

Agreement, the Carrier also notified the Organization "that this service will be implemented on May 1, 1991 [and t]he Carrier will abide by the provisions of this agreement during the ratification process." See Car. Exh. D.²

On June 4, 1991 another conference was held concerning the Organization's request that benefits in the UTU agreement be included in the Agreement between the Organization and the Carrier. By letter of June 5, 1991 (Car. Exh. E) the Carrier advised the Organization:

Per our discussions, I have enclosed a copy of the proposed agreement submitted to [the UTU]. I have highlighted the areas where changes were made.

As I indicated in conference, where applicable I would make the same changes for your proposed agreement.

In addition to the changes agreed to concerning the UTU agreement mentioned in the Carrier's June 5, 1991 letter, the product of the parties' negotiations leading to the Proposed Agreement (Car. Exh. D) showed agreement on the establishment of the interdivisional service between St. Louis and Memphis; equalization of crews reflecting the appropriate percentages between Arkansas and Merged Roster No. 1 Seniority Districts, with the method of prorating to be worked out

² The UTU and the Carrier reached agreement and executed the same effective May 1, 1991.

between the parties; St. Louis as the designated home terminal and Memphis as the away-from-home terminal for Merged Roster No. 1 District crews with the converse for the Memphis District crews; miles run in excess of miles encompassed for the basic day to be paid for by dividing the basic daily rate effective May 16, 1986 by the number of miles encompassed in the basic day as of that date with car scale additives applying to mileage rates; hand-up lunches at Illmo so long as the hand-up arrangement at Illmo remains in effect with no employee to whom a lunch is furnished at Illmo receiving pay for not stopping to eat on line of road; no charge transportation to and from lodging where distance or other considerations justify with disputes to be resolved by the parties; provisions for straightway service, hours of service relief, local service, and familiarization; application of Article 40 of the Basic Agreement increasing the monthly mileage regulation to average between 4200 and 4600 miles per month; provisions for investigations; and protection for employees occupying a position on April 5, 1991 in accord with the 1986 Agreement. As part of the Proposed Agreement, six side letters were prepared concerning lay offs and absenteeism; the exercise of seniority for protective benefits; time lost for

conducting union business for protective benefits purposes; relocation options; use of the extra board; and deadheading.

Notwithstanding the product of the parties' negotiations, the Organization then rejected the Proposed Agreement. By letter of July 1, 1991 (Car. Exh. F) the Organization requested arbitration contending "that these runs are excessive and unreasonable in terms of miles run and hours on duty."

By letter dated September 6, 1991 (Car. Exh. G) the Carrier advised the Organization that in light of the rejection of the Proposed Agreement:

Please be advised that our final proposal is withdrawn I shall submit to the Referee our original proposal as the appropriate conditions for this run.

Award of Arbitration Board No. 458 provides:

ARTICLE IX - INTERDIVISIONAL SERVICE

* * *

Section 2 - Conditions

Reasonable and practical conditions shall govern the establishment of the runs described, including but not limited to the following:

(a) Runs shall be adequate for efficient operations and reasonable in regard to the miles run, hours on duty and in regard to other conditions of work.

* * *

(f) The foregoing provisions ... do not preclude the parties from negotiating on other terms and

conditions of work.

Therefore, under the provisions of the Award of Arbitration Board No. 458, and as argued by the parties, in this matter two questions are presented for resolution. First, this Board must determine whether the St. Louis to Memphis interdivisional run as established by the Carrier is "adequate for efficient operations and reasonable in regard to the miles run, hours on duty and in regard to other conditions of work". Second, if the interdivisional run meets those standards, this Board must determine the specific contractual terms for such runs.

A. The Conditions Of The Run Under Article IX, Section 2

The Carrier acknowledges (Car. Submission at 6) that the 338 mile run "may appear long". However, the Carrier points to established runs between Little Rock, Arkansas and Mineola, Texas (285 miles) as well as Los Angeles, California and Las Vegas, Nevada (332 miles) and urges that those established runs show the reasonableness and adequacy of this St. Louis to Memphis run. The Carrier further points out that data from the first six months of operation of the St. Louis to Memphis run shows that an average running time for trains in this service is 9 hours 33 minutes and the average on duty time is 10 hours 58 minutes with a 9.1%

average tie up under the Hours of Service Law therefore showing that "the overwhelming number of trains successfully complete their trip." Car. Submission at 5. *See also*, Car Exhs. H, I. The data relied upon by the Carrier further shows that examination of a two month period after implementation of the run reveals crews in the pool were averaging 12 and 13.5 one way trips per month with 68.99 and 73.30 hours at their home terminal whereas before the service was implemented the St. Louis crews averaged 21 one way trips per month with 43.65 hours at their home terminal and Memphis crews averaged 38.5 one way trips and 24.73 hours at their home terminal. *See* Car. Exh. J. Thus, the Carrier asserts that after the establishment of the run the crews are working less trips and spending more time at home. With respect to safety concerns expressed by the Organization regarding the number of train orders that the crews would be subject to, the Carrier asserts that prior to the implementation of the run the crews were already subject to general and train orders on multiple railroads.

The Organization's approach to this issue is that the run is unreasonable and safety considerations are raised by the conditions proposed by the Carrier. Through numerous exhibits the Organization points to the length of the

run, the numbers of rules and orders that the employees must be familiar with due to the usage of other carriers' trackage and the basic stress and fatigue that such a lengthy run will have on an engineer.

After consideration of the above, we find the St. Louis to Memphis interdivisional run to be "adequate for efficient operations and reasonable in regard to the miles run, hours on duty and in regard to other conditions of work". The Carrier's specific showings are sufficiently persuasive. Based upon the data accumulated thus far, the established run is functioning within the parameters set forth in Article IX, Section 2 of the Award of Arbitration Board No. 458 and no major problems have, in fact, been encountered. The Organization's safety concerns have been forcefully argued by the Organization and we cannot say that the arguments raised are insubstantial and, indeed, those arguments cause us concern. However, under the standards that we must apply, at best, those arguments are speculative and cannot defeat the Carrier's showings. The safety question is an obvious mutual concern and nothing herein precludes the Organization from bringing those concerns to the attention of the Carrier for mutual resolution. But given the standards that prevail and the showings that have (and have not) been made, the

Organization's arguments do not defeat the Carrier's showings.

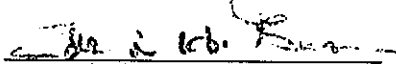
B. The Specific Provisions Of The Agreement

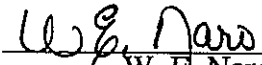
We have considered the Carrier's original proposal to the Organization (Car. Exh. B) which the Carrier now argues should be the terms of the Agreement governing the run; the negotiated Proposed Agreement and side letters (Car. Exhs. D, E) which were ultimately rejected by the Organization because it felt the run was excessive; and the Organization's arguments for additional terms. Given the nature of the run which we have now determined complies with the requirements of Article IX of Arbitration Board No. 458, we believe that the parties' then informed judgment which led to negotiation of the Proposed Agreement and side letters (Car. Exhs. D, E) shall be the terms of the Agreement governing this run.³

³ The Organization disputes the Carrier's assertion in its June 5, 1991 letter (Car. Exh. D) that the Organization tentatively agreed to increase the monthly mileage regulation to average between 4200 and 4600 miles per month asserting that it could not have done so because such an agreement would conflict with its Constitution. The Constitutional provisions relied upon by the Organization are not binding upon the Carrier and do not preclude this Board from determining that such a provision is in order. Upon consideration of the nature of the established run, we find this provision appropriate as a term of the run irrespective of whether the Organization tentatively agreed to such a term.

AWARD

The St. Louis-Memphis Interdivisional run is "adequate for efficient operations and reasonable in regard to the miles run, hours on duty and in regard to other conditions of work." The terms of the parties' Proposed Agreement and side letters as reflected in the Carrier's letters of April 10 and June 5, 1991 (Car Exhs. D, E) shall be the terms of the Agreement governing this run.


Edwin H. Benn
Neutral Member


W. E. Naro
Carrier Member


M. D. Waldemer
Organization Member

Dated: 1-24-92

W

April 10, 1991

File: 920.30-1

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is in reference to our on going negotiations concerning the establishment of interdivisional service between Memphis, Tennessee and St. Louis, Missouri.

Attached for your consideration are two originals of an agreement, which I believe properly reflect the understandings reached in conference. If the agreement is acceptable, please sign and return both copies to me for distribution.

Please also accept this letter as notice that this service will be implemented on May 1, 1991. The Carrier will abide by the provisions of this agreement during the ratification process.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/041091/b3
Encl.

bcc: D. K. Barnes - St. Louis
O. W. Cromwell - HDC
R. G. Lang - No. Little Rock
R. D. Naro - Rm. 1200
R. W. Schreiber. HDC

A G R E E M E N T

between

UNION PACIFIC RAILROAD COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

ST. LOUIS, MISSOURI/MEMPHIS, TENNESSEE

INTERDIVISIONAL SERVICE

Pursuant to Carrier's notice of January 25, 1991, served under the provisions of Article IX of the BLE National Agreement of May 16, 1986, to establish interdivisional freight service between St. Louis, Missouri and Memphis, Tennessee,

IT IS AGREED:

Section 1. ESTABLISHMENT OF INTERDIVISIONAL SERVICE:

Interdivisional freight service will be established between St. Louis, Missouri and Memphis, Tennessee. Paragould, Arkansas will be discontinued as an away-from-home terminal and crew change point for crews used in this interdivisional service.

Section 2. MILEAGE EQUALIZATION: Equalization of crews will reflect the appropriate percentages between Arkansas and Merged Roster No. 1 Seniority Districts. The method of prorating the mileage of the runs established as between seniority districts will be worked out between the Local Chairmen and Superintendent with the approval of the General Chairman and

Director of Labor Relations. To assist in the proration of miles, the Carrier will provide the General Chairman and Local Chairmen with mileage statements showing the number of trips and mileage made each calendar month by the crews manning the turns.

Section 3. HOME TERMINALS: St. Louis, Missouri is designated as the home terminal and Memphis, Tennessee as the away-from-home terminal for Merged Roster No. 1 District crews. Memphis, Tennessee is designated as the home terminal and St. Louis, Missouri as the away-from-home terminal for Memphis District crews.

Section 4. RATES OF PAY: All miles run in excess of the miles encompassed in the basic day shall be paid for at the rate calculated by dividing the basic daily rate of pay in effect on May 16, 1986, by the number of miles encompassed in the basic day as of that date. Car scale additives will apply to mileage rates calculated in accordance with this provision.

Section 5. MEAL ALLOWANCE AND EATING ENROUTE: So long as the hand-up lunch arrangement at Illmo remains in effect, crews operating in this service will receive a hand-up lunch at Illmo. No employee to whom a lunch is furnished at Illmo will be paid any allowance for not stopping to eat on line of road.

Section 6. TRANSPORTATION: Transportation to and from lodging facilities will be furnished at no expense to the employees where distance or other considerations justify. Disputes as to distance or other considerations, not settled locally, will be handled by the General Chairman and the Director of Labor Relations.

Section 7. STRAIGHTAWAY SERVICE: Crews assigned in this operation will not be used in turnaround service out of either terminal to an intermediate point, or from one intermediate point to another intermediate point, except when necessary to turn back account line impassable.

If the Carrier takes an Engineer off duty at his/her initial terminal after having performed service beyond that contemplated by the call and release rule, the Carrier may either deadhead the Engineer to his/her destination terminal or pay district miles and place the Engineer at the bottom of the board. If this should occur to an Engineer two times in a row, the Carrier will deadhead the Engineer to the destination terminal on the second occurrence.

When tied up on line of road, Engineers in this service will be deadheaded to their objective terminal immediately after being tied up. If the relief Engineer or transportation in the form of a company vehicle, taxi cab, etc., does not arrive within one hour of the time tied up, a separate payment on a minute basis will be allowed for all waiting time in excess of one hour.

NOTE: Refer to Side Letter No. 2 with respect to deadheading.

Section 8. HOURS OF SERVICE RELIEF: When necessary to send an Engineer to bring in one of the trains in this service, the following will apply:

- (1) Trains tied up between Dupo, Illinois and Illmo, Missouri, will be relieved by the Merged Roster No. 1 Extra Board at St. Louis.

- (2) Trains tied up between Illmo, Missouri and Paragould, Arkansas, will be relieved by the Merged Roster No. 1 Extra Board at Poplar Bluff, Missouri.
- (3) Trains tied up between Paragould, Arkansas and Memphis, Tennessee, will be relieved by the Memphis Division Extra Board.
- (4) It is understood that the Carrier has the option of using a pool Engineer in straight away service for relief.

Section 9. LOCAL SERVICE: Engineers in this service will not be used to fulfill the requirements of the August 10, 1946 Agreement covering local service.

Section 10. FAMILIARIZATION: Employees will not be required to lose time or "ride the road" on their own time in order to qualify for these runs.

Section 11. MILEAGE REGULATION: In the application of Article 40 of the basic agreement, the monthly mileage regulation for this service will be increased immediately to average between 4200 and 4600 miles per month.

Section 12. INVESTIGATIONS: Investigations involving employees in this service will be held at such time and place as will cause as little travel, inconvenience, and loss of time as practicable to all employees involved. If attendance at an investigation required an employee to travel to any point away from his/her home terminal or to a point off his/her seniority

district, deadhead mileage over that portion of the run where he/she formerly held no rights will be paid. Compensation for time lost or time for attending the investigation or hearing will be determined under existing agreement rules, provided, however, that deadhead pay for going to and from the investigation and pay for attending the investigation will be included in computing loss of earnings.

In the event the investigation lasts more than one day, the provisions of Article II (Expenses Away From Home) of the June 25, 1964 Agreement, as amended, will apply.

Section 13. PROTECTION: All permanently assigned employee(s) occupying a position on April 5, 1991, which is abolished as a result of the implementation of this service, will be entitled to the protective benefits of Article IX, Section 7 of the May 16, 1986 Agreement.

Section 14. PROBLEM RESOLUTION: If problems should arise over the application of this agreement, the parties agree to meet promptly to resolve such problems.

Section 15. SAVINGS CLAUSE: To the extent the rules of the Schedule Agreement may conflict with this Agreement, this Agreement will apply.

Signed at Omaha, Nebraska, this 5th day of April, 1991.

FOR THE ORGANIZATION:

FOR THE CARRIER:

M. D. Waldemer
General Chairman, BLE

W. E. Naro
Director Labor Relations

WEN/040991/d

UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
OMAHA, NEBRASKA 68179

April 5, 1991

SIDE LETTER NO. 1

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is to confirm our various discussions concerning the application of Section 11 of the Agreement dated April 5, 1991, establishing interdivisional service between Memphis, Tennessee, and St. Louis, Missouri.

During our discussions of this Section, which increases the regulating factor for these pools, you expressed concern that the Carrier would hold employees in these pools to a higher standard than other employees with respect to lay offs and absenteeism.

You were advised that the purpose of this Article was to increase the regulating factor of the pools in proper proportion to the miles of this run. Employees in these pools will not be held to a higher standard than other employees with respect to lay offs and absenteeism. They will be treated the same as any other employee in regard to those issues.

If the foregoing correctly reflects the understanding reached in conference, please affix your signature in the space provided below.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e1

AGREED:

M. D. Waldemer
General Chairman, BLE

CARRIER'S EXHIBIT D
Page 7 of 14

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179



April 5, 1991

SIDE LETTER NO. 2

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is to confirm our various discussions concerning the application of Section 11 of the Agreement dated April 5, 1991, establishing interdivisional service between Memphis, Tennessee, and St. Louis, Missouri.

During our discussions of this Section, you expressed concern the Carrier would require employees to exercise seniority to these runs in order to be classified as occupying the highest paying job for New York Dock protection purposes. You were advised that the Carrier had not classified specific runs as the highest paying jobs but only general categories such as through freight or local. It was agreed that the Carrier would not set these runs apart from other through freight jobs for purposes of the application of New York Dock. An engineer, therefore, would not have to occupy one of these positions as the highest paying job under New York Dock if he/she could hold a through freight turn in another pool.

If the foregoing correctly reflects the understanding reached in conference, please affix your signature in the space provided below.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e2

AGREED:

M. D. Waldemer
General Chairman, BLE

CARRIER'S EXHIBIT D
Page 8 of 14

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179



April 5, 1991

SIDE LETTER NO. 3

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is to confirm our various discussions concerning Section 13, PROTECTION, of the Agreement dated April 5, 1991, establishing interdivisional service between Memphis, Tennessee and St. Louis, Missouri.

During our discussions of this Section, it was agreed that if an employee lost time as a result of conducting union business and was entitled to protection as a result of the implementation of this interdivisional service, such time would be counted in the computation of their protection rates under this agreement. It further was agreed that the Organization would provide the Carrier a record of the lost earnings of such employees.

If the foregoing correctly sets forth the understanding reached in conference, please affix your signature in the space provided below.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e3

AGREED:

M. D. Waldemer
General Chairman, BLE

CARRIER'S EXHIBIT D
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UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
OMAHA, NEBRASKA 68179

April 5, 1991

SIDE LETTER NO. 4

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is to confirm our various discussions concerning Section 13 of the Agreement dated April 5, 1991, establishing inter-divisional service between Memphis, Tennessee and St. Louis, Missouri.

During our discussions of this Section, you requested that employees required to relocate as a direct result of the implementation of this service be provided the opportunity to select a lump sum relocation allowance in lieu of the relocation benefits set forth in Article IX of the May 16, 1986 Agreement. Accordingly we agreed to the following:

In lieu of any and all relocation benefits provided under Article IX of the May 16, 1986 Agreement, employees required to change their residence may elect to receive a lump sum allowance to homeowners of Seventeen Thousand Five Hundred Dollars (\$17,500.00). Renters may elect to receive a lump sum relocation allowance of Eight Thousand Dollars (\$8,000.00).

A "change of residence" as referred to herein will only be required if the new reporting point of the employee is more than thirty (30) normal highway miles, via the most direct route, from the employee's point of employment at the time of implementation, and the new reporting point is farther from the employee's residence than his former point of employment.

Mr. M. D. Waldemer
April 5, 1991
Side Letter No. 4 (con't)

If the foregoing correctly sets forth the understanding reached in conference, please affix your signature in the space provided below.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e4

AGREED:

M. D. Waldemer
General Chairman, BLE

UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
OMAHA, NEBRASKA 68179

April 5, 1991

SIDE LETTER NO. 5

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This is to confirm our several discussions concerning the application of the Agreement dated April 5, 1991, establishing interdivisional service between Memphis, Tennessee and St. Louis, Missouri.

During our discussions of this Agreement, you requested and I agreed that if an Engineer layed off at his/her away-from-home terminal, the vacancy would be filled from the extra board at that location. Once the extra engineer had completed his/her trip and obtained sufficient rest, he/she would be immediately deadheaded home.

If the foregoing correctly sets forth the understanding reached in conference, please affix your signature in the space provided below.

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e5

AGREED:

M. D. Waldemer
General Chairman, BLE

CARRIER'S EXHIBIT D
Page 12 of 14

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179



April 5, 1991

SIDE LETTER NO. 6

Mr. M. D. Waldemer
General Chairman, BLE
708 South 59th Street
Belleville, IL 62223

Dear Sir:

This refers to the Agreement dated April 5, 1991, signed at Omaha, Nebraska, establishing interdivisional freight service between St. Louis, Illinois and Memphis, Tennessee.

It was agreed the mechanics of this Agreement would be implemented as follows:

1. To minimize deadheading and away-from-home-terminal layovers and also achieve an equalization of miles, up to three (3) crews from either terminal may be used in succession before a crew from the other terminal is used. The 3-to-1 ratio is not to be exceeded unless no rested crews from the other pool are available. Should the Carrier need to exceed the three as referred to above, the Local Chairman will be notified and will be handled in accordance with each respective committee's claims handling agreements.
2. If a crew deadheads a disproportionate number of times within provisions as set forth below, such crew will be made whole as if they actually made the run.

The proration will be the number of deadheads divided by the number of crews ran that month.

EXAMPLE:

27 deadheads divided by 9 crews = 3 deadheads per crew
28 deadheads divided by 9 crews = 4 deadheads per crew

Mr. M. D. Waldemer
April 5, 1991
Side Letter No. 6 (con't)

3. In order to regulate the number of deadheads in an equitable manner, crews deadheading may run around other crews with no penalty.
4. Deadheading will be done other than by train, except where inclement weather would make other modes of transportation hazardous.

This Side Letter will terminate upon receipt of a fifteen (15) day cancellation notice by any party signatory one upon the other; however, the parties agree to meet prior to serving such cancellation notice if the above Agreement proves to be unworkable.

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

Yours truly,

W. E. NARO
Director Labor Relations

WEN/040991/e6

AGREED:

M. D. Waldemer
General Chairman, BLE