

**Memorandum of Agreement
October 3, 1996 Crew Consist Agreement
(Conductor/Foreman Only Operations)**

The Crew Consist Award dated August 6, 1993, issued by Arbitration Panel No.18, is hereby revised in final compliance with both the Award and PEB 219 as follows:

Section 1:

- A. The Carrier may operate with a crew of conductor only or foreman only in all classes of service. There shall be no work restrictions imposed on a conductor only / foreman only crew based on the crew size in local, road switcher, non-revenue or yard service. Conductor only / foreman only crews will continue to be governed by all applicable road/yard work rules.
- B. Employees assigned or working as a conductor or foreman on a conductor only or foreman only crew in local, road switcher, non-revenue or yard service shall be entitled to receive a Special Yard/Local Allowance of \$25 for each tour of duty worked. Payment of this allowance will be made subject to the following conditions:
1. The Special Yard/Local Allowance shall be subject to future general wage increases and / or cost of living adjustments.
 2. Payment of the Special Yard/Local Allowance shall be made in addition to all other current earnings of the employee. (Current earnings reflect arbitraries and other crew consist payments that an employee is entitled to and receives at this time.)
 3. Only those employees acquiring seniority as a trainmen/yardmen prior to the date this Agreement is signed shall be entitled to receive the Special Yard/Local Allowance.
 4. The payment will be made even if an employee assigned to a utility position assists the conductor only / foreman only assignment. It will not be paid if a brakeman/helper is assigned to the crew.

Note 1: This agreement does not modify the payment made to through freight crews for excess work events as provided in Section (2)(b) of the August 6, 1993 Crew Consist Award. That payment is not applicable to crews in local, road switcher, non-revenue or yard service and the payment in Section 1(B) of this agreement is not applicable to crews in through freight service.

Note 2: It is not the intent of this agreement to convert through freights to locals for the purpose of obtaining benefits of this agreement.

Section 2:

Article III Reserve Boards of the August 6, 1993 Crew Consist Award is modified as follows:

- A. The rate of pay for employees on the Reserve Board shall be the greater of:
1. 70% of the basic yard foreman's rate of pay five (5) days per week; or
 2. Their current reserve board rate if applicable; or
 3. 70% of the employee's 1995 compensation earned by such employee in train and/or engine service.
- B. The number of reserve board positions shall equal the number of employees at each location on date of implementation.
- C. Employees eligible to exercise seniority to a reserve board is extended to those trainmen with a seniority date on or before the effective date of this agreement and meet the other qualifications of Article III.

- D. Reserve Board positions may not be occupied when trainmen with a seniority date after the effective date of this agreement are working within such seniority roster territory unless mutually agreed to by the parties.
- E. Unless specifically modified in this agreement all other provisions of Article III Reserve Boards shall continue to apply.

Section 3:

Utility positions may be established under the following conditions:

- A. Utility positions may be established in any yard or at any outside point where a regular assignment may be established.
- B. Utility positions may assist both road and yard crews in the performance of their duties. It is not intended that the Utility position will perform the conductor's or foreman's paperwork. It is not the intent of this agreement to create engineer only positions and have the utility assignment perform the groundwork for that engineer. The Utility position is to assist assignments with ground crews assigned or single assignments permitted by current rules.
- C. Utility positions will be paid the applicable foreman's rate of pay.
- D. Employees currently entitled to a Short Crew payment (which includes the \$3.75) as provided in previous crew consist agreements or awards shall be paid the Short Crew payment while assigned to the Utility position. The Carrier will not make a Productivity Fund plug due to the establishment of Utility positions nor shall the payment in Section 1(B) of this agreement apply to Utility positions. Employees eligible for productivity fund payments will be given a trip credit for each tour of duty as a utility employee.
- E. If a Utility position is called extra at the same yard or outside point and in the same starting time bracket for the yard and within one and one-half (1 ½) hours for outside points for three (3) consecutive days, the position shall be bulletined as a regular assignment.
- F. Utility positions established in yards shall be governed by yard starting time rules, where applicable. Utility positions established at outside points shall be governed by starting time rules governing locals or road switchers, if any. The five (5) day work week provisions shall apply to assignments established in yards and assignments established at road points may be established for 5, 6, or 7 days with the days being consecutive.
- G. Utility positions established in yards will be restricted to the road/yard service zone limits established by applicable National Agreements, currently twenty-five (25) miles. Utility positions established at outside points will be governed by road limits of twenty-five (25) miles in all directions. Employees assigned to Utility positions will not be required to drive their own vehicles within these limits while performing their duties.
- H. If an employee assigned to or working on a Utility position is assigned to a crew because a conductor/foreman or brakeman/helper has failed to show for work or has gone home sick, the Utility person shall remain with the crew for the remainder of the shift. The Utility person shall be paid the rate of the position worked or of the Utility position, which ever is greater.

Section 4:

- A. It is recognized that some employees have not qualified as a conductor or foreman and that additional training will be given to these employees and an equal number of other employees will continue working before being permitted to exercise seniority to the supplemental extra board and the reserve board.
- B. The parties will jointly identify those employees who have not been qualified or promoted and if their assignment is abolished they will be given sufficient training to qualify or promote them. Upon completion of this training they will be eligible for placement back into the working ranks and if this creates surplus employees then movement to supplemental boards and reserve

boards will be permitted in accordance with applicable rules. This Section 4(B) applies only to those employees hired subsequent to August 6, 1993 and prior to the effective date of this Agreement.

Section 5:

Implementation of this Agreement shall be done in stages under the following schedule:

- A. At least twenty (20) days prior to implementation, the Carrier shall bulletin for fifteen (15) days to all eligible employees on the territories covered by this Agreement, the opportunity to select one of the following options: regular assignment, guaranteed extra board, supplemental extra board or reserve board.

Note: Eligible employees may exercise seniority to only those brakeman/yardman positions designated by the Carrier.

- B. Five (5) days prior to the implementation date, the involved Local Chairmen and CMS personnel shall review the results of the bulletin process and make assignments. Prior to the implementation date employees shall take the necessary action to be in place to perform the required service on their assignments.

- C. Assignments to the options set forth in "A" above shall be made by seniority preference. It is understood all assignments must be filled initially in the following order:

1. Regular Assignments
2. Guaranteed Extra Boards
3. Supplemental Extra Boards
4. Reserve boards

Those failing to bid or those failing to bid sufficient positions in order of choice to provide for assignment in a position will be force assigned to those working positions that go no bid.

- D. An employee must have a seniority date on a territory covered by this Agreement in train/yard service prior to the date of this Agreement and must be working in such service in the territory of the assignment immediately prior to being assigned to a bulletined position.

Section 6:

This Agreement modifies all applicable Crew Consist and Modified Crew Consist Agreements and Awards and, in the event of conflict, the intent and terms of this Agreement shall prevail. It is recognized that moratorium provisions currently in place pertaining to crew consist provisions will remain in full force and effect and will not be altered in any forum including but not limited to National Negotiations and Boards established pertaining thereto.

Signed this 3rd day of October, 1996 in Houston, Texas.

For The Organization:
/s/ L. W. Parsons, Sr.

APPROVED:
/s/ M. B. Futhey, Jr.

For The Carrier:
/s/ A. Terry Olin
/s/ W. S. Hinckley
/s/R. D. Meredith

Questions and Answers
October 3, 1996 Crew Consist Agreement

Section 1

- Q1: May the carrier assign additional switchmen/brakemen to crews.
A1: Yes, see Article I(1)(e) of the August 6, 1993 Crew Consist Award, Page 128.

- Q2: Does this agreement cover single assignments that previously were permitted by agreement such as a switch tender.
- A2: No, however those other assignments must be bulletined as such and will be governed by the pay and work rules established for them.
- Q3: Are there any car count, train length limitation or work event restrictions on any of the carrier operations.
- A3: Yes, the provisions of Article I (2)(b) of the August 6, 1993 Crew Consist Award will continue to apply to through freight trains. There are no such restrictions on all other classes of service.
- Q4: Will the Special Yard/Local Allowance be paid if the utility assignment is made a part of the crew in Section 3(H) of this agreement.
- A4: If the utility person is made a part of the crew because of the provisions of Section 3(H) then the utility person will be entitled to the payment if: the crew assigned to is conductor/foreman only crew. If it was a crew with a switchman/brakeman then the payment would not be paid.
- Q5: Does the Special Yard/Local Allowance count toward the one-third (1/3) cap in productivity fund payments and is it subject to the entry rate progression.
- A5: The payment is not a productivity fund payment and does not count towards the cap nor does the payment count as income for determining when the one-third cap (1/3) is met. It is not subject to entry rate progression.
- Q6: If an employee is now or becomes protected (New York Dock, Article XIII, ID, etc) will the payment in Section 1(B) be used as an offset to their protected rate?
- A6: No the Section 1(B) payment will not count as an offset of their protected rate nor will it count towards establishing a protected rate.

Section 2

- Q7: What earnings will be used to determine 1995 compensation.
- A7: The same formula found in Article III(5)(e) and (f) of the August 6, 1993 Crew Consist Award, Page 128.
- Q8: Will an employee reduced from the working list be allowed to exercise seniority to a reserve board position if there are junior employees hired after the effective date of this agreement working elsewhere on the seniority district.
- A8: No, unless mutually agreed to. The employee will be required to first protect his seniority elsewhere on the seniority district before being allowed to hold a reserve board if employees hired after the date of this agreement are working in train service. It is not the intent of this agreement to allow employees to hold reserve board positions while hiring at other locations on the seniority district.
- Q9: If an employee in the above question has prior rights that prevent him/her from being forced to a given location will that employee have to displace a new hire at that location?
- A9: No, unless the employee has already bid to that location and that is where they were reduced from the working list or they may exercise their seniority back to a working position in their prior rights district. A non prior rights employee would have to protect their entire seniority district and a prior rights employee would have to protect their entire prior rights seniority district.
- Q10: Do any of this provisions of Section 2 amend the recall provisions of the Award?
- A10: No.
- Q11: Do recall provisions always apply when an employee leaves the Reserve Board?
- A11: No, recall provisions apply when an employee is recalled as the junior employee or is senior and has an application to leave the reserve board. The bump/displacement rules apply if an employee is displaced by another employee and no recall provisions would then apply.

Section 3

- Q12A: What facilities must be at the location of the utility assignment.
- A12A: The same facilities that are required for a yard crew or local/road switcher.

Q12B: Must the Utility position have the same on and off duty point?

A12B: Yes.

Q13: Can this assignment work alone?

A13: The purpose of this assignment is to expedite traffic by assisting other crews. In performing those duties, the Utility assignment is intended to be attached to or work in concert with another crew. The Utility assignment shall be assigned to only one crew at a time and shall be in personal, radio, signal or other contact with the crew it is assisting prior to performing duties for or in conjunction with that crew.

Q14: Can you give some examples to Answer 13?

A14: A Utility person may be required to do whatever a brakeman/helper could do when instructed to do so by the Conductor/Foreman.

Q15: What impact does the Utility person have on the calculation of work events.

A15: None.

Q16: May a Utility person assist crews from more than one seniority district.

A16: Yes. In some locations crews from different seniority districts will perform work. A Utility person who hold seniority at such a location may assist any crew that operates into, out of and through that location.

Q17: If a Utility person is attached to a crew and the crew is entitled to an arbitrary payment will the utility person also receive the arbitrary?

A17: Yes, if their seniority date would have qualified them for the payment if they had been a regular assigned member of the crew.

Q18: May a utility person be used off of their seniority district.

A18: Yes, if current agreements permit the crew he/she is working with to be so used. For example a yard crew maybe used within the road/yard zone in accordance with the National Agreement even if it is outside their seniority district and a utility person working with that crew may also be used in the same manner as part of that crew.

Q19A: Can you give an example(s) of when a Utility person may not be used off their seniority district?

A19A: **Example 1:** Two Locals are assigned at an outside location (point A). The source of supply is 50 miles away. Another yard (point B) is 20 miles away in a different seniority district. If the carrier elects to establish a utility position at point A it must be from that seniority district and not someone from point B because point B is closer. A Utility assignment at point B may assist the locals if they come in and out of point B and may go with a point B yard crew to point A but will not be assigned or allowed to work with the locals at point A. There will be no split crews (employees from different seniority districts on the same crew) permitted in the road/yard district outside the terminal. It is not the intent of the Utility assignment provisions to extend the road rights of an employee onto the territory of another seniority district which he /she heretofore did not possess.

Example 2: A Road Utility position is established at Odem, Texas. The position is filled by a Kingsville trainman. The Utility position at Odem may assist any crew (including SAUG) working into or out of Odem. The Utility position may work with any Kingsville crew twenty-five (25) miles in either direction out of Odem on the Brownsville Subdivision. The Utility position may not, however, work with an assignment at Corpus Christi; e.g., traveling switcher or yard job. The Utility position may, however, work in Corpus Christi if it is working with a yard crew out of Odem with a Kingsville crew assigned.

Q19B: Does the answer to Question 19A above preclude the use of a Yard Utility assignment outside the terminal and onto the territory of another seniority district?

A19B: No. The answer to Question 19A is not intended to restrict the Carrier's rights under applicable road/yard rules nor to preclude the use of a Yard Utility assignment, in accordance with applicable rules, from working outside the terminal in any direction and onto any seniority district.

Q20A: If a Utility person is assigned in accordance with Section 3(H) does he/she lose the Utility person designation?

A20A: Yes, the Utility person would then be part of another crew and could no longer act as a utility person.

Q20B: Is the answer to Question 20A above intended to also apply to road assignments?

A20B: No. The provisions of Section 3(H) are not intended to circumvent or supersede applicable vacancy procedures. If a Utility position is assigned, pursuant to the provisions of Section 3(H), to a road assignment, said employee is still subject to the limitations applicable to Utility positions; e.g., the mileage or road/yard service zone limitation.

Q21: If a Conductor/Foreman fails to show or has gone home sick and a brakeman/helper is assigned to the job and the Utility person is assigned per Section 3(H) who becomes the Conductor/Foreman?

A21: The brakeman/helper if qualified.

Q22: Is the Carrier required to assign the Utility person as a permanent member of a crew in the above situation?

A22: No, if the brakeman/helper is not qualified as a Conductor/Foreman either an extra board employee or a Utility person may be used to fill the vacancy. If the brakeman/helper is qualified as a Conductor/Foreman then it may be run as a Conductor/Foreman only and the Section 1(B) payment will be made. If the Utility person does not become fully assigned and only assists the crew then the Section 1(B) payment will still be made.

Q23: How will a utility person know whether they are assigned to a crew per Section 3(H) or just assisting a crew in that situation?

A23: They will be so instructed by a supervisor. Should any doubt arise they should specifically ask. If so instructed they should contact CMS at the first opportunity and advise that they have been made part of the crew and should indicate on their time record when they tie up.

Q24: If an assignment is bulletined or called with a crew comprised of a Conductor and one (1) Brakeman (or a Foreman and one (1) Helper), may the Carrier operate this assignment as two (2) assignments?

A24: No.

Q25: Does the presence and /or attachment of a Utility position affect the answer to Q24?

A25: No.

Q26: Can a Road Utility position be established or called at a terminal where yard assignments are on duty?

A26: Yes.

Q27: What assignments may be assisted by a Road Utility position established or called at a terminal where yard jobs are on duty?

A27: The Road Utility position may assist road assignments within its zone.

Q28: What assignments may be assisted by a Yard Utility position?

A28: A Yard Utility position can assist both road and yard assignments.

Miscellaneous

Q29: What assignments generate productivity fund payments?

A29: Reduced crew assignments that have a Conductor or Foreman.

Q30: May employees on a bump board ride a vacancy for the life of the bulletin to help identify the number of employees that may be eligible for a reserve board spot and enable the senior applicant to move to a reserve board vacancy?

A 30: Yes, but the employee on the bump board may not be forced to ride a vacancy for the life of the bulletin.

(Modified by Letters of Understanding, February 24, 1997 and January 23, 1998 in Article 32)

Q 31: What seniority will be used for filling Utility assignments.

A 31: In a yard, yardman's seniority and on the road, brakeman's seniority.

Q 32: May relief Utility positions be established?

A 32: Yes, at the same location on the road unless mutually agreed otherwise, or in the same terminal.

Q 33: When will Road or Yard Utility positions qualify for overtime?

A 33: After their on duty time exceeds eight (8) hours.

Side Letter #1

June 11, 1996

(New Hires covered by 1996 Crew Consist Agreement)

Mr. L. W. Parsons, Sr.

During our discussions concerning the Conductor/Foreman only Crew Consist Agreement, we recognized that during our negotiations additional employees could be hired and in training who did not fall under the specific language of the agreement. We agreed to review the number of employees that were in training on the date the agreement was signed and would treat those employees as if they had established a seniority date and were working in train service on that date. This would encompass them within the provisions of the agreement.

It was also agreed that these training positions would create Reserve Board positions and that they would be allocated to the locations where the employees were hired.

If the foregoing accurately reflects our understandings regarding this matter, please so indicate by affixing your signature in the space provided below.

/s/ L. W. Parsons, Sr., UTU

/s/ A. Terry Olin

Side Letter #2

(Utility Man - 25 Mile Limit)

Mr. L. W. Parsons, Sr.

During the parties' discussions concerning the Conductor/Foreman only Crew Consist Agreement, concerns were raised by your Organization regarding application and measurement of the twenty-five (25) mile limit for Utility positions established at outside points (reference Section 3, Paragraph G).

This letter shall serve to confirm the parties' respective commitments to promptly meet and resolve any problems which may arise in connection with the use of the Utility positions and the application of the twenty-five (25) mile limit for Utility positions assigned at outside points.

If the foregoing accurately reflects the parties' understandings, please so indicate by affixing your signature in the space provided below.

/s/ L W Parsons, Sr., UTU

/s/ A. Terry Olin

Letter of Understanding

October 4, 1996

(Reserve Board Qualifications)

Mr. L W. Parsons, Sr.

This has reference to the parties' discussions on Thursday, October 3, 1996, regarding application of the Crew Consist Agreement, dated October 3, 1996. (See Page 137)

Section 2, Paragraph B provides,

"The number of reserve board positions shall equal the number of employees at each location on date of implementation."

The question has arisen regarding how the number of reserve board positions assigned at a location would be adjusted when an employee who returns to active service subsequent to the implementation of this Agreement.

The parties agree that when an employee, who was in an inactive status at the time the October 3, 1996 Crew Consist Agreement was implemented and was not included in the initial determination of reserve board positions to be established at a location, returns to active service, the number of reserve board positions at the location where the employee initially marks up for service will be increased.

If the foregoing properly reflects our understandings regarding this matter, please so indicate by affixing your signature in the space provided below.

/s/ L. W. Parsons, Sr., UTU

/s/ A. Terry Olin

Letter of Understanding

October 4, 1996

(Rates of Pay)

Mr. L. W. Parsons, Sr.

This has reference to the parties' discussions on Thursday, October 3, 1996, regarding the Crew Consist Agreement, dated October 3, 1996. (Page 137)

In conjunction with the forthcoming implementation of the referenced Crew Consist Agreement, a question has arisen regarding the impact of the Agreement on rates of pay. In addressing the issue, the parties agreed to the following question and answer:

- Q. Does the October 3, 1996 Crew Consist Agreement modify rates of pay for existing assignments?
- A. Except as specifically set forth in the agreement, no other rates of pay are modified by this agreement.

If the above questions and answers properly reflect our understandings regarding this matter, please so indicate by affixing your signature in the space provided below.

AGREED:

/s/ L. W. Parsons, Sr.

/s/ A. Terry Olin

Letter of Understanding

October 4, 1996

(Reserve Board Positions at Each Location))

Mr. L. W. Parsons, Sr.

This has reference to the parties discussions on Thursday, October 3, 1996, regarding implementation of the Crew Consist Agreement, dated October 3, 1996, and, in particular, the application of Section 2 (Reserve Boards).

Section 2, Paragraph A provides:

"A. The rate of pay for employees on the Reserve Board shall be the greater of:

1. 70% of the basic yard foreman's rate of pay five (5) days per week; or
2. Their current reserve board rate if applicable; or
3. 70% of the employee's 1995 compensation earned by such employee in train and/or engine service."

This letter shall serve to confirm the Carrier's commitment that Reserve Board rates of pay for each employee would be calculated/updated in accordance with the provisions Section 2, Paragraph A as expeditiously as possible following implementation of the Agreement.

The parties also discussed the manner in which Section 2, Paragraph B would be applied. Paragraph B reads:

"B. The number of reserve board positions shall equal the number of employees at each location on date of implementation."

In concert with implementation of the Agreement, the Carrier also indicated it would, for the purpose of determining the number of Reserve Board positions to be established at each location, take a "snapshot" of all assignments at each location on the date of implementation. This information will be used in connection with discussions with your Organization to confirm the proper number of Reserve Board positions have been established at each location.

Finally, this letter shall also serve to confirm the Carrier's indication any employee who acquires seniority as a trainman on the Gulf Coast Lines between October 3, 1996 (the date this Agreement was signed) and November 1, 1996 (the date this Agreement is to be implemented) will be considered as eligible for the benefits set forth in Sections 1, Paragraph B and Section 2.

/s/ A. Terry Olin

ARTICLE 35 STATION SWITCHING AND CHECKING WAYBILLS

Section A.

Train crews will not be required to do any switching at stations except that shown on switch lists furnished by Agent immediately upon arrival at station, such switch lists to designate where cars are to be found and left. If loads or empties are to be moved, contents, destination and tonnage will be shown on switch lists. Conductors will furnish Agents with switch lists of cars set out at that station and will return to Agents the lists furnished by him after marking off cars picked up.

(Modified by October 31, 1985 National Agreement)

Section B.

At terminals, trains will be booked in conductor's train book in train order. Wheel report will also be made and furnished conductor with waybills. At intermediate points where yard clerks are maintained, they will assist conductors in checking waybills, Conductors will check train at first opportunity. Conductors will furnish list of train in train order at final terminals.

ARTICLE 36 HELD FOR TIME

When an employee is discharged or leaves the service of this railroad, he will not be held for his time or service letter to exceed forty-eight (48) hours; should such employee be held beyond the expiration of forty-eight (48) hours, he will be paid for all time, including time held, at rate of one hundred (100) miles per day, as well as expenses.

Vacation Pay When Dismissed

December 3, 1962

Mr. John L. Purdum
Mr. V. O. Niles

Some discussion has been had concerning the cases of employees being dismissed for service as to when their vacation allowance should be paid to them. The vacation allowance mentioned here is that vacation which the employee has earned under the National Vacation Agreement prior to his dismissal.