 Award of Arbitration Board No. 458. This Committee was duly constituted in accord with Article XVI as well as the Carriers' correspondence of December 9, 1986 and the Organization's January 22, 1987 response. The Committee resolved many questions arising under the May 19, 1986 Arbitrated National Agreement but some issues have been referred to arbitration pursuant to the second paragraph of Article XVI which reads:

If the Committee is unable to resolve a dispute, it may consider submitting the dispute to arbitration on a national basis for the purpose of ensuring a uniform application of the provisions of this Agreement.

The Informal Disputes Committee convened in Washington, D.C. on January 29, 1987 and March 18, 1987 to consider seven issues regarding the interpretation and application of the 1986 Arbitrated National Agreement.

The Committee notes that although the 1986 National Agreement was consummated through binding interest arbitration, most if not virtually all, the provisions were originally drafted by the Carrier and Organization negotiators. Thus, the parties' intent and the negotiating history are critical to properly interpreting the terms of the Agreement.

ISSUE NO. 1

Should an allowance paid for an engineer protecting any assignment which has a guarantee be included in the straight time hours worked if such individual was rested and available for service?

Pertinent Agreement Provision

ARTICLE III - LUMP SUM PAYMENT, Paragraphs 1 and 2.

"A lump sum payment, calculated as described below, will be paid to each employee subject to this Agreement who established an employment relationship prior to the date of this Agreement and has retained that relationship or has retired or died.

Employees with 2,150 or more straight time hours paid for (not including any such hours reported to the Interstate Commerce Commission as constructive allowances except vacations and holidays) during the period July 1, 1984 through July 31, 1985 will be paid \$565.00. Those employees with fewer straight time hours paid for will be paid an amount derived by multiplying \$565.00 by the number of straight time hours (including vacations and holidays, as described above) paid for during that period divided by 2,150.

Discussion

There are many types of constructive allowances but a typical example is where an engineer protects an assignment which operates only five days a week but carries a seven day a week guarantee. The question at issue concerns whether or not the guaranteed payments for days when the engineer did not actually perform service should be included in computing straight time hours to determine if the engineer satisfies the eligibility requirements for a full lump sum payment.

The parenthetical phrase in paragraph two of Article III defines "straight time hours paid for. The language is

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identical to the instruction for completing Column 5 of Form B of the Interstate Commerce Commission's Rules Governing the Classification of Railroad Employees and Reports of Their Service and Compensation" dated January 1, 1951. The reference to Interstate Commerce Commission reports in the parenthetical expression confirms that the drafters of Article III intended to exclude from the straight time hours calculation compensation reported to the ICC as constructive allowances.

The Column 7 description on ICC Wage Statistic Form B specifically mentions deadheading, safety meetings and vacations as examples of constructive hours. In Article III, paragraph two, the parties expressly excepted vacation and holiday pay from the definition of a constructive allowance. If the parties had intended to similarly count guaranteed payments towards total straight time hours (for the purpose of ascertaining the amount of the lump sum payment), the parties could easily have added such an exception. The specific listing of two exceptions is a strong manifestation that the parties did not intend to create any additional exceptions. A guarantee associated with an assignment or extra list is more analagous to an employee protective payment or payment for being called but not used rather than compensation for actual service.

Based on the clear contract language in Article III, Paragraph 2, the answer to the Issue is "No. However, the Organization is concerned that the Carriers might engage in creative reporting methods to increase the number of hours

classified as constructive allowances and to simultaneously

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decrease straight time hours used to calculate the amount of the lump sum payment. This matter should be addressed on a case by case basis. Suffice it to state that in the record before us, we do not find any evidence that the Carriers are deviating from their past ICC reporting practices.

Answer to Issue No. 1: No.

DATED: March 31, 1987

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 2

Are mileage limitations/regulations adjusted proportionately to the mileage increase in the basic day?

Pertinent Agreement Provision

ARTICLE IV SECTION 2(a) MILES IN BASIC DAY

(a) The miles encompassed in the basic day in through freight and through passenger service and the divisor used to determine when overtime begins will be changed as provided below:

Service Effective Date Overtime of Change Divisor	Through Freight Service		Through Passenger
	Miles in Basic Day	Overtime Divisor	Miles in Basic Day
July 1, 1986 20.8	104	13.0	104
July 1, 1987 21.2	106	13.25	106
June 30, 1988 21.6	108	13.5	108

Discussion

As in Issue No. 1, the clear contract language controls the outcome of this question even though to some extent, the result is contrary to the parties' overall intention to avoid reducing the direct earnings of any presently employed engineer.

Section 2(a) of Article IV provides for incremental increases in basic day miles through June 30, 1988. There is no language in Section 2 or the remainder of Article IV which provides that the changes in the basic miles for through freight and through passenger service would automatically and

proportionately raise the mileage limitation/regulations in effect under the scheduled agreements on the various railroads.

While we do not need to resort to extrinsic evidence to answer this issue, the bargaining history supports the plain meaning of the contract language. During negotiations, the

Carriers proposed that mileage limits be discontinued. At the bargaining table and before Arbitration Board No. 458, the Organization opposed any deviation from the mileage limits. The Organization pointed out that the limitations vary greatly from railroad to railroad. Moreover, on some railroads it is possible for an engineer to exceed the maximum mileage because the pool service is regulated according to mean miles (between minimum and maximum).

When the parties were considering an increase in basic day mileage for through freight and through passenger service, they could have foreseen the impact such a national rule might have on local rules and regulations. Even though the overall intent of the 1986 Arbitrated National Agreement was to preserve the earnings of a presently employed engineer, the Committee must prudently refrain from tampering with provisions in the schedule agreements. Before Arbitration Board No. 458, the Organization emphasized that the limitations are best addressed on each individual property.

Aside from its adjudicatory function, the parties envisioned that the Informal Disputes Committee would "...provide counsel, guidelines and other assistance in making necessary operational and or agreement rule changes to provide the type service necessary... to accomplish the goals announced in Side Letter #23. In our advisory status, we urge the parties to formulate a rule on indexing mileage guarantees which, when fairly applied, recognizes that the basic day mileage is gradually increasing. The purpose of the mileage limits is to

insure that the Carriers have adequate, available manpower, to regulate the flow between the engineer and fireman classes and to more evenly distribute earnings so that a small group of senior engineers would not gain excess compensation at the expense of other craft members. Agreeing to a fair and equitable adjustment factor would, in the long run, result in more efficient railroad operations. The parties have several alternative methods for structuring an indexing system so that mileage regulations correspond to the basic day miles. Also, the ratio does not necessarily have to be on a one to one basis. The number of possible formulas is further support for the Committee's decision not to read an implied proportional adjustment into Article IV, Section 2.

While we are answering the question at issue in the negative, we need to comment on a specific dispute which has arisen on the Burlington Northern Railroad (BN). For engineers assigned to guaranteed extra boards, the guarantee equals the money equivalent of 3,250 miles at the minimum through freight rate of pay. (See Article 22, Section C(2)(a) of the former Frisco Schedule Agreement.)

The BN asserts that Article IV, Section 2(a) of the Arbitrated National Agreement lowered the value of one mile. After July 1, 1986, the BN calculates the 3,250 guarantee based on each mile being worth 1/104th of a basic day (currently 108.06). According to the BN, the money equivalent of 3,250 miles is \$3,376.75. The Organization computes the value of one

mile as 1/100th of the daily rate or \$3,513.25 per month. The

record also contains an irreconcilable factual discrepancy over exactly how the BN has been applying Article 22, Section C(2)(b) of the Schedule Agreement. According to the Organization, the BN changed the proration of the monthly guarantees to further reduce engineers' pay. On the other hand, the BN conceded that it initially changed its guarantee claim forms to reflect a different proration system but the BN has reinstated the proration monthly guarantees in effect before the award of Arbitration Board No. 458.

With regard to the BN dispute as well as disagreements which might arise on any of the signatory railroads, the Committee finds that Article IV, Section 2(a) changed only the basic mileage in through freight and through passenger service. Since Article IV, Section 2(a) did not impliedly raise mileage limitations, the provision cannot be similarly construed as an implied modification of other rules in existing schedule agreements. Therefore, if any railroad believes that wages paid on a guaranteed assignment or extra board should be adjusted to reflect the increase in the basic miles, the particular railroad's justification for the adjustment must be derived from the language (tying the guarantee directly to basic day miles) in its schedule agreement as opposed to any implication flowing from Article IV, Section 2(a) of the 1986 National Agreement.

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Answer to Issue No. 2: No.

DATED: March 31, 1987

Larry D. McFather  
Hopkins, Jr.  
Organization Member

Charles I.  
Carrier Member

John B. LaRocco  
Neutral Member

ISSUE NO. 3

Can established Interdivisional Service be extended or rearranged under this Article?

Pertinent Agreement Provisions

ARTICLE IX -- SECTIONS 1, 3 AND 5 -- INTERDIVISIONAL SERVICE

Section 1 -- Notice

An individual carrier seeking to establish interdivisional service shall give at least twenty days' written notice to the organization of its desire to establish service, specify the service it proposes to establish and the conditions, if any, which it proposes shall govern the establishment of such service.

\* \* \* \*

Section 3 -- Procedure

"Upon the serving of a notice under Section 1, the parties will discuss the details of operation and working conditions of the proposed runs during a period of 20 days following the date of the notice. If they are unable to agree, at the end of the 20-day period, with respect to runs which do not operate through a home terminal or home terminals of previously existing runs which are to be extended, such run or runs will be operated on a trial basis until completion of the procedures referred to in Section 4. This trial basis operation will be applicable to runs which operate through home terminals.

\* \* \* \*

Section 5 -- Existing Interdivisional Service

"Interdivisional service in effect on the date of this Agreement is not affected by this Article.

#### Discussion

The threshold question is whether Carriers may extend or rearrange interdivisional service established prior to the effective date of Article IX of the 1986 Arbitrated National

Agreement. It should be noted that the Article IX, Section 2 conditions attached to interdivisional service are more favorable to the Carriers than the terms and conditions in Article VIII of the May 13, 1971 National Agreement. The second but related issue is whether the conditions under which the interdivisional service was previously established are carried forward with the extended or rearranged interdivisional service made pursuant to notice under Section 1 of Article IX.

The record contains, as an example, a dispute which has arisen on the Southern Pacific Transportation Company. Although the Southern Pacific dispute is pending before Arbitration Board No. 468, the proceeding has apparently been held in abeyance until this Committee can provide the parties with some necessary guidance. Under the auspices of Article VIII of the 1971 Agreement, the Southern Pacific established interdivisional service between San Antonio and Ennis through the away from terminal Hearne on March 26, 1986. Ennis and San Antonio are home terminals. This elongated interdivisional service had been superimposed on preexisting interdivisional service between San Antonio and Flatonia and between Flatonia and Hearne. Now, under the auspices of Article IX of the 1986 Agreement, the Southern Pacific seeks to establish interdivisional service between Dallas and San Antonio and between Fort Worth and San Antonio. The Southern Pacific proposes a two pronged extension of the existing interdivisional service through home terminal Ennis.

In addition to the Southern Pacific example, the Carriers

provided other instances where new interdivisional service

overlapped or extended existing interdivisional service pursuant to the 1971 Agreement even though Article VIII, Section 4 of the 1971 National Agreement is substantively identical to Article IX, Section 5 of the 1986 Arbitrated National Agreement. The former provision did not impose a restraint on creating new interdivisional service over territory covered by an existing interdivisional agreement. See Public Law Board No. 3695, Award No. 1 (Seidenberg). During the recent round of national bargaining, the parties were aware of the well entrenched past practice. If they wished to deviate from the past practice, the parties would have written unequivocal language in Article IX, Section 5 to the effect that an extension or rearrangement of present interdivisional service could never be construed as new interdivisional service within the meaning of Article IX. Moreover, Article IX, Section 3 clearly evinces the parties' intent that the Carriers could legitimately extend existing interdivisional service. Section 3 refers expressly to ...previously existing runs which are to be extended... The parties would not have set up a trial basis procedure for implementing an extended run if the Carriers, in the first instance, lacked the authority to propose an extended interdivisional service. Thus, Section 5 of Article IX does not restrict the Carriers from rearranging or extending existing interdivisional service.

The second question is what shall be the terms and conditions that apply to interdivisional service which is

extended or rearranged pursuant to Article IX. The Carriers

argue that Section 5 only applies to interdivisional service which remains absolutely intact. The Organization stresses that the conditions in the existing interdivisional service agreement must be preserved and automatically apply to the extended or rearranged service. In our view, the Carriers' construction of Article IX, Section 5 is too narrow while the Organization seeks an overly broad interpretation of Section 5.

Article IX, like its predecessor contract provision, grants a Carrier the right to serve a notice seeking to establish interdivisional service. The Carrier may subsequently establish or refrain from establishing the proposed service. An arbitrated interdivisional run agreement might apply conditions so onerous the Carrier is deterred from instituting the interdivisional service. Since the discretion is vested in the Carrier, a Carrier may not use Article IX as a pretext for taking advantage of the more favorable conditions set forth in Section 2 of Article IX. Section 5 of Article IX bars a Carrier from proposing only a minor modification in an existing interdivisional run with the motive of procuring the more favorable conditions. Thus, Section 5 preserves conditions on existing interdivisional runs or any proposed extended run that is substantially the same as the existing run where the purposeful objective of the extension is to procure the more beneficial conditions in Article IX, Section 2. In resolving the Southern Pacific dispute, Arbitration Board No. 468 should examine the surrounding circumstances and apply Article IX,

Section 5 in a manner consistent with our Opinion.

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The Committee concludes that the parties must reach a balanced application of Article IX. The Carriers have the right to establish extended or rearranged interdivisional service and it constitutes new service within the meaning of Article IX unless it is a substantial reÄcreation of the prior interdivisional service designed solely to obtain the more favorable conditions in the 1986 National Agreement.

Answer to Issue No. 3: Yes to the extent consistent with the Committee's Opinion.

DATED: March 31, 1987

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 4

Is the engineers extra board a guaranteed amount of money or a guaranteed number of miles per day when prorated, and per month when protected for entire month?

Pertinent Agreement Provision

SIDE LETTER 20 -- GUARANTEED EXTRA BOARDS, SECTION 2(e).

(e) While on an extra board established under this rule, each employee will be guaranteed the equivalent of 3000 miles at the basic through freight rate for each calendar month unless the employee is assigned to an exclusive yard service extra board in which event the guarantee will be the equivalent of 22 days' pay at the minimum 5-day yard rate for each calendar month. All earnings during the month will apply against the guarantee. The guarantees of employees who are on the extra board for part of a calendar month will be pro rated.

Discussion

Expressing the guarantee in mileage terms actually operates to decrease the amount of the guarantee by effectively cancelling out wage increases. From the relevant negotiating history as well as the purpose of a guaranteed extra board, we conclude that the parties did not intend to reduce the guaranteed earnings of an engineer assigned to a guaranteed extra board.

The Organization contends that Section 2(e) is a thirty day guarantee. The agreed upon answer to Question No. 4 conceptually supports the Organization's argument. In the answer to Question No. 4 (which dealt with non-duplicate time payments), the parties concurred that:

Where the obvious intent of the parties was to apply a percentage of a basic day (e.g., 50 miles equals 50 percent), such intent shall be continued (50 percent equals 52, 53, or 54 miles depending on effective date of change.)

Under the Carriers' interpretation, the percentage of basic day compensation accruing to engineers under the guarantee would be equivalent to just 27.78 days of pay when basic day mileage reaches 108 miles. Thus, the overriding intent of Section 2(e) was to fix a guarantee premised on thirty days' basic pay and not to gradually reduce the guarantee through increases in the basic day mileage. Also, extra board engineers protect many classes of service aside from through passenger and through freight service. Yet, those miles are not subject to the increase in the basic day. Our conclusion is slightly at variance with a very literal interpretation of the language in Section 2(e) but the terms must be reasonably applied in light of the parties' intent as well as the agreed upon application of similar contract provisions.

Like Issue No. 2, the Committee emphasizes that it is not adjusting or indexing the 3,000 mile figure to take into account changes in basic day mileage. Rather, the Committee's interpretation of the money equivalent of 3,000 miles at the basic through freight rate is derived from the parties' intent. In essence, the guarantee will be the money equivalent of 3,240 miles at the end of the contract term. We recognize that an engineer on the guaranteed extra board protects all classes of service. Despite the practical effect of our decision, an engineer may not claim the difference in miles between the basic day miles in through freight service and basic day mileage in the

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class of service protected.(1) Our decision should not undermine the productivity benefits gained through raising basic day mileage. Similarly, our resolution of this matter is expressly restricted to guaranteed extra boards established under Side Letter 20.

Answer to Issue No 4: See Opinion.

DATED: March 31, 1987

Larry D. McFather  
Organization Member

Charles I. Hopkins, Jr.  
Carrier Member

John B. LaRocco  
Neutral Member

(1) The guarantee is still money as demonstrated by the following example. Assume a guaranteed extra board engineer works five days (during one month) in local way freight service with a fireman in the 200,000 lbs. weight on driver bracket. The engineer's actual earnings total \$567.00 (5 x \$113.40/day). In accord with our disposition of Issues Four and Five, his monthly guarantee amounts to \$3,367.20 (30 x \$112.24/day). Assuming he does not have any other earnings and was properly on the board all month, the amount due the engineer is \$3,367.20 - \$567.00 = \$2,800.20 as opposed to the money equivalent of 3,120 miles less 500 miles (2,620 miles or \$2,827.32).



Issue No. 5

What is the rate of pay to be allowed for the guarantee?

Pertinent Agreement Provisions

SIDE LETTER 20 -- GUARANTEED EXTRA BOARDS, SECTION 2(e)

(e) While on an extra board established under this rule, each employee will be guaranteed the equivalent of 3000 miles at the basic through freight rate for each calendar month unless the employee is assigned to an exclusive yard service extra board in which event the guarantee will be the equivalent of 22 days' pay at the minimum 5-day yard rate for each calendar month. All earnings during the month will apply against the guarantee. The guarantees of employees who are on the extra board for part of a calendar month will be pro rated.

ARTICLE I -- SECTION 1(b) -- GENERAL WAGE INCREASES

(b) In computing the increase under paragraph (a) above, one (1) percent shall be applied to the standard basic daily rates of pay applicable in the following weight-driver brackets, and the amounts so produced shall be added to each standard basic daily rate of pay:

Passenger	-- 600,000 and less than 650,000 pounds
Freight	-- 950,000 and less than 1,000,000 pounds (through freight rates)
Yard Engineers	-- Less than 500,000 pounds
Yard Firemen	-- Less than 500,000 pounds (sepa-- rate computation covering five-- day rates and other than five day rates)

Discussion

Historically, the reason for using the 950,000 to less than 1,000,000 weight-driver bracket when calculating the fixed amount of the percentage wage increases in national agreements was to maintain the pre-existing differentials among the various

brackets. Thus, Article I, Section 1(b) is merely a formula for

converting a single percentage increase into a uniform money increase for each bracket.

In some schedule agreements, the parties referred to a specific bracket when they desired to apply a higher rate than the minimum through freight rate. Indeed, some local contracts governing guaranteed extra boards provide for a money guarantee based on equivalent miles and the parties expressly agreed to a rate associated with a particular weightÄonÄdriver bracket.

Thus, the words ...basic through freight rate... means the basic daily through freight rate without any weightÄonÄdriverÄadditive.

Answer to Issue No. 5: The basic daily through freight rate without any weightÄonÄdriverÄadditive.

DATED: March 31, 1987

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 6

May a carrier establish Guaranteed Extra Boards at locations where non-Guaranteed extra boards presently are in place?

Pertinent Agreement Provisions

SIDE LETTER 20 " GUARANTEED EXTRA BOARDS " SECTIONS 2(a)  
AND 2(h)

(a) Carriers that do not have the right to establish additional extra boards or discontinue an extra board shall have that right.

\* \* \* \* \*

(h) No existing guaranteed extra board will be supplanted by a guaranteed extra board under this rule if the sole reason for the change is to reduce the guarantee applicable to employees on the extra board.

A reading of Section 2(a), more particularly the term additional, reveals some ambiguity. However, paragraph (h) is unambiguous. It limits the Carriers' right to supplant an existing guaranteed extra board only if the underlying reason for the substitution is to reduce guarantees. Paragraph (h) is silent regarding the establishment of guaranteed extra boards at points where non-Guaranteed extra boards have already been instituted. Thus, the paragraph (h) limitation is inapplicable to supplanting an existing non-Guaranteed extra board with a guaranteed extra board.

We must interpret the adjective "additional" in Section 2(a) to comport with paragraph (h). As the Organization argues, one of the primary purposes of allowing Carriers to establish

more extra boards was to set up guaranteed extra boards at

outlying points remote from a supply source. The purpose was consistent with changes in the deadheading rules which made it less desirable for employees to reside at one location and drive to protect sporadic work at an outlying point. From the Organization's viewpoint, the word "additional" means points other than where Carriers already had a right to establish guaranteed extra boards. The Organization specifically contests the Carriers' ability to replace a non-guaranteed extra board with a new guaranteed extra board at supply points. However, only express limits on the Carriers' right to establish additional guaranteed extra boards are in paragraphs (g) and (h). The Organization seeks to amend Section 2(h) to prevent the establishment of guaranteed extra boards at locations where any extra board, either guaranteed or non-guaranteed, presently exists. The most reasonable interpretation of additional in Section 2(a) is that Carriers may add guaranteed extra boards restricted only by the express provisos in Paragraphs (g) and (h)

Answer to Issue No. 6: Yes.

DATED: March 31, 1987

LaRocco Charles I. Hopkins, Jr.

Neutral

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Carrier

Larry D. McFather

Organization

John B.

May a carrier establish a Guaranteed Road Extra Board and a Guaranteed Yard Extra Board at a single location where only joint seniority is held?

Pertinent Agreement Provisions

SIDE LETTER 20 Å GUARANTEED EXTRA BOARDS, SECTIONS 2(e) AND 2(h)

(e) While on an extra board established under this rule, each employee will be guaranteed the equivalent of 3000 miles at the basic through freight rate for each calendar month unless the employee is assigned to an exclusive yard service extra board in which event the guarantee will be the equivalent of 22 days' pay at the minimum 5Åday yard rate for each calendar month. All earnings during the month will apply against the guarantee. The guarantees of employees who are on the extra board for part of a calendar month will be pro rated.

\* \* \* \* \*

(h) No existing guaranteed extra board will be supplanted by a guaranteed extra board under this rule if the sole reason for the change is to reduce the guarantee applicable to employees on the extra board.

Discussion

Section 2(e) permits a Carrier to assign an employee to an exclusive Yard Service Guaranteed Extra Board. The question at issue concerns points where employees hold both yard and road seniority. The first part of our answer presupposes that there is an existing guaranteed extra board at the location.

Severing seniority through the utilization of separate extra boards effectively reduces the earnings of employees who hold joint seniority. If road engineers are required to protect an exclusive Yard Guaranteed Extra Board as well as the

guaranteed extra board covering other classes of service (to maintain joint seniority), they suffer a wage cut contrary to the specific proviso contained in Section 2(h).

The Committee understands that Section 2 of Side Letter 20 gave the Carriers wide discretion in the establishment and operation of guaranteed extra boards in exchange for an acceptable disposition of the long festering dispute over intercraft pay relationship. Nonetheless, the Organization persuasively argued that the exclusive Yard Extra Board alluded to in Section 2(e) was intended to apply primarily to terminal railroad companies where engineers do not hold any road seniority.

To give full force and effect to Section 2(h), the establishment of an exclusive Yard Guaranteed Extra Board is inherently limited to locations where employees do not hold combination road/yard seniority.

The second portion of our resolution to this issue assumes that there is not a presently existing guaranteed extra board at the location where engineers hold joint seniority.

Besides terminal companies, railroads often operate a closed yard where, even though employees are in a joint seniority district, all the assignments at the location are for yard service. If there is not an existing guaranteed extra board at such a yard, there is no problem with establishing an exclusive Yard Guaranteed Extra Board because not only is Section 2(h) inapplicable but also the exclusive board could hardly operate to

the detriment of the employees.

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Similarly, Section 2(h) does not preclude the establishment of an exclusive Yard Guaranteed Extra Board at joint seniority locations where there is both yard and road work. Nonetheless, it is assumed both boards would be properly and adequately staffed so that the yard board would protect yard work and the road board would protect road work. It is recognized that there may be times when unexpected mark offs or other unpredictable circumstances require even a properly staffed yard board to protect road work and vice versa. However, it is not contemplated that, for example, a road board be persistently understaffed so as to have the effect of reducing guarantees.

Answer to Question No. 7: See Opinion.

DATED: March 31, 1987

Larry D. McFather  
Organization Member

Charles I. Hopkins, Jr.  
Carrier Member

John B. LaRocco  
Neutral Member

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Dissent to Neutral Member J. B. LaRocco's Opinion to Issue No. 7

This issue submitted by the Brotherhood of Locomotive Engineers to Neutral LaRocco asked the following question:

"May a carrier establish a Guaranteed Road Extra Board and a Guaranteed Yard Extra Board at a single location where only joint seniority is held?"

The whole purpose of the question was to prevent the carrier from restricting an engineer's seniority if such engineer had joint seniority in both yard and road service. The above-quoted question never asked if there was a guaranteed extra board or a non-guaranteed extra board in place. We were concerned about the establishment of a yard board at locations where joint seniority was held. To do so would only restrict the earnings of engineers that hold dual seniority and violates Section 2(h). He even stated this in the decision and I quote, "Severing seniority through the utilization of separate extra boards effectively reduces the earnings of employees who hold joint seniority." He further goes on to state, "To give full force and effect to Section 2(h), the establishment of an exclusive Yard Guaranteed Board is inherently limited to locations where employees do not hold combination road/yard seniority." Neutral LaRocco never answered the question as it was presented.

-2-

However, in the second half of Neutral LaRocco's Opinion, he then reverses himself and allows the carrier to establish a road and yard extra board at locations where no guaranteed board exists. The organization fails to see any difference in the two situations. He states that at terminal railroads or railroads that operate closed yards, the

establishment of a guaranteed yard extra board would not adversely affect the engineers working thereon, as they have no joint seniority. The organization cannot disagree with this point. However, in the closing paragraph of Mr. LaRocco's Opinion, he contradicts his previous rulings by stating that Section 2(h) of Side Letter 20 ...does not preclude the establishment of an exclusive yard Guaranteed Extra Board at joint seniority locations where there is both yard and road work.@n, and further goes on to state that under certain conditions it is even proper to use engineers assigned to the lesser guaranteed yard extra board to supplant an exhausted guaranteed road extra board. This is not acceptable to the organization, because it encourages the carrier to keep the road board short and the yard board long.

It is the organization's opinion that Neutral LaRocco clearly went outside of the perimeters of the question asked of him in issuing his Opinion in Issue No. 7. As previously stated, the question was can the carrier establish both a guaranteed road board and guaranteed yard extra

board at a single location where only joint seniority is held. This question clearly did not presuppose any guaranteed extra boards or non-guaranteed extra boards at locations where extra boards are presently established.

In summary, the organization feels the question was sufficiently answered in paragraph 4 of Neutral LaRocco's Opinion which states in part: "...the establishment of an exclusive yard guaranteed extra board is inherently limited to locations where employees do not hold combination road/yard seniority.

Larry D. McFather  
BLE Organization Member

ISSUE NO. 8

Can the carrier adjust daily guarantees in proportion to the increase in the through freight basic day miles?

Pertinent Agreement Provisions

ARTICLE IV -- PAY RULES

Section 2 -- Miles and Basic Day and Overtime Divisor

"(a) The miles encompassed in the basic day in through freight and through passenger service and the divisor used to determine when overtime begins will be changed as provided below:

Service Effective Date of Change	Through Freight Service		Through Passenger	
	Miles in Basic Day	Overtime Divisor	Miles in Basic Day	Overtime Divisor
July 1, 1986	104	13.0	104	20.8
July 1, 1987	106	13.25	106	21.2
June 30, 1988	108	13.5	108	21.6

SECTION 2(b)

"Mileage rates will be paid only for miles run in excess of the minimum number specified in (a) above."

Discussion

Although Issue No. 8 is broadly worded, the Issue has apparently arisen on just a single railroad, the Duluth, Missabe and Iron Range Railway Company (DM&IR), and even more specifically, the problem centers on two turnaround runs between Biwabik and two taconite plants. The total round trip mileage for the two trips is 53.8 and 56.3 miles respectively.

Schedule Rule 15 of the applicable BLE-DM&IR Agreement reads:

"In all road service on runs where the actual distance traveled between the initial and final terminal is less than 100 miles, enginemen will be allowed 100 miles and in addition thereto any allowance given by other rules of this agreement at both the initial and final terminals."

On the two turnaround runs in question, engineers are most often (if not always) compensated pursuant to Schedule Rule 26 which provides:

"Enginemen employed on crews operating out of Biwabik in turnaround service between Biwabik and Minntac or Biwabik and Minorca will be allowed a minimum of 153 miles at through freight rates of pay or the amount due them under Rule 15 whichever is greater."

Subsequent to July 1, 1986, the DM&IR paid engineers on these runs a basic day plus mileage computed by the difference between 153 miles and the number of miles in the basic day as set forth in Article IV, Section 2(a). Thus, engineers working on the two turnaround runs currently receive a basic day plus fortyÄ seven miles (106 miles subtracted from 153 miles).

The Organization argues that the DM&IR's reduction of the number of guaranteed miles by the amount of the incremental increase in basic day miles constitutes an improper erosion of the arbitraries and allowances due to engineers on the turnaround services. The 53 additional miles was a substitute for initial and final terminal and delay, meal period allowances, inspection of locomotive time payments, etc. The 153 miles represents an earnings guarantee which the Organization asserts is not subject to the increase in the basic day miles for through freight service.

While this issue begs this Committee to apply equity, the literal language in Article IV as well as the Schedule Rules

favors the DM&IR's position. If this Committee were to endorse the Organization's interpretation of Rule 26, we would effectively transform the fixed mileage guarantee from 153 miles to 159 miles

(under the current basic day of 106 miles). Even though the actual mileage for the two turnaround trips is substantially less than a basic day, the total minimum mileage allowance under Schedule Rule 26 must take into account the change in the basic day because the 153 miles of guaranteed compensation is calculated "... at through freight rates of pay ..."

Although the DM&IR prevails on this Issue, this Committee urges the BLE and the DM&IR to negotiate amendments to Rules 15 and 26 or to restructure the aggregate compensation on the two turnaround runs so that pay becomes proportional with the gradual increase in basic day miles. Given the language in Rules 15 and 26, there is ample room for the BLE and DM&IR to negotiate a mutually acceptable compromise. It is better for the parties to solve their problems at the bargaining table rather than through arbitration.

Answer to Issue No. 8: Yes, but the Answer is specifically restricted to the application of Schedule Rule 26 on the DM&IR.

DATED: May 16, 1988

Larry D. McFather  
Jr.  
Orsanzation's Member  
Member

John B. LaRocco  
Neutral

Charles I. Hopkins,  
Carriers'

ISSUE NO. 9

Are guaranteed extra boards established prior to Arbitration Award No. 458 to be adjusted to reflect the increase in the basic day miles?

Pertinent Agreement Provision

ARTICLE IV -- PAY RULES

Section 2 -- Miles in Basic Day and Overtime Divisor

"(a) The miles encompassed in the basic day in through freight and through passenger service and the divisor used to determine when overtime begins will be changed as provided below.

Effective Date of Change	Through Freight Service		Through Passenger Service	
	Miles In Basic Day	Overtime Divisor	Miles In Basic Day	Overtime Divisor
July 1, 1986	104	13.0	104	20.8
July 1, 1987	106	13.25	106	21.2
June 30, 1988	108	13.5	108	21.6

Discussion

This Issue is related to our decision on Issue No. 2. In Issue No. 2, this Committee briefly discussed but did not resolve a dispute regarding a pre-existing (prior to the effective date of the Award of Arbitration Board No. 458) guaranteed extra board on the Burlington Northern Railroad (BN). Article 22, Section C(2)(a) of the former Frisco Schedule Agreement reads:

"Subject to the conditions prescribed in this Section C, Engineers assigned to the extra board shall be guaranteed the money equivalent of 3,250 miles at the minimum through-freight rate of pay (now \$74.95 per 100

miles) per month. All payments from this Carrier except meal, lodging and personal expense allowances or reimbursements shall be included in computing the amounts due under this guarantee."

During our discussion of Issue No. 2, this Committee summarized the positions of the BN and the Organization as follows:

"The BN asserts that Article IV, Section 2(a) of the Arbitrated National Agreement lowered the value of one mile. After July 1, 1986, the BN calculates the 3,250 guarantee based on each mile being worth 1/104th of a basic day (currently 108.06). According to the BN, the money equivalent of 3,250 miles is \$3,376.75. The Organization computes the value of one mile as 1/100th of the daily rate or \$3,513.25 per month."

Next, the Committee formulated a guideline for resolving the dispute. We wrote:

"With regard to the BN dispute as well as disagreements which might arise on any of the signatory railroads, the Committee finds that Article IV, Section 2(a) changed only the basic mileage in through freight and through passenger service. Since Article IV, Section 2(a) did not impliedly raise mileage limitations, the provision cannot be similarly construed as an implied modification of other rules in existing schedule agreements. Therefore, if any railroad believes that wages paid on a guaranteed assignment or extra board should be adjusted to reflect the increase in the basic miles, the particular railroad's justification for the adjustment must be derived from the language (tying the guarantee directly to basic day miles) in its schedule agreement as opposed to any implication flowing from Article IV, Section 2(a) of the 1986 National Agreement."

To reiterate, we emphasize that disputes like the one herein must be decided on a case by case basis according to the principle enunciated in Issue No. 2. Focusing on the BN dispute, the specific issue is whether or not the guarantee in Article 22, Section C(2)(a) is expressly and directly tied to the basic day miles set forth in Article IV, Section 2(a) of the 1986 Arbitrated National Agreement.

The explicit reference to the through freight rate of pay as

well as the parenthetical clause in Article II, Section C(2)(a)

directly links the guarantee to basic day mileage in Article IV, Section 2(a). The parenthetical expression describes the guarantee according to both the basic day pay rate and basic day miles. Thus, as the daily rate increased, the pay rate per 100 miles was accordingly adjusted upward. With the change in basic day miles, there must be corresponding adjustment to the number of miles in the parentheses. Had the parties wanted to compute the guarantee solely on basic days, the words "per 100 miles" would not appear in the Schedule Rule. Unlike Section 13(a) of the June 7, 1982 Memorandum Agreement on the Louisville and Nashville Railroad, the former Frisco Schedule Rule is directly tied to basic day miles in through freight service. Even though engineers on the Frisco Extra Board protect all classes of service, the Schedule Rule expressly refers to the through freight service rate of pay according to both the basic day wage rate and basic day mileage.

In essence, the Organization is urging us to reconsider our holding in Issue No. 2 wherein we declined to proportionately adjust mileage regulations to the increase in basic day mileage. Adopting the Organization's argument herein would be tantamount to indexing the guarantee upward since the 3,250 mile guarantee would be converted to 3,445 miles. Furthermore, under the Organization's interpretation, an extra board engineer could reap a windfall. An extra board engineer who did not work the entire month could collect his guarantee and earn more than a regularly assigned engineer in through freight service who physically worked

3,250 miles during the month (assuming no overtime mileage).

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Our holding on this Issue is restricted to the BN dispute.

Answer to Issue No. 9: Yes, but the holding is restricted to  
the BN dispute.

DATED: May 16, 1988

Larry D. McFather  
Charles I. Hopkins, Jr.  
Organization's Member  
Carriers' Member

John B. LaRocco  
Neutral

ISSUE NO. 10

Does Article VI change or amend the existing applications of pay rules on individual carriers when engineers tie up on the road in compliance with the Hours of Service Act?

Pertinent Agreement Provisions

ARTICLE VI Ä DEADHEADING

"Existing rules covering deadheading are revised as follows:

Section 1 Ä Payment When Deadheading and Service Are Combined

"(a) Deadheading and service may be combined in any manner that traffic conditions require, and when so combined employees shall be paid actual miles or hours on a continuous time basis, with not less than a minimum day, for the combined service and deadheading. However, when deadheading from the awayÄfromÄhome terminal to the home terminal is combined with a service trip from such home terminal to such awayÄfromÄhome terminal and the distance between the two terminals exceeds the applicable mileage for a basic day, the rate paid for the basic day mileage portions of the service trip and deadhead shall be at the full basic daily rate.

SIDE LETTER #4, EXAMPLE 11

"How is an engineer to know whether or not deadheading is combined with service.? [sic]

"A. When deadheading for which called is combined with subsequent service, the engineer should be notified when called. When deadheading is to be combined with prior service, the engineer should be notified before being relieved from service. If not so notified, deadheading and service cannot be combined."

Discussion

Although the Organization argues that Article VI, Section 1(a) did not disturb local rules governing the treatment of an engineer whose service time terminates under the Hours of Service Act, Article VI, Section 1(a) of the May 19, 1986 Arbitrated National Agreement does not prohibit combining service with deadheading when an engineer's time expires under the law. Since deadheading follows the service component of a trip when the law has overtaken an engineer, the gravamen of this dispute involves the timing of the notice to the engineer that the Carrier will combine the working portion of his trip with deadheading for payment of actual miles or hours on a continuous time basis.

The Organization charges that some Carriers are improperly combining the working segment of the trip with deadheading subsequent to the legal maximum hours of service to pay engineers on a continuous trip basis without any notification to the affected engineer. In other cases, the Organization submits that the engineer does not receive notice until going off duty at the final terminal. (The Organization also notes that for pay purposes, an engineer may be relieved from duty well before he registers off duty.) Pursuant to Example 11 of Side Letter #4, the Organization argues that the Carrier may combine deadheading with service only when an engineer receives notification prior to being relieved from the working component of his trip.

The Carriers contend that since Article VI, Section 1(a) was adopted from the Consolidated Rail Agreement, this Committee should follow joint interpretations governing and arbitration decisions interpreting the Conrail Rule. The Carrier cites Award No. 6 of Special Board of Adjustment No. 894 (Van Wart) for the proposition that deadheading and service may be

combined when an engineer is outlawed under the Hours of Service

Act despite the absence of notice before the conclusion of the service portion of the engineer's trip. Board No. 894 only required the Carrier to notify the engineer before he marked off duty. In summary, the Carrier advocates a pragmatic application of the notice provisions especially since an engineer who has been overtaken by the Hours of Service law suffers no harm when deadheading is combined with service so long as the engineer is aware of how his pay will be computed prior to going off duty.

The Committee finds strong support for the Organization's position based on the literal language in Side Letter #4, Example 11 and agreed upon Question and Answer No. 3 under Article VI, Section 1. Agreed upon Question and Answer No. 3 reads:

"Q3: How is a crew or individual to know whether or not deadheading is combined with service?"

"A3: When deadheading for which called is combined with subsequent service, will be notified when called. When deadheading is to be combined with prior service, will be notified before being relieved from prior service. If not so notified, deadheading and service cannot be combined."

Example 11 in Side Letter #4 and Question and Answer No. 3 under Article VI, Section 1 are identical except the parties were more precise in the latter Answer. They specifically inserted the word "prior" before the last word "service" in the second sentence of agreed upon Answer No. 3. The addition of the adjective "prior," manifests the parties intent to treat the notice requirement as

more than a mere technicality.

However, the technicality arises because an engineer does not incur any discernable detriment when the Carrier fails to tender him notice prior to the end of the service component of his trip when the termination of the service portion is due to the Hours of Service law. The source of Article VI, Section 1(a) is Article GÄÄ1 of the Conrail Agreement. The parties agreed upon interpretation of Article GÄÄ1 differs slightly but significantly with Side Letter #4 and agreed upon Question and Answer No. 3 under Article VI, Section 1. Agreed upon Question and Answer No. 1 on the Conrail System specifically states that when "... service is to be combined with deadheading, the engineer will be notified before he marks off duty after performing service." In contrast, the parties at the national level mandated that the notice must be given "... before being relieved of prior service." Special Board of Adjustment No. 894 premised its decision on the language in the Conrail agreed upon Question and Answer, as opposed to agreed upon Question and Answer No. 3 under Article II, Section 1(a). Therefore, this Committee is reluctant to carve out an exception to the parties' precise examples and agreed upon answers simply because an engineer deadheads after being overtaken by the law.(1)

In our advisory capacity, we urge the parties to adopt a more practical answer to this issue especially if they are able to reach a universal understanding of when an engineer goes off duty

(1) The Committee notes that agreed upon Question and Answer No. 8 under Conrail Article GÄÄ1 buttresses our determination, made at the onset, that the Carriers have the prerogative to combine service and deadheading when a road engineer is cutoff enroute

because the Hours of Service law overtakes him.

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for the purpose of determining when an engineer must receive the  
necessary notice.

Answer to Issue No. 10: Yes, provided the Carrier complies  
with the notice requirement in Example 11 of Side Letter #4 and  
agreed upon Question and Answer No. 3 under Article VI, Section 1.

DATED: May 16, 1988

Larry D. McFather  
Hopkins, Jr.  
Organization's Member

Charles I.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 11

Is the Carrier allowed under Article VI to combine deadheading with an hourly component job such as yard service at an outlying point?

Pertinent Agreement Provision

ARTICLE VI A DEADHEADING

"Existing rules covering deadheading are revised as follows:

Section 1 A Payment When Deadheading and Service Are Combined

"(a) Deadheading and service may be combined in any manner that traffic conditions require, and when so combined employees shall be paid actual miles or hours on a continuous time basis, with not less than a minimum day, for the combined service and deadheading. However, when deadheading from the awayÄfromÄhome terminal to the home terminal is combined with a service trip from such home terminal to such awayÄfromÄhome terminal and the distance between the two terminals exceeds the applicable mileage for a basic day, the rate paid for the basic day mileage portions of the service trip and deadhead shall be at the full basic daily rate."

Discussion

Article VI, Section 1 grants the Carriers the unilateral authority to combine service and deadheading whenever, "... traffic conditions require..." The Carriers' prerogative is conditioned only on proper notice. (See Issue No. 10.) The introductory clause to Article VI expressly announces that existing deadheading rules are revised and thus, Article VI supersedes inconsistent rules on the various railroads. The

unequivocal language of Article VI shows that the parties did not exempt deadheading to outlying yard jobs merely because many yard

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assignments have fixed starting times within a guaranteed starting time bracket.

During its presentation of this case, the Organization alluded to a specific dispute which arose on the former Seaboard Coast Line Railroad. An engineer deadheaded 35 miles in each direction to perform a yard assignment at an outlying point. His total time on duty was ten hours, consisting of one hour deadheading to the assignment, eight hours on the yard job and one hour in return deadheading. The proper payment for this permissible combination of deadheading with service is eight hours plus two hours overtime.

The Answer to Issue No. 11: Yes.

DATED: May 16, 1988

Larry D. McFather  
Hopkins, Jr.  
Organization's Member  
Member

Charles I.  
Carriers'

John B. LaRocco  
Neutral Member

ISSUE NO. 12

Does a runaround occur when deadheading and service are combined out of the away-from-home terminal and there are rested and available engineers at such terminal?

Pertinent Agreement Provision

ARTICLE VI - DEADHEADING

"Existing rules covering deadheading are revised as follows:

Section 1 - Payment When Deadheading and Service Are Combined

"(a) Deadheading and service may be combined in any manner that traffic conditions require, and when so combined employees shall be paid actual miles or hours on a continuous time basis, with not less than a minimum day, for the combined service and deadheading. However, when deadheading from the away-from-home terminal to the home terminal is combined with service trip from such home terminal to such away-from-home terminal and the distance between the two terminals exceed the applicable mileage for a basic day, the rate paid for the basic day mileage portion of the service trip and deadhead shall be at the full basic daily rate."

Discussion

Prior to the May 19, 1986 Arbitrated Agreement, engineers who deadheaded from their home terminal to their away-from-home terminal were released (to avoid runaround claims). This dispute concerns whether or not the Carriers may combine service with deadheading to engineers working in pool or unassigned service operating under a first-in and first-out basis for their runs. More specifically, does a runaround occur when an engineer is directed to deadhead from his home terminal to his away-from-home

terminal and then immediately performs a working trip back to his

home terminal in combined service on a continuous mileage or time basis even if another engineer is rested and available at the awayÄfromÄhome terminal? To promote efficient operations, the Carriers are most likely to combine deadheading with service on runs involving mileage totalling less than 106 miles (the current basic day).

The Organization relies on agreed upon Question and Answer No. 1 under Article VI, Section 2 which reads:

"QÄ1: Can a runaround occur when a crew working into the awayÄfromÄhome terminal is relieved and deadheaded home separate from service?

"Ä1: Local runaround rules continue to apply."  
[Emphasis added.]

The above Question assumes that the Carrier has elected to separate deadheading from the service component of the engineer's trip and thus, the Answer is inapplicable to Issue No. 12.

Next, the Organization argues that since Arbitration Award No. 458 did not address runarounds or engineers' order of turn, the local rules survived.

An examination of the historical evolution of the rule discloses that the first sentence of Article VI, Section 1(a) was lifted from Paragraph (a) of Article GÄÄ1 in the BLE Agreement with the Consolidated Rail Corporation. The ConÄail Rule also provides that when deadheading is combined with service, awayÄfromÄhome terminal crews may be deadheaded without regard to the standing of other crews on the board. (See Paragraph (b) of Article GÄÄ1.) Put differently, the combination of deadheading

with service does not result in running around a rested and

available engineer on the Extra List or in a pool. Moreover, the genesis of the Conrail Rule was an almost identical provision on the former Pennsylvania Railroad. The rule, which dates back to 1928, was interpreted to allow deadheading in and out of an awayÄfromÄhome terminal regardless of whether or not engineers at the awayÄfromÄhome terminal were rested and available for service.

(See the Interpretation Issued by the Pennsylvania Railroad System Joint Reviewing Committee Engine and Train Service Employees.)

This interpretation was followed on the former Pennsylvania and then carried forward on the successor line, Conrail. Absent a distinguishing interpretation (such as in Issue No. 10), this Committee must affirm the well entrenched past practice emanating from the railroad where the rule originated. Indeed, in agreed upon Question and Answer No. 1 under Article VI, Section 1, the parties contemplated that the new deadheading rule would be applied in a blanket fashion. Even though the Question and Answer addressed the problem of notice, the parties implicitly anticipated that crews could be deadheaded in and out of awayÄfromÄhome terminals subject only to the notice requirement despite the existence of runaround and firstÄin, firstÄout rules on the various railroad properties. In view of the broad language in the introductory clause to Article VI, the local runaround rules must give way to Article VI, Section 1(a) of the Arbitrated National Agreement unless deadheading is separated from service.

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Answer to Issue No. 12: No.

DATED: May 16, 1988

Jr. Larry D. McFather  
Organization's Member

Charles I. Hopkins,  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 13

Can a Carrier unilaterally eliminate a schedule rule which required preparatory time under Section 3 of Article VIII?

Pertinent Agreement Provision

ARTICLE VIII -- ROAD, YARD AND INCIDENTAL WORK

Section 3 -- Incidental Work

"Road and yard employees in engine service and qualified ground service employees may perform the following items of work in connection with their own assignments without additional compensation:

- "(a) Handle switches
- "(b) Move, turn, spot and fuel locomotives
- "(c) Supply locomotives (sic) except for heavy equipment and supplies generally placed on locomotives by employees of other crafts
- "(d) Inspect locomotives
- "(e) Start or shutdown locomotives
- "(f) Make head-end air tests
- "(g) Prepare reports while under pay
- "(h) Use communication devices; copy and handle train orders, clearances and/or other messages
- "(i) Any duties formerly performed by firemen."

Discussion

Schedule Rules 15 and 17 of the BLE Agreement on the former Wabash (now Norfolk and Western) read in pertinent part:

"RULE 15

"YARD SERVICE

\* \* \*

"Sec. 10. Time of yard Engineers will begin not less than ten (10) minutes prior to the time for which

they are called and will end ten (10) minutes after the time engine is placed on designated track, exclusive of the time off for meals, at the end of the day's work, when the Engineer will be considered released.

"Sec. 11. Time of yard Engineers on double or more crewed engines will commence at time required to relieve the Engineer on duty and end when they are relieved by the other Engineer, except that ten (10) minutes at the beginning and ending of the day will be allowed to Engineers on double or more crewed engines, in event that relief Engineer does not actually relieve the Engineer on duty while in service."

"RULE 17

"BEGINNING AND ENDING DAY

"Sec. 1. Time of road Engineers will begin no less than twenty (20) minutes prior to the time for which they are called and will end twenty (20) minutes after placing engine on designated track, when Engineer will be considered released.

"Sec. 2. Road Engineers will be given not less than twenty (20) minutes undisturbed time to prepare engine, and in event instructions require engine to leave designated track any number of minutes prior to the time for which Engineers are called, the Engineers must have the above mentioned undisturbed time to prepare engine prior to that specified time to leave designated track."

Subsequent to the effective date of the May 19, 1986 Arbitrated National Agreement, the Norfolk and Western Railway

(N&W) vitiated Schedule Rules 15 and 17 for engineers on the former Wabash property.

Both the Organization and the N&W cite agreed upon Question and Answer No. 2 under Article VIII, Section 3 which states:

"Q2: An existing rule provides for a preparatory time arbitrary payment to engineers and firemen for each tour of duty worked 'for all services in care, preparation and inspection of locomotives, including the making out of necessary reports required by law and the company and being on their locomotive at the starting time of their assignments.' Does Section 3

of Article VIII contemplate the elimination of such an arbitrary?

"AÄ2: No, if the engine service employees are required to report for duty in advance of the starting time of the assignment."

According to the N&W, a review of the historical application of the Schedule Rules discloses that the parties and the First Division of the National Railroad Adjustment Board interpreted the rules as granting an engineer an arbitrary payment regardless of whether the engineer performed preparatory tasks or reported to work (10 minutes or 20 minutes) prior to the time for which he was called for the service trip. Relying on Article VIII, Section 3, Subsections (d) and (g), the N&W contends that engineers may be required to inspect their locomotives and prepare necessary reports "... in connection with their own assignments without additional compensation ...". The N&W emphasizes that because it does not require engineers to report for duty in advance of the starting time for their assignmer, it properly eliminated the preparatory time arbitrary.

On the other hand, the Organization asserts that agreed upon Question and Answer No. 2 preserved the preparatory time payment in the two N&W Schedule Rules. The Organization further submits that the Schedule Rules represent required time on duty (for engineers) in advance of the starting time of the engineers' assignment. Thus, the Organization stresses that Rules 15 and 17 do not vest the Carrier with the option of removing the advance

reporting requirement.

Although the preparatory time set forth in N&W Schedule Rules 15 and 17 has been characterized as an arbitrary, the added

compensation is more analogous to pay for time worked since not only does the engineer actually perform the preparatory tasks but he also reports to duty in advance of the time for which he was called. Sitting without a referee, the National Railroad Adjustment Board, First Division, held in Award No. 21388:

"Under the provisions of Rule 15, Section 10, claimant is entitled to the time as claimed for reporting ten minutes in advance of the regular reporting time of his crew. This allowance in addition to the basic day as provided in Rule 15, Section 2."

The N&W is bootstrapping the Schedule Rules when it first eliminates the requirement that engineers report in advance of their starting time and then justifies its denigration of the preparatory time payment because the engineer does not report to duty ten or twenty minutes before his starting time. Agreed upon Answer to Question No. 2 would be rendered completely meaningless and superfluous if the N&W could manipulate the Schedule Rules to avoid paying the preparatory time compensation. In essence, agreed upon Question and Answer No. 2 would not preserve any preparatory payments if a railroad could simply modify a schedule rule requiring engineers to report in advance of the time for which called so they can perform preparatory work. Condoning the N&W's position herein would completely circumvent agreed upon Question and Answer No. 2.

We note that agreed upon Question and Answer No. 2 governs only preparatory time. The agreed upon interpretation of Article VIII, Section 3 is inapplicable to the payment for time after an

engineer places his engine on the designated track.

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Answer to Issue No. 13: No, unless the Schedule Rule does not require engine service employees to report to duty in advance of the starting time of the assignment.

DATED: May 16, 1988

Larry D. McFather  
Jr.  
Organization's Member

Charles I. Hopkins,  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 14

A. The Organization's Statement of the Issue

Is an engineer who is required to relocate due to the establishment of an assignment through his home terminal eligible for a comparable housing allowance when moving to a higher cost real estate area?

B. The Carriers' Statement of the Issue

Is the issue of "comparable housing" one which can properly be raised by the BLE during negotiations over the establishment of Interdivisional Service pursuant to Article IX of the May 19, 1986 BLE National Agreement?

Pertinent Contract Provision

ARTICLE IX – INTERDIVISIONAL SERVICE

Section 7 – Protection

"Every employee adversely affected either directly or indirectly as a result of the application of this rule shall receive the protection afforded by Sections 6, 7, 8 and 9 of the Washington Job Protection Agreement of May 1936, except that for the purpose of this Agreement Section 7(a) is amended to read 100% (less earnings in outside employment) instead of 60% and extended to provide period of payment equivalent to length of service not to exceed 6 years and to provide further that allowances in Sections 6 and 7 be increased by subsequent general wage increases.

"Any employee required to change his residence shall be subject to the benefits contained in Sections 10 and 11 of the Washington Job Protection Agreement and in addition to such benefits shall receive a transfer allowance of four hundred dollars (\$400.00) and five working days instead of the 'two working days' provided by Section 10(a) of said agreement. Under this Section, change of residence shall not be

considered 'required' if the reporting point to which the employee is changed is not more than 30 miles from his former reporting point.

"If any protective benefits greater than those provided in this Article are available under existing

agreements, such greater benefits shall apply subject to the terms and obligations of both the carrier and employee under such agreements, in lieu of the benefits provided in this Article."

#### Discussion

In its May 19, 1986 Award, Arbitration Board No. 458 stressed the commonality of interests among the classes of operating employees represented by the BLE and United Transportation Union (UTU). Speaking for the Board, Arbitrator Dennis observed:

"In the Board's judgment, the principal consideration supporting adoption of the tentative agreement is the UTU Agreement of October 31, 1985. That agreement covers almost the identical set of issues and governs employees performing (sic) the same work; i.e. railroad operating employees. In fact, the UTU Agreement applies to ground service employees as well as engineers and firemen, the employee classes represented by the BLE. The commonality of interests that these two groups of employees share is obvious. It is equally obvious that harmony among the pay and work rules governing these two groups must exist. As a practical matter, efficient rail operations demand no less."

More particularly, one of the Carriers' avowed goals during the last round of national negotiations was to obtain uniform interdivisional service rules in the UTU and BLE Agreements. For the most part, the Carriers were successful. Article IX of the October 31, 1985 UTU National Agreement closely parallels, but is not identical to, Article IX of the May 19, 1986 BLE Arbitrated National Agreement.

During the course of answering affirmatively to the issue of whether or not UTU Article IX applied to situations where a

railroad sought to establish interdivisional service to operate through an existing home terminal, the UTU Joint Interpretation

Committee resurrected the comparable housing allowance benefit originally set forth in Article XII, Section 2(a), Paragraph 3 of the January 27, 1972 UTU National Agreement. The UTU Joint Interpretation Committee wrote:

"The conditions which prevail relative to establishment of interdivisional service through an existing home terminal, in addition to those prescribed in Article IX of the October 31, 1985 National Mediation Agreement, include application of the meaning and intent of paragraph three of Section 2(a) of Article XII, Interdivisional Service, of the National Agreement of January 27, 1972 with respect to whether or not a rule under which such runs are established should contain a provision that special allowances to home owners should be included because of moving to comparable housing in a higher cost real estate area." [Emphasis in text.]

In summary, the UTU Joint Interpretation Committee ruled that the comparable housing allowance should be carried forward and incorporated into the October 31, 1985 UTU National Agreement. The Carriers correctly point out that there was no similar homeowners' allowance in the May 13, 1971 BLE National Agreement. While the origin of the comparable housing allowance provision is obscure, this Committee must promote the overriding and necessary policy of attaining uniform interdivisional service rules in the operating crafts. The existence of one or two minor discrepancies between Article IX of the May 19, 1986 Arbitrated National Agreement and Article IX of the October 31, 1985 UTU National Agreement is an inadequate justification for us to forge additional differences between the interdivisional service rules in the two national agreements. Creating more distinctions

between BLE and UTU interdivisional service rules undermines the emphasis Arbitration Board No. 458 placed on the commonality of

interests among employees in engine, train and yard service. Indeed, the UTU Joint Interpretation Committee, when adjudicating a final terminal delay dispute, brought dissimilar UTU provisions into conformity with the more favorable BLE final terminal delay terms. We endorse the trend toward uniformity in the BLE and UTU National Agreements.

Therefore, even though the comparable housing allowance is neither found in Article IX, Section 7 of the May 19, 1986 Arbitrated Agreement nor in any prior BLE National Agreement, the protective benefit is an implied element of Article IX, Section 7.

This Committee ruling is narrow. The matter of comparable housing is a subject that the Organization may raise during bargaining over the establishment of interdivisional service. If the subject of comparable housing arises, the parties and an arbitrator should have a compelling justification for including a comparable housing benefit in an interdivisional service arrangement based on a specific finding that excluding the benefit would work an injustice on involved engineers. The intent of the comparable housing allowance is to prevent an affected engineer from being worse off with respect to his housing status due to the introduction of interdivisional service as opposed to upgrading an engineer's real estate status at a carrier's expense.

Comparability in real estate is a vague term virtually incapable of being precisely defined. Obviously, there are obstacles to applying such a nebulous benefit in a practical fashion. Thus, the comparable housing allowance should not delay

the establishment of interdivisional service. Indeed, it may be

impossible to apply comparable housing until after an affected engineer sells his current residence and purchases a home at his new location. Neither the parties nor arbitrators are real estate experts. Because the comparable housing allowance poses feasibility problems and since the parties and arbitrators lack expertise in real property, an arbitrator (who has first determined that a comparable housing allowance is an appropriate subject for inclusion in the interdivisional agreement) might wish to retain jurisdiction to later address any comparable housing claims on a case by case basis. When exercising his retained jurisdiction, the arbitrator should have the authority to receive expert opinions from real estate appraisers in both the new and old locations. There are probably numerous factors bearing on housing comparability. The plethora of factors to consider within the concept of comparable housing underscores the necessity for consulting with real estate experts. Nonetheless, during the course of their negotiations, the parties may be able to promulgate a different method for addressing the feasibility problems inherent in implementing a comparable housing allowance.

In addition, the parties should understand that there is not any single factor which would automatically trigger an entitlement to a comparable housing allowance. The process does not involve simply the comparison of average or median real estate prices between two locations. Similarly, an engineer is not necessarily placed in a worse position merely because he must pay more (or put down a larger down payment) to purchase what is

regarded as comparable" housing at a new locale. Determining

comparability involves, to some extent, forecasting the future. Thus, an engineer might reap a greater gain on the eventual sale of his new home, due to accelerated appreciation, than if he had retained his former house. Thus, the parties should avoid concentrating on one specific criterion. Rather, the comparable housing benefit must be adjusted to accommodate all the surrounding circumstances of each transaction.

To reiterate, a comparable housing allowance may be an appropriate subject for negotiation over an interdivisional service agreement based on a specific finding that an injustice would otherwise result. If comparable housing is included in an interdivisional service agreement, this Committee has confidence in the parties' ability to cautiously approach the subject of comparable housing with reasonableness, good faith and prudence.

Answer to the Organization's Question at Issue: Perhaps. The comparable housing allowance is a subject which the Organization may raise during bargaining over the establishment of interdivisional service under Article IX.

Answer to the Carriers' Question at Issue: Yes.

DATED: May 16, 1988

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 15

Are engineers entitled to deadhead payment of two basic days when deadheading between the terminals of Amarillo and Waynoka under the provisions of Articles VI and IX of Arbitration Award No. 458?

Pertinent Agreement Provisions

ARTICLE VI - DEADHEADING

Section 2 - Payment for Deadheading Separate From Service

"When deadheading is paid for separate and apart from service:

"(a) For Present Employees

"A minimum day, at the basic rate applicable to the class of service in connection with which deadheading is performed, shall be allowed for the deadheading, unless actual time consumed is greater, in which event the latter amount shall be allowed."

Side Letter 9A, Paragraphs 1 & 2.

"This refers to Article IX, Interdivisional Service, of the Agreement of this date.

"It was understood that except as provided herein, other articles contained in this Agreement, such as (but not limited to) the final terminal delay and deadhead articles, apply to employees working in interdivisional service regardless of when or how such service was or is established. However, overtime rules in interdivisional service that are more favorable to the employee than Article IV, Section 2, of this Agreement will continue to apply to employees who established seniority in engine service prior to November 1, 1985 while such employees are working interdivisional runs established prior to June 1, 1986."

Discussion

The Organization and the Atchison, Topeka and Santa Fe

Railway Company (AT&SF) entered into the following joint statement  
of the facts underlying Issue No. 17:

"On May 12, 1954, the Carrier and BLE entered into an interdivisional agreement ... to run engineers between Amarillo, Texas, and Waynoka, Oklahoma, through the home terminal of Canadian, Texas. This Agreement provided for a basic day to be paid working engineers for the segment between Amarillo and Canadian (99 miles) and a new basic day to be paid for the segment between Canadian and Waynoka (108 miles). Engineers deadheading were paid actual miles between Amarillo and Waynoka under schedule rules."

Side Letter 9A expressly provides that the deadheading provisions in the May 19, 1986 Arbitrated National Agreement apply to all interdivisional service even if such service was established before the effective date of the Agreement.

In addition, the past practice on this property supports the AT&SF's position because although working engineers may have submitted two tickets for the miles on each side of the Canadian terminal, engineers deadheading were paid actual miles between Amarillo and Waynoka. Pursuant to the final sentence of Article VI, it was the Carrier's prerogative to preserve existing deadhead rules or apply Article VI of the Arbitrated National Agreement. The Carrier elected the latter.

Under Article VI, Section 2(a), the proper payment for deadheading apart from service between Amarillo and Waynoka is a minimum day "... unless actual time consumed is greater ..." than a day in which event the engineer is allowed actual time.

The Answer to Issue No. 15: No.

DATED: May 16, 1988

Larry D. McFather  
Jr.  
Organization's Member

Charles I. Hopkins,  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 16

Is the five-mile minimum payment provided for under Section 8 of the November 6, 1981 Memorandum of Agreement abrogated by the provisions of Articles V and VIII of Arbitration Award No. 458?

Pertinent Agreement Provisions

ARTICLE V -- FINAL TERMINAL DELAY, FREIGHT SERVICE

Section 1 -- Computation of Time

"In freight service all time, in excess of 60 minutes, computed from the time engine reaches switch, or signal governing same, used in entering final terminal yard where train is to be left or yarded, until finally relieved from duty, shall be paid for as final terminal delay; provided, that if a train is deliberately delayed between the last siding or station and such switch or signal, the time held at such point will be added to any time calculated as final terminal delay."

ARTICLE VIII -- ROAD, YARD AND INCIDENTAL WORK

Section 1 -- Road Crews

"Road crews may perform the following work in connection with their own trains without additional compensation:

"(a) Get or leave their train at any location within the initial and final terminals and handle their own switches. When a crew is required to report for duty or is relieved from duty at a point other than the on and off duty point fixed for that assignment and such point is not within reasonable walking distance of the on and off duty point, transportation will be provided."

Discussion

A Memorandum of Agreement, dated November 6, 1981, between the Organization and the Atchison, Topeka and Santa Fe Railway

Company (AT&SF) provided for moving the on and off-duty point for engineers. This agreement was similar to an earlier agreement in 1968 wherein the on and off-duty point was initially moved. The pertinent portion of the 1981 Agreement reads:

"Engineers traded off at the 'A' Yard office (new tieÄup point) under provisions of Appendix 6 of the schedule will be paid final terminal delay in accordance with schedule rules and interpretations with a minimum of five miles.

The Organization argues that the five mile payment is preserved inasmuch as it was a payment separate and apart from final terminal delay. Therefore, even though Article V of Arbitration Award No. 458 changed the final terminal delay rule, the fiveÄmile minimum payment should continue to apply to engineers who trade off at the 'A' yard office.

The AT&SF contends that not only did Article V eliminate the fiveÄmile minimum payment, which was tied to final terminal delay in the language contained in the 1981 Memorandum of Agreement, but Article VIII also eliminated any extra payment for tying up a train within the terminal. Therefore, the AT&SF concludes that both the final terminal delay rule and Appendix 6 were changed or abrogated by Arbitration Award No. 458.

It is clear that the intent of Articles V and VIII of Arbitration Award No. 458 was to supersede any existing rules payments or practices in order to establish a uniform national rule. The fiveÄmile minimum payment was abrogated by Articles V and VIII.

Answer to Issue No. 16: Yes.

DATED: May 16, 1988

Jr.            Larry D. McFather  
                 Organization's Member

                 Charles I. Hopkins,  
                 Carriers' Member

                 John B. LaRocco  
                 Neutral Member

ISSUE NO. 17

A. The Organization's Statement of Issue No. 17

Does Article IV, Section 5 "Duplicate Time Payments" allow a carrier to only apply general wage increases on eight hours of a nine-hour and twenty-minute minimum assignment provision?

B. The Carriers' Statement of Issue No. 17

Is the unworked portion of the one hour and twenty minute overtime guarantee, provided under Rule 35, Minimum Assignments, an arbitrary allowance, as contemplated in Article IV, Section 5 of the 1986 National Agreement?

Pertinent Contract Provisions

ARTICLE IV "PAY RULES"

Section 5 "Duplicate Time Payments"

(a) Duplicate time payments, including arbitraries and special allowances that are expressed in time or miles or fixed amounts of money, shall not apply to employees whose seniority in engine or train service is established on or after November 1, 1985.

(b) Duplicate time payments, including arbitraries and special allowances that are expressed in time or miles or fixed amounts of money, not eliminated by this Agreement shall not be subject to general, cost-of-living or other forms or wage increases.

Discussion

Schedule Rule 35 entitled "Minimum Assignments" on the Duluth, Nesabe and Iron Range Railroad (DM&IR) reads:

All crews working in Proctor-Duluth Terminal Service, Ore Dock Service and Outside Terminal Yard Service will be

worked on a 9 hour and 20 minute assignment. The daily minimum shall include the 8 hour basic day plus 1 hour and 20 minutes at overtime rates.

The organization argues that the nine hour and twenty minute assignments in Rule 35 are guarantees directly tied to the basic rate of the specified assignments as opposed to arbitraries or duplicate time payments. The guaranteed earnings, the Organization asserts, are exclusively derived from the regular assignments and thus, subject to post 1985 wage increases.

The Carriers submit that any Rule 35 compensation covering time which an engineer does not actually perform service is a duplicate time payment frozen at the June 30, 1986 pay rates and eliminated for new hires. The DM&IR related that, under the schedule agreement, eight hours or less constitutes a day in yard service. Therefore, the DM&IR concludes that any portion of the one hour and twenty minutes (beyond eight hours) not actually worked by an engineer is truly an arbitrary allowance. Of course, the DM&IR assures us that if an engineer works more than eight hours, he receives compensation at the current overtime pay rates for time worked in excess of eight hours.

Rule 35 of the DM&IR schedule agreement does not require engineers working in the specified services to actually work nine hours and twenty minutes. Indeed, many of the involved engineers worked fewer than eight hours. The DM&IR brought forward reliable documentary evidence showing that engineers frequently work less than nine hours and twenty minutes.(1) For example, between 1982 and 1987, the average time on duty for the Steelton

(1)The DM&IR incorporated into the record accounting documents compiled from conductors' timeslips showing time on duty from 1982 through 1989 for crews on assignments covered by Rule 35.

Switch Engine fluctuated over a wide range from 4.61 hours to 10.41 hours. The DM&IR demonstrated a consistent, well-trenched practice of releasing engineers once their work was performed even if it was well before the elapse of nine hours and twenty minutes. Rule 35 has been historically treated as a minimum payment expressed in terms of "time" wholly unrelated to either required time on duty or time worked. Article IV, Sections 5(a) and 5(b) apply to arbitrary allowances expressed according to "time" (as well as two other measurements). Thus, to the extent that engineers do not work nine hours and twenty minutes, any portion of the one hour and twenty minute payment in excess of a basic yard day covering time not worked constitutes a duplicate time payment within the meaning of Article IV, Sections 5(a) and 5(b) of the 1986 Arbitrated National Agreement.

A. Answer to the Organization's Statement of Issue No. 17:  
Yes, provided the answer is restricted to Rule 35 in the BLE  
Schedule Agreement on the Duluth, Mesabe and Iron Range Railroad.

B. Answer to the Carriers' Statement of Issue No. 17: Yes.

Dated: May 1, 1990

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 18

- A. Is Canalport Yard within the C&NW Chicago Terminal?
- B. Is Wood Street Yard within the C&NW Chicago Terminal?
- C. Are the provisions of pre-existing agreements which prohibited road crews from handling trains within the C&NW Chicago Terminal superseded by Article VIII, Section 1(a) of the May 19, 1986 Arbitrated National Agreement?

Pertinent Contract Provisions

ARTICLE VIII - ROAD, YARD AND INCIDENTAL WORK

Section 1 - Road Crews

Road crews may perform the following work in connection with their own trains without additional compensation:

- (a) Get or leave their train at any location within the initial and final terminals and handle their own switches. When a crew is required to report for duty or is relieved from duty at a point other than the on and off duty point fixed for that assignment and such point is not within reasonable walking distance of the on and off duty point, transportation will be provided.

Discussion

- A. Canalport Yard, formerly a Conrail yard, is an industrial facility maintained by Union Pacific Freight Services, a C&NW customer, located on the south side of Chicago off Carrier trackage.

As part of its adjudication of a dispute over whether hostlers could deliver power from C&NW's Proviso Yard to Canalport, the National Railroad Adjustment Board, First Division, in Award No.

23885 (Fletcher), authoritatively and recently held that Canalport Yard was outside the C&NW Chicago Freight Terminal. While this

Committee questions some of the Board's justifications for its factual finding, we endorse the Board's conclusion that the C&NW's primary argument was unsupported by any agreement provision. The C&NW contended both before the First Division and this Committee that Canalport Yard must be inside its Chicago Terminal since the facility is located north of Irondale, the southernmost C&NW yard which is also accessible only by running over foreign tracks. Distinguishing Irondale from Canalport, the Board, in Award No. 23885, wrote: "...Irondale is not denoted, by Agreement language of any type, as a geographic boundary of any type. Irondale, which is unique from other Carrier Yards in the Chicago area, is simply included within the switching limits established by the Agreement." Canalport Yard is neither a Carrier facility listed in the applicable Agreement nor is it located within the geographic boundaries of the terminal as expressed in the applicable Agreement. Since the location of Irondale is unrelated to the limits of the Chicago Terminal, this Committee cannot extrapolate to expand the terminal boundaries to encompass Canalport Yard. The C&NW has not come forward with convincing evidence or arguments that Award No. 23885 was palpably erroneous. Therefore, under the doctrine of res judicata, this Committee rules that the issue of whether or not Canalport Yard is within the Chicago Freight Terminal has been fully and finally resolved on this property by Award No. 23885.

B. The parties agree that Wood Street Yard (Global I) is a C&NW yard within the C&NW Chicago Freight Terminal.



C. Beginning in 1905, the Chicago Freight Terminal comprised a distinct seniority district. Road districts ended, for all practical purposes, at the entryways to the Chicago Terminal since, through the years, the parties negotiated rules severely restricting the capacity of road crews to operate their trains within the terminal boundary. (2) Rule 11(a) of the 1955 Schedule Agreement, a definite terminal provision, designates Proviso, located in the far western part of the Chicago Freight Terminal, as the tying up point for road engineers on the Galena, now Eastern, Division Seniority District. Probably the most restrictive provision is found in paragraph 2 of the March 29, 1961 Agreement which states:

So long as revised Supplemental Memorandum Agreement No. 2 referred to in paragraph 1 hereof continues in effect, the railway company will terminate Galena Division through freight crews in either assigned or unassigned service at Proviso instead of operating such crews through to Wood Street or 40th Street, except stock or coal trains destined to U.S. Yards or 40th Street.

In 1968, the C&NW merged with the Chicago Great Western Railroad (CGW). The first paragraph of Article 7(e) of the July 26, 1968 C&NW-ÄCGW Merger Agreement reads:

When road crews operate from or to any consolidated terminal or switching limits, such crews may set out inbound and/or pick up outbound at any yard or point within such consolidated terminal and within such consolidated switching limits. It is also recognized that employes in road service may be required to originate or terminate trains at any point within terminals and switching limits which are consolidated and/or extended pursuant to this Article and that employes in road service and yard service may be required

(2) In addition, Chicago Terminal engineers hold only yard (their district) seniority while Eastern Division engineers lack yard seniority.

to go on and off duty at any designated point within terminals and switching limits which are consolidated and/or extended pursuant to this Article and the attachments hereto. NOTE: In the application of Article 7(e), the company will designate the point or points within a terminal where crews will go on and off duty. This may vary for different pools or assignments and such designations will be subject to change by the company. However, the point where a crew reports on duty on an outbound trip from a terminal will be the point at which the crew goes off duty on returning inbound trip. It is understood that yard crews will go off duty at the same point they go on duty. (Emphasis added.)

Article 7(a) lists Chicago among the terminals consolidated as a result of the merger.

Subsequent to the merger, the Carrier began operating through freight trains from Clinton, Iowa, the western terminus of the Eastern Seniority District, through Proviso to Wood Street. However, in Award No. 65, the Special Board of Adjustment (Abernethy), established by the June 25, 1969 Memorandum of Agreement, ruled that, for merger (lifetime) protected employees, Article 7(e) of the Merger Agreement did not supersede the definite terminal rules and other pre-existing agreements, including the March 29, 1961 Agreement. Award No. 65 effectively forced the Carrier to revert back to operating the Chicago Terminal subject to the pre-merger restrictions on work road crews could perform within the Chicago Terminal. In 1973 and again in 1975, the Carrier and the Organization entered into Memorandum Agreements allowing the Carrier to operate trains with road crews from Wood Street through Proviso to Clinton provided the service did not cause the reduction of any terminal transfer assignments. Due to

Award No. 65 and the continued presence of merger protected

employees, the Carrier never operated Chicago as a consolidated terminal until the effective date of the 1986 Arbitrated National Agreement.

Relying on the historical development of Chicago Terminal operations, the Organization asserts that Article VIII, Section 1(a) of the 1986 Arbitrated National Agreement does not permit Eastern Division road crews to operate beyond Proviso because, by doing so, the road crews impermissibly invade a separate and distinct seniority district. Furthermore, the Organization emphasizes that permitting road crews to take their trains to and from Wood Street is tantamount to assigning intra-terminal transfer service to road crews.

On the other hand, the C&NW contends that the 1968 CGW Merger Agreement established the Chicago Freight Terminal as a consolidated terminal for road crews on the surrounding seniority districts to the extent specified in the Agreement. The Carrier stresses that it observed the pre-1968 limitations on operating road crews to and from Wood Street only because Award No. 65 held that the restrictions survived the merger for merger protected employees.

In this Committee's view, the C&NW advances the more logical position consistent with not only the concept of a merger consolidated terminal but also with the relaxation of restrictions on road crews performing work associated with their own trains in yards contained in Article VIII, Section 1 of the 1986 Arbitrated National Agreement.



Without doubt the Chicago Freight Terminal is a consolidated terminal. The 1968 Merger Agreement unequivocally created a consolidated terminal and specifically stated that road crews could originate or terminate their trains anywhere within the terminal. The primary purpose of a consolidated terminal is to eliminate definite or immovable on and off duty points within the terminal switching limits. Terminals are often consolidated as part of railway mergers. [See also Public Law Board No. 4264, Award No. 12 (Sitting with this Referee).] Nevertheless, the C&NW could not immediately avail itself of this operational flexibility due to Award No. 65. Thus, the C&NW had no choice but to enter into special agreements with the Organization allowing the Carrier to operate a few trains from Wood Street through Proviso to road territory. Article VIII, Section 1(a) of the 1986 Arbitrated National Agreement lifted any previous restrictions on road crews getting or leaving their own trains within terminals. Since the Chicago Freight Terminal is a consolidated terminal pursuant to the 1968 Merger Agreement, the Eastern Division road crews can get or leave their trains at Wood Street or at any other yard within the Chicago Freight Terminal.

Our resolution of this issue should not be construed to consolidate road and yard seniority. Also, our decision does not permit the Carrier to assign road crews to perform yard service. When road crews get or leave their trains at a yard within the consolidated terminal, they are not performing transfer service

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because the road crews are doing work solely related to their road train.

Answer to Issue No. 18A: No.

Answer to Issue No. 18B: Yes.

Answer to Issue No. 18C: Yes. Article YVIII, Section 1(a) supersedes prior restrictions by allowing road crews to get or leave their road train at any location within the C&NW Chicago Freight Terminal.

Dated: May 1, 1990

Larry D. McFather  
Jr.  
Organization's Member

Charles I. Hopkins,  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 19

A. The Organization's Statement of Issue No. 19

Can a Carrier unilaterally eliminate a schedule rule which required preparatory time under Section 3 of Article VIII?

B. The Carriers' Statement of Issue No. 19

Does Issue 13 previously arbitrated before this Committee require payment of preparatory time under Rule 1S of the Union Pacific Schedule Agreement?

Pertinent Contract Provisions

ARTICLE VIII – ROAD, YARD, AND INCIDENTAL WORK

Section 3 – Incidental Work

Road and yard employees in engine service and qualified ground service employees may perform the following items of work in connection with their own assignments without additional compensation:

- (a) Handle switches
- (b) Move, turn, spot and fuel locomotives
- (c) Supply locomotives except for heavy equipment and supplies generally placed on locomotives by employees of other crafts
- (d) Inspect locomotives
- (e) Start or shutdown locomotives
- (f) Make head-end air tests
- (g) Prepare reports while under pay
- (h) Use communication devices; copy and handle train orders, clearances and/or other messages.
- (i) Any duties formerly performed by firemen.

Discussion

Agreed upon Question and Answer No. 2 under Article VII,  
Section 3 of the 1986 Arbitrated National Agreement states:

QA2: An existing rule provides for a preparatory time arbitrary payment to engineers and firemen for each tour of duty worked 'for all services in care, preparation and inspection of locomotives, including the making out of necessary reports required by law and the company and being on their locomotive at the starting time of their assignments.' Does Section 3 of Article VIII contemplate the elimination of such an arbitrary?

AA2: No, if the engine service employees are required to report for duty in advance of the starting time of the assignment.

The first paragraph of Article 15(a) of the October 1, 1977 BLE Schedule Agreement in effect on the former Missouri Pacific Railroad provides:

Engineers in yard service will be paid the current rates according to class of engine; eight hours or less shall constitute a day's work. Except where engine crews are relieving each other on the same engine in continuous service, enginemen will report 15 minutes prior to time for the crew to begin work and be paid therefor; if required to report more than 15 minutes in advance of the starting time, actual time will be allowed.

Article 15(a) is similar to the schedule rule in effect on the former Wabash (N&W) which we addressed in Issue No. 13.

In Issue No. 13, this Committee observed: "The N&W is bootstrapping the Schedule Rules when it first eliminates the requirement that engineers report in advance of their starting time and justifies its denigration of the preparatory time payment because the engineer does not report to duty ten or twenty minutes

before his starting time. We further iterated that agreed upon  
Question and Answer No. 2 would be "...rendered completely

meaningless and superfluous..." because the Answer would not preserve any preparatory time payments if a carrier could unilaterally cancel the schedule rule mandating preparatory time and then invoke Article VIII, Section 3 to avoid paying preparatory time compensation.

The UP argues that Article 15(a) has always been recognized as an arbitrary payment specially granted to yard engineers separate and apart from their assignments. However, the March 21, 1988 bulletin from the Superintendent of Transportation Service at North Little Rock directing yard engineers to stop reporting for duty fifteen minutes before their call time belies the UP's assertion that engineers rarely, if at all, reported to work before the rest of the members of the switch crews. The bulletin unmistakably implies that engineers were previously reporting to duty in advance of their starting times and inspecting their locomotives per Article 15(a). Even when an engineer did not actually report to work fifteen minutes ahead of time to avoid expiring (before the remainder of the crew) under the Hours of Service law, the engineer was constructively treated as if he had reported to work ahead of the starting time of the yard assignment. Also, the Organization presented evidence of claims filed for time spent preparing engines for service by engineers at Little Rock and St. Louis which indicates that the preparatory time compensation in Article 15(a) is pay for time worked. Thus, the UP is contractually bound to call a yard engineer to duty fifteen

minutes before the rest of the switch crew begins work absent  
circumstances constituting an exception as stated in the rule.

For the reasons more fully set forth in Issue No. 13, Article  
VIII, Section 3 did not affect the Article 15(a) preparatory time  
payments.

A. Answer to the Organization's Statement of Issue No. 19:  
No, unless the schedule rule does not require engine service  
employees to report to duty in advance of the starting time of the  
assignment.

B. Answer to the Carriers' Statement of Issue No. 19: Yes.

Dated: May 1, 1990

Larry D. McFather  
Organization's Member

Charles I. Hopkins Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 20

A. The Organization's Statement of Issue No. 20

How shall the non-duplicate pay provision of Article 26(d) of the BLE-UP (former Missouri-Pacific) Agreement which expresses payment in miles, be interpreted with respect to changes in basic day miles pursuant to Section 2?

B. The Carriers' Statement of Issue No. 20

Does Question and Answer No. 4 under Article IV of the agreed upon Question and Answers between the BLE and the NRLC apply to the Union Pacific rule concerning runaround payments?

Pertinent Contract Provision

ARTICLE IV - PAY RULES

Section 2 - Miles in Basic Day and Overtime Divisor

ta) The miles encompassed in the basic day in through freight and through passenger service and the divisor used to determine when overtime begins will be changed as provided below:

Effective Date of Change	Through Freight Service		Through Passenger Service	
	Miles in Basic Day	Overtime Divisor	Miles in Basic Day	Overtime Divisor
July 1, 1986	104	13.0	104	20.8
July 1, 1987	106	13.25	106	21.2

June 30, 1988

108

13.5

108

21.6

Discussion

The first two sentences of Article 26(d) of the BLEÄMissouri Pacific Schedule Agreement read:

Chain gang engineers will be run "first in, first out" of terminals. Available chain gang engineers runaround by engineers of their own territory or those of others, will be allowed fifty (50) miles. (Emphasis added.)

Agreed upon Question and Answer No. 4 under Article IV, Section 2 of the 1986 Arbitrated National Agreement states:

QÄ4: How shall nonÄduplicate time payments expressed in miles be paid following changes in miles in basic day pursuant to Section 2? (e.g., 50 miles runaround rule.)

ÄÄ4: Where the obvious intent of the parties was to apply a percentage of a basic day (e.g., 50 miles equals 50%), such intent shall be continued (50% equals 52, 53 or 54 miles depending on effective date of change.)

The Organization argues that the 50 miles in Article 26(d) was proportionally indexed to incorporate incremental increases in the mileage comprising a basic day. The parties, the Organization asserts, manifested their intent that the runaround payment would be a constant percentage (50%) of the prevailing basic day miles per agreed upon Question and Answer No. 4. The Organization explains that Article 26(d) expresses the payment in miles merely because 100 miles had constituted a day for decades before July 1, 1986.

The UP characterizes Article 26(d) as a punitive rule bearing no relationship to the runaround engineer's lost earnings. Thus, according to the UP, the 50 miles expressed in Article 26(d) is a fixed payment as opposed to one half of the basic day. The UP contends that there is, no evidence in the record showing the parties obviously intended to apply a percentage of the basic day

when computing penalty payments under Article 26(d). The UP cited other schedule rules, such as Article 7(a) (Called and Held

Waiting) where the parties obviously evinced their intent to index the payment to a portion of the basic day by expressing the penalty payment as "...1/2 day at daily rate of one hundred (100) miles."

The resolution of this dispute is controlled by the agreed upon Answer to Question No. 4 under Article IV, Section 2(a) of the Arbitrated National Agreement. The example in the Answer, a runaround non-duplicate time payment, is the exact type of payment contained in Article 26(d). The runaround rule was negotiated when the one hundred mile basic day remained constant. Although the parties could have expressed the payment in terms of a fraction of the basic day, it was unnecessary to state "1/2 of the basic day" because 100 miles consistently comprehended the basic day for a long period of time. The descriptive phrase "obvious intent" in agreed upon Answer to Question No. 4 includes ascertaining the parties intent from the patent language of the rule, historical practices and other evidence mirroring the relationship between the amount of the payment and a basic day. The absence of the word "day" in Article 26(d) does not mean that the parties intended for the payment to be forever fixed at exactly 50 miles. Question and Answer No. 4 was designed to prevent such an unreasonable result and the example given in the agreed upon Question and Answer corresponds precisely to the Article 26(d) runaround payment. In this particular case, the parties obviously chose 50 miles so the payment would constitute 50% of the basic day.

A. Answer to the Organization's Statement of Issue No. 20:  
The UP must maintain a 2:1 ratio of miles comprising the basic day



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to miles paid under Article 26(d). For instance, if the basic day is 108 miles, the non-duplicate time payment due an engineer runaround under Article 26(d) is 54 miles.

B. Answer to the Carriers' Statement of Issue No. 20: Yes

Dated: May 1, 1990

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

ISSUE NO. 21

Do the provisions of Article VIII, Section 2, Yard Crews,  
(a)(iii) permit carrier to supplant road switching outside of the  
yard switching limits with the service of a yard engine crew?

Pertinent Contract Provisions

ARTICLE VIII -- ROAD, YARD AND INCIDENTAL WORK

Section 2 -- Yard Crews

(a) Yard crews may perform the following work outside  
of switching limits without additional compensation  
except as provided below:

\*\*\*\*\*

(iii) Perform service to customers up to 20  
miles outside the switching limits provided  
such service does not result in the  
elimination of a road crew or crews in the  
territory. The use of a yard crew in  
accordance with this paragraph will not be  
construed as giving yard crews exclusive  
rights to such work. This paragraph does not  
contemplate the use of yard crews to perform  
work train or wrecking service outside  
switching limits.

Discussion

This issue was presented to this Committee within the context  
of four situations which developed on the Chicago and Northwestern  
Transportation Company. Before we address these occurrences, this  
Committee must interpret Article VIII, Section 2(a)(iii) and  
especially the rule's reference to the exclusivity principle.  
According to the Organization, the second sentence of Article

VIII, Section 2(a)(iii) prohibits the Carrier from regularly assigning yard crews to work outside switching limits (not more

than twenty miles) when such work was previously performed by road crews. The Organization relies heavily on the March 20, 1987 Award of the UTU Joint Interpretation Committee involving an identical provision in Article VIII, Section 1(c) of the October 31, 1985 UTU National Agreement. Arbitrators Kasher and Peterson wrote that the contract provision permits a switch engine to service customers within the twenty mile road/yard zone, "...on but a limited or incidental basis...."

We concur with the UTU Joint Interpretation Committee's construction of the language which appears in Article VIII, Section 2(a)(iii) of the 1986 Arbitrated National Agreement but this Committee emphasizes that the logic of the UTU Committee's interpretation is derived from the first sentence of Article VIII, Section 2(a)(iii) rather than the allusion to the exclusivity concept in the next sentence. The sole criterion to determine if a yard engine may perform switching service to customers in road territory (up to 20 miles outside switching limits) is whether or not the assignment of such work results in the elimination of a road assignment somewhere on the territory. Arbitrators Kasher and Peterson noted that assigning a yard crew to perform a great preponderance of work outside switching limits would probably lead to the elimination of a road crew. However, neither the reference to incidental work in the UTU Award nor the exclusivity language in Article VIII, Section 2(a)(iii) bars the Carrier from regularly assigning some or even the same road work to a yard engineer. The second sentence of Article VIII, Section 2(a) was fashioned to



prevent a yard engineer from claiming exclusive rights to perform work in the twenty mile road yard zone simply because the yard engineer was indefinitely assigned to perform switching at a particular industry located less than twenty miles outside switching limits. Instead, such work continues to be classified as road work. The Carrier attained the flexibility to assign the work of servicing customers within the twenty mile parameter to either road or yard crews so long as no road crew was abolished. Aside from this single proviso, there is no limit on the quantity of work yard crews may perform up to twenty miles outside switching limits.

Therefore, in resolving each of the four situations on the C&NW, the standard for determining if the C&NW has breached Article VIII, Section 2(a)(iii) is whether or not the assignment of work, consisting of switching at customers, to a yard crew caused the elimination of one or more road crews on the applicable territory as opposed to whether or not a yard crew is regularly performing such work within twenty miles of switching limits.

1. The Kaukana Dispute. For some time, the Carrier operated two road switchers out of Appleton, Wisconsin. Due to a strike at the Combined Lock Paper Mill, the Carrier discontinued one road switcher run from Appleton to the paper mill. Apparently the second road switcher assignment began servicing the other industries previously part of the abolished switcher's assignment. When the strike ended, the Carrier operated the Kaukana Yard Engine

service Combined Lock Paper Mills.(3) The Carrier did not reestablish the Appleton switch run to the paper mill.

The immediate cause of the abolition of the road switcher run was the work stoppage at the paper mill. However, the permanent discontinuance of the Appleton road switcher was the assignment of switching at the paper mill after the strike to the Kaukana Yard Engine. In lieu of reestablishing the assignment at the conclusion of the strike, the Carrier assigned the work to the Kaukana yard engine. The road assignment abolition was directly related to the assignment of mill switching to the Kaukana Yard Engine. Put differently, the C&NW used a transitory work stoppage as a pretext for permanently abolishing a road crew.

While the C&NW violated Article VIII, Section 2(a)(iii), the record reflects that the dispute was rendered moot as of December, 1988 when the Carrier sold the rail line to the Fox River Valley Railroad.

2. The Waukegan Dispute. Prior to November, 1986, the Carrier operated two way freight trains, WWE32 and WWE33, out of Waukegan, Illinois. Both trains traveled south to Lake Bluff and then across to Tower KO on the New Line. During this part of its trip, WWE33 performed switching at North Chicago (less than twenty miles outside Waukegan switching limits). At the tower, the WWE32 went north on the New Line to Bain while WWE33 travelled south servicing customers on the New Line down to Skokie. On November

(3) As an ancillary argument, the Organization also charges that the engine operated off its seniority district.

14, 1986, the Carrier abolished the WWE33. Since both way freights worked only about four to six hours per day, the Carrier placed all of the WWE33's work, including the North Chicago switching work, on the WWE32 assignment. As a result, the WWE32 worked almost a twelve hour assignment. During February, 1987, the Carrier reassigned the North Chicago switching work from the WWE32 to yard engine job 01 working out of Waukegan. The Carrier made the reassignment because, except for approximately two days per week when it services a power plant, the yard assignment consistently worked less than eight hours. Thus, on most days, the North Chicago switching filled out a day's work for the yard crew.

This Committee remands this dispute to the property for additional discussion and evidence. If the Carrier used the transitory assignment of the North Chicago switching work to the remaining way freight as a subterfuge for eventually placing the work with a yard assignment, then it violated Article VIII, Section 2(a)(iii) because the C&NW could not have eliminated one way freight assignment unless it ultimately assigned the North Chicago switching work to the Waukegan yard engine. On the other hand, if the assignment to the yard engine was made in good faith simply to avoid paying unnecessary overtime to a road crew (see the Kenosha Dispute) then the elimination of the way freight was not directly traceable to the assignment of North Chicago switching work to the Waukegan yard engine. Should the parties be unable to resolve this factual conflict on the property, they may supplement this record

and return to the Informal Disputes Committee for a final and binding decision.

3. The Kenosha Dispute. In the past, road assignment WWE19 performed switching work at Racine. The Carrier reassigned the Racine switching work to one of three switch engines stationed at Kenosha, nine miles away. According to the Organization, the reassignment resulted in a reduction in overtime compensation earned by the road crew.

As enunciated above, the sole criterion to determine if a carrier has impermissibly assigned road work within the twenty mile roadÄyard service zone to a yard engine is whether or not the assignment leads to the elimination of a road assignment on the applicable territory. Article VIII, Section 2(a)(iii) does not prohibit the assignment of a yard engine to perform road switching within twenty miles of the yard engine's switching limits even if a road crew that formerly accomplished this switching work no longer earns overtime compensation on a regular basis. One of the purposes of Article VIII, Section 2(a)(iii) was to generate greater operational efficiencies by allowing a carrier to fill out a short yard day with some work of an overburdened road crew.

4. The Wausau Dispute. When the Carrier employs two yard engine crews at Wausau, one assignment has sufficient time within an eight hour day to,handle some yard work plus industrial switching at Rothschild, which is five track miles outside the Wausau switching limits. If only a single Wausau yard crew is employed, it works close to twelve hours to accomplish yard work



and so, the Green Bay to Wausau road freight crew handles the Rothschild switching. By bulletin dated January 19, 1989, the Assistant Trainmaster assigned the Rothschild switching work to one of the Wausau yard engines unless or until the agent issues instructions to the contrary.

Even if the Wausau yard engine is regularly performing Rothschild switching work, the Carrier has not violated Article VIII, Section 2(a)(iii) because the assignment did not result in the elimination of a road crew. At most, the road crew loses an opportunity to perform overtime compensation which is a permissible consequence of the application of Article VIII, Section 2(a)(iii).

Answer to Issue No. 21: Yes, unless the yard crew's servicing of customers up to twenty miles outside the switching limits results in the elimination of one or more road crews on the territory.

Dated: May 1, 1990

Larry D. McFather  
Organization's Member

Charles I. Hopkins, Jr.  
Carriers' Member

John B. LaRocco  
Neutral Member

Brotherhood of  
Locomotive Engineers

STANDARD BUILDING  
CLEVELAND, OHIO 44113-1702  
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RONALD P. MCLAUGHLIN  
International President

October 4, 1993

ALL U.S. GENERAL CHAIRMEN  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Re: Informal Disputes Committee

Dear Sirs and Brothers:

Enclosed is a copy of Informal Disputes Committee Issue No. 22, dated April 2, 1993. It should be noted that Mr. C. I. Hopkins, Jr., Chairman of National Railway Labor Conference, just signed this decision and, in fact, attached a "Separate Opinion" regarding this dispute.

After reading the decision and the "Separate Opinion", it will become clear to you why the International Division felt it was necessary to dissolve the Informal Disputes Committee created under Article XVI of Arbitration Award No. 458. As previously indicated, it is requested that all disputes concerning Arbitration Award No. 458 be scheduled for resolution before the First Division with the International Division being given the courtesy of making comments regarding your submission.

It is hoped that this information and material will be beneficial to you.

Fraternally yours,

President

Enc.

cc & enc. to Advisory Board



ISSUE NO. 22

A. The Organizations' Statement of Issue No. 22

Is Article IX " Interdivisional Service, applicable to turnaround service which works from

a home terminal to an away"from"home terminal back to the home terminal under local schedule

rules?

B. The Carriers' Statement of Issue No. 22

1. Does CSXT have the right to establish interdivisional service between Huntington

and Peach Creek, West Virginia, on a turnaround basis?

2. Does CSXT have the right to establish interdivisional service from Huntington

through Peach Creek to locations in the coal fields on a turnaround basis?

3. If either or both of the above questions are answered in the affirmative, is the

appropriate method of compensation that contained in Article IX of Award of

Arbitration Board No. 458?

Pertinent Contract Provisions

ARTICLE IX " INTERDIVISIONAL SERVICE

Section 1" Notice

An individual carrier seeking to establish interdivisional service shall give at least

twenty days' written notice to the organization of its desire to establish service,

specify the service it proposes to establish and the conditions, if any, which it

proposes shall govern the establishment of such service.

Section 2 A Conditions.

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 a rate calculated by dividing the basic daily rate of pay in effect on May 31, 1986 by the number of miles encompassed in the basic day as of that date. Weighted drivers additives will apply to mileage rates calculated in accordance with this provisions.

(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.

Discussion

This issue arose on the property of the CSX Transportation Inc.

For many years, CSX and one of its predecessor railroads operated turnaround service

between Huntington, West Virginia, a home terminal and Peach Creek, West Virginia, an

intermediate point. Charles I. Hopkins, Jr. (1) Rule 12 of the applicable agreement provides that in

"...through freight service a turnaround run is a run from one terminal to an intermediate point and

return to terminal...". Rule 94 specifies that engineers will be compensated 100 miles for operating from

' Peach Creek is often referred to as Logan. The two town names can be used interchangeably.

Huntington to Peach Creek or in the opposite direction. Presently, the Carrier pays an engineer

making the Huntington Æ Peach Creek Æ Huntington trip 100 miles for each segment of the

turnaround trip although the actual distance between the two points is 75 miles.

On February 20, 1987, and again on June 7, 1991, CSX served notice on the Organization of its intent to institute "...interdivisional assigned and/or pool turnaround freight

service to operate Huntington, West Virginia through the terminal of Peach Creek, West

Virginia returning to Huntington, West Virginia."(2) While the literal language of the notices

indicate that CSX's intent was to convert the existing turnaround service into intraseniority

district and/or intradivisional service without any operational changes, CSX subsequently

explained that it actually wanted the right to operate trains through Peach Creek to points south

and east of Peach Creek and then back through Peach Creek and tying up in Huntington. Stated

differently, the new turnaround point would be a location beyond Peach Creek.(3)

Assuming the CSX contemplates operating new interdivisional turnaround service to

stations, terminals or mines beyond Peach Creek (where Peach Creek is no longer the

turnaround point), CSX's notice falls within the purview of Article IX of the 1986 Arbitrated

Agreement. The genesis and evolution of Article IX demonstrate that the intent of the provision

was to permit the Carrier to introduce interdivisional, interseniority, and intradivisional

intraseniority district service where they did not have the right to operate such service under

existing rules in the schedule agreements. Thus, based on its subsequent explanation following

the written notices, CSX was legitimately trying to reap the efficiencies that may flow from a

(2) The quotation is from the June 7,1991 notice.

(3) Trains running between Peach Creek and Huntington traverse the Kanawha Subdivision. Trains operating east of Peach Creek are on the Logan Subdivision.

new turnaround service which will cross existing subdivisions and run through the present

turnaround point (Peach Creek). Therefore, the Organization is required to comply with the

negotiation and, if necessary, arbitration procedures of Article IX to determine the conditions

under which this service will operate.

To the extent the CSX's notices contemplate relabeling the existing Huntington to Peach

Creek to Huntington turnaround service as new intraseniarity or intradivisional service, CSX's

notices fall outside the scope of Article IX. A carrier may not simply transform an existing,

non-interdivisional run into an Article IX operation. The negotiating history of Article IX and

Article VII of the May 13, 1971 National Agreement shows that the parties intended for Article

IX to give carriers the right, under certain conditions, to operate trains without crew changes

on territories or through terminals where carriers were currently prohibited from doing so.

Here, CSX has always been able to operate the Huntington to Peach Creek turnaround service.

If this service could simply be converted to an Article IX run by the mere filing of a notice

(without any operational changes), any carrier could take any existing basic day trip and

transform the service to Article IX service to avail itself, for example, of the benefits of Article

IX Section 2(e) to evade a local rule vesting engineers with a fixed meal period. CSX failed to

cite any case where Article IX was applied to an existing, pure turnaround run between a home

terminal and an intermediate point. The parties are always free to negotiate over changing how this turnaround assignment is operated but such negotiations are not mandated by Article IX. (4)

(4) The UTU apparently entered into agreement changing the operation of the existing turnaround service. This Committee notes that the parties decided on a compensation arrangement different from that set forth in Article IX, Section 2(b). The fact that UTU entered into agreement with CSX to change existing service does not mean such agreement was mandated by the interdivisional service provisions in the 1985 UTU National Agreement.

Nonetheless, although this Committee concludes that Article IX is inapplicable to the pure

turnaround assignment presently existing between Huntington and Peach Creek, we emphasize

that our decision is restricted to the facts of this record. There are many types of turnaround

service, including among others, a loop turnaround trip and multiple turnarounds through a home

terminal. Whether Article IX is applicable to any other types of turnaround service must be

decided on a case by case basis.

A. Answer to the Organization's Statement of Issue No. 22: No, provided the

answer is restricted to the particular facts of this case.

B. Answer to the Carriers First Question under Issue No 22: No, provided the

answer is restricted to the particular facts of this case.

C. Answer to the Carriers' Second Question under Issue No. 2: Yes.

D. Answer to the Carriers' Third Question under Issue No. 2: Yes.

Dated: April 2, 1993

Ronald P. McLaughlin  
I. Hopkins, Jr.  
Organizations' Member  
Carriers' Member

Charles

John B. LaRocco  
Neutral Member



### Separate Opinion

This is in the nature of a dissent because I think a mistake led to an erroneous decision. However, a dissent would not change the result and the neutral member of the Board afforded the parties a proper opportunity to present their respective positions. However, perhaps because of simultaneous written submissions and a somewhat misdirected oral presentation by the undersigned the key point was, I believe, misperceived.

That key point was the denomination of the service in question as "turnaround service." The BLE submission represented it as turnaround service and I believe the neutral member accepted and appropriated that as factual. However, that is not correct. The service is not turnaround but straightaway service. This is made clear by the agreement rule 94 that lists the services to which it applies. These services are listed individually and those that are straightaway show the originating, awayÄfromÄhome and destination terminal: whereas those that are turnaround show the origin terminal, turnaround point "and return." The turnaround runs are paid on a continuous time and mileage basis and the straightaway runs are paid on a mileage or minimum day basis in each direction Ä that is why the service in question is paid 100 miles in each direction even though the distance is 75 miles. The awayÄfromÄhome terminal is a layover and crew change point which, of course, is not the case in turnaround service. The list of covered services as set forth in Rule 94 is reproduced below:

B. Freight	Miles
PENINSULA DISTRICT:	
Fulton and Old Point Junction . . . . .	100
RIVANNA DISTRICT:	
Fulton and Gladstone . . . . .	122
PIEDMONT & WASHINGTON DISTRICT:	
Fulton and Charlottesville . . . . .	100
Fulton and Gordonsville and return . . . . .	154
Charlottesville and Potomac Yard . . . . .	110
Charlottesville and Strathmore . . . . .	100
Strathmore and Potomac Yard . . . . .	124
MOUNTAIN DISTRICT:	
Charlottesville and Clifton Foree . . . . .	100
Clifton Foree and Basic . . . . .	100
JAMES RIVER DISTRICT:	
Gladstone and Clifton Forge . . . . .	112
Clifton Foree and Lynchbure . . . . .	100
HINTON DISTRICT:	
Clifton Foree and Hinton . . . . .	100
Hinton and Handley . . . . .	100
Hinton and Russell ( manifest and I/D trains only)	167
Hinton and Raleigh and return . . . . .	100
HUNTINGTON DISTRICT:	
Handley and Russell . . . . .	100
Russell and Cane fork . . . . .	100
Handley and Huntington . . . . .	100
Chelyan and Huntington . . . . .	100
Chelyan and Russell . . . . .	100
Huntington and Lewis and return . . . . .	100
Russell and Whitesville . . . . .	108
Russell and Danville . . . . .	100
Handley and Whitesville . . . . .	100
Handley and Danville . . . . .	100
Russell and Logan . . . . .	100
Huntington and Loean . . . . .	100
Handley and Logan . . . . .	130
CINCINNATI & NORTHERN DISTRICT:	
Russell and Cincinnati . . . . .	143
Russell and Parsons . . . . .	113
BIG SANDY DISTRICT:	
Russell and Martin . . . . .	100
Russell and Shelby . . . . .	124
Russell and Paintsville . . . . .	100
Russell and Pikesville . . . . .	115

Note A Through freight eneineers. Russell to Paintsville, relieved at Paintsville. whether under the Hours Service Law or not will be paid on the basis of a minimum day for the trip in each direction and are considered on duty and under pay at the expiration of 8 hours rest period from the time relieved, unless 10 hours rest is required by law.

LEXINGTON A LOUISVILLE DISTRICT:

Russell and Winchester (Patio) . . . . . 110  
Russell and Midland and return . . . . .146  
Russell and Mt. Sterline and return. . . . . 190  
Lexington and Louisville . . . . . 100

CINCINNATI A CHICAGO DISTRICT:

Peru and Cincinnati . . . . . 162  
Peru and Chicago . . . . . 124

(Emphasis Added)

The reason for this separate opinion is to try to clear the record but most importantlv to reinforce that part of the neutral member's decision that emphasizes it is not to be a precedent for other situations: "... we emphasize that our decision is restricted to the facts of this record."

Charles I. Hopkins, Jr.  
Carriers' Member

