

**APPENDIX K– MISCELLEANOUS**

**AUTOMATIC MARK-UP**

**AGREED UPON INTERPRETATION OF  
ARTICLE VII-BLET NATIONAL AGREEMENT**

**DATED DECEMBER 16, 2003**

**between  
UNION PACIFIC RAILROAD COMPANY**

**and the  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS & TRAINMEN**

**AUTOMATIC MARK-UP INTERPRETATION**

On July 7, 2004, Union Pacific Railroad Company ("UP") served notice pursuant to Article VII of the 2003 BLE National Agreement on the Brotherhood of Locomotive Engineers and Trainmen ("BLET") advising of its intent to reach a mutual understanding and interpretation relative to, *"the automatic mark up of employees for service after the expiration of any period of authorized or approved time off..."*

Pursuant thereto, this is the parties' mutual interpretation of Article VII of the above referenced National Agreement governing the manner in which Engineers will be automatically marked up for service upon expiration of their approved/authorized absence. Accordingly, **IT IS UNDERSTOOD:**

- I. Engineers will be automatically marked up for service upon expiration of any period of time off (absence) authorized/approved by UP, regardless of whether the time off is compensated or non-compensated.
- II. Engineers marked up for service pursuant to this interpretation will be governed by the following:
  - A. Engineers, except those assigned in pool (unassigned) freight service or to a road or combination extra board, will be automatically marked up and available for service upon expiration of the approved/authorized duration of their absences.
  - B. Engineers assigned in pool (unassigned) freight service or to a road or combination extra board whose approved/authorized absences are less than 72 hours will be automatically marked up and available for service upon expiration of the approved/authorized duration of their absences.

C. Engineers assigned in pool (unassigned) freight service or to a road or combination extra board whose approved/authorized absences are 72 hours or greater and expire between 8:00 a.m. and 10:30 p.m. will be automatically marked up for service and available for service upon expiration of their approved/authorized absence.

D.

1. Engineers assigned in pool (unassigned) freight service or to a road or combination extra board whose approved/authorized absences are 72 hours or greater and expire between 10:31 p.m. and 7:59 a.m. will be automatically marked up upon expiration of their approved/authorized absences but will not be eligible or called for an assignment that starts prior to 7:59 a.m. Engineers covered by this Paragraph D will be available for service for an assignment starting subsequent to 7:59 a.m. – i.e., marked-up Engineers can be called prior to 8:00 a.m. for an assignment that starts subsequent to 7:59 a.m.
2. The freight pool turn or extra board position occupied by an Engineer covered by this Paragraph D will continue to rotate within the pool or extra board during the period he/she is unavailable for service pursuant to Paragraph D except that if his/her pool turn or extra board position reaches the first-out position before he or she is available for service the Engineer's pool turn or extra board position will be held in the first-out position until he/she is available for service or call.

E.

1.
  - a. The time between when an Engineer marks up for service and the time when said Engineer is available for service pursuant to Paragraph D, above, will not be considered as "unavailable" or "absence time" for purposes of determining applicable guarantee benefits due said Engineer, if any, and will not be used to offset any applicable guarantee payments.
  - b. In determining the number of layoff occurrences an Engineer makes during a payroll period, a continuous period of unavailability for call for the same reason (status code) shall count as only one occurrence regardless of the number of timely requests (requests made before expiration of the previously approved time off) that are made by the Engineer for extension of the time off.

**EXAMPLE 1:** An Engineer requests and is granted 24 hours off "personal" (status code: LP). Twenty-three hours later, the employee requests a 24-hour extension, which is approved. Since this continuous absence is an extension, this constitutes one occurrence and 48 hours of unavailability.

**EXAMPLE 2:** An Engineer requests and is granted 24 hours off "personal" (status code: LP). Twenty-seven hours later the Engineer requests and is granted another 24 hours "personal" (status code: LP). Since this request was not made prior to expiration of the previously approved time off, this constitutes two occurrences and 48 hours of

unavailability.

**EXAMPLE 3:** An Engineer requests and is granted 24 hours off "personal" (status code: LP). Twenty-three hours later the employee requests and is granted 24 hours off "sickness in family" (status code: LK). Since this lay off is for a different reason, this constitutes two occurrences and 48 hours of unavailability.

2. The time between when an Engineer marks up for service and the time when said Engineer is available for service pursuant to Paragraph D, above, will not be considered as "unavailable" or "absence time" for purposes of determining applicable labor protection benefits due said Engineer, if any, and will not be used to offset applicable labor protection payments.

III.

A All requests for time off must be made to the appropriate UP representative (CMS or other designated representatives) who will determine whether the request for time off is approved and, if approved, the duration of the absence.

**NOTE 1:** This Article III, Section A is not intended to supersede existing legal or contractual obligations for employees being granted time off.

**NOTE 2:** Existing agreement provisions requiring sufficient employees to provide reasonable layoff provisions remain in full force and effect and are unaffected by this Interpretation.

**NOTE 3:** This Interpretation is intended to require employees on a leave of absence for reasons of injury or illness to provide a projected return to service date.

**NOTE 4:** UP's approval of an employee's request for time off shall take into account the nature of the employee's request or need and UP's service needs.

**NOTE 5:** UP will give appropriate consideration to an employee's specific needs when determining whether to approve the layoff request and its duration. BLET and UP recognize these approvals must be balanced against UP's service needs.

**NOTE 6:** When UP designates representatives other than CMS to determine whether requests for time off are approved, such designee must be identified and readily available, with telephone numbers of the designee(s) provided to the employee, so the designee(s) can be contacted and make such determinations. In the event a designee is not available and does not respond to the employee's request within 30 minutes, the employee's request for time off will be handled by CMS consistent with the needs of service.



APPROVED:

*/s/ D. L. McPherson*  
D.L. McPherson  
Vice President

*/s/ E. L. Pruitt*  
E.L. Pruitt  
Vice President

Mr. T. J. Donnigan  
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Mr. M. A. Young  
General Chairman  
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1620 Central Avenue, Suite #203  
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Gentlemen:

This has reference to our discussions in connection with the "Agreed Upon Interpretation of Article VII - BLET National Agreement Dated December 16, 2003, between Union Pacific Railroad Company and the Brotherhood of Locomotive Engineers & Trainmen, dated January 6, 2005.

During the parties' negotiations, BLET voiced a concern that following execution of the Interpretation referenced above, UP might adopt a position that this Interpretation was sufficient to address fatigue abatement issues. This letter will confirm UP's commitment to work with BLET to explore in good faith feasible, effective, and scientifically validated approaches for reducing fatigue at locations or in operations where legitimate evaluations and data suggest UP's BLET-represented employees are not obtaining sufficient or proper rest opportunities.

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



**AGREED UPON QUESTIONS AND ANSWERS TO THE INTERPRETATION OF ARTICLE VII OF THE  
DECEMBER 16, 2003 BLET NATIONAL AGREEMENT**

**Q1.** What is meant by the phrase "authorized or approved time off"?

**A1.** This phrase is intended to mean the time such as, but not limited to, when an employee is off account of personal illness, Family and Medical Leave Act, personal leave days, vacations, or any other approved time off.

**Q2.** What is the minimum duration for an absence due to illness?

**A2.** An absence due to sickness will not be approved/authorized for a duration of less than 24 hours, unless otherwise specified in the collective bargaining agreement.

**Q3.** Can an employee who is granted a non-compensated absence, such as an absence due to illness, mark up prior to the expiration of the minimum required time off?

**A3.** Yes, unless otherwise prohibited from doing so by existing Agreement rules or by applicable Agreement rules providing for a minimum layoff period.

**Q4.** What is meant by the phrase "*...will be automatically marked up and available for service upon expiration of the approved/authorized duration of their absences...*"?

**A4.** An employee will, coincident with the expiration of his or her authorized or approved leave, automatically be placed in OK status and thereafter be subject to call under the current collective bargaining agreement, subject to the conditions outlined in Article II Paragraph D of this Interpretation.

**Q5.** Can an employee be called for service prior to the expiration of his/her authorized or approved absence?

**A5.** No, unless the employee has elected to mark up prior to the expiration of the approved time off.

**Q6.** Provide an example relative to Q4/A4 and Q5/A5 above.

**A6.** At 2:00 pm on Wednesday Employee A contacts UP and requests to be off for 24 hours due to a personal illness. Employee A is granted 24 hours off due to illness. Employee A is automatically placed into OK status (marked-up) at 2:00 pm the following day (Thursday). Employee A can receive a call to service anytime thereafter, subject to the terms and conditions of the calling rule. Employee A cannot be called for service between 2:00 pm Wednesday and 1:59 pm Thursday.

**Q7.** Provide an example of the application of Article II, Section D of this Interpretation.

**A7.** Employee B marks up at 11:00 pm from a 72-hour absence. Pursuant to Article II,

Paragraph D, Employee B would, consistent with the calling requirements under the current collective bargaining agreement (e.g., if the pool required a 2-hour call), Employee B could be called at 6:00 am for an assignment that starts (on-duty time) at 8:00 am.

**Q8.** What is the reason for the morning mark-up after absences of 72 hours or more in Article II, Paragraph D?

**A8.** Article II, Paragraph D reflects the parties' efforts to provide employees returning from absences of 72 hours or more an opportunity for additional rest in order to help ensure they are fully rested and prepared to perform service in a safe and efficient manner. Employees are expected to use this opportunity to acquire proper or additional rest.

**Q9.** Can an employee voluntarily forego the morning mark-up requirement if he chooses?

**A9.** No. If the employee is rested and ready for service and wants to be immediately placed in OK status, then he or she should mark up prior to 10:31 pm.

**Q10.** What is meant by Article II, Section E, Paragraph 1 a?

**A10.** Employees returning from absences of 72 hours or greater will not have any applicable guarantee and/or bonus day payments adversely impacted while complying with the morning mark-up provisions since they are marked-up for service and working their way up the board and eventually held first out for service until available for a call to duty on or after 8:00 am.

**Q11.** Is the intent of Article II, Section E, Paragraph 1b to redefine how layoff occurrences are handled under the respective individual collective bargaining agreements?

**A11.** No. The parties recognize that different applications regarding how layoff occurrences are accumulated are currently in place on the individual Committees involved in this Interpretation. This Interpretation does not change the current practice on those properties other than it identifies a status change as an additional layoff occurrence.

**Q12.** What is meant by Notes 4 and 5 in Article III, Section A?

**A12.** Notes 4 and 5 simply require that a reasonable determination be made at the time of the employee's request for time off that balances the employee's needs with that of the manpower necessary to satisfy UP's service requirements.

**Q13.** Provide an example of how Note 6 in Article III, Section A would be applied.

**A13.** Employee A becomes ill at 4:00 AM on Saturday morning. Employee A contacts CMS who informs him/her that he/she must talk to Manager B prior to being marked off sick. The crew dispatcher immediately attempts to conference Employee A in with Manager B to handle the request. If Manager B is unavailable, a message is left on his recorder requesting a return call to Employee A. If no return call is received within 30 minutes, Employee A will contact CMS who will handle the request.

**Q14.** Is this Interpretation intended to alter the current practice on the properties regarding the granting of authorized or approved absences?

**A14.** Yes, to the extent that this interpretation requires that after UP approves an absence and its duration, the employee must be advised of the approved duration (or mark-up time). This interpretation does not supersede any Agreement or legal obligations for granting employees time off (such as for jury duty, union business, etc). The intent of this Interpretation is to provide UP with specific information regarding an employee's return to service so that they can better plan for and meet their manpower requirements.

**Q15.** How will a request for an extension of an absence due to illness be handled?

**A15.** A request for an extension of an absence due to illness will be handled by CMS or its designated representative in the same manner as the initial request to lay off due to illness.

**Q16.** How are failures to report at the end of an authorized leave to be handled?

**A16.** They will continue to be handled in the manner currently in place on the property.

**Q17.** Is this Interpretation intended to change or alter individual agreements governing offsets to protection benefits?

**A17.** No.

November 30, 2004

File No. 140.40-8  
2210-1  
1615-1  
390.60-1

Mr. M. A. Young  
General Chairman, BLET  
1620 Central Ave, Ste 203  
Cheyenne, WY 82001

Dear Sir:

This will confirm our discussion concerning the intent of the Agreed Upon Interpretation of Article VII-BLET National Agreement dated December 16, 2003.

The parties agree that the Automatic Mark-up Interpretation referenced above does not eliminate or deprive an employee the ability to extend their unavailability for up to forty-eight (48) hours from 12:01 A.M. on the day after the employee's vacation expires as provided in Section D (1)(b) of the Split Vacation Agreement dated October 23, 1992.

In connection with the extended period provided in Section D (1)(b), employees will be automatically marked up at the expiration of the scheduled absence. Any duration will be subject to proper notification to CMS no later than the automatic mark up time.

If this correctly reflects our understanding of the intent of this agreement, please sign below in the space provided.

Respectfully,

/s/ S. F. Boone  
S. F. Boone  
Director Labor Relations

AGREED:

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

# Union Pacific Railroad Company

April 7, 2005

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Gentlemen:

This letter is in regard to the *"Agreed Upon Interpretation of Article VII - BLET National Agreement Dated December 16, 2003 between Union Pacific Railroad Company and the Brotherhood of Locomotive Engineers & Trainmen,"* signed January 6, 2005, and the findings of Public Law Board No. 6830 in its *"Opinion and Award"* dated March 24, 2005.

As you are aware, the *"Automatic Mark-Up Interpretation Agreement"* referenced above, which has been signed by all BLET General Chairmen except Mr. Rightnowar, sets forth the terms and conditions for an automatic mark-up rule on UP, excluding the territory comprising the MP Upper Lines. The terms and conditions for the automatic mark-up rule on the MP Upper Lines territory have been established by Public Law Board No. 6830 and are identical to those contained in the ratified Agreement dated January 6, 2005.

In view of the foregoing, UP intends to now proceed with implementation of the automatic mark-up rule provisions. Accordingly, the purpose of this letter is to advise that UP will implement the provisions the above-referenced Agreement and the findings of Public Law Board No. 6830 on or after May 1, 2005. Finally, and as information, a similar agreement with the United Transportation Union governing the terms and conditions for an automatic mark-up rule for trainmen/yardmen is also being implement on May 1.

We will work with representatives of your organization to ensure a smooth and efficient implementation of this accord.

Yours truly,

Appendix K  
Automatic Mark-Up Interpretation

cc: Mr. J. J. Marchant  
Mr. R. D. Meredith  
Mr. R. Gregory  
Ms. S. F. Boone  
Ms. M. J. Ahart  
Mr. T. M. Stone  
Mr. R. D. Rock  
Mr. A. L. Weed  
Mr. A. C. Hallberg - Roseville, CA  
Mr. R. P. Guidry - Spring, TX  
Mr. D. H. Jacobson - Mail Stop 1180  
Mr. M. Brazytis - WT08  
Mr. T. L. Dein - WT07  
Mr. H. A. Straub - WT08  
Mr. D. S. Martinez - WT07  
Mr. J. A. Caldwell, II - WT08  
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Mr. J. M. Santamaria - Kansas City, MO  
Mr. C. O. Malone - Spring, TX  
Mr. W. S. Hinckley - Mail Stop 1180  
Mr. S. R. Barkley - HDC

**HOLDING TURN AGREEMENT RESULT OF RSIA 2008 – JULY 10, 2009**

**UNION PACIFIC RAILROAD COMPANY**

July 10, 2009  
880.10-1; 880.10-4; 880.10

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Gentlemen:

This refers to our various discussions pertaining to the implementation of the Rail Safety Improvement Act of 2008 ("Rail Safety Bill"). In conjunction therewith, this letter of interpretation shall confirm our mutual interpretation regarding the manner in which employees assigned to unassigned (pool) freight service or extra boards shall be handled in the event they are observing mandatory off duty time due to certain specific provisions of the Rail Safety Bill.

During our recent discussions, we agreed that mandatory off duty time under the Rail Safety Act should be handled as outlined below:

1. An employee assigned to a turn in an unassigned freight pool or to a position on an extra board who finds themselves in mandatory off duty time pursuant to §21103(a)(1) (i.e., the "278-hour monthly cap rule") or §21103(a)(4) (i.e., the "6/48 & 7/72 rule") will retain and remain on his or her turn in the applicable freight pool or his or her position on the applicable extra board during the period he or she is in mandatory off duty time.

- a. During the period said employee is in mandatory off duty time, his or her freight pool turn or extra board position (and accordingly the employee assigned) shall continue to rotate or advance (i.e., move up) in the freight pool or on the extra board.

- b. If the employee's freight pool turn or extra board position reaches the first-out position before he or she is no longer subject to the mandatory off duty time pursuant to Item 1 above, the employee and his or her assigned pool turn or extra board position will be held in the first-out position until the expiration of the employee's period of mandatory off duty time.
2. This letter of interpretation, its terms and conditions, the parties' motivations for reaching this understanding, and/or any other facet or factor pertaining thereto will not be cited, referenced or used in any manner by either party, or against the other party signatory hereto in any legal or arbitral proceeding arising from or in connection with the implementation of the Rail Safety Improvement Act of 2008. (This Item 2 shall not serve, however, to bar the parties from citing or referencing this letter of Interpretation in connection with the adjudication of disputes relating specifically to the Interpretation or application of the terms of this letter of Interpretation.)
3. The terms and conditions of this letter of understanding will be placed into effect on July 22, 2008.

If the forgoing accurately reflects our understanding and agreement, please so indicate by affixing your signature and the date in the space provided below; returning one fully executed copy to my office.

Sincerely,

*/s/ S. F. Boone*  
S.F. Boone  
Director Labor Relations

July 10, 2009  
880.10-1; et al  
Page Three

AGREED:

/s/ G.L. Gore  
G.L. Gore  
General Chairman, BLET

/s/ D.W. Hannah  
D.W. Hannah  
General Chairman, BLET

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

/s/ C. R. Rightnowar  
C.R. Rightnowar  
General Chairman, BLET

/s/ J.L. Dayton  
J.L. Dayton  
General Chairman, BLET

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

APPROVED:

/s/ E. Lee Pruitt  
Lee Pruitt  
National Vice President  
Brotherhood of Locomotive Engineers  
& Trainmen

/s/ F.A. Tamisiea  
F.A. Tamisiea  
Director Labor Relations

/s/ T.G. Taggart  
T.G. Taggart  
Director Labor Relations

/s/ A.L. Weed  
A. L. Weed  
Director Labor Relations

/s/ D.K. Peitzmeier  
D.K. Peitzmeier  
Director Labor Relations

/s/ W. R. Turner  
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