

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FINANCE DOCKET NO. 35045**

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*224008*

**DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG, AND PACIFIC  
RAILWAY COMPANY**

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**FINANCE DOCKET NO. 35046**

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*224009*

**DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG, AND PACIFIC  
RAILWAY COMPANY**

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**FINANCE DOCKET NO. 35047**

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*224010*

**WISCONSIN CENTRAL LTD  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, MISSABE AND IRON RANGE  
RAILWAY COMPANY**

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FINANCE DOCKET NO. 35048

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**WISCONSIN CENTRAL LTD  
- TRACKAGE RIGHTS EXEMPTION -  
DULUTH, WINNIPEG AND PACIFIC  
RAILWAY COMPANY**

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FINANCE DOCKET NO. 35049

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**DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY  
- TRACKAGE RIGHTS -  
WISCONSIN CENTRAL**

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FINANCE DOCKET NO. 35050

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**DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY  
- TRACKAGE RIGHTS EXEMPTION -  
WISCONSIN CENTRAL, LTD**

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**UNITED TRANSPORTATION UNION'S RESPONSE TO  
CARRIERS' REPLY TO UNITED TRANSPORTATION  
UNION'S PETITION TO REVOKE**

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United Transportation Union ("UTU") respectfully submits its response to the Reply of Duluth, Missabe and Iron Range Railway Corporation ("DMIR"), Duluth, Winnipeg and Pacific Railway Company ("DWP") and Wisconsin Central Ltd ("WCL") (collectively "CN"). In order to accommodate negotiations between the parties, proceedings on the UTU Petition to Revoke the exemptions in these proceedings were held in abeyance pursuant to serial decisions in all six dockets served August 15, 2007, October 11, 2007, December 14, 2007, February 14, 2008, April 17, 2008, July 3, 2008 and August 15, 2008. During these negotiations, all of the concerns UTU raised in its petition to revoke came to fruition, i.e., CN was simply seeking these trackage rights in order to bring these three carriers under one collective bargaining agreement. While CN in its Reply claims just the opposite to be the case, the actual truth is CN has sought one agreement from UTU in its New York Dock Section 4 notice served on UTU on September 24, 2007, just over two months after these exemptions became effective on July 14, 2007. As a result, CN's notices of exemption herein are false and misleading, requiring their revocation.

The trackage rights notices of exemption were filed under 49 C.F.R. 1180.2(d)(7). If these notices contain false or misleading information, the exemptions are void *ab initio*. Pursuant to 49 C.F.R. 1180.6(a)(iii), CN in these notices claimed the purpose of these proposed transactions is "to enhance operational efficiency in the movement of overhead freight movements, reblocking of cars within the same train, and setting out cars requiring servicing" over these lines. (See Notices of Exemption in Finance Docket No. 35045-50). CN denies that the purpose of the trackage rights is "to avoid the existing DWP, DMIR and WCL collective bargaining agreements, or to prefer one collective bargaining agreement over another" (CN Reply at p. 6). CN states that "[a]ll DMIR, DWP and WCL employees will remain subject to their own collective bargaining agreements at all times" (Id.). These claims as the following discussion demonstrates are simply false.

## **CN'S STATUS PRIOR TO FILING THESE EXEMPTION NOTICES**

DMIR, DWP and WCL are each direct subsidiaries of Canadian National Railway Company ("CNR"), WCL being bought in 2001 and DMIR being bought in 2004. See Canadian National Ry. Co. – Control – Wisconsin Central Transp. Corp., 5 S.T.B. 890 (2001) (CN control of WCL); Canadian National Railway Company and Grand Trunk Corporation – Control – Duluth, Missabe and Iron Range Railway Company, et al. ("DMIR"), Finance Docket No 34424 (STB served April 9, 2004) (CN control of DMIR) DWP has been controlled by CN for decades. CN's U.S. rail subsidiaries, including DMIR, DWP and WCL, are held by Grand Trunk Corporation ("GTC"), a wholly-owned direct subsidiary of CNR, and report to the Board on a consolidated basis under the GTC name.

DMIR and DWP have operated largely parallel lines since 2004 extending north toward Canada from the Twin Ports of Duluth, Minnesota and Superior, Wisconsin. Since 2001, a primary WCL line has extended south from the Twin Ports through Fond du Lac, Wisconsin to Chicago. These lines of WCL and DMIR/DWP described above have met at South Itasca, Wisconsin, just south of the Twin Ports since 2004; WCL also has had existing trackage rights over the DMIR/DWP line from South Itasca to DWP's Pokegama Yard in Wisconsin, where traffic between the carriers is currently exchanged<sup>1</sup> These three CN carriers, being separate entities, have three separate collective bargaining agreements ("CBA") as is usually the case. They have also performed efficiently over the past four years since the purchase of DMIR without any need for operational

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<sup>1</sup>See Wisconsin Central Ltd. – Exemption – Trackage Rights – Duluth, Missabe and Iron Range Railway Company, Finance Docket No 31265 (ICC served May 5, 1988), Wisconsin Central Ltd. – Trackage Rights Exemption – Over Duluth, Missabe and Iron Range Railway Company, Finance Docket No 31881 (ICC served June 6, 1991).

changes

In Finance Docket No 34000 ("Canadian National"), served on September 7, 2001, the STB approved CN's control of the Wisconsin Central Ltd., Fox Valley & Western Ltd., Sault Ste Marie Bridge Company, and Wisconsin Chicago Link Ltd. Canadian National, 5 S T B 890. Subsequently, in Finance Docket No. 34424, served twenty-seven (27) months later on April 9, 2004, the Board also approved CN's control of three different railroads, Duluth Missabe and Iron Range Railway Company, the Bessemer and Lake Eric Railroad Company, and the Pittsburgh & Conneaut Dock Company. Duluth, Missabe, and Iron Range, Finance Docket No 34424 Also, in Finance Docket No. 34424, CN was granted operational efficiencies via trackage rights to operate DWP trains and crews on DMIR trackage and DMIR trains and crews on DWP trackage. Id. The trackage rights were further codified in a collective bargaining agreement between the DWP and DMIR and the employees represented by the UTU (Declaration of John Babler ("Babler Decl.") at ¶ 11) The trackage rights provided the shippers and CN with additional single-line service, efficient routing and car handling, and better use of equipment and assets. See DMIR. These same trackage rights provided the carrier with parallel routes which permitted efficient operation of all through traffic between Ranier, MN (International border) and the Superior, WI terminal/gateway, which is the crew change point for WC crews bound for Chicago or other gateways. See id.

Furthermore, in Finance Docket No 34424 where CN bought DMIR, CN promised as follows

*Labor Protection* CN projects that the CN/GLT Transaction will result in the elimination of 122 positions and the transfer of 18 positions, and CN adds that it will seek to minimize these impacts through normal attrition and to mitigate these impacts where practicable through the economic protections required by the Board

as well as through retraining CN further projects that the reciprocal grants of Sheldon Junction-Nopeming Junction trackage rights provided for in the related filings will have no adverse effect on train and engine service employees

DMIR at 9-10.

Based on CN's projections about the labor impact in Finance Docket No. 34424, it appears that little change was to take place, let alone the elimination of the entire DMIR collective bargaining agreement. In fact, the reciprocal grants of Sheldon Junction-Nopeming Junction trackage rights in the related filings in Finance Docket No. 34424 are nearly the same trackage rights at issue in Finance Docket Nos 35045 and 35046 as noted in these two exemption notices. In Finance Docket No 34424, as noted, CN said these trackage rights would have no effect on train service employees represented on DMIR and DWP. DMIR at 10. Now, CN wants to eliminate DWP and DMIR collective bargaining agreements and place these train service employees under the WCL collective bargaining agreement

In Finance Docket No. 34000 regarding CN's control of WCL, CN committed and the Board made a condition of the transaction in the following August 30, 2001 letter

This letter is to confirm that Canadian National will not use New York Dock processes to replace any existing CN/IC UTU agreements with the agreement between the Wisconsin Central and the UTU

CN, 5 S.T.B. at fn 36 This language expressly prohibits the carrier from overriding the longstanding DWP collective bargaining agreements with a WC collective bargaining agreement unless the parties mutually agree

Moreover, along these same lines, the STB held in Finance Docket No. 34000 that CN must adhere to its commitments with respect to the sanctity of UTU collective bargaining agreements and

the Board will look with “extreme disfavor on overrides of collective bargaining agreements except to the very limited extent necessary to carry out an approved transaction.” Canadian National at 19.

With respect to these collective bargaining agreements which CN must adhere to, both the DWP and WCL recently consummated their system collective bargaining agreements with UTU (DWP on October, 2006 and WCL March 2007), which were achieved pursuant to the Railway Labor Act (“RLA”) collective bargaining provisions. During the time the parties were negotiating their respective Section 6 notices under the RLA in 2006 and early 2007, CN raised the issue of consolidation of the various properties under one common agreement with reciprocal trackage rights. CN abandoned that concept when the UTU negotiators sought concessions of equal value from the carrier. (Babler Decl at ¶ 3).

These DWP and WCL collective bargaining agreements which were consummated after several years of negotiations pursuant to Section 6 notices under the RLA both contain moratoriums. The moratorium on the October 26, 2006 DWP System Agreement expires on September 1, 2011 and the moratorium on the March 12, 2007 WCL System Agreement expires on August 1, 2011. Both of these collective bargaining agreements were consummated with the understanding that the terms and conditions therein would remain in effect until the next round of collective bargaining agreement negotiations were finalized. This supposedly brought “labor peace” for all parties during the terms of these agreements. In each of the DWP and WCL agreements, the terms and conditions therein were achieved through the RLA bargaining processes. Each party, labor and management, paid for the benefits that they received. (Id at ¶ 4).

#### **TRACAGE RIGHTS EXEMPTIONS AT ISSUE**

Pursuant to the notices of exemption filed in these six dockets, DMIR, DWP and WCL

proposed to exchange overhead trackage rights with each other on either side of the Twin Ports. In Finance Docket Nos. 35047 and 30548, respectively, WCL would receive overhead trackage rights on DMIR from South Itasca through Pokegama and Nopeming Junction to Sheldon Junction, Minnesota and on DWP from Nopeming Junction through Sheldon Junction to Ranier, Minnesota. In Finance Docket Nos. 35049 and 35050, respectively, DMIR and DWP would receive overhead trackage rights from WCL from South Itasca to Fond du Lac, Wisconsin, a major WCL yard facility.

DMIR and DWP already have the ability to operate on a paired track basis between Nopeming Junction and Sheldon Junction, with each carrier having overhead trackage rights on the other carrier's parallel line which these carriers obtained in related proceedings in Finance Docket No. 34424. See DMIR at 19-20. The current notices of exemption in Finance Docket Nos. 35045 and 35046 relate to minor modifications to the existing trackage rights agreements between DMIR and DWP on these line segments gained in Finance Docket No. 34424.

#### **UTU'S PETITION TO REVOKE**

On July 23, 2007, UTU filed its Petition to Revoke the exemptions under 49 U.S.C. § 10502(d) in these trackage rights proceedings. UTU argued that there is no basis for the exercise of the Surface Transportation Board's jurisdiction under 49 U.S.C. § 11323. The real purpose of these transactions is obviously to abrogate or change the applicable labor agreements. Thus, the exemptions sought here are truly a sham because they would not result in transactions cognizable under 49 U.S.C. § 11323. This movement of traffic by different carriers by trackage rights under the same corporate umbrella should be rejected for what it is: a false and misleading filing that merely allows the carriers to run roughshod over the collective bargaining agreements in place under the RLA. This transaction is hauntingly familiar to another end around attempt by CN, but stopped by

the STB in 1995 See Canadian National Railway Company – Contract to Operate – Grand Trunk Western Railroad Inc. and Duluth, Winnipeg & Pacific Railway Co., Finance Docket No. 32640 (April 14, 1955). Similarly, here, the carriers solely seek to change the collective bargaining agreements applicable to certain CN operations by bringing them under one agreement

### **CN'S REPLY TO PETITION TO REVOKE**

CN claims in its Reply that DMIR, DWP and WCL crews will each remain subject to their own respective collective bargaining agreements at all times. UTU represents trainmen on DMIR and WCL, and both engineers and trainmen on DWP. CN then argues that apart from extending each carrier's operating district through – rather than simply to – the Twin Ports, the proposed trackage rights will not result in any modifications or diminution of any existing collective bargaining agreement. *Hightower V.S.* at 3. CN claims because the rights are reciprocal, it is expected that the existing work level for employees will remain generally even – i.e., that WCL crews operating north of the Twin Ports on the DMIR/DWP lines will be balanced by DMIR/DWP crews operating south of the Twin Ports on the WCL line. *Hightower V.S.* at 4. CN also notes that each of the six notices of exemptions served by the Board on June 29, 2007 provides that any employees who are adversely affected by the transactions would be protected by the conditions imposed in Norfolk and Western Ry. Co. – Trackage Rights – BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc – Lease and Operate, 360 I.C.C. 653 (1980). (Reply at p 6)

CN then notes that UTU also makes the claim that the DMIR, DWP and WCL notices of exemption are “false and misleading.” CN responded that each of the notices accurately describes the proposed trackage rights, states the purpose to “enhance operational efficiency,” and specifically discloses the common control relationship among the parties. CN claims UTU does not and cannot

identify any manner in which the notices are false or misleading (Reply at p. 7 n 6).

**ACTUAL STATE OF AFFAIRS SINCE CN  
TRACKAGE RIGHTS EXEMPTION FILINGS**

Shortly after these exemption filings became effective on July 14, 2007, CN sent UTU a New York Dock Section 4 notice on September 24, 2007 to bring DWP, DMIR and WCL under one collective bargaining agreement, which is in direct conflict with its statements in its Reply (A true and correct copy of this Notice is attached to Babler Decl as Exh. A) In said notice, CN said it was consolidating the train operations of DWP, DMIR, and WCL based on the Surface Transportation Board decisions dated September 5, 2001 (STB Finance Docket No. 34000), and April 9, 2004 (Finance Docket No 34424) (wherein STB approved the acquisition by Canadian National Railway Company of the Wisconsin Central Ltd. and Duluth, Missabe and Iron Range Railway Company respectively, subject to the conditions for the protection of railroad employees described in New York Dock Railway Control – Brooklyn Eastern District Terminal, 360 I.C.C 60 (1979)) In other words, immediately after seeking these trackage rights exemptions and claiming they had nothing at all to do with changing existing collective bargaining agreements, CN sought to combine all three stand-alone railroad properties under one collective bargaining agreement - a modified version of the WCL Agreement (Babler Decl at ¶ 5).

The only negotiating session that CN-Superintendent Mark Hightower, the affiant in CN's Reply, attended was on February 28, 2008, wherein he insisted that CN must have one agreement for the WCL, DWP and DMIR properties in order to achieve fluidity and manpower utilization throughout the Duluth/Superior Terminal based on recent train congestion and delays at Duluth/Superior The UTU/CN General Chairpersons were quick to point out the fallacy of his

statement because the train congestion and delays at Duluth/Superior were the result of a *failed/inflexible operating plan, locomotive shortages, manpower shortages, excessive on-duty periods, and re-crews*. The aforementioned issues all were further exacerbated by inclement weather (10-20 degrees below 0) at the time and the CN's decision to increase the train volume in the Ranier, MN via Duluth/Superior to Chicago, IL corridor. Before the meeting adjourned, Mr Hightower made it very clear that a "hub and spoke" type agreement was unacceptable. Of course, this is the same type of hub and spoke concept that CN is now embracing. (Babler Decl. at ¶ 6)

The next negotiations with CN occurred on February 28 and 29, 2008 at Duluth, MN. The initial purpose for these negotiations was to resolve the DMIR's UTU train and yard service employees' Section 6 notice and to finalize a permanent borrow-out agreement to address future manpower shortages. CN did not want to discuss the particulars regarding the DMIR Section 6 notice at this meeting, but was only willing to discuss resolution of the Section 6 notice through an implementing agreement to put the WCL, DWP and DMIR properties under one collective bargaining agreement. CN offered no proposal on how this was to be accomplished other than to indicate that the DMIR's Carnegie Pension Plan, health and welfare package, crew consist moratoria and all collective bargaining agreements must be eliminated. CN offered no explanation regarding how the elimination of the DMIR's pension, healthcare plan and collective bargaining agreements would provide the operational efficiency they were seeking for the WCL/DWP territory involved. Essentially, CN was holding DMIR's Section 6 negotiations hostage for a NYD implementing agreement. (Babler Decl. at ¶ 7)

Subsequently, CN's Senior Director of Labor Relations Roger McDougall and Assistant Superintendent Soto were adamant during the late August 2008 negotiations regarding this New

York Dock Section 4 notice that the DWP and DMIR agreements must be eliminated and those *properties must be placed under the WCL collective bargaining agreement*. CN's Mr McDougall also insisted that the DMIR's employees Carnegie Pension Plan and DMIR healthcare plan must be eliminated. The elimination of these plans was, as far as he was concerned, a non-negotiable item. When UTU questioned him on how stripping the DMIR employees of their Carnegie Pension Plan and Healthcare Plan increased operational efficiency and provided for the seamless operation of trains through the Duluth/Superior Terminal, he refused to respond other than to say the "DMIR pension and healthcare plans must be eliminated " During these same negotiations in late August of 2008, Assistant Superintendent Soto was adamant that the DMIR collective bargaining agreements pertaining to road/yard distinction, mileage limitations and crew consist moratorium conditions must be eliminated. Mr. Soto was insistent that all DMIR brakemen/helper positions must be eliminated and that the carrier be granted the unfettered right to force employees to any property/location regardless of their home carrier affiliation. For the most part, UTU rejected CN's verbal August 2008 demands (Babler Decl. at ¶ 8).

CN's Tim Rice did offer UTU a proposed implementing agreement during the September 18, 2008 negotiations regarding the Section 4 notice. (A true and correct copy of the proposed agreement is attached to the Babler Decl. as Exh. B) The CN's proposed agreement focused on a single system agreement under a modified version of the existing WCL Agreement (Babler Decl. at ¶ 9)

On October 24, 2008, CN forwarded to UTU its proposal, a "hub and spoke" agreement. (A true and correct copy of this proposed agreement is attached to the Decl as Exh. C) CN's proposed agreement provided the carrier with the unfettered right without further negotiations to unlimited

trackage rights implementations, cross utilization of manpower from neighboring properties' extra boards and pools, and unlimited switching by crews within the hub and spoke territory with no line of demarcation for prior rights work and road/yard service, regardless of home carrier affiliation UTU rejected this proposal. (Babler decl. at ¶ 10)

CN by verified statement stated in support of its contentions that no collective bargaining agreements would be touched on DMIR, DWP and WCL the following:

I note that the United Transportation Union in its petition to revoke the trackage rights exemptions asserts that the carriers involved seek to "run roughshod over the collective bargaining agreements in place under the Railway Labor Act " That is simply not true The crews on trains operating via these trackage rights over the line of a sister railroad will continue to be covered by all of the terms of the collective bargaining agreements that apply when the train is on a line of their home road, except to the limited extent required to allow these overhead trackage rights. Thus, a DWP crew operating via trackage rights over WCL's line south of Superior will continue to be covered by DWP's collective bargaining agreements Similarly, the crew of a northbound WCL train operating via trackage rights over DWP's or DMIR's line will continue to be covered by WCL's collective bargaining agreements The crew of a DMIR train operating via trackage rights over WCL's line will continue to be covered by DMIR's collective bargaining agreements It is not CN's intent here to modify, avoid or prefer any collective bargaining agreement, beyond the extent described herein. Our objective is simply to improve the efficiency of our operations in this area.

(Hightower V S at p. 3).

### ARGUMENT

These statements regarding the purpose of these transactions with respect to elimination of the collective bargaining agreements are truly "misleading " CN argues that the purpose of these trackage rights transactions has absolutely nothing to do with the alteration of the collective bargaining agreements on these three properties. It simply says none of the agreements will be

changed.

Almost simultaneously with the filing of these trackage rights exemptions, CN has served a New York Dock Section 4 notice on the UTU to eliminate the DMIR and DWP collective bargaining agreements and to bring all three carriers at issue here under the WCL collective bargaining agreement. CN served the notice on UTU only a couple months after these exemptions became effective. It is hard to rationalize how CN can claim in this proceeding it has absolutely no intention of changing these agreements, while at the same time, seeking to change these agreements. This blatant contradiction could not be more misleading or false.

UTU assumes that CN will argue that this total elimination of the DMIR and DWP agreements is based solely on Finance Docket Nos. 34000 and 34424 as set forth in its New York Dock Section 4 notice to UTU (which notice it totally disregarded in its Reply while stating no changes will be made to any collective bargaining agreements here). However, this claim is also a non-starter, since in Finance Docket No. 34000, CN agreed that it would not "use New York Dock processes to replace any existing CN/IC UTU agreements with the agreement between Wisconsin Central and the UTU." Canadian National at 62-63 n. 36. The Board made this agreement a condition of the transaction. Id. Now, CN seeks to do exactly that through the back door by eliminating the DWP collective bargaining agreement with UTU, which was obviously an "existing CN/IC agreement" on August 31, 2001.

Moreover, as noted, the Board held as follows with respect to the "cramdown" of agreements in Finance Docket No. 34000, about which UTU was concerned at that time:

ARU (composed of four labor unions) asks us, as a condition of approval of the transaction, to impose the terms of two recent agreements reached between many of the large railroads and most of

the labor unions that represent railroad employees. These agreements provide a framework to resolve differences between collective bargaining agreements (CBAs) when the workforces of formerly separate carriers are combined into one, and, in so doing, address the override of CBAs that, under our conditions, could occur when implementing agreements to allow consolidations to proceed cannot be reached. See Major Rail Consolidation Procedures, slip op. at 220-21 and 226-27.

We strongly support the recent agreements reached by the majority of the large railroads and their labor unions, but we see no basis on this record for imposing them on applicants here. As we have noted, there will be only minor workforce reductions as a result of the transaction, and applicants have committed "to achieve necessary work organization changes through voluntary, mutually acceptable agreements," CN/WC-16 at 11. This should go far toward avoiding the type of "cramdown" that ARU fears could occur. And in the unlikely event that agreements are not reached voluntarily, we remind the parties that in this transaction, as in major rail consolidations, we will "respect[] the sanctity of collective bargaining agreements and will look with extreme disfavor on overrides of collective bargaining agreements except to the very limited extent necessary to carry out an approved transaction." 49 U.S.C. 11801(e); Major Rail Consolidation Procedures, slip op. at 32.

Canadian National at 18-19.

In other words, the exact type of "cramdown" that CN is engaging in now through its Section 4 notice was more or less prohibited by the Board when approving this transaction. Moreover, as noted, UTU in exchange for its support of this transaction obtained CN's commitment not to touch the DWP collective bargaining agreement which CN is attempting to eliminate right now. Id. at 62-63 n. 36.

Moreover, based on CN's own projections about the labor impact in Finance Docket No. 34424, CN stated that little change with respect to labor was to take place, let alone the elimination of the entire DMIR collective bargaining agreement. DMIR at 9-10. CN also stated that the trackage

rights would “have no effect on train and engine service employees ” Id. at p. 10. These reciprocal grants of Sheldon Junction-Nopeming Junction trackage rights in the related filings in Finance Docket No 34424 are nearly the same trackage rights at issue in Finance Docket Nos 35045 and 35046 with some minor amendments. Now, CN wants to eliminate DWP and DMIR collective bargaining agreements and place these train service employees under the WCL collective bargaining agreement after claiming there would be little effect on labor in this proceeding.

In sum, what CN really wants to do is put all train service employees on DMIR and DWP, and WCL under the WCL agreement. These trackage rights exemptions are an integral part of this ruse to obtain one agreement on these properties. In one breath, CN states that its intention is not to change the collective bargaining agreements and in the next breath, CN seeks to do the same. It really seems that what CN is trying to do here is to throw enough balls into the air to confuse the Board and UTU into thinking its actions are somehow appropriate. However, as discussed herein, there are numerous reasons which prohibit Canadian National from making this occur.

### **CONCLUSION**

UTU asks the Board to treat these trackage right transactions as what they really are – an integral part of a larger ruse to bring these three carriers under one agreement – and grant UTU’s Petition to Revoke on the grounds that the notices were false or misleading.

Respectfully submitted,

/s/ Daniel R. Elliott

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**CERTIFICATE OF SERVICE**

\_\_\_\_\_ This is to certify that a copy of the foregoing United Transportation Union's Response to Carriers' Reply to United Transportation Union's Petition to Revoke has been served this 18th day of November, 2008, via first-class, postage pre-paid mail, upon the following.

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/s/ Daniel R. Elliott  
Daniel R. Elliott, III

## **DECLARATION OF JOHN BABLER**

I, John Babler, pursuant to 28 U.S.C. § 1746, declare the following facts are true

1. I am International Vice President of the United Transportation Union ("UTU") and have held such position since 2004. My previous positions with UTU were Local Chairman, Vice General Chairman, and General Chairman of the UTU General Committee of Adjustment with jurisdiction of agreements with the Union Pacific Railroad Company (former CNW) ("UP"). I was employed by the Chicago and North Western as a switchman on June 28, 1970, and was promoted to conductor in September 1970. I was a member of the UTU National Negotiating Committee in the 2004-08 round of national handling.

2. As International Vice President, I have been assigned to various Canadian National Railway Company ("CN") properties, including Duluth, Missabe and Iron Range Railway Company ("DMIR"), Duluth, Winnipeg, and Pacific Railway Company ("DWP"), and Wisconsin Central Ltd ("WCL"). On this assignment, I have handled the New York Dock implementing agreement negotiations between UTU and DWP, DMIR and WCL under Finance Docket Nos. 34000 and 34424.

3. *With respect to the pertinent CN collective bargaining agreements, both the DWP and WCL recently consummated their system collective bargaining agreements with UTU (DWP on October, 2006 and WCL March 2007), which were achieved pursuant to the Railway Labor Act ("RLA") collective bargaining provisions. During the time these parties were negotiating under the RLA in 2006 and early 2007, CN raised the issue of consolidation of the various properties at issue here under one common agreement with reciprocal trackage rights. CN abandoned that concept when the UTU negotiators sought concessions of equal value from the carrier*

4        These DWP and WCL collective bargaining agreements, which were consummated after several years of negotiations pursuant to their respective Section 6 notices under the RLA, contain moratoriums, which prohibit any changes to these collective bargaining agreements during this time period. The moratorium on the October 26, 2006 DWP System Agreement expires on September 1, 2011 and the moratorium on the March 12, 2007 WCL System Agreement expires on August 1, 2011. Obviously, both of these collective bargaining agreements were consummated with the understanding that the terms and conditions therein would remain in effect until the next round of collective bargaining agreement negotiations were finalized. This supposedly brought "labor peace" for all parties subject to these agreements during the terms of these agreements. In each of the DWP and WCL agreements, the terms and conditions therein were achieved through the RLA bargaining processes. Each party, labor and management, paid for the benefits that they received.

5        Shortly after these trackage rights exemption filings became effective on July 14, 2007, CN sent UTL a New York Dock Section 4 notice on September 24, 2007 to bring DWP, DMIR and WCL under one collective bargaining agreement. (A true and correct copy of this New York Dock notice is attached hereto as Exhibit A). In said notice, CN said it wanted to consolidate the train operations of DWP, DMIR, and WCL based on the Surface Transportation Board decisions dated September 5, 2001 (STB Finance Docket No. 34000), and April 9, 2004 (Finance Docket No. 34424) (wherein STB approved the acquisition by Canadian National Railway Company of the Wisconsin Central Ltd and Duluth, Missabe and Iron Range Railway Company respectively, subject to the conditions for the protection of railroad employees described in New York Dock Railway Control – Brooklyn Eastern District Terminal, 360 I.C.C. 60 (1979)). In other words, immediately after seeking these trackage rights exemptions and claiming they had nothing at all to do with

changing existing collective bargaining agreements, CN sought to combine all three stand-alone railroad properties under one collective bargaining agreement - a modified version of the WCL Agreement.

6. The only negotiating session that CN-Superintendent Mark Hightower, the affiant in CN's Reply, attended was on February 28, 2008, wherein he insisted that CN must have one agreement for the WCL, DWP and DMIR properties in order to achieve fluidity and manpower utilization throughout the Duluth/Superior Terminal based on recent train congestion and delays at Duluth/Superior. The UTU/CN General Chairpersons were quick to point out the fallacy of his statement because the train congestion and delays at Duluth/Superior were the result of a failed/inflexible operating plan, locomotive shortages, manpower shortages, excessive on-duty periods, and re-crews. The aforementioned issues all were further exacerbated by inclement weather (10-20 degrees below 0) at the time and the CN's decision to increase the train volume in the Ranier, MN via Duluth/Superior to Chicago, IL corridor. Before the meeting adjourned, Mr. Hightower made it very clear that a "hub and spoke" type agreement to solve his concerns was unacceptable. This is the same type of hub and spoke concept that CN is now embracing.

7. The next negotiations with CN occurred on February 28 and 29, 2008 at Duluth, MN. The initial purpose for these negotiations was to resolve the DMIR's UTU train and yard service employees' Section 6 notice and to finalize a permanent borrow-out agreement to address future manpower shortages. CN did not want to discuss the particulars regarding the DMIR Section 6 notice, but was only willing to discuss resolution of the Section 6 notice through an implementing agreement to put the WCL, DWP and DMIR properties under one collective bargaining agreement. CN offered no proposal on how this was to be accomplished other than to indicate that the DMIR's

Carnegie Pension Plan, health and welfare package, crew consist moratoria and all collective bargaining agreements must be eliminated. CN offered no explanation regarding how the elimination of the DMIR's pension, healthcare plan and collective bargaining agreements would provide the operational efficiency they were seeking for the WCL/DWP territory involved. Essentially, CN was holding DMIR's Section 6 negotiations hostage for a New York Dock implementing agreement

8 Subsequently, CN's Senior Director of Labor Relations Roger McDougall and Assistant Superintendent Soto were adamant during the late August 2008 negotiations regarding this New York Dock Section 4 notice that the DWP and DMIR agreements must be eliminated and those properties must be placed under the WCL collective bargaining agreement. CN's Mr. McDougall also insisted that the DMIR employees' Carnegie Pension Plan and healthcare plan must be eliminated. The elimination of these Plans was, as far as he was concerned, a non-negotiable item. When UTU questioned him on how stripping the DMIR employees of their Carnegie Pension Plan and healthcare plan increased operational efficiency and provided for the seamless operation of trains through the Duluth/Superior Terminal, he refused to respond other than to say the "DMIR pension and healthcare plans must be eliminated." During these same negotiations in late August of 2008, Assistant Superintendent Soto was adamant that the DMIR collective bargaining agreements pertaining to road/yard distinction, mileage limitations and crew consist moratorium conditions must be eliminated. Mr. Soto was insistent that all DMIR brakemen/helper positions must be eliminated and that the carrier be granted the unfettered right to force employees to any property/location regardless of their home carrier affiliation. For the most part, UTU rejected CN's verbal August 2008 demands.

9. CN's Tim Rice did offer UTU a proposed implementing agreement during the September 18, 2008 negotiations regarding the Section 4 notice (A true and correct copy of this CN proposed implementing agreement is attached hereto as Exhibit B). The CN's proposed agreement focused on a single system agreement under a modified version of the existing WCL Agreement.

10. On October 24, 2008, CN forwarded to UTU its proposal, a "hub and spoke" agreement. (A true and correct copy of this proposed agreement is attached hereto as Exhibit C) CN's proposed agreement provided the carrier with the unfettered right without further negotiations to unlimited trackage rights implementations, cross utilization of manpower from neighboring properties' extra boards and pools, and unlimited switching by crews within the hub and spoke territory with no line of demarcation for prior rights work and road/yard service, regardless of home carrier affiliation. UTU rejected this proposal

11. In Finance Docket No 34424, CN was granted operational efficiencies via trackage rights to operate DWP trains and crews on DMIR trackage and DMIR trains and crews on DWP trackage. The trackage rights were codified in a collective bargaining agreement between the DWP and DMIR and the employees represented by the UTU. The trackage rights provided the shippers and CN with additional single-line service, efficient routing and car handling, and better use of equipment and assets. These same trackage rights provided the carrier with parallel routes which permitted efficient operation of all through traffic between Ranier, MN (International border) and the Superior, WI terminal/gateway, which is the crew change point for WC crews bound for Chicago or other gateways. These are basically the same trackage rights at issue in Finance Docket Nos 35045 and 35046 with minor amendments.

I declare under penalty of perjury that the foregoing is true and correct Executed on  
November 14, 2008

  
John Babler



7641 South Asland Avenue  
Homewood Illinois 60430

www.cn.ca

*ATT. R. MARCOU  
J. BABIER*

VIA OVERNIGHT DELIVERY

September 24, 2007

Mr Pat Etter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Mr Kenneth Larson  
General Chairman  
United Transportation Union  
727 14<sup>th</sup> Avenue  
Two Harbors, MN 55616

Mr. Kenneth Flashberger  
General Chairman  
United Transportation Union  
300 North Water Street  
New London, WI 54961-1852

Mr. Pat Ojard  
General Chairman  
United Transportation Union  
1807 Highway 2  
Two Harbors, MN 55616

Mr Tom Jackson  
General Chairman  
United Transportation Union  
8884 West Branch  
Duluth, MN 55803

Gentlemen:

Enclosed is a self-explanatory notice that has been posted for the information of interested employees in connection with the acquisitions of Wisconsin Central Transportation Corporation and Duluth, Missabe and Iron Range Railway Company by Canadian National Railway Co (STB Dockets 34000 and 34424)

For the purpose of reaching the necessary implementing agreement we have arranged for meetings to be held beginning at 9 00 AM on Tuesday, October 2, 2007 at Fitzer's Inn located at 600 East Superior Street, Duluth, Minnesota.

Yours truly,

Roger K. MacDougall  
Senior Director - Labor Relations



CANADIAN NATIONAL RAILWAY COMPANY  
GRAND TRUNK CORPORATION AND WC MERGER SUB, INC.  
DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY  
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY  
WISCONSIN CENTRAL TRANSPORTATION CORPORATION  
WISCONSIN CENTRAL LTD.  
FOX VALLEY & WESTERN LTD.  
SAULT STE. MARIE BRIDGE COMPANY  
WISCONSIN CHICAGO LINK

Att.  
R. MacDougall  
J. Baker

Notice to Employees

September 24, 2007

The Surface Transportation Board, in decisions dated September 5, 2001, (STB Finance Docket No. 34000), and April 9, 2004, (Finance Docket No. 34424), approved the acquisition by Canadian National Railway Company ("CNR"), et al. of the Wisconsin Central Ltd. ("WC") and Duluth, Missabe and Iron Range Railway Company ("DMIR") respectively, subject to the conditions for the protection of railroad employees described in New York Dock Railway-Control-Brooklyn Eastern District Terminal, 360 I.C.C. 60 (1979).

The acquisitions enable the rail system to provide more efficient, more reliable, and more competitive rail service. The acquisitions also respond directly to shipper requirements for improved rail infrastructure to handle the rapidly growing north-south trade flows stimulated by NAFTA.

To achieve the efficiencies of the transactions, it is necessary to consolidate the train operations of the Duluth, Winnipeg & Pacific ("DWP"), the Duluth, Missabe and Iron Range ("DMIR"), and the Wisconsin Central ("WC") into one territory. The consolidation will not result in the abolishment of positions. The reason for the consolidation is to provide increased efficiency, better utilization of the workforce, and improved customer service.

Employees who are adversely affected by this transaction will be entitled to the employee protective conditions described in New York Dock Railway - Control - Brooklyn Eastern District Terminal, 360 I.C.C. 60 (1979).

This notice is served pursuant to Article I, Section 4 of the protective conditions.

R. K. MacDougall  
Senior Director - Labor Relations

## Implementing Agreement

Between

**WISCONSIN CENTRAL TRANSPORTATION CORPORATION**

And

**Its Employees Represented By  
UNITED TRANSPORTATION UNION  
TRAINMEN**

on the former

**Wisconsin Central Transportation Corporation (WC)**

**Fox Valley & Western Ltd. (FV&W)**

**Sault Ste. Marie Bridge Company (SSAM)**

**Duluth, Winnipeg & Pacific Railway Company (DWP)**

**Duluth, Missabe & Iron Range Railway Company (DM&IR)**

Whereas, the Surface Transportation Board (STB), in decisions dated September 5, 2001, (STB Finance Docket No. 34000) and April 9, 2004, (STB Finance Docket No. 34424), approved the acquisition by Canadian National Railway Company ("CNR"), et al, of the Wisconsin Central Transportation Corporation (WC), and Duluth, Missabe and Iron Range Railway Company (DMIR) respectively, subject to the conditions for the protection of railroad employees in New York Dock Railway - Control - Brooklyn Eastern District Terminal, 360 I.C.C. 60 (1979), ("Protective Conditions").

WHEREAS, the parties to this Agreement are the Duluth Winnipeg and Pacific (DWP), Duluth, Missabe and Iron Range (DMIR), Wisconsin Central Transportation Corporation. (WC or the "Company") and the United Transportation Union ("UTU"), representing the Trainmen on the DWP, the WC and DMIR. The intent of the Agreement is to provide fluidity of train operations throughout the territory from Chicago, Illinois to Ranier, Minnesota while protecting the respective rights, privileges, agreements, employment security and quality of life of the train service employees employed therein.

### **IT IS AGREED:**

#### **ARTICLE 1 - PURPOSE**

The fundamental objective of the Company is to operate a safe, efficient and effective railroad transport operation and a key component to the success of this venture is the contribution of a Conductor (Trainman).

This Agreement is founded on a principle of paying for Trainmen's time on an all-inclusive basis and contemplates that in order for the operation to be successful, individuals shall perform all duties requested of them, subject to the provisions contained herein.

#### **ARTICLE 2 - GENERAL PRINCIPLES**

- A. In this Agreement, words importing the singular shall include the plural and vice versa where the context requires. Words importing the masculine gender shall include the feminine where the context requires.
- B. This Agreement is intended to be applied in a non-discriminatory manner without regard to age, race, creed, color, gender, national origin, disability, sexual orientation or marital status.

- C. The parties recognize that this is a new Agreement, which replaces any and all existing Agreements, unless otherwise provided, and introduces changes in the workplace. In recognition of this, a committee consisting of the UTU General Chairperson, a UTU Member appointed by the General Chairperson, and the Company's General Manager(s) Operations and Sr Director Labor Relations or their respective designates, two from each party, shall be established. This committee shall be known as the Labor/Management Committee, and shall meet semi-annually, unless otherwise mutually agreed, to review the application of this Agreement.

### **ARTICLE 3 – RECOGNITION**

- A. This Agreement covers all Trainmen employed by the Company and represented by the United Transportation Union under the Railway Labor Act, as amended.
- B. The terms "Conductor" and "Trainman" as herein referred to shall include employees represented by the United Transportation Union, except where otherwise specifically provided for herein. The term "Company" shall mean the Wisconsin Central Transportation Company consisting of its subsidiaries Wisconsin Central Ltd, Fox Valley & Western Ltd., Sault Ste Marie Bridge Company, Duluth, Winnipeg & Pacific Railway Company and Duluth, Missabe & Iron Range Railway Company. The term "Union" or "General Committee" shall mean the United Transportation Union.
- C. The right to make and interpret contracts covering rules, rates of pay and working conditions on behalf of Trainmen covered by this Agreement shall be solely vested in the regularly constituted General Committee of the United Transportation Union.
- D. Where the term "duly accredited representative" appears herein, it shall be understood to mean the regularly constituted General Committee and/or the Officers of the United Transportation Union of which such General Committee or Officers are a part of.

### **ARTICLE 4 – SCOPE RULE**

Trainmen subject to this Agreement shall perform the traditional duties of a Trainman, which entail responsibilities such as switching of rail cars, interchange, handling switches, inspecting rail cars, bleeding cars, performing walking and rear-end air tests, preparing reports while under pay, using communication devices, copying and handling train orders, clearances and/or messages, spotting and/or movement of trains, rail cars and equipment on trackage in all yards and on all road territories owned and operated by the Company. Additionally, the Company may establish Utility Man Position(s) and such Utility Man Position(s) shall perform the traditional duties of a Utility Man. Where Utility Man Position(s) are established, Trainmen shall perform the traditional duties of this position. Additionally, Trainmen may perform the traditional duties of a Trainman in connection with work associated with assignments such as, but not limited to, a wrecking crane, test cars, flagging, and piloting.

**Note 1:** Trainmen shall not be required to perform duties outside the aforementioned Scope Rule and shall not be censured nor disciplined for refusing to do so.

**Note 2:** No Company official(s), non-craft employee(s) or non-employee(s) shall be used to supplant or substitute in the exclusive work of any Trainman working under this Agreement. However, this Agreement recognizes that crewmembers work as a unit and that Engineers may occasionally be required to operate switches. (Q&A 1)

**Note 3:** One or more Trainman position(s) must be on all assignments. (Q&A 2 and 3 and Side Letter 16)

### **ARTICLE 5 – WAGES**

- A. i) Effective the date of this Agreement the rate of pay for a Conductor will be \$32.15 per hour for all Trainmen covered under this Agreement. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
- ii) Effective August 1, 2009, a three per cent (3%) increase in the rate of pay for Conductor will result in \$33.11 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.

- iii) Effective August 1, 2010, a three per cent (3%) increase in the rate of pay for Conductor will result in \$34.11 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement
  - iv) Effective August 1, 2011, a three per cent (3%) increase in the rate of pay for Conductor will result in \$35.13 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
  - v) Effective August 1, 2012, a four per cent (4%) increase in the rate of pay for Conductor will result in \$36.54 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
- B. 1. Ten (10) hours or less shall constitute a basic day. Pay for all time on duty after ten (10) hours shall be at the rate of time and one half on the minute basis at the applicable rate.
  - 2. The rates provided for herein shall apply to all time on duty, unless otherwise specified in the Agreement. The Company may require Trainmen to work in excess of ten (10) hours per tour of duty and Trainmen will be paid on a minute basis at the applicable rate of service performed. Trainmen requesting to be relieved during their tour of duty shall be paid actual time on duty provided a supervisor grants their request.
- C. New hired Trainmen assigned to the training program shall be paid an entry rate equivalent to ninety percent (90%) of the Conductor's hourly rate of pay. Upon accumulating one (1) year of service or upon qualification as Conductor, whichever occurs first, such Trainmen shall be paid at one hundred percent (100%) of the applicable hourly rate of pay.
  - D. Firemen-in-Training (commonly referred to as Engineer Trainees) assigned to the engineer training program shall be paid a rate equivalent to ninety percent (90%) of the engineer's full (100%) hourly rate of pay. Upon completion of the training program, the engineer qualified trainee shall be paid one hundred percent (100%) of the applicable hourly rate of pay for the craft he is working in.
  - E. Unless otherwise provided in this Agreement, the rates of pay as indicated herein represent complete and total payment for the performance of all work, which is associated with the Trainmen covered by this Agreement.

**ARTICLE 6 – EMPLOYMENT SECURITY**

- A. A Trainman who has established seniority on the Trainmen's seniority roster(s) on or prior to the effective date of this Implementing Agreement shall be known and designated as a "Protected Trainman" Such Protected Trainmen shall not be furloughed as a Trainman for any reason.
- Note:** A Trainman who was suspended or dismissed prior to the effective date of this Agreement and is subsequently reinstated with seniority rights unimpaired shall be designated a Protected Trainman. A Protected Trainman who is or becomes dismissed or suspended and who is subsequently reinstated with seniority rights unimpaired shall remain a Protected Trainman.
- B. A Protected Trainman shall be provided a Regular Assignment or a Guaranteed Extra Board position.

**ARTICLE 7 – SENIORITY**

**Section 1 – General**

- A. The right to preference of work and the right to bid an assignment(s) shall be governed by seniority subject to prior rights. The Trainman oldest in seniority, taking in consideration prior rights seniority if applicable, shall be given the preference of work and the right to bid the assignment(s) of his choosing in accordance with the applicable provision(s) as contained in this Agreement. (See Side Letter 2, Side Letter 3 and APPENDIX A - Prior Rights Seniority Roster.)
- B. The Company will keep the General Chairperson and each Local Chairperson of the UTU supplied with lists of Trainmen and their seniority dates (prior rights if applicable) in sequential order as Trainmen in conformity with their standing as recorded on the lists subject to the rules hereinafter provided for.

## **Section 2 – Establishment of Seniority Date**

The seniority date of newly hired Trainmen shall be the first date of service performed. In the event more than one Trainman is hired on the same date (start classroom together), seniority will be allocated in the order of last four (4) digits of their Social Security numbers – highest first. In the event the last four digits of the Social Security numbers are identical, the next two (2) numbers will be utilized.

## **Section 3 – Furloughed Trainmen**

- A. Trainmen who are hired subsequent to the effective date of this Agreement, subject to manpower requirements, may be furloughed. In the event such Trainmen are furloughed they may be used to fill Trainmen vacancies in accordance with their seniority as provided for in this Agreement when extra Trainmen are unavailable to fill such vacancies. This applies to vacancies ordinarily filled by extra men. Furloughed Trainmen must provide the Company with a current telephone numbers to be contacted if they desire to protect service requirements when the procedures provided for in Article 11 (GEB) have been exhausted.
- B. Furloughed Trainmen shall be subject to recall and shall be provided a recall to service notice via certified letter which shall be sent to their last known address. Trainmen must respond to the Company within fifteen (15) days and must report for duty within thirty (30) days from the date of receipt of the certified letter. It is the furloughed Trainman's responsibility to provide the Company with their current address. Trainmen who fail to report as outlined herein shall have their name removed from the seniority roster and their service with the Company shall be terminated.

## **Section 4 – Re-entering Service**

Trainmen reinstated to service shall retain their rank of seniority and any prior rights. Trainmen re-hired to service shall lose their former rank and enter the service as new Trainmen.

## **Section 5 – Seniority Retention**

- A. Yardmasters and Managers/Company Officers who hold train service seniority but do not belong to the UTU shall be required to pay monthly seniority retention ("SR") fees to the UTU, in an amount equal to the full monthly dues payable to UTU and its subordinate units by a member of that organization, in order to retain train service seniority. Such fee shall be payable at the same time as monthly dues are payable by a UTU member. Any non-member who fails to pay the SR fee when due shall be promptly notified of that non-payment by the UTU by certified mail. If such default has not been cured within thirty (30) calendar days after the date of such notice, the UTU shall provide the Company written notification of the non-payment and that individual's seniority in the train service class/craft involved shall be extinguished effective on the first calendar day after expiration of the 30-day notice period, subject to subparagraph (c) below.
- B. The SR fee required under this paragraph will be payable by an employee on a monthly basis beginning with the first full calendar month that immediately follows completion of his SR service period. An employee's period commences with his first day of compensated service as Yardmasters or Managers/Company Officers that occurs after the date this provision is implemented at the location involved. If an employee covered by this paragraph is set back to train service and is subsequently transferred to a Yardmaster's position or who becomes a Manager/Company Officer at a location where this provision has been implemented, a new SR service period (as defined above) will be applicable to such employee.
- C. If an employee whose train service seniority has been extinguished pursuant to subparagraph (A) is subsequently set back to train service because of insufficient seniority to hold a Yardmaster position or a Manager/Company Officer position, he shall be placed at the bottom of the seniority roster involved. Such employee shall be deemed to have forfeited all agreement-based rights and/or benefits for which he was entitled or eligible based upon his former train service seniority.
- D. The provisions contained in this Section shall only be implemented upon thirty (30) days written notice by the General Chairperson of the UTU to the Sr. Director Labor Relations.

## **Section 6 – Seniority Maintenance**

- A. Each employee in a train service class/craft represented (for RLA purposes) by the UTU who does not hold membership in that organization will be required to pay a monthly seniority maintenance (“SM”) fee to UTU in order to continue to accumulate train service seniority. The SM fee shall be based on the costs of negotiations, claim/grievance/discipline handling, and internal governance as indicated in UTU’s Fees Objector Policy and/or the most recent LM-2 Report filed by UTU with the United States Department of Labor, but in no event shall it exceed the full amount of monthly dues payable to UTU and its subordinate units by a member of such organization. The SM fee required under this paragraph will be payable by an employee on a monthly basis beginning with the first full calendar month that immediately follows completion of his SM service period. An employee’s SM service period for this purpose shall mean the thirty (30) calendar days period that commences with his first day of compensated service in a UTU-represented train service class/craft that occurs after the date this provision is implemented at the location involved. If an employee covered by this paragraph is promoted to engine service and is subsequently set back to train service at a location where this provision has been implemented, a new SM service period (as defined above) will be applicable to such employee
- B. The UTU shall furnish to the Company written notification of the amount of the applicable SM fee(s) due under this paragraph by July 1 of each calendar year, which amount will remain in effect until the succeeding July 1. The initial notification of the SM fee amount(s) under this paragraph will be made within thirty (30) calendar days of the date this Letter of Intent is implemented at any location and will remain in effect until the succeeding July 1. The applicable SM fee will be payable at the same time as dues are payable by a UTU member. Any non-member of the UTU in train service who fails to pay the SM fee when due shall be promptly notified of that non-payment by the UTU by certified mail. If such default has not been cured within thirty (30) calendar days after the date of such notice, the UTU shall provide the Company written notification of the non-payment and that individual’s seniority in the train service class/craft involved shall be frozen effective on the first calendar day after expiration of the 30-day notice period.
- C. The provisions contained in this Section shall only be implemented upon thirty (30) days written notice by the General Chairperson of the UTU to the Sr. Director Labor Relations.

## **Section 7 – Seniority Districts and GEB Locations**

The right to work Trainman position(s) on an assignment(s) shall be determined by seniority. Subject to prior rights, seniority shall prevail as follows – first, by seniority within the home terminal where the vacancy occurs and second, by seniority within the District where the vacancy occurs; and third, by system seniority. A Trainman who transfers into a Terminal within the District shall exercise his seniority within that Terminal based upon his system seniority date. It is understood that a Trainman shall maintain seniority in only one (1) home terminal at any given time – i.e the location at which he is currently assigned. A Trainman may exercise his seniority within the home terminal in accordance with the applicable provisions as contained in Attachment A. (Q&A 4)

Upon the effective date of this Agreement, the following Seniority Districts and Home Terminals shall be maintained:

### **Seniority District 1**

#### **Home Terminal 1 - Extra Board Location and Source of Supply – Schiller Park**

- Protects Chicago District vacancies up to Leighton (Q&A 5) and at other locations established within the prior right Home Terminal

### **Seniority District 2**

#### **Home Terminal 1 - Extra Board Location and Source of Supply – Waukesha**

- Protects vacancies at Waukesha / Burlington / Milwaukee / DBR Jct. / Down to Mundelein and at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply - Fond du Lac**

- Protects WC and FVW vacancies at Fond du Lac / Spur 126 and at other locations established within the prior right Home Terminal

### **Seniority District 3**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Stevens Point**

- Protects WC and FVW vacancies at Stevens Point / Marshfield / Waupaca / Wausau / Rhinelander / Bradley and at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply -- Wisconsin Rapids**

- Protects FVW and WC vacancies at Wisconsin Rapids / Taylor / Merrillan / Arcadia (Q&A 6 and 7) and at other locations established within the prior right Home Terminal

### **Seniority District 4 - WC Lines**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Pokegama (Superior)**

- Protects WC prior right vacancies at Pokegama / Ladysmith / Mellen / Park Falls / North Ironwood / Stone Lake and at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply - New Brighton**

- Protects WC prior right vacancies at New Brighton / New Richmond / Chippewa Falls and at other locations established within the prior right Home Terminal

### **Seniority District 5**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Green Bay**

- Protects SSAM and WC vacancies at Green Bay / Marinette and at other locations established within the prior right Home Terminal
- Protects FVW and WC vacancies at Green Bay / Wrightstown / Manitowoc and at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply - Neenah**

- Protects WC and FVW vacancies at Neenah / Oshkosh / New London / Appleton / Kimberly / Kaukauna / Hilbert and at other locations established within the prior right Home Terminal

### **Seniority District 6**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Gladstone**

- Protects SSAM and WC vacancies at Gladstone / Escanaba / Quinnesec / Niagara / Pembine / Ishpeming / and L'Anse at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply - Trout Lake**

- Protects Trout Lake and Sault Ste. Marie, MI and at other locations established within the prior right Home Terminal

### **Seniority District 7 - DWP Lines**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Pokegama (Superior)**

- Protects DWP prior right vacancies located north of Pokegama to and including Ranier and at other locations established within the prior right Home Terminal

### **Seniority District 8 - DM&IR Lines**

#### **Home Terminal 1 - Extra Board Location and Source of Supply - Proctor (Missabe)**

- Protects DM&IR (Missabe) prior right vacancies at Proctor / Keenan / Two Harbors and at other locations established within the prior right Home Terminal

#### **Home Terminal 2 - Extra Board Location and Source of Supply - Two Harbors (Iron Range)**

- Protects DM&IR (Iron Range) prior right vacancies at Two Harbors and at other locations established within the prior right Home Terminal

- Note 1:** The Company shall negotiate with the Union prior to bulletining positions where it is proposed to establish any new terminals within the Home Terminal or District in addition to those shown above
- Note 2:** The Company shall normally bulletin assignments at outlying points not listed above to the Home Terminal in closest geographic proximity within the District via highway miles.
- Note 3:** The prior right positions on the former DWP and former DM&IR will cease to exist when the last prior right Trainman on the respective prior right District retires, resigns or otherwise ends his employment relationship with the Company Side Letter 2 – Prior Rights continues to apply elsewhere. (Side Letter 3)

### **Section 8 – Seniority Roster**

- A. A single WC System Seniority Roster will be compiled by dovetailing the WC, DWP and DM&IR rosters by using the Trainmen's earliest train service seniority date on their respective prior right property. This new roster will have the Trainmen's prior right Districts listed next to their name. This new roster will be identified as APPENDIX A attached hereto.
- B. Seniority roster shall be compiled by the Company and posted on or before January 1 of each year with copies furnished to the General Chairperson and Local Chairmen. Rosters shall show each Trainman's name, rank, date of seniority, status and prior rights Districts if applicable. A seniority date not protested within 60 days from its first posting shall be considered permanently established, and future requests for changes shall not be considered except to correct typographical errors.
- C. Trainmen establishing seniority on or after the effective date of this Agreement shall be placed at the bottom of the System Seniority Roster in accordance with their relative Trainman's seniority date. Trainmen hired on or after the effective date of this Agreement shall have no prior right designations.

### **Section 9 – Transfer to Engine Service and Flowback and Prior Rights**

- A. Trainmen who have established seniority subsequent to April 1, 2002 shall be required to accept transfer to engine service. If the number of applicants for engine service is insufficient to meet the Company's needs, such needs shall be met by requiring Trainmen who established seniority subsequent to April 1, 2002 to transfer to engine service in inverse seniority order, or forfeit seniority as a Trainman. Trainmen failing to pass the transfer requirements for engineer shall result in automatic termination of all seniority and rights to work under this Agreement.
- B. An Engineer possessing Trainman's seniority shall only be permitted to exercise his seniority rights as a Trainman in the event he is in furlough status from engine service. The exception to this condition is applicable only to the DWP – E Northern Lines territory. In the event a Locomotive Engineer exercises his Trainman's seniority in connection herewith, such Engineer, when recalled to Engine Service, shall be recalled in seniority order by virtue of his Engineer seniority, i.e., the senior Engineer being recalled to Engine Service before a junior Engineer.
- C. Trainmen who have prior rights seniority will have the same prior rights seniority as Engineers.

### **Section 10 – Transfer to Yardmaster and Flowback**

Trainmen shall be offered first right of refusal to transfer to regularly assigned/fulltime Yardmaster position(s) when such positions are available. A Trainman who transfers to the position of Yardmaster shall retain and accumulate his seniority as a Trainman. In the event such Trainman is demoted or in furlough status as a result of insufficient assignments for a Yardmaster position, he shall be permitted to flowback as a Trainman.

## **ARTICLE 8 – JOB VACANCIES AND BIDDING**

### **Section 1 – Regular Assignments and Guaranteed Extra Board Positions**

- A. Regular assignments that are intended to tie-up at the home terminal each day shall be established and bulletined to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off. Assignments that are bulletined with an away-from-home terminal shall be established and may be bulletined to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off or to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off. (Q&A 8 and 9)

**Note 1:** Assignments shall have a designated starting time or call window. No less than seventy-five percent (75%) of freight service shall be Regular Assignments. No less than seventy-five percent (75%) of prior right WC freight runs at the Pokegama/Superior terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DWP freight runs at the Pokegama/Superior terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DM&IR freight runs at the Proctor terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DM&IR freight runs at the Two Harbors terminal shall be regularly assigned. To determine the seventy-five percentile referred to herein, the measurement period will be 60 days prior to the advertisement bulletin for the tri-annual bid.

**Note 2:** In the event the 48 consecutive hour rest period is utilized, such rest period shall commence when the assignment ties up at the home terminal following the five (5) or six (6) tours of duty, whichever is applicable. Refer to Side Letter 8, Side Letter 9 and Side Letter 10.

- B. Where regular assignments have been established, each regular assignment shall be advertised and assigned rest day(s). Trainmen shall bid regular assignments by virtue of seniority, prior rights will prevail, if applicable.
- C. Regular assignments that tie-up at the home terminal and/or away-from-home terminal may be bulletined with a four (4) hour call window or an assigned start time at the home terminal. (Q&A 10 - 18)

**Note:** The "call window" is the window during which the assignment is scheduled to start. The two-hour call is in advance of this time.

- (i) For regular assignments with call windows, if rested but not called to start within the designated window, the Trainman shall be considered on pay after the expiration of his advertised window; however this shall not count towards overtime or hours of service. If not called to start within eight (8) hours from the end of their call window they shall be compensated a basic day and shall have fulfilled the requirement to protect the call window for that day.
- (ii) The bulletined call window or assigned start time applies whenever the Trainman ties-up at the designated home terminal.

- D. Guaranteed Extra Board positions shall be established where the needs of service dictate and shall be bulletined to work five (5) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) alternately to work six (6) consecutive days with one (1) scheduled rest day (not less than 24 consecutive hours). By mutual agreement between the Company and the respective Local Chairman at the GEB location, GEB assignments at each individual terminal may be bulletined to work five (5) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) or six (6) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) or eleven (11) consecutive days with three (3) consecutive scheduled rest days (not less than 72 consecutive hours). On GEB's utilizing the 5 and 2 and/or 6 and 2 work/rest schedule, the GEB guarantee will be pro-rated accordingly GEB's may have more than one work/rest schedule assigned thereto. Trainmen shall bid GEB position(s) by virtue of seniority with prior rights controlling if applicable.

- E. Regularly assigned Utility position(s) may be established to assist an assignment(s) pursuant to the provision(s) of Article 4 herein and shall go on duty at his regular on duty point and tie up at his regular off duty point. Utility positions shall be used to assist other assignments or assist in expediting the movement of trains pursuant with the terms of this Agreement. Trainmen shall bid Utility position(s) by virtue of seniority, prior rights controlling, if applicable. (Q&A 19 - 22)
- F. If at or in route to an away-from-home terminal on the last working day of a Trainman's schedule, the Trainman shall deadhead (or work) back to the home terminal in order for such Trainman to be afforded his scheduled rest day(s). However, if tied up at an away-from-home terminal, the Trainman shall work (or deadhead) back to the home terminal in the normal rotation of crews at the away-from-home terminal. The rest day(s) shall begin when the Trainman ties-up at the home terminal. (Side Letter 8 and Side Letter 10)
- G. Each terminal shall maintain a bulletin listing all assignments/positions, including Guaranteed Extra Board positions, which shall include (a) the job title and the normal assigned duties of the job, (b) the home terminal and, where applicable, the away-from-home terminal, (c) whether the job is anticipated to tie up at the on-duty point or at an away-from-home terminal, (d) the starting time or spread time of the assignment, if applicable, (e) the assigned day(s) off and (f) prior right designation, if applicable. Nothing in this provision restricts the Company from tying-up an assignment at the home terminal on any day of the assignment.

### **Section 2 – Assignment to Positions**

Trainmen shall make application to positions in accordance with the Standing Bid system as provided for in Attachment A. This system shall govern the awarding of all assignments and/or positions.

**Note:** The provisions of Attachment A will not apply to the former DM&IR Line while that territory is under the 7 Day Mark Agreement. The Company agrees to give the General Chairman 120 days advance written notice of their intent to abolish the 7 Day Mark Agreement. The DM&IR will then come under the provisions of Attachment A – Standing Bid/Tri-annual Bidding.

### **Section 3 – Transfer/Borrow-out**

#### **Temporary Transfers**

- A. Trainmen may be offered voluntary temporary transfers from one Seniority District to another as contained herein in Article 7 Section 7 – Seniority Districts and GEB Locations. The senior Trainmen shall have preference, and when returned to their home district they shall be placed on assignments of their choice as identified on their standing bid form.
- B. Trainmen who have volunteered to temporarily transfer must be returned to their home terminal within their District within ninety days (90) of the transfer. The General Chairperson and the General Manager may mutually agree to extend the ninety-day (90) limit of a temporary service assignment transfer.
- C. Positions shall be advertised seven (7) days in advance of an anticipated temporary shortage of Trainmen at a specific location(s), initially to Trainmen on the adjacent Seniority District(s). In the event applications are not received from Trainmen in the initial step, then the shortage positions shall be advertised to Trainmen on all Seniority Districts. Applicants shall be selected based upon seniority and the requirements of service at the home terminal within the applicant's District, qualifications being equal.

Successful applicants shall be required to protect service at the shortage location for a minimum of thirty (30) days unless released by the Company. This time frame may be extended as mutually agreed. Applicants who remain on the working board for the duration of the position assigned and fully protect the Company's service requirements shall be provided the following:

- 1 Company lodging at the shortage location and an all-inclusive daily meal allowance of \$20.00
2. In lieu of Company provided transportation and the standard driving allowance, the Company shall reimburse the Trainmen a weekly allowance of \$150.00 for transportation costs.
- 3 The money amounts cited in C.1 and C.2 contained herein are subject to any wage increases.

4. No reimbursement for travel shall be made where the Company provides transportation.
5. Assigned rest days shall be provided which shall be applied in the manner outlined in Section 1 herein.

## **ARTICLE 9 – ANNULMENT OF ASSIGNMENTS**

- A. When an assignment is to be annulled on a holiday, the Company, when provided with the appropriate advance notice from Customer(s), shall provide a Trainman assigned thereto at least twenty-four (24) hours' notice. (Q&A 23)
- B. No pay will be allowed when an assignment is annulled on New Year's Day, President's Day, Memorial Day, Good Friday, Independence Day, Labor Day, Thanksgiving Day, the Day after Thanksgiving, Christmas Eve Day, Christmas Day or New Year's Eve Day, unless the Trainman utilizes a personal leave day or a single vacation day.
- C. When an assignment(s) is annulled on other than one of the General Holidays referred to in sub-paragraph B herein, the Trainman assigned to the position shall be paid a basic day of ten (10) hours at the applicable straight time rate and it shall be considered a day of compensated service.
- D. If a Guaranteed Extra Board assignment is annulled on a holiday, the guarantee will be reduced by 1/10th. (Q&A 24)

## **ARTICLE 10 - ABOLISHMENT AND DISPLACEMENT**

- A. Trainmen shall be assigned a position in accordance with the Standing Bid system as provided for in Attachment A. This system shall govern the assignment to positions.
- B. 1. A Trainman whose position is abolished shall be given a minimum of twenty-four (24) hours notice, which shall be satisfied by advising the Trainman by telephone or by issuing a bulletin seven (7) days in advance, and he shall be allowed to exercise his seniority to any assignment within the terminal in which he is located by displacing a junior Trainman in accordance with the individual's standing bid.  
**Note:** In the absence of having a remaining standing bid selection the Trainman has twenty-four (24) hours in which to exercise his terminal seniority, or be assigned a position by the Company.
2. If unable to displace a junior Trainman in the Terminal, the Trainman shall exercise his seniority to displace a junior Trainman within the District; if applicable, he shall exercise his system rights.  
**Note 1:** In the absence of having a remaining standing bid selection, the Trainman has forty-eight (48) hours in which to exercise his District or System seniority or he shall be assigned a position by the Company.  
**Note 2:** A Trainman who is employed on or subsequent to the effective date of this Agreement who is forced to a location that is more than one hundred (100) miles from the location from which displaced shall be permitted a reasonable time not exceeding seventy-two (72) hours to take up the position.  
**Note 3:** A Trainman who is forced or protects service at a location that is more than thirty (30) miles from his home location shall, upon request, be provided lodging as outlined in Article 17 Section 1 paragraph B for a minimum of thirty (30) calendar days for each qualifying event.
- C. Permanent changes in rest days, home terminal, or a change in the assigned start time from the original bulletined start time of one (1) hour or more shall entitle the affected Trainman to be placed in accordance with the Standing Bid provisions, which must be requested at the time he is notified of the change. Temporary changes in assigned window times must not be made without the concurrence of the Local Chairman. (Q&A 25)

## **ARTICLE 11 – GUARANTEED EXTRA BOARDS (GEB)**

- A. 1.** Where Guaranteed Extra Boards (GEB) have been established (in accordance with Article 8 – Job Vacancies and Bidding), each GEB position shall be advertised and have assigned rest day(s). (Side Letter 11 and Side Letter 12)
- 2.** The scheduled rest day(s) will commence at 06:01 hours, with the Trainman automatically marked back to the board at 06:01 following his rest day(s). Guaranteed Extra Board Trainmen shall not be called for duty on an assignment that commences on or after 20.00 hours on the day preceding their rest day(s). However, at the Trainman's option he may accept a call for duty subsequent to 20:00. Trainmen who elect this option must inform the Crew Caller by 06:00 the day preceding their scheduled rest day. (Q&A 26)
- 3.** If the Trainman is currently working or away from the home terminal at the time the scheduled rest day(s) are to begin, the rest day(s) shall begin at the Trainman's tie-up time at his home terminal) and shall consist of one (1) day with a minimum of twenty-four (24) consecutive hours, or two (2) consecutive days with a minimum of forty-eight (48) consecutive hours off, or three (3) consecutive days with a minimum of seventy-two (72) consecutive hours off, depending upon which rest day cycle is being observed. The Trainman shall automatically be marked back to the bottom of the board at the expiration of that time and such Trainman's guarantee shall not be reduced as a result thereof. (Side Letter 11)
- B. 1.** For the purposes of prorating guarantees, Trainmen exercising seniority to the GEB part way through the guarantee period (for guarantee purposes only), shall be shown on the GEB at 06:01 hours after the exercise of their seniority and their guarantee shall be pro-rated accordingly.
- 2.** Increases or decreases to the GEB can occur at any time; however, if the board is increased or decreased effective at any time other than as prescribed in the Standing Bid process, the Trainman added shall be paid a day's guarantee in the event no other service is performed on that calendar day. In the application of this paragraph, Trainmen hired on or subsequent to the effective date of this Agreement that are cut off the GEB shall be paid a day's guarantee in addition to all other earnings.
- C.** GEB's shall operate on a first-in, first-out basis, based on tie-up time. Where more than one Trainman is marked back up to the Board at the same time their previous tie up time shall govern relative order.
- D.** Unless otherwise provided for herein, Trainmen assigned to GEBs shall fill temporary vacancies and extra assignments at the location of the respective Board and at the outlying points normally protected by that Board.

In the event the GEB is exhausted, the assignment shall be filled by:

**When filling vacancies on Trainmen Assignments – DWP Lines prior right Seniority District 7 - Pokegama**

- 1. Protecting DWP Extra Board.**
- 2. Supplemental Board - DWP \***
- 3. DEW List – DWP (Conductors for conductor vacancies) \***
- 4. DEW List – DWP (Engineers for Engineer vacancies) \***
- 5. WC Extra Board \***
- 6. WC Supplemental Board \***
- 7. WC Rest Day Conductors \***
- 8. DMIR Proctor Extra Board \***
- 9. DMIR Proctor Supplemental Board**
- 10. DMIR Two Harbors Extra Board \***
- 11. Supplemental Board Two Harbors\***

**When filling vacancies on Trainmen Assignments – WC Lines prior right Seniority District 4 – Pokegama (Superior)**

1. Protecting WC GEB`
2. Supplemental Board – WC \*
3. WC (Rest day Conductors) \*
4. DWP Extra Board \*
5. Supplemental Board – DWP \*
6. DEW List – DWP (Conductors) \*
7. DEW List – DWP (Engineers) \*
8. DMIR Extra Board – (Proctor) \*
9. DMIR Supplemental Board – (Proctor) \*
10. DMIR Extra Board – (Two Harbors) \*
11. Supplemental Board (Two Harbors) \*

**When filling vacancies on Trainmen Assignments – DMIR Lines prior right Seniority District 8 - (Proctor – Missabe)**

1. Protecting DMIR Extra Board – (Proctor)
2. Supplemental Board – (Proctor) – (Days off) \*
3. Protecting DMIR Extra Board – (Two Harbors) \*
4. Supplemental Board – (Two Harbors) \*
5. DWP extra board \*
6. Supplemental Board -- DWP \*
7. DEW List – DWP (Conductors) \*
8. DEW List – DWP (Engineers)
9. WC Extra Board \*
10. Supplemental Board – WC \*
11. DEW List – WC (Rest day “don’t call me” Conductors) \*

**When filling vacancies on Trainmen Assignments – DMIR Lines prior right Seniority District 8 - (Two Harbors – Iron Range)**

1. Two Harbors Extra Board
2. DEW List - (Two Harbors) \*
3. Proctor Extra Board \*
4. Proctor Supplemental Board \*
5. Missabe Division rested Trainmen \*
6. WC Extra Board \*
7. Supplemental Board – (WC) \*
8. WC (Rest day Conductors) \*
9. DWP Extra Board \*
10. Supplemental Board – DWP \*

11 DEW List – DWP (Conductors) \*

12. DEW List – DWP (Engineers) \*

**Note 1:** \* Denotes that the call is for only one trip or roundtrip, whichever is applicable. The one trip or roundtrip condition also applies to vacancies at outlying locations

**Note 2:** When a Trainman protects service on an assignment that is normally protected by another extra board those earnings can not be used to offset GEB guarantee on the Trainman's assigned extra board.

When filling vacancies on Trainmen Assignments – WC Lines Seniority Districts 1, 2, 3, 5 and 6 the following vacancy procedures apply:

1. The senior rested Trainman at the Terminal who has marked up to the Available Board as provided for by Article 15, Section 5; if none,
  2. The senior rested Trainman at the Terminal who has marked up to the Supplemental Extra Board as provided for by Article 15, Section 5; if none,
  3. The first-out qualified rested Trainman on the nearest Guaranteed Extra Board(s) within the Seniority District via highway miles; if none,
  4. The senior rested Trainman who has marked up to the Supplemental Extra Board at the nearest Terminal within the Seniority District via highway miles; if none,
  5. The first-out qualified and rested Trainman on the nearest Guaranteed Extra Board via highway miles on the adjacent Seniority District
  6. Trainmen used under provisions of D-3 or D-5 may be held for up to five (5) days or until he is displaced by the return of the regular Trainman, or by a senior Trainman on Board Change Day. Trainmen released from an assignment shall return to their GEB and shall be placed on the bottom of the Board in accordance with their tie-up time. (Q&A 27)
- E. When Trainmen mark back up for any reason, they shall be placed to the bottom of the GEB and the following shall apply. (Q&A 28).
1. Trainmen who are first-out on the GEB and book off for any reason, or miss a call, shall be held off of the GEB for a minimum of 12 hours.
  2. Trainmen not first-out and who book off of the GEB shall be held off the board for a minimum of 12 hours.
  3. Trainmen held in accordance with paragraphs 1 and 2 may be called for duty by the Company in the event the working boards are exhausted. (Q&A 29)
  4. On DWP the GEB will maintain its (11) and (3) work rest cycle. Nothing prohibits the parties from mutually agreeing to other work rest cycles.
- F. Trainmen assigned to the Guaranteed Extra Board shall be guaranteed a minimum of ten (10) Basic Day's pay for a bi-weekly period. One Basic Day's pay shall be used to reduce the guarantee for any 24 hour period, or portion thereof (other than a rest day) a Trainman is unavailable for service as outlined herein. The one-tenth (1/10th) of the bi-weekly rate shall be used for prorating the guarantee of a Trainman who is not assigned to the GEB for the full bi-weekly period. All compensation credited to the Trainman during the pay period, except mileage allowances and payments flowing from a violation of this Agreement, will be deducted from that guarantee. (Q&A 30)
- G. GEB positions shall be advertised and Trainmen shall bid such assignments by virtue of seniority.
- H. GEB Trainmen shall be called for service not less than two (2) hours prior to the time required to report for duty.
- I. The Company shall consult with the General Chairperson and provide ten (10) days advance written notice prior to establishing any new board and the territory it will protect. New GEBs can be established or eliminated at any location consistent with the needs of service. A GEB can only be established to coincide with the beginning of a pay period. Once a GEB has been established, it cannot be eliminated until the end of the pay period.
- J. All guarantee compensation paid to Extra Trainmen shall be considered as compensated service and be used in the calculation of, but not limited to, vacation pay and qualification days

- K. Except as provided for in Article 17 Section 3, when called for service, Extra Board Trainmen shall not make less than the basic day as provided for in Article 5.
- L. Trainmen may be called to perform service at an outlying location or in connection with the Engineering Department (work train). Trainmen so called may be tied up at any point away from their home terminal on any of the GEB working days, but if held subject to a call for such service, a day's pay shall be allowed.
  - 1. Trainmen called to "hold-down" a position at an outlying point shall remain on such assignment for its duration for up to one (1) calendar week, or until he is displaced by the return of the regular Trainman, or by a Trainman assigned on the tri-annual bid. GEB Trainmen released from an assignment shall return to their GEB and shall be placed on the bottom of the Board in accordance with their tie-up time (Q&A 31 and 32)
  - 2. If such Trainmen are not returned to their home terminal upon completion of each work day, they shall also be provided appropriate meal allowance(s) and lodging. Reasonable accommodations shall be made to transport Trainmen to an eating facility.
  - 3. Trainmen assigned to vacancies shall assume the terms and conditions of the assignment (start times, rest days, etc). Side Letter 8 and Side Letter 12
  - 4. Service as outlined herein shall be filled from the GEB.
- M. Trainmen assigned to the GEB may book for ten (10) hours undisturbed rest at the home terminal, however it is understood that in the event Trainmen who elect to do so and do not perform service on that calendar day as a result will be deducted 1/10<sup>th</sup> of their guarantee.

## **ARTICLE 12 – APPROVAL OF APPLICATION FOR EMPLOYMENT**

- A. Applications for employment as Trainman shall be approved or disapproved in writing within sixty (60) days following the day the Trainman first becomes qualified as a Conductor and performs service as a Trainman/Conductor with the Company.
- B. An application that is rejected anytime within such period shall result in termination of the Trainman's relationship with the Company.

## **ARTICLE 13 – RULES / INSTRUCTION CLASSES**

- A. Trainmen required to attend rule or instruction classes shall be made whole for any loss of earnings and in no case shall be paid less than actual time in attendance, except that no pay shall be required for Trainmen attending remedial classes in lieu of or as part of the discipline process or as described below. The Company shall schedule the rules and instructions classes for the Trainmen. Trainmen must mark-up immediately following the conclusion of any classes, subject to the Hours of Service Act. (Q&A 33 and 34)
- B. Where training takes place away from the Trainman's regular on duty point, lodging shall be provided, and the Trainman shall be entitled to allowances for meals and for travel between the regular on duty point and the course accommodation
- C. Where an examination or test forms part of the training requirement, a Trainman is expected to meet the required standard on the first attempt. If a Trainman is unable to achieve the necessary standard, he shall be offered additional training (without compensation) and shall be afforded further opportunities to retake the examination, which must take place within ten (10) days of the first attempt and which shall be on own time. A Trainman who fails to attain the required standard at the completion of this period, subject to an investigation, may be deemed to have disqualified himself for employment and shall forfeit all seniority.
- D. Trainmen who are required to attend rule or instruction classes during a normal tour of duty (i.e.: combined with other service) shall not be paid additional compensation.

## **ARTICLE 14 - ON AND OFF DUTY POINT**

- A. Except as provided below, Trainmen shall have a designated point for going on and off duty each day. The Company shall consult with the UTU Local Chairperson with jurisdiction on the respective territory prior to bulletining positions where it is proposed to change any on or off duty points. (Q&A 35)**
- B. The starting time of a Trainman shall commence at the time he is required to report for duty, and his pay shall continue until the time he is tied up and released by the Company at the off duty location. The off-duty location may be bulletined as train specific.**
- C. When Trainmen are relieved at other than their home terminal, the Company shall provide transportation to the appropriate off duty point, which shall be at a recognized location designated by the Company as listed on the most current job bulletin for the assignment.**
- D. Except as otherwise agreed, changes at the home terminal shall not be made in reporting and relief points until suitable wash and locker room facilities have been provided. At the home terminal, wash, locker, toilet facilities and hot and cold running water shall be provided for Trainmen. An adequate parking area, with all weather surfacing (gravel, slag, stone, etc.) shall be provided and maintained where space is available on Company property if free public parking is not readily available.**
- E. Once any crew is tied-up for rest (aggregate or otherwise) at an away-from-home terminal, the next tie-up shall be at the home terminal.**

## **ARTICLE 15 - CALLING FOR DUTY**

### **Section 1 – Calling**

- A. A Trainman without a designated starting time shall be called not less than two (2) hours prior to the time required to report for duty, except in cases of emergency, such as floods, accidents, storms, etc., where Trainmen shall be required to report as soon as possible.**
- B. Trainmen must designate telephone numbers at which they can be reached for the purpose of being called. (Q&A 36)**
- C. When a major disruption to service occurs, the General Chairman shall be notified and the following plan may be implemented:**

**The current call windows may be suspended and the effected Trainmen shall be placed on a Road Pool Board in the order of their call windows. Such Trainmen shall then be run first-in, first-out on any available assignment other than temporary vacancies.**

**Trainmen shall be notified when they are to return to their normal call windows.**

**Note: A disruption to service is defined as a main line blockage due to derailment, washout, fire, vandalism, flood, or similar act of providence which results in the stoppage of trains on the North Division, which is defined as all Lines between Chicago/Schiller Park, Illinois and Ranier, Minnesota.**

### **Section 2 – Used out of Order**

- A. GEB Trainmen who are available but not called in the correct order ("runaround") in accordance with the procedures in this Agreement shall be paid one half (1/2) of the basic day payment in addition to any other GEB earnings. Such Trainmen shall remain first-out on the GEB**
- B. There shall be no "chain" type payments and not more than one runaround payment for any particular assignment.**
- C. The incidence of runaround claims shall be reviewed in the conferences established pursuant to Article 28 in this Agreement to identify and correct any systematic problems**

- D. A Trainman that operates to a off duty point that is the source of supply point for Trainmen at that location and subsequently operates a train out of that off duty point in route to his regular on duty point shall not invoke the runaround provisions outlined in Article 15, Section 2, paragraph A herein for any Trainmen with a regular on/off duty point at that location.
- E. Trains that are tied up on line due to being overtaken by the Hours of Service Law may be re-crewed with a qualified Trainman from the nearest source of supply point via highway miles without penalty to the Company.

### **Section 3 – Called and Released**

When a Trainman is called, reports for duty and performs no service, and is then released prior to the expiration of eight (8) hours, he shall be allowed a minimum of one-half a day or actual time consumed, whichever is greater and returned to the bottom of the board. If the call and release service is the only service performed on that calendar day then a basic day's pay shall be allowed.

### **Section 4 – Familiarization of Territory**

- A. When Trainmen are required to run over any portion of the road with which they are unacquainted, a pilot from the same craft who is familiar with the territory shall be furnished.
- B. This does not preclude the Company from establishing a training program to familiarize Trainmen with a territory. Trainmen being familiarized will be compensated as though they were working the assignment. The training program will be established through a joint effort between the UTU General Chairman or his designee and the Company
- C. Trainmen (Utility employee) acting as pilots shall be paid a minimum of a basic day.
- D. Trainmen shall not lose time qualifying over a new territory. Trainmen will be compensated a minimum of a basic day or lost earnings, whichever is greater.

### **Section 5 – Supplemental Board(s) and Available Board(s)**

- A. Trainmen desiring to make themselves available for service on the Supplemental Board on their scheduled rest day(s) shall notify Crew Management in the proper form prior to or upon tie-up on the last day of their regularly assigned work week. Trainmen submitting a request to be placed on the Supplemental Board shall be called in seniority order at the affected location. Trainmen who perform such service on their rest days shall be paid for such service at the rate of time-and-one-half. If there are no Trainmen marked to the Supplemental Board and a Trainman is called and agrees to perform service on his rest day, he shall be paid at the rate of time-and-one-half. Such Trainmen shall be called in seniority order, unless they have informed the Company in writing that they want to be on a "no call" list.
- B. Trainmen on regular assignments that are scheduled to tie up at an away from home terminal that are subject to a call window rotation and find themselves out of cycle due to operational requirements may mark up on the Available Board and may make themselves available for service at straight-time in order to properly place themselves back into their normal call window cycle. (Side Letter 13 and Side Letter 14.)

**Note:** Out of cycle Trainmen marked to the Available Board will be called ahead of Trainmen that are marked to the Supplemental Board on their rest day(s).

### **Section 6 – Tie-up at Off Duty Point**

Upon arrival at the designated off duty point, Conductor(s) shall register the time they are released in CATS, or a book or other place provided for that purpose.

**Note 1:** Time shown on the register by the Conductor shall govern the time they are released from duty.

**Note 2:** Trainmen, including those from different home terminals, shall be called for the next service en route to their home terminals in accordance with the arrival time as shown on the register.

## **ARTICLE 16 – MEAL PERIODS**

- A. A Trainman whose assignment primarily switches or works primarily within a terminal shall have, between the beginning of the fourth and seventh hour, twenty (20) uninterrupted minutes in which to eat, and reasonableness shall apply. However, in granting Trainmen time for their meal, it is with the understanding that such must not cause unnecessary interference or delay with the performance of their work or the work of other crews. This does not preclude other Trainmen the opportunity to eat when permission is requested and granted.
- B. Disputes arising out of the interpretation or application of this Article shall not be used as the basis for time claims, but shall be referred to the Committee established pursuant to Article 28 for final and binding disposition.

## **ARTICLE 17 - EXPENSES**

### **Section 1 - Held Away-From-Home Terminal**

- A. A meal allowance of \$10.00 shall be payable after a Trainman is held away from their regular on duty point for four (4) hours or more and an additional \$10.00 shall be paid for each additional eight (8) hours a Trainman is held at the off duty point. The aforementioned meal allowances will be subject to wage increases.
- B. The Company shall provide suitable lodging and shall be responsible for the payment of room and taxes. To be considered "suitable," at a minimum, the lodging accommodation shall be:
  - 1. Reputable and clean with adequate lighting;
  - 2. Single occupancy rooms with comfortable beds with innerspring or comparable mattresses, pillows, private lavatory and bath facilities with hot and cold running water, a chair and nightstand and television in the room;
  - 3. Blankets, clean linen (sheets and pillow cases), soap and towels shall be supplied each occupant;
  - 4. Rooms shall be cleaned and bed linen changed after each occupancy by personnel other than the occupant;
  - 5. Rooms shall be cooled or heated when climatic conditions normally require such cooling or heating;
  - 6. Lounge, including chairs, writing tables and lamps.
- C. When selecting regular accommodation providers the Company shall consider the proximity of restaurant facilities that are open on a twenty-four (24) hour basis. The Superintendent shall consult with the respective Local Chairperson of the United Transportation Union regarding changes to regular accommodation providers. In the event the parties are unable to agree to any proposed accommodation changes, or the suitability of current accommodations, the matter shall be forwarded to the General Manager and the General Chairperson for resolution.
- D. Except as provided for herein, when a Trainman is tied up at other than his regular on duty point, upon the expiration of sixteen (16) hours away from home, the individual shall be considered on pay, until called for duty, except that such time shall not be counted towards hours of service, or overtime. Should a Trainman be called for service or ordered to deadhead after such pay begins, the held away from regular on duty point pay ceases at the time the service or deadhead trip commences. This provision shall not apply to regular assignments at outlying points or to Trainmen temporarily transferred or assigned to a new on duty point.

### **Section 2 – Transportation Expense**

Upon approval of the Company, Trainmen called to protect assignments at outlying locations or neighboring properties may elect at the time called for service to use their personal automobile in lieu of furnished transportation. Trainmen who use their personal automobile in lieu of furnished transportation will report for duty at the on duty location of the vacancy and will be provided travel allowances as set forth below for protecting service for that assignment at the following rates:

- 1) One-way distances of thirty (30) miles or less - \$30 00
- 2) One-way distances between thirty one (31) miles to fifty (50) miles, inclusive - \$50.00

- 3) One-way distances of fifty-one (51) miles to seventy-five (75) miles, inclusive - \$75.00
- 4) One-way distances of seventy-six (76) miles to one hundred (100) miles, inclusive - \$100.00
- 5) One-way distance in excess of 100 miles - \$1 00 per each additional mile over 100 miles
- 6) The above travel allowances will not be used to offset any GEB guarantee or protection allowances and will be subject to wage increases. The travel allowances will be in addition to the Trainman's portal to portal trip and/or tour of duty. The travel allowance will be in lieu of auto expense. The one-way mileage will be calculated by using the most direct highway route. The one-way mileage to a location can not be combined with the return mileage for the allowances listed above.
- 7) Travel times to/from locations for the purpose of being called, placed back on the extra board, or back on an assignment shall be negotiated locally between the Superintendent and Local Chairman and will be subject to mutual revision when travel conditions for the area warrant same. In the event the issue can not be resolved locally, it will be forwarded to the General Chairman and the Labor Relations for resolution.

### **Section 3 – Deadheading**

Deadheading shall be paid either separate from or combined with service, in the manner least costly to the Company. Where deadheading is paid separately from service, unless otherwise provided, the Trainman shall be paid a minimum of one-half day at the basic daily rate or actual time consumed, whichever is greater. If separate service deadhead is the only service performed on that calendar day a basic days pay shall be allowed for the separate service deadhead.

### **Section 4 – Aggregate Service**

Trainmen may be released four (4) hours or more. If so released the Trainman shall be considered on pay until called to resume duty and such release time shall not be counted towards hours of service or overtime. In the application of this paragraph, Section 1, Paragraphs A and B of this Article shall apply

## **ARTICLE 18 – PERSONAL LEAVE DAYS (PLD)**

- A. Trainmen subject to the provisions of Article 6 shall be entitled to a maximum of twelve (12) PLD's for each calendar year and such Trainmen shall be paid a basic day for each PLD. Trainmen hired subsequent to the effective date of this Implementing Agreement will be entitled to a maximum of four (4) Personal Leave Days. Trainmen shall be automatically marked up for service upon expiration of any Personal Leave Day(s) provided they are not marked off for any other contractual reason. (Side Letter 15)
- B. Subject to scheduling by the UTU Local Chairperson or his designate, one (1) personal leave day shall be granted on any day to Trainmen subject to the jurisdiction of each GEB under the following conditions:
  - (i) The PLD's that are subject to assignment by the Local Chairperson shall be assigned on a first come, first served basis.
  - (ii) The UTU Local Chairperson or his designated representative must give the crew callers' office at least forty-eight (48) hours' notice of the day to be observed.
  - (iii) Once the PLD is assigned by the Local Chairperson, it shall not be changed or cancelled unless requested by the Local Chairperson.
  - (iv) Subject to the needs of service, a Trainman scheduled for such designated PLD may lay off up to twenty-four (24) hours in advance of the day at his regular on duty point in order to avoid being away from the regular on-duty point when the PLD begins.
- C. Upon forty-eight (48) hours advance notice from the Trainman, PLD's shall be scheduled with the approval of the Crew Management Center. PLD's requested and approved as provided for herein (48 hours) must be taken and payment shall be made on the following payroll period.

- D. In situations where the number of applicants seeking PLD's exceeds the number of Trainmen that can be released, the Company shall approve applications on the basis of the order they were received except no application may be submitted more than six months in advance. In the event more than one application is received on the same day the most senior Trainman shall have preference.
- E. Trainmen who leave the service of the Company during the year shall have their PLD allocation reduced on a pro-rata basis to allow one PLD per each full month worked.
- F. Any PLD's provided for herein that are requested but denied by the Company and not subsequently rescheduled during the calendar year or the first quarter of the following calendar year shall be paid at the rate specified herein.
- G. Trainmen may elect to be paid a PLD on any day.

## **ARTICLE 19 – BEREAVEMENT LEAVE**

Trainmen in active service shall be entitled to bereavement leave of three (3) work days, to be taken at the discretion of the Trainman, upon furnishing proof of death of the employee's immediate family member. Bereavement leave will be taken within six months from the date of death of Trainman's immediate family member. For purposes of this rule, immediate family consists of the Trainman's spouse, child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, step-parent, step-child and spouse's parent. In such cases, a basic day's pay at the rate of the last service rendered will be allowed for each of the three (3) days. Trainmen will make provisions for taking leave with their supervisor in the usual manner.

### **Section 1**

Family relationships created through the legal adoption process shall qualify for bereavement leave. Any other family relationship not specifically mentioned shall be excluded.

### **Section 2**

Bereavement leave non-availability shall be considered neutral for determining the qualifying day for holiday pay purposes. The workday preceding or following the Trainman's bereavement leave, as the case may be, shall be considered the qualifying day for holiday pay purposes

## **ARTICLE 20 – HOLIDAYS**

Trainmen who are available the immediate two (2) days preceding and the immediate two (2) days following a holiday identified in Article 9, and who work on a holiday shall be paid a holiday rate of pay of 1.2 times the hourly rate for the first ten (10) hours worked in recognition for service performed on the holiday. All time in excess of ten (10) hours worked on the holiday shall be time and one-half based on the rate outlined herein. (Q&A 37 and 38)

## **ARTICLE 21 – VACATION**

### **Section 1 - Entitlements**

Each Trainman subject to the scope of this Agreement and having continuous service (including other crafts) and who has rendered service (including other crafts) as identified herein, shall be eligible for the following annual vacation entitlement allotted in order of Trainman seniority to be taken between January 1 and December 31:

A qualifying Trainman shall be entitled to paid vacation, subject to the following:

**Note:** Seven (7) calendar days constitutes a week.

<b>Years of Service</b>	<b>Amount of Vacation</b>	<b>Explanation</b>
New Trainmen, if during the preceding calendar year has rendered service amounting to 160 basic days or equivalent hours paid	One (1) week	Six (6) days paid if on a 6 day assignment, 5 days paid if on a 5 day assignment or $1/52^{\text{nd}}$ , whichever is greater
After Two (2) Years But Less Than Five (5) Years Of Cumulative Compensated Service	Two (2) weeks	Twelve (12) days paid if on a 6 day assignment, 10 days paid if on a 5 day assignment or $2/52^{\text{nd}}$ , whichever is greater
After five (5) years but less than fourteen (14) years of cumulative compensated service	Three (3) weeks	Eighteen (18) days paid if on a 6 day assignment, 15 days paid if on a 5 day assignment or $3/52^{\text{nd}}$ , whichever is greater
After fourteen (14) years but less than twenty-three (23) years of cumulative compensated service	Four (4) weeks	Twenty-four (24) days paid if on a 6 day assignment, 20 days paid if on a 5 day assignment or $4/52^{\text{nd}}$ , whichever is greater
After twenty-three (23) years or more of cumulative compensated service	Five (5) weeks	Thirty (30) days paid if on a 6 day assignment, 25 days paid if on a 5 day assignment or $5/52^{\text{nd}}$ , whichever is greater

### **Section 2 – Scheduling**

Vacation shall be taken between January 1 and December 31. The Local Chairman and Division Superintendent or their designates shall cooperate in determining the allocations and make up the vacation schedule, which shall be posted at conspicuous and convenient places in all of the on duty points, on or about December 15 of each calendar year (Q&A 39 and 40)

### **Section 3 – Rate of Pay for Vacation**

On the effective date of this Agreement a Trainman receiving vacation, or pay in lieu thereof, shall be paid for each week of such vacation at  $1/52$  of the compensation earned by such Trainman during the calendar year preceding the year in which the vacation is taken, but in no event shall such pay for each week of vacation be less than five (5) minimum basic days' pay for a five day assignment or six (6) minimum basic days pay for a six day assignment. Two weeks of single day vacation is equal to twelve (12) single days pay, when taken on a single day basis. (Side Letter 9)

### **Section 4 – Qualifying**

Trainmen shall perform one hundred twenty (120) days (one hundred sixty (160) days for Trainmen hired subsequent to the date of this Agreement) or equivalent hours of cumulative compensated service in any calendar year to qualify for vacation in the ensuing year as provided under Section 1 of this Article.

### **Section 5 – Submitting Request**

When submitting vacation requests, Trainmen shall submit a sufficient number of choices for weekly vacation bids. In failing to submit a sufficient number of vacation bids, such Trainman shall have their vacation forced assigned.

## **Section 6 – Employment Status**

If a Trainman's employment status is terminated for any reason, they shall, at the time of termination, be granted full vacation pay for vacation earned in the preceding year not yet granted, and vacation pay for the succeeding year if the Trainman has qualified therefore under Section 1 of this Article. If a Trainman thus entitled to vacation or vacation pay shall die, the vacation pay earned and not received shall be paid to such beneficiary as the Trainman may have designated, or in the absence of such designation, the surviving spouse, the Trainman's children, or his estate, in that order.

## **Section 7 – Transferring from Other Crafts**

Vacations, or allowances therefore, under two (2) or more schedules held by different organizations on the same Company shall not be combined to create a vacation of more than the maximum number of days provided for in any one of such schedules. Employees transferring from other crafts shall have length of service and other qualifications for vacation count toward vacation as a Trainman.

## **Section 8 – GEB**

Time off on account of vacation shall not affect nor offset guarantees.

## **Section 9 – Expiration of Vacations**

Vacations shall not be accumulated or carried over from one vacation year to another.

**Note:** In the event a Trainman could potentially lose time at the end of his pending vacation period he may request approval of the Company that his vacation could be reduced in one (1) year and adjusted in the next.

## **Section 10 – Vacation Credits**

The following shall also be used to determine eligibility for vacation:

1. Used out of order – one-half (½) day credit;
2. Separate Service Deadheading – one (1) day credit;
3. A Trainman paid eight (8) hours under the held away from the regular off duty point rule shall be credited with one (1) basic day.
4. Calendar days on which a Trainman is compensated while attending training and rules classes at the direction of the Company – one (1) day credit
5. Each day worked on a position not covered by this Agreement shall count as a Basic Day for vacation qualification purposes.
6. Calendar days on which a Trainman assigned to an extra list is available for service and on which days he performs no service, shall be included in the determination of qualification for vacation.
7. Calendar days, not in excess of sixty (60), on which a Trainman is absent from and unable to perform service because of sickness or injury received on duty shall be included in the determination of qualification for vacation.
8. Calendar days on which a Trainmen's assignment is annulled.

## **Section 11 - United Transportation Union - Union Officials**

Time off granted for Union business shall count toward vacation qualification days for Trainmen who hold positions as General Chairperson, Vice General Chairperson, Associate General Chairperson, Local Chairperson, etc. ("Local Officials for the United Transportation Union"). It is further understood that by providing this exclusion it is not intended that the total number of such Officials covered be expanded.

## **Section 12 - General**

- A. During a calendar year in which a Trainman's vacation entitlement shall increase on the anniversary date, such Trainman shall be permitted to schedule the additional vacation time to which entitled on the anniversary date at any time during that calendar year.
- B. Where a Trainman is discharged from service and subsequently reinstated without loss of seniority and/or benefits, service performed prior to discharge and subsequent to reinstatement shall be included in the determination of qualification for vacation during the following year. Trainmen restored to service shall be credited for all time paid for entitlement purposes.
- C. In instances where Trainmen who have become members of the Armed Forces of the United States return to the service of the Company in accordance with the Veterans Re-Employment Rights Act (8 USC Title 38 §2021-2027), as amended from time to time, time spent by such Trainman in the Armed Forces subsequent to their employment by the Company shall be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the Company.
- D. Full week vacations will commence at the beginning of the tour of duty for the Trainman's designated work period and continue as consecutive week(s). A Trainman may take up to twelve (12) days of his annual vacation in single day increments, as outlined in Section 3 herein, and such employee shall be automatically marked up for service upon the expiration of any single day vacation provided they are not marked off for any other contractual reason.

## **ARTICLE 22 – BENEFITS**

### **Section 1 – Health & Welfare**

Trainmen coming under the scope of this Agreement, along with their dependents, and retirees, if applicable, will be subject to the National Railway Carriers and United Transportation Union Health and Welfare Plan, the Railroad Employees National Dental Plan, and the Railroad Employees National Vision Plan, as may be amended, with employee contribution levels limited to those contained in the July 1, 2008, National Railway Carriers and United Transportation Union Health and Welfare Plan, the Railroad Employees National Dental Plan, and the Railroad Employees National Vision Plan. For clarity, upon conversion into this plan and continuing during the term of this Agreement, the formula for the cap on employee contributions as contained in the July 1, 2008 agreement shall apply through the term of this Agreement.

### **Section 2 – Life Insurance**

A Trainman's minimum life insurance coverage is \$50,000. Trainmen requiring assistance concerning the foregoing may contact a Human Resources Representative for further information.

### **Section 3 – Other**

Accidental Death Insurance - A Trainman's minimum coverage is \$50,000. Trainmen requiring assistance concerning the foregoing may contact a Human Resources Representative for further information.

### **Section 4 – Off Track Vehicle Accident Benefits**

The parties agree to implement and maintain the current off track vehicle accident benefits as provided in the Article XIII of the August 25, 2002 UTU National Agreement, as amended.

### **Section 5 – Stock Purchase Plan**

The Company shall maintain for the benefit of Trainmen covered by this Agreement a stock purchase plan, which may be changed from time to time provided such changes are applicable to Company employees generally.

### **Section 6 – Employee Assistance Program**

The Company shall maintain for the benefit of Trainmen covered by this Agreement an Employee Assistance Program, which may be changed from time to time provided such changes are applicable to Company employees generally.

### **Section 7 – 401K Plan**

- A. Within ninety (90) days of ratification, the Company shall establish a 401(k) plan for Trainmen covered by this Agreement. Under the plan, for the first four percent (4%) of an employee's salary contributed, the Company shall contribute \$.25 for each \$1.00 contributed by the Trainman. Trainmen may contribute an amount above 4%, up to the maximum legal amount with no Company participation.
- B. The Company shall be responsible for all costs of establishing the plan, including the making of payroll deductions and payments of withheld wages to the trustee. The employee shall be responsible for all costs of services in connection with the operation of the 401(k) plans. (Q&A 41)

### **Section 8 – Short Term Disability Plan**

A short-term disability income insurance plan is hereby established and replaces all existing sickness plans. The conditions for the short-term disability income insurance is described in "Attachment B" to this Agreement. (Side Letter 17)

## **ARTICLE 23 – PHYSICAL EXAMINATIONS**

Trainmen covered by this Agreement may be required to take medical examinations, including eye and hearing tests, by the Company's physician at the Company's expense. If the examination must take place outside the Trainman's regular on duty point, the individual shall be allowed payment for meals and travel. Trainman shall be made whole for any earnings lost.

## **ARTICLE 24 – MEDICAL DISQUALIFICATIONS**

- A. If a Trainman is found to be medically disqualified by the Company's physician and the Trainman is of the opinion that his condition does not justify removal from the service or restriction of his rights to service, appeal shall be made to the designated officer of the Company for a joint medical board to be established.
- B. The Trainman involved, or his representative shall select a physician to represent him and the Company shall select a physician to represent it (who may be the original examining physician) in conducting a further medical examination. If the two physicians thus selected agree, the conclusion reached by them as to the individual's medical condition shall be final.
- C. If the two physicians selected do not agree as to the medical condition of such individual, they shall select a third physician to be agreed upon by them, who shall be a practitioner of recognized standing in the medical profession and a specialist in the disease or ailment from which the individual is alleged to be suffering. The three physicians thus selected shall examine the Trainman and render a report with reasonable promptness setting forth his physical condition and their opinion as to his fitness to continue service in his regular employment, which shall be accepted as final. In the application of Article 24 herein, Trainmen reinstated shall be made whole for any earnings lost during the time of the dispute. Should the decision be adverse to the individual, and it later appears through medical findings that his condition has improved, a re-examination by the Company's physician shall be arranged after a reasonable interval upon the request of the Trainman or the Union.
- D. The Company and the Trainman shall each pay for the costs of their chosen physician and share equally in paying the costs of the third physician.
- E. In accordance with Company policy, if a Trainman has been out of active service he may be required to pass a physical examination (including drug and alcohol testing) before being permitted to return to duty.

## **ARTICLE 25 - PAYDAY**

Trainmen shall be paid on a bi-weekly basis by direct deposit.

## **ARTICLE 26 - PAYROLL AND DEDUCTIONS**

- A. Payroll payments shall be made only to a direct checking and/or savings deposit account as specified by the Trainman. Such Trainmen shall have sixty (60) days from the effective date of this Agreement to establish a direct deposit account at a financial institution recognized by the Company as able to accept direct deposits.
- B. Payroll deductions are available to all permanent full-time Trainmen who execute a suitable written deduction authorization for the following purposes.

**Note:** Periodic Union dues, agency fees and assessments included in, monthly dues (not including fines and penalties) payable to the Union

## **ARTICLE 27 - UNION SHOP AGREEMENT**

- A. Subject to the terms and conditions below, all Trainmen of the Company subject to this Agreement shall, as a condition of their continued employment under this Agreement, become members of the UTU within sixty (60) calendar days of the date they first perform compensated service under this Agreement, and shall maintain membership in good standing in the UTU while subject to this Agreement; provided, however, that this requirement for membership in the UTU shall not be applicable to:
  - 1. Those to whom membership is not available upon the same terms and conditions as are generally applicable to any other member;
  - 2. Those to whom membership has been denied or terminated for any reason other than the failure of the Trainman to tender the periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Union;
  - 3. Those who are members of another labor organization as permitted by Section 2, Eleventh (c) of the Railway Labor Act, as amended; or,
  - 4. Those who elect not to join the Union, in which case they shall be required to remit to the Union a monthly agency fee which shall not be in excess of the standard monthly dues required of members.
- B. Trainmen, who are assigned or transferred for a period of thirty (30) calendar days or move to employment not covered by such Agreement, or who are on leave of absence for a period of thirty (30) calendar days or more, may not be required to maintain membership as provided in this Rule so long as they remain in such other employment, or on such leave of absence, but they may do so at their option. If and when such Trainmen return to service covered by this Agreement, they shall comply with the provisions of this Rule within thirty (30) calendar days of such return to service.
- C. A Trainman whose membership in the UTU is suspended because of furlough or off duty illness or injury for a period of thirty (30) calendar days or more, shall be granted upon his return to service under this Agreement, a period of thirty (30) calendar days to comply with this Rule.
- D. Every Trainman required by the provisions of this Rule to become and remain a member of the UTU shall be considered by the Company to be a member of the UTU unless the Company is advised to the contrary in writing by the UTU. The UTU shall be responsible for initiating action to enforce the terms of this Rule.
- E. The UTU shall furnish to the Company, in writing, the name and roster number of each Trainman whose seniority and employment the UTU requests be terminated by reason of failure to comply with the membership requirements of this Rule.

- F. In the event the Company wishes to dispute the correctness of the UTU's position, it shall so notify the UTU within ten (10) calendar days of receipt of the notice from the latter, stating the reasons therefore. If, (1) no such exception is taken by the Company, or (2) the UTU does not withdraw its request within ten (10) calendar days from the date of the notice of exception, the Company shall transmit to the Trainman at his last known address, through registered United States Mail, return receipt requested, a copy of the UTU's request, accompanied by an explanatory letter, a copy of which shall be furnished to the UTU

## **ARTICLE 28 - HANDLING OF CLAIMS AND GRIEVANCES**

### **Section 1 - Representation**

- A. The United Transportation Union shall have the exclusive right to represent all Trainmen (other than those who are members of a craft represented exclusively by another labor organization) in Company level grievance, claim and disciplinary proceedings on those Companies on which the UTU is the lawfully recognized or certified collective bargaining representative for that craft
- B. The General Committee of Adjustment of the United Transportation Union shall represent all Trainmen in the making of contracts, rates, rules, working agreements and interpretations thereof.
- C. All disputes involving Trainmen shall be handled in accordance with the provisions of this Agreement as interpreted by the UTU General Committee and the Company.
- D. The Company shall not deal with a representative of any other organization concerning an interpretation or change of any rule, benefit or working condition subject of this Agreement.
- E. In matters pertaining to discipline, or other questions not affecting changes in Conductors' contract, the officials of the Company reserve the right to meet any Trainmen either individually or collectively.

### **Section 2 - Handling Of Claims And/Or Grievances Other Than Discipline Appeals**

- A. All claims or grievances must be presented in writing by the Conductor involved or on behalf of the Conductor by his Local Chairman, or designate, to the officer of the Company authorized to receive same within sixty (60) days from the date of occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Company shall, within sixty (60) days from the date it is received, notify the Trainman or his Local Chairman, or designate, in writing of the reason(s) for such disallowance. Should the Company fail to issue timely declination of the claim or grievance, it shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims or grievances.
- B. In the event the claim or grievance is disallowed, the UTU Local Chairman, or designate, shall appeal the matter with all pertinent facts, including any previous declinations, to the Superintendent within sixty (60) days. If the claim or grievance is not appealed, the disallowance shall stand, however the disallowance shall not constitute a precedent for other similar claims and grievances.
- In the event the appeal is disallowed, the Superintendent shall, within 60 days from the date it is received, notify the Local Chairman, or designate, in writing of the reason(s) for such disallowance.
- Should the Superintendent fail to issue timely notification of the declination of the appeal, the claim or grievance shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims or grievances.
- C. Claims declined under Section 2 (B) of this Article may be appealed by the UTU General Chairman with all pertinent facts, including any previous declinations, to the Company's Sr. Director Labor Relations, or designate, within 60 days of the disallowance. The Sr. Director, or his designate, shall, within 60 days from the receipt of the appeal, notify the General Chairman of the allowance or declination of the claim. Should the Sr. Director or designate fail to timely notify the General Chairman of such declination, the claim shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims.

- D. Claims and grievances disallowed by the Company pursuant to Section 2 (C) shall be barred from further handling unless, not less than 60 days prior to the next scheduled meeting date of the Labor/Management Resolution Committee, the General Chairman lists the unresolved claim or grievance to the Committee.
- E. The Committee shall consider the entire record of each dispute submitted to it. Decisions made pursuant to this process shall be written by the Company within forty-five (45) days of the meeting date and shall represent the final and binding decision on such grievances. The handling of claims and grievances by the Committee shall constitute any "conference" prerequisite to submission of disputes to a public law board tribunal established pursuant to law or by agreement
- F. In the event that a majority of the Committee does not agree on the resolution of a particular grievance, either party may initiate proceedings before a tribunal established pursuant to law or by agreement within six months of the Committee's written decision having been rendered.
- G. Nothing in this Section shall preclude an agreement by the parties to conference claims or grievances independent of the procedures set forth in Section 2 (D) of this Article. Such conference as may be agreed to shall constitute any "conference" prerequisite to the submission of disputes involving claims and/or grievances to a tribunal established pursuant to law or by agreement for the final adjudication of such disputes.
- H. Nothing in this Agreement prohibits the Company and the Union from mutually agreeing to establish an electronic system of claims handling.

### **Section 3 - Handling of Discipline Appeals**

- A. Discipline decisions reached by the Company may be adjusted between the UTU Local Chairman, or designate, and the Superintendent, or designate, within 60 days of the issuance of the decision.
- B. Should the matter fail resolution by the Local Chairman, or designate, and the Superintendent or designate, the UTU General Chairman shall appeal, in writing, to the Sr. Director Labor Relations, or designate, within 180 days of the date the discipline was assessed, or the appeal shall be barred. The Sr. Director Labor Relations, or designate, shall notify the General Chairman of the allowance or declination of the appeal within 60 days of the receipt of the appeal. Should the Sr. Director Labor Relations fail to timely notify the General Chairman of the declination of the appeal, the claim shall be allowed as entered.
- C. The UTU General Chairman shall list unresolved discipline appeals with the Sr Director Labor Relations not less than 30 days prior to the next scheduled meeting of the Labor/Management Resolution Committee for handling pursuant to Section 2 (D) of this Article.
- D. Nothing in this Section shall preclude an agreement by the parties to conference discipline appeals independent of the procedures set forth in this Article. Such conference as may be agreed to shall constitute any "conference" prerequisite to submission of unresolved disputes involving discipline appeals to a tribunal established by law or by agreement for the final adjudication of such disputes.

### **ARTICLE 29 – INVESTIGATIONS AND DISCIPLINE**

- A. No Trainman shall be disciplined without a fair hearing (investigation) by an officer of the Company, except that a Trainman may waive a hearing in accordance with Paragraph E of this Article.

## **B. Notice of Hearing**

- (i) A Trainman directed to attend a hearing to determine responsibility in connection with an incident shall be notified of the charge. The notice can be presented verbally and followed up in writing to the last known address within ten (10) days from the date of knowledge of the incident. The notice shall contain a clear and specific statement of the matters to be investigated and the nature of the charge(s). The Trainman shall have the right to be represented at the hearing by a duly authorized United Transportation Union representative. The Trainman and/or the Trainman's representative shall have the right to introduce witnesses on the Trainman's behalf, to hear all testimony and to question all witnesses. The Company will be responsible to produce sufficient witnesses to develop the facts concerning the incident or occurrence being investigated and the notice of hearing shall include the name of each person receiving the notice, including all witnesses the Company intends to call. The Trainman or the Trainman's representative may notify the Company of other witnesses who may provide material facts, understanding that this does not include an accumulation of witnesses with the same information. The Company will direct a notice to such witnesses. If the Trainman or the Trainman's Representative submits a list of other witnesses to the Company after the original notice of investigation has been issued an automatic postponement of ten (10) days will be granted from the date of the receipt of said list.**

**Note: A witness with material facts is an individual who can give pertinent testimony in connection with the specific occurrence resulting in charges against the Trainman and without whose testimony all essential facts upon which to base a decision would not be developed.**

- (ii) Unless otherwise agreed, the investigation will be held no sooner than 5 days and no more than ten (10) days after the date of notification. Investigations will be held at such times, if possible, as to avoid holding a Trainman out of service to be present at the investigation. Reasonable postponements at the request of the Company or the Trainman will be granted. Any telephone postponement request must be confirmed in writing.**

## **C. Conduct of Hearing**

- (i) The hearing shall be conducted by an officer of the employing Company who may be assisted by other officers; however, there shall be only one presiding officer. When practicable, the hearing shall be held at the home terminal of the Trainman involved or in the case where more than one (1) Trainman, at the home terminal of the majority of the Trainmen.**

**Note: When another Carrier is involved, this Section will not preclude an officer of that Carrier from assisting in the hearing recognizing, in any case, there shall be only one (1) presiding officer.**

- (ii) A Trainman's personal service record will not be introduced or referred to in the hearing. The service record will be considered in the assessment of the appropriate amount of any discipline.**
- (iii) A true and correct transcript will be taken of all hearings or investigations held under this Article, which shall be the official transcript, and the Trainman involved or his representative shall be furnished a copy of same upon request if discipline is assessed. At an investigation, a Trainman or his representative shall have the right to record, at his expense, the investigation proceedings on a recording device. This provision will not be used to delay or postpone the investigation proceedings.**

## **D. Hearing Decision**

- (i) If the hearing does not result in discipline being assessed, any charges related thereto entered in the Trainman's personal service record shall be voided.**
- (ii) Discipline, if any, must be assessed as soon as practicable but within thirty (30) days of the investigation. If the Trainman is dissatisfied with the decision, he or the appropriate Union representative may appeal as provided in Article 28, (Handling of Claims and Grievances), herein.**

## **E. Waiver of Hearing**

- (i) A Trainman notified to appear for a hearing shall have the option, prior to the hearing, to meet with the appropriate Company official, with or without the Trainman's representative, to discuss the act or occurrence and the Trainman's responsibility, if any**

- (ii) If a disposition of the charges is made on the basis of the Trainman's acknowledgment of responsibility, the disposition shall be reduced to writing and signed by the Trainman and the official involved and shall incorporate a waiver of hearing and shall specify the maximum discipline that may be imposed for the Trainman's acceptance of responsibility.

**Note 1.** The disposition of cases under this paragraph shall not establish precedents in the handling of any other cases.

**Note 2:** No minutes or other record will be made of the waiver discussions and, if the Company and Trainman are unable to reach an agreed upon disposition, no reference shall be made to these discussions by either of the parties in any subsequent handling of the charges

#### **F. Letters of Caution**

- (i) Letters of caution or warning are not discipline. Should the Trainman dispute the validity of the caution or warning, he has the right to request a fair hearing as provided in paragraph B provided he does so within ten (10) days of receipt of the letter.

#### **G. Compensation for Attending Hearings**

- (i) When a Trainman involved in a formal hearing is not assessed discipline, the Trainman shall be compensated for all time lost.
- (ii) In case of dismissal or suspension, which is later found to be unjust, the Trainman so disciplined will be reinstated with seniority rights unimpaired and paid for all time lost with no offset for outside earnings.

### **ARTICLE 30 - TIME OFF FOR UNION BUSINESS**

- A. A Trainman who is elected or appointed to a full time position with the United Transportation Union shall be granted an unpaid leave of absence for the duration of time he holds such position.
- B. In January of each year, the Union shall provide the Company with the names of the Local Union officers who shall be granted reasonable lay-off privileges, upon request, to conduct official Union business.

### **ARTICLE 31 - ATTENDING COURT AND INQUESTS**

Trainmen who are required to attend court or inquests on behalf of the Company shall be made whole for lost wages, or be paid for actual time in attendance if no lost time is incurred.

### **ARTICLE 32 - LEAVE OF ABSENCE WITHOUT PAY**

#### **Section 1 - General**

- A. Trainmen shall not be expected to work when sick, but in case of being compelled to lay off on account of sickness of themselves, or family, shall in some manner notify the proper authority of their inability to protect the service requirements of the Company.
- B. When a Trainman on a regularly assigned run lays off for any cause, upon return to active service he must be available for duty at least three hours before the bulletined call window or starting time of the assignment.
- C. The General Chairperson shall be furnished a copy of each leave of absence granted to Trainmen.
- D. Trainmen may return to work prior to the expiration of a leave of absence when there is no other prohibition.

- E. Trainmen who do not return to service at the expiration of their leave of absence, and who have not submitted application for an extension thereof, shall be notified that they are absent without permission and such notice shall instruct them to return to service or to satisfactorily account for their absence within 15 days or forfeit seniority as Trainman. Trainmen who forfeit their seniority as a result of the provisions outlined herein with have their employment relationship with the Company terminated. A copy of the notice to the absent Trainman shall be furnished to the Local Chairperson and General Chairperson of the United Transportation Union on the territory concerned. It is understood that this Agreement does not prejudice the provisions of schedule agreements relating to protests against changes in seniority rosters.

### **Section 2 - Less Than One Year**

Trainmen may, upon written application to their employing officer, be granted leave of absence for a period or periods not to exceed one year. Extensions to the one-year period may be granted when agreed to by the Company and the General Chairperson of the United Transportation Union.

### **Section 3 - Illness/Injury**

- A. In the event of absence occasioned by illness or injury, Trainmen shall be granted leave of absence automatically upon presentation of written application accompanied by appropriate substantiating medical evidence. Such automatic leaves shall not be for a period of more than one year, and extensions thereof shall require a new application and further substantiating medical evidence. In case the Company is not satisfied that the illness or injury is bona fide, additional evidence may be required to establish same to their satisfaction.
- B. Provided return to service is approved by Medical Services Department, Trainmen who have been injured on duty shall be permitted to return to work without signing a release

### **Section 4 - Official/Military**

Trainmen accepting official positions with the Company or the United Transportation Union shall retain their seniority while holding such position, the same as if continuously in train service. Trainmen elected or appointed to public office may be granted leave of absence for the duration of their term of office or appointment. Trainmen in military service shall be granted leave of absence in compliance with applicable law and shall not be subject to the provisions of Article 7, Sections 5 and 6 for the duration of their military obligation.

## **ARTICLE 33 - JURY DUTY**

When a Trainman is summoned for jury duty and loses time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each calendar day lost less the amount allowed him for jury service for each such day, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

- (i) A Trainman must furnish the Company with a statement from the court of jury allowances paid and the days on which jury duty was performed.
- (ii) The number of days for which jury duty shall be paid is limited to a maximum of 60 days in any calendar year.
- (iii) No jury duty pay shall be allowed for any day as to which the Trainman receives vacation pay.

## **ARTICLE 34 - BULLETIN BOARDS**

The Company shall provide space on bulletin boards at each on/off duty point to post notice of union business.

## **ARTICLE 35 – CREW CONSIST**

A standard crew shall consist of a Conductor. The Company may assign more than one (1) Trainman to any crew.

## **ARTICLE 36 - CREW CALLING RECORDS**

The Company shall provide the General Chairperson and/or each Local Chairperson with access in the Crew Calling Computer system that enables them to research calling records and history. Information that is not available in the Crew Calling computer system shall be furnished to the General Chairperson or Local Chairperson upon written request.

## **ARTICLE 37 – TRAINMEN’S PROTECTIVE (DISPLACEMENT) ALLOWANCE**

A Trainman who qualifies for monthly protection allowance (displacement allowance under NYD) hired prior to the date of this Agreement will be entitled to the protection allowance for a period of six (6) years from the date adversely affected.

## **ARTICLE 38 – MORATORIUM**

This Agreement is in full settlement of CN’s Article I, Section IV, New York Dock Notice served on the UTU General Committees on or about September 24, 2007, and is without waiver to either party’s position regarding the appropriateness of such notice. CN further agrees to not serve an Article I, Section IV, New York Dock type notice or a Norfolk & Western Trackage Rights (1978) type notice on the territories between Chicago, Illinois and Ranier, Minnesota on this matter until after March 31, 2015.

## **ARTICLE 39 - GENERAL PROVISIONS**

- A. This Agreement is made in full and final disposition of all outstanding notices served upon Wisconsin Central Transportation Corporation consisting of its subsidiaries Wisconsin Central Ltd., Fox Valley & Western Ltd., Sault Ste. Marie Bridge Company, Duluth, Winnipeg & Pacific Railway Company and Duluth, Missabe & Iron Range Railway Company by United Transportation Union, and also all outstanding notices, if any, served upon United Transportation Union by the Wisconsin Central Transportation Corporation consisting of its subsidiaries Wisconsin Central Ltd., Fox Valley & Western Ltd., Sault Ste Marie Bridge Company, Duluth, Winnipeg & Pacific Railway Company and Duluth, Missabe & Iron Range Railway Company for concurrent handling, pursuant to the provisions of the Railway Labor Act as amended.
- B. The purpose of this Agreement is to fix the general level of compensation and rules covering working conditions through July 31, 2013 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.
- C. Neither party to this Agreement shall serve prior to February 1, 2013 any notice or proposal for the purpose of modifying, adding to, or deleting from the provisions of this Agreement to become effective prior to August 1, 2013.
- D. The above provisions do not prohibit the Parties from reaching agreements on any subject that may be mutually beneficial and agreeable.

**E This Agreement, the Attachments, Appendixes and the Side Letters shall become effective on September 18, 2008 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended. With the exception of the Chicago Implementing Agreement and Side Letters dated January 27, 2006, all other Agreements in effect between the parties shall be considered null and void, and this Agreement is the only Agreement in effect between the parties.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2008, at Duluth, MN

**FOR THE UNITED TRANSPORTATION UNION:**

**FOR THE WISCONSIN CENTRAL TRANSPORTATION CORPORATION:**

\_\_\_\_\_  
**K. J. Flashberger**  
General Chairman, UTU WC

\_\_\_\_\_  
**R. K. MacDougall**  
Sr Director - Labor Relations

\_\_\_\_\_  
**P. Etter**  
General Chairman, UTU/DWP-E

\_\_\_\_\_  
**P. Ojard**  
General Chairman, UTU/DWP

\_\_\_\_\_  
**K. Larson**  
General Chairman, UTU/DMIR

\_\_\_\_\_  
**T. Jackson**  
General Chairman, UTU/DMIR

**APPROVED:**

**APPROVED:**

\_\_\_\_\_  
**J. W. Babier**  
International Vice President

\_\_\_\_\_  
**J. A. Liepelt**  
Vice President, Operations

## **APPENDIX A - SYSTEM SENIORITY ROSTER WITH PRIOR RIGHT DESIGNATIONS**

The combined System Seniority Roster will be created prior to ratification of the Implementing Agreement dated September 18, 2008. Once completed, it will be attached hereto.

**APPENDIX B**  
**\$50,000.00 DM&IR TRAINMEN ONE TIME CREW CONSIST PAYMENTS**

The following DM&IR Trainmen listed below will each be paid \$50,000.00 as set forth in Side Letter 25 attached hereto:

<b>No.</b>	<b>Employee Name</b>	<b>Craft</b>
1	Maki, AA	Trainman
2	Jackson, TL	Trainman
3	Winkler, RA	Trainman
4	Thielman, LW	Trainman
5	Anderson, RL	Trainman
6	McGovern, GM	Engineer
7	Johnston, AR	Engineer
8	Wennberg Jr, WK	Trainman
9	Freeman, SD	Trainman
10	Cich, PA	Trainman
11	Dardis, JD	Trainman
12	Peterson, MB	Trainman
13	Carlson, GR	Engineer
14	Vekich, MF	Trainman
15	Thompson, ME	Engineer
16	Lozon, JA	Engineer
17	Sykes, DG	Engineer
18	Carlson, RC	Engineer
19	Anderson, KL	Engineer
20	Weir Jr, MJ	Trainman
21	Haburt, MW	Trainman
22	Nelson, WD	Trainman
23	Stauber, KJ	Trainman
24	Lind, CM	Trainman
25	Aune, GL	Engineer
26	Brower, SA	Engineer
27	Schaller, LL	Trainman
28	Logergren, DE	Engineer
29	Klang, RT	Engineer
30	Kahn, ST	Yardmaster
31	Raymond, RL	Trainman
32	Wipson, MT	Trainman
33	Stratioti, RA	Trainman
34	Colt, GA	Trainman
35	Ward, JC	Engineer
36	Carlson, AB	Engineer
37	Kulas, TJ	Engineer
38	Lind, CD	Engineer
39	Helquist, KT	Yardmaster
40	Bauman, LF	Trainman
41	Weiss, GL	Engineer
42	Stahl GR	Yardmaster
43	Larson, KA	Trainman

44	Johnson, RV	Engineer
45	MacDougall, RM	Trainman
46	Ostrowski, TJ	Trainman
47	Carl, TD	Yardmaster
48	Murphy, DA	Engineer
49	Lundell, JP	Engineer
50	Donley, KM	Trainman
51	DeRosier, GL	Engineer
52	McCall, JA	Engineer
53	Forsell, TL	Engineer
54	Norlen, JM	Engineer
55	Connick, KA	Yardmaster
56	Malec, J	Engineer
57	Detlefsen, GS	Engineer
58	Kortuem, LM	Trainman
59	Sines, JW	Engineer
60	Kempffer, JH	Engineer
61	Clark, RM	Engineer
62	Johnson, BW	Yardmaster
63	Berggren, BE	Trainman
64	Jones, SE	Trainman
65	Stahl, RS	Trainman
66	Haus, SA	Trainman
67	Heaslip, JP	Trainman
68	McRae, RJ	Trainman
69	Beal, MA	Yardmaster
70	Lee, BD	Engineer
71	Lozon, GW	Engineer
72	Schendel, SJ	Engineer
73	Dormedy, MW	Trainman
74	Helland, DR	Trainman
75	Laurent, SW	Trainman
76	Knuckey, RH	Trainman
77	Olson, KD	Trainman
78	Warren, TC	FIT
79	Kuhl, DE	Engineer
80	Sweere, AJ	Engineer
81	Nelson, JA	FIT
82	Nelson, PA	Trainman
83	Heller, DR	Trainman
84	Olson, CJ	Yardmaster
85	Rieschl, SA	Trainman
86	Tournay, AW	Trainman
86	Rowland, JM	FIT
88	Stark, GZ	Engineer
89	Donth, TM	Engineer
90	Beschta, BS	Trainman
91	Smith, RL	Trainman
92	Seehus, CR	Trainman
93	Maciewski, MA	Trainman
94	Obeidinski, EJ	Trainman

95	Johnson, TW	Trainman
96	Klungtvedt, DD	Trainman
97	Madill, WP	Trainman
98	Johnson, MJ	Trainman
99	Conlan, MJ	Trainman
100	Jordan, SM	Trainman
101	Hodgson, MR	Trainman
102	Askegaard, DR	Trainman
103	Johnson, MA	Trainman
104	Leland, DJ	Trainman
105	Doty, BP	Trainman
106	McVay, PM	Trainman
107	Creed, AL	Trainman

## **ATTACHMENT "A"**

## **STANDING BID**

A Standing Bid System will operate. Assignment to positions shall be governed by seniority. Trainmen's job preferences will be maintained in the Crew Calling system and can be updated at anytime. As soon as vacancies (other than temporary vacancies) are known to exist, the senior Trainman having a standing bid listing for the position will be assigned the position if it is a higher preference than the position he currently holds.

Newly established positions will be bulletined for a period of seven (7) days to enable interested Trainmen to update their preferences in the Crew Calling system

The Standing Bid will also be used in the event of a Trainman being displaced from his position due to bumping or position abolishment, in which case the Trainman will be assigned his next highest preference, subject to seniority

### **Section 1 – Tri-Annual Bidding**

The current practice of allowing all positions to be bid and filled simultaneously three (3) times per year shall be maintained using the Standing Bid System. Simultaneous bidding shall take place on or about February 1, June 1 and October 1 of each year.

### **Section 2 – Submitting Choices**

- A. A Trainman who does not have a Standing Bid on record with Crew Management Center shall be assigned in the following manner:
1. Unfilled position at the home terminal, if none,
  2. Unfilled position on the GEB at the home terminal, if none,
  3. Unfilled position at the progressive next nearest GEB locations within the District, if none,
  4. Shall be assigned to the Guaranteed Extra Board at such Trainman's home terminal to a GEB position that has not been bid upon.
- B. A Trainman who does not record all available positions shall, when unable to hold positions recorded, be assigned in the following manner:
1. Unfilled position at the home terminal, if none,
  2. Unfilled position on the GEB at the home terminal, if none,
  3. Shall be assigned to the Guaranteed Extra Board at such Trainman's home terminal to a GEB position that has not been bid upon.
- C. Where provision is made for the senior qualified applicant to be assigned it shall be subject to prior rights.

### **Section 3 – Temporary Vacancies**

Temporary vacancies of more than fourteen (14) calendar days will be filled in accordance with the Standing Bid System.

**Note:** On DWP prior right assignments and positions, a temporary vacancy of more than seven (7) calendar days will be filled in accordance with the Standing Bid System.

### **Section 4 – No bid Positions**

In the event there are no bids for an assigned position, it shall be filled in accordance with the following:

1. If a Trainman vacancy exists:
  - a. Senior qualified Trainman who was displaced and does not have any recorded positions left, if none,
  - b. Senior qualified Trainman who did not record any bids, if none,
  - c. The senior furloughed Trainman within the Terminal, if none,
  - d. The senior furloughed Trainman at the GEB location nearest via highway miles to the location where the vacancy exists; if none,
  - e. The junior Trainman occupying a GEB position at the nearest location where the vacancy exists.

**Section 5 – Engine Service Employees Returning to Train Service**

Engineers in furlough status (there is an exception to non-furlough flow back on DWP Northern Lines territory) returning to train service, upon being advised by the Crew Management Center shall be placed as follows.

1. As per the Trainman's Standing Bid form.
2. If the employee's Standing Bid form has not been submitted, the employee shall immediately submit one.
3. If the Trainman is protected from furlough as provided for in Article 6 contained herein, a position on the GEB may be created if none exists. If the Trainman is not a protected Trainman, subject to manpower requirements, such Trainman may be furloughed

**Section 6 – Changes**

Changes may be made to this process with the concurrence of the General Chairman and the Sr. Director Labor Relations.

Nothing in the foregoing limits the Company from modifying or replacing its computer systems and required inputs

## **ATTACHMENT "B"      SUMMARY PLAN – SHORT TERM DISABILITY**

The Income Disability Plan for Trainmen (the Plan) provides continued income to employees during periods of disability, not to exceed 52 weeks, resulting from accident or sickness. The Plan is funded fully by the Company.

### **Eligibility**

All active Trainmen of the Company represented by the United Transportation Union (UTU), are eligible for benefits under this plan. He must have rendered compensated service or received vacation pay in a UTU craft for at least seven days in the calendar month immediately preceding the covered disability.

### **Benefit Summary**

An eligible employee shall receive sixty percent (60%) of basic weekly wages with a minimum benefit of \$546 per week during a covered disability, for a period not to exceed 52 weeks. Benefits from the Plan are paid every two weeks. Any amounts received by an eligible employee from the Company in advance of an FELA settlement or judgment, or any amounts received by an eligible employee or his family under the federal Social Security Act, the Railroad Retirement Act or similar legislation for the same period of covered disability shall reduce the maximum weekly wage benefits hereunder accordingly. There shall, however, be no reduction for monies the employee receives under the Railroad Unemployment Insurance Act. (Side Letter 17)

### **Covered Disability**

The Plan covers a disability caused by injury or sickness, whether on railroad duty or not, which prevents the employee from actively performing the normal duties of his job as a Trainman (occupational disability). Benefits begin on the fifteenth (15<sup>th</sup>) calendar day of continuous absence while under the care of a licensed physician (MD or DO) for such a covered disability.

The Plan also covers, and an eligible employee is deemed occupationally disabled, if he is admitted on a medically necessary, non-disciplinary basis, to a state licensed substance abuse center or is receiving intensive out-patient/partial hospitalization treatment (American Society of Addiction Medicine Level II or greater) for substance abuse. This plan does not provide any benefits of any kind for an employee who is being disciplined for a violation of the Railroad's Substance and Alcohol Free Environmental (S A F.E.) Policy.

The maximum benefit period for occupational disability occasioned by substance abuse is six (6) weeks. Eligibility is further limited to two (2) occurrences per lifetime and payment is conditional upon completing the program. Benefits are subject to completion of an approved program; if the program is not completed, benefits shall be forfeited or must be repaid.

Since benefits are payable only during a period of disability from performing his normal duties as a Trainman, it is important that you understand when this period begins and ends.

Each period of a covered disability shall start as soon as you are (1) disabled as defined under the Plan and (2) under the care of a licensed physician. You will not be considered to be under the care of a licensed physician more than 31 days before he has seen and treated you personally for the disease or injury causing the covered disability. The administrator for medical necessity shall review your claim and appropriateness of time off needed for your condition/illness. It is subject to approval by the Plan Administrator.

### **Filing a Claim**

You must complete all required claim forms in order for benefits to be payable under the Plan. Your claim is subject to approval by the Plan Administrator and you must be under the ongoing care of a licensed physician. Continuation of benefits after the approval of the initial claim shall be contingent upon the completion and submission of periodic updates from the attending physician.

## **Duration of Benefits and Successive Periods of Disability**

Occupational disability caused by injury or sickness is subject to a maximum benefit duration of 52 weeks starting on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. New periods of disability due to the same or a related cause must be separated by a return to active regular duty as a Trainman for at least two (2) weeks in a row and begin on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. Disability periods due to an unrelated cause must be separated by a return to active regular duty for at least (1) day and begin on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. Any new periods of disability are subject to the 14-day waiting period. Benefits for occupational disability due to substance abuse are subject to a maximum duration of six (6) weeks and are further limited to a maximum of two occurrences in the employee's lifetime. Payment of benefits is conditioned upon completion of an approved substance abuse program

## **Limitations**

In addition to the limitations already expressed, the Plan does not provide any benefits for a period when the company has suspended or terminated the employee for non-medical disciplinary reasons or when the employee is occupationally disabled due to incarceration; intentional self-inflicted injury or the attempt thereof; the commission or attempt to commit an assault, battery or felony, or an act of war or insurrection or participation in a civil disturbance.

## **Rights of Subrogation, Set Off and Lien**

In case of a disability for which the eligible employee may have a right of recovery against either the Company or a third party, or both, disability benefits shall be paid under the Plan pending final resolution of the matter so that the employee shall not be exclusively dependent upon his sickness benefits under the Railroad Unemployment Insurance Act. It is not intended, however, that benefits under the Plan shall duplicate, in whole or in part, any amount recovered from either the employing railroad or a third party whether by settlement, judgment or otherwise, and it is intended that benefits paid under the Plan shall satisfy any right of recovery against the employing railroad to the extent of the benefits so provided.

Accordingly, benefits paid under the Plan shall be setoff against any right of recovery the employee may have against the Company for the disability. And the Company shall be subrogated and shall have a lien as against any right of recovery the employee may have against any other party to the extent of plan benefits received. As a condition to paying any benefits under the Plan, the Company, or the Plan Administrator if one is involved, may require the employee to first agree in writing to the reduction or setoff against FELA recovery as described above as well as assignment, subrogation, repayment and lien against any amounts recovered from a third party to the extent of benefits paid under the Plan.

If at any time during the covered disability, you apply for and are awarded a disability annuity by the Railroad Retirement Board or the Social Security Administration and said annuity is retroactive to the beginning of your total disability or any portion thereof, all monies paid under the Plan shall be reimbursed to the Company upon receipt of your retroactively paid lump sum payment from the Railroad Retirement Board or Social Security Administration.

## **Termination of Benefits**

Benefits under the Plan terminate when

- The employee ceases to be occupationally disabled as defined herein or dies,
- The employee ceases to be under the continuous care and treatment of a licensed physician,
- The employee refuses to furnish adequate proof to the Company's Medical Department or the Plan Administrator of the continuance of occupational disability as herein defined or when the employee refuses to be examined by a physician designated by either of them;
- The employee no longer holds seniority as a Trainman;
- The employee is terminated by or resigns from the Company;
- The employee is awarded an annuity by the Railroad Retirement Board or Social Security Administration, or

## **Income Tax**

Disability Income benefits paid under the Plan are income subject to Federal and/or State Income Tax. Taxes will be deducted based on the most current W-4 on record.

Railroad Retirement Tier I tax is automatically deducted from Disability Income benefits during the first six months of disability payment.

## **Claims Procedures**

Call the Plan Administrator to file a claim. Any necessary paperwork in order to properly adjudicate the claim will be provided to the employee or physician by the Plan Administrator

## **Return to Work**

It is your responsibility to notify the Plan Administrator when you return to work. Any benefits paid by this plan after your return to work must be returned to the Plan immediately.

## **Name of the Plan**

Wisconsin Central Transportation Corporation Income Disability Plan for Trainmen.

## **Name and Address of the Plan Sponsor**

CN Railway Company  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

A copy of the formal Plan Document may be requested by writing to the above address.

## **Administration**

The plan is self insured by the Company. Any questions with respect to the administration of the plan, eligibility, length and duration of benefits may be directed to the Plan Administrator. The Company may change the Plan Administrator at any time.

## **Definitions**

**Active Regular Duty.** Active regular duty means performing all the regular duties of a Trainman's job in a satisfactory manner on a full duty basis.

**Basic Weekly Wages.** the employee's average weekly gross income from the Company for work as a Trainman during the previous 26 bi-weekly pay periods or such shorter time that he has been employed by the Company but not less than \$400 per week. Basic weekly wages includes earnings deferred from taxation under section 401(k) of the Internal Revenue Code but does not include earnings for work in other than a UTU craft.

**Company:** The Wisconsin Central Transportation Corporation, its subsidiaries, or its affiliates

**Compensated Service:** Compensated service means performing and receiving compensation for all of the regular duties of a Trainman's job in a satisfactory manner on a full-time, full-duty basis.

**Covered Disability.** A physical illness, injury, mental illness or pregnancy, which prevents the employee from actively performing the normal duties of his job as a Trainman.

**Licensed Physician:** a medical doctor (MD) or osteopathic doctor (DO) An application for disability income, and/or ongoing medical documentation supporting the need for continuation of disability, shall only be accepted by a licensed physician who is a medical or osteopathic doctor

**Plan Administrator:** The Plan Administrator, as designated by the Plan Sponsor, shall administer this Plan in accordance with its terms and shall have all powers necessary to carry out the provisions of this Plan including but not limited to the determination of covered disability status.

## **ATTACHMENT "C" - Questions and Answers**

### **ARTICLE 4 - Scope**

- Question 1:** In regards to Note 2, once a crew is working as a unit can they be split up?  
**Answer 1:** No
- Question 2:** With regard to Note 3, a current assignment (push-pull train that operates between Green Bay and Stevens Point) has been historically operated as an engineer-only. Can this current assignment continue to operate without a Conductor?  
**Answer 2:** Yes, however, this practice shall be limited to this assignment and the Company may assign a Conductor to this position. Additionally, if a new crew is called due to the HOS, the re-crew must include a Conductor.
- Question 3:** With regard to Note 3, a current assignment (hostler/helper assignment(s) at Fond du Lac) has been historically operated as an engineer-only. Can this current assignment continue to operate without a Conductor?  
**Answer 3:** Yes, however, this practice shall be limited to this assignment and the Company may assign a Conductor or Utility man to this position.

### **ARTICLE 7 - Seniority**

#### **Section 7**

- Question 4:** How will assignments be allocated for those Trainmen who possess prior rights on the former FV&W, SSAM and WC at Schiller Park Yard?  
**Answer 4:** As in the past, allocation shall be handled between the Local Chairman and Division Superintendent as outlined in Side Letter 2.
- Question 5:** With respect to manning trains received in interchange from the EJ&E at Leighton, will Fond du Lac crews continue to be used?  
**Answer 5:** Yes, the current operations with respect to manning trains will continue as it is today with FDL crews.
- Question 6:** Will Trainmen be allowed to bid between Stevens Point and Wisconsin Rapids each bid period?  
**Answer 6:** Yes, based on the number of available positions and seniority provisions.
- Question 7:** In application of this provision, will Trainmen be entitled to claim the driving allowance?  
**Answer 7:** No, as this applies to Trainmen who have voluntarily exercised their seniority between these two terminals.

### **ARTICLE 8 - Job Vacancies and Bidding**

#### **Section 1**

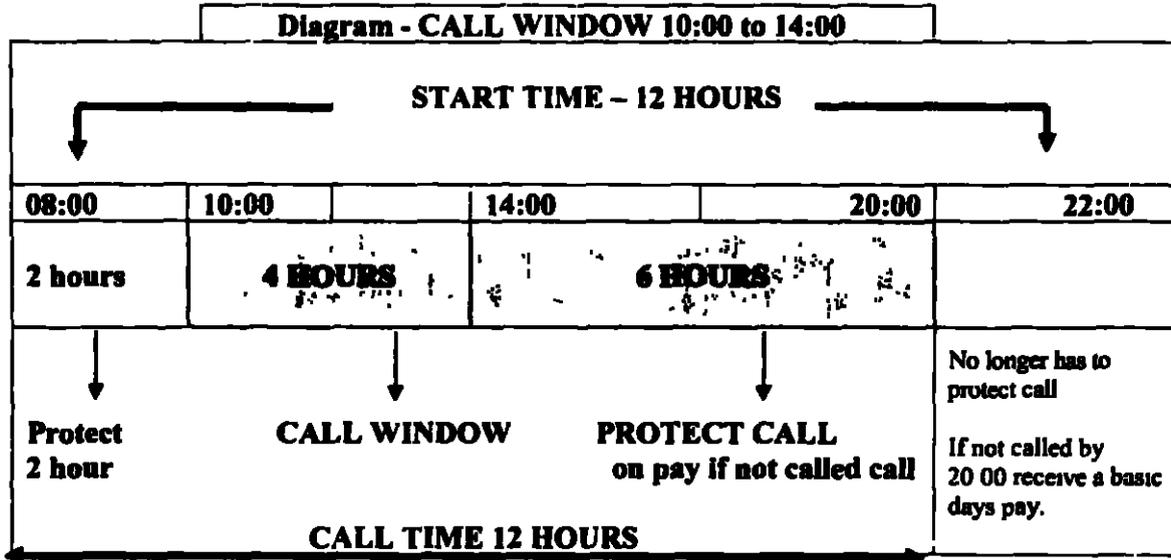
- Question 8:** How shall assignments/positions be allocated every tri-annual bid period?  
**Answer 8:** Necessary allocation of regular assignments and GEB positions shall be handled between the Local Chairman and the Division Superintendent the last two (2) weeks of the current tri-annual bid period. Example: Number of regular assignments and GEB positions, start times, rest day(s), etc.

**Question 9:** May a relief assignment be established which results in less than 48 hours off for the rest period?

**Answer 9:** Yes, with concurrence of the Local Chairman. Example – an assignment may start at 2300 hours on Friday, then have Saturday and Sunday off, then relieve an assignment that starts at 07.00 on Monday

**Question 10:** How shall the call window be applied?

**Answer 10:** As outlined below.



Trainman A has an advertised call window to start between 10:00 to 14:00 hours.  
Trainman A has not been called to report for duty by 14:00.

**Question 11:** What time does Trainman A go on pay?

**Answer 11:** For pay purposes only, Trainman A goes on pay at 14:00.

**Question 12:** How long does the Trainman have to remain available after the end of their call window to protect a call?

**Answer 12:** The Trainman is on pay at 14 00 and has to remain available to accept a call until 20:00 for a 22.00 start. The Trainman may not be called to report for duty later than 22 00.

**Question 13:** If the Trainman is not called by 20:00 for a 22:00 start, how much shall he be compensated for that day?

**Answer 13:** The Trainman shall be compensated a basic day.

Trainman A is called at 08:00 to report for duty at 10.00.

**Question 14:** What time does Trainman A go on pay?

**Answer 14:** 10 00

**Trainman A is called in advance of his advertised spread time to report for duty at 09.00.**

**Question 15:** What time does Trainman A go on pay?

**Answer 15:** 09 00 However, in addition to his earnings for that day, Trainman shall be allowed five (5) hours pay at the basic rate. However, if Trainman A is unavailable, this is not a "missed call".

**Question 16:** Can Trainmen who are on positions bulletined to tie-up at an away-from- home terminal be changed on a tour of duty basis to tie up at their home terminal?

**Answer 16:** Yes, and their call window or assigned start time shall apply on the next tour of duty.  
**Note:** This provision is to allow Trainmen to properly prepare for an away- from-home terminal trip. There is no penalty if the Trainman is returned to their home terminal. However, if a Trainman is bulletined to tie-up at their home terminal, this cannot be changed to tie-up at the away-from-home terminal.

**Question 17:** Is it possible for a window assignment to have less than 48 consecutive hours off for their scheduled rest days?

**Answer 17:** Yes, at the option of the Trainman in order to protect his next advertised spread time.

**Question 18:** Pursuant to the provisions of Article 4, what defines the duties of the Utility man position?

**Answer 18:** A Utility man is a single position assignment working at an on/off duty point in a terminal within the district. The duties of a Utility Trainman are defined herein (where Carmen are not available):

- (a) Couple air hoses, bleed air, and set or release handbrakes.
- (b) Perform air tests.
- (c) Line switches for yard transfer and train movements and for movement of engines between trains, roundhouse, ready track or any other location.
- (d) May perform Flagman duties within the confines of established Terminal limits.
- (e) Other duties traditionally performed by utility Trainmen.

**Question 19:** May a Utility Trainman assist any crew operating within Terminal limits?

**Answer 19:** Yes, once assigned to assist a crew, the Utility Trainman may not assist any other crew until the movement he is assigned to assist is completed.

**Question 20:** May a Utility Trainman fill a vacated position in the event a member of a crew fails to report for duty or discontinues duty before the completion of that assignment?

**Answer 20:** Yes, if a replacement for the vacated position is available from a normal source of supply, the Utility Trainman may not be required to fill the vacated position for more than three (3) hours. In the event that no Trainman is available to fill the vacancy, or the vacated position cannot be filled in the three (3) hour limit, the Utility Trainman shall fill the vacancy and go off duty with the crew, provided that he does not violate the Federal Hours of Service Law. In application of this paragraph when the Utility Trainman fills the vacancy, for more than three (3) hours he shall be considered a regular member of the crew, and no longer be required to fulfill the duties of Utility Trainman.

**Question 21:** May a Utility Trainman be required to work with a Hostler assignment?

**Answer 21:** Yes

**Question 22:** May a Utility man be required to assist an assignment at an out-laying location during the same shift?

**Answer 22:** Yes, in accordance with Agreement provision(s), however, Utility positions shall tie up at his regular on/off duty point of their assignment.

## **ARTICLE 9 – Annulment of Assignments**

- Question 23:** Will every assignment receive a 24-hour notice if annulled on a holiday?  
**Answer 23:** Every assignment as near as possible shall receive a 24-hour notice. It is understood that some industries cannot give 24 hours notice and the Company shall attempt to provide a notice as near as practical.
- Question 24:** For the purpose of this Article only, is the GEB considered an “assignment”?  
**Answer 24:** Yes.

## **ARTICLE 10 – Abolishment and Displacement**

### **Paragraph C**

- Question 25:** Can the start time of a regular assignment be adjusted one hour forward or one hour back on a tour of duty basis without triggering the provisions of Article 10-C?  
**Answer 25:** Yes.

## **ARTICLE 11 – Guaranteed Extra Board**

### **Paragraph A-2**

- Question 26:** Is a Trainman who is at his home terminal required to accept a call for duty that commences on or after 20:00 on the day preceding their assigned rest day(s)?  
**Answer 26:** No. Trainmen must be called by 18:00 hours. (Exception: at the Trainman’s option, he may accept a call for duty subsequent to 20.00 hours.)

### **Paragraph D**

- Question 27:** In the application of Article 11 D-3 and D-5 if GEB Trainmen are held for up to five (5) days, will the “hold-down” provisions apply?  
**Answer 27:** Yes.

### **Paragraph E**

- Question 28:** If a Trainman misses a call on the GEB, is he considered in lay-off status for twelve (12) hours he is held off the working board?  
**Answer 28:** Yes, subject to the provisions of Article 11 E-3.
- Question 29:** Can a GEB Trainman in lay-off status be considered as missing a call while on such status?  
**Answer 29:** No, however, such Trainman shall have their GEB bi-weekly rate offset by 1/10<sup>th</sup>.

### **Paragraph F**

- Question 30:** How will a work week for the GEB be defined?  
**Answer 30:** For the purposes of the GEB, a work week is defined as a seven (7) day interval comprised of five (5) consecutive working/protect days with two (2) consecutive scheduled rest days and six (6) consecutive working/protect days with one (1) scheduled rest day.

**Paragraph L**

**Question 31:** In the application of Article 11 L, "Work-Train" and "Hold-Down", shall the provisions of Article 17 apply?

**Answer 31:** Yes.

**Question 32:** How will the times for deadheading and board placement be determined?

**Answer 32:** The Local Chairperson and the Division Superintendent and/or their designates, shall meet and develop the applicable times.

**ARTICLE 13 – Rules / Instruction Classes**

**Paragraph A**

**Question 33:** Will Trainmen be required to attend rules or instruction classes on their rest day?

**Answer 33:** Every effort shall be made to accommodate the Trainmen's rest schedule. If a Trainman is required by the Company to attend a class on his rest day, then he will be compensated at the overtime rate.

**Question 34:** Will Trainmen be afforded a schedule of time(s) and date(s) prior to rules and instruction classes in order to properly prepare?

**Answer 34:** Yes.

**ARTICLE 14 – On and Off Duty Points**

**Paragraph A**

**Question 35:** Can a Trainman have more than one off-duty point at an away-from-home terminal?

**Answer 35:** Yes, the bulletin issued must describe the on/off duty point for any particular ID Through Freight. Example: a bulletin may list Fond du Lac as an on duty location and Markham as an off-duty location for one train and Glenn as an off-duty location for a different train. If a crew is called to take one of these trains, the crew shall observe the respective off-duty location within the District.

**ARTICLE 15 – Calling for Duty**

**Paragraph B**

**Question 36:** Will Trainmen be allowed to designate alternative phone numbers in addition to their primary phone number for calling purposes?

**Answer 36:** Yes.

**ARTICLE 20 – Holidays**

**Paragraph A**

**Question 37:** Does a contractually paid day utilized before or after a holiday satisfy the availability requirement?

**Answer 37:** Yes, paid days such as PLDs or vacation satisfy the requirement

**Question 38:** Do assigned rest days count towards the qualification of holiday pay?

**Answer 38:** Yes, as long as the Trainman has fulfilled the requirements of the assignment.

## **ARTICLE 21 – Vacation**

### **Section 2**

**Question 39:** Will existing prior right vacation entitlements be preserved?

**Answer 39:** Yes, administering vacations shall be handled between representatives of the Company and the UTU Local Chairman

**Question 40:** For scheduling purposes, will Trainmen be allowed to take an unpaid day(s) or PLD(s) concurrent with their vacation week(s)?

**Answer 40:** Yes

## **ARTICLE 22 – Benefits**

### **Section 7**

**Question 41:** Will the Trainman be responsible for any contributions outside the normal process of enrollment?

**Answer 41:** No, the program is self-sufficient and maintains itself through employee contributions.

## **SIDE LETTER 4 – Assignments at Outlying Locations**

**Question 42:** With respect to Side Letter 4 – Assignments at Outlying Locations will Conductors protecting 6/1 assignments be afforded reasonable lay-off privileges?

**Answer 42:** Yes, as per outlined in Article 11 D.

## **SIDE LETTER 21 – Scope Rule**

### **Paragraph A**

**Question 43:** Will Trainmen be expected to perform duties under this Agreement that they don't perform today?

**Answer 43:** No, unless specifically referred to in this Agreement. However traditional restrictions such as work events and road/yard restrictions no longer remain effect.

**Side Letter 1 – Clarification of Intent**



**United States Region  
Labor Relations Department  
17641 South Ashland Ave  
Homewood, IL 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**During our discussions the Parties agreed that the Highest Designated Officer of the Company and the General Chairman, UTU, shall meet in conference, if necessary, in order to consummate mutually agreed upon interpretation(s) to this Agreement.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr Director Labor Relations**

**I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairperson**

**Side Letter 2 – WC Lines Prior Rights**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

WC Trainmen hired on or prior to the effective date of this Agreement will have prior right to all WC assignments on the WC Lines.

Additionally, WC Trainmen holding prior rights on the former Fox Valley & Western Ltd or Sault Ste. Marie Bridge Company, hereinafter referred to as FVW or SSAM, shall have prior rights to the number of positions that existed on June 26, 2002. Consistent with the manner in which seniority is exercised these positions shall be subject to selection by the prior right Trainmen identified on the seniority roster with the appropriate prior right designation noted in their ranking on the seniority roster. Prior right Trainmen on the former FVW or SSAM shall lose their prior right designation when the last prior right Trainman on the applicable territory retires, resigns or otherwise ends his employment with the Company.

Furthermore, it is mutually agreed and understood that the number of prior right Trainmen positions/assignments advertised at Schiller Park Yard located at Schiller Park, Illinois shall not be less than eighteen (18). The number of prior right positions shall be reduced by one each time one of the protected Trainmen retires, resigns or otherwise ends his employment with the Company, or voluntarily exercises his seniority out of Schiller Park.

We agreed that the following prior rights positions exist as of June 26, 2002 and January 27, 2006;

- |        |   |
|--------|---|
| • SSAM | 8 positions on the former SSAM          |
| • FVW  | 31 positions on the former FVW          |
| • WC   | 18 positions at Schiller Park, Illinois |

**Trainmen whose names appear on the Conductors' consolidated WC roster will continue to utilize their system seniority in acquiring and holding WC assignments or positions within their respective home terminal or Seniority District on all other assignments except the positions noted above**

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

**Yours truly,**

**R. K MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J Flashberger  
General Chairman**

**Side Letter 3 – DWP Lines and DM&IR Lines Prior Rights**



United States Region  
Labor Relations Department  
1761 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Trainmen hired on or prior to the effective date of this Agreement on the DWP Lines territory will have prior rights to all assignments and positions on the former DWP Lines.

Trainmen hired on or prior to the effective date of this Agreement on the DM&IR Lines Missabe territory will have prior rights to all assignments and positions on the former DM&IR Lines – Missabe.

Trainmen hired on or prior to the effective date of this Agreement on the DM&IR Lines Iron Range territory will have prior rights to all assignments and positions on the former DM&IR Lines – Iron Range.

The DM&IR Lines prior rights on the top and bottom respective DM&IR seniority rosters will remain in effect for DM&IR Trainmen hired prior to the effective date of this Agreement. (The top and bottom rosters referred to herein are identified as follows: DM&IR Missabe Division Trainmen are placed on the bottom of the 1999 DM&IR Iron Range Division seniority roster and the DM&IR Iron Range Division Trainmen are placed on the bottom of the 1999 DM&IR Missabe Division seniority roster.)

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

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 4 – Assignments at Outlying Locations**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr K J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

With respect to Article 8, we agreed that at certain locations where there are no GEBs it may be necessary in certain circumstances to bulletin assignments as six (6) days on with one (1) scheduled rest day. These locations shall be determined by mutual agreement between the parties. The current locations that may be bulletined as 6/1 assignments are (Q&A 42):

Taylor  
New Richmond  
Marshfield

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K MacDougall  
Sr. Director Labor Relations

I concur:

\_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 5 – Supplies**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**The Company shall provide Trainmen with safety vests, safety glasses (prescription or non-prescription), lanterns and lantern batteries. Additionally, single-use containers of bottled drinking water, ice, and sanitary coolers for holding same will be supplied at no expense to the Trainmen. Trainmen are responsible for the proper care of equipment issued to them. If steel-toed boots are required, the Company's Shoe Program, as may be amended from time to time, will be provided to Trainmen under this Agreement.**

**Additionally, the Company shall provide Trainmen with a comfortable, suitable and adequate seat(s) on locomotive engines.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairman**

**Side Letter 6 - Duties**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.ctca

**September 18, 2008**

**Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**Trainmen shall have the exclusive right to perform the duties of a Conductor on all assignments/positions, as described herein. As outlined in the CN USOR, such Conductor(s) shall be in charge on all assignments/positions**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur: \_\_\_\_\_  
K. J Flashberger  
General Chairman**

**Side Letter 7 – Hours of Service**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

The parties have agreed to a mandatory requirement to renegotiate the compensation terms of the agreement if the Federal Hours of Service Act regulations are changed as a result of any Governmental entity enacting or changing rest/fatigue rules and/or statutes governing the Hours of Service in the railroad industry during the time this Agreement is in effect.

The parties have agreed that in the event the Company is mandated to reduce a Trainman's hours of service to less than ten (10) hours per tour of duty, or less than the six (6) and two (2) work rest cycle on assignments or something less than the agreed upon work rest cycle for the GEB or any combination thereof as outlined in Article 8 of the Agreement, the parties will meet within fifteen (15) days of notification of such change. Negotiations shall not exceed fifteen (15) days, unless otherwise mutually agreed and the parties will negotiate with a view toward a reduction in the hourly rate of pay in effect. It is understood that in no case shall the hourly rate reduction be more than the proportional decrease in hours worked. If an agreement on the hourly rate cannot be reached within the time stipulated above, or if the parties disagree on the appropriate amount of the hourly rate, the parties agree to submit the matter for expedited, final and binding arbitration.

Immediately following the failure to reach an agreement within the stipulated time frame, either party may initiate proceedings by serving written notice of intent on the other party to progress the issue to arbitration. Within fifteen (15) days of the notification to proceed to Arbitration, if unable to agree to a Neutral, the parties will select a Neutral by alternate strike from a fifteen (15) name strike list requested/provided from the National Mediation Board (NMB). Pending the availability of the Neutral, a hearing on the dispute will take place within thirty (30) days of the Neutral's selection. The Neutral will render a decision in the matter within fifteen (15) days of the conclusion of the hearing unless otherwise agreed, and the decision will be binding on the parties and subject to enforcement as an Award of the National Railroad Adjustment Board.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr Director Labor Relations

I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 8 – Work/Rest Cycles**



**United States Region  
Labor Relations Department  
17641 South Ashland Ave,  
Homewood IL 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement**

**Because the parties recognize that this Agreement addresses and rectifies work/rest issues on this property, it is hereby agreed and understood that the Company shall make every effort to ensure that all Trainmen on all regular assignments are granted their work/rest in accordance with the work/rest cycle advertised and associated with such assignments.**

**The aforementioned shall apply to Guaranteed Extra Board positions. However, in the event it is not feasible to adhere to the work/rest for such GEB positions in accordance with the work/rest cycle advertised and associated with such assignments due to the fact that such Trainman is at an away-from-home terminal when his rest is to commence, the Company may utilize such Trainman on a GEB position on his scheduled rest day and such Trainman shall be permitted to take his two (2) consecutive rest days (not less than forty-eight consecutive hours) or his one (1) consecutive rest day (not less than twenty-four consecutive hours) or should the eleven (11) and three (3) work/rest schedule be in effect his three (3) consecutive rest days (not less than seventy-two consecutive hours) upon his tie-up at his home terminal. This is not intended to adversely affect or reduce a Trainman's guarantee**

**In the event a Trainman on a regular assignment lays off at his home terminal on an assignment that is scheduled to tie-up at an away-from-home terminal, such Trainman must lay off for two (2) consecutive days in order to remain in cycle with his assignment. Such Trainman may mark up on the Available Board for the purpose of attempting to provide service for the Company in accordance with the provisions as contained in Article 11 D. However, if called from the Available Board, that assignment shall not interfere with the starting time of his regular assignment for the purpose of being rested under the Hours of Service Act**

**Given these measures, we believe that the proposed arrangements will provide the Trainmen an opportunity to plan in advance the use of their rest days. We do, however, acknowledge your concerns that some crews may work into their rest days and on this basis we have affirmed our commitment, when feasible, to arrange for Window Crews to be deadheaded or to work back to their home terminal in order to be in-place to begin their scheduled rest day(s). With this in mind, at the Trainman's request, the Company will attempt to work any out-of-cycle crews "locally" on their "Friday", when practical, to facilitate their being home for their scheduled rest day(s)**

The Company was concerned that Trainmen may cause the out-of-cycle situation due to their unavailability to protect their assignment. The parties agreed, in this case, that the Company is not obligated to utilize such out-of-cycle Trainman; however, the Company may call such Trainman if the needs of service dictate

If a Trainman elects to take the full 48 (or 24) hours off under the applicable provisions contained in this Agreement, and the rest period does not allow the Trainman to protect his bulletined call window on the first day of the work week, such Trainman may be used on other work within the Scope of this Agreement, with consideration to keeping the Trainman "in-cycle" for his next available call window.

In the event that problems are noted we agreed to address the matter in our Labor/Management Committee. We will jointly analyze the situation and explore options which may include an arrangement permitting an employee to work an assignment that will tie-up at the home terminal on the final day of the Trainman's work cycle.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr Director Labor Relations

I concur

\_\_\_\_\_  
K. J. Flashberger  
General Chairperson

## Side Letter 9 – Six and Two/Four and Two Rotating Schedule



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr K J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Regular assignments that are bulletined with an away-from-home terminal shall be established and may be bulletined to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off; or to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off; or to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off alternately to work four (4) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off.

The six and two/four and two rotating work schedule shall be in effect for the Pokegama/Superior terminal and all Lines north and will apply to WC, former DWP and former DM&IR properties. The establishment of the six and two/four and two rotating work schedule on all WC Lines south of the Pokegama/Superior terminal shall be done by mutual agreement between the Local Chairman and the Superintendent at the respective location where it is to be utilized.

**Note:** On the DM&IR Lines the six and two/four and two work schedule will not apply while the 7 Day Mark is in effect (See Article 8 Section 2)

Trainmen who are assigned to the six and two/four and two rotating schedule will be compensated 1/52<sup>nd</sup> of the compensation earned by such Trainmen during the calendar year preceding the year in which the vacation is taken or a minimum of five (5) Basic Days pay at the applicable rate.

Trainmen on the six and two rotation of the six and two/four and two rotating schedule shall have their scheduled week of vacation applied in the following manner two (2) rest days followed by six (6) days of vacation followed by two (2) rest days

**Note:** Trainmen's pay for the above stated schedule contained herein will be 1/52<sup>nd</sup> or five (5) Basic Days pay at the applicable rate, whichever is greater

Trainmen on the four and two rotation of the six and two/four and two rotating schedule shall have their scheduled week of vacation applied in the following manner two (2) rest days followed by four (4) days of vacation followed by two (2) rest days.

**Note:** Trainmen's pay for the above stated schedule contained herein will be 1/52<sup>nd</sup> or five (5) Basic Days pay at the applicable rate, whichever is greater.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

**R. K. MacDougall**  
Sr Director Labor Relations

I concur: \_\_\_\_\_  
**K. J Flashberger**  
General Chairman

**Side Letter 10 – Less Than 48-hour Rest Period On Lay-over Assignments**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.illcs

September 18, 2008

Mr. K J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

Regularly assigned Trainmen who are tied up at an away-from-home terminal on the last working day of the scheduled work week shall work (or deadhead) back to the home terminal in the normal rotation of crews at the away-from-home terminal. His rest day(s) shall begin when the Trainman ties up at the home terminal. Should the Trainman, in connection with the aforementioned, not elect to exercise his option to observe the full forty-eight hour rest period (as outlined in Side Letter 8 of the September 18, 2008 Implementing Agreement) for the assignment and elects to voluntarily keep himself "in cycle" which would result in a rest period of less than forty-eight hours, said Trainman if required to report for service in less than forty-eight hours will be paid at the rate of time and one-half for the first day back of the Trainman's following work week schedule.

Should the Trainman choose to observe the full forty-eight (48) hours rest period then the specificities contained in Side Letter 8 of the September 18, 2008 Implementing Agreement shall apply.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur. \_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 11 – GEB Local on Friday**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement**

**A GEB Trainman may decline a call for an assignment commencing between 0601 hours and 2000 hours on the day preceding his scheduled rest day provided that said assignment will result in the Trainman tying up away from his home terminal**

**A Trainman desiring to exercise this option as outlined above, shall inform Crew Management by telephone prior to 0600 hours on the day preceding his scheduled rest day(s).**

**A Trainman who declines a call as outlined above will remain first-out and will stand for any other assignment with a start time prior to 2000 hours that does not tie-up at an away-from-home terminal. This does not constitute a basis for a run-around claim**

**In the event that there is not a rested, straight-time GEB Trainman available for the away-from-home assignment, the aforementioned Trainman shall not be able to exercise the terms and conditions contained herein and decline the call for said assignment.**

**In the event that a Trainman who exercises this option to decline a call for an assignment with an away-from-home terminal tie-up does not work on that particular day, his GEB guarantee will be pro-rated by 1/10<sup>th</sup> for that given pay period.**

**A Trainman who exercises this option as contained herein will be permitted to mark up on the Supplemental Board on his scheduled rest day(s).**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr Director Labor Relations**

**I concur \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

**Side Letter 12 – GEB “Hold-Down”**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

The first-out, rested Trainman on his respective Guaranteed Extra Board who is called on the first or second day of a known vacancy shall be notified by CMC that he will have the option to take the assignment as a “hold-down” for the remainder of the assignment’s scheduled work week. The “hold-down” will commence on the first or second day of the assignment, whichever is applicable, and will run through and include the bulletined rest days of the assignment that is being protected by the “hold-down”.

If a Trainman elects to take the “hold-down” of an assignment as outlined above, his normal assigned GEB rest day(s) will be forfeited for that week and the rest day(s) of the “hold-down” will be observed in lieu thereof.

A Trainman shall not be subject to the GEB guarantee until he is marked back up to the GEB following the completion of the assignment or having observed the assignment’s rest day(s), whichever is later.

In the event the first-out, rested Trainman on the respective GEB does not elect to “hold-down” the vacancy and elects to retain his GEB rest day, said Trainman will fill the assignment for one day only. On day two of the assignment, the first-out, rested Trainman on the respective GEB will be given the option to “hold-down” the vacancy for the remainder of scheduled work week and will observe the assignment’s scheduled rest days. Should the first-out, rested Trainman on day two elect not to “hold-down” the vacancy, then the remainder of the scheduled vacancy will be filled on a daily basis as outlined in Article 11 paragraph C

GEB Trainmen filling a vacancy in this manner will return to the bottom of the respective GEB following the observed rest day(s) of the “hold-down”

**A Trainman who elects to "hold-down" a scheduled vacancy will be permitted to mark to the Supplemental Board on the assignment's scheduled rest days.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur. \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

## Side Letter 13 – Out of Cycle Employees Due to Operational Requirements



United States Region  
Labor Relations Department  
17641 South Ashland Ave,  
Homewood, IL 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

With respect to Article 15 – Calling for Duty, Section 5 Paragraph B of the September 18, 2008 Implementing Agreement between the Wisconsin Central Transportation Corporation and its employees represented by the United Transportation Union states “Trainmen on regular assignments that are scheduled to tie up at an away-from-home terminal that are subject to a call window rotation and find themselves out of cycle due to operational requirements may mark up on the Available Board and may make themselves available for service at straight-time in order to properly place themselves back into their normal call window cycle.” Trainmen electing this option must notify Crew Management Center prior to tying up on the first day of the rotation.

In the event a Trainman who is out of cycle due to operational requirements does not elect to utilize the language contained in Article 15 Section 5 Paragraph B as stated above, such Trainman will be required to protect their designated call window period as per the language contained in Article 8 – Job Vacancies and Bidding Paragraph C (ii), which states, “The bulletined call window or assigned start time applies whenever the Trainman ties-up at the designated home terminal.” For example, a Trainman with an advertised call window of 0800 to 1200 hours would be required, if rested under the Federal Hours of Service Act, to protect an assignment with a start time between the hours of 0800 and 1200 hours. Trainmen who are not rested to protect their advertised call window will be considered released and will be compensated one Basic Day at the applicable rate. Trainmen who are rested and have not been called by the end of the four hour call window will be considered released and will be compensated one Basic Day at the applicable rate. Should the out of cycle trip fall on one of the listed holidays as contained in Article 9, the rate of pay would be the applicable holiday rate as contained in Article 20

**The Company will make every effort to keep lay-over assignment Trainmen in cycle. Furthermore, on the rare occasion that a Trainman is deemed out of cycle, the Company will make every effort to utilize said Trainman in the same type of service that the Trainman's bulletined job description entails. If used in this capacity, said Trainman must be tied up at the home terminal on the out of cycle trip in order to properly be placed back in cycle for the following rotation.**

**Please acknowledge your concurrence by signing your name in the space provided below**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairperson**

## Side Letter 14 – Available Board Clarification



United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood, IL 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

The parties agreed upon the following questions and answers in order to clarify the purpose and function of the Available Board.

**Q1: What is an Available Board?**

**A1: The intent of the Available Board is to give a Trainman a wage earning opportunity that he otherwise would have lost.**

**Q2: What Trainmen can mark to the Available Board?**

**A2: 1 Trainmen who find themselves "out-of-cycle" due to being tied up at their home terminal on the first day of their rotation on a lay-over assignment may mark to the Available Board.**

**Note: Trainmen falling under this scenario who do not mark to the Available Board shall be required to protect their designated call window as per the language contained in Article 8 Paragraph C (ii) and Side Letter 13 dated September 18, 2008 titled "Out-of-Cycle" Employees Due to Operational Requirements.**

**2. Trainmen who are "out-of-cycle", for any reason other than noted above in A-1, on their outbound trip on a layover assignment may, at their option, mark themselves to the Available Board and may be called for service as outlined in Article 11 Paragraph D.**

**Q3: Are Trainmen who are considered "out-of-cycle" and do not mark to the Available Board required to perform service to the Company on their "out-of-cycle" day?**

**A3: No, except as noted above in A2-1. However, the Company may call such Trainmen if the needs of service dictate. Failure to accept such call will not constitute a "missed call" and shall not be subject to discipline.**

**Q4: Is the Company obligated to use Trainmen marked to the Available Board?**

**A4: Only as per the language contained in Article 11 Paragraph D.**

**Q5: In what order will Trainmen be placed to the Available Board?**

**A5: Trainmen will be placed to the Available Board in the order of their start time or call window. (Should two or more Trainmen mark to the Available Board with the same call window or start time, such Trainmen will be called in seniority order.)**

**Q6: When Trainmen are marked to the Available Board, do the provisions of Article 8 Paragraph C (11) apply?**

**A6: No Trainmen will be placed on the Available Board at such time when they are legally rested under the Federal Hours of Service Act. Said Trainmen will be removed from the Available Board at the expiration of their regularly bulletined call window or after two hours beyond their regular start time.**

**Q7: What type of service will Available Board Trainmen be called for?**

**A7: The Company will make every effort to utilize said employee in the same type of service that the employees bulletined job description entails. However, Trainmen used off the Available Board must be tied up at the home terminal on the "out-of-cycle" trip in order to be placed back in cycle on the following two-day rotation.**

**Q8: Can Rest Day Trainmen mark themselves to the Available Board?**

**A8: No, Trainmen desiring to work their scheduled rest day must mark to the Supplemental Board.**

**Q9: Will Trainmen who mark to the Available Board, and are not used, be paid a Basic Day?**

**A9: No.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairman**

**Side Letter 15 – PLD/Single Day Vacation Commencement**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**With respect to Article(s) 18 – Personal Leave Days (PLD) and 21 – Vacation of the September 18, 2008 Implementing Agreement between the Wisconsin Central Transportation Corporation and its employees represented by the United Transportation Union, we agreed that a Personal Leave Day or single day vacation that is to be taken by a Trainman on a call window assignment that overlaps the midnight hour will commence on the respective date on which the call window begins.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

## Side Letter 16 – Remote Control Operation - RCO



United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood, IL 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement regarding potential future introduction of remote control technology by the Company.

During our discussions the Company agreed that when remote control technology is introduced such technology may be operated by Trainman. The Union acknowledges that the Company may operate remote technology in the performance of non-traditional train operations, such as by the Car/Equipment Department personnel within the confines of the car and equipment repair facilities, who have been trained in the operation of Remote Control Technology.

The Labor Management Resolution Committee shall meet prior to the implementation of Remote Control Technology to review the training program, the selection of the Trainers, scheduling of training and to address issues that may arise with implementation of remote control assignments, and the following shall apply:

1. Training shall be done by trainers qualified, consistent with an FRA Approved training program.
2. Trainmen attending instructional classes shall be compensated in accordance with Article 13 of the Agreement dated September 18, 2008.
3. Should a Trainman be required to attend training at a point other than his home terminal point expenses outlined in Article 17, Section 2 shall be available and a meal expense of \$20.00 a day in addition to lodging shall be provided.
4. Bulletins shall be issued pursuant to Article 8 of the Agreement dated September 18, 2008 advertising applications to be taken for the position of Remote Control Operator (RCO). In the event no applicants are received for the bulletin, the provisions of Article 8, Section 2 of the Agreement dated September 18, 2008 shall apply.
5. Trainmen operating an RCO assignment shall be paid the rates outlined in Article 5 of the Agreement dated September 18, 2008.
6. Qualified RCO employees shall not be permitted to displace from an RCO assignment, when there are no other qualified RCO employees available to protect the assignment or unless the RCO assignment is abolished and the employee is unable to secure another RCO position. However, such employees shall not be required to remain on an RCO assignment for in excess of one hundred eighty (180) days.

7. RCO employees shall be responsible for all Trainman duties assigned in addition to the operation of the Remote Control Locomotive (RCL)
8. Vacancies on an RCO assignment shall be filled from the GEB. Failing to have available qualified Trainman on the GEB, the senior rested available qualified RCO employee shall be called

At locations where Remote Control Technology is implemented all employees at such locations shall be availed training and qualified in the operation of such technology as necessitated by operational requirements.

Additionally, there shall be a Trainman on all remote control assignments. Furthermore, in recognition of the unique agreements and history on this property locomotive engineers may operate remote control technology and in doing so may perform similar duties as a Trainman; however, this Agreement is not intended to infringe upon the craft of locomotive engineer

Nothing in this agreement prevents the Company from continuing to operate existing RCO operations at Escanaba Ore Docks and Gladstone

The provisions of this Side Letter are limited to specific existing practices on this property only and they are not referable, and they shall not be referred to by the Company (or disclosed to a third party who does so refer) before any public body, including courts, agencies, arbitration boards, Presidential Emergency Boards, or the Congress, unless required by law.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

**R. K. MacDougall**  
Sr. Director Labor Relations

I concur:

\_\_\_\_\_  
**K. J. Flashberger**  
General Chairperson

**Side Letter 17 – Summary Plan - Short Term Disability**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

**www.cn.ca**

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**With respect to Attachment B – Summary Plan – Short Term Disability, it is mutually agreed and understood that DWP Trainmen hired prior to the date of this Agreement shall have a maximum of 104 weeks of continued income as defined in Attachment B attached hereto Trainmen with WC or DM&IR prior right seniority and all Trainmen hired to subsequent to the effective date of this Agreement shall have a maximum of 52 weeks of continued income as defined in Attachment B attached hereto**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur. \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

**Side Letter 18 – Passport and/or Homeland Security Mandated ID Reimbursement**



United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood, IL 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

During our discussion the parties discussed the impact of the Intelligence Reform and Terrorism Prevention Act of 2004, which currently requires that by January 1, 2008, all land travelers will need a valid passport to enter and re-enter the United States. A similar legal requirement also applies to entry/re-entry into Canada.

In an effort to minimize this impact, the Company has agreed to reimburse any train service employee that is required to obtain a valid passport and/or a Homeland Security ID in order to perform service for the Company, for the initial cost of the passport and/or Homeland Security mandated ID. This reimbursement is contingent on all of the following:

1. It being a requirement of service.
2. It being a first-time passport and not a renewal.
3. Proper documentation being submitted for reimbursement.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur.

\_\_\_\_\_  
K. J. Flashberger  
General Chairperson

**Side Letter 19 – Chicago Implementing Agreement**



**United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood, IL 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**The terms and conditions of the UTU Chicago Terminal Merger Implementing Agreement effective January 28, 2006 remain in effect. Should the provisions of the September 18, 2008 Agreement conflict with the terms and conditions contained in the UTU Chicago Terminal Merger Implementing Agreement, the UTU Chicago Terminal Merger Implementing Agreement will apply**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairperson**

**Side Letter 20 – Grievance Resolution Allowance**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

Within sixty (60) days of the date of this Agreement, all Trainmen in active service on positions covered by this Agreement will be paid three thousand dollars (\$3,000.00) each, subject to applicable payroll deductions. This allowance will be paid on other than the Trainmen's normal pay period wages.

Upon payment of the amount noted above, all claims and grievances, other than those involving disciplinary action based on an occurrence prior to the effective date of this Agreement are considered resolved without prejudice to the position of either party and with the understanding that such settlements will not be cited by either party in any future case, nor used by either party to allege that the other has agreed to a particular practice.

The aforementioned allowance will not be used to offset guarantees, protection allowances, nor will it be included for the calculation of vacation pay, guarantees or protection allowances.

Any discipline on appeal with the Company prior to the effective date of this Agreement that does not involve actual suspension time will be expunged from the respective Trainman's personal records and cannot be used in determining the quantum of future discipline.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur. \_\_\_\_\_  
K. J Flashberger  
General Chairman

**Side Letter 21 – Scope Rule**



**United States Region  
Labor Relations Department  
17641 South Ashland Ave,  
Homewood, IL 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement**

- A. The parties recognize that the scope of this Agreement is unlike others in the rail industry and that it must be interpreted accordingly. The role of an Engineer is to operate locomotives and the role of a Trainman is to perform transportation duties associated with the switching and movement of revenue railcars. The role of both Engineers and Trainmen also includes non-revenue work such as movement of light engines, helper engines, pusher service and work trains to meet the service requirements of the customer (Q & A 43)**
- B. No Company Supervisor, official or non-craft employees (including Yard clerks) or non-employee shall be used to supplant or substitute in the exclusive work of any Trainman working under this Agreement. Notwithstanding the foregoing, this Agreement recognizes that crewmembers, once on duty, work as a unit and that Engineers may occasionally be required to operate switches, complete documentation and assist in coupling and uncoupling equipment as part of normal operations.**

**Please acknowledge your concurrence by signing your name in the space provided below**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairperson**

**Side Letter 22 – Ranier and Pokegama Operations and Equalization**



**United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood, IL 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement**

**The Company agrees not to have foreign Carriers switch railcars at Pokegama Yard. It is understood that Canadian crews will not be allowed to switch cars at Ranier Yard or operate south of the Yard limits of Ranier. It is also understood, this will not limit detour trains from operating over DWP Trackage.**

**The parties recognize that because of prior rights, equalization may be due on various assignments throughout the property. The UTU will inform the Company of the equalization due. Equalization will be performed at no additional expense to the Company. If there is a Local dispute regarding equalization, the dispute will be referred to the General Chairman's office and the Sr. Director Labor Relations for resolution. Crew Management Center will maintain the appropriate records so that equalization can be done on an equitable basis.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur:**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairperson**

**Side Letter 23 – DM&IR Lines General Wage Increases and Back Pay**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**In regards to the DM&IR Section 6 Notices served by the parties, the following general wage increases will be applied to the train service rates of pay and will be used in the calculation of retroactive wage payments (back pay), with no offset for healthcare increases.**

- A. Effective July 1, 2005, all rates of pay in effect on June 30, 2005 are increased by three per cent (3%).**
- B. Effective July 1, 2006, all rates of pay in effect on June 30, 2006 are increased by three per cent (3%).**
- C. Effective July 1, 2007, all rates of pay in effect on June 30, 2007 are increased by three per cent (3%).**
- D. Effective July 1, 2008, all rates of pay in effect on June 30, 2008 are increased by four per cent (4%).**

**Retroactive wage payments (back pay) will be paid to each Trainman on a separate check within sixty (60) days of the effective date of this Agreement.**

**Effective the date of this Implementing Agreement the Trainmen rates of pay provided for in Article 5 will be applicable.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur**

\_\_\_\_\_  
**K. J. Flashberger  
General Chairman**

**Side Letter 24 – DM&IR Productivity Fund Allowances**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**DM&IR train service employees who currently qualify for productivity allowances from the Productivity Funds established in the respective Crew Consist Agreements will continue to be paid the productivity.**

**The productivity fund allowances paid to each qualifying Trainman will be equal to one-third (1/3) of his annual gross pay subject to the exclusions provided for in the respective Crew Consist Agreements.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

**Side Letter 25 – Pension Plan - DM&IR Line Only**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

- A: Effective the date of this Agreement the Bessemer Non-Contributory Pension Plan will be closed to new participants.
- B: Trainmen presently participating in the Bessemer Non-contributory Pension Plan may continue to remain in the plan under the terms and conditions set forth in the respective DM&IR Collective Bargaining Agreement
- C: Effective the date of this Agreement and for a period of 180 days thereafter, current DM&IR Trainmen who are participants in the Bessemer Non-contributory Pension Plan will have the option to opt out of the plan and will be eligible for a 401(k) plan as set forth below. Trainmen who elect to opt out of the Bessemer Non-contributory Pension Plan for the 401(k) plan will cease accruing further service credit under the Bessemer Non-contributory Pension Plan. Service credit is used to calculate the amount of pension benefit with respect to completed years and months of plan participation. While the number of years of service credit under the plan will “freeze” the month following that the Trainman opts out of the Bessemer Non-contributory Pension Plan, but future wage growth will be considered in the calculation of the pension benefit payable upon retirement or other termination of employment. For Trainmen who opt out of the plan and continue to be employed with the Company, their employment will count towards eligibility service. Eligibility service is used to determine which retirement category a Trainman qualifies for, such as a 30-year retirement.
- D: Within thirty (30) days of ratification, the Company shall establish a 401(k) plan for former DM&IR Trainmen hired prior to the date of this Agreement and have elected to opt out of the Bessemer Non-contributory Pension Plan. Under the new 401(k) plan, the Company shall contribute one dollar for each dollar contributed by the Trainman up to fifty percent (50%) of the IRS annual limit as stated in the Internal Revenue Code, as amended
- E: In addition to the new 401(k) plan in paragraph D above, the Company shall contribute one dollar for each dollar contributed by the Trainman up to fifty percent (50%) of the of the IRS annual limit as stated in the Internal Revenue Code, as amended, maximum 401(k) contribution towards the purchase of CN stock through an Employee Stock Purchase Plan, which would be applicable to DM&IR Trainmen hired prior to the date of this Agreement.

**F. The 401(k) plan referenced in paragraph D above and the CN Stock Purchase Plan referenced in paragraph E above is in lieu of continued participation in the Bessemer Non-contributory Pension Plan for DM&IR Trainmen hired prior to the date of this Agreement.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K. MacDougall  
Sr. Director Labor Relations**

**I concur** \_\_\_\_\_  
**K. J. Flashberger  
General Chairman**

**Side Letter 26 – DM&IR Lines Crew Consist Change**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

On the DM&IR Lines, a standard crew shall consist of a Conductor. The Company may assign more than one (1) Trainman to any crew. In lieu of this change in crew size on the DM&IR Lines, the Company shall provide each DM&IR Trainman hired prior to the date of this Agreement listed on APPENDIX B a one time payment of fifty thousand dollars (\$50,000.00) each.

The one time fifty thousand dollar (\$50,000.00) payments will be made on a separate check to each active Trainman within thirty (30) days of the effective date of this Agreement.

In the event a DM&IR employee with a train seniority date prior to the date of this Agreement is working in a craft or position other than train service and subsequently flows back, is set back, exercises his seniority or otherwise returns to train service under the applicable rules, he shall be entitled to the fifty thousand dollar (\$50,000.00) one time payment provided herein after returning to train service for a period of seven (7) or more days. The affected Trainman must notify in writing the designated Company representative and the UTU General Chairman of his entitlement of the fifty thousand dollar (\$50,000.00) one time payment. The payment will be made to the Trainman within 30 days after the designated Company representative is notified.

The UTU General Chairman will be provided a list of the Trainmen who received the fifty thousand dollar (\$50,000.00) one time payment. This list will be updated when additional Trainmen are paid the one time payment

The fifty thousand dollar (\$50,000 00) one time payments will not be used to offset guarantees and/or protection allowances, nor will it be utilized in the calculation of vacation pay, guarantees and/or protection allowances.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur \_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 27 – DM&IR H & W Plan COBRA**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

DM&IR train service employees who are covered under the DM&IR H & W Plan who have elected to continue coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), whose "COBRA Qualifying Event" occurred prior to the effective date of the transition to the National Plan, and who have made the required COBRA payments, will continue to be covered under the DMIR H & W Plan until such time as their COBRA continuation coverage ends.

If the participant, after the effective date of the transition to the National Plan, works the Requisite Amount of Service to become eligible for health & welfare coverage, this coverage will be provided by the National Plan provided the participant meets the eligibility requirements of the National Plan.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman

**Side Letter 28 – DM&IR Healthcare Plan - Retirees**



**United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345**

www.cn.ca

**September 18, 2008**

**Mr. K. J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130**

**Dear Sir,**

**This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.**

**DM&IR train service employees who have retired prior to the effective date of the transition from the DMIR H & W Plan to the National Plan who are eligible for coverage under the DMIR H & W Plan for retirees will continue to be covered under this plan until their coverage ends.**

**DM&IR train service employees who retire within 72 months ("the protected period") of the effective date of this Agreement and are eligible under the DM&IR H & W Plan may elect to be provided coverage under that Plan until their coverage ends. Or, the train service employee upon retirement may elect the National Plan**

**Tranmen who retire after the 72 months protected period ends and who meet the eligibility requirement of the Railroad Employees National early retirement Major Medical Benefit Plan will have coverage under the National Plan only.**

**Please acknowledge your concurrence by signing your name in the space provided below.**

**Yours truly,**

**R. K MacDougall  
Sr. Director Labor Relations**

**I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman**

**Side Letter 29 – DM&IR Health & Welfare Plan – Inactive Status**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr K. J. Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

A DM&IR train service employee in an inactive status (including disabled status) who is receiving benefits under the DMIR H & W Plan on the effective date of the transition to the National Plan will continue to be covered under the DMIR H & W Plan until either of the following occurs:

- eligibility for such coverage under the DMIR H & W Plan ends; or
- the Trainman meets the eligibility requirements for coverage under the National Plan at which time he will enroll in the Plan.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur: \_\_\_\_\_  
K. J. Flashberger  
General Chairman

## TABLE OF CONTENTS

<b>ARTICLE 1 – PURPOSE</b> .....	<b>1</b>
<b>ARTICLE 2 – GENERAL PRINCIPLES</b> .....	<b>1</b>
<b>ARTICLE 3 – RECOGNITION</b> .....	<b>2</b>
<b>ARTICLE 4 – SCOPE RULE</b> .....	<b>2</b>
<b>ARTICLE 5 – WAGES</b> .....	<b>2</b>
<b>ARTICLE 6 – EMPLOYMENT SECURITY</b> .....	<b>3</b>
<b>ARTICLE 7 – SENIORITY</b> .....	<b>3</b>
SECTION 1 – GENERAL .....	3
SECTION 2 – ESTABLISHMENT OF SENIORITY DATE .....	4
SECTION 3 – FURLOUGHED TRAINMEN .....	4
SECTION 4 – RE-ENTERING SERVICE. ....	4
SECTION 5 – SENIORITY RETENTION. ....	4
SECTION 6 – SENIORITY MAINTENANCE ..	5
SECTION 7 – SENIORITY DISTRICTS AND GEB LOCATIONS .	5
SECTION 8 – SENIORITY ROSTER ..	7
SECTION 9 – TRANSFER TO ENGINE SERVICE AND FLOWBACK AND PRIOR RIGHTS....	7
SECTION 10 – TRANSFER TO YARDMASTER AND FLOWBACK .	7
<b>ARTICLE 8 – JOB VACANCIES AND BIDDING</b> .....	<b>8</b>
SECTION 1 – REGULAR ASSIGNMENTS AND GUARANTEED EXTRA BOARD POSITIONS. ..	8
SECTION 2 – ASSIGNMENT TO POSITIONS. .	9
SECTION 3 – TRANSFER/BORROW-OUT. ....	9
<b>ARTICLE 9 – ANNULMENT OF ASSIGNMENTS</b> .....	<b>10</b>
<b>ARTICLE 10 - ABOLISHMENT AND DISPLACEMENT</b> .....	<b>10</b>
<b>ARTICLE 11 – GUARANTEED EXTRA BOARDS (GEB)</b> .....	<b>11</b>
<b>ARTICLE 12 – APPROVAL OF APPLICATION FOR EMPLOYMENT</b> .....	<b>14</b>
<b>ARTICLE 13 – RULES / INSTRUCTION CLASSES</b> .....	<b>14</b>
<b>ARTICLE 14 - ON AND OFF DUTY POINT</b> .....	<b>15</b>
<b>ARTICLE 15 - CALLING FOR DUTY</b> .....	<b>15</b>
SECTION 1 – CALLING .	15
SECTION 2 – USED OUT OF ORDER	15
SECTION 3 – CALLED AND RELEASED	16
SECTION 4 – FAMILIARIZATION OF TERRITORY	16
SECTION 5 – SUPPLEMENTAL BOARD(S) AND AVAILABLE BOARD(S)	16
SECTION 6 – TIE-UP AT OFF DUTY POINT	16
<b>ARTICLE 16 – MEAL PERIODS</b> .....	<b>17</b>
<b>ARTICLE 17 - EXPENSES</b> .....	<b>17</b>
SECTION 1 - HELD AWAY-FROM-HOME TERMINAL .	17
SECTION 2 – TRANSPORTATION EXPENSE.	157
SECTION 3 – DEADHEADING..	18
SECTION 4 – AGGREGATE SERVICE	18
<b>ARTICLE 18 – PERSONAL LEAVE DAYS (PLD)</b> .....	<b>18</b>

<b>ARTICLE 19 – BEREAVEMENT LEAVE .....</b>	<b>19</b>
SECTION 1 ..	159
SECTION 2 ..	159
<b>ARTICLE 20 – HOLIDAYS .....</b>	<b>19</b>
<b>ARTICLE 21 – VACATION.....</b>	<b>19</b>
SECTION 1 - ENTITLEMENTS	19
SECTION 2 – SCHEDULING	20
SECTION 3 – RATE OF PAY FOR VACATION	20
SECTION 4 – QUALIFYING	20
SECTION 5 – SUBMITTING REQUEST..	20
SECTION 6 – EMPLOYMENT STATUS ..	21
SECTION 7 – TRANSFERRING FROM OTHER CRAFTS	21
SECTION 8 – GEB	21
SECTION 9 – EXPIRATION OF VACATIONS	21
SECTION 10 – VACATION CREDITS..	21
SECTION 11 – UNITED TRANSPORTATION UNION - UNION OFFICIALS ..	21
SECTION 12 – GENERAL ..	22
<b>ARTICLE 22 – BENEFITS.....</b>	<b>22</b>
SECTION 1 – HEALTH & WELFARE ..	22
SECTION 2 – LIFE INSURANCE ..	22
SECTION 3 – OTHER ..	22
SECTION 4 – OFF TRACK VEHICLE ACCIDENT BENEFITS	22
SECTION 5 – STOCK PURCHASE PLAN	22
SECTION 6 – EMPLOYEE ASSISTANCE PROGRAM ..	23
SECTION 7 – 401K PLAN	23
SECTION 8 – SHORT TERM DISABILITY PLAN ..	23
<b>ARTICLE 23 – PHYSICAL EXAMINATIONS.....</b>	<b>23</b>
<b>ARTICLE 24 – MEDICAL DISQUALIFICATIONS.....</b>	<b>23</b>
<b>ARTICLE 25 - PAYDAY .....</b>	<b>24</b>
<b>ARTICLE 26 - PAYROLL AND DEDUCTIONS.....</b>	<b>24</b>
<b>ARTICLE 27 - UNION SHOP AGREEMENT.....</b>	<b>24</b>
<b>ARTICLE 28 - HANDLING OF CLAIMS AND GRIEVANCES .....</b>	<b>25</b>
SECTION 1 – REPRESENTATION ..	25
SECTION 2 – HANDLING OF CLAIMS AND/OR GRIEVANCES OTHER THAN DISCIPLINE APPEALS ..	25
SECTION 3 - HANDLING OF DISCIPLINE APPEALS. ....	26
<b>ARTICLE 29 – INVESTIGATIONS AND DISCIPLINE .....</b>	<b>26</b>
<b>ARTICLE 30 - TIME OFF FOR UNION BUSINESS.....</b>	<b>28</b>
<b>ARTICLE 31 - ATTENDING COURT AND INQUESTS .....</b>	<b>28</b>
<b>ARTICLE 32 - LEAVE OF ABSENCE WITHOUT PAY.....</b>	<b>28</b>
SECTION 1 – GENERAL ..	28
SECTION 2 – LESS THAN ONE YEAR. ....	29
SECTION 3 – ILLNESS/INJURY	29
SECTION 4 – OFFICIAL/MILITARY	29
<b>ARTICLE 33 - JURY DUTY.....</b>	<b>29</b>
<b>ARTICLE 34 - BULLETIN BOARDS.....</b>	<b>29</b>

<b>ARTICLE 35 – CREW CONSIST .....</b>	<b>30</b>
<b>ARTICLE 36 - CREW CALLING RECORDS .....</b>	<b>30</b>
<b>ARTICLE 37 – TRAINMEN’S PROTECTIVE (DISPLACEMENT) ALLOWANCE .....</b>	<b>30</b>
<b>ARTICLE 38 – MORITORIUM .....</b>	<b>30</b>
<b>ARTICLE 39 – GENERAL PROVISIONS.....</b>	<b>30</b>
<b>APPENDIX A - SYSTEM SENIORITY ROSTER WITH PRIOR RIGHT DESIGNATIONS.....</b>	<b>32</b>
<b>APPENDIX B – \$50K DM&amp;IR TRAINMEN ONE TIME CREW CONSIST PAYMENT .....</b>	<b>303</b>
<b>ATTACHMENT “A” – STANDING BID .....</b>	<b>386</b>
<b>ATTACHMENT “B” SUMMARY PLAN – SHORT TERM DISABILITY .....</b>	<b>38</b>
<b>ATTACHMENT “C” - QUESTIONS AND ANSWERS .....</b>	<b>42</b>
<b>SIDE LETTER 1 – CLARIFICATION OF INTENT .....</b>	<b>48</b>
<b>SIDE LETTER 2 – WC LINES PRIOR RIGHTS.....</b>	<b>489</b>
<b>SIDE LETTER 3 – DWP LINES AND DM&amp;IR LINES PRIOR RIGHTS .....</b>	<b>511</b>
<b>SIDE LETTER 4 – ASSIGNMENTS AT OUTLYING LOCATIONS.....</b>	<b>512</b>
<b>SIDE LETTER 5 – SUPPLIES .....</b>	<b>53</b>
<b>SIDE LETTER 6 – DUTIES .....</b>	<b>534</b>
<b>SIDE LETTER 7 – HOURS OF SERVICE .....</b>	<b>535</b>
<b>SIDE LETTER 8 – WORK/REST CYCLES .....</b>	<b>546</b>
<b>SIDE LETTER 9 – SIX AND TWO/FOUR AND TWO ROTATING SCHEDULE .....</b>	<b>558</b>
<b>SIDE LETTER 10 – LESS THAN 48-HOUR REST PERIOD ON LAY-OVER ASSIGNMENTS.....</b>	<b>60</b>
<b>SIDE LETTER 11 – GEB LOCAL ON FRIDAY .....</b>	<b>691</b>
<b>SIDE LETTER 12 – GEB “HOLD-DOWN” .....</b>	<b>62</b>
<b>SIDE LETTER 13 – OUT OF CYCLE EMPLOYEES DUE TO OPERATIONAL RQMNTS .....</b>	<b>64</b>
<b>SIDE LETTER 14 – AVAILABLE BOARD CLARIFICATION .....</b>	<b>66</b>
<b>SIDE LETTER 15 – PLD/SINGLE DAY VACATION COMMENCEMENT.....</b>	<b>68</b>
<b>SIDE LETTER 16 – REMOTE CONTROL OPERATION - RCO .....</b>	<b>69</b>
<b>SIDE LETTER 17 – SUMMARY PLAN – SHORT TERM DISABILITY .....</b>	<b>71</b>
<b>SIDE LETTER 18 – PASSPORT AND/OR HOMELAND SECURITY MANDATED ID REIMB....</b>	<b>72</b>
<b>SIDE LETTER 19 – CHICAGO IMPLEMENTING AGREEMENT.....</b>	<b>73</b>
<b>SIDE LETTER 20 – GRIEVANCE RESOLUTION ALLOWANCE.....</b>	<b>74</b>
<b>SIDE LETTER 21 – SCOPE RULE.....</b>	<b>75</b>
<b>SIDE LETTER 22 – RANIER AND POKEGAMA OPERATIONS AND EQUALIZATION.....</b>	<b>76</b>
<b>SIDE LETTER 23 – DM&amp;IR LINES GENERAL WAGE INCREASES AND BACK PAY.....</b>	<b>77</b>
<b>SIDE LETTER 24 – DM&amp;IR PRODUCTIVITY FUND ALLOWANCES.....</b>	<b>78</b>
<b>SIDE LETTER 25 – PENSION PLAN – DM&amp;IR LINE ONLY.....</b>	<b>79</b>

**SIDE LETTER 26 – DM&IR LINES CREW CONSIST CHANGE.....81**  
**SIDE LETTER 27 – DM&IR H & W PLAN COBRA.....82**  
**SIDE LETTER 28 – DM&IR HEALTHCARE PLAN - RETIREES.....83**  
**SIDE LETTER 29 – DM&IR HEALTH & WELFARE – INACTIVE STATUS.....84**

**Implementing Agreement**

**Between**

**DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY**

**And**

**The Employees Represented By  
UNITED TRANSPORTATION UNION  
ENGINEERS – NORTHERN LINES TERRITORY  
on the former  
Duluth, Winnipeg & Pacific Railway Company (DWP)  
Duluth, Missabe & Iron Range Railway Company (DM&IR)**

Whereas, the Surface Transportation Board (STB), in decisions dated September 5, 2001, (STB Finance Docket No 34000) and April 9, 2004, (STB Finance Docket No 34424), approved the acquisition by Canadian National Railway Company ("CNR"), et al, of the Wisconsin Central Transportation Corporation (WC), and Duluth, Missabe and Iron Range Railway Company (DMIR) respectively, subject to the conditions for the protection of railroad employees in New York Dock Railway – Control – Brooklyn Eastern District Terminal, 360 L.C.C. 60 (1979), ("Protective Conditions").

WHEREAS, the parties to this Agreement are the Duluth Winnipeg and Pacific (DWP), Duluth, Missabe and Iron Range (DMIR), (known collectively as the Northern Lines territory) and the United Transportation Union ("UTU"), representing the Engineers on the DWP and DMIR. The intent of the Agreement is to provide fluidity of train operations throughout the territory from Ranier, Minnesota to Superior, WI (Northern Lines territory) and from Superior, WI to Chicago, Illinois while protecting the respective rights, privileges, agreements, employment security and quality of life of the engine service employees employed therein.

**IT IS AGREED:**

**ARTICLE 1 – PURPOSE**

The fundamental objective of the Company is to operate a safe, efficient and effective railroad transportation operation and a key component to the success of this venture is the contribution of the Engineers

This Agreement is founded on a principle of paying for Engineer's time on an all-inclusive basis and contemplates that in order for the operation to be successful, individuals shall perform all duties requested of them, subject to the provisions contained herein.

**ARTICLE 2 – GENERAL PRINCIPLES**

- A. In this Agreement, words importing the singular shall include the plural and vice versa where the context requires. Words importing the masculine gender shall include the feminine where the context requires.
- B. This Agreement is intended to be applied in a non-discriminatory manner without regard to age, race, creed, color, gender, national origin, disability, sexual orientation or marital status

- C. The parties recognize that this is a new Agreement, which replaces any and all existing Agreements, unless otherwise provided, and introduces changes in the workplace. In recognition of this, a committee consisting of the UTU/DWP Lines General Chairperson-E, a UTU Member appointed by the General Chairperson, and the Company's General Manager(s) Operations and Sr Director Labor Relations or their respective designates, two from each party, shall be established. This committee shall be known as the Labor/Management Committee, and shall meet semi-annually, unless otherwise mutually agreed, to review the application of this Agreement.

### ARTICLE 3 – RECOGNITION

- A. This Agreement covers all Engineers employed by the Company and represented by the United Transportation Union under the auspices of the Railway Labor Act, as amended.
- B. The term "Engineer" as herein referred to shall include engine service employees represented by the United Transportation Union on the DWP Lines and the former DM&IR Lines. The term "Company" shall mean the Duluth, Winnipeg & Pacific Railway Company consisting of its subsidiary known as the Duluth, Missabe & Iron Range Railway Company. The term "Union" or "General Committee" shall mean the United Transportation Union.
- C. The combined territory of DWP and DM&IR will be called the DWP-E Northern Lines territory and the seniority roster will consist of DWP and DM&IR Engineers dovetailed to form one seniority roster. The Engineers on this roster will be represented by the United Transportation Union. The right to make and interpret contracts covering rules, rates of pay and working conditions on behalf of Engineers on the DWP-E Northern Lines territory covered by this Agreement shall be solely vested in the regularly constituted General Committee of the United Transportation Union.
- D. Where the term "duly accredited representative" appears herein, it shall be understood to mean the regularly constituted General Committee and/or the Officers of the United Transportation Union of which such General Committee or Officers are a part of.

### ARTICLE 4 – SCOPE RULE

Engineers subject to this Agreement shall perform the traditional duties of an Engineer, which entail responsibilities such as switching of rail cars, interchange, inspecting locomotives, performing head-end air tests, preparing reports while under pay, using communication devices, copying and handling train orders, clearances and/or messages, spot and pull cars and operate locomotives via the control stand in all yards and on all road territories owned and operated by the Company in the territory from Ranier, Minnesota to Chicago, Illinois. Additionally, Engineers may perform the traditional duties of Engineers in connection with work associated with assignments such as, but not limited to, Engineer pilots.

Note 1: Engineers shall not be required to perform duties outside the aforementioned Scope Rule and shall not be censured nor disciplined for refusing to do so.

Note 2: No Company official(s), non-craft employee(s) or non-employee(s) shall be used to supplant or substitute in the exclusive work of any Engineer working under this Agreement. However, this Agreement recognizes that crewmembers work as a unit and that Engineers may occasionally be required to operate switches (Q&A 1).

Note 3: One Engineer position must be on all assignments. (Side Letter 19)

### ARTICLE 5 – WAGES

- A. i) Effective the date of this Agreement the rate of pay for all Engineers on the DWP-E Northern Lines territory will be \$35.36 per hour for all Engineers covered under this Agreement. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
- ii) Effective August 1, 2009, a three per cent (3%) increase in the rate of pay for Engineers will result in \$36.42 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.

- u) Effective August 1, 2010, a three per cent (3%) increase in the rate of pay for Engineers will result in \$37.52 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
  - v) Effective August 1, 2011, a three per cent (3%) increase in the rate of pay for Engineers will result in \$38.64 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
  - v) Effective August 1, 2012, a four per cent (4%) increase in the rate of pay for Engineers will result in \$40.19 per hour. This rate will apply to all time on duty, unless otherwise specified in the Agreement.
- B**
- 1 Ten (10) hours or less shall constitute a basic day. Pay for all time on duty after ten (10) hours shall be at the rate of time and one half on the minute basis at the applicable rate.
  - 2 The rates provided for herein shall apply to all time on duty, unless otherwise specified in the Agreement. The Company may require Engineers to work in excess of ten (10) hours per tour of duty and Engineers will be paid on a minute basis at the applicable rate of service performed. Engineers requesting to be relieved during their tour of duty shall be paid actual time on duty provided a supervisor grants their request.
- C** Firemen-in-Training (commonly referred to as Engineer Trainees) assigned to the engineer training program shall be paid a rate equivalent to ninety percent (90%) of the engineer's full (100%) hourly rate of pay. Upon completion of the training program, the engineer qualified trainee shall be paid one hundred percent (100%) of the applicable hourly rate of pay for the craft he is working in.
- D.** Unless otherwise provided in this Agreement, the rates of pay as indicated herein represent complete and total payment for the performance of all work, which is associated with the Engineers covered by this Agreement.

## ARTICLE 6 – EMPLOYMENT SECURITY

- A.** An Engineer who has established seniority on the Engineer's DWP-E Northern Lines seniority roster on or prior to the effective date of this implementing Agreement shall be known and designated as a "Protected Engineer". Such Protected Engineer shall not be furloughed for any reason.
- Note:** An Engineer or Firemen-in-Training (commonly referred to as Engineer Trainees) who was suspended or dismissed prior to the effective date of this Agreement and is subsequently reinstated with seniority rights unimpaired shall be designated a Protected Engineer. A Protected Engineer who is or becomes dismissed or suspended and who is subsequently reinstated with seniority rights unimpaired shall remain a Protected Engineer.
- B** A Protected Engineer shall be provided a Regular Assignment or a Guaranteed Extra Board position.
- C** In accordance with the provisions in ATTACHMENT A - STANDING BID contained herein, an Engineer with an Engineer's seniority date later than March 31, 1986 may be permitted to exercise Conductor seniority provided this will not create a shortage of Engineers.
- Note:** This may include permitting another Engineer (certified Engineer) to return to engine service, or a junior Engineer (certified Engineer) forced to the resultant Engineer vacancy.
- D.** Any Engineer who is prevented from operating a locomotive as a result of FRA decertification shall be allowed to flow back to a Trainman's position. However nothing in this clause restricts the Company from assessing discipline in compliance with this Agreement.

## **ARTICLE 7 - SENIORITY**

### **Section 1 - General**

- A. The right to preference of work and the right to bid an assignment(s) shall be governed by seniority subject to prior rights. The Engineer oldest in seniority, taking in consideration prior rights seniority if applicable, shall be given the preference of work and the right to bid the assignment(s) of his choosing in accordance with the applicable provision(s) as contained in this Agreement. (See Side Letter 2 and APPENDIX A - Prior Rights Seniority Roster)
- B. The Company will keep the General Chairperson and each Local Chairperson of the UTU supplied with lists of Engineers and their seniority dates (prior rights if applicable) in sequential order as Engineers in conformity with their standing as recorded on the lists subject to the rules hereinafter provided for.

### **Section 2 - Establishment of Seniority Date**

- (i) The seniority date of an Engineer qualified on or after the effective date of this Agreement shall commence at the time he successfully completes the training program and is certified as a qualified Locomotive Engineer, excepting that in the case of two or more Engineers participating in training at the same time, the Engineers shall retain the relative ranking order as they had on the conductors seniority roster.
- (ii) In the event an individual is hired who is previously certified as locomotive engineer, this Engineer will establish seniority on the date of his first tour of duty as a solo Engineer, (this date will also become the his Engineer's seniority date). The date that this Engineer establishes his seniority will also be the effective date for establishing seniority for any Firemen-in-Training (Engineer Trainee) participating in the engineer program. Such Engineer will be placed on the Engineer's seniority roster behind those Firemen-in-Training already in the training program, or if the Engineer is assigned to a training class he will be placed on the Engineer's roster behind those Firemen-in-Training who are already participating in the program. It is the intent of these provisions to prevent the runaround of Firemen-in-Training already participating in the training program by Engineers hired from the street or other properties.
- (iii) Trainmen with a seniority date prior to the effective date of this agreement will be placed on the Engineer's seniority roster ahead of Engineers who establish seniority in Section 2 (ii) above provided they successfully complete the first Engineer's training program afforded them.
- (iv) Engineers hired who do not have seniority as an Engineer on the DWP Northern Lines will acquire engine service seniority on the date of their first solo trip as an Engineer.
- (v) Trainmen who have prior rights seniority as trainmen on the DWP-E Northern Lines territory and are promoted to Engineer on that territory will have the same prior right designation as Engineers on the territory.

### **Section 3 - Furloughed Engineers - WC Lines Under the Jurisdiction of the BLE&T**

- A. Engineers who are hired subsequent to the effective date of this Agreement on other than the DWP-E Northern Lines territory and subject to manpower requirements, may be furloughed (cannot hold an engine service position on the WC Lines territory that is under the jurisdiction of the BLE&T Agreement). In the event such Engineer is furloughed he may exercise his Engineer's seniority to a DWP Engineer's position. An Engineer working a trainmen's position on the WC Lines territory under the jurisdiction of the BLE&T agreements will be removed from the trainmen's position when required to accept promotion to fill Engineer positions or vacancies. Furloughed Engineers who do not exercise their seniority to engine service may provide the Company with current telephone numbers to be contacted if they desire to protect engine service after the Engineer's vacancy procedures have been exhausted.
- B. Furloughed Engineers who fail to respond to recall as an engineer and forfeit their engine service seniority will also forfeit their train service seniority at the same time.

#### **Section 4 – Re-entering Service**

Engineers reinstated to service shall retain their engine and train service seniority and prior rights. Engineers who are re-hired to engine service shall establish a new date in engine and train service

#### **Section 5 – Seniority Retention**

- A. Yardmasters and Managers/Company Officers who hold engine service seniority, but do not belong to the UTU shall be required to pay monthly seniority retention ("SR") fees to the UTU, in an amount equal to the full monthly dues payable to UTU and its subordinate units by a member of that organization, in order to retain engine service seniority. Such fee shall be payable at the same time as monthly dues are payable by a UTU member. Any non-member who fails to pay the SR fee when due shall be promptly notified of that non-payment by the UTU by certified mail. If such default has not been cured within thirty (30) calendar days after the date of such notice, the UTU shall provide the Company written notification of the non-payment and that individual's seniority in the engine service class/craft involved shall be extinguished effective on the first calendar day after expiration of the 30-day notice period, subject to subparagraph (c) below.
- B. The SR fee required under this paragraph will be payable by an employee on a monthly basis beginning with the first full calendar month that immediately follows completion of his SR service period. An employee's period commences with his first day of compensated service as Yardmasters or Managers/Company Officers that occurs after the date this provision is implemented at the location involved. If an employee covered by this paragraph is set back to engine service and is subsequently transferred to a Yardmaster's position or who becomes a Manager/Company Officer at a location where this provision has been implemented, a new SR service period (as defined above) will be applicable to such employee.
- C. If an employee whose engine service seniority has been extinguished pursuant to subparagraph (A) is subsequently set back to engine service because of insufficient seniority to hold a Yardmaster position or a Manager/Company Officer position, he shall be placed at the bottom of the seniority roster involved. Such employee shall be deemed to have forfeited all agreement-based rights and/or benefits for which he was entitled or eligible based upon his former engine service seniority.
- D. The provisions contained in this Section shall only be implemented upon thirty (30) days written notice by the General Chairperson of the UTU to the Sr Director Labor Relations.

#### **Section 6 – Seniority Maintenance**

- A. Each Engineer employed on the DWP-E Northern Lines territory who does not hold membership in UTU will be required to pay monthly seniority maintenance ("SM") fees to UTU in order to continue to accumulate engine service seniority. The SM fee shall be based on the costs of negotiations, claim/grievance/discipline handling, and internal governance as indicated in UTU's Fees Objector Policy and/or the most recent LM-2 Report filed by UTU with the United States Department of Labor, but in no event shall it exceed the full amount of monthly dues payable to UTU and its subordinate units by a member of such organization. The SM fee required under this paragraph will be payable by an Engineer on a monthly basis beginning with the first full calendar month that immediately follows completion of his SM service period. An Engineer's SM service period for this purpose shall mean the thirty (30) calendar days period that commences with his first day of compensated service in a UTU-represented class/craft that occurs after the date this provision is implemented on the DWP-E Northern Lines territory.

- B. The UTU shall furnish to the Company written notification of the amount of the applicable SM fee(s) due under this paragraph by July 1 of each calendar year, which amount will remain in effect until the succeeding July 1. The initial notification of the SM fee amount(s) under this paragraph will be made within thirty (30) calendar days of the date this Letter of Intent is implemented at any location and will remain in effect until the succeeding July 1. The applicable SM fee will be payable at the same time as dues are payable by a UTU member. Any non-member of the UTU in engine service who fails to pay the SM fee when due shall be promptly notified of that non-payment by the UTU via certified mail. If such default has not been cured within thirty (30) calendar days after the date of such notice, the UTU shall provide the Company written notification of the non-payment and that individual's seniority in engine service shall be frozen effective on the first calendar day after expiration of the 30-day notice period.
- C. The provisions contained in this Section shall only be implemented upon thirty (30) days written notice by the General Chairperson of the UTU to the Sr. Director Labor Relations.

**Section 7 - Seniority Districts and GEB Locations**

The right to work Engineer position(s) on an assignment(s) shall be determined by seniority. Subject to prior rights, seniority shall prevail as follows - first, by seniority within the home terminal where the vacancy occurs and second, by seniority within the District where the vacancy occurs; and third, by system seniority. An Engineer who transfers into a Terminal within the District shall exercise his seniority within that Terminal based upon his prior right seniority date, if applicable, or system seniority date if prior rights is not applicable. It is understood that an Engineer shall maintain seniority in only one (1) home terminal at any given time - i.e. the location at which he is currently assigned. An Engineer may exercise his seniority within the home terminal in accordance with the applicable provisions as contained in Attachment A.

Upon the effective date of this Agreement, the following Seniority Districts and Home Terminals shall be maintained on the DWP-E Northern Lines territory:

**Seniority District 1 - DWP Lines**

**Home Terminal 1 - Extra Board Location and Source of Supply - Pokegama (Superior)**

- Protects DWP prior right vacancies located north of Pokegama to and including Ranier and at other locations established within the prior right Home Terminal

**Seniority District 2 - DM&IR Lines**

**Home Terminal 1 - Extra Board Location and Source of Supply - Proctor (Missabe)**

- Protects DM&IR (Missabe) prior right vacancies at Proctor / Keenan / Two Harbors and at other locations established within the prior right Home Terminal

**Home Terminal 2 - Extra Board Location and Source of Supply - Two Harbors (Iron Range)**

- Protects DM&IR (Iron Range) prior right vacancies at Two Harbors and at other locations established within the prior right Home Terminal

- Note 1:** The Company shall negotiate with the Union prior to bulletining positions where it is proposed to establish any new terminal within the Home Terminal or District in addition to those shown above.
- Note 2:** The Company shall normally bulletin assignments at outlying points not listed above to the Home Terminal in closest geographic proximity within the Seniority District via highway miles.
- Note 3:** The prior right positions on the former DWP and former DM&IR will cease to exist when the last prior right Engineer on the respective prior right District retires, resigns or otherwise ends his employment relationship with the Company. (Side Letter 2)

### **Section 8 – Seniority Roster**

- A A single DWP-E Northern Lines territory Seniority Roster will be compiled by dovetailing the DWP and DM&IR rosters by using the Engineer's earliest engine service seniority date on their respective prior right property. This new roster will have the Engineer's prior right Districts listed next to their name. This new roster will be identified as DWP-E Northern Lines territory APPENDIX A attached hereto.
- B The Seniority Roster shall be compiled by the Company and posted on or before January 1 of each year with copies furnished to the General Chairperson and Local Chairmen. Rosters shall show each Engineer's name, rank, date of seniority, status and prior rights Districts if applicable. A seniority date not protested within 60 days from its first posting shall be considered permanently established, and future requests for changes shall not be considered except to correct typographical errors.
- C In joint cooperation with the BLE&T, a DWP-E Northern Lines territory, WC-BLE&T Lines combined seniority roster will be established. This roster will be known as the System Seniority Roster and will be established by dovetailing the DWP-E, WC-BLE&T and DM&IR-BLE&T engineers to one System Seniority Roster with prior rights to the respective properties. Engineers on this roster will have prior right designation listed next to their name and cannot be forced from their prior right territory.
- D Engineers establishing seniority after the effective date of this Agreement shall be placed at the bottom of the System Seniority Roster in accordance with their relative Engineer's seniority date. Engineers hired after the effective date of this Agreement shall have no prior rights.

## **ARTICLE 8 – JOB VACANCIES AND BIDDING**

### **Section 1 – Regular Assignments and Guaranteed Extra Board Positions**

- A. Regular assignments that are intended to tie-up at the home terminal each day shall be established and bulletined to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off. Assignments that are bulletined with an away-from-home terminal shall be established and may be bulletined to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off or to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of 48 consecutive hours off. (Q&A 2 and 3 and Side Letter 7)

**Note 1:** Assignments shall have a designated starting time or call window. No less than seventy-five percent (75%) of freight service shall be Regular Assignments. No less than seventy-five percent (75%) of prior right WC freight runs at the Pokegama / Superior terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DWP freight runs at the Pokegama / Superior terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DM&IR freight runs at the Proctor terminal shall be regularly assigned. No less than seventy-five percent (75%) of prior right DM&IR freight runs at the Two Harbors terminal shall be regularly assigned. To determine the seventy-five percentile referred to herein, the measurement period will be 60 days prior to the advertisement bulletin for the tri-annual bid.

**Note 2:** In the event the 48 consecutive hour rest period is utilized, such rest period shall commence when the assignment ties up at the home terminal following the five (5) or six (6) tours of duty, whichever is applicable. Refer to Side Letter 6, Side Letter 7 and Side Letter 8.

- B Where regular assignments have been established, each regular assignment shall be advertised and assigned rest day(s). Engineers shall bid regular assignments by virtue of seniority; prior rights will prevail, if applicable.
- C Regular assignments that tie-up at the home terminal and/or away-from-home terminal may be bulletined with a four (4) hour call window or an assigned start time at the home terminal. (Q&A 4 - 8)

**Note:** The "call window" is the window during which the assignment is scheduled to start. The two-hour call is in advance of this time.

- (i) For regular assignments with call windows, if rested but not called to start within the designated window, the Engineer shall be considered on pay after the expiration of his advertised window, however this shall not count towards overtime or hours of service. If not called to start within eight (8) hours from the end of their call window they shall be compensated a home day and shall have fulfilled the requirement to protect the call window for that day.
  - (ii) The bulletined call window or assigned start time applies whenever the Engineer ties-up at the designated home terminal.
- D. Guaranteed Extra Board positions shall be established where the needs of service dictate and shall be bulletined to work five (5) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) alternately to work six (6) consecutive days with one (1) scheduled rest day (not less than 24 consecutive hours). By mutual agreement between the Company and UTU DWP-F General Chairman, GEB assignments, at each individual terminal may be bulletined to work five (5) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) or six (6) consecutive days with two (2) consecutive scheduled rest days (not less than 48 consecutive hours) or eleven (11) consecutive days with three (3) consecutive scheduled rest days (not less than 72 consecutive hours). On GEB's utilizing the 5 and 2 and/or 6 and 2 work/rest schedule, the GEB guarantee will be pro-rated accordingly. GEB's may have more than one work/rest schedule assigned thereto. Engineers shall bid GEB position(s) by virtue of seniority with prior rights controlling if applicable.
- E. If at or in route to an away-from-home terminal on the last working day of a Engineer's schedule, the Engineer shall deadhead (or work) back to the home terminal in order for such Engineer's to be afforded his scheduled rest day(s). However, if tied up at an away-from-home terminal, the Engineer shall work (or deadhead) back to the home terminal in the normal rotation of crews at the away-from-home terminal. The rest day(s) shall begin when the Engineer ties-up at the home terminal. (Side Letter 6 and Side Letter 8)
- F. Each terminal shall maintain a bulletin listing all assignments/positions, including Guaranteed Extra Board positions, which shall include (a) the job title and the normal assigned duties of the job, (b) the home terminal and, where applicable, the away-from-home terminal, (c) whether the job is anticipated to tie up at the on-duty point or at an away-from-home terminal, (d) the starting time or spread time of the assignment, if applicable, (e) the assigned day(s) off and (f) prior right designation, if applicable. Nothing in this provision restricts the Company from tying-up an assignment at the home terminal on any day of the assignment.

### **Section 2 - Assignment to Positions**

Engineers shall make application to positions in accordance with the Standing Bid system as provided for in Attachment A. This system shall govern the awarding of all assignments and/or positions.

**Note:** The provisions of Attachment A will not apply to the former DM&IR Line while that territory is under the 7 Day Mark Agreement. The Company agrees to give the UTU DWP-E General Chairman 120 days advance written notice of their intent to abolish the 7 Day Mark Agreement. The DM&IR will then come under the provisions of Attachment A - Standing Bid/Tri-annual Bidding.

### **Section 3 - Transfer/Borrow-out**

#### **Temporary Transfers**

In joint cooperation between the UTU DWP-E Northern Lines territory General Chairman and the BLE&T WC Lines General Chairman the following will apply to temporary transfers between the two properties.

- A. Engineers may be offered voluntary temporary transfers from one Seniority District to another. The senior Engineer shall have preference, and when returned to their home district they shall be placed on assignments of their choice as identified on their standing bid form.
- B. Engineers who have volunteered to temporarily transfer must be returned to their home terminal within their District within ninety days (90) of the transfer. The General Chairperson and the General Manager may mutually agree to extend the ninety-day (90) limit of a temporary service assignment transfer.

- C. Positions shall be advertised seven (7) days in advance of an anticipated temporary shortage of Engineers at a specific location(s), initially to Engineers on the adjacent Seniority District(s). In the event applications are not received from Engineers in the initial step, then the shortage positions shall be advertised to Engineers on all Seniority Districts. Applicants shall be selected based upon seniority and the requirements of service at the home terminal within the applicant's District, qualifications being equal.

Successful applicants shall be required to protect service at the shortage location for a minimum of thirty (30) days unless released by the Company. This time frame may be extended as mutually agreed. Applicants who remain on the working board for the duration of the position assigned and fully protect the Company's service requirements shall be provided the following:

1. Company lodging at the shortage location and an all-inclusive daily meal allowance of \$20.00
2. In lieu of Company provided transportation and the standard driving allowance, the Company shall reimburse the Engineers a weekly allowance of \$150.00 for transportation costs.
3. The money amounts cited in C 1 and C 2 contained herein are subject to any wage increases.
4. No reimbursement for travel shall be made where the Company provides transportation.
5. Assigned rest days shall be provided which shall be applied in the manner outlined in Section 1 herein.

Note: When a temporary transfer occurs between the DWP and the DM&IR properties (the DWP-E Northern Lines territory), only the UTU DWP-E General Chairman will be involved.

#### ARTICLE 9 - ANNULMENT OF ASSIGNMENTS

- A. When an assignment is to be annulled on a holiday, the Company, when provided with the appropriate advance notice from Customer(s), shall provide an Engineer assigned thereto at least twenty-four (24) hours' notice. (Q&A 9)
- B. No pay will be allowed when an assignment is annulled on New Year's Day, President's Day, Memorial Day, Good Friday, Independence Day, Labor Day, Thanksgiving Day, the Day after Thanksgiving, Christmas Eve Day, Christmas Day or New Year's Eve Day, unless the Engineer utilizes a personal leave day or vacation time.
- C. When an assignment(s) is annulled on other than one of the General Holidays referred to in sub-paragraph B herein, the Engineer assigned to the position shall be paid a basic day of ten (10) hours at the applicable straight time rate and it shall be considered a day of compensated service.
- D. If a Guaranteed Extra Board assignment is annulled on a holiday, the guarantee will be reduced by 1/10th. (Q&A 10)

#### ARTICLE 10 - ABOLISHMENT AND DISPLACEMENT

- A. Engineers shall be assigned a position in accordance with the Standing Bid system as provided for in Attachment A. This system shall govern the assignment to positions.
- B. 1. An Engineer whose position is abolished shall be given a minimum of twenty-four (24) hours notice, which shall be satisfied by advising the Engineer by telephone or by issuing a bulletin seven (7) days in advance, and he shall be allowed to exercise his seniority to any assignment within the terminal in which he is located by displacing a junior Engineer in accordance with the individual's standing bid.  
Note: In the absence of having a remaining standing bid selection the Engineer has twenty-four (24) hours in which to exercise his terminal seniority, or be assigned a position by the Company.
2. If unable to displace a junior Engineer in the Terminal, the Engineer shall exercise his seniority to displace a junior Engineer within the District.

**Note 1:** In the absence of having a remaining standing bid selection, the Engineer has forty-eight (48) hours in which to exercise his District or System seniority or he shall be assigned a position by the Company

**Note 2:** An Engineer who is employed on or subsequent to the effective date of this Agreement who is forced to a location that is more than one hundred (100) miles from the location from which displaced shall be permitted a reasonable time not exceeding seventy-two (72) hours to take up the position

**Note 3:** An Engineer who is forced or protects service at a location that is more than thirty (30) miles from his home location shall, upon request, be provided lodging as outlined in Article 17 Section 1 paragraph B for a minimum of thirty (30) calendar days for each qualifying event.

**C** Permanent changes in rest days, home terminal, or a change in the assigned start time from the original bulletined start time of one (1) hour or more shall entitle the affected Engineer to be placed in accordance with the Standing Bid provisions, which must be requested at the time he is notified of the change. Temporary changes in assigned window times must not be made without the concurrence of the Local Chairman (Q&A 11)

## **ARTICLE 11 - GUARANTEED EXTRA BOARDS (GEB)**

**A 1** Where Guaranteed Extra Boards (GEB) have been established (in accordance with Article 8 - Job Vacancies and Bidding), each GEB position shall be advertised and have assigned rest day(s). (Side Letter 9 and Side Letter 10)

**2** The scheduled rest day(s) will commence at 06:01 hours, with the Engineer automatically marked back to the board at 06:01 following his rest day(s). Guaranteed Extra Board Engineer shall not be called for duty on an assignment that commences on or after 20:00 hours on the day preceding their rest day(s). However, at the Engineer's option he may accept a call for duty subsequent to 20:00. Engineers who elect this option must inform the Crew Caller by 06:00 the day preceding their scheduled rest day. (Q&A 12)

**3** If the Engineer is currently working or away from the home terminal at the time the scheduled rest day(s) are to begin, the rest day(s) shall begin at the Engineer's tie-up time at his home terminal) and shall consist of one (1) day with a minimum of twenty-four (24) consecutive hours, or two (2) consecutive days with a minimum of forty-eight (48) consecutive hours off, or three (3) consecutive days with a minimum of seventy-two (72) consecutive hours off, depending upon which rest day cycle is being observed. The Engineer shall automatically be marked back to the bottom of the board at the expiration of that time and such Engineer's guarantee shall not be reduced as a result thereof. (Side Letter 9)

**B. 1** For the purposes of prorating guarantees, Engineers exercising seniority to the GEB part way through the guarantee period (for guarantee purposes only), shall be shown on the GEB at 06:01 hours after the exercise of their seniority and their guarantee shall be pro-rated accordingly.

**2.** Increases or decreases to the GEB can occur at any time, however, if the board is increased or decreased effective at any time other than as prescribed in the Standing Bid process, the Engineer added shall be paid a day's guarantee in the event no other service is performed on that calendar day. In the application of this paragraph, Engineers hired on or subsequent to the effective date of this Agreement that are cut off the GEB shall be paid a day's guarantee in addition to all other earnings.

**C** GEB's shall operate on a first-in, first-out basis, based on tie-up time. Where more than one Engineer is marked back up to the Board at the same time their previous tie up time shall govern relative order.

**D.** Unless otherwise provided for herein, Engineers assigned to GEBs shall fill temporary vacancies and extra assignments at the location of the respective Board and at the outlying points normally protected by that Board.

In the event the GEB is exhausted, the assignment shall be filled by

• When filling vacancies on Engineer Assignments - DWP Lines prior right Seniority District 1 - Pokegama

1. Protecting DWP Extra Board

2. Supplemental Board - DWP \*

3 DEW List – DWP (Engineers for Engineer vacancies) \*

4 DMIR Proctor Extra Board \*

5. DMIR Proctor Supplemental Board

6 DMIR Two Harbors Extra Board \*

7 Supplemental Board Two Harbors\*

**Note:** In joint cooperation between the UTU – DWP-E Northern Lines Territory General Chairman and BLE&T – WC Lines General Chairman the additional steps in the calling procedures may be applied as follows

8 WC Extra Board

9 WC Supplemental Board

10 WC Rest Day Engineers

- When filling vacancies on Engineer Assignments – DMIR Lines prior right Seniority District 2 - (Proctor – Missabe)

1 Protecting DMIR Extra Board – (Proctor)

2 Supplemental Board – (Proctor) – (Days off) \*

3. Protecting DMIR Extra Board – (Two Harbors) \*

4. Supplemental Board – (Two Harbors) \*

5 DWP extra board \*

6. Supplemental Board – DWP \*

7 DEW List – DWP (Engineers)

**Note:** In joint cooperation between the UTU – DWP-E Northern Lines Territory General Chairman and BLE&T – WC Lines General Chairman the additional steps in the calling procedures may be applied as follows.

8. WC Extra Board

9. WC Supplemental Board

10. WC Rest Day Engineers

- When filling vacancies on Engineer Assignments – DMIR Lines prior right Seniority District 2 - (Two Harbors – Iron Range)

1. Two Harbors Extra Board

2 DEW List – (Two Harbors) \*

3. Proctor Extra Board \*

4 Proctor Supplemental Board \*

5. DWP Extra Board \*

6. Supplemental Board – DWP \*

7 DEW List – DWP (Engineers) \*

**Note:** In joint cooperation between the UTU – DWP-E Northern Lines Territory General Chairman and BLE&T – WC Lines General Chairman the additional steps in the calling procedures may be applied as follows

- 8 WC Extra Board
- 9 WC Supplemental Board
- 10 WC Rest Day Engineers

Note 1: \* Denotes that the call is for only one trip or roundtrip, whichever is applicable. The one trip or roundtrip condition also applies to vacancies at outlying locations.

Note 2: When an Engineer protects service on an assignment that is normally protected by another extra board, those earnings can not be used to offset GEB guarantee on the Engineer's assigned extra board.

- E. When Engineers mark back up for any reason, they shall be placed to the bottom of the GEB and the following shall apply (Q&A 13)
  - 1 Engineers who are first-out on the GEB and book off for any reason, or miss a call, shall be held off of the GEB for a minimum of 12 hours.
  - 2 Engineers not first-out and who book off of the GEB shall be held off the board for a minimum of 12 hours.
  - 3 Engineers held in accordance with paragraphs 1 and 2 may be called for duty by the Company in the event the working boards are exhausted.
  - 4 On DWP the GEB will maintain its (11) and (3) work rest cycle. Nothing prohibits the parties from mutually agreeing to other work rest cycles.
- F. Engineers assigned to the Guaranteed Extra Board shall be guaranteed a minimum of ten (10) Basic Day's pay for a bi-weekly period. One Basic Day's pay shall be used to reduce the guarantee for any 24 hour period, or portion thereof (other than rest day(s)) an Engineer is unavailable for service as outlined herein. The one-tenth (1/10th) of the bi-weekly rate shall be used for prorating the guarantee of an Engineer who is not assigned to the GEB for the full bi-weekly period. All compensation credited to the Engineer during the pay period, except mileage allowances and payments flowing from a violation of this Agreement, will be deducted from that guarantee (Q&A 14).
- G. GEB positions shall be advertised and Engineers shall bid such assignments by virtue of seniority.
- H. GEB Engineers shall be called for service not less than two (2) hours prior to the time required to report for duty.
- I. The Company shall consult with the UTU DWP-E General Chairperson and provide ten (10) days advance written notice prior to establishing any new board and the territory it will protect. New GEBs can be established or eliminated at any location consistent with the needs of service. A GEB can only be established to coincide with the beginning of a pay period. Once a GEB has been established, it cannot be eliminated until the end of the pay period.
- J. All guarantee compensation paid to Extra Engineer shall be considered as compensated service and be used in the calculation of, but not limited to, vacation pay and qualification days.
- K. Except as provided for in Article 17 Section 3, when called for service, Extra Board Engineers shall not make less than the basic day as provided for in Article 5.
- L. Engineers may be called to perform service at an outlying location or in connection with the Engineering Department (work train). Engineers so called may be tied up at any point away from their home terminal on any of the GEB working days, but if held subject to a call for such service, a day's pay shall be allowed.
  - 1 Engineers called to "hold-down" a position at an outlying point shall remain on such assignment for its duration for up to one (1) calendar week, or until he is displaced by the return of the regular Engineer or by an Engineer assigned on the tri-annual bid. GEB Engineers released from an assignment shall return to their GEB and shall be placed on the bottom of the Board in accordance with their tie-up time. (Q&A 15 and 16)
  - 2 If such Engineers are not returned to their home terminal upon completion of each work day, they shall also be provided appropriate meal allowance(s) and lodging. Reasonable accommodations shall be made to transport Engineers to an eating facility.

- 3 Engineers assigned to vacancies shall assume the terms and conditions of the assignment (start times, rest days, etc) as set forth in Letter 6 and Side Letter 10
  - 4 Service as outlined herein shall be filled from the GEB
- M Engineers assigned to the GEB may book for ten (10) hours undisturbed rest at the home terminal, however it is understood that in the event Engineers who elect to do so and do not perform service on that calendar day as a result will be deducted 1/10<sup>th</sup> of their guarantee

#### **ARTICLE 12 – APPROVAL OF APPLICATION FOR EMPLOYMENT**

- A Applications for employment as Engineers shall be approved or disapproved in writing within sixty (60) days following the day the Engineer first becomes qualified as an Engineer and performs service as an Engineer with the Company
- B An application that is rejected anytime within such period shall result in termination of the Engineer's relationship with the Company

#### **ARTICLE 13 – RULES/INSTRUCTION CLASSES**

- A Engineers required to attend rule or instruction classes shall be made whole for any loss of earnings and in no case shall be paid less than actual time in attendance, except that no pay shall be required for Engineers attending remedial classes in lieu of or as part of the discipline process or as described below. The Company shall schedule the rules and instructions classes for the Engineers. Engineers must mark-up immediately following the conclusion of any classes, subject to the Hours of Service Act (Q&A 17 and 18)
- B Where training takes place away from the Engineer's regular on duty point, lodging shall be provided, and the Engineer shall be entitled to allowances for meals and for travel between the regular on duty point and the course accommodation
- C Where an examination or test forms part of the training requirement, an Engineer is expected to meet the required standard on the first attempt. If an Engineer is unable to achieve the necessary standard, he shall be offered additional training (without compensation) and shall be afforded further opportunities to retake the examination, which must take place within ten (10) days of the first attempt and which shall be on own time. An Engineer who fails to attain the required standard at the completion of this period, subject to an investigation, may be deemed to have disqualified himself for employment and shall forfeit all seniority
- D Engineers who are required to attend rule or instruction classes during a normal tour of duty (i.e., combined with other service) shall not be paid additional compensation

#### **ARTICLE 14 - ON AND OFF DUTY POINT**

- A Except as provided below, Engineers shall have a designated point for going on and off duty each day. The Company shall consult with the UTU Local Chairperson with jurisdiction on the respective territory prior to bulletining positions where it is proposed to change any on or off duty points
- B The starting time of a Engineers shall commence at the time he is required to report for duty, and his pay shall continue until the time he is tied up and released by the Company at the off duty location. The off-duty location may be bulletined as train specific
- C When Engineers are relieved at other than their home terminal, the Company shall provide transportation to the appropriate off duty point, which shall be at a recognized location designated by the Company as listed on the most current job bulletin for the assignment.

- D Except as otherwise agreed, changes at the home terminal shall not be made in reporting and relief points until suitable wash and locker room facilities have been provided. At the home terminal, wash, locker, toilet facilities and hot and cold running water shall be provided for Engineers. An adequate parking area, with all weather surfacing (gravel, flag stone, etc.) shall be provided and maintained where space is available on Company property if free public parking is not readily available.
- E Once an Engineer is tied-up for rest (aggregate or otherwise) at an away-from-home terminal, the next tie-up shall be at the home terminal.

## **ARTICLE 15 - CALLING FOR DUTY**

### **Section 1 - Calling**

- A An Engineer without a designated starting time shall be called not less than two (2) hours prior to the time required to report for duty, except in cases of emergency, such as floods, accidents, storms, etc., where Engineers shall be required to report as soon as possible.
- B Engineers must designate telephone numbers at which they can be reached for the purpose of being called (Q&A 19)
- C When a major disruption to service occurs, the General Chairman shall be notified and the following plan may be implemented:

The current call windows may be suspended and the affected Engineers shall be placed on a Road Pool Board in the order of their call windows. Such Engineers shall then be run first-in, first-out on any available assignment other than temporary vacancies.

Engineers shall be notified when they are to return to their normal call windows.

**Note:** A disruption to service is defined as a main line blockage due to derailment, washout, fire, vandalism, flood, or similar act of providence which results in the stoppage of trains on the North Division, which is defined as all Lines between Chicago/Schiller Park, Illinois and Ranier, Minnesota.

### **Section 2 - Used out of Order**

- A GEB Engineers who are available, but not called in the correct order ("runaround") in accordance with the procedures in this Agreement shall be paid one half (1/2) of the basic day payment in addition to any other GEB earnings. Such Engineers shall remain first-out on the GEB.
- B There shall be no "chain" type payments and not more than one runaround payment for any particular assignment.
- C The incidence of runaround claims shall be reviewed in the conferences established pursuant to Article 28 in this Agreement to identify and correct any systematic problems.
- D An Engineer that operates to a off duty point that is the source of supply point for Engineers at that location and subsequently operates a train out of that off duty point in route to his regular on duty point shall not invoke the runaround provisions outlined in Article 15, Section 2, paragraph A herein for any Engineer with a regular on/off duty point at that location.
- E Trains that are tied up on line due to being overtaken by the Hours of Service Law may be re-crowed with a qualified Engineer from the nearest source of supply point via highway miles without penalty to the Company.

### **Section 3 - Called and Released**

When an Engineer is called, reports for duty and performs no service, and is then released prior to the expiration of eight (8) hours, he shall be allowed a minimum of one-half a day or actual time consumed, whichever is greater and returned to the bottom of the board. If the call and release service is the only service performed on that calendar day then a basic day's pay shall be allowed.

#### **Section 4 – Familiarization of Territory**

- A When Engineers are required to run over any portion of the road with which they are unacquainted, a pilot from the same craft who is familiar with the territory shall be furnished
- B This does not preclude the Company from establishing a training program to familiarize Engineers with a territory. Engineers being familiarized will be compensated as though they were working the assignment. The training program will be established through a joint effort between the UTU General Chairman or his designee and the Company
- C Engineers acting as pilots shall be paid a minimum of a basic day
- D Engineers shall not lose time qualifying over a new territory. Engineers will be compensated a minimum of a basic day or lost earnings, whichever is greater

#### **Section 5 – Supplemental Board(s) and Available Board(s)**

- A Engineers desiring to make themselves available for service on the Supplemental Board on their scheduled rest day(s) shall notify Crew Management in the proper form prior to or upon tie-up on the last day of their regularly assigned work week. Engineers submitting a request to be placed on the Supplemental Board shall be called in seniority order at the affected location. Engineers who perform such service on their rest days shall be paid for such service at the rate of time-and-one-half. If there are no Engineers marked to the Supplemental Board and an Engineer is called and agrees to perform service on his rest day, he shall be paid at the rate of time-and-one-half. Such Engineers shall be called in seniority order, unless they have informed the Company in writing that they want to be on a "no call" list.
- B Engineers on regular assignments that are scheduled to tie up at an away from home terminal that are subject to a call window rotation and find themselves out of cycle due to operational requirements may mark up on the Available Board and may make themselves available for service at straight-time in order to properly place themselves back into their normal call window cycle. (Side Letter 11 and Side Letter 12)  
**Note:** Out of cycle Engineers marked to the Available Board will be called ahead of Engineers that are marked to the Supplemental Board or on their rest day(s).

#### **Section 6 – Tie-up at Off Duty Point**

Upon arrival at the designated off duty point, Engineer(s) shall register the time they are released in CATS, or a book or other place provided for that purpose.

**Note 1:** Time shown on the register by the Engineer shall govern the time they are released from duty

**Note 2:** Engineers, including those from different home terminals, shall be called for the next service en route to their home terminals in accordance with the arrival time as shown on the register.

#### **ARTICLE 16 – MEAL PERIODS**

- A. An Engineer whose assignment primarily switches or works primarily within a terminal shall have, between the beginning of the fourth and seventh hour, twenty (20) uninterrupted minutes in which to eat, and reasonableness shall apply. However, in granting Engineers time for their meal, it is with the understanding that such must not cause unnecessary interference or delay with the performance of their work or the work of other crews. This does not preclude other Engineers the opportunity to eat when permission is requested and granted.
- B. Disputes arising out of the interpretation or application of this Article shall not be used as the basis for time claims, but shall be referred to the Committee established pursuant to Article 28 for final and binding disposition.

## **ARTICLE 17 - EXPENSES**

### **Section 1 - Held Away-From-Home Terminal**

- A. A meal allowance of \$10.00 shall be payable after an Engineer is held away from their regular on duty point for four (4) hours or more and an additional \$10.00 shall be paid for each additional eight (8) hours an Engineer is held at the off duty point. The aforementioned meal allowances will be subject to wage increases.
- B. The Company shall provide suitable lodging and shall be responsible for the payment of room and taxes. To be considered "suitable," at a minimum, the lodging accommodation shall be:
  - 1. Reputable and clean with adequate lighting.
  - 2. Single occupancy rooms with comfortable beds with innerspring or comparable mattresses, pillows, private lavatory and bath facilities with hot and cold running water, a chair and nightstand and television in the room.
  - 3. Blankets, clean linen (sheets and pillow cases), soap and towels shall be supplied each occupant.
  - 4. Rooms shall be cleaned and bed linen changed after each occupancy by personnel other than the occupant.
  - 5. Rooms shall be cooled or heated when climatic conditions normally require such cooling or heating.
  - 6. Lounge, including chairs, writing tables and lamps.
- C. When selecting regular accommodation providers the Company shall consider the proximity of restaurant facilities that are open on a twenty-four (24) hour basis. The Superintendent shall consult with the respective Local Chairperson of the United Transportation Union regarding changes to regular accommodation providers. In the event the parties are unable to agree to any proposed accommodation changes, or the suitability of current accommodations, the matter shall be forwarded to the General Manager and the General Chairperson for resolution.
- D. Except as provided for herein, when an Engineer is tied up at other than his regular on duty point, upon the expiration of sixteen (16) hours away from home, the individual shall be considered on pay, until called for duty, except that such time shall not be counted towards hours of service, or overtime. Should an Engineer be called for service or ordered to deadhead after such pay begins, the held away from regular on duty point pay ceases at the time the service or deadhead trip commences. This provision shall not apply to regular assignments at outlying points or to Engineers temporarily transferred or assigned to a new on duty point.

### **Section 2 - Transportation Expense**

Upon approval of the Company, Engineers called to protect assignments at outlying locations or neighboring properties may elect at the time called for service to use their personal automobile in lieu of furnished transportation. Engineers who use their personal automobile in lieu of furnished transportation will report for duty at the on duty location of the vacancy and will be provided travel allowances as set forth below for protecting service for that assignment at the following rates:

- 1) One-way distances of thirty (30) miles or less - \$30.00
- 2) One-way distances between thirty one (31) miles to fifty (50) miles, inclusive - \$50.00
- 3) One-way distances of fifty-one (51) miles to seventy-five (75) miles, inclusive - \$75.00
- 4) One-way distances of seventy-six (76) miles to one hundred (100) miles, inclusive - \$100.00
- 5) One-way distance in excess of 100 miles - \$1.00 per each additional mile over 100 miles
- 6) The above-travel allowances will not be used to offset any GEB guarantee or protection allowances and will be subject to wage increases. The travel allowances will be in addition to the Engineer's portal to portal trip and/or tour of duty. The travel allowance will be in lieu of auto expense. The one-way mileage will be calculated by using the most direct highway route. The one-way mileage to a location can not be combined with the return mileage for the allowances listed above.

- 7) Travel times to/from locations for the purpose of being called, placed back on the extra board, or back on an assignment shall be negotiated locally between the Superintendent and Local Chairman and will be subject to mutual revision when travel conditions for the area warrant same. In the event the issue can not be resolved locally, it will be forwarded to the General Chairman and the Labor Relations for resolution.

### **Section 3 – Deadheading**

Deadheading shall be paid either separate from or combined with service, in the manner least costly to the Company. Where deadheading is paid separately from service, unless otherwise provided, the Engineer shall be paid a minimum of one-half day at the basic daily rate or actual time consumed, whichever is greater. If separate service deadhead is the only service performed on that calendar day a basic days pay shall be allowed for the separate service deadhead.

### **Section 4 – Aggregate Service**

Engineers may be released four (4) hours or more. If so released the Engineer shall be considered on pay until called to resume duty and such release time shall not be counted towards Hours of Service or overtime. In the application of this paragraph, Section 1, Paragraphs A and B of this Article shall apply.

## **ARTICLE 18 – PERSONAL LEAVE DAYS (PLD)**

- A. Engineers subject to the provisions of Article 6 shall be entitled to a maximum of twelve (12) PLD's for each calendar year and such Engineers shall be paid a basic day for each PLD. Engineers hired subsequent to the effective date of this Implementing Agreement will be entitled to a maximum of four (4) Personal Leave Days. Engineers shall be automatically marked up for service upon expiration of any Personal Leave Day(s) provided they are not marked off for any other contractual reason. (Side Letter 13)
- B. Subject to scheduling by the UTU Local Chairperson or his designate, one (1) personal leave day shall be granted on any day to Engineers subject to the jurisdiction of each GEB under the following conditions:
- (i) The PLD's that are subject to assignment by the Local Chairperson shall be assigned on a first come, first served basis.
  - (ii) The UTU Local Chairperson or his designated representative must give the crew callers' office at least forty-eight (48) hours' notice of the day to be observed.
  - (iii) Once the PLD is assigned by the Local Chairperson, it shall not be changed or cancelled unless requested by the Local Chairperson.
  - (iv) Subject to the needs of service, an Engineer scheduled for such designated PLD may lay off up to twenty-four (24) hours in advance of the day at his regular on duty point in order to avoid being away from the regular on-duty point when the PLD begins.
- C. Upon forty-eight (48) hours advance notice from the Engineer, PLD's shall be scheduled with the approval of the Crew Management Center. PLD's requested and approved as provided for herein (48 hours) must be taken and payment shall be made on the following payroll period.
- D. In situations where the number of applicants seeking PLD's exceeds the number of Engineers that can be released, the Company shall approve applications on the basis of the order they were received except no application may be submitted more than six months in advance. In the event more than one application is received on the same day the most senior Engineer shall have preference.
- E. Engineers who leave the service of the Company during the year shall have their PLD allocation reduced on a pro-rata basis to allow one PLD per each full month worked.
- F. Any PLD's provided for herein that are requested, but denied by the Company and not subsequently rescheduled during the calendar year or the first quarter of the following calendar year shall be paid at the rate specified herein.
- G. Engineers may elect to be paid a PLD on any day.

## **ARTICLE 19 – BEREAVEMENT LEAVE**

Engineers in active service shall be entitled to bereavement leave of three (3) work days, to be taken at the discretion of the Engineer, upon furnishing proof of death of the Engineer's immediate family member. Bereavement leave will be taken within six months from the date of death of Engineer's immediate family member. For purposes of this rule, immediate family consists of the Engineer's spouse, child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, step-parent, step-child and spouse's parent. In such cases, a basic day's pay at the rate of the last service rendered will be allowed for each of the three (3) days. Engineers will make provisions for taking leave with their supervisor in the usual manner.

### **Section 1**

Family relationships created through the legal adoption process shall qualify for bereavement leave. Any other family relationship not specifically mentioned shall be excluded.

### **Section 2**

Bereavement leave non-availability shall be considered neutral for determining the qualifying day for holiday pay purposes. The workday preceding or following the Engineer's bereavement leave, as the case may be, shall be considered the qualifying day for holiday pay purposes.

## **ARTICLE 20 – HOLIDAYS**

Engineers who are available the immediate two (2) days preceding and the immediate two (2) days following a holiday identified in Article 9, and who work on a holiday shall be paid a holiday rate of pay of 1.2 times the hourly rate for the first ten (10) hours worked in recognition for service performed on the holiday. All time in excess of ten (10) hours worked on the holiday shall be time and one-half based on the rate outlined herein. (Q&A 20 and 21)

## **ARTICLE 21 – VACATION**

### **Section 1 - Entitlements**

Each Engineer subject to the scope of this Agreement and having continuous service (including other crafts) and who has rendered service (including other crafts) as identified herein, shall be eligible for the following annual vacation entitlement allotted in order of Engineer seniority to be taken between January 1 and December 31.

A qualifying Engineer shall be entitled to paid vacation, subject to the following:

Note: Seven (7) calendar days constitutes a week.

<b>Years of Service</b>	<b>Amount of Vacation</b>	<b>Explanation</b>
<b>New Engineers, if during the preceding calendar year has rendered service amounting to 160 basic days or equivalent hours paid</b>	<b>One (1) Week</b>	<b>Six (6) days paid if on a 6 day assignment, 5 days paid if on a 5 day assignment or 1.52<sup>nd</sup> whichever is greater</b>
<b>After Two (2) Years But Less Than Five (5) Years Of Cumulative Compensated Service</b>	<b>Two (2) weeks</b>	<b>Twelve (12) days paid if on a 6 day assignment, 10 days paid if on a 5 day assignment or 2.52<sup>nd</sup> whichever is greater</b>

After five (5) years but less than fourteen (14) years of cumulative compensated service	Three (3) weeks	Eighteen (18) days paid if on a 6 day assignment, 15 days paid if on a 5 day assignment or 1 52 <sup>nd</sup> whichever is greater
After fourteen (14) years but less than twenty-three (23) years of cumulative compensated service	Four (4) weeks	Twenty four (24) days paid if on a 6 day assignment, 20 days paid if on a 5 day assignment or 4 52 <sup>nd</sup> whichever is greater
After twenty-three (23) years or more of cumulative compensated service	Five (5) weeks	Thirty (30) days paid if on a 6 day assignment, 24 days paid if on a 5 day assignment or 5 52 <sup>nd</sup> whichever is greater

**Section 2 - Scheduling**

Vacation shall be taken between January 1 and December 31. The Local Chairman and Division Superintendent or their designates shall cooperate in determining the allocations and make up the vacation schedule, which shall be posted at conspicuous and convenient places in all of the on duty points, on or about December 15 of each calendar year (Q&A 22)

**Section 3 - Rate of Pay for Vacation**

On the effective date of this Agreement an Engineer receiving vacation, or pay in lieu thereof, shall be paid for each week of such vacation at 1/52 of the compensation earned by such Engineer during the calendar year preceding the year in which the vacation is taken, but in no event shall such pay for each week of vacation be less than five (5) minimum basic days' pay for a five day assignment or six (6) minimum basic days pay for a six day assignment. Two weeks of single day vacation is equal to twelve (12) single days pay, when taken on a single day basis. (Side Letter 7)

**Section 4 - Qualifying**

Engineers shall perform one hundred twenty (120) days (one hundred sixty (160) days for Engineers hired subsequent to the date of this Agreement) or equivalent hours of cumulative compensated service in any calendar year to qualify for vacation in the ensuing year as provided under Section 1 of this Article.

**Section 5 - Submitting Request**

When submitting vacation requests, Engineers shall submit a sufficient number of choices for weekly vacation bids. In failing to submit a sufficient number of vacation bids, such Engineer shall have their vacation forced assigned

**Section 6 - Employment Status**

If an Engineer's employment status is terminated for any reason, they shall, at the time of termination, be granted full vacation pay for vacation earned in the preceding year not yet granted, and vacation pay for the succeeding year if the Engineer has qualified therefore under Section 1 of this Article. If an Engineer thus entitled to vacation or vacation pay shall die, the vacation pay earned and not received shall be paid to such beneficiary as the Engineer may have designated, or in the absence of such designation, the surviving spouse, the Engineer's children, or his estate, in that order.

**Section 7 - Transferring from Other Crafts**

Vacations, or allowances therefore, under two (2) or more schedules held by different organizations on the same Company shall not be combined to create a vacation of more than the maximum number of days provided for in any one of such schedules. Employees transferring from other crafts shall have length of service and other qualifications for vacation count toward vacation as an Engineer

### **Section 8 - GEB**

Time off on account of vacation shall not affect nor offset guarantees

### **Section 9 - Expiration of Vacations**

Vacations shall not be accumulated or carried over from one vacation year to another

**Note:** In the event an Engineer could potentially lose time at the end of his pending vacation period he may request approval of the Company that his vacation could be reduced in one (1) year and adjusted in the next

### **Section 10 - Vacation Credits**

The following shall also be used to determine eligibility for vacation:

- 1 Used out of order - one-half (1/2) day credit;
- 2 Separate Service Deadheading - one (1) day credit.
- 3 An Engineer paid eight (8) hours under the held away from the regular off duty point rule shall be credited with one (1) basic day
- 4 Calendar days on which an Engineer is compensated while attending training and rules classes at the direction of the Company - one (1) day credit
- 5 Each day worked on a position not covered by this Agreement shall count as a Basic Day for vacation qualification purposes
6. Calendar days on which an Engineer assigned to an extra list is available for service and on which days he performs no service, shall be included in the determination of qualification for vacation
- 7 Calendar days, not in excess of sixty (60), on which an Engineer is absent from and unable to perform service because of sickness or injury received on duty shall be included in the determination of qualification for vacation
- 8 Calendar days on which an Engineer's assignment is annulled.

### **Section 11 - United Transportation Union - Union Officials**

Time off granted for Union business shall count toward vacation qualification days for Engineers who hold positions as General Chairperson, Vice General Chairperson, Associate General Chairperson, Local Chairperson, etc. ("Local Officials for the United Transportation Union"). It is further understood that by providing this exclusion it is not intended that the total number of such Officials covered be expanded.

### **Section 12 - General**

- A. During a calendar year in which an Engineer's vacation entitlement shall increase on the anniversary date, such Engineer shall be permitted to schedule the additional vacation time to which entitled on the anniversary date at any time during that calendar year
- B. Where an Engineer is discharged from service and subsequently reinstated without loss of seniority and/or benefits, service performed prior to discharge and subsequent reinstatement shall be included in the determination of qualification for vacation during the following year. Engineers restored to service shall be credited for all time paid for entitlement purposes.
- C. In instances where Engineers who have become members of the Armed Forces of the United States return to the service of the Company in accordance with the Veterans Re-Employment Rights Act (5 USC Title 38 §2021-2027), as amended from time to time, time spent by such Engineer in the Armed Forces subsequent to their employment by the Company shall be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the Company

- D Full week vacations will commence at the beginning of the tour of duty for the Engineer's designated work period and continue as consecutive week(s). An Engineer may take up to twelve (12) days of his annual vacation in single day increments, as outlined in Section 3 herein, and such Engineer shall be automatically marked up for service upon the expiration of any single day vacation provided they are not marked off for any other contractual reason.

## **ARTICLE 22 – BENEFITS**

### **Section 1 – Health & Welfare**

Engineers coming under the scope of this Agreement, along with their dependents, and retirees, if applicable, will be subject to the National Railway Carriers and United Transportation Union Health and Welfare Plan, the Railroad Employees National Dental Plan, and the Railroad Employees National Vision Plan, as may be amended, with employee contribution levels limited to those contained in the July 1, 2008, National Railway Carriers and United Transportation Union Health and Welfare Plan, the Railroad Employees National Dental Plan, and the Railroad Employees National Vision Plan. For clarity, upon conversion into this plan and continuing during the term of this Agreement, the formula for the cap on employee contributions as contained in the July 1, 2008 agreement shall apply through the term of this Agreement.

### **Section 2 – Life Insurance**

An Engineer's minimum life insurance coverage is \$50,000. Engineers requiring assistance concerning the foregoing may contact a Human Resources Representative for further information.

### **Section 3 – Other**

Accidental Death Insurance - An Engineer's minimum coverage is \$50,000. Engineers requiring assistance concerning the foregoing may contact a Human Resources Representative for further information.

### **Section 4 – Off Track Vehicle Accident Benefits**

The parties agree to implement and maintain the current off track vehicle accident benefits as provided in the Article XIII of the August 25, 2002 UTU National Agreement, as amended.

### **Section 5 – Stock Purchase Plan**

The Company shall maintain for the benefit of Engineers covered by this Agreement a stock purchase plan, which may be changed from time to time provided such changes are applicable to Company employees generally.

### **Section 6 – Employee Assistance Program**

The Company shall maintain for the benefit of Engineers covered by this Agreement an Employee Assistance Program, which may be changed from time to time provided such changes are applicable to Company employees generally.

### **Section 7 – 401K Plan**

- A Within ninety (90) days of ratification, the Company shall establish a 401(k) plan for Engineers covered by this Agreement. Under the plan, for the first four percent (4%) of an Engineer's salary contributed, the Company shall contribute \$.25 for each \$1.00 contributed by the Engineer. Engineers may contribute an amount above 4%, up to the maximum legal amount with no Company participation.
- B The Company shall be responsible for all costs of establishing the plan, including the making of payroll deductions and payments of withheld wages to the trustee. The Engineer shall be responsible for all costs of services in connection with the operation of the 401(k) plans. (Q&A 23)

### **Section 8 – Short Term Disability Plan**

A short-term disability income insurance plan is hereby established and replaces all existing sickness plans. The conditions for the short-term disability income insurance is described in "Attachment B" to this Agreement (Side Letter 15)

### **ARTICLE 23 – PHYSICAL EXAMINATIONS**

Engineers covered by this Agreement may be required to take medical examinations, including eye and hearing tests, by the Company's physician at the Company's expense. If the examination must take place outside the Engineer's regular on duty print, the individual shall be allowed payment for meals and travel. Engineers shall be made whole for any earnings lost.

### **ARTICLE 24 – MEDICAL DISQUALIFICATIONS**

- A. If an Engineer is found to be medically disqualified by the Company's physician and the Engineer is of the opinion that his condition does not justify removal from the service or restriction of his rights to service, appeal shall be made to the designated officer of the Company for a joint medical board to be established.
- B. The Engineer involved, or his representative shall select a physician to represent him and the Company shall select a physician to represent it (who may be the original examining physician) in conducting a further medical examination. If the two physicians thus selected agree, the conclusion reached by them as to the individual's medical condition shall be final.
- C. If the two physicians selected do not agree as to the medical condition of such individual, they shall select a third physician to be agreed upon by them, who shall be a practitioner of recognized standing in the medical profession and a specialist in the disease or ailment from which the individual is alleged to be suffering. The three physicians thus selected shall examine the Engineer and render a report with reasonable promptness setting forth his physical condition and their opinion as to his fitness to continue service in his regular employment, which shall be accepted as final. In the application of Article 24 herein, Engineers reinstated shall be made whole for any earnings lost during the time of the dispute. Should the decision be adverse to the individual, and it later appears through medical findings that his condition has improved, a re-examination by the Company's physician shall be arranged after a reasonable interval upon the request of the Engineer or the Union.
- D. The Company and the Engineer shall each pay for the costs of their chosen physician and share equally in paying the costs of the third physician.
- E. In accordance with Company policy, if an Engineer has been out of active service he may be required to pass a physical examination (including drug and alcohol testing) before being permitted to return to duty.

### **ARTICLE 25 - PAYDAY**

Engineers shall be paid on a bi-weekly basis by direct deposit.

### **ARTICLE 26 - PAYROLL AND DEDUCTIONS**

- A. Payroll payments shall be made only to a direct checking and/or savings deposit account as specified by the Engineer. Such Engineers shall have sixty (60) days from the effective date of this Agreement to establish a direct deposit account at a financial institution recognized by the Company as able to accept direct deposits.
- B. Payroll deductions are available to all permanent full-time Engineers who execute a suitable written deduction authorization for the following purposes.

**Note:** Periodic Union dues, agency fees and assessments included in, monthly dues (not including fines and penalties) payable to the Union

## **ARTICLE 27 - UNION SHOP AGREEMENT**

- A** Subject to the terms and conditions below, all Engineers of the Company subject to this Agreement shall, as a condition of their continued employment under this Agreement, become members of the UTU within sixty (60) calendar days of the date they first perform compensated service under this Agreement, and shall maintain membership in good standing in the UTU while subject to this Agreement, provided, however, that this requirement for membership in the UTU shall not be applicable to
- 1** Those to whom membership is not available upon the same terms and conditions as are generally applicable to any other member.
  - 2** Those to whom membership has been denied or terminated for any reason other than the failure of the Engineer to tender the periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Union;
  - 3** Those who are members of another labor organization as permitted by Section 2, Eleventh (c) of the Railway Labor Act, as amended, or,
  - 4** Those who elect not to join the Union, in which case they shall be required to remit to the Union a monthly agency fee which shall not be in excess of the standard monthly dues required of members
- B.** Engineers, who are assigned or transferred for a period of thirty (30) calendar days or move to employment not covered by such Agreement, or who are on leave of absence for a period of thirty (30) calendar days or more, may not be required to maintain membership as provided in this Rule so long as they remain in such other employment, or on such leave of absence, but they may do so at their option. If and when such Engineers return to service covered by this Agreement, they shall comply with the provisions of this Rule within thirty (30) calendar days of such return to service
- C** An Engineer whose membership in the UTU is suspended because of furlough or off duty illness or injury for a period of thirty (30) calendar days or more, shall be granted upon his return to service under this Agreement, a period of thirty (30) calendar days to comply with this Rule.
- D** Every Engineer required by the provisions of this Rule to become and remain a member of the UTU shall be considered by the Company to be a member of the UTU unless the Company is advised to the contrary in writing by the UTU. The UTU shall be responsible for initiating action to enforce the terms of this Rule
- E.** The UTU shall furnish to the Company, in writing, the name and roster number of each Engineer whose seniority and employment the UTU requests be terminated by reason of failure to comply with the membership requirements of this Rule
- F.** In the event the Company wishes to dispute the correctness of the UTU's position, it shall so notify the UTU within ten (10) calendar days of receipt of the notice from the latter, stating the reasons therefore. If, (1) no such exception is taken by the Company, or (2) the UTU does not withdraw its request within ten (10) calendar days from the date of the notice of exception, the Company shall transmit to the Engineer at his last known address, through registered United States Mail, return receipt requested, a copy of the UTU's request, accompanied by an explanatory letter, a copy of which shall be furnished to the UTU.

## ARTICLE 28 - HANDLING OF CLAIMS AND GRIEVANCES

### Section 1 - Representation

- A The United Transportation Union shall have the exclusive right to represent all Engineers (other than those who are members of a craft represented exclusively by another labor organization) in Company level grievance, claim and disciplinary proceedings on those Companies on which the UTU is the lawfully recognized or certified collective bargaining representative for that craft
- B The General Committee of Adjustment of the UTU DWP - E shall represent all Engineers in the making of contracts, rates, rules, working agreements and interpretations thereof on the Northern Lines territory
- C All disputes involving Engineers shall be handled in accordance with the provisions of this Agreement as interpreted by the UTU General Committee and the Company
- D The Company shall not deal with a representative of any other organization concerning an interpretation or change of any rule, benefit or working condition subject of this Agreement.
- E In matters pertaining to discipline, or other questions not affecting changes in Engineers' contract, the officials of the Company reserve the right to meet any Engineers either individually or collectively

### Section 2 - Handling Of Claims And/Or Grievances Other Than Discipline Appeals

- A All claims or grievances must be presented in writing by the Engineer involved or on behalf of the Engineer by his Local Chairman, or designate, to the officer of the Company authorized to receive same within sixty (60) days from the date of occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Company shall, within sixty (60) days from the date it is received, notify the Engineer or his Local Chairman, or designate, in writing of the reason(s) for such disallowance. Should the Company fail to issue timely declination of the claim or grievance, it shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims or grievances.
- B In the event the claim or grievance is disallowed, the UTU Local Chairman, or designate, shall appeal the matter with all pertinent facts, including any previous declinations, to the Superintendent within sixty (60) days. If the claim or grievance is not appealed, the disallowance shall stand, however the disallowance shall not constitute a precedent for other similar claims and grievances.  
  
In the event the appeal is disallowed, the Superintendent shall, within 60 days from the date it is received, notify the Local Chairman, or designate, in writing of the reason(s) for such disallowance.  
  
Should the Superintendent fail to issue timely notification of the declination of the appeal, the claim or grievance shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims or grievances.
- C Claims declined under Section 2 (B) of this Article may be appealed by the UTU General Chairman with all pertinent facts, including any previous declinations, to the Company's Sr Director Labor Relations, or designate, within 60 days of the disallowance. The Sr Director, or his designate, shall, within 60 days from the receipt of the appeal, notify the General Chairman of the allowance or declination of the claim. Should the Sr Director or designate fail to timely notify the General Chairman of such declination, the claim shall be allowed as entered, however such allowance shall not constitute a precedent for other similar claims
- D Claims and grievances disallowed by the Company pursuant to Section 2 (C) shall be barred from further handling unless, not less than 60 days prior to the next scheduled meeting date of the Labor/Management Resolution Committee, the General Chairman lists the unresolved claim or grievance to the Committee.
- E The Committee shall consider the entire record of each dispute submitted to it. Decisions made pursuant to this process shall be written by the Company within forty-five (45) days of the meeting date and shall represent the final and binding decision on such grievances. The handling of claims and grievances by the Committee shall constitute any "conference" prerequisite to submission of disputes to a public law board tribunal established pursuant to law or by agreement.

- F In the event that a majority of the Committee does not agree on the resolution of a particular grievance, either party may initiate proceedings before a tribunal established pursuant to law or by agreement within six months of the Committee's written decision having been rendered
- G Nothing in this Section shall preclude an agreement by the parties to conference claims or grievances independent of the procedures set forth in Section 2 (D) of this Article. Such conference as may be agreed to shall constitute any "conference" prerequisite to the submission of disputes involving claims and/or grievances to a tribunal established pursuant to law or by agreement for the final adjudication of such disputes
- H Nothing in this Agreement prohibits the Company and the Union from mutually agreeing to establish an electronic system of claims handling

**Section 3 - Handling of Discipline Appeals**

- A Discipline decisions reached by the Company may be adjusted between the UTU Local Chairman, or designate, and the Superintendent, or designate, within 60 days of the issuance of the decision
- B Should the matter fail resolution by the Local Chairman, or designate, and the Superintendent or designate, the UTU General Chairman shall appeal, in writing, to the Sr Director Labor Relations, or designate, within 180 days of the date the discipline was assessed, or the appeal shall be barred. The Sr Director Labor Relations, or designate, shall notify the General Chairman of the allowance or declination of the appeal within 60 days of the receipt of the appeal. Should the Sr Director Labor Relations fail to timely notify the General Chairman of the declination of the appeal, the claim shall be allowed as entered.
- C The UTU General Chairman shall list unresolved discipline appeals with the Sr Director Labor Relations not less than 30 days prior to the next scheduled meeting of the Labor/Management Resolution Committee for handling pursuant to Section 2 (D) of this Article.
- D Nothing in this Section shall preclude an agreement by the parties to conference discipline appeals independent of the procedures set forth in this Article. Such conference as may be agreed to shall constitute any "conference" prerequisite to submission of unresolved disputes involving discipline appeals to a tribunal established by law or by agreement for the final adjudication of such disputes

**ARTICLE 29 – INVESTIGATIONS AND DISCIPLINE**

- A No Engineer shall be disciplined without a fair hearing (investigation) by an officer of the Company, except that an Engineer may waive a hearing in accordance with Paragraph E of this Article
- B Notice of Hearing
  - (i) An Engineer directed to attend a hearing to determine responsibility in connection with an incident shall be notified of the charge. The notice can be presented verbally and followed up in writing to the last known address within ten (10) days from the date of knowledge of the incident. The notice shall contain a clear and specific statement of the matters to be investigated and the nature of the charge(s). The Engineer shall have the right to be represented at the hearing by a duly authorized United Transportation Union representative. The Engineer and/or the Engineer's representative shall have the right to introduce witnesses on the Engineer's behalf, to hear all testimony and to question all witnesses. The Company will be responsible to produce sufficient witnesses to develop the facts concerning the incident or occurrence being investigated and the notice of hearing shall include the name of each person receiving the notice, including all witnesses the Company intends to call. The Engineer or the Engineer's representative may notify the Company of other witnesses who may provide material facts, understanding that this does not include an accumulation of witnesses with the same information. The Company will direct a notice to such witnesses. If the Engineer or the Engineer's Representative submits a list of other witnesses to the Company after the original notice of investigation has been issued an automatic postponement of ten (10) days will be granted from the date of the receipt of said list.

**Note** A witness with material facts is an individual who can give pertinent testimony in connection with the specific occurrence resulting in charges against the Engineer and without whose testimony all essential facts upon which to base a decision would not be developed

- (ii) Unless otherwise agreed, the Investigation will be held no sooner than 5 days and no more than ten (10) days after the date of notification. Investigations will be held at such times, if possible, as to avoid holding an Engineer out of service to be present at the investigation. Reasonable postponements at the request of the Company or the Engineer will be granted. Any telephone postponement request must be confirmed in writing.

#### C Conduct of Hearing

- (i) The hearing shall be conducted by an officer of the employing Company who may be assisted by other officers, however, there shall be only one presiding officer. When practicable, the hearing shall be held at the home terminal of the Engineer involved or in the case where more than one (1) Engineer, at the home terminal of the majority of the Engineers.

**Note** When another Carrier is involved, this Section will not preclude an officer of that Carrier from assisting in the hearing recognizing, in any case, there shall be only one (1) presiding officer.

- (ii) An Engineer's personal service record will not be introduced or referred to in the hearing. The service record will be considered in the assessment of the appropriate amount of any discipline.
- (iii) A true and correct transcript will be taken of all hearings or investigations held under this Article, which shall be the official transcript, and the Engineer involved or his representative shall be furnished a copy of same upon request if discipline is assessed. At an investigation, an Engineer or his representative shall have the right to record, at his expense, the investigation proceedings on a recording device. This provision will not be used to delay or postpone the investigation proceedings.

#### D Hearing Decision

- (i) If the hearing does not result in discipline being assessed, any charges related thereto entered in the Engineer's personal service record shall be voided.
- (ii) Discipline, if any, must be assessed as soon as practicable but within thirty (30) days of the investigation. If the Engineer is dissatisfied with the decision, he or the appropriate Union representative may appeal as provided in Article 28, (Handling of Claims and Grievances), herein.

#### E Waiver of Hearing

- (i) An Engineer notified to appear for a hearing shall have the option, prior to the hearing, to meet with the appropriate Company official, with or without the Engineer's representative, to discuss the act or occurrence and the Engineer's responsibility, if any.
- (ii) If a disposition of the charges is made on the basis of the Engineer's acknowledgment of responsibility, the disposition shall be reduced to writing and signed by the Engineer and the official involved and shall incorporate a waiver of hearing and shall specify the maximum discipline that may be imposed for the Engineer's acceptance of responsibility.

**Note 1** The disposition of cases under this paragraph shall not establish precedents in the handling of any other cases.

**Note 2:** No minutes or other record will be made of the waiver discussions and, if the Company and Engineer are unable to reach an agreed upon disposition, no reference shall be made to these discussions by either of the parties in any subsequent handling of the charges.

#### F. Letters of Caution

- (i) Letters of caution or warning are not discipline. Should the Engineer dispute the validity of the caution or warning, he has the right to request a fair hearing as provided in paragraph B provided he does so within ten (10) days of receipt of the letter.

#### **G Compensation for Attending Hearings**

- (i) When an Engineer involved in a formal hearing is not assessed discipline, the Engineer shall be compensated for all time lost
- (ii) In case of dismissal or suspension, which is later found to be unjust, the Engineer so disciplined will be reinstated with seniority rights unimpaired and paid for all time lost with no offset for outside earnings.

#### **ARTICLE 30 - TIME OFF FOR UNION BUSINESS**

- A An Engineer who is elected or appointed to a full time position with the United Transportation Union shall be granted an unpaid leave of absence for the duration of time he holds such position
- B In January of each year, the Union shall provide the Company with the names of the Local Union officers who shall be granted reasonable lay-off privileges, upon request, to conduct official Union business

#### **ARTICLE 31 - ATTENDING COURT AND INQUESTS**

Engineers who are required to attend court or inquests on behalf of the Company shall be made whole for lost wages, or be paid for actual time in attendance if no lost time is incurred.

#### **ARTICLE 32 - LEAVE OF ABSENCE WITHOUT PAY**

##### **Section 1 - General**

- A Engineers shall not be expected to work when sick, but in case of being compelled to lay off on account of sickness of themselves, or family, shall in some manner notify the proper authority of their inability to protect the service requirements of the Company
- B. When an Engineer on a regularly assigned run lays off for any cause, upon return to active service he must be available for duty at least three hours before the bulletined call window or starting time of the assignment
- C The General Chairperson shall be furnished a copy of each leave of absence granted to Engineers
- D Engineers may return to work prior to the expiration of a leave of absence when there is no other prohibition.
- E Engineers who do not return to service at the expiration of their leave of absence, and who have not submitted application for an extension thereof, shall be notified that they are absent without permission and such notice shall instruct them to return to service or to satisfactorily account for their absence within 15 days or forfeit seniority as an Engineer. Engineers who forfeit their seniority as a result of the provisions outlined herein with have their employment relationship with the Company terminated. A copy of the notice to the absent Engineer shall be furnished to the Local Chairperson and General Chairperson of the United Transportation Union on the territory concerned. It is understood that this Agreement does not prejudice the provisions of schedule agreements relating to protests against changes in seniority rosters

##### **Section 2 - Less Than One Year**

Engineers may, upon written application to their employing officer, be granted leave of absence for a period or periods not to exceed one year. Extensions to the one-year period may be granted when agreed to by the Company and the General Chairperson of the United Transportation Union.

### **Section 3 – Illness/Injury**

- A In the event of absence occasioned by illness or injury, Engineers shall be granted leave of absence automatically upon presentation of written application accompanied by appropriate substantiating medical evidence. Such automatic leaves shall not be for a period of more than one year, and extensions thereof shall require a new application and further substantiating medical evidence. In case the Company is not satisfied that the illness or injury is bona fide, additional evidence may be required to establish same to their satisfaction.
- B Provided return to service is approved by Medical Services Department, Engineers who have been injured on duty shall be permitted to return to work without signing a release.

### **Section 4 – Official/Military**

Engineers accepting official positions with the Company or the United Transportation Union shall retain their seniority while holding such position, the same as if continuously in engine service. Engineers elected or appointed to public office may be granted leave of absence for the duration of their term of office or appointment. Engineers in military service shall be granted leave of absence in compliance with applicable law and shall not be subject to the provisions of Article 7, Sections 5 and 6 for the duration of their military obligation.

### **ARTICLE 33 - JURY DUTY**

When an Engineer is summoned for jury duty and loses time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each calendar day lost less the amount allowed him for jury service for each such day, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

- (i) An Engineer must furnish the Company with a statement from the court of jury allowances paid and the days on which jury duty was performed.
- (ii) The number of days for which jury duty shall be paid is limited to a maximum of 60 days in any calendar year.
- (iii) No jury duty pay shall be allowed for any day as to which the Engineer receives vacation pay.

### **ARTICLE 34 - BULLETIN BOARDS**

The Company shall provide space on bulletin boards at each on/off duty point to post notice of union business.

### **ARTICLE 35 – CREW CONSIST**

A standard crew shall consist of an Engineer and a Trainman. The Company may assign more than one (1) Trainman to any crew.

### **ARTICLE 36 - CREW CALLING RECORDS**

The Company shall provide the General Chairperson and/or each Local Chairperson with access in the Crew Calling Computer system that enables them to research calling records and history. Information that is not available in the Crew Calling computer system shall be furnished to the General Chairperson or Local Chairperson upon written request.

### **ARTICLE 37 – ENGINEERS'S PROTECTIVE (DISPLACEMENT) ALLOWANCE**

An Engineer who qualifies for monthly protection allowance (displacement allowance under NYD) hired prior to the date of this Agreement will be entitled to the protection allowance for a period of six (6) years from the date adversely affected

### **ARTICLE 38 – MORATORIUM**

This Agreement is in full settlement of CN's Article I, Section IV, New York Dock Notice served on the UTU General Committees on or about September 24, 2007, and is without waiver to either party's position regarding the appropriateness of such notice CN further agrees to not serve an Article I, Section IV, New York Dock type notice or a Norfolk & Western Trackage Rights (1978) type notice on the territories between Chicago, Illinois and Ranier, Minnesota on this matter until after March 31, 2015

### **ARTICLE 39 - GENERAL PROVISIONS**

- A This Agreement is made in full and final disposition of all outstanding notices served upon the Duluth, Winnspeg & Pacific Railway Company and Duluth, Missabe & Iron Range Railway Company by United Transportation Union, and also all outstanding notices, if any, served upon United Transportation Union by the Company for concurrent handling, pursuant to the provisions of the Railway Labor Act as amended
- B. The purpose of this Agreement is to fix the general level of compensation and rules covering working conditions through July 31, 2013 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.
- C. Neither party to this Agreement shall serve prior to February 1, 2013 any notice or proposal for the purpose of modifying, adding to, or deleting from the provisions of this Agreement to become effective prior to August 1, 2013
- D. The above provisions do not prohibit the Parties from reaching agreements on any subject that may be mutually beneficial and agreeable

E This Agreement, the Attachment Appendix and the Side Letters shall become effective on September 18, 2008 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended. All other Agreements in effect between the parties shall be considered null and void and this Agreement is the only Agreement in effect between the parties.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2008, at Duluth, MN

FOR THE UNITED TRANSPORTATION UNION

FOR THE WISCONSIN CENTRAL TRANSPORTATION CORPORATION:

\_\_\_\_\_  
P Etter  
General Chairman, UTU-DWP-F

\_\_\_\_\_  
R K MacDonugall  
Director - Labor Relations

\_\_\_\_\_  
R Clark  
General Chairman, BI E&T DM&IR

\_\_\_\_\_  
J E Ward  
General Chairman, BLE&T DM&IR

APPROVED:

APPROVED:

\_\_\_\_\_  
J W Babler  
International Vice President

\_\_\_\_\_  
J A Lipek  
Vice President, Operations

**APPENDIX A - SYSTEM SENIORITY ROSTER WITH PRIOR RIGHT DESIGNATIONS**

In joint cooperation between the UTU, DWP-E Northern Lines Territory General Chairman and the BLE&T WC Lines General Chairman a System Seniority Roster will be created prior to ratification of the Implementing Agreement dated September 18, 2008. Once completed, it will be attached hereto.

## **ATTACHMENT "A"**

## **STANDING BID**

A Standing Bid System will operate. Assignment to positions shall be governed by seniority. Engineers' job preferences will be maintained in the Crew Calling system and can be updated at anytime. As soon as vacancies (other than temporary vacancies) are known to exist, the senior Engineer having a standing bid listing for the position will be assigned the position if it is a higher preference than the position he currently holds.

Newly established positions will be bulletined for a period of seven (7) days to enable interested Engineers to update their preferences in the Crew Calling system.

The Standing Bid will also be used in the event of an Engineer being displaced from his position due to bumping or position abolishment, in which case the Engineer will be assigned his next highest preference, subject to seniority.

### **Section 1 – Tri-Annual Bidding**

The current practice of allowing all positions to be bid and filled simultaneously three (3) times per year shall be maintained using the Standing Bid System. Simultaneous bidding shall take place on or about February 1, June 1 and October 1 of each year.

### **Section 2 – Submitting Choices**

- A. An Engineer who does not have a Standing Bid on record with Crew Management Center shall be assigned in the following manner:
1. Unfilled position at the home terminal, if none,
  2. Unfilled position on the GEB at the home terminal, if none,
  3. Unfilled position at the progressive next nearest GEB locations within the District, if none,
  4. Shall be assigned to the Guaranteed Extra Board at such Engineer's home terminal to a GEB position that has not been bid upon.
- B. An Engineer who does not record all available positions shall, when unable to hold positions recorded, be assigned in the following manner:
1. Unfilled position at the home terminal, if none,
  2. Unfilled position on the GEB at the home terminal, if none,
  3. Shall be assigned to the Guaranteed Extra Board at such Engineer's home terminal to a GEB position that has not been bid upon.
- C. Where provision is made for the senior qualified applicant to be assigned it shall be subject to prior rights.

### **Section 3 – Temporary Vacancies**

Temporary vacancies of more than fourteen (14) calendar days will be filled in accordance with the Standing Bid System.

**Note:** On DWP prior right assignments and positions, a temporary vacancy of more than seven (7) calendar days will be filled in accordance with the Standing Bid System.

### **Section 4 – No Bid Positions**

In the event there are no bids for an assigned position, it shall be filled in accordance with the following:

1. If an Engineer vacancy exists:
  - a. Senior qualified Engineer who was displaced and does not have any recorded positions left; if none,
  - b. Senior qualified Engineer who did not record any bids, if none,
  - c. The senior furloughed Engineer within the Terminal, if none,
  - d. The senior furloughed Engineer at the GEB location nearest via highway miles to the location where the vacancy exists, if none,
  - e. The junior Engineer occupying a GEB position at the nearest location where the vacancy exists.

**Section 5 – Engine Service Employees Returning to Engine service**

Engineers in furlough status returning to engine service, upon being advised by the Crew Management Center shall be placed as follows

1. As per the Engineer's Standing Bid form.
2. If the Engineer's Standing Bid form has not been submitted, the Engineer shall immediately submit one
3. If the Engineer is protected from furlough as provided for in Article 6 contained herein, a position on the GEB may be created if none exists. If the Engineer is not a protected Engineer, subject to manpower requirements, such Engineer may be furloughed

**Section 6 – Changes**

Changes may be made to this process with the concurrence of the General Chairman and the Sr Director Labor Relations

Nothing in the foregoing limits the Company from modifying or replacing its computer systems and required inputs

## **ATTACHMENT "B" SUMMARY PLAN – SHORT TERM DISABILITY**

The Income Disability Plan for Engineers (the Plan) provides continued income to employees during periods of disability, not to exceed 52 weeks, resulting from accident or sickness. The Plan is funded fully by the Company.

### **Eligibility**

All active Engineers of the Company represented by the United Transportation Union (UTU), are eligible for benefits under this plan. He must have rendered compensated service or received vacation pay in a UTU craft for at least seven days in the calendar month immediately preceding the covered disability.

### **Benefit Summary**

An eligible employee may receive sixty percent (60%) of basic weekly wages with a minimum benefit of \$546 per week during a covered disability, for a period not to exceed 52 weeks. Benefits from the Plan are paid every two weeks. Any amounts received by an eligible employee from the Company in advance of an FELA settlement or judgment, or any amounts received by an eligible employee or his family under the federal Social Security Act, the Railroad Retirement Act or similar legislation for the same period of covered disability shall reduce the maximum weekly wage benefits hereunder accordingly. There shall, however, be no reduction for monies the employee receives under the Railroad Unemployment Insurance Act (Side Letter 15).

### **Covered Disability**

The Plan covers a disability caused by injury or sickness, whether on railroad duty or not, which prevents the employee from actively performing the normal duties of his job as an Engineer (occupational disability). Benefits begin on the fifteenth (15<sup>th</sup>) calendar day of continuous absence while under the care of a licensed physician (MD or DO) for such a covered disability.

The Plan also covers, and an eligible employee is deemed occupationally disabled, if he is admitted on a medically necessary, non-disciplinary basis, to a state licensed substance abuse center or is receiving intensive out-patient/partial hospitalization treatment (American Society of Addiction Medicine Level II or greater) for substance abuse. This plan does not provide any benefits of any kind for an employee who is being disciplined for a violation of the Railroad's Substance and Alcohol Free Environmental (S A F E.) Policy.

The maximum benefit period for occupational disability occasioned by substance abuse is six (6) weeks. Eligibility is further limited to two (2) occurrences per lifetime and payment is conditional upon completing the program. Benefits are subject to completion of an approved program, if the program is not completed, benefits shall be forfeited or must be repaid.

Since benefits are payable only during a period of disability from performing his normal duties as an Engineer, it is important that you understand when this period begins and ends.

Each period of a covered disability shall start as soon as you are (1) disabled as defined under the Plan and (2) under the care of a licensed physician. You will not be considered to be under the care of a licensed physician more than 31 days before he has seen and treated you personally for the disease or injury causing the covered disability. The administrator for medical necessity shall review your claim and appropriateness of time off needed for your condition/illness. It is subject to approval by the Plan Administrator.

### **Filing a Claim**

You must complete all required claim forms in order for benefits to be payable under the Plan. Your claim is subject to approval by the Plan Administrator and you must be under the ongoing care of a licensed physician. Continuation of benefits after the approval of the initial claim shall be contingent upon the completion and submission of periodic updates from the attending physician.

### **Duration of Benefits and Successive Periods of Disability**

Occupational disability caused by injury or sickness is subject to maximum benefit duration of 52 weeks starting on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. New periods of disability due to the same or a related cause must be separated by a return to active regular duty as an Engineer for at least two (2) weeks in a row and begin on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. Disability periods due to an unrelated cause must be separated by a return to active regular duty for at least (1) day and begin on the fifteenth (15<sup>th</sup>) day of continuous absence while under a physician's care. Any new periods of disability are subject to the 14-day waiting period. Benefits for occupational disability due to substance abuse are subject to a maximum duration of six (6) weeks and are further limited to a maximum of two occurrences in the employee's lifetime. Payment of benefits is conditioned upon completion of an approved substance abuse program.

### **Limitations**

In addition to the limitations already expressed, the Plan does not provide any benefits for a period when the company has suspended or terminated the employee for non-medical disciplinary reasons or when the employee is occupationally disabled due to incarceration, intentional self-inflicted injury or the attempt thereof, the commission or attempt to commit an assault, battery or felony, or an act of war or insurrection or participation in a civil disturbance.

### **Rights of Subrogation, Set Off and Lien**

In case of a disability for which the eligible employee may have a right of recovery against either the Company or a third party, or both, disability benefits shall be paid under the Plan pending final resolution of the matter so that the employee shall not be exclusively dependent upon his sickness benefits under the Railroad Unemployment Insurance Act. It is not intended, however, that benefits under the Plan shall duplicate, in whole or in part, any amount recovered from either the employing railroad or a third party whether by settlement, judgment or otherwise, and it is intended that benefits paid under the Plan shall satisfy any right of recovery against the employing railroad to the extent of the benefits so provided.

Accordingly, benefits paid under the Plan shall be setoff against any right or recovery the employee may have against the Company for the disability. And the Company shall be subrogated and shall have a lien as against any right of recovery the employee may have against any other party to the extent of plan benefits received. As a condition to paying any benefits under the Plan, the Company, or the Plan Administrator if one is involved, may require the employee to first agree in writing to the reduction or setoff against FELA recovery as described above as well as assignment, subrogation, repayment and lien against any amounts recovered from a third party to the extent of benefits paid under the Plan.

If at any time during the covered disability, you apply for and are awarded a disability annuity by the Railroad Retirement Board or the Social Security Administration and said annuity is retroactive to the beginning of your total disability or any portion thereof, all monies paid under the Plan shall be reimbursed to the Company upon receipt of your retroactively paid lump sum payment from the Railroad Retirement Board or Social Security Administration.

### **Termination of Benefits**

Benefits under the Plan terminate when:

- The employee ceases to be occupationally disabled as defined herein or dies;
- The employee ceases to be under the continuous care and treatment of a licensed physician,
- The employee refuses to furnish adequate proof to the Company's Medical Department or the Plan Administrator of the continuance of occupational disability as herein defined or when the employee refuses to be examined by a physician designated by either of them,
- The employee no longer holds seniority as an Engineer;
- The employee is terminated by or resigns from the Company,
- The employee is awarded an annuity by the Railroad Retirement Board or Social Security Administration; or

#### **Income Tax**

Disability Income benefits paid under the Plan is income subject to Federal and/or State Income Tax. Taxes will be deducted based on the most current W-4 on record.

Railroad Retirement Tier I tax is automatically deducted from Disability Income benefits during the first six months of disability payment.

#### **Claims Procedures**

Call the Plan Administrator to file a claim. Any necessary paperwork in order to properly adjudicate the claim will be provided to the employee or physician by the Plan Administrator.

#### **Return to Work**

It is your responsibility to notify the Plan Administrator when you return to work. Any benefits paid by this plan after your return to work must be returned to the Plan immediately.

#### **Name of the Plan**

Duluth Winnipeg and Pacific Corporation Income Disability Plan for Engineers

#### **Name and Address of the Plan Sponsor**

CN Railway Company  
17641 South Ashland Avenue  
Homewood, Illinois 60430-1345

A copy of the formal Plan Document may be requested by writing to the above address.

#### **Administration**

The plan is self insured by the Company. Any questions with respect to the administration of the plan, eligibility, length and duration of benefits may be directed to the Plan Administrator. The Company may change the Plan Administrator at any time.

#### **Definitions**

**Active Regular Duty.** Active regular duty means performing all the regular duties of an Engineer's job in a satisfactory manner on a full duty basis.

**Basic Weekly Wages.** the employee's average weekly gross income from the Company for work as an Engineer during the previous 26 bi-weekly pay periods or such shorter time that he has been employed by the Company but not less than \$400 per week. Basic weekly wages includes earnings deferred from taxation under section 401(k) of the Internal Revenue Code but does not include earnings for work in other than a UTU craft.

**Company:** The Duluth Winnipeg and Pacific Corporation, its subsidiaries, or its affiliates.

**Compensated Service:** Compensated service means performing and receiving compensation for all of the regular duties of an Engineer's job in a satisfactory manner on a full-time, full-duty basis.

**Covered Disability:** A physical illness, injury, mental illness or pregnancy, which prevents the employee from actively performing the normal duties of his job as an Engineer.

**Licensed Physician:** a medical doctor (MD) or osteopathic doctor (DO). An application for disability income, and/or ongoing medical documentation supporting the need for continuation of disability, shall only be accepted by a licensed physician who is a medical or osteopathic doctor.

**Plan Administrator:** The Plan Administrator, as designated by the Plan Sponsor, shall administer this Plan in accordance with its terms and shall have all powers necessary to carry out the provisions of this Plan including but not limited to the determination of covered disability status.

**ATTACHMENT "C" - Questions and Answers**

**ARTICLE 4 - Scope**

Question 1 In regards to Note 2, once a crew is working as a unit can they be split up?  
 Answer 1 No

**ARTICLE 8 -- Job Vacancies and Bidding**

**Section 1**

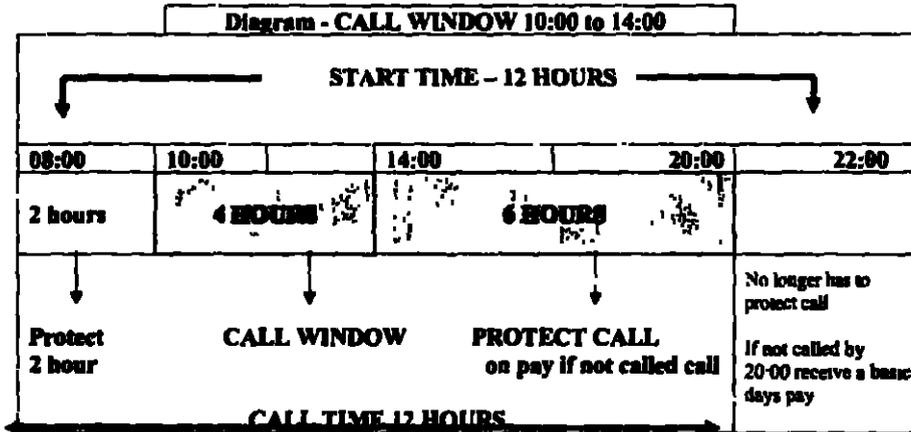
Question 2 How shall assignments positions be allocated every tri-annual bid period?  
 Answer 2 Necessary allocation of regular assignments and GEB positions shall be handled between the Local Chairman and the Division Superintendent the last two (2) weeks of the current tri-annual bid period Example Number of regular assignments and GEB positions, start times, rest day(s), etc

Question 3 May a relief assignment be established which results in less than 48 hours off for the rest period?

Answer 3. Yes, with concurrence of the Local Chairman Example - an assignment may start at 2300 hours on Friday, then have Saturday and Sunday off, then relieve an assignment that starts at 07 00 on Monday

Question 4 How shall the call window be applied?

Answer 4. As outlined below



Engineer A has an advertised call window to start between 10 00 to 14 00 hours Engineer A has not been called to report for duty by 14.00

Question 5 What time does Engineer A go on pay?  
 Answer 5 For pay purposes only, Engineer A goes on pay at 14 00

**Question 6** How long does the Engineer have to remain available after the end of their call window to protect a call?  
**Answer 6.** The Engineer is on pay at 14 00 and has to remain available to accept a call until 20 00 for a 22 00 start. The Engineer may not be called to report for duty later than 22 00

**Question 7** If the Engineer is not called by 20 00 for a 22 00 start, how much shall he be compensated for that day?  
**Answer 7** The Engineer shall be compensated a basic day

Engineer A is called at 08 00 to report for duty at 10 00

**Question 8:** What time does Engineer A go on pay?  
**Answer 8** 10 00

#### **ARTICLE 9 – Annulment of Assignments**

**Question 9** Will every assignment receive a 24-hour notice if annulled on a holiday?  
**Answer 9** Every assignment as near as possible shall receive a 24-hour notice. It is understood that some industries cannot give 24 hours notice and the Company shall attempt to provide a notice as near as practical

**Question 10:** For the purpose of this Article only, is the GEB considered an “assignment”?  
**Answer 10:** Yes.

#### **ARTICLE 10 – Abolishment and Displacement**

##### **Paragraph C**

**Question 11** Can the start time of a regular assignment be adjusted one hour forward or one hour back on a tour of duty basis without triggering the provisions of Article 10-C?  
**Answer 11** Yes

#### **ARTICLE 11 – Guaranteed Extra Board**

##### **Paragraph A-2**

**Question 12.** Is an Engineer who is at his home terminal required to accept a call for duty that commences on or after 20:00 on the day preceding their assigned rest day(s)?  
**Answer 12:** No. Engineers must be called by 18 00 hours (Exception: at the Engineer's option, he may accept a call for duty subsequent to 20:00 hours )

##### **Paragraph E**

**Question 13.** Can a GEB Engineer in lay-off status be considered as missing a call while on such status?  
**Answer 13.** No, however, such Engineer shall have their GEB bi-weekly rate offset by 1/10<sup>th</sup>.

**Paragraph F**

**Question 14** How will a work week for the GEB be defined?

**Answer 14** For the purposes of the GFB, a work week is defined as a seven (7) day interval comprised of five (5) consecutive working/protection days with two (2) consecutive scheduled rest days and six (6) consecutive working/protection days with one (1) scheduled rest day

**Paragraph L**

**Question 15** In the application of Article 11 L, "Work-Train" and "Hold-Down", shall the provisions of Article 17 apply?

**Answer 15** Yes.

**Question 16** How will the times for deadheading and board placement be determined?

**Answer 16** The Local Chairperson and the Division Superintendent and/or their designates, shall meet and develop the applicable times

**ARTICLE 13 – Rules / Instruction Classes**

**Paragraph A**

**Question 17** Will Engineers be required to attend rules or instruction classes on their rest day?

**Answer 17** Every effort shall be made to accommodate the Engineer's rest schedule. If an Engineer is required by the Company to attend a class on his rest day, then he will be compensated at the overtime rate

**Question 18** Will Engineers be afforded a schedule of time(s) and date(s) prior to rules and instruction classes in order to properly prepare?

**Answer 18:** Yes

**ARTICLE 15 – Calling for Duty**

**Paragraph B**

**Question 19** Will Engineers be allowed to designate alternative phone numbers in addition to their primary phone number for calling purposes?

**Answer 19** Yes.

**ARTICLE 20 – Holidays**

**Paragraph A**

**Question 20** Does a contractually paid day utilized before or after a holiday satisfy the availability requirement?

**Answer 20:** Yes, paid days such as PLDs or vacation time satisfy the requirement

**Question 21** Do assigned rest days count towards the qualification of holiday pay?

**Answer 21** Yes, as long as the Engineer has fulfilled the requirements of the assignment

## **ARTICLE 21 - Vacation**

### **Section 2**

**Question 22** For scheduling purposes, will Engineers be allowed to take an unpaid day(s) or PLD(s) concurrent with their vacation week(s)?

**Answer 22** Yes

## **ARTICLE 22 - Benefits**

### **Section 7**

**Question 23** Will the Engineer be responsible for any contributions outside the normal process of enrollment?

**Answer 23** No, the program is self-sufficient and maintains itself through employee contributions

## **SIDE LETTER 17 - Scope Rule**

### **Paragraph A**

**Question 24** Will Engineers be expected to perform duties under this Agreement that they don't perform today?

**Answer 24** No, unless specifically referred to in this Agreement. However traditional restrictions such as work events and road/yard restrictions no longer remain effect

**Side Letter 1 – Clarification of Intent**



United States Region  
Labor Relations Department  
17741 South Ashland Ave  
Homewood, IL 60430-1145

\*\*\*\*\*

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement:

During our discussions the Parties agreed that the Highest Designated Officer of the Company and the General Chairman, UTU, shall meet in conference, if necessary, in order to consummate mutually agreed upon interpretation(s) to this Agreement.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairperson

**Side Letter 2 – DWP Lines and DM&IR Lines Prior Rights**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Itasca, Illinois 60143

www.cn.ca

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Engineers hired on or prior to the effective date of this Agreement on the DWP Lines territory will have prior rights to all assignments and positions on the former DWP Lines

Engineers hired on or prior to the effective date of this Agreement on the DM&IR Lines Missabe territory will have prior rights to all assignments and positions on the former DM&IR Lines – Missabe

Engineers hired on or prior to the effective date of this Agreement on the DM&IR Lines Iron Range territory will have prior rights to all assignments and positions on the former DM&IR Lines – Iron Range

The DM&IR Lines prior rights on the top and bottom respective DM&IR seniority rosters will remain in effect for DM&IR Engineers hired prior to the effective date of this Agreement. (The top and bottom rosters referred to herein are identified as follows. DM&IR Missabe Division Engineers are placed on the bottom of the 1999 DM&IR Iron Range Division seniority roster and the DM&IR Iron Range Division Engineers are placed on the bottom of the 1999 DM&IR Missabe Division seniority roster ).

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

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 3 – Supplies**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Homewood Illinois 60431 1345

www.cn.ca

September 18, 2008

Mr Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

The Company shall provide Engineers with safety vests, safety glasses (prescription or non-prescription), lanterns and lantern batteries. Additionally, single-use containers of bottled drinking water, ice, and sanitary coolers for holding same will be supplied at no expense to the Engineers. Engineers are responsible for the proper care of equipment issued to them. If steel-toed boots are required, the Company's Shoe Program, as may be amended from time to time, will be provided to Engineers under this Agreement.

Additionally, the Company shall provide Engineers with a comfortable, suitable and adequate seat(s) on locomotive engines.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 4 – Hours of Service**



United States Region  
Labor Relations Department  
1761 South Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

The parties have agreed to a mandatory requirement to renegotiate the compensation terms of the agreement if the Federal Hours of Service Act regulations are changed as a result of any Governmental entity enacting or changing rest/fatigue rules and/or statutes governing the Hours of Service in the railroad industry during the time this Agreement is in effect

The parties have agreed that in the event the Company is mandated to reduce a Engineer's hours of service to less than ten (10) hours per tour of duty, or less than the six (6) and two (2) work rest cycle on assignments or something less than the agreed upon work rest cycle for the GEB or any combination thereof as outlined in Article 8 of the Agreement, the parties will meet within fifteen (15) days of notification of such change. Negotiations shall not exceed fifteen (15) days, unless otherwise mutually agreed and the parties will negotiate with a view toward a reduction in the hourly rate of pay in effect. It is understood that in no case shall the hourly rate reduction be more than the proportional decrease in hours worked. If an agreement on the hourly rate cannot be reached within the time stipulated above, or if the parties disagree on the appropriate amount of the hourly rate, the parties agree to submit the matter for expedited, final and binding arbitration.

Immediately following the failure to reach an agreement within the stipulated time frame, either party may initiate proceedings by serving written notice of intent on the other party to progress the issue to arbitration. Within fifteen (15) days of the notification to proceed to Arbitration, if unable to agree to a Neutral, the parties will select a Neutral by alternate strike from a fifteen (15) name strike list requested/provided from the National Mediation Board (NMB). Pending the availability of the Neutral, a hearing on the dispute will take place within thirty (30) days of the Neutral's selection. The Neutral will render a decision in the matter within fifteen (15) days of the conclusion of the hearing unless otherwise agreed, and the decision will be binding on the parties and subject to enforcement as an Award of the National Railroad Adjustment Board.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 5 - Work/Rest Cycles**



Lafayette Street Region  
Labor Relations Department  
17641 South Ashland Ave  
Homewood, IL 60431 345

www.cn.com

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Because the parties recognize that this Agreement addresses and rectifies work/rest issues on this property, it is hereby agreed and understood that the Company shall make every effort to ensure that all Engineers on all regular assignments are granted their work/rest in accordance with the work/rest cycle advertised and associated with such assignments

The aforementioned shall apply to Guaranteed Extra Board positions. However, in the event it is not feasible to adhere to the work/rest for such GEB positions in accordance with the work/rest cycle advertised and associated with such assignments due to the fact that such Engineer is at an away-from-home terminal when his rest is to commence, the Company may utilize such Engineer on a GEB position on his scheduled rest day and such Engineer shall be permitted to take his two (2) consecutive rest days (not less than forty-eight consecutive hours) or his one (1) consecutive rest day (not less than twenty-four consecutive hours) or should the eleven (11) and three (3) work/rest schedule be in effect his three (3) consecutive rest days (not less than seventy-two consecutive hours) upon his tie-up at his home terminal. This is not intended to adversely affect or reduce an Engineer's guarantee.

In the event a Engineer on a regular assignment lays off at his home terminal on an assignment that is scheduled to tie-up at an away-from-home terminal, such Engineer must lay off for two (2) consecutive days in order to remain in cycle with his assignment. Such Engineer may mark up on the Available Board for the purpose of attempting to provide service for the Company in accordance with the provisions as contained in Article 11 D. However, if called from the Available Board, that assignment shall not interfere with the starting time of his regular assignment for the purpose of being rested under the Hours of Service Act.

Given these measures, we believe that the proposed arrangements will provide the Engineers an opportunity to plan in advance the use of their rest days. We do, however, acknowledge your concerns that some crews may work into their rest days and on this basis we have affirmed our commitment, when feasible, to arrange for Window Crews to be deadheaded or to work back to their home terminal in order to be in-place to begin their scheduled rest day(s). With this in mind, at the Engineer's request, the Company will attempt to work any out-of-cycle crews "locally" on their 'Friday', when practical, to facilitate their being home for their scheduled rest day(s).

The Company was concerned that Engineers may cause the out-of-cycle situation due to their unavailability to protect their assignment. The parties agreed, in this case, that the Company is not obligated to utilize such out-of-cycle Engineer, however, the Company may call such Engineer if the needs of service dictate.

If an Engineer elects to take the full 48 (or 24) hours off under the applicable provisions contained in this Agreement, and the rest period does not allow the Engineer to protect his bulletined call window on the first day of the work week, such Engineer may be used on other work within the Scope of this Agreement, with consideration to keeping the Engineer "in-cycle" for his next available call window.

In the event that problems are noted we agreed to address the matter in our Labor-Management Committee. We will jointly analyze the situation and explore options which may include an arrangement permitting an employee to work an assignment that will tie-up at the home terminal on the final day of the Engineer's work cycle.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Eiter  
General Chairperson

**Side Letter 6 – Six and Two/Four and Two Rotating Schedule**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Homewood, Illinois 60430-1143

www.ucta.com

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

Regular assignments that are bulletined with an away-from-home terminal shall be established and may be bulletined to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off, or to work five (5) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off, or to work six (6) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off alternately to work four (4) consecutive tours of duty with two (2) consecutive rest days with a minimum of forty-eight (48) consecutive hours off.

The six and two/four and two rotating work schedule shall be in effect for the Pokegama/Superior terminal and all Lines north and will apply to WC, former DWP and former DM&IR properties.

**Note:** On the DM&IR Lines the six and two/four and two work schedule will not apply while the 7 Day Mark is in effect (See Article 8 Section 2)

Engineers who are assigned to the six and two/four and two rotating schedule will be compensated 1/52<sup>nd</sup> of the compensation earned by such Engineers during the calendar year preceding the year in which the vacation is taken or a minimum of five (5) Basic Days Pay at the applicable rate.

Engineers on the six and two rotation of the six and two/four and two rotating schedule shall have their scheduled week of vacation applied in the following manner: two (2) rest days followed by six (6) days of vacation followed by two (2) rest days.

**Note:** Engineers' pay for the above stated schedule contained herein will be 1/52<sup>nd</sup> or five (5) Basic Days pay at the applicable rate, whichever is greater.

Engineers on the four and two rotation of the six and two/four and two rotating schedule shall have their scheduled week of vacation applied in the following manner: two (2) rest days followed by four (4) days of vacation followed by two (2) rest days.

**Note** Engineers' pay for the above stated schedule contained herein will be 1/52<sup>nd</sup> or five (5) Basic Days pay at the applicable rate, whichever is greater

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 7 – Less Than 48-hour Rest Period On Lay-over Assignments**



United States Region  
Labor Relations Department  
1761 South Ashland Avenue  
Homewood, Illinois 60430-1345

\*\*\*\*\*

September 18, 2008

Mr. Patrick Ester  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Regularly assigned Engineers who are tied up at an away-from-home terminal on the last working day of the scheduled work week shall work (or deadhead) back to the home terminal in the normal rotation of crews at the away-from-home terminal. His rest day(s) shall begin when the Engineer ties up at the home terminal. Should the Engineer, in connection with the aforementioned, not elect to exercise his option to observe the full forty-eight hour rest period (as outlined in Side Letter 6 of the September 18, 2008 Implementing Agreement) for the assignment and elects to voluntarily keep himself "in cycle" which would result in a rest period of less than forty-eight hours, said Engineer if required to report for service in less than forty-eight hours will be paid at the rate of time and one-half for the first day back of the Engineer's following work week schedule.

Should the Engineer choose to observe the full forty-eight hour rest period then the specificities contained in Side Letter 6 of the September 18, 2008 Implementing Agreement shall apply.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Ester  
General Chairman

**Side Letter 8 – GEB Local on Friday**



United States Region  
Labor Relations Department  
1741 North Ashland Avenue  
Homewood, Illinois 60430-1345

www.cn.ca

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

A GEB Engineer may decline a call for an assignment commencing between 0601 hours and 2000 hours on the day preceding his scheduled rest day provided that said assignment will result in the Engineer tying up away from his home terminal

An Engineer desiring to exercise this option as outlined above, shall inform Crew Management by telephone prior to 0600 hours on the day preceding his scheduled rest day(s).

An Engineer who declines a call as outlined above will remain first-out and will stand for any other assignment with a start time prior to 2000 hours that does not tie-up at an away-from-home terminal. This does not constitute a basis for a run-around claim.

In the event that there is not a rested, straight-time GEB Engineer available for the away-from-home assignment, the aforementioned Engineer shall not be able to exercise the terms and conditions contained herein and decline the call for said assignment

In the event that a Engineer who exercises this option to decline a call for an assignment with an away-from-home terminal tie-up does not work on that particular day, his GEB guarantee will be pro-rated by 1/10<sup>th</sup> for that given pay period.

An Engineer who exercises this option as contained herein will be permitted to mark up on the Supplemental Board on his scheduled rest day(s).

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 9 – GEB “Hold-Down”**



United States Region  
Labor Relations Department  
1761 South Ashland Avenue  
Homewood, Illinois 60410-1345

www.cn.ca

September 18, 2008

Mr P Etter  
General Chairman  
United Transportation Union  
531 N 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

The first-out, rested Engineer on his respective Guaranteed Extra Board who is called on the first or second day of a known vacancy shall be notified by CMC that he will have the option to take the assignment as a “hold-down” for the remainder of the assignment’s scheduled work week. The “hold-down” will commence on the first or second day of the assignment, whichever is applicable, and will run through and include the bulletined rest days of the assignment that is being protected by the “hold-down”

If an Engineer elects to take the “hold-down” of an assignment as outlined above, his normal assigned GEB rest day(s) will be forfeited for that week and the rest day(s) of the “hold-down” will be observed in lieu thereof.

An Engineer shall not be subject to the GEB guarantee until he is marked back up to the GEB following the completion of the assignment or having observed the assignment’s rest day, whichever is later.

In the event the first-out, rested Engineer on the respective GEB does not elect to “hold-down” the vacancy and elects to retain his GEB rest day, said Engineer will fill the assignment for one day only. On day two of the assignment, the first-out, rested Engineer on the respective GEB will be given the option to “hold-down” the vacancy for the remainder of scheduled work week and will observe the assignment’s scheduled rest days. Should the first-out, rested Engineer on day two elect not to “hold-down” the vacancy, then the remainder of the scheduled vacancy will be filled on a daily basis as outlined in Article 11 paragraph C.

GEB Engineers filling a vacancy in this manner will return to the bottom of the respective GEB following the observed rest day(s) of the “hold-down”

An Engineer who elects to "hold-down" a scheduled vacancy will be permitted to mark to the Supplemental Board on the assignment's scheduled rest days.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R K MacDougall  
Sr Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 10 – Out of Cycle Employees Due to Operational Requirements**



United States Region  
Labor Relations Department  
17641 South Ashland Ave.  
Homewood IL 60431-3445

www.ustrail.com

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

With respect to Article 15 – Calling for Duty, Section 5 Paragraph B of the September 18, 2008 Implementing Agreement between the Wisconsin Central Transportation Corporation and its employees represented by the United Transportation Union states “Engineers on regular assignments that are scheduled to tie up at an away-from-home terminal that are subject to a call window rotation and find themselves out of cycle due to operational requirements may mark up on the Available Board and may make themselves available for service at straight-time in order to properly place themselves back into their normal call window cycle” Engineers electing this option must notify Crew Management Center prior to tying up on the first day of the rotation

In the event a Engineer who is out of cycle due to operational requirements does not elect to utilize the language contained in Article 15 Section 5 Paragraph B as stated above, such Engineer will be required to protect their designated call window period as per the language contained in Article 8 – Job Vacancies and Bidding Paragraph C (ii), which states, “The bulletined call window or assigned start time applies whenever the Engineer ties-up at the designated home terminal.” For example, an Engineer with an advertised call window of 0800 to 1200 hours would be required, if rested under the Federal Hours of Service Act, to protect an assignment with a start time between the hours of 0800 and 1200 hours. Engineers who are not rested to protect their advertised call window will be considered released and will be compensated one Basic Day at the applicable rate. Engineers who are rested and have not been called by the end of the four hour call window will be considered released and will be compensated one Basic Day at the applicable rate. Should the out of cycle trip fall on one of the listed holidays as contained in Article 9, the rate of pay would be the applicable holiday rate as contained in Article 20

The Company will make every effort to keep lay-over assignment Engineers in cycle. Furthermore, on the rare occasion that an Engineer is deemed out of cycle, the Company will make every effort to utilize said Engineer in the same type of service that the Engineer's bulletined job description entails. If used in this capacity, said Engineer must be tied up at the home terminal on the out of cycle trip in order to properly be placed back in cycle for the following rotation.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Etter  
General Chairperson

## Side Letter 11 – Available Board Clarification



United States Region  
Labor Relations Department  
1741 South Ashland Ave  
Homewood, IL 60430-1345

ANNEX C

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

The parties agreed upon the following questions and answers in order to clarify the purpose and function of the Available Board.

**Q1: What is an Available Board?**

**A1:** The intent of the Available Board is to give an Engineer a wage earning opportunity that he otherwise would have lost

**Q2: What Engineers can mark to the Available Board?**

**A2.1:** Engineers who find themselves "out-of-cycle" due to being tied up at their home terminal on the first day of their rotation on a lay-over assignment may mark to the Available Board  
**Note:** Engineers falling under this scenario who do not mark to the Available Board shall be required to protect their designated call window as per the language contained in Article 8 Paragraph C (ii) and Side Letter 11 dated September 18, 2008 titled "Out-of-Cycle" Employees Due to Operational Requirements.

2. Engineers who are "out-of-cycle", for any reason other than noted above in A-1, on their outbound trip on a layover assignment may, at their option, mark themselves to the Available Board and may be called for service as outlined in Article 11 Paragraph D.

**Q3: Are Engineers who are considered "out-of-cycle" and do not mark to the Available Board required to perform service to the Company on their "out-of-cycle" day?**

**A3:** No, except as noted above in A2-1. However, the Company may call such Engineers if the needs of service dictate. Failure to accept such call will not constitute a "missed call" and shall not be subject to discipline.

**Q4: Is the Company obligated to use Engineers marked to the Available Board?**

**A4:** Only as per the language contained in Article 11 Paragraph D

**Q5: In what order will Engineers be placed to the Available Board?**

**A5:** Engineers will be placed to the Available Board in the order of their start time or call window (Should two or more Engineers mark to the Available Board with the same call window or start time, such Engineers will be called in seniority order.)

- Q6** When Engineers are marked to the Available Board, do the provisions of Article 8 Paragraph C (ii) apply?
- A6** No. Engineers will be placed on the Available Board at such time when they are legally rested under the Federal Hours of Service Act. Said Engineers will be removed from the Available Board at the expiration of their regularly bulletined call window or after two hours beyond their regular start time.
- Q7** What type of service will Available Board Engineers be called for?
- A7** The Company will make every effort to utilize said employee in the same type of service that the employees bulletined job description entails. However, Engineers used off the Available Board must be tied up at the home terminal on the "out-of-cycle" trip in order to be placed back in cycle on the following two-day rotation.
- Q8** Can Rest Day Engineers mark themselves to the Available Board?
- A8** No. Engineers desiring to work their scheduled rest day must mark to the Supplemental Board.
- Q9** Will Engineers who mark to the Available Board, and are not used, be paid a Basic Day?
- A9** No.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

**R. K. MacDougall**  
**Sr Director Labor Relations**

I concur

\_\_\_\_\_  
**Patrick Etter**  
**General Chairman**

**Side Letter 12 – PLD/Single Day Vacation Commencement**



United States Region  
Labor Relations Department  
17641 South Ashland Avenue  
Harwood, Illinois 60436-1145

\*\*\* CCLJ

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

With respect to Article(s) 18 – Personal Leave Days (PLD) and 21 – Vacation of the September 18, 2008 Implementing Agreement between the Duluth, Winnipeg and Pacific and its employees represented by the United Transportation Union, we agreed that a Personal Leave Day or single day vacation that is to be taken by a Engineer on a call window assignment that overlaps the midnight hour will commence on the respective date on which the call window begins.

It is further understood that on call window assignments PLD day and or a single day vacation day will be for a twenty-four (24) period.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 13 – Remote Control Operation - RCO**



United States Region  
Labor Relations Department  
744 South Ashland Ave.  
Homewood, IL 60410-1345

www.UTA

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement regarding potential future introduction of remote control technology by the Company.

During our discussions the Company agreed that when remote control technology is introduced, UTU employees shall have the exclusive right to operate such technology, unless otherwise provided herein. The Union acknowledges that the Company may operate remote technology in the performance of non-traditional train operations, such as by the Car/Equipment Department personnel within the confines of the car and equipment repair facilities, who have been trained in the operation of Remote Control Technology.

The Labor Management Resolution Committee shall meet prior to the implementation of Remote Control Technology to review the training program, the selection of the Trainers, scheduling of training and to address issues that may arise with implementation of remote control assignments, and the following shall apply:

1. Training shall be done by trainers qualified, consistent with an FRA Approved training program.
2. Engineers attending instructional classes shall be compensated in accordance with Article 13 of the Agreement dated September 18, 2008.
3. Should an Engineer be required to attend training at a point other than his home terminal point expenses outlined in Article 17, Section 2 shall be available and a meal expense of \$20.00 a day in addition to lodging shall be provided.
4. Bulletins shall be issued pursuant to Article 8 of the Agreement dated September 18, 2008 advertising applications to be taken for the position of Remote Control Operator (RCO). In the event no applicants are received for the bulletin, the provisions of Article 8, Section 2 of the Agreement dated September 18, 2008 shall apply.
5. Engineers operating an RCO assignment shall be paid the rates outlined in Article 5 of the Agreement dated September 18, 2008.

- 6 Qualified RCO employees shall not be permitted to displace from an RCO assignment, when there are no other qualified RCO employees available to protect the assignment or unless the RCO assignment is abolished and the employee is unable to secure another RCO position. However, such employees shall not be required to remain on an RCO assignment for in excess of one hundred eighty (180) days.
- 7 RCO employees shall be responsible for all Engineer duties assigned in addition to the operation of the Remote Control Locomotive (RCL).
- 8 Vacancies on an RCO assignment shall be filled from the GEB. Failing to have available qualified Engineer on the GEB, the senior rested available qualified RCO employee shall be called.

At locations where Remote Control Technology is implemented all employees at such locations shall be provided training and qualified in the operation of such technology as necessitated by operational requirements.

Additionally, there shall be an Engineer and a Trainman on all remote control assignments. Furthermore, in recognition of the unique agreements and history on this property locomotive engineers may operate remote control technology and in doing so may perform similar duties as a Trainman.

Nothing in this agreement prevents the Company from continuing to operate existing RCO operations at Escanaba Ore Docks and Gladstone.

The provisions of this Side Letter are limited to specific existing practices on this property only and they are not referable, and they shall not be referred to by the Company (or disclosed to a third party who does so refer) before any public body, including courts, agencies, arbitration boards, Presidential Emergency Boards, or the Congress, unless required by law.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Eiter  
General Chairperson

**Side Letter 14 – Summary Plan - Short Term Disability**



United States Region  
Labor Relations Department  
1704 South Ashland Avenue  
Homewood, Illinois 60430-1345

UAW 1001

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

With respect to Attachment B – Summary Plan – Short Term Disability, it is mutually agreed and understood that DWP Engineers hired prior to the date of this Agreement shall have a maximum of 104 weeks of continued income as defined in Attachment B attached hereto. DM&IR Engineers with prior right seniority and all Engineers hired subsequent to the effective date of this Agreement shall have a maximum of 52 weeks of continued income as defined in Attachment B attached hereto.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 15 – Passport and/or Homeland Security Mandated ID Reimbursement**



United States Region  
Labor Relations Department  
1764 South Ashland Ave  
Homewood, IL 60431-1145

www.uisa.com

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St.  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

During our discussion the parties discussed the impact of the Intelligence Reform and Terrorism Prevention Act of 2004, which currently requires that by January 1, 2008, all land travelers will need a valid passport to enter and re-enter the United States. A similar legal requirement also applies to entry/re-entry into Canada

In an effort to minimize this impact, the Company has agreed to reimburse any engine service employee that is required to obtain a valid passport and/or a Homeland Security ID in order to perform service for the Company, for the cost of the passport and/or Homeland Security mandated ID. This reimbursement is contingent on all of the following:

1. It being a requirement of service
2. Proper documentation being submitted for reimbursement.

It is expected employees will achieve these documents without losing time. However if the Engineer loses time to obtain these documents they will be compensated for all lost time, travel expense associated with obtaining such documents

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur

\_\_\_\_\_  
Patrick Etter  
General Chairperson

**Side Letter 16 - Grievance Resolution Allowance**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Homewood, Illinois 60430-1343

www.cnca

September 18, 2008

Mr Patrick Eter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

Within sixty (60) days of the date of this Agreement, all Engineers in active service on positions covered by this Agreement will be paid three thousand dollars (\$3,000.00) each, subject to applicable payroll deductions. This allowance will be paid on other than the Engineer's normal pay period wages.

Upon payment of the amount noted above, all claims and grievances, other than those involving disciplinary action based on an occurrence prior to the effective date of this Agreement are considered resolved without prejudice to the position of either party and with the understanding that such settlements will not be cited by either party in any future case, nor used by either party to allege that the other has agreed to a particular practice

The aforementioned allowance will not be used to offset guarantees, protection allowances, nor will it be included for the calculation of vacation pay, guarantees or protection allowances

Any discipline on appeal with the Company prior to the effective date of this Agreement that does not involve actual suspension time will be expunged from the respective Engineer's personal records and cannot be used in determining the quantum of future discipline.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur. \_\_\_\_\_  
Patrick Eter  
General Chairman

**Side Letter 17 - Scope Rule**



United States Region  
Labor Relations Department  
17641 South Ashland Ave  
Hammond, IL 60430-1141

www.cn.ca

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

- A. The parties recognize that the scope of this Agreement is unlike others in the rail industry and that it must be interpreted accordingly. The role of an Engineer is to operate locomotives and perform transportation duties associated with the switching and movement of revenue railcars. The role of Engineers also includes non-revenue work such as movement of light engines, helper engines, pusher service and work trains to meet the service requirements of the customer (Q & A 43)
- B. No Company Supervisor, official or non-craft employees (including Yard clerks) or non-employee shall be used to supplant or substitute in the exclusive work of any Engineer working under this Agreement. Notwithstanding the foregoing, this Agreement recognizes that crewmembers, once on duty, work as a unit and that Engineers may occasionally be required to operate switches, complete documentation and assist in coupling and uncoupling equipment as part of normal operations.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur.

\_\_\_\_\_  
Patrick Etter  
General Chairperson

**Side Letter 18 – Rainier and Pokegama Operations and Equalization**



United States Region  
Labor Relations Department  
7411 1/2 Ashland Ave,  
Homewood IL 60430-1345

www.cn.ca

September 18, 2008

Mr K J Flashberger  
General Chairman  
United Transportation Union  
1221 Delanglade Street  
Kaukauna, WI 54130

Dear Sir,

The following confirms our discussion during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

The Company agrees not to have foreign Carriers switch railcars at Pokegama Yard. It is understood that Canadian crews will not be allowed to switch cars at Rainier Yard or operate south of the Yard limits of Rainier. It is also understood, this will not limit detour trains from operating over DWP Trackage.

The parties recognize that because of prior rights, equalization may be due on various assignments throughout the property. The LTU will inform the Company of the equalization due. Equalization will be performed at no additional expense to the Company. If there is a Local dispute regarding equalization, the dispute will be referred to the General Chairman's office and the Sr Director Labor Relations for resolution. Crew Management Center will maintain the appropriate records so that equalization can be done on an equitable basis.

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr Director Labor Relations

I concur

\_\_\_\_\_  
K. J Flashberger  
General Chairperson

**Side Letter 19 – DM&IR Lines General Wage Increases and Back Pay**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Homewood, Illinois 60430-1145

www.cn.ca

September 18, 2008

Mr Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

In regards to the DM&IR Section 6 Notices served by the parties, the following general wage increases will be applied to the engine service rates of pay and will be used in the calculation of retroactive wage payments (back pay)

- A. Effective July 1, 2005, all rates of pay in effect on June 30, 2005 are increased by three per cent (3%)
- B. Effective July 1, 2006, all rates of pay in effect on June 30, 2006 are increased by three per cent (3%).
- C. Effective July 1, 2007, all rates of pay in effect on June 30, 2007 are increased by three per cent (3%)
- D. Effective July 1, 2008, all rates of pay in effect on June 30, 2008 are increased by four per cent (4%)

Retroactive wage payments (back pay) will be paid to each Engineer on a separate check within sixty (60) days of the effective date of this Agreement

Effective the date of this Implementing Agreement the Engineers rates of pay provided for in Article 5 will be applicable

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 20 – Pension Plan - DM&IR Line Only**



United States Region  
Labor Relations Department  
1741 South Ashland Avenue  
Homewood, Illinois 60430-1345

UNION LOCAL

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

- A. Effective the date of this Agreement the Bessemer Non-Contributory Pension Plan will be closed to new participants.
- B. Engineers presently participating in the Bessemer Non-contributory Pension Plan may continue to remain in the plan under the terms and conditions set forth in the respective DM&IR Collective Bargaining Agreement
- C. Effective the date of this Agreement and for a period of 180 days thereafter, current DM&IR Engineers who are participants in the Bessemer Non-contributory Pension Plan will have the option to opt out of the plan and will be eligible for a 401(k) plan as set forth below. Engineers who elect to opt out of the Bessemer Non-contributory Pension Plan for the 401(k) plan will cease accruing further service credit under the Bessemer Non-contributory Pension Plan. Service credit is used to calculate the amount of pension benefit with respect to completed years and months of plan participation. While the number of years of service credit under the plan will "freeze" the month following that the Engineer opts out of the Bessemer Non-contributory Pension Plan, but future wage growth will be considered in the calculation of the pension benefit payable upon retirement or other termination of employment. For Engineers who opt out of the plan and continue to be employed with the Company, their employment will count towards eligibility service. Eligibility service is used to determine which retirement category an Engineer qualifies for, such as a 30-year retirement.
- D. Within thirty (30) days of ratification, the Company shall establish a 401(k) plan for former DM&IR Engineers hired prior to the date of this Agreement and have elected to opt out of the Bessemer Non-contributory Pension Plan. Under the new 401(k) plan, the Company shall contribute one dollar for each dollar contributed by the Engineer up to fifty percent (50%) of the IRS annual limit as stated in the Internal Revenue Code, as amended.
- E. In addition to the new 401(k) plan in paragraph D above, the Company shall contribute one dollar for each dollar contributed by the Engineer up to fifty percent (50%) of the of the IRS annual limit as stated in the Internal Revenue Code, as amended, maximum 401(k) contribution towards the purchase of CN stock through an Employee Stock Purchase Plan, which would be applicable to DM&IR Engineers hired prior to the date of this Agreement.

**F The 401(k) plan referenced in paragraph D above and the CN Stock Purchase Plan referenced in paragraph E above is in lieu of continued participation in the Bessemer Non-contributory Pension Plan for DM&IR Engineers hired prior to the date of this Agreement**

**Please acknowledge your concurrence by signing your name in the space provided below**

**Yours truly,**

**R K MacDougall  
Sr Director Labor Relations**

**I concur \_\_\_\_\_  
Patrick Etter  
General Chairman**

**Side Letter 21 – DM&IR H & W Plan COBRA**



United States Region  
Labor Relations Department  
1746 South Ashland Avenue  
Homewood, Illinois 60432-1145

www.cn.ca

September 18, 2008

Mr. Patrick Etter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement.

DM&IR engine service employees who are covered under the DM&IR H & W Plan who have elected to continue coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), whose "COBRA Qualifying Event" occurred prior to the effective date of the transition to the National Plan, and who have made the required COBRA payments, will continue to be covered under the DM&IR H & W Plan until such time as their COBRA continuation coverage ends.

If the participant, after the effective date of the transition to the National Plan, works the Requisite Amount of Service to become eligible for health & welfare coverage, this coverage will be provided by the National Plan provided the participant meets the eligibility requirements of the National Plan.

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman

**Side Letter 22 – DM&IR Healthcare Plan - Retirees**



United States Region  
Labor Relations Department  
7641 South Ashland Avenue  
Homewood, Illinois 60430-1145

www.cn.ca

September 18, 2008

Mr. Patrick Eiter  
General Chairman  
United Transportation Union  
531 N. 23rd St.  
Superior, WI 54880

Dear Sir,

This following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

DM&IR engine service employees who have retired prior to the effective date of the transition from the DMIR H & W Plan to the National Plan who are eligible for coverage under the DMIR H & W Plan for retirees will continue to be covered under this plan until their coverage ends

DM&IR engine service employees who retire within 72 months ("the protected period") of the effective date of this Agreement and are eligible under the DM&IR H & W Plan will be provided coverage under that plan until their coverage ends

Engineers who retire after the effective date of the transition to the National Plan and who meet the eligibility requirement of the Railroad Employees National early retirement Major Medical Benefit Plan will have coverage under the National Plan

Please acknowledge your concurrence by signing your name in the space provided below

Yours truly,

R. K. MacDougall  
Sr. Director Labor Relations

I concur \_\_\_\_\_  
Patrick Eiter  
General Chairman

**Side Letter 23 – DM&IR Health & Welfare Plan – Inactive Status**



United States Region  
Labor Relations Department  
1764 South Ashland Avenue  
Homewood, Illinois 60410-1345

www.cnj.com

September 18, 2008

Mr Patrick Etter  
General Chairman  
United Transportation Union  
531 N 23rd St.  
Superior, WI 54880

Dear Sir,

The following shall confirm our discussions during the just concluded negotiations that resulted in the September 18, 2008 Implementing Agreement

A DM&IR engine service employee in an inactive status (including disabled status) who is receiving benefits under the DMIR H & W Plan on the effective date of the transition to the National Plan will continue to be covered under the DMIR H & W Plan until either of the following occurs.

- eligibility for such coverage under the DMIR H & W Plan ends, or
- the Engineer meets the eligibility requirements for coverage under the National Plan at which time he will enroll in the Plan

Please acknowledge your concurrence by signing your name in the space provided below.

Yours truly,

R. K. MacDougall  
Sr Director Labor Relations

I concur \_\_\_\_\_  
Patrick Etter  
General Chairman





<b>ARTICLE 36 - CREW CALLING RECORDS .....</b>	<b>28</b>
<b>ARTICLE 37 - ENGINEER'S PROTECTIVE (DISPLACEMENT) ALLOWANCE.....</b>	<b>29</b>
<b>ARTICLE 38 - MORATORIUM.....</b>	<b>29</b>
<b>ARTICLE 39 - GENERAL PROVISIONS .....</b>	<b>29</b>
<b>APPENDIX A - SYSTEM SENIORITY ROSTER WITH PRIOR RIGHT DESIGNATIONS.....</b>	<b>31</b>
<b>ATTACHMENT "A" STANDING BID.....</b>	<b>342</b>
<b>ATTACHMENT "B" SUMMARY PLAN - SHORT TERM DISABILITY .....</b>	<b>34</b>
<b>ATTACHMENT "C" - QUESTIONS AND ANSWERS .....</b>	<b>38</b>
<b>SIDE LETTER 1 - CLARIFICATION OF INTENT.....</b>	<b>42</b>
<b>SIDE LETTER 2 - DWP LINES AND DM&amp;IR LINES PRIOR RIGHTS .....</b>	<b>423</b>
<b>SIDE LETTER 3 - SUPPLIES.....</b>	<b>44</b>
<b>SIDE LETTER 4 - HOURS OF SERVICE .....</b>	<b>45</b>
<b>SIDE LETTER 5 - WORK/REST CYCLES .....</b>	<b>46</b>
<b>SIDE LETTER 6 - SIX AND TWO/FOUR AND TWO ROTATING SCHEDULE .....</b>	<b>48</b>
<b>SIDE LETTER 7 - LESS THAN 48-HOUR REST PERIOD ON LAY-OVER ASSIGNMENT .....</b>	<b>50</b>
<b>SIDE LETTER 8 - GEB LOCAL ON FRIDAY.....</b>	<b>51</b>
<b>SIDE LETTER 9 - GEB "HOLD-DOWN".....</b>	<b>52</b>
<b>SIDE LETTER 10 - OUT OF CYCLE EMPLOYEES DUE TO OPERATIONAL RQMNT .....</b>	<b>54</b>
<b>SIDE LETTER 11 - AVAILABLE BOARD CLARIFICATION .....</b>	<b>56</b>
<b>SIDE LETTER 12 - PLD/SINGLE DAY VACATION COMMENCEMENT.....</b>	<b>58</b>
<b>SIDE LETTER 13 - REMOTE CONTROL OPERATION - RCO.....</b>	<b>59</b>
<b>SIDE LETTER 14 - SUMMARY PLAN - SHORT TERM DISABILITY .....</b>	<b>61</b>
<b>SIDE LETTER 15 - PASSPORT AND/OR HOMELAND SECURITY MANDATED ID.....</b>	<b>62</b>
<b>SIDE LETTER 16 - GRIEVANCE RESOLUTION ALLOWANCE .....</b>	<b>63</b>
<b>SIDE LETTER 17 - SCOPE RULE.....</b>	<b>64</b>
<b>SIDE LETTER 18 - RANIER AND POKEGAMA OPERATIONS AND EQUALIZATION.....</b>	<b>65</b>
<b>SIDE LETTER 19 - DM&amp;IR LINES GENERAL WAGE INCREASES AND BACK PAY.....</b>	<b>66</b>
<b>SIDE LETTER 20 - PENSION PLAN - DM&amp;IR LINE ONLY.....</b>	<b>67</b>
<b>SIDE LETTER 21 - DM&amp;IR H &amp; W PLAN COBRA.....</b>	<b>69</b>
<b>SIDE LETTER 22 - DM&amp;IR HEALTHCARE PLAN - RETIREES.....</b>	<b>70</b>
<b>SIDE LETTER 23 - DM&amp;IR HEALTH AND WELFARE PLAN - INACTIVE STATUS .....</b>	<b>71</b>

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Agreement between

**Duluth, Missabe and Iron Range Railway Company  
Duluth Winnipeg and Pacific Railway Company  
Wisconsin Central Ltd**

And their employees represented by

**United Transportation Union**

WHEREAS, on June 14, 2007, Duluth, Missabe and Iron Range Railway Company (DMIR), Duluth Winnipeg and Pacific Railway Company (DWP), and Wisconsin Central Ltd (WC) (collectively, "CN") have filed a Verified Notice of Exemption pursuant to 49 CFR 1180.2(d)(7) with the Surface Transportation Board ("STB"), (STB Finance Docket Nos 35045, 35046, 35047, 35048, 35049 and 35050 ) requesting that the STB authorize nonexclusive trackage rights, and/or to amend existing trackage rights for overhead movements, reblocking cars within single trains, or setting out cars requiring servicing on and between the above named railroads , and

WHEREAS, the parties hereto agree that the trackage rights are effective and are transactions described in STB Finance Docket Nos 35045, 35046, 35047, 35048, 35049 and 35050 will be subject to the labor protective conditions set forth in *Norfolk & Western Ry. Co. – Trackage Rights – Burlington Northern, Inc.* Finance Docket No 28387, 354 I C C 605 (1978), as modified, *Mendocino Coast Ry, Inc — Lease & Operate — California Western R.R.* , Finance Docket No 28256, 360 I C.C. 653 (1980). *aff'd sub nom, Railway Labor Executives' Ass'n v. United States*, 675 F.2d 1248 (D C. Cir 1982) (the "*Norfolk & Western Conditions*"), and

WHEREAS, the above railroads have advised the United Transportation Union ("UTU") of their intent to reach a voluntary implementing agreement in accordance with the



Draft Language

Implementing Agt YS.doc

*Norfolk & Western Conditions* for the purpose of changing their operations to allow portions of the trackage rights transactions described in STB Finance Docket Nos. 35045, 35046, 35047, 35048, 35049 and 35050 to proceed, and

WHEREAS, the parties to this agreement agree that this Implementing Agreement provides for the selection and assignment of forces to implement portions of the trackage rights transactions described in STB Finance Docket Nos 35045, 35046, 35047, 35048, 35049 and 35050. and also provides the necessary and appropriate level of employee protective benefits required under the *Norfolk & Western Conditions*, for this implementation,

IT IS HEREBY AGREED AS FOLLOWS:

- 1 This Agreement shall become effective upon execution.
- 2 On the effective date of this Agreement, UTU will honor reciprocal trackage rights granted between the CN railroads as described in STB Finance Docket No. 35045, 35046, 35047, 35048, 35049 and 35050
- 3 In accordance with the trackage rights transactions described in STB Finance Docket Nos. 35045, 35046, 35047, 35048, 35049 and 35050 and this Implementing Agreement, on the effective date of this Agreement.
  - (a) DWP crews may operate trains over the WC between South Itasca and Hawthorne, Wisconsin
  - (b) DWP crews may switch cars from their own trains in Steelton Yard, Minnesota
  - (c) WC trains may operate to and from Carson and/or Simar, Minnesota, and switch cars from their own trains in Steelton Yard, Minnesota and Pokegama Yard, Wisconsin
  - (d) Employees may be used to fill temporary vacancies as described in Attachment A herein.
  - (e) Any provision in the current collective bargaining agreements between DWP and UTU, the WC and UTU, and the DMIR and UTU which might otherwise be

interpreted as not permitting the moves contemplated in this Agreement shall be deemed null and void for the purposes of this Agreement.

4 WC crews operating WC trains north of Nopeming Jct shall be paid the hourly rates of their respective crafts contained in the DWP existing collective bargaining agreement with the UTU, on a minute-by-minute basis for all time they operate north of Nopeming Jct.

5. The terms and conditions of any previous Implementing Agreements between the UTU and the CN railroads remain in full force and effect unless expressly modified herein

6. This Implementing Agreement is made pursuant to the *Norfolk & Western Conditions*, and the employee protective benefits and conditions as set forth in the *Norfolk & Western Conditions* shall be applicable to the trackage rights transactions described in STB Finance Docket Nos. 35045, 35046, 35047, 35048, 35049 and 35050. There shall be no duplication or pyramiding of benefits by an employee under this agreement and any other agreement or protective arrangement

7. Any dispute over the interpretation, application or enforcement of this agreement shall be resolved exclusively in accordance with the dispute resolution procedures set forth in Article I, Section 11 of the *Norfolk & Western Conditions*.

8 The parties agree that the provisions of this agreement represent the best effort of DWP, WC and DM&IR to implement a limited portion of the trackage rights in an efficient manner. However, the parties also recognize that this Agreement is not intended as a final Implementing Agreement but as an interim Agreement to expedite some of the efficiencies of the trackage rights described herein. The Company may determine that the trackage rights should be implemented through different means Accordingly, nothing in this agreement shall be construed to prohibit WC, DWP and/or DMIR from identifying and implementing further operational changes necessary to achieve the efficiencies of the trackage rights described in STB Finance

*Draft Language*

*Implementing Act V5.doc*

Docket Nos 35045, 35046, 35047, 35048, 35049 and 35050 and in that event CN will serve a supplemental notice seeking an implementing agreement with respect to same, subject to the requirements of the *Norfolk & Western Conditions* or such other labor protective conditions as may apply

*Draft Language*

*Implementing Act V's.doc*

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2008, at Duluth, MN

**FOR THE COMPANY**

**FOR THE ORGANIZATIONS**

\_\_\_\_\_  
**R K MacDougall**  
**Sr Director - Labor Relations**

\_\_\_\_\_  
**Pat Etter**  
**General Chairman DWP UTU(E)**

\_\_\_\_\_  
**T L Rice**  
**Director Labor Relations**

\_\_\_\_\_  
**Pat Oyard**  
**General Chairman DWP UTU (F)**

\_\_\_\_\_  
**D J Mandalas**  
**Manager Labor Relations**

\_\_\_\_\_  
**Ken Flashberger**  
**General Chairman WC UTU**

\_\_\_\_\_  
**Tom Brown**  
**General Manager**

\_\_\_\_\_  
**Tom Jackson**  
**General Chairman DMIR UTU**

\_\_\_\_\_  
**Ken Larson**  
**General Chairman DMIR UTU**

\_\_\_\_\_  
**John Babler**  
**Vice-President UTU**

Draft Language

*Implementing Act 1.5.doc*

Unless otherwise provided for herein, Trainmen assigned to GEBs shall fill temporary vacancies and extra assignments at the location of the respective Board and at the outlying points normally protected by that Board

In the event the GEB is exhausted, the assignment shall be filled by

When filling vacancies on Trainmen Assignments – DWP Lines Pokegama

1. Protecting DWP Extra Board
2. DWP Supplemental Board \*
3. DWP Rest Day Conductors \*
4. WC Extra Board \*
5. WC Supplemental Board \*
6. WC Rest Day Conductors \*
7. DMIR Proctor Extra Board \*
8. DMIR Proctor Supplemental Board\*
9. DMIR Two Harbors Extra Board \*
10. DMIR Two Harbors Supplemental Board\*

When filling vacancies on Trainmen Assignments – WC Lines Pokegama (Superior)

1. Protecting WC GEB
2. WC Supplemental Board\*
3. WC Rest day Conductors \*
4. DWP Extra Board \*
5. DWP Supplemental Board\*
6. DMIR Extra Board – (Proctor) \*
7. DMIR Supplemental Board – (Proctor) \*
8. DMIR Extra Board – (Two Harbors) \*
9. DMIR Two Harbors Supplemental Board\*

When filling vacancies on Trainmen Assignments – DMIR Lines (Proctor – Missabe)

1. Protecting DMIR Extra Board – (Proctor)
2. Supplemental Board – (Proctor) – (Days off) \*
3. Protecting DMIR Extra Board – (Two Harbors) \*
4. Supplemental Board – (Two Harbors) \*
5. DWP extra board \*
6. DWP Supplemental Board \*
7. WC Extra Board \*

8 WC Supplemental Board \*

When filling vacancies on Trainmen Assignments – DMIR Lines (Two Harbors – Iron Range)

- 1 Two Harbors Extra Board
2. Proctor Extra Board \*
- 3 Proctor Supplemental Board \*
4. Missabe Division rested Trainmen \*
- 5 WC Extra Board \*
6. WC Supplemental Board \*
- 7 WC Rest day Conductors \*
8. DWP Extra Board \*
9. DWP Supplemental Board \*

**Note 1:** \* Denotes that the call is for only one trip or roundtrip, whichever is applicable. The one trip or roundtrip condition also applies to vacancies at outlying locations.

**Note 2:** When a Trainman protects service on an assignment that is normally protected by another extra board those earnings can not be used to offset GEB guarantee on the Trainman's assigned extra board.

**Note 3:** Filling vacancies using Trainmen off of another Property is at the Company's discretion. Issues arising out of the above calling sequence will not be the basis of any time claims, nor will employees be held responsible for missing calls if called to work on another property.