



**BUILDING AMERICA®**

December 1, 2021

Mr. Tony Cardwell  
General Chairman, BMWED  
333 East Broadway  
Mayfield, KY 42066

General Chairman Cardwell,

This is to confirm our discussions regarding a mutual desire to resolve disputes related to the assignment of Rule 10 (Roadway Equipment Subdepartment) positions listed within the parties' July 1, 2011 collective bargaining agreement (CBA). As a result of these discussions, it is agreed to handle the assignment of roadway equipment operator ("REO") positions in the following sequential manner:

- Unless otherwise governed by special agreement, REO positions will be assigned to the senior qualified bidder possessing seniority on the applicable roster.
- If no bid is received from a qualified employee, assignment will be made to the senior bidder on the applicable seniority roster who, if required, possesses Maintenance of Way ("MofW") airbrake qualification and a valid commercial driver's license ("CDL").
- If no bidder possesses MofW airbrake qualification, if required, assignment will be made to the senior employee on the applicable seniority roster who possesses, if required, a valid CDL.
- In the event no bidders possess the applicable seniority and qualifications for the assignment, the Carrier will determine whether to assign the position to an applicant to establish seniority in accordance with Rule 15 of the July 1, 2001 Agreement, or re-advertise the position.

An employee who does not possess qualification on the equipment and/or MofW airbrakes will be afforded, unless prohibited by law, a period of thirty (30) calendar days to secure necessary certifications, testing, or other requirements for the position. It is understood though that if required, the bidder must possess a valid CDL at the time assignment is made. Employees who wish to obtain a DOT or CDL should discuss with the appropriate Engineering Department official. Cooperation and assistance may be given to employees who desire to secure such license.

It is agreed that an employee cannot "pre-qualify" for an REO position prior to assignment. Unless an employee has previously worked and satisfactorily demonstrated to management the ability to operate the specific piece of equipment, they must be assigned by

bulletin prior to being qualified for that equipment. When an employee establishes qualifications pursuant to Rule 22(a) on a specific piece of equipment, they will be deemed qualified on that specific piece of equipment for future vacancies provided they maintain and possess the required position qualifications and have not otherwise been disqualified from the position. An employee must maintain requirements for assignments on positions contained within this Agreement, i.e., annual testing mandated by law or regulation for roadway workers.

In turn, it is agreed that the five (5) cases currently pending final award on Public Law Board 7736 (Arbitrator VanDagens) shall result in the rendering of a "Dismissed" decision. All other claims filed by the Organization regarding Rule 10 "pre-qualification" will be timely withdrawn.

It is understood this agreement is made without prejudice to the position of either party, and does not alter existing rights, practices, or interpretations regarding other provisions of the CBA. If the above accurately reflects our mutual agreement, please sign in the space provided below. This Agreement becomes effective on January 1, 2022.

Respectfully,  
*Derek E. Hinds*  
Derek E. Hinds  
Director, Labor Relations

Agreed:

*Tommy Cochran*  
General Chairman, BMWED

*12/16/2021*  
Date: