Dear Brothers and Sisters:

The National Mediation Board (NMB) recently announced appointment of Patricia Sims as the new Director of the office of Mediation Services effective October 28, 2108. Ms. Sims is the first woman to hold the position as Director of Mediation Services and replaces Michael Kelliher. Terri Brown remains as a Supervisory Senior Mediator at the Board. Ms. Sims has more than twenty years of experience in mediation in both the Air and Rail Industries. She has mediated major disputes with all the legacy air carriers and their unions along with regional carriers and unions. She has also successfully mediated agreements with Class I, II and III railroads and their unions, and mediated the first interest-based contract in the rail industry at CSX with their yardmasters. Ms. Sims joined the NMB in 1997 as a Mediator after a successful career as a union leader at US Airways. The NMB is an independent agency created by the Railway Labor Act, which governs labor management relations and disputes within the railroad and airline industries.

As most are aware, the hearing for the National Freight “True-up” arbitration was held on July 10, 2018. The arbitration panel consisted of IBEW Railroad Director Bill Bohne, Ken Gradia from the NCCC (railroads), and Neutral Member and Arbitrator Josh Javits. The IBEW attorney presented a compelling case before the arbitrator, and Director Bohne testified before the Panel as a witness for the IBEW. Unfortunately, the decision was rendered in favor of the railroads. The complete arbitration decision can be found on the IBEW website at www.ibew.org.

The Union Pacific recently provided notice that in order to align resources, they will be transferring the repair, maintenance and inspection work for pool and bulk coal-service locomotives from South Morrill, Nebraska to their North Platte,
Nebraska and North Little Rock, Arkansas (Jenks) locomotive facilities. The transfer of work is intended to be completed on or before January 30, 2019, resulting in sixteen (16) electrician positions and one (1) apprentice position being abolished at South Morrill. Staffing needs for the anticipated transfer of work include sixteen (16) electrician positions and one (1) electrical apprentice position being established at the North Platte locomotive facility, and two (2) electrician positions established at the North Little Rock (Jenks) facility, effective January 30, 2019. The System Council is currently negotiating protection benefits for those members adversely affected by the change in carrier’s operations.

On September 17, 2018, the Union Pacific announced a new operating plan (Unified Plan 2020), which plans to implement so-called “Precision Scheduled Railroading” principles. The Carrier claims that the Unified Plan will focus on UP Way tools and best practices and will launch on October 1st and then rolled out in phases. Union Pacific also claims that precision scheduling railroading is operational at other large North American railroads, driving improved service reliability for customers, increased operating efficiency and reduced network complexity. Nevertheless, at this point we are all uncertain as to what effect this will have on rail labor but will continue to keep you updated as we receive information.

On the date of September 13, 2018, the National Mediation Board approved funding for the next docket of cases listed with Public Law Board 7001 (UPRR). We are scheduled to present these cases before the arbitrator on December 12, 2018. We are still awaiting funding and approval for those cases listed with Public Law Board 7160 (KCS) and the Second Division National Railroad Adjustment Board (UPRR).

Throughout the third quarter, Assistant General Chairmen Tom Modica and Bob Norton have continued to conduct local committee training at various locations. As previously noted, we encourage each local to participate in this training and to contact this office for any specific requested dates.

July 2018

- AGC Dave Starkjohann assisted Chicago Local 214 with a disciplinary investigation.

- I attended the “True-Up” arbitration hearing regarding National Freight negotiations between the IBEW and NCCC.
• VGC Reynoso, AGC Shell and I attended the Shopcraft Coalition meeting with UPRR.

• AGC Shell attended and assisted Shreveport Local 1829 with a disciplinary investigation.

• AGC Modica and AGC Norton conducted Shop Committee training at Shreveport Local 1829.

• VGC Reynoso, AGC Shell and I attended the UPRR IBEW Local Chairmen’s meeting, Omaha, NE.

• AGC Starkjohann attended a meeting with UPRR regarding outstanding Employee Protection (Article I) and Subcontracting (Article II) disputes.

• AGC Shell and I attended the IBEW System Council 7 Convention and conference.

August 2018

• AGC Starkjohann attended the monthly meeting of Omaha Local 618.

• The System Council staff and I met for a quarterly staff meeting and review.

• AGC Modica and AGC Norton conducted Shop Committee Training for Fort Worth Local 942 and Houston Local 1814.

• VGC Reynoso attended and assisted Houston Local 1814 with several disciplinary investigations.

• VGC Reynoso attended the IBEW membership development conference.

• AGC Shell I met with the System Council CPA to finalize the annual audit.

• AGC Shell assisted with a disciplinary investigation, Kansas City Local 1832.
September 2018

- AGC Starkjohann assisted several local unions with disciplinary investigations.

- VGC Reynoso attended and assisted with a disciplinary investigation, Los Angeles Local 889.

- AGC Shell attended and assisted with a disciplinary investigation, Shreveport, Local 1829.

- AGC Shell and I attended a meeting in Minneapolis with IBEW Railroad Director Bohne and IBEW System Council staffs.

- AGC Reynoso and I attended the annual meeting of the National Association of RailroadReferees.

In solidarity, I remain

Fraternally yours,

Jim Wisniski  
General Chairman

Attachment: RRB – How a Railroad buyout can affect Railroad Retirement eligibility.
Railroad employees frequently ask the Railroad Retirement Board (RRB) how the acceptance of a buyout from a railroad employer affects their future eligibility for benefits under the Railroad Retirement and Railroad Unemployment Insurance Acts. The following questions and answers provide information on this subject.

1. **Would leaving railroad work and accepting a buyout mean that an employee forfeits any future entitlement to an annuity under the Railroad Retirement Act?**

   As long as an employee has acquired at least 10 years (120 months) of creditable rail service, or 5 years (60 months) of creditable service if such service was performed after 1995, he or she would still be eligible for a regular railroad retirement annuity upon reaching retirement age, or,
if totally disabled, for an annuity before retirement age, regardless of whether or not a buyout was ever accepted.

However, if a person permanently leaves railroad employment before attaining retirement age, the employee may not be able to meet the requirements for certain other benefits, particularly the current connection requirement for annuities based on occupational, rather than total, disability and for supplemental annuities paid by the RRB to career employees.

In addition, if an employee does not have a current connection, the Social Security Administration, rather than the RRB, would have jurisdiction of any survivor benefits that become payable on the basis of the employee’s combined railroad retirement and social security covered earnings. The survivor benefits payable by the RRB are generally greater than those paid by the Social Security Administration.

2. How are buyout payments treated under the Railroad Retirement and Railroad Unemployment Insurance Acts?

Buyout payments that result from the abolishment of an employee’s job are creditable as compensation under the Railroad Retirement and Railroad Unemployment Insurance Acts. While the actual names of these employer payments may vary, the treatment given them by the RRB will depend upon whether the employee relinquished or retained his or her job rights. If the employee relinquishes job rights to obtain the compensation, the RRB considers the payment a separation allowance. This compensation is credited to either the month last worked or, if later, the month in which the employee relinquishes his or her employment relationship. While all compensation subject to tier I payroll taxes is considered in the computation of a railroad retirement annuity, no additional service months can be credited after the month in which rights are relinquished.

The RRB considers the buyout payment a dismissal allowance, even though the employer might designate the payment a separation allowance, if the employee retains job rights and receives monthly payments credited to the months for which they are allocated under the dismissal allowance agreement. This is true even if the employee relinquishes job rights after the end of the period for which a monthly dismissal allowance was paid. However, supplemental unemployment or sickness benefits paid under an RRB-approved nongovernmental plan by a railroad or third party are not considered compensation for railroad retirement purposes.

3. Suppose an employee is given a choice between (1) accepting a separation allowance, relinquishing job rights and having the payment he or she receives credited to one month or (2) accepting a dismissal allowance, retaining job rights and having the payment credited to the months for which it is allocated. What are some of the railroad retirement considerations the employee should keep in mind?

Individual factors such as an employee’s age and service should be considered.

For example, if an employee is already eligible to begin receiving a railroad retirement annuity, he or she may find it advantageous to relinquish job rights, accept a separation
allowance, and have the annuity begin on the earliest date allowed by law. Any periodic payments made after that date would not preclude payment of the annuity because the employee has relinquished job rights.

On the other hand, some younger employees may find it more advantageous to retain job rights and accept monthly compensation payments under a dismissal allowance if these payments would allow them to acquire 120 months of creditable rail service (or 60 months of creditable rail service if such service was performed after 1995) and establish future eligibility for a railroad retirement annuity. Also, additional service months might allow a long-service employee to acquire 30 years of service, which is required for early retirement at age 60, or 25 years of rail service, which is required for supplemental annuities paid by the RRB. Establishing 25 years of service could also aid an employee in maintaining a current connection under the Railroad Retirement Act.

4. **How would acquiring 25 years of railroad service assist an employee in maintaining a current connection?**

The current connection requirement is normally met if the employee has railroad service in at least 12 of the last 30 consecutive months before retirement or death. If an employee does not qualify on this basis but has 12 months of service in an earlier 30-month period, he or she may still meet the requirement if the employee does not work outside the railroad industry in the interval following the 30-month period and the employee’s retirement, or death if that occurs earlier. Nonrailroad employment in that interval will likely break the employee’s current connection.

However, a current connection can be maintained for purposes of supplemental and survivor annuities, but not occupational disability annuities, if the employee completed 25 years of railroad service, was involuntarily terminated without fault from his or her last job in the railroad industry, and did not thereafter decline an offer of employment in the same class or craft in the railroad industry, regardless of the distance to the new position. If all of these requirements are met, an employee’s current connection may not be broken, even if the employee works in regular nonrailroad employment after the 30-month period and before retirement or death. This exception to the normal current connection requirements became effective October 1, 1981, but only for employees still living on that date who left the rail industry on or after October 1, 1975, or who were on leave of absence, on furlough, or absent due to injury on October 1, 1975.

5. **Would the acceptance of a buyout have any effect on determining whether an employee could maintain a current connection under the exception provision?**

In cases where an employee has **no option** to remain in the service of his or her employer, the termination of the employment is considered involuntary, regardless of whether the employee does or does not receive a separation or dismissal allowance.

However, an employee who **chooses** a separation allowance instead of keeping his or her seniority rights to railroad employment would, for railroad retirement purposes, generally be
considered to have voluntarily terminated railroad service, and, consequently, would not maintain a current connection under the exception provision.

6. An employee with 25 years of service is offered a buyout with the option of either taking payment in a single lump sum, or receiving monthly payments until retirement age. Could the method of payment affect the employee's current connection under the exception provision?

If the employee had the choice to remain in employer service and voluntarily relinquished job rights prior to accepting the payments, his or her current connection would not be maintained under the exception provision, regardless of which payment option is chosen. Therefore, nonrailroad work after the 30-month period and before retirement, or the employee’s death if earlier, could break the employee's current connection. Such an employee could only meet the current connection requirement under the normal procedures.

7. Is it always advantageous to maintain a current connection?

While a current connection is generally advantageous for railroad retirement purposes, the costs of maintaining a current connection could outweigh its value, depending on individual circumstances. There may be other financial or personal factors involved besides railroad retirement eligibility and/or the preservation of a current connection, and these will vary from individual to individual.

8. Are separation and dismissal allowances subject to railroad retirement payroll taxes?

Under the Railroad Retirement Tax Act, which is administered by the Internal Revenue Service, payments of compensation, including most buyouts, are subject to tier I, tier II and Medicare taxes on earnings up to the annual maximum earnings bases in effect when the compensation is paid. This is true whether payment is made in a lump sum or on a periodic basis.

To the extent that a separation allowance does not yield additional tier II railroad retirement service credits, a lump sum, approximating part or all of the railroad retirement tier II payroll taxes deducted from the separation allowance, will be paid upon retirement to employees meeting minimum service requirements or their survivors. This lump sum applies to separation allowances made after 1984.

If an employee receives a dismissal allowance, he or she receives service credits for the tier II taxes deducted from the dismissal allowance payments. Consequently, such a lump sum would not be payable.

If an employee has an option about how a buyout is to be distributed, he or she should consider the impact of both payroll taxes and income tax on the payments. Employees with
questions in this regard should contact the payroll department of their railroad employer and/or the Internal Revenue Service.

9. **Would an employee be able to receive unemployment or sickness benefits paid by the RRB after accepting a separation allowance?**

An employee who accepts a separation allowance cannot receive unemployment or sickness benefits for roughly the period of time it would have taken to earn the amount of the allowance at his or her straight-time rate of pay. This is true regardless of whether the allowance is paid in a lump sum or installments. For example, if an employee's salary was $3,000 a month without overtime pay and the allowance was $12,000, he or she would be disqualified from receiving benefits for approximately four months.

10. **Can an employee receive unemployment benefits after his or her separation allowance disqualification period has ended?**

An employee who has not obtained new employment by the end of the disqualification period and is still actively seeking work may be eligible for unemployment benefits at that time. The employee must meet all the usual eligibility requirements, including the availability for work requirement. An employee can establish his or her availability for work by demonstrating a willingness to work and making significant efforts to obtain work. In judging the employee's willingness to work, the RRB considers, among other factors, the reason the employee accepted the separation allowance and the extent of his or her work-seeking efforts during the disqualification period.

11. **How would the acceptance of a dismissal allowance affect an employee's eligibility for unemployment and sickness benefits?**

Payments made under a dismissal allowance would be considered remuneration under the Railroad Unemployment Insurance Act and the employee would not be eligible for unemployment or sickness benefits during the period the dismissal allowance is being paid. The employee may, of course, be eligible for benefits after the end of this period if he or she is still actively seeking work or is unable to work because of illness or injury.

12. **Where can employees get more specific information on how benefits payable by the RRB are affected by a buyout?**

Employees can get more information online or by phone. **Field Office Locator** at RRB.gov provides easy access to every field office webpage where the street address and other service information is posted, as well as the option to email an office directly using the feature labeled **Send a Secure Message**. The agency's toll-free number, 1-877-772-5772, is equipped with an automated menu offering a variety of service options, including being transferred to an office to speak with a representative, leave a message, or find the address of a local field office. The
agency also maintains a TTY number, 312-751-4701, to accommodate those with hearing or speech impairments. Most RRB offices are open to the public on weekdays from 9:00 a.m. to 3:30 p.m., except on Wednesdays when offices are open from 9:00 a.m. to 12:00 p.m. RRB offices are closed on Federal holidays.

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