

BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

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May 20, 2009

All BLET General Chairmen on Class I Railroads

Re: Rail Safety Improvement Act of 2008 Amendments to Hours of Service Act

Dear Sirs and Brothers:

As we are now less than two months away from the effective date of the first changes to the Hours of Service Act, I thought this was an appropriate time to report to you concerning recent developments. As many of you know, the Federal Railroad Administration (FRA) has not yet published the changes to 49 CFR Part 228 that were recommended by the Railroad Safety Advisory Committee. Moreover, we continue to await applicable interpretations of the new statutory requirements. However, the lack of news on these fronts is not the reason I am writing to you.

We previously reported to you that, by early fall of last year, we — along with the United Transportation Union — had made significant progress in our discussions with the Association of American Railroads to correct some severe shortcomings in the proposed changes to the Hours of Service (HOS) Act. Unfortunately, within days of a comprehensive agreement to recommend significant changes to the bills then in Congress, the tragic accident in Chatsworth, California, occurred. The Congress felt compelled to act swiftly in response to that disaster, and the legislation was quickly passed without the changes to which we and the carriers had agreed.

Even before the ink from President Bush's signature was dry, I initiated steps to mitigate the exposure of our membership to any potential economic damage that might be caused by the changes. I wrote the Chief Executive Officers of every Class I railroad, urging that they direct their transportation and labor relations staff to immediately sit down with our General Chairmen and begin discussing a seamless transition to the new HOS structure, and to do so in a way that protected our members' earnings.

I followed up this letter with personal and face-to-face conversations with a number of CEOs, in which I committed the BLET to supporting and working on a number of legislative and other issues that were of great concern to the carriers. I made it clear, however, that I expected reciprocity when it came to good faith bargaining over the issue of HOS changes. Specifically, I informed those CEOs that the subjects of (1) pool and extra board guarantees, and (2) how locomotive engineers nearing the limbo time and on-duty time caps would be treated, must be handled in an open, fair and equitable manner. I also told them that I would not consider expedited arbitration of disagreements on these issues to be an acceptable outcome.

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Since that time, we have delivered on our promise and then some. First, we led the fight from Rail Labor in the attempt by a hedge fund — with the Orwellian name of the Children's Investment Fund — to seize control of the CSXT Board of Directors. Further, we took strong public positions against current legislative attempts to "re-regulate" the railroad industry, in the form of the Railroad Antitrust Enforcement Act of 2009. Finally, we have begun to explore participation in the "One Rail" coalition that is a pet project of one CEO, in particular. We backed up our commitments in words and in action, with boots on the ground. Indeed, our arguments in opposing the antitrust legislation were so sound that the carriers have sought to incorporate some of them in subsequent correspondence concerning these bills.

Based on numerous reports we have received from the field — from Vice Presidents and from General Chairmen — it is becoming clear that the carriers' commitment is nowhere near as strong as it should be. While some progress has been made on certain properties concerning some aspects of the HOS changes, there continues to be foot-dragging almost across the entire spectrum of Class I carriers on the vital issues of guarantees and HOS caps. It also is apparent that most, if not all, of the largest carriers are regularly "comparing notes" while they discuss implementation with us, based on what is being placed on the table and what is being removed from the table as talks continue.

The most recent developments, or, more accurately, lack of developments, have left me frustrated and angry. Never before have statutory restrictions on hours of service served as a basis for an actual reduction in a locomotive engineer's earnings and I will not accept any argument or proposal that the new restrictions should be treated any differently than existing restrictions. Furthermore, while the new law caps on-duty hours at 276 per calendar month, it does not entitle carriers to deny work opportunities and wages to locomotive engineers who reach 253 hours, or 265 hours, or any total short of the cap.

Yet, the almost complete silence from the other side of the table on these subjects has been deafening. No serious discussion of guarantees has been engaged. Moreover, the carriers continue to bob and weave around the question of how they propose to handle a locomotive engineer who nears a cap. They neither are willing to identify a number of on-duty hours that could trigger different handling, nor are they even prepared to commit to treating everyone the same way.

I am at a loss to understand a rational basis for the total lack of progress on almost every front over the past several months. It may be that the carriers genuinely believe there will be little, if any, impact from the changes, which is something they've argued for over two years, when they first began supporting the 276-hour cap before the Congress. If that is the case, then the industry will be in for one hell of an awakening, because its inability to run a railroad is precisely what caused the two biggest fatigue factors — unanticipated calls for work and excessive limbo time — to explode so out of control that a legislative solution was required.

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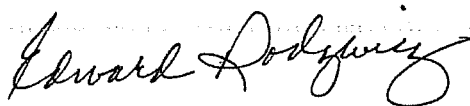
Perhaps the carriers believe that they have a winning hand because we already have supported a significant portion of their legislative agenda, from which we cannot retreat, and because they think they can ultimately win any remaining disputed issues at arbitration. If that is the case, then the carriers have yet to learn the pitfalls of arrogance, as taught to them earlier this year by the arbitrators who decided in our favor in the FMLA arbitration.

There are many more issues — and many more years — where the industry will require the assistance of the BLET to advance its agenda in Washington, and the BLET has a long institutional memory. Likewise, if the carriers think they can simply try to hammer our members financially in the short run and that we will be there to answer the call when they need to be bailed out operationally because they've run themselves out of engineers ... well it's going to be a long, hot summer.

I told you when we met in February that I would leave no stone unturned in fighting to prevent our members from being victimized because the carriers have lost a little of their ability to abuse locomotive engineers. We have done our level best to work toward a smooth transition to the new HOS structure, and have received little more than the back of the carriers' hand in return. It is said that in the absence of order there is chaos; if a carrier's lack of commitment to fairly resolving these issues now produces such chaos in two months, it will be far too late for that carrier to ask me to bail them out again.

We have reached out to key Members of Congress to inform them of the storm clouds brewing. And, while we will continue to work with you and with the carriers to attempt a reasonable resolution, we also are taking other appropriate and necessary steps to protect the membership. You will learn more about those steps shortly.

Fraternally yours,



National President

cc: BLET Advisory Board
All State Legislative Board Chairmen
Stephen J. Bruno, Director of Regulatory Affairs
Thomas A. Pontolillo, Assistant to the President and Director of Research

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