

**MEMORANDUM OF AGREEMENT**

**BURLINGTON NORTHERN RAILROAD COMPANY**

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

Pursuant to the Carrier's notice dated October 15, 1996, and in accordance with Article IX of Arbitration Award 458, dated May 19, 1986, it agreed that intraseniORITY district freight service may be established between Edgemont, South Dakota and Sheridan, Wyoming, under the following terms and conditions:

**Section 1.**

(a) A new double-ended pool of engineers will be established and maintained at both Edgemont and Sheridan to handle through traffic between these points. These pools will be regulated in accordance with BN 4/24/81, OPS. 36-81, or as agreed upon by the appropriate BLE Local Chairman and designated Carrier Officer. This provision recognizes that the appropriate BLE Local Chairman and appropriate Carrier Officer may continue present indexing of miles account changes in basic day.

(b) The present Edgemont West pool and Sheridan East pool will continue to protect all other service destined for the Gillette area.

**Section 2.**

(a) At each terminal, a board having an "active" and an "inactive" list will be maintained. Engineers will be called, in turn, from the active list for service. The inactive list will be a list of engineers who are at their home terminal, that have not been advanced to the active list.

(b) Each engineer arriving at their home terminal will be placed at the bottom of the inactive list, unless entitled to "restoration of turn" or if "bypassed" by another engineer who is entitled to "restoration of turn". When an engineer arrives at a terminal "out of turn", the engineer will then be marked up on the active or inactive list in the proper place, unless the engineer notifies crew management, upon tie-up, that restoration is not desired..

(c) Except when an engineer arrives "out of turn" each engineer arriving at the away-from-home terminal will be placed at the bottom of the active list.

(d) The maximum number of engineers (i.e., "quota") that will be on the inactive list at Edgemont and Sheridan will be initially determined and later changed (from time to time as service requirements and crew availability changes), subject to advising the BLE Local Chairman, by the designated Carrier Officer. This quota may be different at each terminal. The daily activation message, presently in effect at Sheridan, will include both ends of this pool operation.

(e) When an engineer ties up at the home terminal (except when arriving "out of turn") and adding this engineer to the inactive list causes that list to exceed its current quota, the first-out engineer on the inactive

list will be immediately moved to the bottom of the active list. If an engineer arrives at their home terminal "out of turn", the turn will be marked up in accordance with paragraph (b) as soon as the proper order of markup can be determined.

### **Section 3.**

(a) Except as otherwise provided in this agreement, long pool engineers will be called first-in, first-out, from the active list maintained at each terminal, provided that the first-out engineer has full rest under the Hours of Service Act. If the first-out engineer does not have full rest, the next following engineer that is fully rested will be used. Should there be no engineer in the pool which is fully rested, then an extra board engineer may be called from the list to operate one round trip under provisions of this agreement.

(b) Subject to the exceptions contained in this agreement, long pool engineers who are not called to report for duty or deadheading in the proper order of their standing will be allowed a basic day for each occurrence and shall continue to retain the first-out position. It is understood that the Carrier may, without penalty, remove an engineer(s) from the train for which called and place them on another train or deadhead them to the opposite terminal.

(c) An engineer whose rotation is affected by the provisions herein shall be restored to proper turn (upon written request submitted to crew management) prior to tie up at the terminal. If this is an away-from-home terminal and the engineer is not rested in time to be restored, the engineer will be restored to turn upon arrival at the home terminal. Each engineer arriving at either terminal will be marked up at the bottom of the list except when entitled to "restoration of turn" or when the engineer has bypassed some other engineer who is entitled to restoration of turn under the provisions of this section, unless the engineer notifies crew management upon tie-up that restoration is not desired.

#### **Notes:**

(1) The provisions of this paragraph do not apply to individual extra engineers when the call and release occurs at their extra board terminal. Such extra engineer will be handled (and paid) in accordance with applicable schedule agreement rules.

(2) It is understood that when an engineer has been called and released in a manner that did not interrupt "rest" under the Hour of Service Act, then the engineer retains the same position and will not require an additional 8 hours rest before being subject to another call.

(d) When a long pool engineer qualifies for any payment under CB&Q Schedule Rule 33 (a), (b) and (c), captioned "Called and not wanted", "Call Cancelled", and "Called, performs Service and Not Wanted", respectively, the engineer will continue to stand first out. When the engineer has performed some service or has been called and released under that rule and is returned to the first-out position, and compensated in accordance with Rule 33, the engineer will not be called for service again until rested (except to deadhead to the home terminal before rested). It is recognized that other engineers may be called around the engineer obtaining rest without penalty during the period the engineer is obtaining required rest.

#### **Section 4.**

(a) When two pool engineers are called for the same train (one to work and one to deadhead), and if one of the engineers is not rested and the other is rested, the rested engineer will work the train and the unrested engineer will deadhead. Otherwise, applicable BLE-CB&Q Schedule rules will apply.

(b) Engineers may be called to "deadhead out of turn" from their away-from-home terminal at any time, regardless of their standing in relation to at home engineers, except they must be called first-in/first-out in relation to other engineers with the same home terminal.

#### **Section 5.**

(a) Unclaimed temporary vacancies occurring in this service at either terminal will be filled from the Engineer Extra Board. If this list is exhausted the vacancy will be filled by calling the senior demoted engineer who is fully rested and available at that point.

(b) If an engineer lays off account sickness or other personal emergency at the away-from-home terminal, an extra board engineer from the home terminal of the vacancy will be called to deadhead to fill the vacancy. The vacancy may be filled by the next out engineer(s) with the same home terminal, who are rested and available at that location, until the extra engineer's arrival.

(c) Engineer's deadheaded to either away-from-home terminal may request and be granted up to eight hours rest before being required to perform service.

#### **Section 6.**

(a) Except in case of emergency (emergency meaning conditions such as acts of God, wrecks, washouts, floods and fires which interfere with the operation of trains), engineers assigned to work in this service will not be used for short service between the two established terminals.

(b) Any necessary relief work as a result of the Hours of Service Law between Sheridan and Gillette will be manned by the Sheridan East pool crews or the Sheridan Short Pool, and any necessary relief work, between Edgemont and Gillette will be manned by Edgemont West Pool or Edgemont extra list, with the understanding neither can operate through Gillette. The Carrier may use these long pool crews called from either terminal, with the understanding they will work through to the opposite terminal, subject to the Carrier's continued right, under provisions of National Agreements or awards, to use yard crews to perform such work.

(c) Nothing contained in this agreement is intended to prohibit these pool engineers from being used on trains that traverse only part of the specified pool territory provided engineers are then transported forward to the opposite terminal or paid as though they had been. Likewise, nothing in this agreement is intended to prohibit these pool engineers and other engineers from combining or exchanging trains in this intra-seniority district service, with other trains, in this ID service.

(d) Engineers called in this service will not be tied up between designated terminals of their runs or turned back to the initial terminal, except when their movement is prevented (i. e., derailment,

wrecks, washouts, flood or fires) or when the route to destination is obstructed or impassable. Engineers returned to their initial terminal for these reasons, shall be paid continuous miles for the trip terminal until return (but not less than the one-way mileage, or hours if greater, and the engineer shall be restored to first-out position after rest).

**Section 7.**

When an engineer 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 engineer.

Note: Suitable transportation includes carrier-owned or provided passenger-carrying motor vehicle or taxi.

**Section 8.**

(a) Engineers working in this intra-seniority district service shall be paid at the rate applicable for mileage encompassed in a basic day, as outlined in Article I of 1996 BNBLE Agreement dated June 1, 1996. All miles run in excess of the miles encompassed in a basic day shall be paid for at a rate provided in Article IX, Section 2 of Arbitration Award 458, as amended by Article 1, Section 8 of BNBLE Agreement dated June 1, 1996. Weight-on-drivers will apply to mileage rates calculated in accordance with this provision. Employees deadheading in this service will be compensated as provided in Arbitration Award 458.

(b) The mileage of this intra-seniority district service is as follows: Edgemont to Gillette - 121 miles, Gillette to Sheridan - 102 miles, for a total of 223 miles. This pool will operate on a fifty-fifty percent basis.

**Section 9.**

(a) The only trains to be operated in this service will be through trains that operate between Edgemont and Sheridan. It is not the Carrier's intent to take trains, presently operated by the short pool between Edgemont and Gillette, and operate them in this service. Engineers operating in this service will not operate trains on the Orin or Campbell Subdivision. If an engineer in this service is required to operate a train on the Orin or Campbell Subdivision, the actual miles operated, with a minimum of a basic day, will be allowed in addition to all other earnings. In addition, the first out loading pool engineer, if rested and available, will be allowed a basic day. If there is no rested or available engineer in the loading pool, the first out rested and available engineer on the Gillette Extra board will be allowed a basic day.

(b) Engineers working in this service may operate trains through to Dutch, and on to mine property at Decker, or Nerco, but will not be used in the loading of these trains. Engineers upon the arrival at these mines will be transported to -Sheridan for tie-up. If an engineer is used to operate a train to or from Decker or Nerco, (off the mainline) and expires under the Hours of Service Law, the engineer will be compensated for all time, in excess of twelve hours, @ 3/16 of the daily rate until arrival at the tie-up point. In addition, engineers so used will be allowed the actual miles from Dutch to the point the train is left, and back to Dutch, in addition to their normal trip mileage.

**Section 10.**

(a) Discipline hearings or investigations involving engineers in the intra-seniority district service will be held at the engineers home

terminal, except when the majority of the principals who are to be called live elsewhere. If the investigation is held at a location other than the engineer's home terminal, the engineer will be paid for travel time and the time consumed by the investigation on a minute basis at the pro-rata rate of pay for the last previous service performed unless it is established in the investigation that the engineer was guilty of a rules violation which results in suspension of discharge. Should an engineer lose a full round trip as a result of attending an investigation and the engineer is not suspended or discharged for a rule violation the engineer will also be compensated the equivalent of the earnings of the engineer who worked the turn.

(b) Should an engineer be tied up at the location where the investigation is held, the provisions of Article II (Expenses Away From Home) of the June 25, 1964 National Agreement, as amended, will apply. Transportation to and from investigation, held at other than home terminal will be provided by the Carrier.

**Section 11.**

(a) Engineers will be furnished lockers and adequate washroom facilities at the away-from-home terminal in the immediate vicinity of on/off duty point (or transportation to and from the facility will be provided, if not in the vicinity). Minimum size of lockers will be 21" X 18" X 72".

(b) The following items will be maintained in proper condition on engines used in this intra-seniority district service:

- (a) Cab heaters
- (b) Cab weather-stripping
- (c) Cab windshield wiper
- (d) Drinking water and operable cooler
- (e) Toilet Facilities
- (f) Working radio
- (g) Working speed recorder

(c) Engineers will report any defects of items above on the proper form supplied for such purpose. Notation by engineers of defects will contain sufficient detail to enable prompt identification and correction of such defects.

**Section 12.**

Except as specifically provided herein, nothing contained herein shall be construed as modifying, amending or superseding any of the provisions of agreements of schedule rule, or merger protection agreements as implemented between the Carrier and the Brotherhood of Locomotive Engineers.

Signed at Fort Worth, Texas this 12<sup>th</sup> day of February, 1997.

For:  
BURLINGTON NORTHERN  
RAILROAD COMPANY

For:  
BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS

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Assistant Vice President - Labor Relations

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General Chairman

**SIDE LETTER NO. 1**

D. L. McPherson, General Chairman  
Brotherhood of Locomotive Engineers  
190 East 5th Street, Suite 105  
St. Paul, Minnesota 55101

Dear Sir:

This letter refers to the agreement providing for interseniority service between Edgemont and Sheridan. During the negotiation of this agreement, Section 2 which provides for an active and inactive arrangement for handling crews was discussed at length. It was agreed that another arrangement, such as slotting or dovetailing, may be substituted for the active-inactive, if agreeable by all parties involved. If the new arrangement is unsuccessful, the active-inactive arrangement will be reinstated. It was also discussed that if this pool has an uneven number of toms, the uneven tom will be assigned to Edgemont.

Sincerely,

Accepted:

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D. J. Kozak

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General Chairman