Report

TO

THE PRESIDENT

BY

Emergency Board No. 184

APPOINTED BY EXECUTIVE ORDER 11745, DATED NOVEMBER 1, 1973, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To investigate a dispute between the Long Island Rail Road Company and certain of its employees represented by the Brotherhood of Railroad Signalmen.

(National Mediation Board Case No. A-9200)

WASHINGTON, D.C.

January 14, 1974

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LETTER OF TRANSMITTAL

WASHINGTON, D.C.
January 14, 1974

THE PRESIDENT
The White House
Washington, D.C.

DEAR MR. PRESIDENT:

Emergency Board Number 184 created by you on November 1, 1973 by Executive Order 11745, pursuant to Section 10 of the Railway Labor Act, as amended, has the honor to submit its report herewith.

This Board, composed of the undersigned, was appointed to investigate a dispute between the Long Island Rail Road Company, a carrier, and certain of its employees represented by the Brotherhood of Railroad Signalmen, a labor organization. In fulfillment of its obligation the Board held hearings and considered the evidence and arguments presented by the parties. Our report and recommendations are based upon this investigation of the issues in dispute.

Respectfully,

FREDERICK C. FISCHER, *Chairman*
STANLEY H. RUTTENBERG, *Member*
EMANUEL STEIN, *Member*

I. HISTORY OF THE EMERGENCY BOARD

Emergency Board Number 184 was created by President Nixon on November 1, 1973 by Executive Order 11745, pursuant to Section 10 of the Railway Labor Act, as amended.[1] The Board was formed to investigate a dispute concerning proposed changes in existing agreements covering rates of pay, work rules, and other conditions of employment between the Long Island Rail Road and certain of its employees represented by the Brotherhood of Railroad Signalmen. The Board was directed to make its investigation and report its findings with respect to the issues in dispute within thirty days from the date of the Executive Order.

The President appointed as Chairman of the Board Frederick C. Fischer, a mediator and labor consultant and former Executive Vice President of R.H. Macy and Company. Stanley H. Ruttenberg, an economic consultant and former Assistant Secretary of Labor and Emanuel Stein, a mediator, arbitrator, and professor of economics at New York University were named as members of the Board. All three individuals had extensive previous experience with the Long Island Rail Road, having assisted the Carrier and twelve other non-operating unions in reaching labor agreements in April 1973 after the emergency disputes procedures of the Railway Labor Act had been exhausted.

The Board convened in Washington, D.C. on November 8, 1973 to conduct a procedural meeting with the representatives of the parties. Formal public hearings were held thereafter in New York City on November 26 and December 3 and 17.[2] During the course of their appearances before the Board, the parties agreed to extensions of the submittal date of the Board's report to on or before January 14, 1974, which were subsequently approved by the President.

The parties were given full and adequate opportunity to present evidence and argument before the Board. Both the Carrier and the Union presented witnesses and evidence through counsel, cross-examined witnesses of the opposing party, and submitted post-hearing briefs after the conclusion of the hearings. A formal record of the hearings was made consisting of 389 pages of testimony and 48 exhibits, 21 of which were introduced by the Carrier and 27 by the Union.

[1] The text of the Executive Order appears as Appendix A.
[2] Appearances for the Union and Carrier are listed in Appendix B.

Following the formal hearings, the parties voluntarily made themselves available to the Board for the purpose of exploring the possibility of a mediated settlement. The Board discussed various alternatives which it felt might provide a basis for settlement with the full cooperation of the parties. While these efforts proved unsuccessful in resolving the dispute, the discussions were useful in further identifying and clarifying the issues and provided a depth of analysis beneficial to the Board in formulating its recommendations.

II. THE PARTIES TO THE DISPUTE

The Brotherhood of Railroad Signalmen

The Brotherhood of Railroad Signalmen, AFL-CIO, is a national union representing employees on the Long Island Rail Road property through its Lodge No. 56. It represents approximately 240 of the Carrier's 7300 employees. Workers engaged in the craft of railroad signaling are employed in the Carrier's Engineering Department and are classified as non-operating employees. They are responsible for the installation and maintenance of all signals, interlockings, highway crossing protection, communication equipment, and telephone lines, but are not engaged in the actual movement of trains.

Standards for signal maintenance are established by the Federal Government, and Signalmen must certify to the condition of equipment on either a weekly, monthly, or yearly basis, depending on the particular equipment involved. Signalmen must have knowledge of basic electricity as well as have training and skills in electronics, plumbing, and mechanics. Performance of their duties is essential to the safe movement of all railroad traffic.

The Brotherhood maintains that it is the craft that automates the industry and makes the highest contribution to the speed, safety and efficiency of railroad operation. It believes itself to be a unique, small group within the industry which has different problems from other railroad labor organizations.

The Long Island Rail Road Company

The Long Island Rail Road is a Class I railroad subject to the provisions and procedures of the Railway Labor Act. The Railroad is owned by the Metropolitan Transportaion Authority, a public benefit corporation created by the New York State Legislature. It provides the only rail passenger and freight service to communities

on Long Island and is an indispensable commuter link between these communities and New York City.

Each weekday the Railroad carries some 210,000 passengers, consisting of 76,000 commuters making two trips a day and 58,000 single-fare passengers. Approximately 95 percent of the passenger traffic consists of riders from Long Island to New York City and return. Most of the commuters travel during the two daily rush periods, the first toward the city between 6:30 and 9:30 A.M. and the second away from the city from 4:00 to 7:00 P.M. The fact that a major portion of the Long Island Rail Road's operating equipment is idle outside the morning and evening weekday rush hours presents a substantial barrier to profitable operation. Approximately 90.5 percent of the Carrier's revenue is derived from passenger fares with the remainder generated by hauling freight. This compares with all Class I railroads in the Country which derive only 3.7 percent of their total revenue from passenger service.

The Long Island's history of unprofitability is a matter of record. It was in bankruptcy from 1949 to 1954, and its subsequent operation as a railroad redevelopment corporation was not a financial success. Early in 1966, in order to preserve the property as a vital commuter link to outlying Long Island communities, it was acquired from the Pennsylvania Railroad as a wholly-owned subsidiary by the Metropolitan Commuter Transportation Authority, now the Metropolitan Transportation Authority, a public corporation created by the New York State Legislature. The Legislature acted because of the continued deterioration of the financial situation and physical condition of the Long Island, which it declared constituted a serious threat to the economic well-being of the State.

The MTA has provided the Long Island with substantial capital funds for new facilities and equipment, but it can furnish only limited operating funds by law, derived from its subsidiary corporations or from other corporations under joint service arrangements. Therefore, the Long Island's operating expenses must be covered by its operating revenues or by subsidy.

Current operations of the Long Island have continued to be unprofitable and at an accelerating rate. The operating loss before depreciation increased from $6.9 million in 1967 to $45.6 million in 1972 on total revenue of $100.3 million in that year. The Carrier estimates that the operating loss for 1973 will be $63.6 million, despite a 16-2/3 percent fare increase on January 29, 1972. The total net operating loss increased progressively from $10.4 million in 1967 to $63.4 million in '72. The total new operating loss for the six-year period 1967 to 1972 was $203.1 million. The Carrier estimates

that the total net operating loss for 1973 will be $78.8 million.

Since March 1968, there have been three fare increases aggregating in excess of 42 percent. The Carrier states that commuter fares on the Long Island are now the highest in the New York area and are considerably higher than commuter fares in the Chicago area, an area comparable to New York. Past experience has shown that increases in Long Island commuter fares reduce the amount of passenger traffic and, therefore, do not return in revenues the full percentage of the fare increase.

III. HISTORY OF THE DISPUTE

The dispute which led to the appointment of this Board originated on October 1, 1971 when the Brotherhood of Railroad Signalmen served the Long Island Rail Road with a notice of its desire to change certain existing rules and agreements, pursuant to Section 6 of the Railway Labor Act.

During various times in October 1971, twelve other unions representing non-operating employees on the property also submitted Section 6 notices to the Carrier. The Carrier responded by serving identical counterproposals to all of the labor organizations, including the Signalmen. The twelve non-operating organizations then joined in a coalition, the Non-Operating Employees Conference Committee, to negotiate with the Carrier. The Signalmen, however, desiring to dramatize their uniqueness as an entity in the non-operating crafts, informed the Carrier of their intent to negotiate their dispute separately.

The Signalmen and the Carrier held numerous joint meetings until it became apparent in March 1972 that no further progress could be made on the property without assistance. The Union, with the concurrence of the Carrier, then requested the services of the National Mediation Board, which subsequently docketed the dispute as Case No. A-9200 on April 3, 1972.

The National Mediation Board held mediation sessions with the Signalmen and the Carrier on various dates between August 21 and October 31, 1972. During this same time span Emergency Board Number 182, appointed to investigate the previously mentioned dispute between the Carrier and the Non-Operating Employees Conference Committee, was in the process of preparing its report and exploring the possibility of a mediated settlement. It soon became apparent that further mediation sessions on behalf of the Carrier and the Signalmen would be futile in the context of Board Number 182's efforts, and at the request of both parties, the NMB mediation sessions were temporarily suspended on October 31, 1972.

The National Mediation Board resumed sessions with the Signalmen and the Carrier in early May 1973, following the settlement of the Non-Operating Employees Conference Committee dispute on April 19, after a strike of some seven weeks duration commenced when the emergency disputes procedures of the Railway Labor Act expired. This settlement was reached with the assistance of a three-man panel composed of the members of this Board, provided for under the terms of an interim agreement reached through the efforts of Secretary of Labor Peter J. Brennan. The agreement provided for wage increases of 6 percent retroactive to January 1972, 10 percent retroactive to January 1973, and an additional 10 percent effective January 1974, in return for certain work rule changes sought by the Carrier.

On June 13, 1973 the Carrier presented to the Signalmen a proposed memorandum of understanding, which if accepted would have provided the same basic wage increases as the Non-Operating Employees' settlement in return for work rule changes designed to generate savings to the Carrier.[3] Further negotiations on the basis of this document resulted in the identification of five of its eighteen proposals as being unacceptable to the Union.

Additional negotiating sessions took place in August and September 1973 with NMB assistance, but little progress was made. On September 12, the National Mediation Board proffered arbitration, which was subsequently refused by the Union and Carrier. The NMB formally terminated its services on September 27, and the Union issued a strike call for 12:01 A.M. November 2, 1973.

The National Mediation Board consequently notified the President that in its judgment the dispute threatened to substantially interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service. The President thereupon created this Emergency Board on November 1, 1973, pursuant to Section 10 of the Railway Labor Act.

IV. THE ISSUES

The general theme of the issues involved in this dispute is one of work rule concessions demanded of Signalmen employees as a quid pro quo for increased economic benefits offered by the Carrier. The Carrier's Proposed Memorandum of Understanding dated June 13, 1973, offers the same wage increases and substantially the same improvements in fringe benefits granted the Non-Operating

[3] The Proposed Memorandum of Understanding appears as Appendix C.

Employees in April 1973. The Carrier maintains that this settlement was premised upon certain work rule concessions made by the Non-Operating Employees which generated considerable cost savings and that such savings are also necessary to justify its economic offer to the Signalmen. Moreover, the Carrier claims that its offer is all the more generous in view of the fact that the concessions asked of the Signalmen entail a proportionally smaller amount of savings to the costs of the proposed agreement than did the concessions granted by the Non-Operating Employees.

The Signalmen, on the other hand, claim that it is unfair to require them to purchase the same economic benefits granted to less skilled employees. They maintain that their rules are less restrictive than those of other employees and cost saving concessions are less available to them. They insist also that the Carrier has failed to recognize the lag in Signalmen wages as compared with other crafts and to grant the Union credit for cost savings resulting from the Patchogue Agreement and a reduction in the number of higher rated signal employees on the property.[1]

Prior to the appointment of this Board, the parties had negotiated on the basis of the June 13 Proposed Memorandum of Understanding for approximately three months. It is the Board's understanding that the Union had agreed to the economic benefits offered in the Memorandum and were in substantial agreement with several work rule concessions. The parties failed to agree on five specific proposals, however, embodied in paragraphs 6, 10, 13, 15, and 17 of the Memorandum. These proposals are the abrogation of the headquarters rule; the modification of the Patchogue Agreement; the establishment of a new Technician job classification, plus the prerogative of assigning Signal Technicians and Communication Technicians all work in their classification within their competence; the elimination of certain wage differentials; and the modification of present practices relative to meal allowances.

The Proposed Memorandum of Understanding was presented as a package and was therefore withdrawn because of the failure of the parties to agree to the five disputed issues. The Board believes, however, that if these five issues are resolved, both parties are prepared to act favorably on the entire Memorandum. For this reason, our discussion and recommendations will deal only with the five disputed issues.

[1] A discussion of the Patchogue Agreement appears on page 11.

V. DISCUSSION AND RECOMMENDATIONS

Abrogation of the Headquarters Rule

The present headquarters rule requires that construction employees, except those covered by the Patchogue Agreement, be assigned and report to one of three headquarters to begin and end their work day. The employees are transported to and from the actual construction sites by train or truck on paid time. Headquarters are bid according to seniority and the physical and sanitary standards of the headquarters are prescribed by Rule 71 of the existing agreement.

Paragraph 13 of the Carrier's Memorandum proposes:

> "The Carrier may designate headquarters locations for all employees. Where permanent-type headquarters facilities are not furnished, the Carrier will provide portable sanitary facilities and a locked tool box for the employee(s). Where major maintenance or capital projects covering an extensive area are being carried out, the Carrier may move the headquarters of the employee(s) involved so as to minimize travel time to specific work sites of such projects, without readvertisement of positions."

The Carrier maintains that under the existing rule much work time is lost to travel and estimates a cost saving of $70,630 in 1974 if the proposed rule is adopted. It believes the proposal to be reasonable, since headquarters flexibility now exits with other organizations in the Engineering Department and since other railroads have the capability of locating their signal construction forces in accordance with their work programs. Moreover, headquarters for Signalmen on the property engaged in maintenance work are now flexible and may be changed to suit maintenance needs. The Carrier testified that it anticipated using trailers to satisfy physical and sanitary requirements and would transfer men in accordance with their seniority.

The Union, on the other hand, maintains that a headquarters rule is basic to all Signalmen agreements. It believes that abrogation of the present rule would diminish the benefits of seniority and injure the pride, dignity, and self respect of those who currently enjoy the benefits of safe and sanitary headquarters. In addition, it fears that travel requirements would be so burdensome on less senior workers, many of whom reside in New York City, that it might be impossible for them to continue employment.

The Board is cognizant of the hardships, in terms of the weakening of seniority rights, the physical adequacy of headquarters locations, and the difficulties of travel, that could result from the abrogation of the present rule. At the same time, it believes

that the Carrier should be provided relief with respect to lost travel time in instances where major construction projects of considerable duration are being undertaken.

Consequenty, the Board recommends that the Carrier be permitted to establish for signal construction workers two additional headquarters locations, provided that:

1. the newly established locations encompass a major project of at least two weeks duration,
2. the positions worked from the new headquarters locations be posted and present bidding practices followed,
3. Rule 71 relative to the physical and sanitary standards of headquarters apply, except that the furnishing of desks shall not be required,
4. the newly established headquarters be located, whenever practicable, along the Long Island Rail Road route of travel.

It is further understood that the Carrier shall be permitted to change the locations of the newly established headquarters so long as not more than two new headquarters exist at any one time.

Modification of the Patchogue Agreement

The Patchogue Agreement, reached in February 1972 after two years of negotiations, modified the headquarters rule with respect to Signalmen engaged in construction work at points east of Hicksville and Babylon on the Five-Year Highway Crossing Protection Improvement Program. Under the agreement, the Carrier may require the men involved to report directly to and quit from the job site, rather than one of the three construction headquarters. The Carrier must provide a portable toilet and locked tool box at the site in lieu of headquarters facilities and pay the men involved one hour's additional pay per day for reporting directly to the job site.

Paragraph 17 of the Carrier's Memorandum proposes that,

> "those provisions of the so-called 'Patchogue Agreement' which requires the payment of one (1) hour per day for working away from headquarters will be abrogated so that such projects may be consumated without penalty."

It estimates that deletion of this penalty pay provision would save $9,182 in 1974 and be justified in view of its overall economic offer. Moreover, it states that in many cases work sites are closer to the employee's homes than established headquarters and that the positions falling under the Agreement are popular, being occupied by Signalmen with considerable seniority.

The Union, on the other hand, maintains that the one-hour penalty pay is not enough to compensate the men for the inconvenience of reporting directly to the work area and cites an instance where one employee had to resign his position because of his inability to comply with the Agreement.

The Board is reluctant to eliminate the *quid pro quo* for such a recently negotiated agreement, especially in view of the fact that it will expire with the completion of the Crossing Protection Improvement Program. The Union, however, has indicated in its post hearing brief a willingness to give up the one-hour pay penalty in those instances where an employee may live within a few miles of the construction site to which he reports. Such an arrangement appears equitable in terms of eliminating the penalty where no actual hardship is imposed.

Consequently, the Board recommends that the Patchogue Agreement continue without change, except that employees involved who may live within a radius of 10 miles of a particular construction site shall not be entitled to the one-hour pay premium for reporting directly to that site.

Technician Classification

The present contract provides for two separate job classifications, entitled "Signal Technician" and "Communication Technician." Each classification lists a number of duties, competence in any one of which can qualify an individual for the position. Because the qualifying skills have been listed in the disjunctive, past practice has limited a Technician to the performance of the specific duty for which he qualified, even though he may be competent to perform other duties within the classification. The various duties listed under Signal Technician and Communication Technician are separate and distinct, although in some instances the testing, repairing, and rebuilding of the different types of equipment assigned to one or the other of the classifications apparently involves similar skills.

As stated in paragraph 15 of its Proposed Memorandum of Understanding, the Carrier wishes to alter the present classification descriptions in the following manner:

> "The title and position of Technician-Signal and Communications will be established to perform work requiring specialized skills, such as, testing, repairing and rebuilding of complex electronic and mechanical facilities (radios, carrier transmitters and receivers, electronic track circuits, supervisory control equipment and relays, etc.) involving the use of specialized test equipment and devices, such as,

oscilliscopes, echometers, electrical bridges, etc.

The rating of Technician-Signal and Communications will not apply to mechanics who inspect, field test, adjust and replace repaired or rebuilt units."

The Carrier estimates that this alteration will result in a savings of $14,807 in 1974. It maintains that the present job classifications are unreasonably restrictive and that it should have the right to assign a Technician any duties within his classification that he is qualified to perform. Moreover, it states that Signal Technicians and Communication Technicians now work side-by-side in its Babylon Repair Shop, repairing and rebuilding different types of equipment but using similar skills and the same types of test devices. The Carrier shows a history of interbidding between the two respective Technician classifications and believes it only logical that it be allowed to consolidate the positions.

Regarding the field testing of relays and the meggering of wires, the Carrier believes that these functions, currently being performed by Technicians, can be as efficiently done by the lower rated Signal Maintainers. It believes that Maintainers possess the necessary skill and talent to perform field tests and meggering. It testified that these are relatively simple tests and are no more dangerous in terms of railroad operation than are the replacement of a relay or adjustment of a switch, functions now performed by Maintainers. It showed that Maintainers now at times megger and field test and are paid the Technician rate for performing these duties. The Carrier stated that it saw advantages to having a group which primarily performed field tests and meggering and intended to specialize the third and second shifts with respect to these functions. It also cites a Carrier study showing that seven out of ten railroads surveyed did not pay test or megger men more than section maintainers.

The Union, on the other hand, maintains that eliminating the disjunctive language in the Technician job descriptions and combining the positions of Signal Technician and Communication Technician would result in workers having to demonstrate several skills in order to qualify for the new positions. It believes that each of the now separate duties requires a specialized skill and that it would be impossible for present Technicians to qualify for the new positions, if a combined knowledge of these skills were demanded.

With regard to field testing of relays and meggering, the Union stated that most railroads employ higher skilled and compensated employees for signal test work as opposed to maintaining. It believes that Technicians, having repaired and rebuilt relays, are more capable in interpreting operational tests than Maintainers and that Technicians possess the analytical ability necessary to

megger, while Maintainers do not. Moreover, the Union emphasized that the safety of the public would be jeopardized if a group of employees whose primary duty was the testing of relays and meggering of cables was not preserved on the property.

The Board is of the opinion that the separate classifications of Signal Technician and Communication Technician should be preserved. It does not believe, however, that the disjunctive language used in prescribing the qualifications for these two positions should be so interpreted as to prevent a particular Technician from performing other work within his competence in the classification. The Board also believes that the Carrier's argument for consolidating the classifications, in those situations where the same equipment and facilities are used and there has been a history of interbidding, has merit.

The Board gave considerable thought to the question of what category of employee should be assigned the duties of field testing and meggering. In the testimony of the Union and Carrier it finds some common ground in the belief that these two functions should be assigned to a group of employees as their primary responsibility. The Board does not believe, however, that the assignment and evaluation of such critical skills should be made by a panel with limited expertise in the technology of railroading.

Therefore, the Board recommends that the separate classifications of Signal Technician and Communication Technician continue as presently constituted subject to the proviso that a technician may be assigned to any work within his classification which he is competent to perform. The Board further recommends, however, that the Carrier be permitted to consolidate the two separate classifications of Technicians, forming a new classification of Technician-Signal and Communications, in those situations such as exists in the Babylon Shop where the equipment and facilities utilized are similar and there has been interbidding between the two respective classifications.

With respect to the performance of field testing and meggering, the Board recommends the establishment of a new classification of Signal Inspector whose principal activity shall be the testing of signal appliances, apparatus, circuits, and appurtenances but who may also perform other Signal Department work. The question as to whether the wage rate of this classification shall be at the Maintainer rate, the Technician rate or somewhere in between is referred back to the parties for further negotiations. If at the conclusion of 90 days such negotiations do not result in agreement, the Board recommends that the matter be submitted to arbitration at the request of either party before a technically qualified arbitrator to be designated by the National Mediation Board.

Elimination of Wage Differentials

Currently Signalmen required to operate motor trucks incidental to their primary duties are paid a differential of 13 cents per hour. Other differentials pertaining to Signalmen are also in existence on the property, but have been red-circled by previous agreement.

Paragraph 6 of the Carrier's Proposed Memorandum of Understanding states:

> "All wage differentials in existence shall be discontinued, except that those employees who on the date hereof hold a position to which a differential is applicable shall have their names and the position they hold within the job classification 'red-circled'. 'Red-circled' employes shall continue to receive the applicable differential so long as they occupy that red-circled position or, having left that position, if and when they revert to that same position."

The Carrier pointed out in its testimony that this proposal would also affect the previously red-circled differentials, which presently could be enjoyed by a larger group of employees than the group of actual incumbents in the position at the time of red-circling.

The Carrier stated that it asked this concession because it is another area where it could find some savings. The maximum cost reduction possible from this proposal in 1974 is $11,234. The Carrier pointed out that this is one of the concessions agreed to by the Non-Operating Employees in Aptil 1973, and it was only fair to expect the Signalmen also to agree to it. Moreover, it wished uniformity among all non-operating employees with respect to all red-circled rates on the property.

The Union testified that the truck rate differential was granted in 1967 as a *quid pro quo* for crossing traditional craft lines in agreeing to perform work ordinarily performed by Teamsters. In addition, drivers were expected to comply with various instructions for the operation and care of the vehicle as well as take the responsibility of preparing daily vehicle reports. The Union maintains it would not be fair, to expect Signalmen to perform these additional services gratuitously.

The Board considers the elimination of the truck rate differential a reasonable concession in view of the Non-Operating Employees' settlement. In addition, it agrees that uniformity among all Signalmen red-circled rates is a proper objective.

Therefore, the Board recommends that the present 13 cent-differential being paid Signalmen required to operate motor trucks shall be abolished, except that the differential shall be red-circled with respect to present drivers, provided, however, that if the Signalman leaves the driver job and returns to it at a later date he shall be entitled to the red-circled rate.

Other differentials paid Signalmen were red-circled in previous agreements. It is the Board's recommendation that the principles of red-circling agreed to in Item 7 of the April 24, 1973 Memorandum of Understanding with the Non-Operating Employees Conference Committee should apply to all Signalmen rates red-circled presently as well as in the past.

Meal Allowance

According to present practice, Signalmen receive payment for the actual cost of a meal after ten hours of work and every four hours thereafter. Paragraph 10 of the Carrier's Proposed Memorandum of Understanding would change this portion of the present agreement to read:

> "The Carrier will provide a meal allowance of $2.25 to an employe after he has performed two consecutive hours overtime immediately following his regular work assignment. Present practice and rules relative to meal allowance shall be eliminated."

The Carrier maintains this new rule would save $1,646 in 1974 and be justified in view of the economic package offered the Signalmen. This was the same allowance granted to eleven of the Non-Operating Employees' Unions, who prior to April 1973 had no meal allowance. The one exception was the Maintenance of Way Employees, represented by the Teamsters, who were allowed to keep their existing actual expense rule for meals after ten hours and every four hours thereafter.

The Union, on the other hand, maintains that the present meal allowance rule has not been abused and should be preserved. They note that it is difficult to purchase an adequate hot meal for $2.25 and that, in fact, meals now average $2.60. They do indicate in their post hearing brief, however, a willingness to accept a fixed dollar meal allowance for new employees.

The Board believes it would be inequitable to alter the present Signalmen meal rule in view of the fact that the rule of the Teamsters, who often work with the Signalmen, was not changed upon the renegotiation of their agreement in 1973. The Board is inclined, however, to accept the Signalmen's offer of a fixed meal allowance for new employees.

Consequently, the Board recommends that current meal allowance practices continue with respect to present employees. The Board adopts, however, the Union position stated on page 12 of its post hearing brief that it "will accept the certainty of a fixed dollar meal allowance for future employees rather than the present open-ended arrangement." For such future employees the Board recommends a meal allowance of $2.25.

VI. CLOSING STATEMENT

In making its recommendations, the Board believes that the Carrier is entitled to some cost saving concessions from the Signalmen in return for its economic offer. This is a principle which was established earlier by the settlement of the Non-Operating Employee Coalition. At the same time, however, the Board feels that matters of equity between the Signalmen and other non-operating employees should be preserved. It is also appropriate that certain safeguards be written into language which alters long established contractual rules.

The Board is of the opinion that negotiations have narrowed the issues in dispute to such an extent that neither party could justify acting against the public interest by failing to reach a peaceful agreement within the time allowed by the Railway Labor Act for subsequent negotiations. The Board sincerely believes that accommodation between the parties can be reached, and it urges them to adopt its recommendations as such an accommodation.

Respectfully submitted,

FREDERICK C. FISCHER, *Chairman*
STANLEY H. RUTTENBERG, *Member*
EMANUEL STEIN, *Member*

WASHINGTON, D.C., *January 14, 1974.*

APPENDIX A

EXECUTIVE ORDER 11745 CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE LONG ISLAND RAIL ROAD AND CERTAIN OF ITS EMPLOYEES,

WHEREAS, a dispute exists between the Long Island Rail Road and certain of its employees represented by the Brotherhood of Railroad Signalmen, AFL-CIO, a labor organization; and

WHEREAS, this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS, this dispute, in the judgement of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its finding to the President with respect to the dispute within thirty days from the date of this order.

As provided by Section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Long Island Rail Road, or by its employees, in the conditions out of which the dispute arose.

/s/ RICHARD NIXON

THE WHITE HOUSE, *November 1, 1973.*

APPENDIX B

APPEARANCES BEFORE THE BOARD

For the Brotherhood of Railroad Signalmen

Arnold B. Elkind, Esq., Counsel
Charles J. Chamberlain, President
Joseph W. Walsh, Vice President
W.D. Best, Directory of Research
James Sottile, General Chairman of the Long Island General Committee

For the Long Island Rail Road Company

George M. Onken, Esq., Vice President, General Counsel, and Secretary
John J. Ward, Manager of Labor Relations
Donald W. Aiken, Assistant Chief Engineer — Signals and Communications
Paul F. Sperry, Director of Financial Analysis and Planning

APPENDIX C

CARRIER'S PROPOSED MEMORANDUM OF UNDERSTANDING

June 13, 1973

The parties hereto have re-negotiated certain provisions of the applicable labor agreement and pending preparation and execution of formal agreement have entered into this Memorandum of Understanding and agree as follows:

1. The Carrier will have the right to blank all positions left vacant as a result of vacations and any vacancy of 30 working days or less. All work of the vacant positions will be absorbed and performed by the employees who remain, in addition to their regular assigned duties within the time limits of their regular 8-hour tour of duty.

2. The wage rates for all new employes during the first 240 days of their compensated service will be 80 percent of the rate in effect for the positions to which they are assigned. Wage rates for these employes after this period will be the full rates of the positions to which assigned. For the purpose of calculating the 240 days only, compensated service will be deemed to include first day absences under the sick leave agreement.

3. The present two (2) year probationary period will be modified to the extent necessary to provide for the establishment of a ninety (90) day probation period.

4. In lieu of a birthday holiday, an employe will be granted one additional vacation day, which will be added to the vacation period for which the employee is eligible. Vacation rules will apply, and birthday holiday penalty payments will be discontinued.

5. The vacation agreement will be amended to provide for 5 weeks' vacation after 18 qualifying years of service.

6. All wage differentials in existence shall be discontinued, except that those employes who on the date hereof hold a position to which a differential is applicable shall have their names and the position they hold within the job classification "red-circled." "Red-circled" employes shall continue to receive the applicable differential so long as they occupy that red-circled position or, having left that position, if and when they revert to that same position.

7. Effective January 19, 1973, a night differential of 2% per work hour for hours worked beginning at 6:01 P.M. on one day and ending at 5:59 A.M. the next succeeding day shall be paid. On weekends, the differential shall be 2% per work hour for all hours worked between 6:01 P.M. on Friday night and 5:59 A.M. on Monday morning.

Effective March 21, 1973, the differential shall be increased from 2% to 4% per work hour and paid for hours worked as specified above.

Hours worked shall include all hours within the time limits which are paid as part of the employe's regular schedule.

The differential shall be computed on the base rate of pay.

8. The Carrier agrees to basic wage increases in the amount of six percent effective January 1, 1972; ten percent effective January 19, 1973; and ten percent effective January 1, 1974. These increases are not to be applied to existing wage differentials.

9. Effective January 1, 1974, agreements which provide for dental care will be modified to increase the Carrier's contribution up to a maximum of $15.00 per month per married employee and up to a maximum of $4.40 per month per single employee.

10. The Carrier will provide a meal allowance of $2.25 to an employe after he has performed two consecutive hours overtime immediately following his regular work assignment. Present practice and rules relative to meal allowance shall be eliminated.

11. Effective January 1, 1974, the Carrier will reimburse employes for prescription eyeglasses for themselves and their dependents in an amount up to $18.00 per person per year, such amount not to be cumulative nor transferrable from person to person.

12. Sick leave agreements now in effect will be modified (1) to eliminate the payment of sick wages for the first working day in any period of absence for illness, (2) to increase the number of full-time days which an employe can use from his Sick Leave Bank in a one-year period for prolonged illness from a limit of 60 days to a maximum of 72 days; and (3) to increase the additional sick leave for those employes with 20 years or more of service at the beginning of the sick leave year from 60% for 72 days.

13. The Carrier may designate headquarters locations for all employees. Where permanent-type headquarters facilities are not furnished, the Carrier will provide portable sanitary facilities and a locked tool box for the employee(s). Where major maintenance or capital projects covering an extensive area are being carried out, the Carrier may move the headquarters of the employee(s) involved so as to minimize travel time to specific work sites of such projects, without readvertisement of positions.

14. Paragraph (e) of the Stablization of Forces Agreement which reads: "It is further understood and agreed that with respect to anyone hired after October 1, 1969, the Carrier may abolish his position at any time and for any or no reason, whatsoever, but the Carrier agrees that in that event, it will place the man in another position on the railroad, it need not be under the scope of the same Organizaaion buy may be in some other Organization." shall be eliminated.

15. The title and position of Technician-Signal and Communications will be established to perform work requiring specialized skills, such as, testing, repairing and rebuilding of complex electronic and mechanical facilities (radios, carrier transmitters and receivers, electronic track circuits, supervisory control equipment and relays, etc.) involving the use of specialized test equipment and devices, such as, oscilliscopes, echometers, electrical bridges, etc.

The rating of Technician-Signal and Communications will not apply to mechanics who inspect, field test, adjust and replace repaired or rebuilt units.

16. The parties will meet as often as necessary in the near future to rewrite the present rules agreement and will make every effort to eliminate those rules which are antiquated and interfere with efforts to increase productivity.

17. Those provisions of the so-called "Patchogue Agreement" which requires the payment of one (1) hour per day for working away from headquarters will be abrogated so that such projects may be consumated without penalty.

18. The provisions of this memorandum will be reduced to formal agreement which will provide for a moratorium on the Service of Section 6 Notices which have an effective date prior to July 1, 1974, except for improvement of pensions which may be served on or after July 1, 1973.

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