UTU presses for equal pay for equal work

WASHINGTON — A veteran railroad arbitrator began deliberations Dec. 4 into whether to order carriers party to the national rail labor agreement to resolve a dispute over entry-level rates of pay through collective bargaining or further binding arbitration.

Arbitrator Robert Petford said a decision is not expected before late January. Watch www.utu.org for updates.

It is the position of the UTU that once conductors and yardmasters are hired, trained and given full responsibilities, those conductors and yardmasters should be paid full service scale, meaning the same rates of pay as their peers with similar training and responsibilities.

The carriers, on the other hand, have declined to resolve the matter and seek to continue a two-tier wage system. Under rail labor law, new hires, regardless of the training they receive and full responsibility they are given, must wait five years to reach parity with other conductors whose responsibilities are similar.

Although some railroads have scrapped entry-level rates for newly hired and fully trained conductors and yardmasters who are given full responsibilities, it is the industry norm to pay them less for the first five years.

During the 2002 round of national handling, the carriers agreed to deal with this issue at the “earliest opportunity” during the 2004 round of negotiations to address the relationship between training and experience and rates of pay.

That did not occur, and the 2008 ratified agreement (which grew out of the 2004 round of bargaining) provided that the two sides would arbitrate over how and when the carriers would deal with the issue of entry-level rates tied to training.

Entry-level rates of pay were first agreed to during the carriers’ dark-days of the 1970s, when many railroads—much like the automobile industry today—were mired in financial losses and facing poorer prospects.

In 1978, the carriers demanded, and obtained, a rule that required new employees in the industry to work for the first year at 90 percent of service scale. In 1985, as the industry continued its struggle to regain profitability, entry rates were obtained as a result of the Van Wart Study Commission established by President Reagan.

During these dark days for the railroad industry, train crews were reduced from five members to just two, and yardmasters were given increased responsibilities.

Moreover, the progression from brakeman to conductor, which previously typically required five years or more of on-the-job training and peer mentoring, was eliminated as carriers instituted formal training programs designed to place new hires immediately into entry-level positions, or to accelerate the progression from brakeman to conductor.

Yardmasters today are required to be familiar with new technologies and are subject to ongoing formal technical training, and local management is not experienced enough to assist new yardmasters as was the case prior to 1985.

In fact, lengthy on-the-job training and peer mentoring has largely disappeared. Today’s new...
Local 2, Toledo, Ohio

This Norfolk Southern local held its annual Christmas party on Dec. 15 in conjunction with Local 1529 (CSX, Wallbridge, Ohio), 1816 (CSX Toledo) and 1928 (NS, Toledo). Local President James P. Curcio reported. All members would like to thank the law firm of E.J. Lieberman and Associates for their generous support of this event.

Local 196, Beardstown, Ill.

Local Chairperson B.C. Taylor reports that the local now has its own Web-site. Visit 0196.uto.org. The “www” is needed in the address.

Local 262, Boston, Mass.

As a result of a casual conversation with regular rider Tina Luz, Amtrak conductor Chris Waugh has become a fundraiser for the Parkinson’s Disease Foundation. With his 13-year-old daughter in mind, Waugh described his ideas for a women’s cashmere sweater to fashion designer Luz, who put the design into production. It is now being sold in stores nation-wide and on the Web site www.luzandpatmos.com. A portion of each sweater sale supports PD.

Local 378, Cleveland, Ohio

Members of this CSX local recently retired retiree William F. Fitzgerald on his 90th birthday. Fitzgerald, a former BRT local officer and conductor who worked for the New York Central, Penn Central and Conrail, is believed to be the oldest living member of the local. Son Michael, a CSX engineer, arranged for the surprise party and plaque presented to his father in honor of his years of service.

Local 492, Sacramento, Calif.

Members of Locals 239 (Oakland), 492 and 1570 (Roseville) who were furloughed on Dec. 22 by the Union Pacific were able to receive a free turkey, courtesy of the Hildebrand, McLeod & Nelson and the Crow law firms. Local Chairperson Daryl Stinchfield reported. Turkeys were also available to newly hired switchmen and trainmen who had not yet made the “switch.” “We wanted to invite all our friends to have a turkey dinner for Christmas,” said retired former President Jim Feickert. In the San Francisco Bay area, Alternative Legislative Rep. Bonnie Tyrell of Local 2176 ordered and delivered turkeys to those furloughed. “Some were recent hires...but they were extremely grateful and are dedicated to the UTU,” Tyrell said.

Local 511, Atlanta, Ga.

This Norfolk Southern local held its meeting and Christmas party on Dec. 13, with a meal featuring barbecue pork and chicken, along with Brunswick stew, Legislative Rep. Howell Keown reported. Guests included Torrey Chastine, Don Dysart, Tuesday Cummingo, Linda Mosley, Tony Skee, Jeff Vanlant convoled, Fred Evans, Clay Parker, Lynn Parker and Wayne Austin.

Local 573, Danville, Ky.

State Legislative Director and Legislative Rep. David Miracle reported that engineer Liz Montgomery was elected as the first female president of the local. Montgomery, elected by acclamation, will take the oath of office at the local’s January meeting.

Local 756, San Antonio, Texas

Members of this local donated approximately 100 toys to the Casa de Misericordia domestic violence shelter in Laredo, Texas, said Vice Local Chairperson Bobby Flores. The donated toys were provided to parents at the shelter to wrap and present to their children for Christmas. “We believe that in times like these, we are fortunate and grateful to have good jobs and are willing to come together and share the spirit of Christmas,” Flores said. The event was coordinated by Local Chairperson Marvin Valadez, Vice Local Chairperson Mauricio Gonzalez and Flores.


Amtrak conductor Gregory Weaver and his wife, Carol, have been invited by Vice President-elect Joe Biden to ride on a special train carrying President-elect Obama and Biden to Washington, D.C., on Inauguration Day. They will also attend the inauguration events and inaugural ball. Weaver first met Biden decades ago, when he often worked on the evening train that took Biden home each weekend. For the last six years, Weaver has worked on No. 2103, which Biden would board daily to Washington.

Local 1175, Duluth, Minn.

BNSF Railway conductor Randy Strom won the amateur category in the “best venison sausage” contest sponsored by the Duluth News Tribune with his delectable “smoked venison snack sticks,” the newspaper reported. Winners received no prize money, but they were satisfied knowing their sausage is among the best around.

Local 1373, Philadelphia, Pa.

The officers and members of this CSX local would like to thank the law firms of Coffey, Kaye, Myers & Olley and Barish-Rosenthal for sponsoring the local’s holiday party and meetings for the 1% and the American Legion, reported Secretary & Treasurer Greg Greberek.

Local 1548, Indianapolis, Ind.

Kyle Brooking, who serves as alternate state director in Indiana for the Local 1175 legislative rep, has been elected to the position of CSXUUTI union safety coordinator for the CSX Great Lakes Division. Brooking will represent all UTU members on the CSX from Indiana, Ill., to Canada. Local 1548, State Legislative Director Tom Henser said.

Local 1594, Upper Darby, Pa.

The local expresses appreciation to all members who worked long hours during the Phillips Day Parade. An estimated 1 million people rode SEPTA on Oct. 13 to watch the parade of the World Champion Phillies. Local Chairperson Ron Koran said. Koran also thanked Local 61 members for a great job operating overflow trains. Local 1594 also sold the many members who were recognized at the SEPTA safety banquet, with Brother Kevin Baldwin topping the list with 36 years of safe driving.

Local 1846, West Colton, Calif.

Members here presented conductor Alex Bonдар with a retirement watch at their Dec. 8 meeting, according to former Local President Richard Escamilla. “I would also like to congratulate my successor, Tom Garcia. I know he will do a great job as president of our local,” Escamilla said.

Brothers are two of a kind

Rich and Rob Miller

Twin brothers Rich and Rob Miller officially retired from CSX Transportation on Dec. 15, nearly 42 years after they hired out on the same day. “Rob and Rich both walked through the doors of the CS&O Railroad (now CSX) on June 8, 1967,” said Rich’s wife Patty, who contacted UTU National Director Steve Villiers to present her husband and brother-in-law. “Both had just graduated high school that same year.” And, not to forget, both sons of the late Con- ductors of Local 765 at Grand Rapids, Mich., had an FHA-reportable injury in approximately 94 years of total service. “Pretty rare, huh?” Patty added.

Rich, a conductor, and Rob, an engineman, have spent their blood. Their father and grandfather were railroad electricians, and their great-grandfather was an engineer on the Pere Marquette Railway. Congratulations, Rich and Rob.
Health care may continue after furlough

Getting laid off is the pits. But there are some things you can do – beyond applying to the Railroad Retirement Board for unemployment benefits – to ease the financial strain.
The following applies if you are covered under the NRC/UTU Health & Welfare Plan or the Railroad Employees' National Health & Welfare Plan:

- If you were furloughed in December, your employer will provide 100% of your health-care coverage will continue through April 2009 – for four months following the furlough.

- Generally, the plan provides continued coverage through the fourth month following the month in which you last provided compensated service, or received vacation pay (provided the vacation pay was received prior to the date of your furlough). Therefore, if you were furloughed in January, coverage would continue through May.

- Some general committees may have local contract language that differs, and it is essential that you discuss your layoff with your local and/or general chairperson to make that determination.

- Also, if you are not covered by the NRC/UTU Health & Welfare Plan, or the Railroad Employees' National Health & Welfare Plan, or are not sure if you are, you should also contact your local and/or general chairperson for more information.

Illinois tells rails to rein in police

The UTU is fighting to prevent the railroads from using their private police officers to spy on and harass rail workers.

At the request of the UTU, Illinois lawmakers have put a stop to the harassment of rail workers, and other states are being asked to take similar action if the railroads do not voluntarily rein in their police and utilize them for the protection of railroad property and employees rather than as a weapon against employees.

The Illinois law amended the state's Railroad Police Act – effective June 1, 2009 – to put rail police in that state under independent, objective oversight by state police and the Illinois Commerce Commission.

This means allegations of misuse of railroad police powers now will be investigated by an independent third party – the same as actions by municipal police are subject to public oversight.

Thanks to the UTU, Illinois lawmakers have put a stop to the harassment of railroad workers.

UTU Assistant Illinois Legislative Director Bob Guy explained to lawmakers that railroads are the only for-profit corporations in the United States to which government has delegated police powers, such as the ability to arrest citizens and interrogate suspects.

“Yet, historically, when carriers have been accused of abusing their police powers, the carriers have been excused by the railroads that employ and direct the police,” Guy said. “Under the new Illinois law, if the state police find fault with railroad police practices, they may conduct full investigation and turn their findings over to the Illinois Commerce Commission, which may hold a hearing, issue a cease-and-desist order, and impose fines.

“The new measure will impact a two-year-old state law that limited railroad police interrogation of employees to four specific areas: 1) Situations in which there is reason to believe criminal activity has occurred; 2) A response to an employee accident; 3) Situations in which there is reason to believe that interviewing an employee may prevent workplace violence; and 4) Situations where there is a legitimate concern for the personal safety of one or more employees.

Unions win big in FMLA arbitration

A three-person arbitration panel ruled unanimously Dec. 2 that the nation’s four largest railroads may no longer require employees to submit their paid vacation and/or paid personal leave for unpaid leave under the Family Medical Leave Act (FMLA).

It was a stunning blow to BNSF, CSX, Norfolk Southern and Union Pacific – carrier parties to the arbitration who had been ignoring collective bargaining agreements and the law in an attempt to maximize employee availability. Other carriers likely will abide by the arbitration ruling.

Under the FMLA, employees may elect to take up to 12 weeks of unpaid leave to deal with a family emergency, or a personal serious health condition. The law requires that if employees have a more beneficial arrangement with the employer, the more beneficial arrangement shall take precedence.

Based on this provision, and the carriers’ blatant violation of it, the UTU and 11 other rail labor organizations challenged the carriers, who agreed in July to arbitrate the issue.

The arbitration panel’s Dec. 22 award did exactly the opposite of the law and left the UTU in a difficult position.

There is also a provision allowing follow-up proceedings to determine a monetary remedy for those who have taken FMLA leave and suffered by the carrier’s forcing them to submit paid vacation or paid personal leave for this time period.

 Arbitrators John E. Sands, William H. Holley Jr., and Jerome H. Ross said that collective bargaining agreements guarantee employees “a set number of paid vacation days” annually, with management restricted from administering the granting of guaranteed vacation days.

Wages subject to taxes rise

CHICAGO – The amounts of compensation subject to Railroad Retirement Tier I and Tier II payroll taxes have increased. However, the Tier I tax rate on employees and employers remains unchanged.

The Tier I payroll tax rate on rail employees and employers for 2009 remains at 7.65 percent. The maximum amount of an employee’s earnings subject to the 6.2 percent rate increased to $106,800 in 2008.

The Tier II tax rate on employees will remain at 3.9 percent in 2009, and the rate on employers will remain at 12.1 percent. The maximum amount of earnings subject to Tier II taxes, however, will increase to $79,200 in 2009 from $75,900 in 2008.

Court delays strip-search drug-test rule

WASHINGTON – Implementation of DOT’s proposed invasive and degrading strip-search drug-testing rule is now on hold until at least February after the U.S. Circuit Court of Appeals here issued a formal stay pending filing of briefs and hearing oral argument on the matter.

The court on Oct. 31 had issued a temporary delay while it considered whether to put the rule on hold during a hearing, which the court has now granted.

The UTU, others in rail labor and BNSF Railway sought the judicial delay and hearing into whether the proposed DOT rule, requiring strip searches of rail and transit workers during certain mandatory drug testing, violates the Constitution’s prohibition against unreasonable searches.

DOT wants to require direct observation of urine specimen collection in all cases involving a return-to-duty test following a positive drug test and a follow-up test after a positive drug test.

This rule initially had been scheduled to take effect Aug. 25, but DOT voluntarily delayed implementation until Nov. 1. In the interim, the UTU and other rail labor organizations appealed constitutionality of the proposed new DOT rule.

Under current rules, a rail carrier has the discretion to require direct observation during an individual return-to-duty or follow-up test, but is not required to do so. DOT wants to replace this discretion with the mandatory-observation rule.

The rule would require a “strip search” in all instances of direct observation.

Specifically, the currently delayed DOT rule would require that a same-sex observer employed by the railroad request the employee to remove his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show, by turning around, that they do not have a prosthetic device [that could be used to deliver a substituted urine specimen].

After the railroad has “determined that the employee does not have such a device,” [it may permit the employee to return clothing to its proper position for observed urination], according to the rule.

FRA’s Boardman heads up Amtrak

WASHINGTON – Federal Railroad Administrator Joseph Boardman, 59, is Amtrak’s new interim president and CEO, a post he will hold for at least one year. Senate confirmation was not tested.

Boardman could later be named the permanent Amtrak president and CEO. Boardman was named by the Republican-dominated board appointed by President Bush, and with the support of the Democratic members.

A Republican, Boardman replaced Alexander Kummant, 48, another Republican, who ran afoul of the Republican-majority Amtrak board and was dispatched on Nov. 14.
Prepare for tough negotiations in 2010

Among the most difficult challenges facing us in 2009 arrives in November, when we exchange RailWay Labor Act Section 6 notices with the carriers — the list of each side’s demands for the next collective-bargaining round.

Our national rail contract is open for renewal on Jan. 1, 2010, and this bargaining round will be among our toughest ever given the deteriorating state of the economy, the advance of technology and Wall Street pressure on railroads to deliver increased profits. While the national rail contract affects members primarily on BNSF, CSX, Kansas City Southern, Norfolk Southern and Union Pacific, these national contracts tend to be a trendsetter for bargaining on other freight railroads and Amtrak, and are frequently referred to by carriers and unions alike.

A reasonable individual has good reason to assume the upcoming bargaining round will be favorable to employees. Railroads have been enjoying their greatest profitability in modern history, and it is the workers who are most responsible.

The railroads’ own figures, as published by the Association of American Railroads, show that revenue tons-miles per employee — the best benchmark for measuring productivity — has soared five-fold since 1980, from 2.1 million to almost 11 million today.

Meanwhile, the railroads’ labor costs have declined by 43 percent — from 46.5 cents of every revenue dollar in 1980, to 26.4 cents of every revenue dollar today.

The employee headcount, meanwhile, has dropped from 532,000 in 1980 to 236,000 today — a 56-percent decline in workers. Among train- and engine-service employees, the head count fell from almost 136,000 in 1980 to fewer than 70,000 today.

This doesn’t matter to the carriers, because it is hot Wall Street dollars that set the tone of carrier Section 6 notices. Perhaps you have noticed Wall Street investment funds have been buying up shares of the major railroads.

BNSF, for example, is 44 percent owned by Wall Street investment funds. At CSX, the figure is 35 percent; at Union Pacific, 34 percent; at Kansas City Southern, 33 percent; and at Norfolk Southern, 32 percent, according to Bloomberg News.

These investment funds, some of them based in foreign countries, have a narrow focus of increasing stock price and increasing dividend payments — often without concern for an appropriate level of railroad maintenance, and certainly without concern for wages and benefits for employees and their families.

Indeed, investment funds are behind the anti-labor policies at Walmart and policies that export good American jobs overseas.

What the UTU does is fight back — and we will be spending the months leading up to the exchange of Section 6 notices by building our case on behalf of our members.

International Officers’ Column
By Arty Martin
Assistant President

International President’s Column
By Mike Futhy, International President

December 2008/January 2009 UTU News

www.utu.org / www.utuia.org

Who owns the railroads?

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<td>KCS</td>
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Source: Bloomberg News

In Barack Obama we hear a similar message of vision, courage, equality, inclusiveness, diversity and unity.

In Barack Obama we hear a similar message of vision, courage, equality, inclusiveness, diversity and unity.
State Watch

Oregon
State Legislative Director Delmer Hanson recently presented Rep. Darlene Hooley (D) with a UTU brass lantern on behalf of the Oregon State Legislative Board at her retirement party. “Congresswoman Hooley served six terms in Oregon’s 5th Congressional District and was an enthusiastic supporter of the UTU and our issues. She will be missed!” Hanson said.

Nevada
Rod Nelms has been elevated to the position of state legislative director in the wake of the retirement of Jack Fetters Jan. 1.

“I’m excited about stepping up to director,” Nelms said. “I have worked with five state directors since 1980 and feel I am more than qualified. I am going to miss my association with Jack. In his 12-year tenure, there were many accomplishments, and he earned the respect of national, state, county and city officials. I wish Jack a long and happy retirement.”

Tennessee
Visit to Memphis: During preparation for arbitration on the entry-level pay issue, UTU International President Mike Fairley (far right) and General Secretary & Treasurer Kim Thompson (second from right) took time to visit with Canadian National (Illinois Central) yard employees in Memphis. Present from left are Curtis Speed (Local 733), Ron Lacey (an engineer and BLET member), Shawna Haul (Local 751), wearing a UTU cap; and Local 1557's Local Chairperson and Associate General Chairperson (GO 443) Buch St. John.

Florida
Officers of several CSX general committees met recently in Jacksonville, Fla., to discuss new ideas and share successful strategies to handle member grievances. Attending the meeting were GO-851 General Chairperson John Hancock, GO-851 Vice General Chairperson John Whitaker, GO-851 Vice General Chairperson Yvonne Hayes, GO-513 General Chairperson Barry Hogan GO-049 General Chairperson John Lestini and International Vice President Roy Boling. Above, watching over the boiling shrimp, sausage, corn and potatoes, prior to lunch, are, from left, Hancock, Whitaker and Hayes.

Nevada
State Legislative Director Howell Kown reports that Rep. Jim Marshall (D-Rich) was successfully re-elected, thanks in part to efforts by the UTU. In the picture at left, directly behind the congressman (holding child) is Assistant State Legislative Director Tim Usery, who gave Marshall a UTU PAC contribution. Also in the picture are retired conductor John Hagegen (L-1790, Fitzgerald); conductor Wesley Griffin (L-1790) and engineer Milton Usery (L-1790).

Georgia

Bus Department
By Vic Baffoni, vice president/director
v_baffoni@utu.org

Community Transit members ratify pact
It’s a new year. We have a new administration in Washington and a larger labor-friendly majority in the House and Senate. It is a time of new hope.

It will not be easy. The deteriorating economic conditions in this country are serious and will take time to solve. There are no quick fixes.

With the unfortunate death of National Legislative Director James Brunkenhofer, we have suffered a serious loss.

As the new Congress organizes itself in January and February, our focus — with assistance from the AFL-CIO — will be to gain Senate confirmation for labor-friendly cabinet and regulatory agency heads nominated by President Obama. Updates on nominees and the confirmation process will be reported at www.utu.org. Members should visit the UTU Web site regularly to check on updates.

President Fairley, Assistant President Martin and Alternate National Legislative Director James Stern will be working to educate new members of the House and Senate — on both sides of the aisle — about the rail industry and transportation labor’s past and present role in improving productivity and safety.

During difficult economic times, UTU members are fortunate to have good benefits, good working conditions and a strong union to provide them and their families with protections.

Even so, it is not going to be easy. Many of our locals will be entering contract negotiations in 2009 and management is going to point to the financial crisis as reasons to seek givebacks.

Your union officers and representatives will be doing their job, which is protecting your rights. This union has a proud history in times of crisis, and I am confident that our strengths will be evident in 2009.

Bus drivers to benefit from new FMCSA ruling
WASHINGTON — The Federal Motor Carrier Safety Administration (FMCSA) has issued a final rule that requires states to merge the commercial driver's license (CDL) and the driver’s medical examination certificate into a single electronic record.

The agency said that when fully implemented by the states in three years, the new combined CDL will streamline recordkeeping obligations for the states and CDL holders, while providing instant electronic access to the CDL holder’s medical certificate by state and federal enforcement officials.

In addition, the rule requires states to take enforcement actions against CDL holders if they do not provide medical certification status information within the deadline.

In a separate rulemaking, the FMCSA also ordered that there be established a National Registry of Certified Medical Examiners to ensure that physical qualification examinations of CDL holders are performed by qualified medical practitioners and are administered in a uniform and consistent manner.

The Notice of Proposed Rulemaking (NPRM) for the National Registry of Certified Medical Examiners would create certification standards, including a training and testing program, and a National Registry of medical examiners who are qualified to conduct examinations of interstate truck and bus drivers.

The proposal would require the medical examiner to electronically transmit to the FMCSA the name and a numerical identifier for each driver who is examined. The proposal also would create a process by which medical examiners who fail to meet or maintain the minimum standards would be removed from the National Registry.

The NPRM for the National Registry of Certified Medical Examiners can be found at www.regulations.gov, docket number FMCSA-2008-0363. Public comments on the proposal should be submitted by Jan. 30, 2009.

The final rule on Medical Certification Requirements as Part of the CDL is available for review at www.fmcsa.dot.gov.
How the Rail Safety Act of 2008 will impact your job

The Rail Safety Improvement Act, signed into law Oct. 16, includes changes to hours of service (HOS) limitations and affects all train and engine service (T&ES) jobs in freight, passenger and commuter operations.

Hours-of-service changes, summarized below, become effective July 16, 2009.

276-Hour Monthly Cap

A railroad may NOT require or allow a T&ES employee to remain on duty in any month where the employee has spent a total of 276 hours in any one or a combination of the following activities: on duty, waiting for transportation, in deadhead transportation to a place of final release, in any other mandatory service for the carrier (such as rules training and medical examinations).

Once you are on duty 276 hours in any month, the carrier may not require or allow you to go on-duty, remain on duty, wait for deadhead transportation, be in deadhead transportation, or in any other mandatory service for the remainder of the month. If the carrier does not take you out of service prior to exceeding the 276-hour monthly cap, or if the carrier attempts to put you in service where you would violate the 276-hour cap, you may take yourself out of service.

Once the 276-hour cap is met in any month, you may not report for duty again prior to 12:01 a.m. of the first day of the next calendar month. If the 276-hour cap occurs at an away-from-home terminal, the railroad may NOT deadhead you back to your terminal. The FRA must determine the manner in which you are returned to your terminal.

If the 276-hour cap occurs on the last day of the month, and you have not completed your mandatory 48 (or 72) consecutive hours off duty at your home terminal, you may NOT complete that mandatory time off before again reporting for duty.

12 Consecutive Hours Cap

A T&ES employee may NOT remain on or go on duty for a period in excess of 12 consecutive hours.

If a combination of on-duty time and limbo time exceeds 12 hours, the employee must have at least 10 consecutive hours of undisturbed rest during the prior 24 hours.

Minimum Undisturbed Rest

A T&ES employee may NOT go on duty unless the employee has had at least 10 consecutive hours of undisturbed rest during the prior 24 hours.

Undisturbed rest means the carrier may not telephone the employee, page the employee, knock on the door of the employee, or otherwise disturb the employee. The carrier may send an e-mail message to the employee during this period.

As noted above, if the on-duty time plus limbo time exceeded 12 hours, the 10-hour undisturbed rest time is increased by the number of hours of limbo time. And if the collective bargaining agreement requires the employee have 90 minutes to report for duty following the call, then the employee would have at least 11 1/2 hours off duty.

There is an exception during emergencies.

Limo Time Cap

A railroad may not require an employee to spend more than 40 hours per month in limbo time.

This 40-hour rule begins July 17, 2009, and continues through June 16, 2010. Beginning after July 16, 2010, the carrier may not require an employee to spend more than 30 hours per month in limbo time.

Ebb & Flow Not a Factor

Conductor Certification

No later than April 2010, the FRA must conduct a rulemaking to determine the parameters for conductor certification. The UTU will participate in that rulemaking, which will be announced in advance through publication in the Federal Register and via the UTU Web site. Collective bargaining will determine whether a certified conductor receives additional pay. If a certified conductor is decertified and barred from working as a conductor, the conductor probably will be permitted to perform work as a certified engineer.

Training

Railroads are required to provide training in all aspects of FRA regulations, which includes hazard training.

Alcohol and Drug testing

Any non-federal alcohol and drug testing by a railroad shall be conducted using a scientifically recognized method of testing. The employee can challenge whether the railroad has used a scientifically recognized method of testing. The railroad must provide a redress process for an employee to petition for, and receive, a hearing to review the specimen results, and a dispute or grievance shall be resolved under the provisions of the Railroad Labor Act.

Positive Train Control

Class I railroads, as well as intercity passenger and commuter railroads, must install PTC on main line tracks by Dec. 31, 2015. The requirement to install PTC does not affect existing crew-consist agreements.

Mechanical and Brake Inspections in Mexico

No mechanical or brake inspection may be performed in Mexico unless the FRA certifies the inspection is equivalent to those performed in the U.S., that the inspection is receiving what the FRA considers appropriate training; that the FRA is permitted to perform on-site inspections; and that inspection reports are available.

On-Duty Injuries

Transportation to Hospital

If the employee is injured on the job, the employer must provide the injured employee with transportation to the nearest hospital. The injured employee may not be detained to be taken to a more distant hospital, but the destination must be the nearest hospital and not an emergency center. The employer is not required to transport the injured employee via an ambulance. They may be transported by a company vehicle.

Medical Treatment

A railroad is prohibited from disciplining, or threatening to discipline, an employee seeking medical treatment, or for failing orders or a treatment plan of a treating physician. Employees may bring an action against the railroad, under whistleblower provisions, for any violation, and, in addition to recovering back pay and reinstatement, they may recover, separate from a FELA action, compensatory damages, attorney's fees and punitive damages up to $250,000. Only the injured employee's physician can certify when the injured employee is fit to return to work, but the railroad can then order an examination by its own physician to determine if the employee is fit, under railroad policies, to return to work, or should be kept off duty for a longer period.

Counseling

If you are involved in a critical incident, such as a highway-rail grade-crossing accident or a train striking another employee or pedestrian, you may demand to be relieved from duty for the purpose of receiving counseling. In addition, you may receive immediate relief of service for the balance of the duty tour.

Additional Questions?

Any questions should be directed to your state legislative director or your local general chairperson. If the question involves the International or the UTU rail safety consultant, send it to the UTU International's rail safety program. Where SLDs and GCs are not able to answer a question, they will work directly with the UTU International, which has opened a line of communication with the FRA.

As provisions regarding hours of service do not go into effect until July 2009, and will require rulemakings or further interpretation by the FRA, some questions may not be able to be answered with finality for some time.

Any new information will be posted at www.utu.org and available by clicking on the “2008 Rail Safety Act” box on the home page. Members should visit www.utu.org regularly to check for updates.
Spouses of rail workers may be eligible for pensions

By V.M. “Butch” Speckman Jr.  
Labor member, Railroad Retirement Board

In addition to employee retirement annuities, Railroad Retirement—as does Social Security—also provides annuities for the spouses of retired workers. Divorced spouses may also qualify for benefits. Eligibility for a spouse annuity is based on numerous factors, including the employee’s age, date of retirement and years of railroad service. The following requirements currently apply:

• If a retired employee with 30 or more years of service is age 60 and receiving an annuity, the employee’s spouse is also eligible for an annuity the first full month the spouse is age 60.

• A retired employee with fewer than 30 years of service is age 62 and receiving an annuity, the employee’s spouse is also eligible for an annuity the first full month the spouse is age 62. Early retirement reductions are permanently applied to the spouse annuity if the spouse retires prior to full retirement age. Full retirement age for a spouse is gradually rising to age 67, just as for an employee, depending on the year of birth.

• A spouse of an employee receiving an age and service annuity (or a spouse of a disability annuitant who is otherwise eligible for an age and service annuity) is eligible for a spouse annuity any age if caring for the employee’s unremarried child, and the child is under age 18 or the child became disabled before age 22.

• The employee must have been married to the spouse for at least one year, unless the spouse is the natural parent of their child; the spouse was eligible or potentially eligible for a Railroad Retirement widow(er)’s, parent’s or disabled child’s annuity in the month before marrying the employee; or the spouse was previously married to the employee and received a spouse annuity.

• Railroad Retirement spouse annuities may be subject to offset for the receipt of other benefits, like Social Security benefits or public service pensions, for example.

While these offsets can reduce or even completely wipe out the Tier II benefit otherwise payable to a spouse, they do not affect the Tier II benefit potentially payable to that spouse.

For more information, go to www.rrb.gov, or consult the white pages of your telephone directory for the nearest RRB office.

Most Medicare Part B premiums to remain the same in 2009

The standard Medicare Part B monthly premium will be $96.40 in 2009, the same as the Part B premium for 2008, as the Railroad Retirement Board reports. Until 2007, all beneficiaries paid the same basic premium amount for Medicare Part B, which is set annually at a level that covers 25 percent of the estimated Part B program costs for the year. The government had subsidized the remaining 75 percent for all beneficiaries.

As part of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, this 75-percent subsidy began decreasing in 2007 for those making over certain annual threshold amounts.

The Part B monthly premiums for some beneficiaries will increase again in 2009, depending on an individual’s or married couple’s modified adjusted gross income. The income-related Part B premiums for 2009 will be $134.90, $192.70, $250.50, or $308.30, depending on the extent to which an individual beneficiary’s income exceeds $45,000 (or a married couple’s income exceeds $70,000), with the highest premium rates only paid by beneficiaries whose incomes are over $213,000 ($426,000 for a married couple).

The income thresholds increase annually by indexing to the Consumer Price Index (CPI). The Centers for Medicare & Medicaid Services estimates that only about five percent of Medicare beneficiaries with Part B will pay higher premiums in 2009 based on their incomes.

Those Railroad Retirement and Social Security Medicare beneficiaries affected by the 2009 Part B income-related premiums received a notice recently SSA or online. The notice included an explanation of the circumstances where a beneficiary may request a new determination. For more information go to: http://www.rrb.gov/pubs/po/09067.pdf.
ULUIA Cancer Hospital Indemnity

ULUIA’s new Cancer Hospital Indemnity policy offers you and your family members the following protections:

- $300 per day for hospital confinement
- $600 per day in extended-stay benefits
- $100 per day for home recovery and convalescence
- $2,000 first-diagnosis benefit
- $15,000 bone marrow transplant benefit

Cancer is often a lingering disease that strikes all age groups. It may require repeated, extensive treatment, resulting in the person being unable to work, high hospitalization bills, and loss of income. The National Cancer Institute reports that cancer will strike in three out of four families.

ULUIA’s Cancer Hospital Indemnity* policy offers peace of mind. The benefits are paid directly to you as you see fit – to help meet household expenses and other continuing expenses. This policy supplements regular hospitalization insurance, thereby protecting savings.

*Not currently available in Pennsylvania.

Information, please

I would like more information on ULUIA’s Cancer Hospital Indemnity policy.

Please print

Full name

Sex

Date of birth

Address

City

State

ZIP

Telephone number with area code

UTU local number

Complete and mail to: ULUIA Sales Dept., 14600 Detroit Ave., Cleveland, OH 44107-4250

ULUIA. Call toll-free: 1-800-558-8842

Labor seeks cell-phone ban fixes

The UTU and the Brotherhood of Locomotive Engineers and Trainmen have filed a joint petition for review by the Federal Railroad Administration of the FRAs so-called emergency cell-phone order, requesting that the FRA make additional exceptions to the order in the name of safety.

The ban, effective Oct. 27, applies to any electronic device that was not provided to the railroad operating employee by the employing railroad for business purposes.

“The UTU and the BLET are seeking exceptions to the order banning the use of personal electronic devices while deadheading; the use of cameras that can document safety hazards or safety law violations; and the use of electronic calculators and global positioning satellite (GPS) devices that can aid safe train operation.

“It is not our intention to unnecessarily complicate a fairly bright-line rule regarding the use of electronic and electrical devices,” wrote UTU International President Mike Fathey and BLET President Ed Rodewicz jointly in the petition for review.

“However, we do believe FRA should seriously consider those atypical situations in which [the emergency order] as currently written could inadvertently result in a diminution of safety, as compared to operating conditions and practices in effect prior to its promulgation.”

As for deadheading, the two unions argue that since deadheading crews have fulfilled their safety-related responsibilities – and in many cases are not on duty – their use of electronic devices should not be restricted to business purpose use only.

United HealthCare hikes limits

The lifetime maximum benefit applicable to the Railroad Employees’ National Early Retirement Major Medical Benefit Plan (ERMA or GA-46000) was increased Jan. 1, 2009, to $113,000. This is an increase of $5,300.

For additional information contact United HealthCare at (800) 842-5252.

The UTU International Staff: Here to Serve You

Lisa Vinci

Lisa Vinci is a claims adjuster in the Insurance Department. She started with the union in 1975 in the Microfilm Department and has held a wide variety of jobs in the legislative, job benefits and annuity departments. “I review, authorize and pay insurance claims,” she said, “on disability income replacement, accidental death and dismemberment and on-the-job injury policies issued by the ULUIA. I also work with members and UTUIA field supervisors to progress claims. I am proud to serve the membership in their time of need with a personal touch.”

Tim Wiens

Tim Wiens is an assistant claims adjuster in the Insurance Department. He started with the ULUIA in 1999 in the Policyleaders Service Department doing correspondence, and a few months later became a claims representative. He works primarily with premium waiver and cancer insurance claims. He also helps out in the Discipline Income Protection Program. “I take pride in assiing people over the phone with claims questions, as well as assist in the phone with claims questions,” Wiens said. “I try to help out all the claimants with any claims concerns they may have.” He also serves on the Board of Directors of the UTU Employee Credit Union as secretary.

Tracey Neighbors

Tracey Neighbors started with ULUIA in 1985 in the Claims Department, eventually moving to the Legal Department in 1998. She became a paralegal, a job she finds both challenging and rewarding. Tracey is the lone paralegal in the UTU Legal Department, which keeps her quite busy. She is often offered multiple assignments by the attorneys, who are usually working on short notice. She does legal research, contacts court personnel and local counsel, drafts pleadings for filing, and types briefs and other documents. She also maintains the legal files and billing records and makes sure that court deadlines are met.

www.utu.org / www.utuia.org
UtU introduces the iLink 2.0 resource center

iLINK, the UTU’s resource center for local, general committee, state legislative board and International officers, has been expanded and upgraded.

The improvements add the ability to share ideas and knowledge through a secure chat room, provide reports to track membership status and dues-paying activity, easily update membership contact and address information, and provide local treasurers the ability to edit and maintain payroll deductions through their personal computers.

UTU officers can also use iLINK to submit automated expense reports for timely reimbursement of union-covered expenses.

Access to the UTU’s iLINK 2.0 is limited to pertinent local, general committee, state legislative board and International officers, and UTU members can be assured that their personal data will remain confidential and secure.

Users that already have access to the iLINK and to the Treasurers’ Web Application (TWA) will continue to have access to both programs through their existing iLINK username and password. Existing TWA accounts are being discontinued.

Because iLINK 2.0 will have a new Web address, users should update any bookmarks or “favorites” stored in their Web browser. Also, to make connecting to iLINK 2.0 easier, the iLINK platform will now be accessible directly through the UTU International Web site’s homepage.

iLINK users can now go to www.utu.org and click on the iLINK tab located at the bottom left-hand corner of the homepage. An iLINK tab will also reside permanently in the black bar at the top of the UTU home page.

Arbitration ordered in RCO dispute

FORT WORTH, Texas – Binding arbitration has been ordered by a federal district court here in a dispute involving the UTU, BNSF Railway and the Brotherhood of Locomotive Engineers and Trainmen over whether BNSF may make an agreement with BLET to operate remote-controlled locomotives after having agreed that the UTU has exclusive jurisdiction.

The UTU maintains that BNSF’s actions—essentially selling remote control assignments twice—constitutes a violation of an existing collective bargaining agreement with the UTU, making it a major dispute that would permit a UTU work stoppage should BNSF assign remote control work to BLET-represented engineers.

The UTU maintains that the BNSF sold the remote-control assignments twice, a major dispute.

The court, however, found the dispute to be minor, under the Railway Labor Act, meaning it is a dispute over interpretation of contracts and thus must be settled through binding arbitration.

The UTU is considering whether to appeal the court decision.

“Initially, BNSF made use of RCO only in and around terminals and train yards, also known as ‘switching limits.’ The issue of which group of employees had the authority to control locomotives by RCO within switching limits was decided [by an arbitrator in favor of the UTU],” the court said.

“BNSF has since extended its use of RCO to locomotives in road service and this case centers on the dispute over which group of employees will operate the locomotives by RCO in that circumstance.”

“UTU argues that [it has a contract with BNSF that] gives UTU represented groundmen the exclusive authority to enter RCO for BNSF. Further, UTU argues that the 2007 agreement [between the BLET and BNSF] is an invalid attempt by BNSF to alter the terms of the existing agreement with BNSF.”

Brunkenhofer Continued from page 1

also served the members of Local 83 as local president, local steward and member of the local’s board of trustees, local chairperson, local legislative representative, delegate and special organizer. In 1980, he was elected to alternate Texas state legislative director, and in 1982 assumed the full directorship of the Texas State Legislative Board.

At the UTU’s Fifth Quadrennial Convention in 1987, Brunkenhofer was elected national legislative director, and was re-elected to that post at subsequent UTU conventions in 1991, 1995, 1999, 2003 and 2007.

He is survived by his wife, Judy Sinkin, of McLean, Va.

In lieu of flowers, the family encourages that contributions, in the name of James Brunkenhofer, be made to So Others May Eat, 71 O Street N.W., Washington, DC 20001. A memorial service in honor of Brunkenhofer will be scheduled and announced at a later date. Watch www.utu.org for details.

utu membership information is available to local officers for members of their local, to general committee officers for members of their general committee, and to state legislative board officers for members in their respective states.

UTU International President Mike Furhey said that iLINK will continue to expand with new applications and enhancements to current iLINK features, including the UTU University and the UTU Knowledge Depot.

Entry rates

Continued from page 1

hires typically receive concentrated, focused training to ensure they possess the technical training and skills to perform their assigned duties without supervision or assistance from more seasoned veterans.

These fundamental changes and sweeping work-rule concessions served their intended purpose. Indeed, today’s challenge is not how to fill the railroads’ unused, excess capacity, but rather how to increase capacity quickly enough to meet an exploding demand for rail service.

In response, during the 2002 round of contract bargaining, the UTU demanded elimination of entry rates, and they were completely eliminated for all employees as of June 30, 2004, immediately bringing those employees to full rates of pay for all shifts and all experience.

However, for new employees hired after July 1, 2004, entry rates previously in effect on each property were permitted again to become effective.

But, the parties mutually agreed that this important issue would definitely be addressed as early as possible in the next bargaining round.

The carriers did not comply with this agreement during the “next round,” which was the 2004 round of contract bargaining. But, the parties agreed that third-party intervention would be necessary to resolve the outstanding dispute as to the meaning and intent of the agreement to deal with the entry-rates issue.

The question put to the arbitrator Dec. 4 was whether the carriers compiled with their written promise to deal with the entry-rates issue; and, if not, what is the appropriate remedy for the carriers’ non-compliance?

The UTU told the arbitrator Dec. 4 that the remedy should involve the UTU being allowed to spend a day negotiating period with a mandate that the parties submit the dispute to interest arbitration if the dispute remains unadjusted after the 60-day negotiating period.

Also serving on the three-person arbitration panel with Peterson are UTU International President Mike Furhey and the carriers’ then chief negotiator, Robert Allen.

Meet your UTU Designated Legal Counsel

There is no more dangerous work environment than on the railroads, where injuries too often are severe. The Federal Employers’ Liability Act (FELA) makes railroads accountable for unsafe working conditions. Railroads retain skilled attorneys to protect their interests. They also have access to skilled and experienced attorneys who understand the industry, its safety hazards, and every aspect of the FELA. They are the UTU Designated Legal Counsel, chosen for their special knowledge and experience. Their job is to represent you. This continuing column introduces you to all of the UTU Designated Legal Counsel. For a complete listing, go to the UTU home page at www.utu.org and click on the blue tile, “Designated Legal Counsel.”

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(800) 390-8477
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Railroads have become very sophisticated at handling and defending FELA claims. Railroad workers need a reliable and experienced attorney to file their claims for workers’ compensation and file lawsuits against the railroad for injuries sustained on the job.

For a century, the FELA has proven to be an effective law to promote safety on the workplace and fairly compensate railroad workers injured at work. However, the law is not automatic or self-executing. Members must exercise their rights. UTU Designated Legal Counsel provide free consultation without obligation to members concerning on-the-job injuries and work-related medical conditions. Seek advice first from UTU Designated Legal Counsel.
UTUIA Scholarship: A Key to Success

A message from UTUIA International President Mike Futhey

Education is the key to success, and the key to an education can be a United Transportation Union Insurance Association scholarship.

With college enrollment time upon us, we strongly urge all eligible persons to take a few minutes to fill out the UTUIA scholarship application form printed below and apply for a UTUIA scholarship. It will be one of the smartest things they ever do.

This is the 35th year UTUIA is making available 50 continuing $500 scholarships for its members, and the sons, daughters and grandchildren of its members. We are very proud of our scholarship program, a pride that comes from helping thousands of college students over the years.

We realize the amount awarded, $500 a year, doesn’t meet the full cost of the recipient’s education, but in this way we can help a larger number of students with educational costs. They may use the scholarship money for tuition, learning materials or other related expenses.

UTUIA scholarship winners will receive the full amount of the award each year for up to four years of undergraduate study as long as they maintain a satisfactory academic record.

With a UTUIA scholarship, we hope to give the recipient the opportunity for a full-time education instead of a part-time education, day school instead of night school, higher education instead of basic training.

We are proud also in knowing that UTUIA scholarship recipients are enrolled in some of the finest and most prestigious colleges and universities in the world. We also can point proudly to the many achievements of past scholarship winners who have contributed so much to our great nation.

UTUIA is proud and happy to provide these scholarships for they are an opportunity for achievement. The success of deserving students is our success and the benefits are boundless. The key to success is education, and the key to education is a UTUIA scholarship. Take a minute to apply for the chance of a lifetime.

As the saying goes: “If you think education is expensive, try ignorance.”

Mike Futhey, President
UTUIA International

UTUIA Scholarship Application Form 2009/2010

(Please type on form)

Student’s Name

Address

City

State

Zip

Birthday

Member’s Name

Address

City

State

Zip

UTUIA Local #

UTUIA Local Unit #

College Years, 2009-2010

Occupation

Employer

Signature

Signature of Member

(Include date of death if member is deceased.)

Scholarship Program

DISTRIBUTION

Fifty continuing $500 scholarships are awarded each year upon verification of enrollment for the fall term. The scholarships are prorated according to the number of UTUIA members in each of nine districts. The names of the 50 scholarship winners for the academic year 2009/2010 will be drawn at UTUIA headquarters in Cleveland after the March 31, 2009, deadline for submission of applications.

ELIGIBILITY

Requirements for a scholarship applicant are that he or she be at least a high school senior or equivalent; age 25 or under; be a UTUIA member or UTUIA-insured member, the child or grandchild of a UTUIA member or UTUIA-insured member, or the child of a deceased UTUIA member or UTUIA-insured member. (If member is deceased please include date of death). UTUIA members or UTUIA-insured members must be U.S. residents.

Applicants also must be accepted for admittance, or already enrolled, for at least 12 credit hours per quarter or semester at a recognized institution of higher learning (university, college or junior college, nursing or technical school offering college credit). Graduate schools are not included. Families of full-time international officers are not eligible.

AWARDS

Scholarships are awarded on the basis of chance, not grades. A UTUIA scholar, however, is expected to maintain a satisfactory academic record to keep the scholarship for the full four years.

ADMINISTRATION

The UTUIA Scholarship Committee decides whether individual scholarships should be continued or discontinued. Each successful applicant must provide annual proof of eligibility on or before a deadline set by the scholarship committee to qualify for a continuing award. The day-to-day management of the program is handled by the office of the UTUIA general secretary and treasurer.

INVEST IN THE CHANCE OF A LIFETIME

The UTUIA Scholarship Program is an open program. All eligible students, regardless of previous grades or future plans that don’t happen to include college, are strongly urged to apply, to take five minutes to invest in the chance of a lifetime, the chance for a better future.

UTUIA Scholarship Districts

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<thead>
<tr>
<th>District</th>
<th>Scholarships</th>
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<tbody>
<tr>
<td>1</td>
<td>Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont</td>
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<tr>
<td>2</td>
<td>Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania</td>
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<tr>
<td>3</td>
<td>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia</td>
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<td>4</td>
<td>Indiana, Michigan, Ohio</td>
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<td>5</td>
<td>Illinois, Wisconsin</td>
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<td>6</td>
<td>Arkansas, Louisiana, Oklahoma, Texas</td>
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<tr>
<td>7</td>
<td>Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota</td>
</tr>
<tr>
<td>8</td>
<td>Arizona, California, Colorado, Nevada, New Mexico, Utah</td>
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www.utu.org / www.utuia.org
This month’s winning photo:

The UTU Public Relations Department awards UTU gear to the union member who submits the best photograph during the previous month. The winning photo will be published in the UTU News. Exceptional photographs will be included on the UTU website.

The UTU would like to see photographs or digital photographs of work-related scenes, such as railroad, bus or mass transit operations, new equipment photos, scenic shots, activities of your local, or photos of your brothers and sisters keeping America rolling.

Printed photographs should be mailed to UTU News, 14600 Detroit Ave., Cleveland, OH 44107.

High-resolution digital photographs should be in the JPEG format and e-mailed to utunews@utu.org.

With each photograph, please include your name and UTU local number, the names of the persons in the photo (left to right), where the photo was taken, all other pertinent information.

All photographs submitted become property of the UTU. Remember to review your employer’s policies regarding the use of cameras on the property or during work hours.

This month’s winning photograph was taken by W.G. “Butch” Glinke, a railroader out of Local 1075, Trenton, Mich. “This picture was taken in October 2006 while my crew and I were preparing for our evening’s work. The place is Canadian National’s Flat Rock Yard (formerly the Detroit, Toledo & Ironton Railroad) in Flat Rock, Mich.”, Glinke said.