Brotherhood of Locomotive Engineers

STANDARD BUILDING
CLEVELAND, OHIO 44113-1702
TELEPHONE: 216/241-2630
FAX: 216/241-6516

RONALD P. McLAUGHLIN
International President

November 12, 1991

TO ALL U. S. GENERAL CHAIRMEN

RE: Implementation PL 102-29

Dear Sirs and Brothers:

Enclosed is a signed document which will be referred to as Public Law 102-29 and have for its force and effect the same legal status as a negotiated agreement governing the working conditions of the employees represented by the Brotherhood of Locomotive Engineers. The effective date for the majority of provisions, under this Implementation document is July 29, 1991.

For your convenience also find a summary of this document.

We appreciate your patience and understanding in the difficult task we faced in submitting to congressional recommendations.

Fraternally yours,

R P McLaughlin

President

cc: Advisory Board
Special Representatives
State Legislative Board Chairmen

Enclosures (2)

AGREED-UPON IMPLEMENTATION

OF

PUBLIC LAW 102-29

On November 7, 1991, the Brotherhood of Locomotive Engineers and the National Carriers' Conference Committee represented by the National Railway Labor Conference agreed upon language to implement the provisions of Public Law 102-29.

Described--briefly--below is a summary of the provisions of this agreed-upon implementation, as mandated by Congress to be effective on July 29, 1991 (except as noted elsewhere):

A. Wages

1. Lump-sum payment - $2,000 to eligible employees who qualified for a vacation in 1991 based on their service in 1990.

2. Three percent (3%) general wage increase on July 1, 1991.

3. Three percent (3%) wage increase on July 1, 1993.

4. Four percent (4%) wage increase on July 1, 1994.

NOTE: These wage increases are not applicable to overmiles or duplicate time payments.

NOTE 2: The no-fireman rate of pay will now also be applicable to engineers working passenger service without a fireman (excluding Amtrak).

B. Cost-of-Living Payments

1. Lump-Sum Payments:

July 1, 1992 - $1,455
January 1, 1993 - $1,440
January 1, 1994 - $1,467
January 1, 1995 - $1,006

* While the provisions of the article allow for offsets due to increases in health and welfare benefits, it has been determined that, due to the reserve fund in our policy, there will be no offsets during the term of this document.

2. Restoration of Cost-of-Living Formula after January 1, 1995 -

The cost-of-living provisions of past agreements will be reinstituted with the revision that only fifty percent (50%) of the cost-of-living adjustment will be allowed during the negotiations of the next agreement.

NOTE: While this amount is less than what engineers have received under the old COLA provision in the past, it will provide--for the first time--some method to try to allow some adjustments in wages during the negotiation period.

C. Health and Welfare

The major changes under health and welfare will be the discontinuation of GA-23000 as we've known it and the institution of managed care programs.

The details of this arrangement have not yet been reached and will be made available as they become finalized.

D. Payrolls

1. Basic-day miles:

July 29, 1991 - 114 miles

January 1, 1992 - 118 miles

January 1, 1993 - 122 miles

January 1, 1994 - 126 miles

January 1, 1995 - 130 miles

E. Special Pay Differential

1. Effective July 29, 1991, all engineers working without a fireman, and a reduced-train crew under qualifying provisions, will receive twelve dollars ($12) per basic day and 12 cents per mile.

Effective January 1, 1995, such differential will be increased to fifteen dollars ($15) per day--15 cents per mile.

2. The qualification for this allowance is:

"A member of the train crew is entitled to receive a productivity fund payment, or per-trip payment in lieu thereof, and the carrier is required to make a productivity fund payment for that trip or tour of duty."

An engineer also must have seniority that would have allowed him to receive such payment as a trainman.

3. This differential shall be allowed through November 1, 1994 regardless of whether or not the UTU Productivity Fund remains in existence. After that time, it will continue in force only if there is a productivity fund or up-front payment under the aforementioned conditions.

4. There is an option clause for those General Committees of Adjustment that presently have Productivity Fund Crew Consist Agreements and wish to accept the terms under Public Law 102-29.

F. Exclusive Representation

This provision has been addressed in a previous Locomotive Engineer newsletter and basically allows for the BLE to exclusively represent employees working under our agreement.

G. Expenses Away from Home

Effective November 1, 1991, the meal allowance under Article II - Section 2 of the June 25, 1964 National Agreement is increased to five dollars ($5), and effective November 1, 1994, to six dollars ($6).

H. Road/Yard Movements

1. The road/yard provisions have been modified to allow three (3) moves to road crews--in connection with their own train--as stipulated by Presidential Emergency Board 219. Those moves may be any one of the following: pickups, setouts, getting or leaving the train on multiple tracks, interchanging with foreign railroads, transferring cars within a switching limit, and spotting and pulling cars at industries.

At the end of this summary, there are ten (10) questions and answers which should help clarify this provision.

2. Solid over-the-road run-through trains may perform one move, insofar as none were permissible in the past.

3. Protection is provided to all terminal railroad employees adversely affected by this provision.

I. Special Relief Customer Service

1. This allows the carrier to implement on a trial basis--within fourteen (14) days--changes in service to maintain present operations or to acquire new service. These rule changes are restricted to starting times and yard limits.

J. Interdivisional Service

The only modification here is the carriers' and organization's commitment to expedite the processing of negotiations.

It is hoped that the foregoing summary will allow each of you to understand the major changes in Public Law 102-29 which became your new Agreement on July 29, 1991.

ARTICLE I - WAGES

Section 1 - Lump Sum Payment

Each employee subject to this Implementing Document who rendered compensated service on a sufficient number of days during the calendar year 1990 to qualify for an annual vacation in the calendar year 1991 will be paid $2,000 within 60 days of the date of this Implementing Document. Those employees who rendered compensated service on an insufficient number of days during the calendar year 1990 to qualify for an annual vacation in the calendar year 1991 will be paid a proportional share of that amount. This Section shall be applicable solely to those employees subject to this Implementing Document who have an employment relationship as of the date of this Implementing Document or who have retired or died subsequent to January 1, 1990. There shall be no duplication of lump sum payments by virtue of employment under an agreement with another organization.

Section 2 - First General Wage Increase

(a) Effective July 1, 1991, all standard basic daily rates of pay of employees represented by the Brotherhood of Locomotive Engineers in effect June 30, 1991 shall be increased by three (3) percent.

(b) In computing the increase under paragraph (a) above, three (3) 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:

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

Section 3 - Second General Wage Increase

Effective July 1, 1993, all standard basic daily rates of pay of employees represented by the Brotherhood of Locomotive Engineers in effect on June 30, 1993 shall be increased by three (3) percent, computed and applied in the same manner prescribed in Section 2 above.

Section 4 - Third General Wage Increase

Effective July 1, 1994, all standard basic daily rates of pay of employees represented by the Brotherhood of Locomotive Engineers in effect on June 30, 1994 shall be increased by four (4) percent, computed and applied in the same manner prescribed in Section 2 above.

Section 5 - Standard Rates

The standard basic daily rates of pay produced by application of the increases provided for in this Article are set forth in Appendix 1, which is a part of this Implementing Document.

Section 6 - 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 Implementing Document 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) Where applicable, the differential of $4.00 and/or $6.00 per basic day in freight, passenger and yard service, and 4¢ and/or 6¢ per mile for miles in excess of the number of miles encompassed in the basic day in freight and passenger 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, 1991, under Section 2 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 three (3) percent increase shall be applied to daily rates in effect June 30, 1991, 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 increases effective July 1, 1993 and July 1, 1994. 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 Implementing Document.

(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 2, 3 and 4 hereof, by the same respective percentages as set forth therein, computed and applied in the same manner as the standard rates were determined.

(ii) Where applicable, the differential of $4.00 and/or $6.00 per basic day in freight, passenger and yard service, and 4¢ and/or 6¢ per mile for miles in excess of the number encompassed in the basic day in freight and passenger 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 to be applied in the same manner as the local freight differential.

(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 2, 3 and 4 hereof, by the same respective percentages as set forth therein, computed and applied in the same manner as provided in paragraph (i)(i) above.

ARTICLE II - COST-OF-LIVING PAYMENTS

PART A - Cost-of-Living Lump Sum Payments Through January 1, 1995

Section 1 - First Lump Sum Cost-of-Living Payment

Subject to Sections 6 and 7, employees with 2,000 or more straight time hours paid for (not including any such hours reported to the Interstate Commerce Commission as constructive allowances except vacations, holidays and guarantees in protective agreements or arrangements) during the period April 1, 1991 through March 31, 1992, will receive a lump sum payment on July 1, 1992 of $1,455.00.

Section 2 - Second Lump Sum Cost-of-Living Payment

Subject to Sections 6 and 7, employees with 1,000 or more straight time hours paid for (not including any such hours reported to the ICC as constructive allowances except vacations, holidays and guarantees in protective agreements or arrangements) during the period April 1, 1992 through September 30, 1992, will receive a lump sum payment on January 1, 1993 equal to the difference between (i) $1,440.00, and (ii) the lesser of $720.00 and one quarter of the amount, if any,

by which the carriers' 1993 payment rate for foreign-to-occupation health benefits under the Railroad Employees National Health and Welfare Plan (the "Plan") exceeds the sum of (a) the amount of such payment rate for 1992 and (b) the amount per covered employee that will be taken during 1993 from that certain special account maintained at The Travelers Insurance Company known as the "Special Account Held in Connection with the Amount for the Close-Out Period" (the ("Special Account") to pay or provide for Plan foreign-to-occupation health benefits.

Section 3 - Third Lump Sum Cost-of-Living Payment

Subject to Sections 6 and 7, employees with 2,000 or more straight time hours paid for (not including any such hours reported to the ICC as constructive allowances except vacations, holidays and guarantees in protective agreements or arrangements) during the period October 1, 1992 through September 30, 1993, will receive a lump sum payment on January 1, 1994 equal to the difference between (i) $1,467.00, and (ii) the lesser of $733.50 and one quarter of the amount, if any, by which the carriers' 1994 payment rate for foreign-to-occupation health benefits under the Plan exceeds the sum of (a) the amount of such payment rate for 1993 and (b) the amount per covered employee that will be taken during 1994 from the Special Account to pay or provide for Plan foreign-to-occupation health benefits.

Section 4 - Fourth Lump Sum Cost-of-Living Payment

Subject to Sections 6 and 7, employees with 2,000 or more straight time hours paid for (not including any such hours reported to the ICC as constructive allowances except vacations, holidays and guarantees in protective agreements or arrangements) during the period October 1, 1993 through September 30, 1994, will receive a lump sum payment on January 1, 1995 equal to the difference between (i) $1,006.00, and (ii) the lesser of $503.00 and one quarter of the amount, if any, by which the carriers' 1995 payment rate for foreign-to-occupation health benefits under the Plan exceeds the amount of such payment rate for 1994.

Section 5 - Definition of Payment Rate for Foreign-to-Occupation Health Benefits

The carrier's payment rate for any year for foreign-to-occupation health benefits under the Plan shall mean twelve times the payment made by the carriers to the Plan per month (in such year) per employee who is fully covered for employee health benefits under the Plan. Carrier payments to the Plan for these purposes shall not include the amounts per such employee per month (in such year) taken from the Special Account, or from any other special account, fund or trust maintained in connection with the Plan, to pay or provide for current Plan benefits, or any amounts paid by remaining carriers to make up the unpaid contributions of terminating carriers pursuant to Article III, Part A, Section 1 hereof.

Section 6 - Employees Working Less Than Full-Time

For employees who have fewer straight time hours (as defined) paid for in any of the respective periods described in Sections 1 through 4 than the minimum number set forth therein, the dollar amounts specified in clause (i) thereof

shall be adjusted by multiplying such amounts by the number of straight time hours (including vacations, holidays and guarantees in protective agreements or arrangements) for which the employee was paid during the applicable measurement period divided by the defined minimum hours. For any such employee, the dollar amounts described in clause (ii) of such Sections shall not exceed one-half of the dollar amounts specified in clause (i) thereof, as adjusted pursuant to this Section.

Section 7 - Lump Sum Proration

In the case of any employee subject to wage progression or entry rates, the dollar amounts specified in clause (i) of Sections 1 through 4 shall be adjusted by multiplying such amounts by the weighted average entry rate percentage applicable to wages earned during the specified determination period. For any such employee, the dollar amounts described in clause (ii) of such Sections shall not exceed one-half of the dollar amounts specified in clause (i) thereof, as adjusted pursuant to this Section.

Section 8 - Eligibility for Receipt of Lump Sum Payments

The lump sum cost-of-living payments provided for in this Article will be payable to each employee subject to this Implementing Document who has an employment relationship as of the dates such payments are made or has retired or died subsequent to the beginning of the applicable base period used to determine the amount of such payments. There shall be no duplication of lump sum payments by virtue of employment under an agreement with another organization.

PART B - Cost-of-Living Allowance and Adjustments Thereto After January 1, 1995

Section 1 - Cost-of-Living Allowance and Effective Dates of Adjustments Thereto

(a) A cost of living allowance will be payable in the manner set forth in and subject to the provisions of this Part, 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 CPI. The first such cost-of-living allowance shall be payable effective July 1, 1995 based, subject to paragraph (d), on the BLS CPI for September 1994 as compared with the BLS CPI for March 1995. Such allowance, and further cost-of-living adjustments thereto which will become effective as described below, will be based on the change in the BLS CPI during the respective measurement periods shown in the following table, subject to the exception provided in paragraph (d)(iii), according to the formula set forth in paragraph (e).

Measurement Periods		Effective Date of Adjustment
Base Month	Measurement Month	
September 1994	March 1995	July 1, 1995
March 1995	September 1995	January 1, 1996

Measurement Periods and Effective Dates conforming to the above schedule shall be applicable to periods subsequent to those specified above during which this Article is in effect.

(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 such allowance 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, that 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) (i) Cap. In calculations under paragraph (e), the maximum increase in the BLS CPI that will be taken into account will be as follows:

Effective Date of Adjustment	Maximum CPI Increase That May Be Taken Into Account
July 1, 1995	3% of September 1994 CPI
January 1, 1996	6% of September 1994 CPI, less the increase from September 1994 to March 1995

Effective Dates of Adjustment and Maximum CPI Increases conforming to the above schedule shall be applicable to periods subsequent to those specified above during which this Article is in effect.

(ii) Limitation. In calculations under paragraph (e), only fifty (50) percent of the increase in the BLS CPI in any measurement period shall be considered.

(iii) If the increase in the BLS CPI from the base month of September 1994 to the measurement month of March 1995 exceeds 3% of the September base index, the measurement period that will be used for determining the cost-of-living adjustment to be effective the following January will be the 12-month period from such base month of September; the

increase in the index that will be taken into account will be limited to that portion of the increase that is in excess of 3% of such September base index; and the maximum increase in that portion of the index that may be taken into account will be 6% of such September base index less the 3% mentioned in the preceding clause, to which will be added any residual tenths of points which had been dropped under paragraph (e) below in calculation of the cost-of-living adjustment which will have become effective July 1, 1995 during such measurement period.

(iv) Any increase in the BLS CPI from the base month of September 1994 to the measurement month of September 1995 in excess of 6% of the September 1994 base index will not be taken into account in the determination of subsequent cost-of-living adjustments.

(v) The procedure specified in subparagraphs (iii) and (iv) will be applicable to all subsequent periods during which this Article is in effect.

(e) Formula. The number of points change in the BLS CPI during a measurement period, as limited by paragraph (d), 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 December 31, 1995 will be adjusted (increased or decreased) effective January 1, 1996 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 (d), in the BLS CPI during the applicable measurement period. 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 December 31, 1995 if the BLS CPI 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.

(f) Continuance of the cost-of-living allowance and the adjustments thereto provided herein 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 Article, revise or change the methods or basic data used in calculating such 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 - Payment of Cost-of-Living Allowances

(a) The cost-of-living allowance payable to each employee effective July 1, 1995 shall be equal to the difference between (i) the cost-of-living allowance in effect on that date pursuant to Section 1 of this Part, and (ii) the cents per hour produced by dividing one-quarter of the increase, if any, in the carriers' 1995 payment rate for foreign-to-occupation health benefits under the Plan over such payment rate for 1994, by the average composite straight-time equivalent hours that are subject to wage increases for the latest year for which statistics are available, but not more than one-half of the amount specified in clause (i) above. For the purpose of the foregoing calculation, the amount of any increase described in clause (ii) that has been taken into account in determining the amount received by the employee as a lump sum payment on January 1, 1995 shall not be taken into account.

(b) The cost-of-living allowance payable to each employee effective January 1, 1996, shall be equal to the difference between (i) the cost-of-living allowance in effect on that date pursuant to Section 1 of this Part, and (ii) the cents per hour produced by dividing one-quarter of the increase, if any, in the carriers' 1996 payment rate for foreign-to-occupation health benefits under the Plan over the amount of such payment rate for 1995, by the average composite straight-time equivalent hours that are subject to wage increases for the latest year for which statistics are available, but not more than one-half of the amount specified in clause (i) above.

(c) The procedure specified in paragraph (b) shall be followed with respect to computation of the cost-of-living allowances payable in subsequent years during which this Article is in effect.

(d) The definition of the carriers' payment rate for foreign-to-occupation health benefits under the Plan set forth in Section 5 of Part A shall apply with respect to any year covered by this Section.

(e) In making calculations under this Section, fractions of a cent shall be rounded to the nearest whole cent; fractions less than one-half cent shall be dropped and fractions of one-half cent or more shall be increased to the nearest full cent.

Section 3 - Application of Cost-of-Living Allowances

The cost-of-living allowance provided for in this Part will not become part of basic rates of pay. In application of such allowance, each one cent per hour of cost-of-living allowance that is payable will be treated as an increase of 8 cents in the basic daily rates of pay produced by application of Article I. The cost-of-living allowance will otherwise be applied in keeping with the provisions of Section 6 of Article I.

Section 4 - Continuation of Part B

The arrangements set forth in Part B of this Article shall remain in effect according to the terms thereof until revised by the parties pursuant to the Railway Labor Act.

ARTICLE III - HEALTH AND WELFARE PLAN AND EARLY RETIREMENT MAJOR MEDICAL BENEFIT PLAN

Part A - Health and Welfare Plan

Section 1 - Continuation of Plan

The Railroad Employees National Health and Welfare Plan (the "Plan"), modified as provided in this Part, will be continued subject to the provisions of the Railway Labor Act, as amended. 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 any insurer, third party administrator or other entity in connection with the Plan and by the use of funds held in trust that are not otherwise needed to pay claims, premiums, or administrative expenses that are payable from funds held in trust; provided, however, that such amounts as may at any time be in that certain special account maintained at The Travelers Insurance Company, known as the "Special Account Held in Connection with the Amount for the Close-Out Period," relating to the obligations of the Plan to pay, among other things, benefits incurred but not paid at the time of termination of the Plan in the event such termination should occur, shall be used to pay or provide for Plan benefits as follows: one-third of the balance in such special account as of January 1, 1992, shall be used to pay or provide for benefits that become due and payable during 1992. One-half of the balance in such special account as of January 1, 1993, shall be used to pay or provide for benefits that become due and payable during 1993. All of the balance in such special account in excess of $25 million as of January 1, 1994, shall be used to pay or provide for benefits that become due and payable during 1994. The $25 million referred to in the preceding sentence shall be maintained by the Plan as a cash reserve to protect against adverse claims experience from year to year.

In the event that a carrier participating in the Plan defaults for any reason, including but not limited to bankruptcy, on its obligation to contribute to the Plan, and the carrier's participation in the Plan terminates, the carriers remaining in the Plan shall be liable for any Plan contribution that was required of the terminating carrier prior to the effective date of its termination, but not paid by it. The remaining carriers shall be obligated to make up in a timely fashion such unpaid contribution of the terminating carrier in pro rated amounts based upon their shares of Plan contributions for the month immediately prior to such default.

Section 2 - Change to Self-Insurance

Except for life insurance, accidental death and dismemberment insurance, and all benefits for residents of Canada, the Plan will be wholly self-insured

and administered, under an administrative services only arrangement, by an insurance company or third party administrator.

Section 3 - Joint Plan Committee

The Joint Policyholder Committee shall be renamed the Joint Plan Committee. This change in name shall not in any way change the functions and responsibilities of the Committee.

A neutral shall be retained by and at the expense of the Plan for the duration of this Implementing Document to consider and vote on any matter brought before the Joint Plan Committee (formerly the Joint Policyholder Committee), arising out of the interpretation, application or administration (including investment policy) of the Plan, but only if the Committee is deadlocked with respect to the matter. A deadlock shall occur whenever the carrier members of the Committee, who shall have a total of one vote regardless of their number, and the organization members of the Committee, who shall also have a total of one vote regardless of their number, do not resolve a matter by a vote of two to nil and either side declares a deadlock.

If the members of the Joint Plan Committee cannot agree upon a neutral within 30 days of the date this Implementing Document becomes effective, either side may request the National Mediation Board to provide a list of seven persons from which the neutral shall be selected by the procedure of alternate striking. Joint Plan Committee members and the neutral shall, to the extent required by ERISA, be bonded at the expense of the Plan. The Joint Plan Committee shall have the power to create such subcommittees as it deems appropriate and to choose a neutral chairman for such subcommittees, if desired.

Section 4 - Managed Care

Managed care networks that meet standards developed by the Joint Plan Committee, or a subcommittee thereof, concerning quality of care, access to health care providers, and cost-effectiveness, shall be established wherever feasible as soon as practicable. Until a managed care network is established in a given geographical area, individuals in that area who are covered by the Plan will have the comprehensive health care benefit coverage described in Section 5 of this Part A. Each employee in a given geographical area who is a Plan participant at the time a managed care network is established in that area will be enrolled in the network (along with his or her covered dependents) unless the employee provides timely written notice to his or her employer of an election to have (along with his or her covered dependents) the comprehensive health care benefit coverage rather than to be enrolled in the network. Any such employee who provides such timely written notice shall have an annual opportunity to revoke his or her election by providing a written notice of revocation to his or her employer at least sixty days prior to January 1 of the calendar year for which such revocation shall first become effective. Similarly, each employee in a given geographical area who is a Plan participant at the time a managed care network is established in that area and is thereafter enrolled in the network (along with his or her covered dependents) shall have an annual opportunity to elect to have (along with his or her covered dependents) the comprehensive health care benefit coverage rather than continue to be enrolled in the network. This

election may be made by such an employee by providing written notice thereof to his or her employer at least sixty days prior to January 1 of the calendar year for which the election shall first become effective. Each employee hired after a managed care network is established in his or her geographic area (and his or her covered dependents) will be enrolled in the network and may not thereafter elect to be covered by the comprehensive benefits until the January 1 which falls on or after the first anniversary of his or her initial date of eligibility for Plan coverage. Employees who return to eligibility for Plan coverage within 24 months of loss of eligibility for Plan coverage and whose employment relationship has not terminated at any time prior to such return will be enrolled in the program of Plan benefits in which they were enrolled when their eligibility for Plan coverage was lost, and shall thereafter have the same rights of election as other employees whose eligibility for Plan coverage was not lost.

Covered individuals enrolled in a managed care network will have a point of service option allowing them to choose an out-of-network provider to perform any covered health care service that they need. The benefits provided by the Plan when a service is performed by an in-network provider and the benefits provided by the Plan when the service is performed by an out-of-network provider will be as described in the table below:

PLAN FEATURE	IN-NETWORK	OUT-OF-NETWORK†
Primary Care Physician Required	Yes	No
Annual Deductible		
Individual	None	$100
Family	None	$300
		Deductible applies to all covered expenses
Plan/Employee Coinsurance	100%/0%	75%/25%
Annual Out-of-Pocket Maximum (exclusive of deductible)		
Individual	None	$1,500
Family	None	$3,000
Maximum Lifetime Benefit	None	$1,000,000 ($5,000 annual restoration)
Special Maximum Lifetime Benefit for Mental Health	None	$100,000 lifetime ($500 annual restoration)
Hospital Charges (inpatient and outpatient)	100%	75%*

Ambulatory Surgery	100%	75%*
Emergency Room	100% after $15 employee copayment	75%
Inpatient Mental Health & Substance Abuse		
Benefit		
Hospital	100%	75%♦
Alternative Care — Residential Treatment Center Inpatient or Partial Hospitalization/ Day Treatment	100%	75%♦
Outpatient Mental Health & Substance Abuse	100% after $15 employee copayment per visit	75%♦
Physician Services		
Surgery/Anesthesia	100%	75%*
Hospital Visits	100%	75%*
Office Visits	100% after $15 employee copayment	75%**
Diagnostic Tests	100%	75%*
Routine Physical	100% after $15 employee copayment	Not Covered
Well Baby Care	100% after $15 employee copayment	Not Covered
Skilled Nursing Facility Care	100%	75%*
Hospice Care	100%	75%*
Home Health Care	100%	75%*
Temporomandibular Joint Syndrome	100%	75%*
Birth Center	100%	75%*

Prescription Drugs (other than by mail order)	100% after $5 employee copayment for brand name ($3 for generic)	75%**
Mail Order Prescription Drugs (60-90 day supply of maintenance drugs only)	100% after $5 employee copayment	100% (not subject to regular deductible) after $5 employee co-payment (not counted toward regular deductible)**
Claim System	Paperless	Forms Required
Approval by Utilization Review/Large Case Management	Physician-initiated; included in network management	Required. If approval not given, benefits reduced by 20% (except for mental health and substance abuse care where benefits reduced by 50%) both before and after annual out-of-pocket maximum is reached, and amount of reduction is not counted toward that maximum.

† The medically necessary health care services for which out-of-network benefits will be paid are those listed in subparagraphs 1 through 7 of Part A, Section 5, of this Implementing Document.

* Benefits reduced by 20% if care is not approved by utilization review program.

‡ Benefits reduced by 50% if care is not approved by utilization review program.

** Benefits not generally subject to utilization review program but may be reviewable in specific circumstances with advance notice to the employee; in such cases, benefits reduced by 20% if care not approved by utilization review program.

At any time after the expiration of two years from the effective date of implementation of the first managed care network, either the carriers or the organizations may bring before the Joint Plan Committee for consideration a proposal to change the Plan's in-network or out-of-network benefits for the purpose of promoting an increase in the use of in-network providers by Plan participants.

Section 5 - Comprehensive Health Care Benefits

The comprehensive health care benefits provided under the Plan in geographical areas where managed care networks are not available to Plan participants and their dependents, and in cases where a Plan participant has elected to be covered, along with his or her dependents, by such comprehensive

benefits rather than to be enrolled in a managed care network, shall be as described below. Terms used in such description shall have the same meaning as they have in the Plan.

After satisfaction of an annual deductible of $100 per covered individual or $300 per family unit of three or more, the Plan will pay 85%, and the covered individual 15%, of certain health care expenses, up to an annual out-of-pocket maximum (which shall not include the deductible) of $1,500 per covered individual or $3,000 per family. The expenses counted toward the $3,000 annual family out-of-pocket maximum will include those, which are otherwise eligible, incurred on behalf of a covered employee and each of his or her covered dependents regardless of whether the employee or dependent has reached the $1,500 individual annual out-of-pocket maximum. Once the applicable annual out-of-pocket maximum has been reached, the Plan will pay 100% of such reasonable charges up to an overall lifetime maximum of $1 million per covered individual, restorable at a rate of $5,000 per year; provided, however, that there shall be a separate lifetime maximum of $100,000 per covered individual, restorable at a rate of $500 per year, for Plan benefits for the treatment of mental and/or nervous conditions and substance abuse. (Benefits counted for purposes of determining whether or not a lifetime maximum has been reached are all benefits paid under the Plan as amended by this Implementing Document and all Major Medical Expense Benefits paid under the Plan prior to such amendments.) The Plan will pay 85% of the reasonable charges for medically necessary health care services as follows:

1. All expenses that are "Covered Expenses" (as defined in the Plan) at any time under the current major medical expense benefits provisions of the Plan, and not within any exclusion from or limitation upon them, except that the exclusion for treatment of polio will be removed.

2. Expenses for mammograms described in American Cancer Society guidelines, childhood disease immunization, pap smears and colorectal cancer screening.

3. Donor expense benefits as now defined.

4. Jaw joint disorder benefits as now defined, and subject to the current exclusions from and limitation on them, except that the $50 separate lifetime cash deductible will be removed.

5. Home health care expense benefits as now defined, subject to the current exclusions from and limitation on them, except that the exclusion that governs if polio benefits are payable will be removed.

6. Treatment center expense benefits, subject to the current exclusions from and limitation on them, except that

    a. the separate $100 cash deductible per confinement will be removed in connection with benefits for transportation to a treatment center, and

b. the separate $100 cash deductible per benefit period and the $40 maximum limitation on benefits per episode of treatment — all with regard to outpatient benefits — will be removed.

7. Expenses for the services of psychologists if benefits would be paid for such services had they been rendered by a physician.

The Plan will provide the same benefits to all employees eligible for Plan coverage, including those in their first year of such eligibility and those eligible for extended Plan coverage because of disability.

The Plan's comprehensive health care benefits will include, where permissible under applicable law, a mail order prescription drug benefit that will reimburse a covered individual, after he or she pays $5.00 per prescription, 100% of the cost of prescriptions covering a 60-to-90 day supply of maintenance drugs for such individual. This benefit will not be subject to, and the covered individual's $5.00 co-payment will not be counted against, the Plan's regular $100/$300 deductible and will be included only upon execution of appropriate contracts with vendors.

Section 6 - Strengthened Utilization Review and Case Management

The Plan's current utilization review/case management contractor, and any successor, shall henceforth require that its prior approval be secured for the following services to the extent that benefits with respect to them are payable under the Plan: (a) all non-emergency confinements, and all lengths of stay, in any facility, (b) all home health care, and (c) all in-patient and out-patient procedures and treatment, except for any care where, pursuant to standards developed by the Joint Plan Committee, prior approval is not feasible or would not be cost-efficient. Approval may be withheld if the utilization review/case management contractor determines that a less intensive or more appropriate diagnostic or treatment alternative could be used.

If an individual covered by the Plan incurs expenses without the requisite approval of the Plan's utilization review/case management contractor, such benefits as the Plan would otherwise pay will be reduced by one-fifth; provided, however, that if such unapproved expenses are incurred for the treatment of mental or nervous conditions or substance abuse, such benefits as the Plan would otherwise pay will be reduced by one-half. These reductions will continue to apply after the out-of-pocket maximum is reached, i.e., the 100% benefit will become 80% (or 50%, as the case may be) if approval by the utilization review/case management contractor is not obtained.

When there is disagreement between an attending physician and the utilization review/case management contractor, the patient and/or attending physician, after all opportunities for appeal have been exhausted within the utilization review/case management contractor's organization, shall be afforded an opportunity to obtain a review (including if necessary, an examination) by an independent specialist physician. This independent physician, who shall be conveniently located and board certified in the appropriate specialty, shall be designated by a physician appointed for this purpose by the Joint Plan Committee. Neither physician may be an employee of or under contract to the utilization

review/case management contractor. In the event of an appeal to a specialist described above, the utilization review/case management contractor shall bear the burden of convincing the specialist that the utilization review/case management contractor's determination was correct.

Section 7 - Coordination of Benefits

The Plan's coordination of benefit rules shall be changed so that the Plan will pay no benefit to any covered individual that would cause the sum of the benefits paid by the Plan and by any other plan with which the Plan coordinates benefits to exceed (a) the maximum benefit available under the more generous of the Plan and such other plan, or (b) with respect only to spouses who are both covered as employees under the Plan (and the Dependents of such spouses), and to spouses one of whom is covered as an employee under the Plan and the other as a retired railroad employee under the Railroad Employees National Early Retirement Major Medical Benefit Plan (and the Dependents of such spouses), 100% of the reasonable charges for services the expense of which is covered by the Plan.

Section 8 - Medicare Part B Premiums

Active employees currently covered by Medicare Part B and those who elect to enroll in Medicare Part B when they become eligible shall not be reimbursed for premiums they pay for such Part B Medicare participation unless Medicare is their primary payor of medical benefits.

Section 9 - Solicitation of Bids

As promptly as practicable, the Joint Plan Committee will solicit bids from qualified entities for the performance of (a) all managed care functions under the Plan, including without limitation the establishing and/or arranging for the use by individuals covered by the Plan of managed networks of health care providers in those geographical areas where it is feasible to do so, and (b) all utilization review/case management functions under the Plan, including specialized utilization review/case management functions for mental health and substance abuse to assure expert determination of medical necessity and appropriateness of treatment and provider. The Committee will select one or more contractors, from among those that the Committee determines are likely to provide high-quality, cost-effective services, to perform such functions on behalf of the Plan. In the meantime, the Plan's current utilization review/case management contractor will continue to perform those functions. Hospital associations shall be incorporated into the managed care networks wherever appropriate.

Upon the expiration of three years from the effective date of this Implementing Document, the Joint Plan Committee will solicit bids for all of the services involved in the administration of the Plan, including the utilization review/case management and/or managed care functions, unless the Committee unanimously determines not to seek bids for any one or more of the services involved in the administration of the Plan.

Part B - Early Retirement Major Medical Benefit Plan

Section 1 - Continuation of Plan

The Railroad Employees Early Retirement Major Medical Benefit Plan ("ERMA"), modified as provided in this Part, will be continued subject to the provisions of the Railway Labor Act, as amended. Contributions to ERMA will be offset by the expeditious use of such amounts as may at any time be in one or more special accounts or funds maintained by any insurer, third party administrator or other entity in connection with ERMA and by the use of funds held in trust that are not otherwise needed to pay claims, premiums, or administrative expenses that are payable from funds held in trust; provided, however, that such amounts as may at any time be in the special account maintained at The Travelers Insurance Company in connection with the obligations of ERMA to pay benefits incurred but not paid at the time of termination of ERMA, in the event such termination should occur, shall be used to pay or provide for Plan benefits as follows: one-third of the balance in such special account as of January 1, 1992, shall be used to pay or provide for benefits that become due and payable during 1992. One-half of the balance in such special account as of January 1, 1993, shall be used to pay or provide for benefits that become due and payable during 1993. All of the balance in such special account in excess of $1 million as of January 1, 1994, shall be used to pay or provide for benefits that become due and payable during 1994. The $1 million referred to in the preceding sentence shall be maintained by the Plan as a cash reserve to protect against adverse claims experience from year to year.

Section 2 - Change to Self-Insurance

ERMA will be wholly self-insured. It will be administered, under an administrative services only arrangement, by an insurance company or third party administrator.

Section 3 - Coordination of Benefits

ERMA's coordination of benefit rules shall be changed so that ERMA will pay no benefit to any covered individual that would cause the sum of the benefits paid by ERMA and by any other plan with which ERMA coordinates benefits to exceed (a) the maximum benefit available under the more generous of ERMA and such other plan, or (b) with respect only to spouses who are both covered as retired railroad employees under ERMA (and the Dependents of such spouses), and to spouses one of whom is covered as a retired railroad employee under ERMA and the other as an employee under the Railroad Employees National Health and Welfare Plan (and the Dependents of such spouses), 100% of the reasonable charges for services the expense of which is covered by ERMA.

Section 4 - Strengthened Utilization Review and Case Management

ERMA's current utilization review/case management contractor, and any successor, shall henceforth require that its prior approval be secured for the following services to the extent that benefits with respect to them are payable under ERMA: (a) all non-emergency confinements, and all lengths of stay, in any facility, (b) all home health care, and (c) all in-patient and out-patient

procedures and treatment, except for any care where prior approval is not feasible or would not be cost-efficient. Approval may be withheld if the utilization review/case management contractor determines that a less intensive or more appropriate diagnostic or treatment alternative could be used.

If an individual covered by ERMA incurs expenses without the requisite approval of ERMA's utilization review/case management contractor, such benefits as ERMA would otherwise pay will be reduced by one-fifth; provided, however, that if such unapproved expenses are incurred for the treatment of mental or nervous conditions or substance abuse, such benefits as ERMA would otherwise pay will be reduced by one-half.

When there is disagreement between an attending physician and the utilization review/case management contractor, the patient and/or attending physician, after all opportunities for appeal have been exhausted within the utilization review/case management contractor's organization, shall be afforded an opportunity to obtain a review (including if necessary, an examination) by an independent specialist physician. This independent physician, who shall be conveniently located and board certified in the appropriate specialty, shall be designated by a physician appointed for this purpose by mutual agreement between the Chairman of the Health and Welfare Committee, Cooperating Railway Labor Organization and of the National Carriers' Conference Committee. Neither physician may be an employee of or under contract to the utilization review/case management contractor. In the event of an appeal to a specialist described above, the utilization review/case management contractor shall bear the burden of convincing the specialist that the utilization review/case management contractor's determination was correct.

The standards developed by the Joint Plan Committee for determining whether or not prior approval is feasible and cost-efficient under the Health and Welfare Plan shall be applied by the National Carriers' Conference Committee under ERMA, and the utilization review/case management contractor(s) selected by the Joint Plan Committee under the Health and Welfare Plan shall be selected by the National Carriers' Conference Committee under ERMA.

Section 5 - Mail Order Prescription Drug Benefit

The Plan's benefits will include, where permissible under applicable law, a mail order prescription drug benefit that will reimburse a covered individual, after he or she pays $5 per prescription, 100% of the cost of each prescription covering a 60-90 day supply of maintenance drugs for such individual. This benefit will not be subject to, and the covered individual's $5.00 co-payment will not be counted against, the Plan's regular $100 deductible, and will be included only upon execution of appropriate contracts with vendors.

Section 6 - Solicitation of Bids

As promptly as practicable, the National Carriers' Conference Committee will solicit bids from qualified entities for the performance of all utilization review/case management functions under the Plan, including specialized utilization review/case management functions for mental health and substance abuse to assure expert determination of medical necessity and appropriateness of

treatment and provider. The Committee will select one or more contractors, from among those that the Committee determines are likely to provide high-quality, cost-effective services, to perform such functions on behalf of the Plan. In the meantime, the Plan's current utilization review/case management contractor will continue to perform those functions.

Upon the expiration of three years from the date of this Implementing Document, the National Carriers' Conference Committee will solicit bids for all of the services involved in the administration of the Plan, including the utilization review/case management function, unless the Committee determines not to seek bids for any one or more of the services involved in the administration of the Plan.

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 of Change	Through Freight Service		Through Passenger Service	
	Miles in Basic Day	Overtime Divisor	Miles in Basic Day	Overtime Divisor
July 29, 1991	114	14.25	114	22.8
January 1, 1992	118	14.75	118	23.6
January 1, 1993	122	15.25	122	24.4
January 1, 1994	126	15.75	126	25.2
January 1, 1995	130	16.25	130	26.0

(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, effective July 29, 1991, overtime on a trip in through freight service of 125 miles will begin after 8 hours and 46 minutes (125/14.25 = 8.77 hours). 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 - 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 previously eliminated, shall not be subject to general, cost-of-living or other forms of wage increases.

Section 5 - 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 - SPECIAL PAY DIFFERENTIAL

Section 1 - Payment

(a) Effective July 29, 1991, a differential of $12.00 per basic day in freight and yard service, and 12 cents per mile for miles in excess of the number of miles encompassed in the basic day in freight service, will be payable to eligible engineers working assignments without a fireman provided the conditions described below are met.

(b) Effective January 1, 1995, such differential will be increased to $15.00 per basic day, and to 15 cents per mile for miles in excess of the number of miles encompassed in the basic day.

Section 2 - Conditions

(a) Under the applicable agreement governing the consist of train crews:

(i) a member of the train crew is entitled to receive a productivity fund payment, or per-trip payment in lieu thereof, and

(ii) the carrier is required to make a productivity fund payment for that trip or tour of duty.

(b) The engineer must have:

(i) an engineer's seniority date no later than the date that determines eligibility for "protected employees" receiving productivity fund payments in that territory, or

(ii) been a "protected employee" under a crew consist agreement, and was subsequently promoted to engineer on the same railroad.

(c) This Article is not applicable on a carrier that has an agreement 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 Article in lieu of the pay adjustments (including personal leave days) provided in such agreement. Such election must be exercised on or before December 20, 1991. If such election is made, the provisions of this Article will become effective on that property on January 1, 1992, however, such local agreements concerning matters other than pay adjustments shall be retained.

ARTICLE VI - EXCLUSIVE REPRESENTATION

(a) The Brotherhood of Locomotive Engineers shall have the exclusive right to represent all engine service employees (other than those who are represented exclusively by another labor organization) in company-level grievance, claim and disciplinary proceedings on those carriers on which the BLE is the lawfully recognized or certified collective bargaining representative for that craft.

(b) This Article shall become effective ninety (90) days after service of notice on the carrier by the organization's authorized representative(s) unless implemented sooner pursuant to agreement between the parties.

ARTICLE VII - EXPENSES AWAY FROM HOME

Effective November 1, 1991, the meal allowance provided for in Article II, Section 2, of the June 25, 1964 National Agreement, as amended, is increased from

$4.15 to $5.00. Effective November 1, 1994, such meal allowance shall be increased to $6.00.

ARTICLE VIII - ROAD/YARD WORK

Section 1

(a) Pursuant to the new road/yard provisions contained in the recommendations of Presidential Emergency Board No. 219, as clarified, a road crew may perform in connection with its own train without additional compensation one move in addition to those permitted by previous agreements at each of the (a) initial terminal, (b) intermediate points, and (c) final terminal. Each of the moves — those previously allowed plus the new ones — may be any one of those prescribed by the Presidential Emergency Board: pick-ups, set-outs, getting or leaving the train on multiple tracks, interchanging with foreign railroads, transferring cars within a switching limit, and spotting and pulling cars at industries.

(b) The switching allowances referred to in Article VIII, Section 1(d) of the May 19, 1986 Award of Arbitration Board No. 458 shall continue with respect to employees whose seniority in engine or train service precedes May 19, 1986 and such allowances are not subject to general or other wage increases.

(c) The crew of an over-the-road solid run-through train may perform one move as prescribed, in addition to delivering and/or receiving their train in interchange.

Section 2 - Protection

(a) Employees adversely affected by the provisions of Section 1 of this Article shall receive the protection afforded by Article I (except Section 4) of the New York Dock Protective Conditions (Appendix III, F.D. 28250).

(b) Where employees of terminal companies are affected by the additional relief granted carriers by the provisions of Section 1 of this Article, rosters shall be topped and bottomed on the appropriate roster of each owning line, maintaining prior rights. The carrier and employee representatives shall agree upon a method to top and bottom rosters, as provided above, to protect the seniority interests of affected terminal company employees.

ARTICLE IX - SPECIAL RELIEF, CUSTOMER SERVICE - YARD CREWS

(a) When an individual carrier can show a bona fide need to obtain or retain a customer by servicing that shipper outside of the existing work rules related to starting times and yard limits for yard crews, such service may be instituted on an experimental basis for a six-month period.

(b) Prior to implementing such service, the carrier will extend at least 14 days' advance written notice to the General Chairman of the employees involved. The notice will include an explanation of the bona fide need to provide the service, a description of the service, and a listing of the work

rules related to starting times and yard limits for yard crews which are at variance with existing agreements.

(c) A Joint Committee, comprised of an equal number of carrier representatives and organization representatives, shall be constituted to determine whether a bona fide need exists to provide the service. If the Joint Committee has not made its determination by the end of the 14 day advance notice period referenced in Paragraph (b), it shall be deemed to be deadlocked, and the service will be allowed on an experimental basis for a six-month period. If, after the six months have expired, the organization members of the Joint Committee continue to object, the matter shall be referred to arbitration.

(d) If the parties are unable to agree upon an arbitrator within seven days of the date of the request for arbitration, either party may request the National Mediation Board to appoint an arbitrator. The fees and expenses of the arbitrator will be shared equally by the parties.

(e) The determination of the arbitrator shall be limited to whether the carrier has shown a bona fide need to provide the service requested or can provide the service without a special exception to the existing work rules related to starting times and yard limits for yard crews being made at a comparable cost to the carrier.

- - - - - - - -

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

This Article shall become effective November 17, 1991 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 X - INTERDIVISIONAL SERVICE

Article IX - Interdivisional Service of the May 19, 1986 Award of Arbitration Board No. 458, is amended as follows:

Section 4(b) of Article IX is renumbered Section 4(c) and a new Section 4(b) is hereby adopted:

> (b) The carrier and the organization mutually commit themselves to the expedited processing of negotiations concerning interdivisional runs, including those involving running through home terminals, and mutually commit themselves to request the prompt appointment by the National Mediation Board of an arbitrator when agreement cannot be reached.

ARTICLE XI - GENERAL PROVISIONS

Section 1 - Court Approval

This Implementing Document is subject to approval of the courts with

respect to participating carriers in the hands of receivers or trustees.

Section 2 - Effect of this Implementing Document

(a) The purpose of this Implementing Document is to fix the general level of compensation during the period of the Implementing Document 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 January 17, 1984 and June 1, 1988, and the notices served on or about January 23, 1984 and October 7, 1988 by the carriers.

(b) This Implementing Document shall be construed as a separate implementing document by and on behalf of each of said carriers and their employees represented by the organization signatory hereto, and shall remain in effect through December 31, 1994 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.

(c) The parties to this Implementing Document shall not serve nor progress prior to November 1, 1994 (not to become effective before January 1, 1995) any notice or proposal for changing any matter contained in:

(1) this Implementing Document,

(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) No party to this Implementing Document shall serve or progress, prior to November 1, 1994 (not to become effective before January 1, 1995), any notice or proposal which might properly have been served when the last moratorium ended on July 1, 1988.

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

SIGNED AT WASHINGTON, D.C., THIS 29th DAY OF JULY, 1991.

FOR THE PARTICIPATING CARRIERS
LISTED IN EXHIBIT A:

Chairman

FOR THE EMPLOYEES REPRESENTED BY
THE BROTHERHOOD OF LOCOMOTIVE
ENGINEERS:

President

FOR THE PARTICIPATING CARRIERS LISTED IN EXHIBIT A: (Con't)

FOR THE EMPLOYEES REPRESENTED BY THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS: (Con't)

July 29, 1991

#1

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to the $2,000 lump sum payment provided for in Article I, Section 1 of this Implementing Document.

In the case of an employee who was recalled from reserve status and performed active military service during 1990 as a result of the Persian Gulf crisis, such employee will be credited with 5 days of compensated service for each week of such military service for purposes of calculating eligibility for the lump sum amount provided he would otherwise have been in active service for the carrier.

Very truly yours,

C. I. Hopkins, Jr.

July 29, 1991

#2

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to the Lump Sum Payment provided for in Article I, Section 1 of this Implementing Document.

This confirms our understanding that days during the year 1990 for which employees in a furloughed status received compensation pursuant to guarantees in protective agreements or arrangements shall be included in determining qualifications for the Lump Sum Payment.

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

Very truly yours,

C. I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#3

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to the increase in wages provided for in Section 2 of Article I of this Implementing Document.

It is understood that the retroactive portion of that wage increase will be paid within 60 days from the effective date of this Implementing Document. It is further understood that it shall be applied only to employees who have continued their employment relationship up to the date of this Implementing Document or who have retired or died subsequent to July 1, 1991.

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

Very truly yours,

C.I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#4

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to the Lump Sum Payments provided in Articles I and II of this Implementing Document.

All of the lump sum payments provided for in Article II are based in part on the number of straight time hours paid for that are credited to an employee for a particular period. However, the number of straight time hours so credited does not include any such hours reported to the ICC as constructive allowances except vacations, holidays, paid sick leave and guarantees in protective agreements or arrangements.

The inclusion of the term "guarantees in protective agreements or arrangements" in Article II means that an employee receiving such a guarantee will have included in the straight time hours used in calculating his lump sum payments under this Article all such hours paid for under any protective agreement or allowance provided, however, that in order to receive credit for such hours an employee must not be voluntarily absent from work, meaning that hours are not counted if an employee does not accept calls to report for work.

It is understood that any lump sum payment provided in Articles I and II 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:

_____

Larry D. McFather

July 29, 1991

#5

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to the lump sum payments provided for in Article II of this Implementing Document.

Sections 1 to 4, inclusive, of Part A of Article II - Cost-of-Living Payments are structured so as to provide lump sum payments that are essentially based on the number of straight time hours credited to an employee during a specified 12-month base period. Section 8 provides that all of these lump sum payments are payable to an employee who has an employment relationship as of the dates such payments are made or has retired or died subsequent to the beginning of the applicable base period used to determine the amount of such payment. Thus, for example, under Section 1 of Part A of Article II, except for an employee who has retired or died, the agreement requires that an employee have an employment relationship as of July 1, 1992 in order to receive a lump sum payment which will be based essentially on the number of straight time hours credited to such employee during a period running from April 1, 1991 through March 31, 1992.

The intervals between the close of the measurement periods and the actual payments established in the 1985-86 National Agreements were in large part a convenience to the carriers in order that there be adequate time to make the necessary calculations.

In recognition of this, we again confirm the understanding that an individual having an employment relationship with a carrier on the last day of a particular measurement period will not be disqualified from receiving the lump sum (or portion thereof) provided for in the event his employment relationship is terminated following the last day of the measurement period but prior to the payment due date.

Very truly yours,

C.I. Hopkins, Jr.

July 29, 1991

#6

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This confirms our discussions with respect to the calculations of straight time hours in connection with the lump sum payments provided for in Article II of this Implementing Document.

It is understood that the straight time equivalent number of hours paid for at the overtime rate of pay for employees engaged in yard service or on runs the miles of which are not in excess of the number of miles encompassed in the basic day shall be included in such calculations.

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

Very truly yours,

C. I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#7

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This refers to Article III Part A of this Implementing Document dealing with the Railroad Employees National Health and Welfare Plan (the "Plan"), and in particular to one facet of the arrangements for funding the benefits provided for under the Plan.

It is understood that, insofar as carriers represented by the National Carriers' Conference Committee in connection with health and welfare matters but not in connection with wages and cost-of-living adjustments are concerned, the cost-of-living adjustments for 1992 and thereafter that may have already been agreed to by such carriers, or that may be agreed to in the future, shall be adjusted—unless the agreement involved, reached on an individual property basis, provides as a part of the wage settlement that the employees covered by it shall not share in any year-to-year increases in Plan costs—so that the employees covered by such agreements shall receive cost-of-living adjustments that are less (than they would otherwise receive) by an amount equal to the lesser of (i) one-quarter of the year-to-year increases in the carriers' payment rate for the foreign-to-occupation portion of health benefits under the Plan as defined in the Agreement referred to in the first paragraph of this letter and (ii) one-half of the amount, pro-rated where appropriate, they would otherwise receive.

If the parties involved are unable to reach agreement on the specific manner of making the adjustments, or on any other terms and conditions regarding the adjustments, it is understood that such dispute shall be submitted, upon the written notice by either party, to arbitration by a neutral arbitrator within thirty (30) days after such notice is transmitted by one party to the other. Should the parties involved fail to agree on selection of a neutral arbitrator within five (5) calendar days from the date the dispute is submitted to arbitration, either party may request the National Mediation Board to supply a list of at least five (5) potential arbitrators, from which the parties shall choose the arbitrator by alternatively striking names from the list. Neither

party shall oppose or make any objection to the NMB concerning a request for such a panel. The fees and expenses of the neutral arbitrator should be borne equally by the parties, and all other expenses should be paid for by the party incurring them. The arbitrator shall conduct a hearing within thirty (30) calendar days from the date on which the dispute is assigned to him or her. Each party shall deliver all statements of fact, supporting evidence and other relevant information in writing to the arbitrator and to the other party, no later than five (5) working days prior to the date of the hearing. The arbitrator shall not accept oral testimony at the hearing, and no transcript of the hearing shall be made.

Each party, however, may present oral arguments at the hearing through its counsel or other designated representative. The arbitrator must render a written decision, which shall be final and binding, within thirty (30) calendar days from the date of the hearing.

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

Very truly yours,

C.I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#8

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This confirms our understanding concerning the manner in which Article V - Special Pay Differential, will be applied.

We agreed that prior to November 1, 1994, the special pay differential will continue to be paid to otherwise eligible engineers, notwithstanding the provisions of any agreement any carrier may enter into with the United Transportation Union subsequent to the date of this letter to eliminate productivity funds for crew consist protected trainmen pursuant to a crew consist agreement or to substitute "up-front" allowances in lieu thereof. We further agreed that on and after November 1, 1994, engineers will be eligible for the special pay differential only if they meet the conditions set forth in Article V.

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

Yours very truly,

C. I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#9

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This confirms our discussions with respect to Article VIII - Road/Yard Work of this Implementing Document.

It is understood that, except as modified in Section 1 (c) of Article VIII, such Article does not change, alter or amend existing interpretations regarding over-the-road solid run-through train operations.

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

Very truly yours,

C. I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#10

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This confirms our discussion concerning Article IX - Special Relief of this Implementing Document, particularly, the 14 day advance notice provision required before implementing any such special relief service.

We agreed that in most situations there will be ample opportunity, between the time that a special service need arises and when it must be implemented in order to retain or obtain a customer, to meet the 14 day notice requirement. In fact, in situations where practicable the carriers should provide more advance notice in order to enhance the opportunity for agreement with the appropriate General Chairmen.

However, we also recognized that situations may arise where it is impossible to provide 14 days' advance notice without losing or substantially risking the loss of a customer or new business. It was understood that in such a case it is not the intent of Article IX to bar a carrier from pursuing business opportunities. Accordingly, the carrier will furnish as much advance notice as possible in such a situation; observe the remaining provisions of Article IX, and bear the additional burden of proving that a notice period of less than 14 days was necessary.

If, in the opinion of the organization, this relaxed notice exception has been abused, the parties agree to confer and consider methods to eliminate such abuse, including the possibility of elimination of this exception.

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

Yours very truly,

C.I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

July 29, 1991

#11

Mr. Larry D. McFather
President
Brotherhood of Locomotive Engineers
Standard Building
Cleveland, Ohio 44113-1702

Dear Mr. McFather:

This confirms our understanding with respect to this Implementing Document.

The parties exchanged various proposals and drafts antecedent to adoption of the various Articles that appear in this Implementing Document. It is our mutual understanding that none of such antecedent proposals and drafts will be used by any party for any purpose and that the provisions of this Implementing Document will be interpreted and applied as though such proposals and drafts had not been used or exchanged in the negotiation.

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

Very truly yours,

C.I. Hopkins, Jr.

I agree:

_____

Larry D. McFather

EXHIBIT A
BLE

RAILROADS REPRESENTED BY THE NATIONAL CARRIERS' CONFERENCE COMMITTEE IN CONNECTION WITH NOTICES, DATED ON OR ABOUT JANUARY 17, 1984 OF DESIRE TO CHANGE EXISTING AGREEMENTS TO THE EXTENT INDICATED IN PROPOSITION IDENTIFIED AS BLE ATTACHMENT "B" THERETO (HEALTH AND WELFARE) AND NOTICES DATED ON OR ABOUT JUNE 1, 1988 OF DESIRE TO REVISE AND SUPPLEMENT EXISTING AGREEMENTS IN ACCORDANCE WITH THE PROPOSALS SET FORTH IN ATTACHMENT "A" AND ATTACHMENT "B" THERETO, SERVED ON RAILROADS GENERALLY BY THE GENERAL CHAIRMAN, OR OTHER RECOGNIZED REPRESENTATIVES, OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, AND PROPOSALS SERVED BY THE CARRIERS ON OR ABOUT JANUARY 23, 1984 AND OCTOBER 7, 1988 FOR CONCURRENT HANDLING THEREWITH.

Subject to indicated footnotes, this authorization is co-extensive with notices filed and with provisions of current schedule agreements applicable to employees represented by the Brotherhood of Locomotive Engineers.

1 - Atchison, Topeka & Santa Fe
Burlington Northern Railroad
Canadian National Railways
1 - St. Lawrence Region Lines in U.S.
CSX TRANSPORTATION:
2 - Atlanta & West Point Rail Road
Western Ry. of Alabama
Baltimore and Ohio Railroad
Baltimore and Ohio Chicago Terminal RR.
Chesapeake and Ohio Railway
Hocking Valley Railroad
Pere Marquette Railroad
Clinchfield Railroad
Seaboard System Railroad:
2 - Georgia Railroad (former)
2 - Louisville and Nashville Railroad (former)
incl. C&EI and Monon
Seaboard Coast Line Railroad (former)
1 - Toledo Terminal Railroad
1 - Chicago & Illinois Midland Railway
Chicago & North Western Trans. Co.
1 - Consolidated Rail Corporation
Denver and Rio Grande Western Railroad
Houston Belt and Terminal Railway
Illinois Central Railroad
Kansas City Southern Railway
Louisiana & Arkansas Railway
Missouri Pacific Railroad
Missouri-Kansas-Texas Railroad
Oklahoma, Kansas & Texas Railroad
Norfolk and Portsmouth Belt Line Railroad

Norfolk Southern Railway Company
Alabama Great Southern Railroad
New Orleans and Northeastern Railroad
Atlantic and East Carolina Railway
Central of Georgia Railroad
Cincinnati, New Orleans & Texas Pacific Ry.
Georgia Northern Railway
Georgia Southern and Florida Railway
Live Oak, Perry and South Georgia Railroad
New Orleans Terminal Co.
Norfolk and Western Railway
St. Johns River Terminal Company
Tennessee, Alabama and Georgia Railway
Tennessee Railway
Ogden Union Railway and Depot Co.
1 - Pittsburgh & Lake Erie Railroad
1 - Pittsburgh, Chartiers & Youghiogheny Railway
Portland Terminal Railroad Company
Richmond, Fredericksburg & Potomac Railroad
1 - Sacramento Northern Railway
St. Louis Southwestern Railway
Southern Pacific Transportation Co.
Eastern Lines
Western Lines
1 - Terminal Railroad Association of St. Louis
Union Pacific Railroad
Western Pacific Railroad
1 - Youngstown & Southern Railway

Notes:
1 - Authorization limited to Health and Welfare proposals.
2 - Includes locomotive firemen, hostlers and hostler helpers.

- -

FOR THE CARRIERS:

FOR THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS:

Washington, D. C.

Illustrative Road/Yard Questions and Answers

Q1: A road crew at its final terminal delivers cars in interchange and picks up from the same foreign carrier before yarding his train. How many moves are involved?

A: Two, the delivery is one move and the pick up the second.

Q2: A road crew at its initial terminal is required to get its train from three tracks in the same location, where one track would have held the entire pick up. How many moves are involved?

A: One.

Q3: A road crew arrives at its final terminal with four blocks of cars all for foreign carriers. How many deliveries may the road crew make?

A: Three in addition to yarding their train at final terminal.

Q4: What is meant by "multiple tracks"?

A: "Multiple tracks" are more tracks than the minimum number required to hold the cars in question.

Q5: A road crew at its final terminal picks up twenty cars at Yard A, delivers 40 different cars to a foreign carrier then yards its train including the twenty cars picked up at Yard A on multiple tracks in Yard B. How many moves have been made?

A: Three.

Q6: Can a road crew set out in its final terminal and thereafter effect an interchange?

A: Yes.

Q7: Can a road crew (other than an over-the-road solid run through train) when making an interchange delivery or setting out at other than its final yard use multiple tracks to effectuate the move?

A: No. The application of the multiple track move is limited to where the road crew receives its train at the initial terminal and yards its train at the final terminal.

Q8: Railroad A has Railroad B do its switching at City X. What may Railroad A's road crews do at City X?

A: Railroad A's crews may do the same things as any other road crews.

Q9: A road crew at its initial terminal is required to get its train from three tracks because three tracks were required to hold the entire train. Is this considered a move?

A: No. This is a proper double over and does not count as one of the three additional moves permitted.

Q10: The carrier chooses to have a road crew get or leave its train on multiple tracks where a minimum number of tracks were available to hold the train and could have been used. Does this constitute a move so as to permit the road crew two additional moves at the initial or final terminal yard?

A: Yes. The use of multiple tracks is one of the allowable moves.

Brotherhood of
Locomotive Engineers

STANDARD BUILDING
CLEVELAND, OHIO 44113-1702
TELEPHONE: 216/241-2630
FAX: 216/241-6516

RONALD P. McLAUGHLIN
International President

January 27, 1992

D. L. Moates, Gen. Chairman
CSX Transportation, Inc.
Western Railroad Lines
224 North Third Street
Jacksonville Beach, FL 32250

Dear Sir & Brother:

This will acknowledge your letter dated December 20, 1991, your file Article VIII (PEB 219), in which you pose various questions concerning Public Law 102-29.

Before I commence answering the questions posed in your letter, I must preface my remarks with the clarification that Questions 1 through 8 are being answered under the guidelines of Article V, Section 2(a) of the May 13, 1971 National Agreement which defines solid, over-the-road trains for interchange purposes. In other words, based on that provision, none of these inbound trains appear to be solid, over-the-road trains.

It must also be pointed out that under Article VIII, Section 1, the carrier is now allowed three (3) moves in addition to the final yarding of its train and the three moves do not necessarily have to be prior to such yarding. Also, work that is performed by the road crew after the yarding of their train in their own yard - such as interchange moves - would be payable under the final terminal delay provisions. In conclusion, it must be recognized that where an engineer receives or leaves his motive power is not considered a move under Article VIII, Section 1 nor does the carrier have the right to move the on and off duty points as stipulated in Article V, Section 2 of the May 13, 1971 agreement.

For the sake of clarity I will restate your questions, followed by my responses, based on the above clarification.

1. "Train consist, not changed enroute, comprised of two blocks, one for SSW Railroad which crew sets off at CSXT Leewood. The second and final block is interchanged to BN Railroad at BN Yale Yard. The crew takes engine to BN Tennessee Yard and relieved at this point."

A. Our position on this example is the train was yarded at Leewood, a transfer was made, and that the engineer would be on final terminal delay. Also, Agreed Upon Questions and Answers # 3 and # 6 to Public Law 102-29, stated below for your convenience, apply.

Q3. "A road crew arrives at its final terminal with four blocks of cars all for foreign carriers. How many deliveries may the road crew make?"

A. "Three, in addition to yarding their train at final terminal."

Q6. "Can a road crew set out in its final terminal and thereafter effect an interchange?"

A. "Yes."

2. "Train consist not changed enroute, comprised of two blocks, one for SSW Railroad which crew sets off at CSXT Leewood Yard. Crew is required to pick up BN cars at Leewood and interchange along with second block to BN at BN's Yale Yard. Engines are run to BN Tennessee Yard and crew relieved at this point."

A. Same answer as Question 1.

3. "Train consist not changed enroute, comprised of two blocks, one for SSW Railroad which crew sets off at CSXT Leewood Yard. Part of second block, solid BN, is set off at BN's Yale Yard, remainder of BN block is finally yarded at BN's Tennessee Yard. Engines tied up and crew relieved at this point.

A. Same answer as Question 1.

4. "Train consist not changed enroute, comprised of two blocks, one for SSW Railroad which crew set off at CSXT Leewood Yard. Crew picks up BN cars at Leewood which interchange to BN along second block. Crew set off at BN Yale Yard and finally yards remainder of BN block to BN Tennessee Yard. Engines tied up and crew relieved at this point."

A. Same answer as Question 1.

5. "Train consist not changed enroute, comprised of three blocks, one for SSW Railroad which is set off at CSXT Leewood Yard, second block set off at BN Yale Yard and third blocks is finally yarded at ICG Johnston Yard. Crew is relieved at this point."

A. Same answer as Question 1.

6. "Train consist not changed enroute, comprised of three blocks, one for SSW Railroad and second CSXT proper cars which set off in two tracks at CSXT Leewood Yard. Third and final block is yarded at BN Yale Yard. Engines tied up and crew relieved at BN Tennessee Yard."

A. The use of two tracks is permissible at the initial and final terminal as explained in Questions and Answer 10 stated below:

Q10. "The carrier chooses to have a road crew get or leave its train on multiple tracks where a minimum number of tracks were available to hold the train and could have been used. Does this constitute a move so as to permit the road crew two additional moves at the initial or final terminal yard?"

A. "Yes. The use of multiple tracks is one of the allowable moves."

7. "Train consist not changed enroute, comprised of two blocks. First block set off at CSXT Leewood Yard and crew picks ups cars for UP Railroad at this point to be interchanged to UP along with engines on CSXT trackage at Roland Street, the designated interchange point."

A. Same answer as Question 1.

8. "Crew picks up at intermediate point to be set off at CSXT Leewood Yard along with CSXT Proper block. Crew then required to pick up ICG cars at CSXT Leewood Yard to be interchanged to ICG at Johnstown Yard. Crew is relieved at ICG."

A. Same answer as Question 1.

I will now address the five questions posed concerning road crews performing service in a yard on the outbond portion of their trip. All of these questions, again, must be premised with the understanding that Article V, Section 2(a) of the May 13, 1971 agreement clearly defines what a solid, over-the-road train is and can do and has only been modified under the provisions of Article VIII, Section 1(c) of Public Law 102-29.

1. "Crew takes charge of engines and makes original pick up at BN Tennessee Yard, makes an additional pick up at BN Yale Yard and another additional pick up at CSXT Leewood Yard."

A. This would not be a permissible move as the crew would be in solid, over-the-road service and thereby only allowed to make one move in addition to the picking up of its initial train.

2. "Crew takes charge of engines and makes original pick up at BN Tennessee Yard, makes an additional pick up at BN Yale Yard. Crew then required to set off part of BN interchange at CSXT Leewood Yard and make an additional pick up at this point."

A. Same answer as Question 1.

3. "Crew takes charge of engines at ICG Johnston Yard and makes original pick up. Crew instructed to make an additional pick up at BN Yale Yard and an additional pick up at CSXT Leewood Yard."

A. Same answer as Question 1.

4. "Crew takes charge of engines at CSXT Leewood Yard and proceeds to ICG Johnston Yard where the original pick up is made at tote ramp and an additional pick up at "A" Yard. Crew departs ICG for CSXT Leewood Yard where a portion of the interchange is set off and an additional pick up is made."

A. Same answer as Question 1.

5. "Crew takes charge of engines and the original pickup at Cox Street, UP Railroad interchange point. On arrival at CSXT Leewood Yard crew required to set off wide load due to lack of proper clearance and make an additional pick up."

A. Same answer as Question 1. However, it should be also be pointed out (as stated before) that where you take charge of your engines has no effect on what moves can or cannot be performed by the road crew and that setting out the wide load is not considered a move.

It is hoped that these answers will clarify the intent of Public Law 102-29. Since these interpretations seem to apply pretty generically to other portions of the CSXT, I am taking the liberty of providing a copy of your letter with attachments, as well as this reply, to General Chairmen J. A. LeClair and A. Smith for their information.

Trusting that these responses will help clarify some of your questions, I am

Fraternally yours,

Ronald P. McLaughlin

President

Brotherhood of Locomotive Engineers

STANDARD BUILDING
CLEVELAND, OHIO 44113-1702
TELEPHONE: 216/241-2630
FAX: 216/241-6516

RONALD P. McLAUGHLIN
International President

December 5, 1991

S. J. Bratka, Vice Chairman
Burlington Northern R.R. Co.
General Committee of Adjustment
333-On-Sibley St., Suite 410
St. Paul, MN 55101

RE: PEB 219, Disputes

Dear Sir & Brother:

This will acknowledge your letter dated November 20, 1991 in which you pose various questions concerning Presidential Emergency Board 219 as implemented by Public Law 102-29.

For the sake of clarity I will restate your questions, followed by my responses.

Question 1: "An engineer takes control of his power at the house in his initial terminal; and is required to switch or turn his power, is then required to place a waycar on his train, and finally is required to kick bad order cars out of his train; how many moves does he have left?"

Answer: It would be my position that the engineer in the above scenario would still have two moves remaining, as the only move he actually made under the guidelines of Special Board 102-29 was placing a waycar on his train. The other moves you mention were permissible under previous agreements and have never been considered to be a set-out or pick-up as defined by PEB 219.

Question 2: "What is a "solid over-the-road runthru train"?

Answer: A "solid over-the-road runthru train" is the same train we define under Article IV of the May 13, 1971 National Agreement.

Question 3: "An engineer at this final terminal is required to set-out and pick-up at yard "A" prior to advancing into the terminal; how many moves does this constitute?"

Answer: Two, one for the pick-up and one for the set-out in Yard "A".

Question 4: "An engineer at his final terminal is required to yard his train in yard "A", he then gets on a switch engine, couples to cars that were never part of his over-the-road train and delivers same to an industry or foreign carrier; is this permissible?"

Answer: No, the provisions of PEB 219 only apply to engineers performing such service "in connection with their own train."

Question 5: "An engineer at his final terminal delivers one car to industry "A", one car to industry "B" track 1 and one car to industry "B" (the same industry) track 2; how many moves have been made?"

Answer: A minimum of two moves if track 1 could not have held more than one car, or 3 moves if track 1 could have held both cars.

Question 6: "At an intermediate point with two yards; may an engineer be required to make multiple set-outs or pick-ups in each yard?"

Answer: No. An engineer could make multiple set-outs or pick-ups totaling 3 at the intermediate point, not per yard.

Question 7: "Must an engineer at an intermediate point exceed 3 moves, as outlined in PEB 219, before switching penalties accrue?"

Answer: The answer to this question would depend on whether or not the provisions of Article VIII, Section 1(d) of Arbitration Award No. 458 apply.

It is hoped that these responses will help to clarify your questions.

Fraternally yours,

Ronald P. McLaughlin

President

cc & enc: C. V. Monin, FVP
D. L. McPherson, GC, BN

Brotherhood of Locomotive Engineers

STANDARD BUILDING
CLEVELAND, OHIO 44113-1701

ARRY D. McFATHER
esident

June 11, 1991

TO ALL ADVISORY BOARD AND
GENERAL CHAIRMEN - US

Re: Report of Special Board 102-29

Dear Sirs and Brothers:

Pursuant to Public Law 102-29, a Special Board was appointed to issue interpretation and clarification of ambiguities of language of PEB 219.

Enclosed are the appropriate pages of this report addressing BLE and operating craft issues (pages 7 - 13; 27 - 39; 46 - 48 of said report).

The next step will be to seek modification of issues which we feel are "demonstrably inequitable or was based on a material error or material misunderstanding."

Trusting that this information will keep you current on this very important issue, I am

Fraternally yours,

Larry D. McFather

President

cc: Legislative Board
Special Representatives

REPORT OF THE

SPECIAL BOARD (102-29)

INTERPRETATION AND CLARIFICATION

OF

THE REPORT OF

EMERGENCY BOARD NO. 219
(EXECUTIVE ORDER NO. 12714)

Established pursuant to House Joint Resolution 222 (Public Law 102-29) to provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees.

WASHINGTON, D.C.

JUNE 11, 1991

TABLE OF CONTENTS

transcript, exhibits and briefs.

Subsequent to the issuance of the report, three labor organizations, American Train Dispatchers Association, Brotherhood of Railroad Signalmen and the Transportation Communications Union entered into Agreements with the NRLC.

IV. REQUESTS FOR CLARIFICATION OR INTERPRETATION FROM THE ORGANIZATIONS

The organizations submitted sixty-four requests for clarification or interpretation of the report. The requests by the Organizations are quoted and are followed by the clarification or interpretation of the Special Board.

A. Brotherhood of Locomotive Engineers

BLE Request No. 1

On what basis did the PEB intend that engineers would be eligible for the full amount of the $2000 retroactive lump sum payment because they worked on a "full-time" basis during the year preceding the signing of the agreement?

Clarification or Interpretation of the Special Board

The PEB intended that the Carriers use the time needed to qualify for full vacation benefits to determine whether an individual had worked "full time".

BLE Request No. 2

Did the PEB intend to apply these "general wage increases" to all monetary compensation received by engineers, including all standard basic daily and mileage rates of pay, and all arbitraries, miscellaneous rates or special allowances, whether based upon mileage, hourly or daily rates of pay?

Clarification or Interpretation of the Special Board

The PEB intended that the increases apply only to the basic rate. Freezing of arbitraries, agreed to by the parties in 1986, will continue.

BLE Request No. 3

Did the PEB intend that the amount of these future lump-sum payments would be calculated by multiplying the applicable percentage by each engineer's (or by the average engineer's) actual annual earnings for the preceding year?

Clarification or Interpretation of the Special Board

The PEB intended that the calculation be made on the same basis as that utilized for the general wage increases which are rolled into the basic rate; that is, by calculating the increase based on a percentage of the present average daily rate; i.e., that amount paid for a basic day plus overmiles. The PEB did not intend that there be a different increase for each engineer which would depend on the amount of work that individual performed in the preceding year.

BLE Request No. 4

Did the PEB intend that the CPI-W should be ignored only if its semi-annual increase was less than 1.5 percent, but that once the CPI-W increased by 1.5 percent or more then the COLA allowances provided to engineers for each semi-annual period would be subject to a cap of 2.5 percent (or a 5.0 percent cap on an annual basis)?

Clarification or Interpretation of Special Board

The PEB intended that the increase in the index will be limited to that portion of the increase that is in excess of 3% of the base index; and the maximum increase which may be taken into account will be 6% of the base index less the 3% mentioned above.

BLE Request No. 5

Did the PEB intend that the COLA allowances would be rolled into the basic rates of pay, as they were during the last round of bargaining?

Clarification or Interpretation of the Special Board

The PEB intended that the question be resolved in the round of bargaining which will commence in 1995. The PEB intended that this COLA be included to give the parties an incentive to settle the next round in a more expeditious fashion than the last round. The PEB also intended to ensure that the individual employees gain some protection against inflation during the period of the next round of bargaining. The imposition of this COLA was not intended to limit organizations from asking for full COLA or other wage protection after 1995.

BLE Request No. 6

Did the PEB inadvertently misstate that the basic day would be increased to 116 miles upon adoption of a new contract inasmuch as an increase of 2 miles per year since the last agreement (which raised the basic day to 108 miles on June 30, 1988) would mean that the basic day on July 1, 1991 should be increased to only 114 miles (i.e., 110 miles on July 1, 1989; 112 miles on July 1, 1990; and 114 miles on July 1, 1991)?

Clarification or Interpretation of the Special Board

The PEB made the arithmetic error noted by the organization. The PEB intended that the mileage which constitutes a basic day should be 114 for 1991. This does not change the PEB recommendations for the years beginning January 1, 1992, January 1, 1993, January 1, 1994 or January 1, 1995; each yearly increase to be four miles.

BLE Request No. 7

Did the PEB intend that the overmile rate should be computed in accordance with the formula set forth following the "that is" phrase?

Clarification or Interpretation of the Special Board

The PEB intended that the formula should be computed by using the then daily mileage which constitutes a day's pay as the divisor and the daily rate of pay as the dividend.

BLE Request No. 8

Did the PEB intend that the three additional moves that may be required of engineers would be made only "in connection with their own train"?

Clarification or Interpretation of the Special Board

The PEB intended that the three additional moves should only be in connection with their own train.

BLE Request No. 9

Did the PEB intend that "productivity fund" payments would include not only an annual "productivity fund," but also any "up-front" payments or special allowances that are paid to train service employees as a result of a crew-consist agreement?

Clarification or Interpretation of the Special Board

The PEB did not intend that the productivity fund payment would include upfront payments or special allowances that are paid to train service employees.

BLE Request No. 10

Did the PEB intend that any engineer eligible for the $12.00 also would receive 12 cents per mile for each mile in excess of the then existing basic daily mileage (and 15 cents per mile for each overmile when the $15.00 per trip recommendation becomes effective on January 1, 1995)?

Clarification or Interpretation of the Special Board

The PEB intended that the payments should be $12.00 a trip

plus 12 cents an overmile and $15.00 a trip and 15 cents an overmile.

BLE Request No. 11

Did the PEB intend that a Carrier would be obligated to continue making the required payments to its engineers, even if the Carrier agreed to "buy out" its train service crew members right to receive future payments from a "productivity fund"?

Clarification or Interpretation of the Special Board

No. The PEB intended that the engine service employees would receive equalization payments only as long as productivity fund payments were made to train service employees.

BLE Request No. 12

Did the PEB intend that engineers would be entitled to the per-trip payments from all Carriers participating in the proceedings before the PEB?

Clarification or Interpretation of the Special Board

The PEB did not intend to exempt any carrier from the recommendation regarding such payments. It is intended that all carriers making crew consist productivity fund payments to train service employees are obligated to make a $12.00 a trip and 12 cents an overmile payment to engine service employees.

BLE Request No. 13

Did the PEB intend that all engineers would be entitled to the per-trip payments if the Carrier was contributing money to trainmen for that trip, even if the particular train crew members assigned to that trip might not themselves be eligible to share in those payments under the crew-consist agreement?

Clarification or Interpretation of the Special Board

The PEB intended that engineers are entitled to a payment only when the carrier is required to make a contribution to the UTU productivity fund.

BLE Request No. 14

Did the PEB intend to recommend that the parties be barred from serving notices only with the regard to proposals that were the subject of national handling during this latest round of bargaining?

Clarification or Interpretation of the Special Board

The PEB intended to have an all-inclusive moratorium. All matters involving subjects which were referred to in notices served during the present round of negotiations are barred until January 1, 1995.

B. Brotherhood of Maintenance of Way Employes

BMWE Request No. 1

What is the effect on the Report of PEB No. 219, if any, of

larification or Interpretation of the Special Board

The PEB intended to allow the parties the maximum discretion in bringing cases before the arbitration panels. The question of whether work on TTX cars by TTX employee should be allowed on tracks leased from a carrier may be brought before an arbitrator is answered in the same manner as the question involving EPPAs which was raised in Shopcraft Request No. 4.

E. United Transportation Union

UTU Request No. 1

On what basis did P.E.B. No. 219 exercise "jurisdiction" over local crew agreements which contained moratorium provisions barring any change except by mutual consent.

Clarification or Interpretation of the Special Board

The Special Board finds that this is a question which involves neither a "clarification nor interpretation of an ambiquity."

UTU Request No. 2

Is it intended that "standard" reduced crew consist agreements should be the yardstick in negotiating changes in crew consist agreements locally?

Clarification or Interpretation of the Special Board

The PEB did not refer to a "standard crew consist agreement" when it used the word "standard" in the section of the report quoted by the UTU in its submission. The standards referred to are

those which were contained in the Report of PEB No. 213 and were utilized by Arbitration Board 509.

UTU Request No. 3

What consideration or weight should be given to agreements on contiguous carriers?

Clarification or Interpretation of the Special Board

The PEB intended that special weight be given to the solution of the problem on the carrier contiguous to virtually all of the other major carriers, that is, the Chicago & Northwestern Railroad (C&NW).

UTU Request No. 4

How would "contiguous" be defined for the purpose of the report?

Clarification or Interpretation of the Special Board

The PEB intended that the reference to contiguous carriers was a reference to the C&NW.

UTU Request No. 5

Could the panel consider more than one agreement on a "contiguous" carrier or carriers?

Clarification or Interpretation of the Special Board

The PEB intended the use of the model recommended by PEB 213 on the C&NW be used.

UTU Request No. 6

Did PEB No. 219 intend to recommend an additional 2 mile increase in 1988 over and above the 2 mile increase in 1988 provided for in the 1985 National Agreement for a total increase of 4 miles in 1988?

Clarification or Interpretation of the Special Board

The response to this request is the same as the response to BLE Request No. 6.

UTU Request No. 7

Is a "pick-up" considered one "move?"

Clarification or Interpretation of the Special Board

The PEB intended that a "pick-up" is one move.

UTU Request No. 8

Did PEB No. 219 intend that there be 3 additional "moves" by a road crew over and above the number currently provided for?

Clarification or Interpretation of the Special Board

The PEB intended a total of 3 moves. (One additional move of each type enumerated.)

UTU Request No. 9

What is meant by "... outside of these rules, the carrier should be allowed to institute such service on a experimental basis for a six month period?"

Clarification or Interpretation of the Special Board

The PEB intended that an individual carrier would have the opportunity to meet the special needs of customers for service by changing certain work rules related to starting times and yard limits.

UTU Request No. 10

Can the carrier cancel any or all contract provisions to institute this service, including provisions relating to crew size, rates of pay, starting times if this refers to yard service, minimum day rules, overtime rules, meal period rules, working limits rules, bidding and assignment rules, seniority rules, etc.?

Clarification or Interpretation of the Special Board

The PEB did not intend that a carrier be allowed to obtain a waiver of all work rules.

UTU Requested No. 11

Does this recommendation refer to yard crews or road crews, or both, performing this work?

Clarification or Interpretation of the Special Board

The PEB was referring to yard crews.

UTU Request No. 12

How should COLA be applied on July 1, 1995 and each subsequent six month period?

Clarification or Interpretation of the Special Board

The response to this request is the same as to the response to BLE Request No. 4.

UTU Unnumbered (B & O)

The B & O General Committee of Adjustment asks whether the recommendations regarding crew consist apply to it since it reached a local agreement with CSXT on May 16, 1989 and thereafter the CSXT notices were modified to reflect that the CSXT proposals regarding manning and personal leave were withdrawn from national handling. The UTU alleges that CSXT is now taking the position that PEB's recommendations regarding crew consist are "an integral part of its pay proposals" and that since CSXT is still in national handling on the pay issue, the PEB's recommendations regarding crew consist are a pay issue and were not withdrawn from national handling.

Clarification or Interpretation of the Special Board

The Special Board finds that CSXT withdrew its proxy from national bargaining for its notices affecting the B & O Committee with regard to crew consist with the consent of that Committee.

V. REQUEST FOR CLARIFICATION OR INTERPRETATION

The Carriers

Request No. 1

Does the PEB Report contemplate that the settlement of the

disputes before the PEB be embodied in specific contract language implementing the PEB's recommendations?

Clarification or Interpretation of the Special Board

The Special Board expects that the PEB recommendations, as clarified and modified by this Board, will be reduced to contract language by the parties. They are directed to meet as soon as possible after July 29, 1991 to draft language. If they are not successful, they may contact the Special Board for assistance.

Request No. 2

What procedures should be followed to put such contract language in place?

Clarification or Interpretation of the Special Board

The well established method used for over twenty years by the parties to reduce their agreements to contract language should be utilized.

Request No. 3

Should the interpretations of the PEB's general wage, cost-of-living allowances, and health and welfare recommendations reflected in the agreements between the carriers and the ATDA and the TCU and the tentative agreement between the carriers and the BRS be adopted with respect to the other crafts before the Special Board?

Clarification or Interpretation of the Special Board

This response to this request is the same as the response to

BLE Request No. 4.

Request No. 4

Do the general wage increases recommended by PEB 219 apply to arbitraries and other duplicate time payments?

Clarification or Interpretation of the Special Board

The PEB did not intend that the general wage increases apply to arbitraries and other duplicate time payments.

Request No. 5

Should the percentage cost-of-living lump sums recommended by the PEB for the period prior to July 1, 1995, be calculated in the same way as in the last round of agreements, without regard to arbitraries and other duplicate time payments?

Clarification or Interpretation of the Special Board

The PEB intended that the percentage cost-of-living lumps sums for the period prior to July 1, 1995 be calculated in the same way as in the last round of agreements, without regard to arbitraries and other duplicate time payments.

Request No. 6

Were offsets eliminated with respect to the COLA recommended for the period beginning July 1, 1995?

Clarification or Interpretation of the Special Board

The PEB did not intend to eliminate offsets with respect to the COLA recommended for the period beginning July 1, 1995.

Request No. 7

Is the variable-offset COLA formula agreed upon in the settlements with the TCU, ATDA, and BRS a reasonable interpretation and implementation of the PEB's recommendation?

Clarification or Interpretation of the Special Board

The Special Board finds that the variable offset COLA formula is a reasonable interpretation of the PEB recommendations.

Request No. 8

Should the overmile rate in through freight and passenger service continue to be frozen?

Clarification or Interpretation of the Special Board

The PEB intended that the overmile rate in through freight and passenger service continue to be frozen.

Request No. 9

Should the carriers continue to use the existing method of determining the threshold for the payment of overtime to employees in road service?

Clarification or Interpretation of the Special Board

The PEB intended that the carriers continue to use the existing method of determining the threshold for the payment of overtime to employees in road service.

Request No. 10

Should the New York Dock type protection recommended for adversely affected yard service employees be applied only to regularly assigned employees assigned to yard crews that regularly spend more than 50 percent of their time in the performance of yard work eliminated by reason of the implementation of the PEB recommendation to allow road crews to make additional moves?

Clarification or Interpretation of the Special Board

No. The PEB intended New York Dock type protection should be applicable to all adversely affected yard service employees.

Request No. 11

In implementing PEB 219's recommendation permitting the carriers to operate outside of work rule restrictions in order to "obtain or retain a customer," how many days should be allowed before the Joint Committee is deemed "deadlocked" for purposes of instituting service on an experimental basis if they are unable to reach agreement?

Clarification or Interpretation of the Special Board

The PEB did not address this precise issue. The Special Board finds that the question is not a request for clarification or an interpretation of an ambiguity.

Request No. 12

Does PEB 219's recommendation to provide an engineer pay differential of "$12.00 a trip" require carriers to pay 12 cents

per overmile in addition to the recommended $12 per trip differential?

Clarification or Interpretation of the Special Board

The response to this request is the same as the response to BLE Request No. 10.

Request No. 13

Under PEB 219's recommendation to provide a pay differential to "each engineer who operates a train without a fireman, which train crew has any member receiving 'productivity fund' payments, does an engineer's entitlement to special payments cease if the crew consist productivity fund is terminated?

Clarification or Interpretation of the Special Board

The response to this request is the same as the response to BLE Request No. 11.

Request No. 14

Are engineers with seniority dates subsequent to the date that determines eligibility for receiving productivity fund payments (other than those engineers who were protected employees under the crew consist agreement and had been promoted to engineer) entitled to payments under the PEB pay differential recommendation?

Clarification or Interpretation of the Special Board

No. The PEB intended to ensure that there was a pay differential between an employee working in train service and an

engineer so that employees would receive more money if they were promoted to engine service.

Request No. 15

Is an engineer entitled to the pay differential recommended by PEB 219 with respect to a trip or tour of duty as to which either (a) no member of the train crew is entitled to receive a productivity fund payment (or per-trip payment in lieu thereof) or (b) the carrier is not required by the applicable UTU crew consist agreement to make a payment into the productivity fund?

Clarification or Interpretation of the Special Board

Such payments were not intended by the PEB.

Request No. 16

If an engineer is eligible for a differential payment for working with a reduced train crew under both Side Letter 20 to the 1986 BLE arbitration award and the PEB's recommendation, is he entitled to duplicate differential payments?

Clarification or Interpretation of the Special Board

The PEB intended that both payments be made.

Request No. 17

Does the PEB recommendation providing a pay differential to engineers apply to carriers that have local agreements adjusting the compensation of engineers (or otherwise settled this issue) in

response to the change in pay relationships between crew members created by crew consist agreements?

Clarification or Interpretation of the Special Board

The PEB did not intend that its recommendations apply to situations where the matter had been covered by local agreements.

Request No. 18

Does PEB 219's crew consist recommendation apply to all carriers that are covered by the general wage and lump-sum payment recommendations?

Clarification or Interpretation of the Special Board

This response to this request is the same as the response to UTU Unnumbered (B & O).

Request No. 19

If a new local crew consist settlement is not reached by December 31, 1991 on a carrier, contrary to PEB 219's recommendation, are UTU-represented trainmen on that carrier nonetheless entitled to post-1991 wage increases and lump sum payments that would otherwise become effective before the date that a new crew consist settlement is reached?

Clarification or Interpretation of the Special Board

The PEB intended that all wage payments are due on the dates set forth in the PEB Report.

Request No. 20

Does the criterion "consistent with industry practice" refer to practices that are evolving in the industry to resolve the problem of ground crew overmanning, rather than to provisions in the majority of UTU agreements, which are the cause of the overmanning problem that PEB 219 recommended be resolved?

Clarification or Interpretation of the Special Board

The response to this request is the same as the response to UTU Request No. 3.

Request No. 21

Under PEB 219's recommendation that "the entire subject of crew consist agreements" be re-opened in local negotiations and arbitration, may carriers propose elimination of attrition and "free exercise of seniority" provisions, special allowances and productivity funds, train-length, car-count and work restrictions, and other conditions on the right to operate with reduced crews that perpetuate overmanning and increase its costs?

Clarification or Interpretation of the Special Board

The PEB did not intend that the carriers be allowed to propose elimination of special allowances and productivity funds.

Request No. 22

PEB 219 recommended that Article II of the September 25, 1964 national agreement with the shopcraft organizations be revised to provide that "(t)he maintenance and repair of equipment which has

Request No. 36

With respect to a recommendation for a rule change intended to benefit the carriers generally, may an individual carrier elect to retain its existing rule and, if so, within what period?

Clarification or Interpretation of the Special Board

This is not a request for clarification or interpretation of an ambiquity. There is nothing in the PEB report regarding savings clauses. If this subject is to be considered it must be requested as a modification of the PEB report.

VI. REQUEST FOR CLARIFICATION OR INTERPRETATION

From the Southern Pacific

SP requests the Board issue the following order:[1]

"It is hereby ordered that

1. The retroactive payment, wage increases and lump sums recommended by Presidential Emergency Board No. 219 (such economic matters referred to hereafter as "PEB 219") shall be adapted to the particular circumstances of the Southern Pacific Lines (the combined rail system of Southern Pacific Transportation Co., its subsidiary the St. Louis Southern Ry., and its affiliate under common control The Denver & Rio Grande W. RR, hereafter "SP") pursuant to the procedures set out in this Order.

2. The parties shall continue to negotiate in good faith, and exert every reasonable effort, to reach agreement on adaptation to the particular circumstances of the SP.

3. The public interest mediation assistance of the National Mediation Board in those conferences may be requested promptly by the parties.

---

[1]The adaptation process may be independent of Section 3 of P.L. 102-29, and if so, SP does not waive any rights in respect thereto.

4. If agreements have not been reached by June 23, 1991, the adaptation question defined in paragraph 1, including all disputes related thereto, shall be referred to arbitration before a panel of three neutral arbitrators, to be selected by the National Mediation Board if the parties have not otherwise agreed on such arbitrators by June 23, 1991.

5. Unless otherwise mutually agreed by the parties, the arbitration panel established under Section 4 of this Order shall issue its award no later than the time period provided for under Section 3(e) of P.L. 102-29, although in light of the short time frame any supporting opinion may be issued within 30 days thereafter.

6. No retroactive payment, wage increases or lump sums shall be applied to SP employees until adapted by an agreement or arbitration award under this Order.

7. The parties may agree to extend the time limits provided for in this Order.

8. Any financial, competitive or proprietary information used in any proceeding conducted pursuant to this Order or P.L. 102-29 (or received by the arbitrators or any person in respect of or as a result of those proceedings) is hereby accorded confidential status, and the arbitration panel shall issue protective orders to implement this directive."

Clarification or Interpretation of the Special Board

The Special Board finds that the PEB intended the statement that "the Brotherhoods sympathetically examine the situation" regarding a railroad's ability to pay applies only to the Southern Pacific Transportation Company. The Special Board further finds that Public Law 102-29 grants it jurisdiction only over the eight organizations listed and not over the ATDA, the BRS or the TCU. All other questions regarding the separate treatment of the Southern Pacific Transportation Company under Public Law 102-29 shall be referred to arbitration. The arbitration panel shall be established by the parties, or failing that, the National Mediation

Board shall appoint within one week after the decisions of this Special Board become final three arbitrators who shall resolve all outstanding issues between the parties . Prior to the period of the establishment of the arbitration panel, no wages or other payments, either retroactive or prospective, shall be required to be made by the Southern Pacific Transportation Company.

Robert O. Harris, Chairman

Margery F. Gootnick, Member

George S. Ives, Member