

MEMORANDUM OF AGREEMENT
(1944)

This Agreement entered into this twenty-fifth day of January, 1944, by and between the carriers listed in Appendix (A), attached hereto and made a part hereof, represented by the duly authorized Western Carriers Conference Committee signatory hereto, as party of the first part, and the Locomotive Engineers of said carriers, as respectively indicated by said Appendix (A), and represented by the Brotherhood of Locomotive Engineers signatory hereto by its duly authorized Assistant Grand Chief Engineer, and Temporary Assistant Grand Chief Engineer, as parties of the second part.

WITNESSETH:

WHEREAS, certain proposals on behalf of the classes of employees hereinbefore referred to were served on the carriers parties hereto by the Brotherhood of Locomotive Engineers which led to proceedings before the National Mediation Board, docketed as Mediation Case A-978; and

WHEREAS, a hearing was conducted by a President's Emergency Board and said Board on or about May 21, 1943, filed its Report together with its Findings and Recommendations with the President of the United States; and

WHEREAS, the parties have conferred with respect to said proposals, and said Emergency Board Report of May 21, 1943; and

WHEREAS, the parties have agreed on rates covering steam, electric and Diesel-electric, locomotives;

NOW THEREFORE it is mutually agreed:

1. To put into effect, subject to requisite governmental approval and upon such approval being obtained, rates for Engineers for steam, electric and Diesel-electric locomotives as specifically set out in Appendix (B), attached hereto and made a part hereof.
2. (a) Existing rates of pay which are higher than those herein provided shall not be reduced. If a rate higher than that provided by this agreement is in effect by reason of some special agreement with individual carriers such higher rate shall continue to be paid but need not be increased except as provided in paragraph (b) hereof.
(b) Existing differentials for divisions or portions thereof; or mountain or desert territory as compared with valley territory, whether expressed in the rates or in constructive mileage allowances, shall be preserved.
(c) Except as specifically provided herein, this agreement does not modify or supersede existing agreements covering rates of pay, rules and working conditions of Locomotive Engineers.
3. In the application of this agreement it is understood that the existing duties and responsibilities of engineers will not be assigned to others. It is further understood that a second engineer is not required in multiple-unit service where the engineer operates the locomotive from on cab with one set of controls.

4. In so far as the rates of pay provided for in this agreement depend upon the approval of any

(*) Requisite governmental approval of the rates of pay provided for in this agreement having been obtained effective March 22, 1944, this agreement becomes effective April 1, 1944

individual or governmental agency before becoming effective under the Stabilization Program, the parties hereto agree to join in such submission as may be necessary or desirable to seek the requisite approval of the appropriate individual or governmental agency. It is understood and agreed, however, that such rates of pay are not valid and binding unless and until such requisite approval has first been obtained. In the event of such approval, this agreement shall become effective on the first day of the pay roll period following the date of final approval by the appropriate individual or governmental agency. Upon such final approval being forthcoming, the effective date so determined shall be automatically inserted as the effective date of this agreement without further action of the parties hereto. (*)

5. This agreement is subject to approval of the courts with respect to such of the carriers, parties hereto, as are in the hands of Receivers or Trustees.

6. This agreement is in full settlement of the second party's proposals and the questions covered by Mediation Case A-978, and shall continue in effect, subject to change under the provisions of the Railway Labor Act as amended.

For the participating carriers listed in Appendix (A):

D. P. LOOMIS

Chairman

Western Carriers Conference Committee

A. L. COEY

R. C. WHITE

H. H. URBACH

J. G. McLEAN

S. C. KIRKPATRICK

C. R. YOUNG

For the participating Organization of employees:

J. P. SHIELDS

Assistant Grand Chief Engineer

Brotherhood of Locomotive Engineers

J. McGuire

Temp. Assistant Grand Chief Engineer

Brotherhood of Locomotive Engineers

Signed at Chicago, Illinois

January 25, 1944

APPENDIX (A)

(List of participating carriers of the Western Carriers Conference Committee.)

Not reproduced herein.

APPENDIX (B)

(WESTERN RAILROADS RATE TABLES)

Not reproduced herein

MEMORANDUM

Chicago, Illinois, January 25, 1944.

Referring to agreement signed at Chicago this date between the Brotherhood of Locomotive Engineers and the Western Carriers Conference Committee:

This will confirm our understanding that any pending claims for the employment of a second engineer in multiple-unit Diesel-electric service, except those covering conditions where employees other than engineers were handling the operating controls of any of the units, are hereby withdrawn.

J. P. SHIELDS

Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers.
Committee

D. P. LOOMIS

Chairman
Western Carriers Conference

J. McGuire

Temp. Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers

MEMORANDUM

Chicago, Illinois, January 25, 1944.

Referring to agreement, signed at Chicago this date, between the Brotherhood of Locomotive Engineers and the Western Carriers Conference Committee:

This will confirm our understanding that any dispute or controversy arising out of the interpretation or application of any of the provisions of said agreement may be referred by either the carrier or representative of the employees concerned to a committee, the carrier members of which shall be the members of the Western Carriers Conference Committee signatories hereto or their representatives; and the Brotherhood members of which shall be the Grand Chief Engineer or his duly authorized representative together with not less than eight General Chairmen. Interpretation or application agreed upon by such committee shall be final and binding upon the parties to such dispute or controversy.

This provision is not intended to prohibit the parties from filing claims with the National Railroad Adjustment Board in the manner provided in the Railway Labor Act as amended, but if the committee provided for herein agrees upon an interpretation or application of the affected provisions of the agreement, such claims shall be withdrawn and settled in accordance with the decision of the committee.

J. P. SHIELDS

Assistant Grand Chief Engineer

Brotherhood of Locomotive Engineers
Committee

D. P. LOOMIS

Chairman

Western Carriers Conference

J. McGuire

Temp. Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers

WESTERN CARRIERS CONFERENCE COMMITTEE
Room 482, Union Station Building, Chicago, Ill.

December 17, 1943.

MR. J. P. SHIELDS,
Assistant Grand Chief Engineer,

MR. JOHN McGUIRE,
Temp. Assistant Grand Chief Engineer,
Brotherhood of Locomotive Engineers,
Room 1332, Consumers Building,
Chicago, Illinois.

Gentlemen:

This will confirm the statement which we made to you in our conference this date to the effect that the proposed Agreement between the Western railroads represented by this Committee and the employees represented by your organization in settlement of your proposals, covered by Mediation Case A-978, if the same becomes effective, shall be without prejudice to the application of, or addition to, the rates of pay provided in said Agreement of increases in rates of pay as a result of the proceedings had pursuant to notices served upon the carriers by the five operating brotherhoods on January 25, 1943.

Very truly yours,
Western Carriers Conference Committee
By D. P. LOOMIS
Chairman

Acknowledged December 17, 1943
Brotherhood of Locomotive Engineers

By J. P. SHIELDS
Assistant Grand Chief Engineer

J. McGUIRE
Temp. Assistant Grand Chief Engineer

MEMORANDUM

Chicago, Ill, January

25, 1944.

Referring to agreement signed at Chicago this date between the Brotherhood of Locomotive Engineers and the Western Carriers Conference Committee:

It is understood that in so far as Mallet rates are concerned no changes in the present Mallet rates in Western territory were requested by the Brotherhood of Locomotive Engineers and no consideration was given to those rates. The present Mallet rates are included in the rate tables attached to said agreement as Appendix (B) as a matter of reference and convenience.

J. P. SHIELDS

Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers

D. P. LOOMIS

Chairman
Western Carriers Conference Committee

J. McGuire

Temp. Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers

NATIONAL RAILWAY LABOR PANEL
Washington 25, D. C.
Federal Works Building

September 6, 1944.

MR. D. P. LOOMIS, Chairman
Western Carriers Conference Committee
482 Union Station Building
Chicago, Illinois

MR. J. P. SHIELDS
Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers
1332 Consumers Building
Chicago, Illinois

MR. J. McGuire
Temporary Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers
1332 Consumers Building
Chicago, Illinois'

Gentlemen:

In your letter of August 7, 1944 you call my attention to an agreement reached on January 25, 1944 between the Western Carriers' Conference Committee and the Brotherhood of Locomotive Engineers relative to the so-called Diesel Case, which was Mediation Board Case A-978, and request that I take such action as may at this time be appropriate.

Under Paragraph 3 of Executive Order 9299, which governs action on agreed to wage adjustments submitted to the Chairman of the National Railway Labor Panel for his approval, the Chairman is directed to advise the parties of necessary modifications in any instance where he does not find the agreement as submitted permissible under the standards of the Stabilization Program. It appears that in this case you have discussed the possibility of certain modifications but have decided to ask for reconsideration of the agreement as originally executed and submitted for approval under date of January 25, 1944.

I have reviewed the entire matter, including your letter of March 22, 1944 to Judge Vinson, to determine what further action might be taken at this time and have concluded that certain of the wage adjustments provided for in the agreement are permissible; but I have been unable to find a basis upon which other adjustments are permissible. I will, therefore, indicate the permissible provisions of the agreement and the procedure which seems to me to be appropriate for further consideration of the remaining provisions.

The first adjustments evident in the rate scales incorporated in Appendix B of your agreement of January 1944 are minor increases for existing weight brackets, the effect of which is to level up rates in the Western territory with those in the Eastern territory. These adjustments are permissible under stabilization regulations and are hereby approved under authority of Executive Order 9299.

The rate scales set forth on Sheets 1 and 3 of Exhibit B of the agreement of January 25, 1944, applicable to passenger service and yard service, respectively, are permissible in their entirety under stabilization regulations and are hereby approved under authority of Executive Order 9299. Each of these scales represents, in addition to the leveling-up referred to in the preceding paragraph, an extension of a previously established system of classification by weights-on-drivers to cover the heavier types of equipment now in use and an extension of the existing rates of increase to the new weight brackets.

I do not, however, find that all the rate adjustments for engineers in freight service as set forth on Sheet 2 of Appendix B are permissible. While this scale the established system of classifying locomotive according to weight-on-drivers has been extended, the accompanying increases in rates of pay do not follow an existing pattern and no showing has been made in connection with your application as to how the rates of increase in the new weight brackets relate to your present wage scales. The application of 21c increase steps in each of the three 50,000 pound brackets from 400,000 to 550,000 pounds presents a question of permissibility to which no answer is as yet apparent. The basis for the application of 18c increase steps in each new 50,000 pound bracket above 550,000 pounds is also unsupported in the present record. There are only three 50,000 pound brackets in the present scale, two carrying increase steps of 15c and another of 17c. The 21c rate of increase is used in the present scale at only one point, to cover the final classification of "350,000 pounds and over." "Without attempting to fix the exact limit to which increment extensions of the existing scale might go, it may be pointed out that modification of this part of the agreement seems to be necessary unless additional information and data are submitted to support the agreement as it now stands.

The general rule of the Stabilization Program at this time is that wage rates be held to existing levels and increases may not be approved on any broad basis. Where increases are approved, the action must be according to the standards established by or pursuant to the Stabilization Act and under those standards the increases must be held within the narrowest limits equity will allow. Wage increase agreements are not approvable *per se*, even when they involve the compromise settlement of demands. The permissible limits for these scales were first established by the Emergency Board Report of May 21, 1943, which was not disapproved by the Economic Stabilization Director. Since then the limits have been raised by the approval of agreements between the Brotherhood of Locomotive Firemen and Enginemen and the three Carriers' Conference Committees. Although the limits fixed in those agreements are not necessarily absolute, higher limits cannot be approved unless such limits are separately and specifically justified for reasons similar to those set forth in the presentation of the Eastern-B. L. F. & E. agreement as submitted to the Chairman of the Panel in justification for the rates proposed therein.

Very truly yours,

H. H. SCHWARTZ
Chairman

CC: Mr. A. Johnston

NATIONAL RAILWAY LABOR PANEL
Washington 25, D. C.
Federal Works Building

October 9, 1944.

MR. D. P. LOOMIS, Chairman
Western Carriers Conference Committee
482 Union Station Building
Chicago, Illinois

MR. J. P. SHIELDS
Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers
1332 Consumers Building
Chicago, Illinois

MR. J. McGUIRE
Temporary Assistant Grand Chief Engineer
Brotherhood of Locomotive Engineers
1332 Consumers Building
Chicago, Illinois

Gentlemen:

The daily wage rates for Engineers in freight service operating locomotives exceeding 400,000 pounds weight-on-drivers, as set forth in your agreement of January 25, 1944, have been reconsidered on the basis of the information and data in your joint letter of October 2, 1944.

Since the principle of extending existing weight-on-driver brackets in steps of 50,000 pounds was recommended by the Emergency Board in the so-called "Diesel Case," and that recommendation became final pursuant to the provisions of Paragraph 5 of Executive Order 9299, the extension of the weight brackets is in accord with the Wage and Salary Stabilization Program and needs no further approval. The proposed 21-cent increment in each of the first three 50,000 pound brackets above 400,000 pounds and the 18-cent increment in each 50,000 pound bracket above 550,000 pounds are shown in your letter to have been agreed to as an appropriate extension of the increments in existing brackets and designed led to integrate the increments in the extended scale with certain of those already in existence.

On the basis of the facts you have stated, the provisions of your agreement applicable to Engineers in freight service operating locomotives in excess of 400,000 pounds weight-an-drivers are found to be permissible under the regulations and orders governing the Wage and Salary Stabilization Program and are hereby approved under authority of Executive Order 9299.

Yours very truly,

H. H. SCHWARTZ
Chairman

CC: Mr. A. Johnston