

# UNION PACIFIC RAILROAD COMPANY

1400 Douglas Street, STOP 0710  
OMAHA, NEBRASKA 68179-0710



August 17, 2005

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Mr. R. E. Karstetter  
General Chairperson  
United Transportation Union  
4702 West Commercial Drive, Suite A  
North Little Rock, AR 72116

Dear Mr. Karstetter:

This has reference to the *"Agreed Upon Interpretation of Article VII of the UTU National Agreement Dated August 20, 2002 between Union Pacific Railroad Company and the United Transportation Union,"* dated March 7, 2005 ("Automatic Mark-Up Agreement"), and our various discussions, including those held on May 13, 2005, regarding the interpretation and/or application of the provisions of this agreement.

Following implementation of the Automatic Mark-Up Agreement on or about May 1, 2005, a number of questions and issues have arisen concerning its application. To address these matters, UP and UTU have agreed to a number of clarifications and interpretations intended to ensure the parties' objectives in the Automatic Mark-Up Agreement are achieved. These understandings and agreements are set forth below:

1. One issue focuses on whether the provisions of Articles I, II and III of the Automatic Mark-Up Agreement supercede existing Agreement rules governing the granting and taking of personal leave days and the amount of time off afforded an employee granted a personal leave day.

It is the intent of the Automatic Mark-Up Agreement, particularly Article I thereof, that an employee's leave or absence approved by UP will be of a specific and known duration, will have a specific and known commencement (start time) and termination (end time or mark-up time), and that employees will be automatically marked-up for service at the end of that approved duration. In this regard, the language used by the authors clearly intends to cover all types of leaves and absences, including personal leave days. Additionally, the Automatic Mark-Up Agreement provides in Note 1 of Article II, Section A that no leave or absence will be approved for a duration

of less than twenty-four hours. These intentions, along with the specific language found in Article I and Article II, make it clear the parties intended that any rule which provides for layoffs for a period less than twenty-four hours or without specific start times and durations are specifically superceded. This clarification and interpretation is not, of course, intended to eliminate an employee's right under existing Agreement rules to mark-up early – i.e., prior to expiration of the authorized or approved absence. In view thereof, the referenced provisions of the Automatic Mark-Up Agreement are intended to, and provide that, personal leave days will commence at the time requested by the employee and approved by the appropriate UP official and the employee will be automatically marked-up twenty-four hours after commencement of that approved personal leave day.

In applying this interpretation, the parties agree existing Agreement provisions governing the use of personal leave days are superceded to the extent specified in this interpretation. In this regard, all existing rules providing for the scheduling, taking or using of personal leave days in a manner that does not fully comport with this interpretation are accordingly amended by this interpretation.

2. Issues and questions similar to those concerning the use of personal leave days have also arisen regarding an employee's use of single day(s) vacation. Similar to, and consistent with the interpretation found in Item 1 of this Letter of Understanding, the Automatic Mark-Up Agreement provides that an employee's request for a single day vacation, if approved by UP, will begin at the time requested by the employee and approved by UP and said employee will be automatically marked-up for service twenty-four hours subsequent to the requested and approved start time for the single day vacation. As above, this interpretation is not intended to abrogate or eliminate an employee's right under existing Agreement rules to mark-up early.

In connection with this interpretation, the parties agree existing rules providing for the taking, using or handling single day(s) vacation that do not fully comport with this interpretation are accordingly superceded and amended to the extent set forth in this interpretation.

3. In determining the appropriate guarantee offset for employees taking a single day vacation or a personal leave day, the parties agree that the involved employee will be offset for one day (24-hour period) for each single vacation day or personal leave day taken by

the employee, regardless of the fact that the vacation day or personal leave day might span 2 calendar days. This understanding is limited solely and specifically to the calculation of appropriate offsets to any guarantee benefits an employee may be entitled to receive under existing Agreement arrangements.

4. Your office has received several letters wherein it is alleged UP has adopted a uniform twenty-four layoff duration policy for all layoffs requested by trainmen, regardless of an employee's particular need for time off. During our discussions on this matter, it was reaffirmed that UP does not have any such policy and that its decisions regarding employee requests to layoff and the involved duration are governed the parties' commitments set forth in the Automatic Mark-Up Agreement (see, for example, the answer to the second question following Article III, Section A) and other Agreement rules, as well as existing practices and policies. Nonetheless, this Item 4 will reaffirm UP's commitment to endeavor to take into account and balance employee needs, UP's service obligations and other legal or other Agreement obligations when making its decisions regarding the approval and/or duration of a requested layoff. The parties pledge to work together to address any issues that may arise in connection with this matter.
5. A Local Chairman has raised a question regarding when is a conductor, who is assigned, for example, to a traveling switch engine (TSE) or a local, marked-up for service. Trainmen/yardmen assigned to regular assignments (TSE's, locals, yard jobs, etc.) are automatically marked up for service upon expiration of the duration of their approved layoff. The "morning mark-up" provision contained in Article II, Section E does not apply to employees holding such regular assignments.
6. The existing rule that establishes the minimum layoff period at twelve hours for extra employees is unaffected by this Agreement. The Automatic Mark-Up Agreement does not conflict with the twelve-hour minimum layoff rule. Under the Automatic Mark-Up Agreement, the minimum period for layoffs by extra employees is twenty-four hours. If, however, an extra employee wishes to be off-duty for a period of time less than twenty-four hours and, as required by the twelve-hour minimum layoff rule, more than twelve hours, the extra employee is not barred from exercising his or her right under existing Agreement rules to mark-up for service earlier than the automatic mark-up time, provided he or she has been off at least twelve hours. It is the extra employee's responsibility in this case to contact CMS and properly execute his or her early mark-up.

7. Several questions pertaining to the application of the undisturbed rest provisions found in Article VI of the Automatic Mark-Up Agreement to extra trainmen working on regular assignments have arisen. One such question is whether the extended rest provisions apply to an extra conductor protecting/working on a local that lays over at night at its away-from-home terminal. It was the authors' intent that the provisions of Article VI not modify or adjust the working conditions of regular assignments – i.e., that the additional rest period afforded by Article VI would not apply to extra employees protecting regular assignments that might have an away-from-home terminal. The parties agree that extra employees must accept the terms and conditions of the jobs they are protecting/working. Therefore, an extra employee working on a regular assignment, such as a local that lays over at its away-from-home terminal, is not entitled to the extra rest provided pursuant to Article VI and rather, is governed by the away-from-home start time for that assignment and, of course, applicable provisions of the federal Hours-of-Service Act.
8. The terms of the Automatic Mark-Up Agreement, including the extended rest provisions set forth in Article VI, do not limit or bar UP from operating "flip trips" or using aggregated service, provided the involved employee(s) is (are) notified that they are going to "flip" or be used in aggregated service prior to their formal release from service at the away-from-home terminal.
9. The requirement by the Federal Railroad Administration ("FRA") for a crew to report their arrival time at a destination terminal does not in and of itself constitute a formal release from duty and thereby entitling the crew to the extended rest as afforded by Article VI of the Automatic Mark-Up Agreement. The reporting required by the FRA is a regulatory obligation with which UP and its employees must comply; it is not, nor does it ever serve as, an official and/or authorized tie-up or release from duty. In such circumstances, and pursuant to FRA requirements, a crew that reports its arrival time at the destination terminal may be required by UP to "flip" – i.e., work or deadhead back to their origin/home terminal.

Finally, during our various meetings and discussions, your office has provided numerous letters, examples, and data confirming certain problems and errors in the initial implementation and/or application of the Automatic Mark-Up Agreement. UP has reviewed each of the identified incidents and has taken a number of actions and steps to correct the underlying problems. Several of the issues were the result of computer programming errors or glitches. Those errors have largely been corrected. Several others were due to simple oversights or insufficient training associated with the initial cutover of the new rest rules and mark-up provisions.

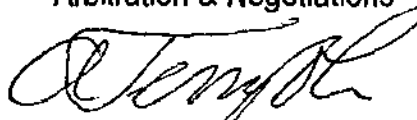
UP remains committed to properly executing the requirements the Automatic Mark-Up Agreement. Accordingly, this will confirm our indication to you that UP appreciates your office bringing these situations to our attention and that UP will work closely and earnestly with your organization and its representatives to promptly address or correct any future errors and problems that may arise.

If the foregoing properly and accurately reflects our understandings in this matter, please so indicate by affixing your signature in the space provided below.

Yours truly,




R. D. Rock  
Director – Labor Relations  
Arbitration & Negotiations



A. Terry Olin  
General Director – Labor Relations  
Arbitration & Negotiations

**AGREED:**



R. E. Karstetter  
General Chairman, UTU

**APPROVED:**



C. Vahldick  
Vice President, UTU