

December 18, 2010

To: Membership – Florida East Coast Railway

From: John Hancock, General Chairman
John D. Whitaker, Vice General Chairman
James (Jim) E. Bush, Assistant General Chairman – FEC
Jim Mc Corkle, Local Chairman
Eduardo Guillen, Local Chairman
Robert Kerley, International Vice President – UTU

Cy: Malcolm B. Futhey, International President – UTU

Subject: Agreement subject to ratification by the Membership

Dear Sisters and Brothers:

We are pleased to announce that the Negotiating Committee has reached a tentative agreement covering wages, rules and working conditions for Conductors, Engineers and Trainmen for the contract period beginning January 1, 2009 and continuing through December 31, 2012.

In accordance with Article 85 of the UTU Constitution, enclosed herewith is a copy of the tentative Agreement for your review. Additionally, we have enclosed a synopsis of the Agreement to explain the content and changes therein.

We will conduct town hall meetings at Jacksonville, Ft. Pierce and Miami, FL during the first week of January 2011; we will post the dates and meeting places once confirmed. We will be there to explain the Agreement and answer questions. Once the town hall meetings are concluded, each dues paying Member in good standing during the month of December 2010 will be sent, via U.S. Mail, a ballot so they may cast their vote. If the Agreement is ratified, it will be placed in effect immediately with retroactive wages paid back to January 1, 2009.

We urge you to attend the meetings and ask questions; please bring your copy of the proposed agreement with you.

We will post any Question(s) and the Answer(s) on our website www.utu851.org so all can view. Additionally, the proposed agreement is posted on the web site. Please direct any questions to Gillian Turner at gilliant@utu851.org; she will ensure that the questions are directed to us so we can post the questions and the answers.

UTU/FEC Tentative Agreement

AGREEMENT LIFE SPAN

The Agreement is effective January 1, 2009 and spans forty-eight months; it expires December 31, 2012.

We will identify each rule and the proposed changes.

Rule 1

We made change reducing the Company's option to contract work to an outside party; the rule provides that if a job goes no-bid; the junior unassigned employee will be forced to the job. This essentially eliminates the Company's right to contract work to a third party.

We added the craft job of Roadway Utility Conductor.

Rule 2

This rule requires all employees working in the craft(s) to pay union dues to the UTU, regardless of hire date. This is a full Union Shop Agreement. This means that those who have been free loading and permitting the rest of you to pay to maintain the excellent provisions and to protect your seniority rights of the CBA will now have to pay their fair share. They do not have to belong to the Union, but they do have to pay their dues.

Rule 4 – Training Program

This is a new rule; it requires the Company to pay for initial training and to pay employees to become qualified in other job classifications. This is a positive change in that the Company currently has the option to pay or not to pay employees to obtain additional job qualifications.

Section 2. Employees with a seniority date prior to January 1, 2009 will **NOT** be required to accept training in all classifications. However, if employees with a seniority date prior to January 1, 2009 opt for additional training, the Company is required to pay the employees to get qualified.

Section 3. Employees that establish seniority after January 1, 2009 will be required to become qualified in all job crafts.

Section 4. This section details how an employee will be paid when he elects to get additional qualifications.

Rule 4 is a great gain for us!

Rule 10

We made the rule simpler to read.

Also, we made it easier for employees that may be furloughed to maintain their seniority. The previous agreement placed many restrictions on the employee, and if the employee failed to fulfill his part, he lost his seniority. We shifted the burden to the Company; this protects the furloughed employee. A Notice of recall must be sent via certified mail, and copy will be furnished to the Local Chairman. This will protect the furloughed employees' rights to service if they want to return to the railroad.

Rule 12

This Rule maintains the employees' right that they cannot be disciplined without a fair and impartial hearing. And, if disciplined, the employee can have his case heard by a third party who will determine the justness of the findings. This rule is worth the privilege of Union Membership if you had no other rule. Without this rule, you are considered an employee-at-will. If the Company's will is that you are no longer employed, you are no longer employed.

This Rule protects your job; many of you have enjoyed the benefits of this Rule.

There is a change in the rule in that the disciplinary system moves from the Brown's Merit/Demerit System to a Development and Accountability Policy. It is a different from what you are used to. At the same time, it is one of the more lenient disciplinary systems in the country. All the Class I Railroads have a much harsher disciplinary system. It is well established that the right to maintain discipline is the managerial right of the Company. This is no change from your present system except that the merit/demerit system is no longer maintained.

We did obtain a clear record for all employees in exchange for changing the method.

Rule 16 and the old Rule 17.

These two rules are combined.

The changes are:

1. Jobs less than 30 days are temporary jobs.
2. Vacancies pending advertisement will be filled by the extra board.
3. Any starting time change in excess of 1.5 hours will require the job be re-advertised; this gives the incumbent a seniority move.
4. Any temporary change of less than 1.5 hours may happen no more than once in a 30 day period
5. Temporary vacancies of less than 7 days will be filled from the extra board.

New Rule 17

This rule presents no changes; it used to be Rule 18.

Rule 18

This rule provides for the establishment of guaranteed extra boards. We fought hard for this rule; it is high time that the extra board be considered a regular job for pay purposes. People do not need to starve to death while assigned to the extra board. In the railroad industry, it is a job, just like being assigned to a regular job.

Employees assigned to the extra board will be guaranteed \$2028.80 per payroll period; this amount will increase subject to all general wage increases.

If you mark off for non-compensated reasons one time during the payroll period, you lose one day's guarantee. If the employee marks off for non-compensated reasons on two separate occasions, he will lose his guarantee for the payroll period.

All compensated mark-off (vacation, bereavement, incentive day, etc.) will not be considered as a mark-off for guarantee purposes.

Employees that are not regularly assigned to the extra board for the full payroll period will have their guarantee prorated.

In order to be eligible for the guarantee, all employees assigned to the extra board must advance themselves in qualifications, regardless of seniority date. They are not required to get qualified, but in order to get the "guarantee"; they must agree to get qualified.

This rule represents a significant change, and it is a great enhancement to the Membership.

Rule 19

This rule is called a "Sade Hawkins Day" for all of you old enough to remember Sade Hawkins from the Little Abner Cartoon Strip.

Every six months, each employee gets to make a seniority move to any job anywhere on the Railroad. The Rule describes the process.

Rule 20

Employees required to attend rule meetings without missing time from work will be paid for all time with a minimum of four hours.

Employees directed to take a rules exam on their assigned "off" day will be paid for all time with a minimum of eight hours pay, and all time will be paid at the overtime rate.

If employees lose time to take the rules exam, they will be paid 8 hours for each day lost.

Rule 21

This rule provides a waiting time payment to crews that get a "call" to report to work. The payment begins after 3 hours from the advertised on duty time. The highlights are:

1. Job advertised to be on duty at 0900 hours or later as called.
2. Crew not called to be on duty at 1500 hours (six hours later) will be deadhead under pay (actual time, no less than 8 hours) to opposite terminal to protect the service or released and paid for the trip.
3. Between the 3rd and 6th hour, employees will be paid on a minute-by-minute basis in addition to all other earnings for the trip.

Example No. 1

Train 107 is scheduled to go on duty at 1645 hours. The crew is called to be on duty at 2045 hours. At 1945 hours, the crew goes under pay; they receive one additional hour's pay because at 1945 hours, they went under pay. They receive this pay in addition to pay for the trip south. This rule applies at both ends of the road.

Example No. 2

Train 107 is scheduled to go to work at 1645 hours; the train is not called to be on duty by 2245 hours. The crew is released and paid for the trip. An extra crew is called to protect the train, whenever it is operated.

Rule 28

All Employees who work every day of their regular assignment during a calendar quarter of the year will earn a paid incentive day (up to 4 per year). They may carry over up to five of these days.

Extra Board employees must remain available for work, and they will also qualify for the incentive day.

Employees may mark off for 2 days for non-compensated reasons during the quarter and still be qualified for the incentive pay.

All compensated mark-offs (bereavement, vacation, etc) are not considered part of the allowable two days that an employee can mark off without losing the incentive day..

This is a great addition to the rule!

Rule 30

We removed the provisions that new employees do not get 4 weeks of vacation.

We changed the daily vacation and pay-out vacation rule.

Employees may not sell a week of their vacation.

Employees that have not taken their daily vacation by November 15 will be paid any remaining daily vacation days on December 1.

Rule 32

Employees attending court on behalf of the Company will be paid for all time lost.

Rule 33

The number of days that an employee will be reimbursed for jury duty is increased from 10 to 30 days.

Rule 36

Retroactive and bonus back pay to January 1, 2009.

January 1, 2009 – 2% GWI

January 1, 2010 – 2% GWI

January 1, 2011 – 2% GWI

January 1, 2012 – 2% GWI

Additionally, each quarter, an employee may receive up to a 6% bonus of his earnings as follows:

1. 3% for remaining FRA reportable injury free and FRA human factor accident free.
2. 2% for the railroad transportation remaining FRA reportable injury and FRA human factor incident free.
3. 1% based on the improvement of the railroad's free cash flow.

Effective January 1, 2011, the bonus will change to a 4% and 2% bonus structure; the 1% free cash flow provision is moved to the employee's personal accountability.

On the bonus payments, the measurement starts over each quarter, and the payments are made within 30 days at the end of each quarter.

Over the past 2 years, FEC has made the 1% cash flow improvement. If you were injury free, then you are entitled to the 3% bonus. If there was an FRA reportable injury in the operating crafts during a quarter, that payment would not be made for that quarter.

The forgoing amounts to an annual payment of 8% increase in your earnings. This is unheard of in this day and time.

Based on 100% of the quarters of the 1% figure cash flow feature, 75% of the quarters of the 3% figure personal injury and human factor incident free; and 50% of the of the quarters of the 2% figure, and the annual GWI'S, it is estimated that back time pay will be between \$6,000.00 and \$15,000.00 depending on the type of job worked and number of hours worked.

Rule 41

Health and Welfare

This rule was one of the more difficult rules. Health care costs are exploding at an annual rate of 15%. Since the current contract began, your health insurance costs paid by the company have increased 100%, of which you co-pay has remained constant.

Your new health insurance plan will include a prescription card wherein you pay a co-pay each time you get a prescription.

The additional cost of the health insurance plan to the FEC will be \$1,000,000.00. Your cost will increase also.

The new insurance plan will not become effective until all crafts have ratified an agreement on the FEC. The MOFW is still negotiating. Rail America has refused, until now, to put a cap on the employee health share cost. It has now so agreed. This is covered in Side Letter No. 2

The simple version of your health care cost, when implemented, for as long as this contract is in effect is:

Single: \$64.00

Employee + Children: \$120.00

Employee and Spouse: \$130.00

Family: \$185.00

The Family Plan cost can increase up to \$190.00 in 2012; this is based on Side Letter No. 2

We recognize that such is significant change; we also want you to know that your health insurance cost have risen over 100%, and the health care costs are projected to rise at an annual rate of 15%. We believe that we have done an excellent job in restraining those health care cost until the next contract is negotiated.

You will also find that the unlimited cost on the prescription card is a fantastic benefit.

The monthly cost for average family co-pay with a similar plan is \$6000.00 per year. Your maximum is \$2214.00

Rule 46

We defined pay and time for deadheading to certain locations.

Employees called to deadhead and take rest will be paid a basic day's pay for the deadhead (8 hours).

Rule 48

Company must use extra board employees for HOS relief service; they cannot use a supervisor unless all calling procedures are exhausted.

Rule 49

The away-from-home meal allowance is increased to \$8.00 and an additional \$4.00 when held 12 or more hours.

The meal pay for those jobs on turnaround basis is increased to \$8.00.

Attachment "B"

Full Union shop

Attachment "C"

Road utility Trainman Provisions

Side Letter No. 1

In case the parties decided to stop the annual 6% bonus program, the GWI's will increase to 3% on an annual basis.

Side letter No. 2

See health care explanation under Rule 41

Side Letter No. 3

In changing from the Merits/Demerit System, everyone gets a clean record except for a Rule G ByPass or any FRA decertification issues.

Side Letter No. 5

This provides for a critical incident program as outlined in the Rail Safety Improvement Act of 2009.

Side Letter No. 6

Employees will be paid the back time within 60 days. Employees that have retired will also get the back time pay.