

UNION PACIFIC RAILROAD  
1400 Douglas Street, Stop 0710  
Omaha, Nebraska 68179

Brant W. Henquist Gen. Director Non Ops

P 402 544 4281

October 7, 2013

File 210-16

Mr. Louis Below  
General Chairman BMWED  
PO Box 850  
100 East Sage Street  
Lyman, Wyoming 82937

Gentlemen:

This letter confirms our discussion and understanding regarding the application of Rules 30 and 39 of the Collective Bargaining Agreement effective July 1, 2001 (UP BMWED) and Paragraphs 2 and 3 of the March 6, 2012 Appendix to the Agreement between the National Carriers' Conference Committee and the Brotherhood of Maintenance of Way Employees Division/IBT dated April 25, 2012 regarding the payment of *per diem* to certain on-line or mobile service employees working in assignments whose working conditions are governed by the UP BMWED agreement.

The parties disagreed about the eligibility of on-line or mobile service employees for a *per diem* on days in which they were observing a deferred starting time that exceeded a full day pursuant to Rule 30 and Appendix X and X-2 of the UP BMWED Agreement. The Company contends that an employee observing deferred starting time day and starts his day within 50 miles of his residence is ineligible for a *per diem* pursuant to Paragraph 3 of the March 6, 2012 Appendix. The Organization contends that a deferred starting time day is a scheduled work day where the employee does not work at the direction of management and the employee's work location is the reporting point of the gang for that scheduled work period. The parties agreed to the following compromise and Questions and Answers as resolution of this dispute:

The parties agreed that an employee in on-line or mobile service who receives compensation as time paid for but not worked at the direction of management or due to



October 7, 2013  
Per Diem Understanding  
File 210-39  
Page 2 of 4

the application of the deferred start language of the July 1, 2001 (UP) Collective Bargaining Agreement and whose work site reporting location is more than 50 miles from the employee's residence, will receive a *per diem* if the employee begins or ends his/her day of travel more than 50 miles from his/her residence. An employee's residence is not a work site reporting location for purposes of applying this understanding .

The agreed upon interpretations for this understanding is attached as Appendix "A".

Please indicate your agreement by signing below.

Sincerely,



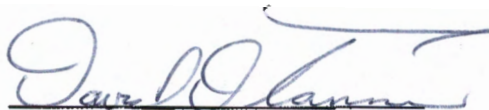
B. W. Hanquist  
General Director Labor Relations

AGREED:



General Chairman

APPROVED:



Vice President

**Agreed Upon Questions and Answers from the May 21, 2013 Agreement**

Question No. 1: Employee A's assembly point is changed a distance of 820 miles on his/her rest days and the employee is eligible for 1 full day plus 4 hours deferred starting time and the employee's worksite is more than 50 miles from his/her residence. Employee A begins the first full deferred starting time day at home but begins to travel to the worksite later that day and spends the night in at a location more than 50 miles from his/her residence. Is Employee A eligible for a *per diem* for the first full deferred starting time day?

Answer to Question No. 1: Yes. Employee A's worksite location was more than 50 miles from his/her residence and the employee spent part of the first full deferred starting time day traveling to the worksite and spent the night at a location more than 50 miles from his/her residence.

Question No. 2: Same facts as Question No. 1 above, except Employee A elects to fly to the worksite on the first full deferred starting day. Is Employee A eligible for a *per diem* for the first full deferred starting time day?

Answer to Question No. 2: Yes. Employee A traveled to the worksite on the first full day and ended his/her day more than 50 miles from his/her residence.

Question No. 3: Same facts as Question No. 1, above, except Employee A remains home on the first full deferred starting time day and does not begin traveling (either by vehicle or by airplane) to the worksite until the workday with a four (4) hour deferred start. Is Employee A eligible for a *per diem* for the first full deferred starting time day?

Answer to Question No. 3: No. Employee A remained within 50 miles of his/her residence on the first full deferred starting time day.

Question No. 4: Employee A is assigned to a gang making a rest day move (1290 miles), that will result in two full deferred starting time days and a remainder 4 hour deferred start day. The gang's worksite reporting location at the end of the work cycle and beginning of the next is more than 50 miles from Employee A's residence. Employee A is directed to observe one of the full deferred starting time days at the end of the assigned work period and is compensated for that day, but does not perform service. Is Employee A eligible for a *per diem*?

Answer to Question No. 4: Yes. Although Employee A was released to return home for observation of the assigned rest days, Employee A began the day more than 50 miles from his/her residence while traveling home. However the employee is not entitled to the per diem on days he/she remains within 50 miles of his/her residence.

Question No. 5: Employee A is assigned to on-line or mobile service and his/her worksite is more than 50 miles from his/her residence. The gang does not make a rest day movement and no deferred starting time rules are applicable. Employee A released on the last work day of the employee's assignment and receives pay for time not worked at the direction of management. Is Employee A eligible for a *per diem*?

Answer to Question No. 5: Yes. As long as Employee A started the day more than 50 miles from his/her residence while traveling home (see Answer to Question No. 4 above).

Question No. 6: Does this agreement provide for per diem payment for those days paid for time not worked as an adjustment of a claim, disciplinary action, arbitration award or some other claim settlement?

Answer to Question No. 6: No, per diem is to defray expenses actually incurred due to the employee's work assignment. In a case like this, the employee did not actually perform service and so did not have expenses to defray for which per diem is payable.