

APPENDIX E – PERSONAL LEAVE

1996 NATIONAL AGREEMENT

ARTICLE VI - PERSONAL LEAVE

Section 1

Employees in road freight service covered by this Agreement and not covered by the National Paid Holiday Rules shall be provided with personal leave days on the following basis:

<u>Years of Service</u>	<u>Personal Leave Days</u>
Less than five years	3 days
Five years and less than 10 years	5 days
Ten years and less than 15 years	7 days
Fifteen years and less than 20 years	9 days
Twenty years or more	11 days

Section 2

No employee covered by this Agreement shall receive in the aggregate more than eleven (11) personal leave days and paid holidays in any calendar year.

Section 3

- (a) Personal leave days provided in Section 1 shall be scheduled with the approval of the proper carrier officer upon forty-eight (48) hours advance notice from the employee.
- (b) The employee will be paid one basic day at the rate of the last service performed for each personal leave day.
- (c) Any personal leave days provided for herein that are requested but denied by the carrier and not subsequently rescheduled during the calendar year or the first quarter of the following calendar year shall be paid at the rate specified herein. Personal leave days carried over into another year because requested time off was denied by the carrier shall not be bought out.
- (d) To qualify for personal leave days in any given calendar year, the employee must have been credited with at least 150 days for work during the preceding calendar year.

Section 4

Nothing in this Article is intended to restrict any of the existing rights of a carrier.

Section 5

This Article shall become effective on January 1, 1997 except on such carriers where the organization representative may elect to preserve existing local rules or practices pertaining to personal leave days and so notifies the authorized carrier representative on or before such effective date.

ARTICLE VI - PERSONAL LEAVE DAYS

Q1: Are passenger and local freight service Engineers entitled to personal leave days provided for in the Article?

A1: Yes. The intent of Article VI was to provide personal leave days to all Engineers who were not entitled to paid holidays.

Q2: Is the time in service in other crafts counted when determining years of service?

A2: Yes, if that is the current practice on the individual railroad.

Q3: May an employee eligible for personal leave days accumulate days he is not allowed to take during the year?

A3: Yes, up to a maximum of thirty (30) days.

PERSONAL LEAVE DAY INTERPRETATION DATED 02/21/2001

INTERPRETATION

Between

UNION PACIFIC RAILROAD COMPANY

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

PERSONAL LEAVE DAYS

1. For calendar year 2002 (qualifying year 2001) and all succeeding years, this Document constitutes an interpretation of how Section 3(d) of Article VI (Personal Leave) of the May 31, 1996, BLE National Agreement is to be interpreted by the parties signatory hereto for those employees in road freight/passenger service not covered by the National Paid Holiday Rules.
2. For an employee in road freight/passenger service not covered by the National Paid Holiday Rules to qualify for personal leave days in any given calendar year, the road requirements set forth in Sections 2 (a), including the NOTE, (b), (c) and (d) of Article V of the May 31, 1996, BLE National Agreement will govern.

NOTE: It is the parties' intention this Paragraph requires 180 qualifying days in a calendar year in road freight/passenger service to qualify for personal leave days in the succeeding year.

.... Reference May 31,1996 National Agreement Article V Section 2

Section 2 - Vacation Benefits

Existing rules governing vacations are amended as follows effective January 1, 1997:

- (a) The minimum number of basic days in miles or hours paid for, as provided in individual schedules, on which an employee must render service under schedule agreements held by the organization signatory hereto to qualify for an annual vacation for the succeeding calendar year shall be increased by fifty (50) percent from the minimum number applicable under vacation rules in effect on the date of this Agreement. The multiplying factors set forth in vacation rules in effect on the date of this Agreement shall be amended to provide that each basic day in yard service performed by a yard service employee or by an employee having interchangeable road and yard rights shall be computed as 1.6 days, and each basic day in all other services shall be computed as 1.3 days, for purposes of determining qualification for vacation based on service rendered in the preceding calendar year.

Appendix E

Personal Leave 1996 National Agreement

NOTE: It is the parties' intention that, in accordance with application of the multiplying factors set forth in existing vacation rules as amended above, commencing with calendar year 1997 this subsection would require the equivalent of 150 qualifying days in a calendar year in yard service and 180 qualifying days in a calendar year in road service to qualify for an annual vacation for the succeeding year.

- (b) Calendar days on which an employee assigned to an extra list is available for service and on which days he performs no service, not exceeding ninety (90) such days, will be included in the determination of qualification for vacation; also, calendar days, not in excess of forty-five (45), on which an employee is absent from and unable to perform service because of injury received on duty will be included. Such calendar days shall not be subject to the multiplying factors set forth in existing vacation rules as amended.
- (c) Calendar days on which an employee is compensated while attending training and rules classes at the direction of the carrier will be included in the determination of qualification for vacation. Such calendar days shall not be subject to the multiplying factors set forth in existing vacation rules as amended.
- (d) During a calendar year in which an employee's vacation entitlement will increase on the anniversary date, such employee shall be permitted to schedule the additional vacation time to which entitled on the anniversary date at any time during that calendar year.

- 3. The multiplying factors provided for in Paragraph 2, above, will not apply to an employee in any payroll half during which the employee had an unpaid absence (layoffs).
- 4. For an employee to whom the multiplying factors will not apply, only the employee's actual tours of duty in that payroll half will be counted toward the 180 qualifying days. A tour of duty is defined as follows: a working start, a straight deadhead trip, a combination deadhead and service trip, company service status or a call and release when the employee reported for duty, performed service and then was released. A separate and apart deadhead trip followed immediately upon tie-up at the far terminal with a return working trip will count as two starts for personal leave day qualifying purposes.
- 5. This interpretation for determining qualifying days for personal leave days will also be used to determine eligibility for personal leave days in calendar year 2001 for the employees who previously did not qualify for personal leave days in 2001. No later than thirty days after the BLE has notified the Carrier this

Document is acceptable, the Carrier will notify those employees whether they now qualify for personal leave days.

6. Question and Answer Number 3 for Article VI of the May 31, 1996, BLE National Agreement provide for the accumulation of any personal leave days an employee is not allowed to take during a year. The Carrier will implement a "banking" program for personal leave days. The Questions and Answers set forth in Attachment A of this Document will constitute the parties' banking plan.
7. This Document is offered to the following four BLE General Committees for acceptance: CNW, UP Eastern District, SP West and UP West. This Document may be accepted by all, any or none of the four committees.
8. Throughout the course of these negotiations, the parties discussed a number of issues related to personal leave days. Those discussions led to these interpretations. This Document reflects the parties best efforts. However, it is possible some items or issues, which were discussed, have been inadvertently omitted. Should some such item or issue be raised by either party, the parties will meet, discuss and make reasonable attempts to resolve the item or issue.

Signed at Omaha, Nebraska, this 21st day of February, 2001.

**FOR THE BROTHERHOOD OF
LOCOMOTIVE ENGINEERS**

/s/ T.J. Donnigan

/s/ B.D. Mac Arthur

/s/ Michael Young

/s/ D.L. Mc Pherson

**FOR THE UNION PACIFIC
RAILROAD COMPANY**

/s/ Richard W. Meredith

/s/ John M. Raaz

/s/ W.E. Loomis

ATTACHMENT A
PERSONAL LEAVE DAY ACCUMULATION

Q-1. Do PL days earned but not taken get paid upon retirement the same as vacation?

A-1. Yes.

Q-2. How does an Engineer advise the carrier of his/her desire to accumulate PL days?

A-2. PL days not used or not approved in a calendar year prior to November 15 will automatically be accumulated.

Q-3. How many days may an Engineer accumulate?

A-3. 60 days.

Q-4. Once PL days are accumulated, when may an Engineer use them?

A-4. Accumulated PL days may be used only at retirement, resignation, extended leave, death or catastrophic personal or family occurrence.

Q-5. Assuming an Engineer has accumulated PL days, will his/her estate be paid for the accumulated PL days upon the Engineer's death?

A-5. Yes.

Q-6. Assuming an Engineer has begun an extended leave just prior to a general wage increase, will all PL days taken be paid at the rate of the last service performed or will the rate be increased when the general wage increase goes into effect?

A-6. Payment will be at the rate of the last service performed.

Q-7. May the Carrier unilaterally buy down an Engineer's accumulated PL days?

A-7. No.

Q-8. What rate of pay will be used for accumulated PL days?

A-8. Payment will be at the rate of the last service performed.

QUESTIONS AND ANSWERS

- Q-1. Do assigned rest days constitute an unpaid absence for the purpose of personal leave day qualification determination?
- A-1. No. Where rest days are assigned in passenger, pool freight, work/rest extra board, yard or local service, such rest days will not be considered unpaid absences.
- Q-2. Where there is an applicable rule, a union representative is allowed to hold his/her turn for union business, does that constitute an unpaid absence?
- A-2. No.
- Q-3. In the event an Engineer identified as having failed to qualify for personal leave days at the end of the qualifying year disputes that finding on the basis of whether unpaid or paid leave had been taken during any pay period(s), how will such dispute be resolved?
- A-3. The appropriate general chairman and CMS director will review the matter. If the Engineer had personal leave days available at the time(s) of the disputed lay-off, such lay-off will be considered as paid leave provided doing so would not result in the Engineer having more personal leave days than those to which he/she was entitled.

October 2, 2001

The February 21, 2001 "INTERPRETATION Between UNION PACIFIC RAILROAD COMPANY And BROTHERHOOD OF LOCOMOTIVE ENGINEERS" concerning Personal Leave Days includes 3 agreed upon questions and answers (in addition to the 8 questions and answers dealing with PERSONAL LEAVE DAY ACCUMULATION in ATTACHMENT A). UP and BLE have now agreed upon 10 additional questions and answers as set forth below:

Q-4. Give examples of the calculation of qualifying days for personal leave (PL) day purposes?

A-4.

- a) A road Engineer working in service not covered by the paid holiday rules has no unpaid absence during a pay half. For the half the Engineer earns 2000 miles. $2000 \times 1.3 = 2600/130 \text{ miles} = 20$ qualifying days toward PL days.
- b) A road Engineer working in service not covered by the paid holiday rules, takes an unpaid absence during a pay half in which the Engineer gets 8 tours of duty. For the half, the Engineer is credited with 8 qualifying days toward PL days.
- c) An Engineer working in service covered by the paid holiday rules gets 11 tours of duty during a pay half. For the half, the Engineer is credited with 11 qualifying days toward PL days, regardless of whether the Engineer had an unpaid absence during the half.

Q-5. What miles are to be included (such as straight time, overtime, duplicate time payments) in the calculation of qualifying days for Personal Leave (PL) day purposes?

A-5. In pay halves where the Engineer qualifies for the multiplying factor, working/deadhead miles counted for vacation qualification will be counted toward qualifying days for PL day purposes, and handled as set forth in A-4, item a, above.

Q-6. When an Engineer works both jobs covered and not covered by the paid holiday rules in a pay half, and has no unpaid absence, how will PL qualifying days be counted ?

A-6. Service covered by the paid holiday rules will be governed by section c of Answer #1 above. Service not covered by the paid holiday rules will be governed by section a of A-4 above.

Q-7. The vacation agreement provides that calendar days an Engineer assigned to an extra board is available for service and on which days the Engineer performs no service, not exceeding ninety (90) such days, will be included in the qualification

for vacation. Also, calendar days, not in excess of forty-five (45), on which an Engineer is absent from and unable to perform service because of injury received on duty will be included. Will such days be counted toward the required 180 qualifying days for PL purposes?

- A-7. Yes, consistent with the vacation agreement.
- Q-8. Does the 2/21/01 interpretation prohibit the Company from approving PL days during the period November 15 through December 31 when the request is made after November 15?
- A-8. No, but the holidays make it more likely approval for PL days will be more difficult during this period than at other times during the year. For this reason, Engineers should realize an attempt to save PL days with the intent of using them during this period may result in such days being denied and accumulated.
- Q-9. An Engineer is entitled to 7 PL days during the year. The Engineer's first request for personal leave days during the year is on May 14, when 2 days are requested, but not approved. Are those 2 PL days automatically accumulated, or may the Engineer request them again later in the year?
- A-9. Those 2 PL days may be requested again during the year
- Q-10. Are remaining PL days which are not approved to be taken during the period November 15 through December 31 automatically accumulated on November 15?
- A-10. No, unused PL days are not accumulated until year end at December 31. Unused PL days may be reduced by paid holidays or PL days taken during the period November 15 through December 31.
- Q-11. May an Engineer donate accumulated PL days to another employee?
- A-11. If there is an agreement covering the donation of PL days to another employee in effect, Engineers may donate accumulated PL days in accordance with that agreement.
- Q-12. May accumulated PL days be used by an Engineer who is assigned in service covered by the paid holiday rules?
- A-12. Yes, if the reason for such use meets the requirements in Q&A #4 in Attachment A to the 2/21/01 interpretation.
- Q-13. May an Engineer request payment for accumulated days in excess of the time off work, e.g., the Engineer takes fourteen (14) days off for Family Medical Leave and requests to be paid for twenty-five (25) accumulated days?
- A-13. The intent of the interpretation is the number of accumulated days used should not exceed the number of days off work. However, the interpretation does not preclude the use of a greater number of accumulated days in extraordinary

circumstances when both the Engineer and the Company representative agree.

/s/ B. D. MacArthur

B. D. MacArthur, General Chairman
Brotherhood of Locomotive Engineers

/s/ A.T. Olin

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Relations - Union Pacific Railroad

/s/ M. A. Young

M. A. Young, General Chairman
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/s/ W. E. Loomis

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/s/ T. J. Donnigan

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R. D. Meredith, Asst. Vice President
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/s/ D. L. McPherson

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Gentlemen:

Ten agreed-upon questions and answers (#4 - #13) to the February 21, 2001 personal leave day interpretation are dated October 2, 2001. Since then, we have had discussions concerning additional questions involving the interpretation. Twenty (20) additional questions and answers stemming from those discussions appear below.

* * * * *

Q14: Are the miles earned by an Engineer working in service covered by the paid holiday rules increased by the multiplying factor for a half in which there is no unpaid absence?

A14: No, in such service only starts, without a multiplying factor, count as qualifying days for purposes of PL days.

Q15: When a ground service employee is promoted to Engineer during a calendar year, is that employee's use of PL days while an Engineer subject to the qualifying criteria in the 2/21/01 interpretation?

A15: Yes, based on trips during the preceding calendar year.

Q16: Do trips worked in ground service count toward PL qualifying ?

- A16: Yes, ground service will be combined with Engineer service during the same calendar year to determine PL qualifying days for the subsequent calendar year, and handled as set forth in Q&A #4.
- Q17: What is meant by "performed service" in item 4 of the 2/21/01 interpretation?
- A17: If an Engineer is entitled to at least a basic day under the applicable call and release rule, then the call and release will count as one (1) PL qualifying day.
- Q18: Is military duty considered a compensated absence?
- A18: No.
- Q19: How is a make whole/step-up payment treated for PL day qualification?
- A19: If the Engineer is assigned in service not covered by the paid holiday rules and has no unpaid absence during the pay roll half, a make whole/step-up payment will be converted to PL qualifying days by multiplying the make-whole/step-up miles x 1.3 and then dividing by 130 as in Q&A #4.
- Q20: An Engineer is assigned in yard service continuously during the first 11 months of calendar year 2003, and then takes a road assignment not covered by the paid holiday rules during December. How is the Engineer's PL day qualification for 2004 determined?
- A20: For each pay half during the period January — November, the Engineer's yard service starts are counted as qualifying days for purposes of PL days. During December, qualifying days will be determined in accordance with items a) and b) in Q&A #4. The qualifying days earned during each payroll half during calendar year 2003 will be added. If the total is 180 or more, the Engineer will be qualified for PL days during 2004, subject to the terms of the agreement.
- Q21: An Engineer earned more than 180 qualifying days for PL purposes during calendar year 2002. During calendar year 2003 that Engineer works the entire year on assignments covered by the paid holiday rules. Would such Engineer be entitled to take PL days during 2003?
- A21: No, because an Engineer is not able to take PL days when he/she is assigned to a position covered by the paid holiday rules.

- Q22: An Engineer qualified for PL days works in holiday covered service through October 31, 2003, and then moves to road freight service not covered by paid holiday rules. Will the Engineer be able to take PL days during November and December?
- A22: Yes, subject to the terms of the 2/21/01 interpretation, but the Engineer's annual entitlement to PL days would be reduced by paid holidays or holiday opportunities during the period the Engineer was working in service covered by the paid holiday rules.
- Q23: How does an employee's craft on December 31 affect the treatment of unused PL days from that calendar year?
- A23: If the employee is an Engineer on the last day of the year, any unused PL days from that year are accumulated in accordance with Attachment A to the 2/21/01 interpretation. If the employee is working in another craft on the last day of a year, any unused PL days from that year will be handled in accordance with the agreement governing that craft. For example, if the employee is working as a trainman, and the agreement governing trainman contains a provision for carry-over of unused PL days, any unused days will be carried over in accordance with the terms of the trainmen's agreement.
- Q24: If an employee has carry-over days under the UTU CBA, and is set up as an Engineer, will the employee be eligible to take the carry-over PL days?
- A24: Yes, prior to the UTU CBA carry-over expiration date.
- Q25: If an Engineer worked the entire calendar year 2003 on assignments covered by the paid holiday rules, would such Engineer's unused current year PL days at year end be accumulated?
- A25: The Engineer has no PL days to accumulate because the Engineer was covered by the paid holiday rules throughout the year.
- Q26: Is an employee who has accumulated PL days entitled to use or donate accumulated days if the employee is working in a craft other than Locomotive Engineer?
- A26: No.
- Q27: When an Engineer uses accumulated days, will the payment for such days be included in the calculation of 1/52 vacation pay for the subsequent calendar year?
- A27: Yes.

Q28: Can the lump-sum payment for accumulated PL days be used to offset labor protection?

A28: Yes.

Q29: If an Extra Engineer uses accumulated PL days during an otherwise unpaid absence, will such Engineer be considered "on the board" for guarantee purposes?

A29: No.

Q30: Can an accumulated day be used for rest/layover day compensation?

A30: No.

Q31: Referring the Q&A #3 of the 2/21/01 interpretation - in the event an Engineer has failed to qualify for PL days at the end of a year, may the Engineer use an accumulated PL day from a prior calendar year to convert a disputed lay-off to a paid absence?

A31: No, only current year PL days may be used in such a situation.

Q32: May an Engineer be paid one or more accumulated days for a day on which the Engineer is already being compensated, e.g., takes three (3) days of paid bereavement leave and requests to be paid for 3 accumulated days?

A32: No.

Q33: May an Engineer use an accumulated day to offset unpaid days under the National Bereavement rule, e.g., absent 3 days but only compensated for 2 days because only stood to have worked 2 of those days?

A33: No.

Please signify your concurrence in these questions and answers with your signature in the space provided below.

Donnigan, MacArthur & Young
December 19, 2001
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The parties recognize additional questions relating to the February 21, 2001 personal leave day interpretation may arise. In that event, the parties will discuss the proper application of the interpretation and attempt to agree on an answer.

Sincerely,

/s/ W E Loomis
W. E. Loomis

Concur:

/s/ T.J. Donnigan
T. J. Donnigan, General Chairman

/s/ B. D. MacArthur
B. D. MacArthur General Chairman

/s/ M. A. Young
M. A. Young, General Chairman

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