

**Report**  
**TO**  
**THE PRESIDENT**  
**BY**  
**EMERGENCY BOARD**  
**No. 174**

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**APPOINTED BY EXECUTIVE ORDERS 11443 AND 11444  
DATED JANUARY 13, 1969, PURSUANT TO SECTION  
10 OF THE RAILWAY LABOR ACT, AS AMENDED.**

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**To investigate a dispute between certain carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees represented by the Order of Railway Conductors and Brakemen (since January 1, 1969, the Conductors' Division of the United Transportation Union) and by the Brotherhood of Locomotive Engineers.**

**(NMB Cases A-8458, A-8478 Sub Nos. 1-7, and A-8448.)**

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**WASHINGTON, D.C.  
FEBRUARY 12, 1969**



## LETTER OF TRANSMITTAL

WASHINGTON, D.C., *February 12, 1969.*

The PRESIDENT,  
*The White House,*  
*Washington, D.C.*

DEAR MR. PRESIDENT: On January 13, 1969, President Lyndon B. Johnson, pursuant to Section 10 of the Railway Labor Act, as amended, and by Executive Orders 11443 and 11444, created an Emergency Board to investigate disputes between carriers represented by the National Railway Labor Conference and certain of their employees represented by the Order of Railway Conductors and Brakemen (since January 1, 1969, the Conductors' Division of the United Transportation Union) and by the Brotherhood of Locomotive Engineers, labor organizations. That Board, composed of the undersigned, has the honor herewith to submit its report and recommendations based upon its investigation of the issues in dispute.

Respectfully submitted,

LEO C. BROWN, *Chairman.*

PAUL N. GUTHRIE, *Member.*

ABRAM H. STOCKMAN, *Member.*

(III)



## CREATION OF THE EMERGENCY BOARD

Emergency Board No. 174 was created by Executive Orders 11443 and 11444, issued January 13, 1969, pursuant to Section 10 of the Railway Labor Act, as amended, to investigate and report its findings of unadjusted disputes between the railroad carriers represented by the National Railway Labor Conference (comprised of the Eastern, Western, and Southeastern Carriers' Conference Committees), and certain of their employees represented by the Order of Railway Conductors and Brakemen (since January 1, 1969, the Conductors' Division of the United Transportation Union) and by the Brotherhood of Locomotive Engineers, labor organizations.

President Johnson appointed the following as members of the Board: The Reverend Leo C. Brown, S.J., Professor of Economics, St. Louis University, Chairman; Abram H. Stockman, Esq., attorney and arbitrator for New York, N.Y., Member; Paul N. Guthrie, Professor of Economics, University of North Carolina, Member.

The Board convened in Washington, D.C., on January 16, 1969, to discuss procedural matters with the parties, and thereafter for 9 days between January 21 and January 31, 1969, held public hearings in Washington, D.C., at which the parties were given adequate opportunity to present evidence and argument.

In entering its appearance in these proceedings, the BLE questioned the propriety of this Board's investigating both its dispute and that of the Conductors and Carriers in the same proceeding, maintaining that its dispute with the Carriers constituted a "separate dispute" under Section 10 of the Railway Labor Act and that accordingly it was entitled to the appointment of a separate and distinct Board under Executive Order 11444 to consider the proposals it submitted to the Carriers pursuant to section 6 of that Act. Although the BLE entered its appearance and was represented by counsel, it declined to submit to the formality of presenting evidence through the sworn testimony of witnesses and of permitting them to be cross examined by the Carriers. It did, however, participate in the proceedings to the extent of an opening statement concerning its proposals and position, supplemented by a statement of the Organization's First Assistant Grand Chief Engineer. And it was afforded and accepted the opportunity of submitting certain exhibits and cross examining the Carriers' witnesses. Although it did not submit a written posthearing brief, it made a clos-

ing argument. Like the Carriers and the ORCB, it made itself available to the Board in informal discussions for identifying and clarifying issues.

Although both the ORCB and the Carriers had expressed their willingness to enter into a stipulation to recommend to the President that the Board be permitted an extension of time to render its report to the President, the BLE declined to do so. Unfortunately, as a result of this development, the Board was faced with the particularly burdensome task of attempting to formulate and prepare its report within an exceedingly short period of about 5 days following the submission of briefs.

Hence, the Board wishes to point out that its consideration of the complexities of this dispute, and of the many pages of testimony, exhibits and written arguments with which it was presented, had inevitably to be conditioned by the extremely short time at its disposal. By the same token, this report must necessarily reflect the Board's handicap in that respect.

### **A. THE CONDUCTORS' DISPUTE**

*Background.* The Order of Railway Conductors and Brakemen (since January 1, 1969, the Conductors' Division of the United Transportation Union) represents more than 15,000 conductors, brakemen and baggagemen employed by the Nation's Class I Line-Haul Railroads. In keeping with the terms of their collective bargaining agreements and pursuant to Section 6 of the Railway Labor Act, as amended, these Carriers and the Organization in early May 1968 exchanged notices of desired changes in their agreements. Thereafter, during September 1968, these parties held negotiating sessions in Washington, D.C., with respect to the requested changes, and when they failed to arrive at an agreement, the Carriers, on September 19, 1968, requested the National Mediation Board to enter the dispute. That Board conducted mediation during October and November 1968, and when mediation proved unsuccessful, the Board proffered arbitration. This proffer the Carriers accepted but the Organization declined. NMB then, on December 5, 1968, informed the parties that it was terminating its services to them. However, on January 3, 1969, NMB made a further attempt to mediate a settlement, but this effort also proved unsuccessful and the Union set a date for a strike. Subsequently, on January 13, 1969, President Johnson by Executive Order 11443 created this Emergency Board.

The Section-6 Notices of the parties are set forth in Appendix A. The positions of the parties and the evidence supporting them are set forth fully in the transcript of the hearing and in the exhibits and briefs submitted. They will be stated here only in summary form.

The proposals of the Organization, which requested improvements in both wages and fringes, will be considered seriatim as set forth below.

### I. THE WAGE REQUESTS

The Organization requests:

1. An increase of 72 cents (9 cents per hour) per basic day.
2. A general wage increase of 15 percent.
3. An increase in overmile rates, effective January 1, 1968, in proportion to all increases of basic daily rates which have occurred subsequent to June 25, 1964.
4. A senior-craft inequity adjustment of \$4.50 per basic day and 4.5 cents per overmile.
5. An increase in existing car-scale additive compensation.
6. A 10-percent increase to local-freight employees in addition to other increases.
7. An automatic cost-of-living-adjustment provision.

1. *The 72 Cents-Per-Day Increase.* The Organization proposed a variety of wage adjustments, the first of which was:

Effective July 1, 1968, all basic daily and mileage rates of pay in effect on June 30, 1968, shall be increased by the amount of seventy-two cents (72¢) per basic day.

It was the intent of the ORCB that this proposed increase would be made prior to the other proposed wage adjustments, with the result that the base from which other wage adjustments would be calculated would be increased by the amount of the 72 cents.

In making this proposal the Organization contends that an inequity of 9 cents per hour for the conductors developed out of the settlements made in 1964. It is stated that in the contracts entered into on November 20, 1964, the conductors received a wage increase of 18 cents per hour or \$1.44 per day, plus a 31-cents-per-day senior-craft adjustment. It is stated further that the Shopcrafts and other nonoperating employees received an increase of 27 cents per hour, such increase to be made effective in three annual increments of 9 cents.

The Carriers' response to these arguments is to deny that the claimed inequity exists. In the first place it is stated that the ORCB increase in 1964 was 21.875 cents per hour rather than 18 cents and that it was all effective as of July 1, 1964, whereas the two last 9-cent increments were received by the nonoperating groups at substantially later dates. Thus, the ORCB had the benefit of the increase for a much longer period.

The Carrier contends further that ORCB made two settlements with knowledge in each instance of the series of 9-cent increments received by the nonoperating groups. Hence, it is argued, the present

request is an effort to dredge up an inequity that does not really exist.

The Board is of the view that the evidence does not support a finding that there was a 9-cent "falling behind" on the part of the employees represented by the ORCB as the proposal contends. It is instructive also to note that BLE settled for \$1.75 per day in July 1964, before the increase for the nonoperating groups was agreed upon, and that Emergency Board 161-163 cited the BLE agreed-upon increase as a justification for the three 9-cent increments for the nonoperating groups in order to maintain wage parity. It may be noted that BLE apparently has not claimed that it suffered this alleged inequity claimed by ORCB.

The fact that the ORCB has entered into two wage settlements being in each instance aware of the nonoperating-groups settlement, is not without significance. It appears that in the 1967 negotiations the ORCB did raise this 9-cent inequity claim, but settled without the Carriers agreeing to any correction.

In view of all the circumstances and the lack of a clear showing in the record that such an inequity actually exists, the Board recommends that the request be withdrawn.

2. *The General Wage Increase Issue.* The Organization requests that all basic daily and mileage rates in effect on June 30, 1968, after having been increased 72 cents per basic day (see the issue above), be further increased by 15 percent.

In general the Organization contends that this request should be recommended because wages of conductors have not kept pace either with the increases in productivity and the cost of living during the past 10 years or with recent wage increases to American workers generally. And further, that the conductors' basic daily rate, when stated in terms of constant purchasing power, is lower by \$1.13 (about 5 percent) today than it was in 1964.

The Organization vigorously disputes that a wage increase for conductors must conform to the Carriers' asserted wage pattern based on agreements made with other crafts. The Organization maintains that this is so-called pattern approach is destructive of collective bargaining, wholly unjust and fortuitous, unresponsive to the merits of the dispute, negates the Organization's particular problems and priorities, and permits the Carriers to impose their solution upon the Organization which seeks a wage increase responsive to its needs and desires. Moreover, the Organization maintains, the Carriers' asserted pattern is in fact no pattern, and, in any event, should not preclude consideration of the question of a general wage increase upon its merits.

The Carriers have offered ORCB a wage increase of 5 percent for the last 6 months of 1968, an additional 2 percent for the first

6 months of 1969, and an additional 3 percent for the last 6 months of 1969. These increases would apply to all rates except mileage rates. Mileage rates would follow the same pattern of increases except that the increase for the last 6 months of 1968 would be limited to 3½ percent. In addition, basic rates would be adjusted upward by 2 to 3 cents per day, effective July 1, 1968, to eliminate any inequalities resulting from differences in the timing of wage increases for other groups of railroad employees under agreements concluded in the last previous round of wage negotiations.

The Carriers maintain that the proposed increase constitutes equal and nondiscriminatory treatment of the conductors in relation to increases granted other crafts in the railroad industry; is wholly adequate when compared with 1968-69 increases in outside industry; is generous when viewed in the light of the railroads' stringent financial circumstances; and is consistent with the public interest in combating inflation.

The Carriers point out that agreements providing for equivalent increases have been reached with unions that represent 65 percent of the employees in the railroad industry—62 percent of the nonoperating employees and 71 percent of the operating employees. On the other hand, they note, the ORCB and BLE represent only 29 percent of the operating employees and about 9 percent of all employees in the industry.

This aspect of the dispute between the parties, as we see it, raises two fundamental questions: (1) the relevance of the pattern settlement to the conductors' craft, and (2) assuming its relevance, the appropriate application to that craft.

This Board agrees with the Organization that the fact that other unions may have accepted a particular pattern of wage increases is not of itself adequate reason why ORCB should accept the same pattern. Each organization is entitled to have its wage demands considered on their own merits. Nevertheless, the fact that a large number of other unions have accepted a particular settlement is a fact of which the Board must take cognizance. A wage increase acceptable to the majority of major railroad unions representing more than a majority of railroad employees is presumptively not grossly unfair or inadequate. Other evidence confirms this view. The Carriers' offer would increase conductors' wages in an average amount in excess of 7 percent for an 18-month contract period; it would increase the level of wages by 10 percent between July 1, 1968, and July 1, 1969. Such increases do not appear to be inadequate by any standard.

The Board notes, however, that the ORCB, under the Carriers' offer, will not receive the full benefit of the pattern increases. Other major

unions such as the Brotherhood of Railway Clerks received a full 6-percent increase in 1968 (2.5 percent effective January 1, 1968, 3.5 percent effective July 1, 1968) and will receive the full 5 percent in 1969 (2 percent effective January 1, 1969, 3 percent effective July 1, 1969). Although the 6 percent granted to ORCB in the contract that became effective in August 1966 yielded a 6-percent increase when applied to the basic daily rates, it did not apply to mileage rates. The result was that in the 1966 settlement, the conductors realized an average increase that the Organization has estimated at 4.8 percent and the Carriers at 5.1 percent—in other words, they received an average increase of about 5 percent. Nor will the conductors realize an increase of 5 percent if they accept the Carriers' offer for the last 6 months of 1968. The fact that only 3½ percent of the 5-percent increase will apply to mileage rates will reduce that increase to about 4.8 percent.

Thus, if the 1966 settlement of the ORCB is to be regarded as a 6-percent settlement, as the Carriers regard it, note must be taken of the fact that that increase worked out to an effective increase of about 5 percent. If, on the other hand, the 1966 ORCB settlement is regarded as a 5-percent settlement, the ORCB, like the other organizations that already have settled, should be entitled during the last half of 1968, not to a 5-percent increase, but to a 6-percent increase.

However, because of the dual pay structure, conductors compensated on a nonmileage basis did receive their full 6 percent since August 1966 and would receive their full 5 percent for the latter half of 1968. Although this group may be entitled to certain adjustments in their wage rates on the basis of intracraft inequities, a subject discussed more fully below, they would not be entitled to any additional increase on the basis of the usual considerations which support a general wage increase. Yet to confine the increase to conductors compensated on a mileage basis would serve to widen existing intracraft inequities to which we have made reference.

It is therefore the considered recommendation of this Board that ORCB accept the general wage increase proposed by the Carriers but that the additional 1 percent to which we think the conductors are entitled in the application of the pattern to this round of wage increases be contributed to a fund for the correction of both intracraft and intercraft inequities. The establishment of such a fund and the reasons for its creation are discussed later herein.

3. *The Overmile Rate Issue.* The Organization seeks a restoration of the parity between mileage rates and daily rates that existed prior to June 25, 1964, requesting that, as of January 1, 1968, the mileage rate be increased in proportion to all increases that have been applied to basic daily rates since June 25, 1964.

The thrust of this proposal is to increase mileage rates to the extent that they would have been increased had the historic relationship been maintained. That relationship was not maintained as a result of the White House Agreement of 1964 because the operating unions agreed to forgo further increases in overmile rates until January 1, 1968.

In support of its position, the Organization argues that the hold-down on overmile rates has introduced disparities into the wage structure that have seriously inconvenienced the employees and denied them the full benefit of increases granted other groups. A restoration of mileage-rate parity will remedy this injustice and insure that these road employees receive full equity in future wage progress.

The Carriers respond that the Organization's proposal wholly ignores the context in which the White House Agreement was made. They point out that the Presidential Railroad Commission had found that a gross inequity existed between the compensation of through-freight employees and of local-freight and yard-service employees; that by the Commission's standards, the White House Agreement fell far short of correcting the road-yard inequity. Any restoration of the preexisting parity, the Carriers argue, would necessarily undo what the Commission and the White House Agreement sought to achieve and would exacerbate an inequity that should be eliminated.

Stressing the fact that BRT, BLFE and SUNA have agreed to extend the holddown to July 1, 1968, and only thereafter to have the mileage rates increased by 3½ percent during the last half of 1968, 2 percent during the first half of 1969, and 3 percent during the last half of 1969, the Carriers claim that its identical offer to ORCB is fair and should be recommended.

This Board, as it addresses itself to this aspect of the parties' dispute, clearly recognizes that the holddown approach has definite shortcomings as a response to the problem of the disparity in earnings as between local-freight and through-freight and passenger-service employees. It is unsatisfactory as a method of compensation because identical work done at different times in the course of a run is compensated at unequal rates. While the Organization's request would eliminate certain incongruities in the pay structure, it would merely widen the fundamental disparity that the parties attempted to narrow by the White House Agreement. For this reason, the Board recommends that the Organization withdraw this request.

4. *The Senior-Craft Inequity Adjustment.* In addition to their request for a general increase in wages, the conductors seek a senior-craft adjustment of \$4.50 per basic day and 4.5 cents per mile. They contend that wage compression, a widespread problem, has been more severe among railroad occupations than elsewhere and that despite

recent adjustments that have partially rectified the inequity experienced by conductors a substantial injustice still persists. They illustrate the problem by reference to the progressive narrowing of the differentials between the minimum compensation of conductors and various classes of nonoperating personnel and between conductors and brakemen, a craft that the conductors supervise.

In reply, the Carriers, while conceding that wage compression has been a serious problem in some segments of the railroad industry, maintain that nothing in the record suggests that this problem has had any substantial impact upon conductors. If a comparison is made of annual earnings instead of minimum daily rates, no case for an inequity can be shown. Annual earnings of freight conductors in 1967 were \$11,679, those of machinists, \$7,371, and of janitors, \$5,774 (Carriers' Exhibit 14, pp. 12-14). Expressed in percentage terms, the machinists' earnings were 63 percent of freight conductors' and janitors' earnings were 49 percent. This demand, the Carriers maintain, should be rejected.

In the judgment of this Board the evidence of wage compression in the record does not support the Organization's request, which would appear to be an adjustment of about 17 percent in terms of average basic rates for the first 7 months of 1968. Yet we conclude that the judgment of the Presidential Railroad Commission is still valid: as between conductors and brakemen "the present wage differentials are too narrow. The job of conductor relatively is undervalued and the job of brakeman relatively is overvalued."

We think that this situation calls for some correction but the solution is one which we think can appropriately be considered later herein in connection with the Organization's request for a 10-percent increase for local-freight employees.

5. *The Car-Scale Additive Issue.* In its Section-6 Notices the Organization proposed major changes in the car-scale-additive system. The notices asked that the structure of the schedule of additives be changed and that there be an upward revision of the amounts paid in the respective brackets.

The basic system of car-scale additives was introduced in the Agreements in 1955 as a result of negotiations following the report of Emergency Board 109. It was also considered by the Presidential Railroad Commission. The issue was raised again before Emergency Board 171 and that Board, sitting as a Board of Arbitration on this matter, saw fit to change the amounts payable in the respective brackets. But it declined to modify their structure.

It is claimed by the Organization that as a result of changes in the industry, the Engineers' weight-on-drivers' pay system yields rates

of pay that are disproportionate to those of conductors, with the result that conductors suffer a serious inequity in earnings when compared with engineers. In the view of the Organization, the basic difficulty is that, although the average length of train was about 71 cars in 1967, the first bracket of the schedule of additives extends to 80 cars. The result of this, it is argued, is that most conductors receive only the additives specified in the first bracket, at present 23 cents. In contrast, it is pointed out, the assignments of most engineers are concentrated in the higher brackets of their weight-on-drivers system.

To correct the disparity, the Organization proposes that the second additive bracket begin at 41 cars rather than at 81 as the present schedule provides. In addition, the Organization asks that the amounts payable in the respective brackets be increased.

The Carriers oppose the requested changes as being unnecessary and possibly oppressive in cost. In their views, the present system is moving in the direction of correcting the alleged inequity claimed by the Organization.

The Board recommends that the Organization withdraw this request, and that the parties submit this matter to joint study and future negotiations.

In making this recommendation, the Board, while passing no judgment on the merits of this issue, is nevertheless of the opinion that the car-scale-additive schedule may need substantial revision. The Board is also taking cognizance of the fact that this matter was considered some 19 months ago by Emergency Board No. 171 acting as a Board of Arbitration; that this Board has little more or different data than were submitted to Emergency Board No. 171; that there are not in this record adequate data on distribution of trains by number of cars or by length to permit a revision of car-scale additives to be undertaken with confidence.

6. *The Local-Freight-Inequity Issue.* In addition to the general wage increase of 15 percent and the senior-craft-inequity adjustment of \$4.50 per day or 4.5 cents per mile sought for all conductors, the Organization seeks a separate 10-percent increase for local-freight service employees, pointing out that for slightly less annual compensation the local-freight conductor works a substantially longer work week—in many cases as much as a 50 percent longer week—than his through-freight counterpart.

The existing differential in daily pay—56 cents per day in favor of the local-freight conductor—and the amount by which the Carriers would increase it—40 cents per day or approximately \$100 per year—are, the Organization contends, wholly inadequate. The Organization observes further that the Carriers, in dealing with other crafts

as, for example, the Brotherhood of Railway Clerks, granted an inequity fund equivalent to an increase of 5 cents per hour for all members of the craft to be distributed to those members who were relatively disadvantaged. However, the Carriers have offered the conductors an inequity adjustment of 5 cents per hour only for employees who themselves are relatively disadvantaged, that is, for about 18 percent of their craft. This, the Organization contends, is unequal treatment.

The Carriers, noting that ORCB presented no evidence with respect to this proposal, contend that the pattern settlement that the Carriers propose would grant freight and yard-service employees 40 cents per day as an inequity adjustment, thus narrowing any disparity that may exist between such employees and employees in through-freight service. The Carriers conclude that, under these circumstances, the ORCB proposal should be rejected.

It appears to the Board that although the Organization did not address itself specifically to this particular proposal, there was considerable evidence in the record pertaining to the matter of the inequity between local and through-freight service employees. It is the Board's belief, based upon a review of all such evidence, that a significant inequity does exist between local-freight conductors and those engaged in through-freight and passenger service. It is also the Board's judgment that the Carriers' proposal of 40 cents per day for those employees whose compensation does not include a mileage component is not an adequate response to that inequity. The Board notes that in recent settlements unions representing nonoperating employees have been granted inequity funds based, not upon the number of employees relatively disadvantaged, but upon all employees in the particular bargaining units. The Board, of course, is aware that the inequity adjustments agreed to by the operating crafts were not funds based upon all employees in the units but payments made only to relatively disadvantaged employees. But, it seems to us, the Carriers cannot, with consistency, argue a pattern inclusive of nonoperating groups for the purpose of general wage increases and exclusive of them for the purpose of inequity wage adjustments.

In its discussion of the general wage issue, this Board concluded that the conductors were entitled to an amount equal to a one-percent general wage increase that could appropriately be devoted to the correction of intercraft and intracraft inequities. It is also the Board's judgment that to this fund there should be added an amount equivalent to 5 cents per hour for each employee conductor in the unit. The Board, however, would not propose to suggest precisely how this fund should be distributed. Rather, it would leave its distribution to the parties themselves.

The Board, therefore, recommends that a fund be created that will equal in amount a 1-percent general increase plus 5 cents per hour for each ORCB conductor and that the distribution of this fund between senior-craft and local-freight adjustments (or for any other purposes on which the parties may agree) be left to the parties. The Board further recommends that in the event the parties fail to agree either upon the amount of this fund or its distribution, they submit the matter for final determination to an Arbitrator jointly selected, or, should they be unable to agree in naming an Arbitrator, to an Arbitrator designated by the National Mediation Board.

7. *Cost-of-Living-Adjustment Requests.* In its Section-6 Notice of April 1, 1968, the Organization proposed that an automatic Cost-of-Living-Adjustment Provision be included in the Agreement. The notice stated in some detail the features of the arrangement desired by the employees.

The Organization contends that this provision is essential to protect the real wages of the employees, in view of the increasing cost of living. It is claimed that the lack of such an arrangement in recent years has resulted in a serious erosion of employee living standards.

The Carriers oppose the inclusion of such a feature in the Agreement, contending that an escalator arrangement both adds unduly to cost and intensifies the existing inflation problem.

Escalator arrangements of this sort are not unknown to the railroad industry, although they have been used less in this industry than in some others. Such provisions were included in railroad collective-bargaining agreements between 1956 and 1959. However, it appears that in 1960 the railroads and the unions involved saw fit to discontinue all or most of those that they had. We are not shown very convincing reasons why the Board should recommend the reintroduction of escalator arrangements that the parties had abandoned.

Another consideration leading to such a conclusion is the fact that, in all likelihood, but a comparatively short period of time will intervene between the completion of this round of agreements and the beginning of the next. This is especially so if the agreements are operable as of January 1, 1970.

In view of these considerations the Board recommends that this proposal be withdrawn.

## II. OTHER ORCB ISSUES

The Organization presented a number of other proposals of a non-wage or fringe-benefit nature in which it sought improvements in paid vacations, paid holidays, the establishment of a paid sick-leave plan, improvement in allowances for expenses away from home, and changes in the held-away-from-home-terminal rule.

1. *Vacations.* The Board recommends that the present vacation rule be modified to grant 2 weeks' vacation after 2 years of service rather than after 3 years of service. The Board is neither insensitive to, nor unappreciative of, the desire and need for longer vacations by senior employees having the extended service which is characteristic of the conductors' craft. But there necessarily must be some benchmark by which a vacation proposal that seeks to accommodate to that seniority can be justifiably recommended. By traditional tests of the progress of workers generally, or of workers in the railroad industry, or of workers in the operating crafts where the most senior employees predominate, we can find no standard which would warrant at the present time more than 4 weeks' vacation for employees having 20 or more years of service as the rule at present provides.

2. *Holidays.* The Board further recommends that the number of holidays be increased from seven to eight, subject to the Carriers' counter-proposal that there be a prohibition against multiple time-and-one-half payments on holidays. The extension of holiday eligibility to longer road-service employees who are compensated on a mileage basis would represent a significant departure from the considered recommendations of the Presidential Railroad Commission and does not seem warranted under present circumstances. Nor are we persuaded that there has been a clear showing of any inequity that is sufficiently compelling to recommend more than eight paid holidays.

3. *Sick Leave.* The Organization has requested that conductors be provided 15 days of paid sick leave with unlimited accumulation of such days if not used. The purpose of the proposal is to replace the wage loss suffered as a result of absences from work because of sickness. The Organization contends that such loss of earnings is not adequately compensated for under the Railroad Unemployment Insurance Act which, in addition to imposing a 7-day waiting period, fails to provide daily benefits sufficient to replace the conductors' per-trip earnings' loss.

The Organization justifies its proposal on the ground that there is a growing acceptance of paid sick-leave plans in both the public and private sectors of our economy with sick benefits being provided for a large proportion of industrial plant and office workers, public-utility, local-transit, and State and Federal employees. It particularly notes that a major proportion of railroad employees within groups represented by the BRAC have liberal sick-leave plans.

The Carriers' opposition to the proposed paid-sick-leave request is based on the following contentions: As a result of jointly requested recent amendments to RUIA, sick benefits in the railroad industry are now more liberal than other statutory or private plans; only one worker in ten is covered by both forms of protection; road-service em-

ployees subject to mileage limitations have opportunities to replace their earnings' loss from short sick absences; the more limited benefits of the RUIA are spread over much longer periods of time to take care of true hardships cases; no national agreement applicable to railroad employees provides for sick leave.

The Board is of the opinion that, desirable as it may be to have a sick-leave plan supplementary to RUIA benefits, the conductors have not shown that its proposal, or any modification thereof, is warranted at this time under the conditions which prevail for railroad employees generally and for operating employees in particular. The Board recommends that this proposal be withdrawn.

4. *Expenses Away from Home.* In the September 15, 1967, Section-6 Notice, the Organization proposed substantial changes in the present rule governing the payment of expenses away from home.

The rule which this proposal seeks to modify was included in the various agreements as a result of the provisions of Article II of the White House Agreement of June 25, 1964. The then five operating unions were parties to this settlement with the Carriers. In brief, the rule provided that the individual railroads would make available suitable lodging facilities, or, in lieu thereof, pay an equitable allowance for lodging to employees in road service subject to the limitations stated in the rule. In addition, the rule provided for the payment of a meal allowance of \$1.50, again subject to the limitations stated in the rule.

The rule further provided with respect to lodging that "suitable lodging or an equitable allowance in lieu thereof shall be worked out on a local basis." In contrast, the meal allowance of \$1.50 was established on a national basis.

The Section-6 Notice of the Organization would have the effect of broadening the coverage of the rule and would provide for the payment of substantially larger amounts of money to the eligible employees. It would also establish certain national standards with respect to lodging; for example, in the event an equitable allowance is paid in lieu of providing lodging, \$2.00 for each 24-hour period or portion thereof shall be added to the allowances now paid on the various properties.

The record before the Board does not contain sufficient information on this matter to enable us to estimate with any certainty what costs would be involved if the Organization's proposal were adopted. Whatever the present costs may be, there is no doubt that they would be greatly increased if the proposed modifications of the rule were made.

It may be noted in passing that the matter of away-from-home expenses for operating employees has a long history in the industry,

going back at least to the early years of the century. It was not until the 1964 settlement that a specific rule was adopted specifying the above-cited arrangements. Prior to that, time-away-from-home expenses had presumably been considered in the establishment of the wage rates. There was from time to time considerable controversy as to whether such consideration had actually been given in the establishment of wage rates, and if so, to what degree.

The record indicates that this matter was considered by the Presidential Railroad Commission in 1962. The Commission as part of its proposals with respect to the rationalization of the wage structure recommended that the parties "negotiate a national rule requiring each carrier to provide suitable lodging or equivalent allowance . . ." under specified circumstances. It was against the background of this recommendation by the Commission that the present rule was negotiated in 1964 as part of the White House settlement of that year.

The Board is of the view that probably this whole matter of away-from-home expenses should be reviewed by the parties, particularly with respect to the amounts allowed for such expenses. However, we are here dealing with only one union, whereas all five operating unions were parties to the 1964 Agreement. There is some justification for the view that this issue might well be reviewed on a more comprehensive basis than this Board is in a position to do.

It would appear with respect to the present provisions of the rule concerning lodging that the parties have adopted a sound approach in having detailed arrangements determined on the individual properties. Therefore, we will recommend that this practice with respect to local determination be continued. It certainly is appropriate that the adequacy of the allowance paid in lieu of lodging be reviewed by the parties in consideration of changes in prices since 1964.

In item (b) of the part of the Section-6 Notice dealing with this matter, the Organization asks for changes in the meal allowance. It is proposed that eligible employees be reimbursed for the "actual cost of meals with a minimum of \$2.00 for the first 3-hour period tied-up or released from duty with an additional payment of \$2.00 for each successive 6-hour period." The present rule provides that eligible employees will receive a meal allowance of \$1.50.

Again, this proposal may have some merit, particularly with respect to the amount to be allowed. However, detailed data in the record are too limited for a comprehensive evaluation of this problem. While the trends in the cost of food are a matter of general knowledge, the Board would need much more extensive information on various aspects of this problem before being in a position to recommend the acceptance of the Organization's proposal.

In view of all the circumstances, and in recognition of the scope of the issues before the Board, we recommend that, for the purposes of this series of negotiations, the Organization withdraw its requests on this matter.

The Carriers also have made certain proposals concerning away-from-home expenses. In substance, it is proposed that the meal allowance be discontinued and that, with respect to lodging, the rule be revised to apply only after a tie-up at an away-from-home terminal exceeds 8 hours.

The record does not contain any persuasive evidence or argument that would justify the Board in recommending the adoption of the Carriers' proposal on this matter. It is recommended, therefore, that this proposal be withdrawn.

5. *Held-Away-from-Home-Terminal Time.* The Organization's Section-6 Notice of September 15, 1967, including a request to change the Held-Away-from-Home-Terminal-Time Rule to provide:

Payment, to all employees for all time held at the away from home terminal in excess of 12 hours, at the rate paid for the last service performed.

This proposal seeks to modify in a significant way a long-standing rule governing this matter. It is unnecessary here to review the history of the existing rule. Suffice it to note that it was last changed approximately 20 years ago. In brief, the existing rule provides that operating employees in pool freight and unassigned service who are held "at other than home terminal" will be paid for up to 8-hours' time commencing 16 hours after they are relieved from duty, and an additional 8 hours for each succeeding 24-hour period.

The Organization's proposal seems to make three significant changes in the present rule: (1) it seeks to lower the threshold, providing that the pay specified in the rule will begin after 12 hours rather than after 16 hours; (2) it would extend the rule, making it applicable to regular assignments as well as to pool freight and unassigned service; (3) it would alter the rule by requiring the payment of continuous time after the 12-hours' threshold period rather than payments for 8 hours for each subsequent 24-hour period.

This matter of the reduction of the threshold period to 12 hours has been before at least two Presidential Emergency Boards, No. 33 and No. 57. Both of these Boards declined to recommend the proposed change. The rule with respect to conductors has apparently remained unchanged since 1947.

The Organization, in the instant proceeding, has emphasized that its request is not based upon the pay possibilities, but rather that it seeks to encourage the Carriers to schedule the work more efficiently

and thereby to minimize the length of time conductors are held at away-from-home terminals.

Much of the discussion of this issue before the present Board was concerned with the extreme possibilities under the present rule, rather than with the typical situations which may occur in day-by-day operations. In fact, very little data were presented that go to the merits of the issue involved in the proposal. We have very little information covering the actual experience with respect to the periods for which employees are being held at away-from-home terminals. The Presidential Railroad Commission found that operating employees, on the average, were held approximately 4 hours at their away-from-home terminals. We have no reason to think that practice has changed very much since the date of the Commission's report.

The data before the Board do not support a finding that the rule is being abused or that the employees are frequent victims of careless handling in this matter. It is possible that employees have been held away from the home terminal for longer periods than has been indicated in the evidence, and no doubt there have been individual instances where very long periods were involved. However, we do not have such evidence concerning the application of the present rule as would justify recommendation of the Organization's proposals.

It may be pointed out in passing that other classes or crafts of railroad operating employees operate under the same rule as the conductors. Various settlements have been made between these other classes or crafts and the Carriers without changes being made in the existing rule on this matter.

As a result of these various considerations, the Board is unable to recommend the adoption of the proposal. Therefore, we recommend that the Organization withdraw this request.

In connection with the subject matter of this rule, the Carriers presented a counter-proposal to "eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide payment to conductors and trainmen when held at the other than home terminal."

The Board also recommends that this counter-proposal be withdrawn.

6. *Duration.* The Carriers have urged that the Board's recommendations should include the same moratorium on further wage demands as all other unions have agreed to in settling their 1968-1969 wage demands. Those agreements cover a moratorium not only on the wage increases and notices which were the subject of the particular round of negotiations upon which settlement was reached but also cover any other notices to the extent that they cannot be progressed beyond peaceful means of settlement before January 1, 1970. The purpose

of such a moratorium is to provide a period of stability during which costs of the wage increases and of other benefits can be assessed and determined for various purposes including rate relief.

The Organization did not address itself to the Carrier's proposal for such a moratorium and can therefore be presumed not to have taken issue with it. In any event, the Board can see no basis which suggests or would warrant any different treatment of this matter as it affects the Organization than it has been accorded by the other unions through their voluntary agreements.

The Board therefore recommends that, in consideration of the wage increases and other benefits recommended, the Organization agree to a moratorium on Section-6 Notices to the extent that they cannot be progressed beyond peaceful means before January 1, 1970.

The Board also recommends that all proposals upon which it does not make a specific recommendation, whether of the ORCB or of the Carriers, be withdrawn. This recommendation is prompted not by any judgment on the merits of those proposals but on the pragmatic ground that the recommendations herein contained with respect to both wage and nonwage matters would provide a fair and equitable basis upon which the parties should seek to resolve their present dispute.

## **B. THE ENGINEERS' DISPUTE**

*Background.* The Brotherhood of Locomotive Engineers represents nearly 35,000 engineers employed by the Nation's Class I Line-Haul Railroads. In keeping with the terms of their collective-bargaining agreements and pursuant to Section 6 of the Railway Labor Act, as amended, these Carriers and the Organization in early May 1968 exchanged notices of desired changes in their agreements. Thereafter during August and September 1968, these parties held negotiating sessions with respect to the requested contract changes, and on September 19, 1968, the Carriers requested the National Mediation Board to enter the dispute. The National Mediation Board conducted mediation during October and November 1968, and when mediation failed to terminate the dispute, the Board proffered arbitration. This proffer the Carriers accepted but the Organization declined. NMB then, on December 12, 1968, terminated its services, and on January 13, 1969, President Lyndon B. Johnson issued Executive Order 11444 establishing this Emergency Board. The Section-6 Notices of the parties are reproduced in Appendix B of this report.

The BLE seeks by its Section-6 Notice (1) a general wage increase of 15 percent applicable to all basic rates including mileage rates, effective July 1, 1968, (2) an additional 10-percent increase on all basic and mileage rates of engineers operating without a firearm, and (3) an additional 10-percent increase on all basic and mileage rates of engineers on locomotives equipped with radio-telephones.

The Board made every effort to, and did in fact, consider the BLE's proposals separately from the proposals of the ORCB, in keeping with the fact that these were separate disputes, involving distinctly different operating crafts, which resulted in separate and independent negotiations. But it was inescapable that the Board's consideration of the BLE's proposals necessarily involved an investigation into factors and data common to the railroad industry and indeed common to both the conductors' and engineers' crafts.

With respect to the proposal for a general wage increase of 15 percent and the increase in overmile rates, the BLE urges that such an increase is necessary to bring real wages in line with the increase in the cost of living since its last agreement in 1966. It argues too that such an increase is justified because engineers have contributed to the increased productivity that has taken place in the railroad industry during the last decade, because they lack certain of the fringe benefits that have become common in other industries, and because it is competitively necessary in order to attract future engineers into the railroad industry. It stresses that the Carriers' proposal of only a 3½-percent increase on the overmiles results in a significantly smaller percentage increase in earnings than other crafts obtained in 1968 and that those engineers required to work runs in excess of 100 miles that cannot be completed within an 8-hour period are especially disadvantaged by a pay structure that has remained frozen at 1961 levels.

The emphasis of the Carriers on the need for equal and nondiscriminatory treatment of the many crafts with which it has to deal is matched by the countervailing emphasis of the engineers on the need to recognize the eliteness of their craft, the skills they possess, their indispensability for the efficient operation of the motive power, and the existence of compelling inequities that are peculiar to their craft. The Board, of course, has the responsibility of seeking in the public interest an accommodation of these private interests. This is no less true for the engineers than it is for the conductors.

In the case of the conductors, we have found that the Carriers' offer would provide equal and nondiscriminatory treatment of that craft only if accommodations were made to preserve its wage-level status as one of the senior crafts and to correct certain intracraft inequities. The Board believes that such considerations are equally applicable to the engineers although the matter for which there should be an accommodation are not identical.

In its analysis of the conductors' dispute, the Board found that the conductors as a craft did not receive a full 6-percent increase in August 1966 because that increase was not extended to overmiles. In the case of the engineers, it would appear that they, too, received less than the

full 6 percent because of the holddown on the overmiles. But it may well be that the engineers' average increase was somewhat higher than the conductors' because of the greater proportion of their members in yard and local-freight service, whose earnings have no mileage component and who therefore received the full increase of 6 percent. We lack the data upon which we can make a reasoned and considered determination of that fact for purposes of our being able to recommend the amount to be contributed to an inequity fund as we did in the case of the conductors. It is clear, therefore, that as to this aspect of the situation, the Board must necessarily refer the matter back to the parties.

The Board also found in the case of the conductors that their craft was entitled, as well, to a fund equivalent to 5 cents per hour for each member of the craft for the purpose of inequity adjustments. Although the engineers made no specific request for inequity adjustments as such, they have not denied such inequities exist, and indeed it is evident that they do from the very fact that the Carriers made an offer for that very purpose. Hence, the considerations which support the 5-cents-per-hour fund for the conductors would appear equally valid for the engineers.

To sum up the matter, it is our considered judgment that the record does not support the Organization's request for a 15-percent general increase. It is our recommendation that they accept the Carriers' offer of 5 percent, 2 percent, and 3 percent with  $3\frac{1}{2}$  percent of the first stage adjustment being applied to overmiles, and the full 2 percent and the 3 percent applied to overmiles. At the same time, we are persuaded that in the matter of wage adjustments, the engineers are entitled to equal treatment in relation to the other crafts, and that such equality suggests that a fund of the components herein indicated should be made available for distribution based upon a negotiated agreement, and in the absence of agreement upon final and binding arbitration.

With respect to the request for a 10-percent increase in wages for engineers who operate locomotives without firemen, it must be recognized that the Board is in no position on the state of the record to determine to what extent, if any, the responsibilities of the engineers under these conditions are such as to warrant an increase in the present existing differentials. The Carriers in the past have acquiesced in the payment of extra compensation, presumably in recognition of the fact that there is an added measure of responsibility not theretofore present. And, as the record indicates, the Carriers have offered further increases in this round of negotiations.

The Board is firmly convinced that this is a matter for bargaining by the parties, and its only suggestion would be that, in the negotiation

of the fund which it has recommended, there may be some advantage to considering that some portion of the amount involved be allocated to this matter.

The requested 10-percent increase on basic and mileage rates for operating radio-equipped locomotives is a proposal that appears to have been extensively and thoroughly considered in two prior proceedings.

Emergency Board 126 came to the conclusion that the use of radio-telephone communications had benefited engineers by making their work safer and more comfortable and recommended withdrawal of the Organization's proposal for an arbitrary payment. Arbitration Board No. 255 came to a similar conclusion, and with the exception of one minor area, found in general no changes in job content as would justify additional compensation.

If there has been any change in the underlying situation since those proceedings took place and the findings rendered, then, of course, such changes should be supported by the same attention to detail and evidence that characterized those proceedings. The record before us lacks that kind of supporting evidence.

In the course of the hearing the Organization raised the question of the difficult position in which an engineer is placed who is forced to rely on radio-telephone instructions of which there is no record. This aspect of the matter, in the Board's view, is more properly related to discipline rules and their revision and should be handled as such rather than as a wages matter. In view of the foregoing considerations the Board recommends that the Organization withdraw this proposal.

As in the case of the Board's recommendation with respect to the conductors, and for the reasons therein stated, the Board recommends that the parties agree to a moratorium on Section-6 Notices to the extent that they cannot be progressed beyond peaceful means before January 1, 1970.

The Board also recommends that all other proposals of both the Engineers and the Carriers be withdrawn.

### **C. RECOMMENDATIONS**

In summary, the Board recommends that the disputes committed to its investigation be resolved in the following manner:

#### **CONDUCTORS' DISPUTE**

1. That the Organization accept the Carrier's offer of a general wage increase of 5 percent of basic daily rates and 3½ percent of mileage rates, effective July 1, 1968, of a further 2 percent of both basic daily

and mileage rates, effective January 1, 1969, and of a further 3 percent of both basic daily and mileage rates, effective July 1, 1969.

2. That the parties provide a fund that would equal in amount a one-percent general increase plus 5 cents per hour for each ORCB conductor and that they negotiate the distribution of that fund to accomplish, in such proportions as the parties may determine, a senior-craft adjustment for the whole craft, and an adjustment to local-freight-service employees, or any other purpose on which the parties may agree. That in the event the parties fail to agree either upon the amount of this fund or its distribution, they submit the matter for final determination to an Arbitrator jointly selected, or, if unable to agree in naming an Arbitrator, to an Arbitrator designated by the National Mediation Board.

3. That the Organization withdraw its proposal pertaining to car-scale additives and that the parties submit this matter to joint study and future negotiations.

4. That the Organization accept the Carriers' offer to modify the present vacation rule by granting 2 weeks' paid vacation after 2 years' service and in increase the number of paid holidays from seven to eight, subject to a prohibition against multiple time-and-one-half payments for work on holidays.

5. That the parties agree to a moratorium on Section-6 Notices to the extent that they cannot be progressed beyond peaceful means before January 1, 1970.

6. That all other proposals of both the Organization and the Carriers be withdrawn.

#### **ENGINEERS DISPUTE**

1. That the Organization accept the Carriers' offer of a general wage increase of 5 percent of basic daily rates and 3½ percent of the mileage rates, effective July 1, 1968, of a further 2 percent of both basic daily and mileage rates, effective January 1, 1969, and of a further 3 percent of both basic daily and mileage rates, effective July 1, 1969.

2. That the parties negotiate a fund that would equal an amount derived in accordance with the considerations discussed in this report for the correction of intracraft inequities through distribution to yard and local-freight-service employees, or for any other purpose on which the parties may agree. That in the event the parties fail to agree either upon the amount of this fund or its distribution, they submit the matter for final determination to an Arbitrator jointly selected, or, if unable to agree in naming an Arbitrator, to an Arbitrator designated by the National Mediation Board.

3. That the parties resume their negotiations with respect to the Organization's request for an increase in wages for engineers who operate locomotives without firemen and consider the allocation of some portion of the inequity fund to this purpose.

4. That the parties agree to a moratorium on Section-6 Notices to the extent that they cannot be progressed beyond peaceful means before January 1, 1970.

5. That the Organization withdraw its proposal for an increase in basic daily and mileage rates for operating locomotives equipped with radio-telephones.

6. That all other proposals of both the Organization and the Carriers be withdrawn.

Respectfully submitted,

LEO C. BROWN, *Chairman.*

PAUL N. GUTHRIE, *Member.*

ABRAM H. STOCKMAN, *Member.*

WASHINGTON, D.C. *February 12, 1969*

**APPENDIX A**  
**PART I: ORCB SECTIONS-6**  
**NOTICE TO CARRIERS**

SEPTEMBER 15, 1967

**1. *Mileage Rates and Car Scale Additives.***

Change existing agreements applicable to conductors only, effective January 1, 1968, to provide:

(a) Mileage rates and car scale additives applicable to freight service for miles in excess of the basic day, shall be increased in proportion to all increases applied to basic daily rates and car scale additives subsequent to June 25, 1964.

(b) Mileage rates applicable to passenger service for miles in excess of the basic day, shall be increased in proportion to all increases applied to basic daily rates subsequent to June 25, 1964.

**2. *Expenses Away From Home.***

Change the present away from home expense rules, effective October 15, 1967, to provide that all employees in road service who are tied up or released from duty for three hours or more at a point other than their home terminal (supply point) of their seniority district shall be entitled to:

(a) Suitable lodging at carrier's expense including transportation to and from such lodging, or an equitable allowance in lieu thereof if it is not possible for the carrier to furnish such suitable lodging. If an equitable allowance is being allowed instead of suitable lodging, such allowance shall be increased by the sum of \$2.00 and shall be allowed for each 24 hour period, or portion thereof, tied up or released from duty. If an employee qualifies for lodging at a point where he resides, such employee will be entitled to the equitable allowance in lieu of suitable lodging.

(b) Reimbursement for actual cost of meals with a minimum of \$2.00 for the first 3 hour period tied up or released from duty with an additional payment of \$2.00 for each successive 6 hour period.

(NOTE: The term "tied up or released" from duty means any time an employee is released from duty even though compensation may be continuous.)

**3. *Vacations.***

Change existing vacation agreement effective January 1, 1968, to provide for the following paid vacations:

- |                                    |          |
|------------------------------------|----------|
| 1. Less than 1 year's service..... | 2 weeks. |
| 2. Five years' service.....        | 3 weeks. |
| 3. Ten years' service.....         | 4 weeks. |
| 4. Fifteen years' service.....     | 5 weeks. |
| 5. Twenty years' service.....      | 6 weeks. |

#### 4. *Held Away From Home Terminal Time.*

Change existing Held Away From Home Terminal Time Rule, effective October 15, 1967, to provide:

Payment, to all employees for all time held at the away from home terminal in excess of 12 hours, at the rate paid for the last service performed.

#### 5. *Paid Holidays.*

Establish or amend agreements, effective October 15, 1967, to provide:

(a) All employees represented by this organization, and all employees engaged in any service or combination of services which includes a service covered by agreements held by this organization, shall be allowed a minimum of one basic day at the rate of the last service performed for the following holidays, in addition to all other compensation earned on such holidays:

New Year's Day	Labor Day
Washington's Birthday	Veterans Day
Good Friday	Thanksgiving
Decoration Day	Christmas
Independence Day	Employee's Birthday

(b) Employees assigned, called or used on any such holiday shall be paid their holiday allowance as specified above and in addition thereto shall be paid at the rate of time and one-half for all services performed with a minimum of one and one-half times the rate for the basic day.

(c) Eliminate the existing qualifying provisions, and in lieu thereof provide that all employees who are on the carrier's active list in either regular or extra service and who are not off on extended formal leave of absence, shall receive the basic day for the holiday. Employees will not be disqualified under this rule because of being off on assigned rest, lay-over or vacation days; off on account of illness or injury; off because of death, injury or illness of a member of the family; off at the instance of the company due to annulment, temporary reduction in service over the holiday period; or off for purposes of investigation, examination or any form of company business.

(d) If an employee's birthday falls on one of the other designated holidays, the birthday holiday shall be considered to be the day following such other holiday.

#### 6. *Sick Leave.*

Establish a rule effective October 15, 1967, providing for 15 days paid sick leave per year, to accumulate if not used.

### ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

#### General Committee of Adjustment

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Railroad

April 1, 1968  
(Date)

DEAR SIR: Please accept this as formal notice under the provisions of Section 6 of the Railway Labor Act, as amended, of the desire of the Organization to change effective July 1, 1968, the existing agreements covering the classes and crafts of employees represented by this Organization to the extent as indicated in Attachments "A" and "B" hereto.

Please advise the date and place conference may be had to discuss this notice with you as provided in the Railway Labor Act, as amended.

Like notices are being served on other railroads on this date, and it is requested in the event a settlement is not reached, that you, along with these other railroads, authorize a National Conference Committee to represent you in handling this matter to a conclusion.

Very truly yours,

---

General Chairman.

#### ATTACHMENT "A"

##### 1. *Wage Increase*

A. Effective July 1, 1968, all basic daily and mileage rates of pay in effect on June 30, 1968, shall be increased by the amount of seventy-two cents (72¢) per basic day.

B. All existing basic daily and mileage rates resulting from increases provided in Item A of this notice shall be further increased by an additional fifteen percent (15%).

C. All arbitraries, miscellaneous rates, special allowances, daily, weekly and monthly guarantees shall be increased commensurately with wage increases provided by Items A and B of this notice.

D. The local freight service differential shall be ten percent (10%) in excess of the freight rates established by Items A and B of this notice.

E. An inequity adjustment in the amount of \$4.50 per basic day and 4.5 cents per mile shall be added to all existing basic daily rates and mileage rates of conductors in addition to the increases provided for in other items of this notice.

F. Wage rates resulting from the increases provided for in Items A, B, D, and E, shall be subject to a cost-of-living adjustment made on the following basis:

(a) Consumer Price Index base which shall be the Index as of April 1, 1968.

(b) One and one-half cents (1.5) per hour and 0.12 cents per mile adjustment for each 0.4 and 0.5 point change, alternately in the Consumer Price Index.

(c) Cost-of-living adjustment to be made each three-month period, commencing with the first pay period beginning on or after September 1, 1968.

(d) The cost-of-living adjustment will be determined in accordance with the changes in the "Consumer Price Index 1957-1959=100—United States City Average, all items" as published by the Bureau of Labor Statistics, U.S. Department of Labor, and hereafter referred to as the BLS Consumer Price Index. The cost-of-living adjustment shall be made commencing September 1, 1968, and each third month thereafter based on the BLS Consumer Price Index as of July 1, 1968, and the BLS Consumer Price Index each third month thereafter, respectively as illustrated by the following table:

*BLS Consumer Price  
Index as of:*

July, 1968.  
January, 1969.  
October, 1968.  
April, 1969.  
July, 1969.  
October, 1969.

*Effective date of  
adjustment—first pay  
period on or after:*

September, 1968.  
December, 1968.  
March, 1969.  
June, 1969.  
September, 1969.  
December, 1969.

The cost-of-living adjustment, when provided for, shall remain in effect to date of subsequent adjustment:

0.0-0.3=None.

0.4-0.8=12 cents per basic day and 0.12 cents per mile.

0.9-1.2=24 cents per basic day and 0.24 cents per mile.

1.3-1.7=36 cents per basic day and 0.36 cents per mile.

1.8-2.1=48 cents per basic day and 0.48 cents per mile.

2.2-2.6=60 cents per basic day and 0.60 cents per mile.

2.7-3.0=72 cents per basic day and 0.72 cents per mile.

and so forth with corresponding 1.5 cents per hour and 0.12 cents per mile adjustment for each 0.4 and 0.5 point change in the Index.

#### ATTACHMENT "B"

A. Effective July 1, 1968, car scale additives applicable to conductors in road-freight service receiving road rates of pay shall be increased as follows:

##### BASIS OF PAY

Maximum number of cars (including caboose) hauled in road movement at any one time on road trip anywhere between initial starting point and point of release.	Amounts to be added to the Basic Daily freight rates in effect as of June 30, 1968.	
	Conductors	
	Per basic day	Cents per mile
Less than 41-----	\$0. 50	0. 5
41 to 80-----	1. 00	1. 0
81 to 105-----	1. 50	1. 5
106 to 125-----	2. 00	2. 0
126 to 145-----	2. 50	2. 5
146 to 165-----	3. 00	3. 0

Add 50 cents per day and 0.5 cent per mile for each additional block of 20 cars or portion thereof.

#### PART II: CARRIERS' COUNTERPROPOSALS TO BLE'S SECTION-6 NOTICES

##### *Graduated Rates of Pay*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide for car scale additives based on number of cars handled in local and through freight service.

##### *1. Monetary Claims*

Establish a rule to provide that no monetary claim based on the failure of the carrier to use an employee to perform work shall be valid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so, and no monetary award based on such a claim shall exceed the equivalent of the time actually required to perform the claimed work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment, and less any amounts received as unemployment compensation.

Existing rules, agreements, interpretations or practices, however established, which provide for penalty payments for failure to use an employee contractually

entitled to perform work shall be modified to conform with the foregoing, and where there is no rule, agreement, interpretation or practice providing for penalty pay, none shall be established by this rule.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the Carrier to be more favorable may be retained.

## *2. Assignment and Use of Employees*

The Carrier shall not be required to work an employee if working him would entail payment to him of more than the straight time rate, and use of another person in his place shall not be basis for claims of an employee not used.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the Carrier to be more favorable may be retained.

## *3. Discipline and Investigation*

Amend all existing rules, agreements, interpretations or practices, however established, dealing with discipline and investigation in such manner so as to make the following effective:

If it is found that an employee has been unjustly suspended or dismissed from service, such employee shall be reinstated with his seniority rights unimpaired and be compensated for wage loss, if any, suffered by him resulting from said suspension or dismissal less any amount earned, or which could have been earned by the exercise of reasonable diligence, during such period of suspension or dismissal.

All agreements, rules, regulations, interpretations or practices, however established, which conflict with the above shall be eliminated except that any existing rules, regulations, interpretations or practices considered by the Carrier to be more favorable may be retained.

## *4. Hold Down on Mileage Rates*

Effective January 1, 1968, Section 1 of Article IV of the Agreement of June 25, 1964 shall be amended to read as follows:

"The application of any wage increases which become effective on or after January 1, 1968 will be limited to basic daily rates and shall not apply to existing mileage rates."

## *5. Interchange Service*

Eliminate all rules, regulations, interpretations or practices, however established, which restrict the Carriers' right to provide for the interchange of cars between railroads, with employees of either carrier, however performed, without restriction as to location of track or tracks where such interchange may be accomplished and without penalty or other additional payment to the employees.

## *6. Yard Starting Time*

1. Eliminate all rules, regulations and practices which preclude the starting of yard engines at any time in yards where more than one engine is employed, except that regularly assigned yard crews will not be started in such yards between the hours of 12:01 a.m. and 4:00 a.m.

2. In yards where only one yard engine is employed, the yard crew may be started at any time.

3. Extra crews and transfer crews are not subject to the foregoing and may be started at any time.

4. None of the provisions of this rule shall take effect on any individual Carrier whose management elects to retain present rules or practices without modification, by so notifying the General Chairman within thirty days of the date of this Agreement.

#### 7. *Lodging Allowance*

Revise Article II, Section 1, of the June 25, 1964 Agreement to read as follows:

When the Carrier ties up a road service crew (except short turnaround passenger crews) or individual members thereof, at a terminal (including tie-up points named by assignment bulletins, or presently listed in schedule agreements, or observed by practice, as regular points for tying up crews) other than the designated home terminal of the crew assignment for eight (8) hours or more, each member of the crew so tied up shall be provided suitable lodging at the Carrier's expense or an equitable allowance in lieu thereof. Suitable lodging or an equitable allowance in lieu thereof shall be worked out on a local basis. The equitable allowance shall be provided only if it is not reasonably possible to provide lodging.

If an allowance is being made in lieu of lodging as well as other considerations under provisions of existing agreements, the amount attributed only to lodging shall be removed if suitable lodging is supplied, or offset against an equivalent allowance. This shall be worked out on a local basis.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated.

#### 8. *Elimination of Paid Meal Allowances*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which require the carrier to provide paid meal allowances.

#### *Compulsory Retirement*

All employees subject to the provisions of this agreement who are seventy years of age or over must retire from active service no later than 90 days subsequent to the effective date of this agreement. Thereafter, the mandatory retirement age shall be progressively lowered until it is 65 in accordance with the following schedule:

January 1, 1969	69 years of age.
July 1, 1969	68 years of age.
January 1, 1970	67 years of age.
July 1, 1970	66 years of age.
January 1, 1971	65 years of age.

Existing agreements which provide for retirement at an earlier age than herein set forth remain in full force and effect.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the Carrier to be more favorable may be retained.

#### *Held Away From Home Terminal*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide payment to conductors and trainmen when held at the other than home terminal.

### *Graduated Rates of Pay*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide for car scale additives based on number of cars handled by conductors and trainmen.

### *Overtime in Yard Service*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, covering extra yardmen which provide for the payment of overtime at one and one-half times the hourly rate for work performed on a second shift which starts within 22½ hours from the starting time of the first shift.

### *Guarantees and Arbitrarics*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which :

- (i) Provide for daily earnings minima, minimum daily earnings or daily, weekly or monthly earnings guarantees, or
- (ii) Provide for arbitrary payments, or special or constructive allowances, which conflict with the payment of single time in miles or hours from the time called to report for duty until actually released from duty, except, however, that payments provided in Article V of the June 25, 1964 Agreement will be preserved, or
- (iii) Provide for time or allowances for preparing reports or other similar duties at the beginning, during, or at the end of a trip or tour of duty.

### *Mileage Limitations*

Existing maximum mileage limitations shall be increased by twenty-five percent (25%). The individual carriers will be afforded a 30-day option to accept or reject this rule by seniority districts so that each individual carrier may elect to retain present rules or practices, without modification, on any one or more of its seniority districts.

## **APPENDIX B**

### **PART I: BLE SECTION-6 NOTICE TO CARRIERS**

#### *Section 1*

Establish or amend rules, regulations, or agreements relating to rates of pay to provide the following:

(a) Effective July 1, 1968, basic daily rates shall be increased fifteen percent, (15) ; the new rates thus established shall be the basis for all mileage rates including miles in excess of 100.

(b) All arbitraries, miscellaneous rates, special allowances, daily, weekly and monthly guarantees shall be increased fifteen percent, (15%).

(c) Differentials above the existing standard rates of pay shall be maintained.

#### *Section 2*

When locomotive engineers work during a trip or tour of duty, or any part thereof, without a fireman (helper), basic daily and mileage rates of pay established by Section 1 shall be increased by an additional ten percent, (10%).

#### *Section 3*

The rate of pay for locomotive engineers on locomotives equipped with radio-telephone or other communications systems shall be ten percent (10%) in excess of the rates of pay established by Section 1 and Section 2 of this Proposal.

#### *Section 4*

Existing rates of pay, arbitraries or special allowances for engineers on locomotives equipped with radio-telephone or similar communications systems considered more favorable by the committee than any settlement reached in disposition of this Proposal shall be preserved.

### **PART II: CARRIERS' COUNTERPROPOSALS TO BLE'S SECTION-6 NOTICES**

#### *Assignment and Use of Employees*

The Carrier shall not be required to work an employee if working him would entail payment to him of more than the straight time rate, and use of another person in his place shall not be basis for claims of an employee not used.

#### *Graduated Rates of Pay*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide for graduated rate of pay based on weight on drivers for engineers and firemen in all classes of service, and establish a rule providing for a single daily and single hourly rate equivalent to the currently effective minimum graduated daily and hourly rate in each class of service.

#### *Overtime in Yard and Hostler Service*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, covering extra engineers and firemen in yard service which

provide for the payment of overtime at one and one-half times the hourly rate for work performed on a second shift which starts within 22½ hours from the starting time of the first shift.

#### *Guarantees and Arbitraries*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which :

- (i) Provide for daily earnings minima, minimum daily earnings or daily, weekly or monthly earnings guarantees, or
- (ii) Provide for arbitrary payments, or special or constructive allowances, which conflict with the payment of single time in miles or hours from the time called to report for duty until actually released from duty, except, however, that payments provided in Article V of the June 25, 1964 Agreement will be preserved, or
- (iii) Provide for time or allowances for inspecting or preparing locomotives, preparing reports, turning locomotives, or other similar duties at the beginning, during, or at the end of a trip or tour of duty.

#### *Hold Down on Mileage Rates*

Section 1 of Article IV of the Agreement of June 25, 1964 shall be amended to read as follows :

"The application of any wage increases which become effective on or after July 1, 1968 will be limited to basic daily rates and shall not apply to existing mileage rates."

#### *Compulsory Retirement*

All employees subject to the provisions of this agreement who are 70 years of age or over as of the date of this agreement must retire from active service no later than 90 days from that date. Thereafter, the mandatory retirement age shall be progressively lowered until it is 65 in accordance with the following schedule :

Attained age	Date of attainment	Mandatory Retirement age
69 or over.....	Prior to Oct. 1, 1968.....	Oct. 1, 1968
68 or over.....	Prior to Apr. 1, 1969.....	Apr. 1, 1969
67 or over.....	Prior to Oct. 1, 1969.....	Oct. 1, 1969
66 or over.....	Prior to Apr. 1, 1970.....	Apr. 1, 1970
65 or over.....	Prior to Oct. 1, 1970.....	Oct. 1, 1970

Employees attaining age 65 on or after October 1, 1970 shall retire no later than the first day of the following month.

Existing agreements which provide for retirement at an earlier age than herein set forth remain in full force and effect.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

#### *Monetary Claims*

Establish a rule to provide that no monetary claim based on the failure of the carrier to use an employee to perform work shall be valid unless the claimant

was the employee contractually entitled to perform the work and was available and qualified to do so, and no monetary award based on such a claim shall exceed the equivalent of the time actually required to perform the claimed work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment, and less any amounts received as unemployment compensation.

Existing rules, agreements, interpretations or practices, however established, which provide for penalty payments for failure to use an employee contractually entitled to perform work shall be modified to conform with the foregoing, and where there is no rule, agreement, interpretation or practice providing for penalty pay, none shall be established by this rule.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

#### *Prohibition Against Multiple Time and One-Half Payments on Holidays*

Under no circumstances will an employee be allowed more than one time and one-half payment for service performed by him on any day which is a holiday.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

#### *Discipline and Investigation*

Amend all existing rules, agreements, interpretations or practices, however established, dealing with discipline and investigation in such manner so as to make the following effective:

If it is found that an employee has been unjustly suspended or dismissed from the service, such employee shall be reinstated with his seniority rights unimpaired and be compensated for wage loss, if any, suffered by him resulting from said suspension or dismissal less any amount earned during such period of suspension or dismissal.

All agreements, rules, regulations, interpretations or practices, however established, which conflict with the foregoing shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

#### *Mileage Limitations*

Existing maximum mileage limitations shall be increased by twenty-five percent (25%). The individual carriers will be afforded a 30-day option to accept or reject this rule by seniority districts so that each individual carrier may elect to retain present rules or practices, without modification, on any one or more of its seniority districts.

#### *Interchange Service*

Eliminate all rules, regulations, interpretations or practices, however established, which restrict the Carrier's right to provide for the interchange of cars between railroads, with employees of either carrier, however performed, without restriction as to location of track or tracks where such interchange may be accomplished and without penalty or other additional payment to the employees.

*Yard Starting Time*

1. Eliminate all rules, regulations and practices which preclude the starting of yard engines at any time in yards where more than one engine is employed, except that regularly assigned yard crews will not be started in such yards between the hours of 12:01 A.M. and 4:00 A.M.

2. In yards where only one yard engine is employed, the yard crew may be started at any time.

3. Extra crews and transfer crews are not subject to the foregoing and may be started at any time.

4. None of the provisions of this rule shall take effect on any individual carrier whose management elects to retain present rules or practices without modification, by so notifying the General Chairman prior to \_\_\_\_\_.

*Held Away from Home Terminal*

Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide payment to engineers and firemen when held at the other than home terminal.





