REPORT

to

THE PRESIDENT

by

EMERGENCY BOARD

NO. 212

APPOINTED BY EXECUTIVE ORDER 12563,
DATED SEPTEMBER 12, 1986,
PURSUANT TO SECTION 9A OF
THE RAILWAY LABOR ACT, AS AMENDED.

To investigate disputes between The Long Island Rail Road and certain labor organizations.

(National Mediation Board Case Nos. A-11452, A-11453, A-11454, A-11455, A-11456, A-11457, A-11458, A-11459, A-11460, A-11461, A-11462, A-11463, A-11464, A-11465, A-11525, A-11549, A-11561, A-11564, A-11565, A-11566, A-11567, A-11568, A-11571, A-11579, A-11583, A-11590, A-11599, A-11600, A-11601 and A-11698)

WASHINGTON, D.C.
NOVEMBER 17, 1986

LETTER OF TRANSMITTAL

WASHINGTON, D.C.
November 17, 1986

THE PRESIDENT
The White House
Washington, D.C.

DEAR MR. PRESIDENT:

On September 12, 1986, pursuant to Section 9A of the Railway Labor Act, as amended, and by Executive Order 12563, you created an Emergency Board to investigate the disputes between The Long Island Rail Road and all the labor organizations representing its employees.

Following its investigation of the issues in contention, including both formal hearings on the record and informal meetings with the parties, the Board has prepared its Report and Recommendations for settlement of the disputes.

The Board now has the honor to submit its Report to you, with its selection of the most reasonable final offers for settlement of these disputes. We hope this Report will provide a basis for settlement.

The Board gratefully acknowledges the assistance of David J. Strom of the National Mediation Board's staff, who rendered valuable aid to the Board during the proceedings, and particularly in the preparation of this Report.

Respectfully submitted,
RODNEY DENNIS, *Chairman*
ROBERT, J. ABLES, *Member*
MARTIN F. SCHEINMAN, *Member*

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I. CREATION OF THE EMERGENCY BOARD

Emergency Board No. 212 was created by President Ronald Reagan on September 12, 1986, by Executive Order No. 12563, pursuant to Section 9A of the Railway Labor Act, as amended, 45 U.S.C. Sec. 159a. The New York Metropolitan Transportation Authority (MTA), on behalf of its subsidiary, the Long Island Rail Road (LIRR), had requested the creation of such a board on September 11, 1986.

The President appointed Rodney Dennis, a labor arbitrator based in New York City, as Chairman of the Board. Robert J. Ables, an attorney and labor arbitrator, from Washington, D.C. and Martin F. Scheinman, an attorney and labor arbitrator, from New York City, were appointed as Members of the Board.

II. PARTIES TO THE DISPUTE

A. THE CARRIER

The Long Island Rail Road is a Class I railroad subject to the jurisdiction of the Interstate Commerce Commission and the provisions and procedures of the Railway Labor Act. Every week day, the LIRR carries approximately 283,000 passengers, a majority of them commuters and more than any other Class I railroad in the United States.

The Long Island Rail Road is a public benefit corporation owned and operated by the Metropolitan Transportation Authority, an agency of the State of New York. The LIRR is the only mode of public transportation providing through-service from the eastern end of Long Island to Manhattan and is a vital link in the mass transportation system of the New York City metropolitan area. Its freight and passenger service operates over a system covering approximately 530 miles of track. The LIRR employs about 7,200 persons, 6,800 of whom are covered by collective bargaining agreements. Presently, the LIRR is engaged in a five-year, $1.1 billion capital construction program funded by state bond issues and designed to revitalize the railroad's physical plant and rolling stock.

Despite its importance to New York City's mass transportation system, the LIRR has long been a financially unsuccessful enterprise. From 1949 to 1954, while a wholly owned subsidiary of the Pennsylvania Railroad Company, the LIRR was in bankruptcy. It subsequently became a railroad "redevelopment corporation," still owned by the Pennsylvania Railroad, receiving tax and financial incentives from the State. In 1966, the Metropolitan Commuter Transportation Authority (now the MTA), seeking to preserve this transportation link, acquired the LIRR as a wholly owned subsidiary. The enabling legislation authorizes the MTA to establish and collect such fares, rentals, charges, etc., as may be "necessary to maintain the combined operations of the Authority and its subsidiary corporations on a self-sustaining basis."

The LIRR's financial position, however, has steadily declined. Its commuter operation has a large annual operating deficit. The railroad receives substantial subsidies from the Metropolitan Transportation Authority and the Federal Government. In 1985, government transfer payments to the LIRR amounted to $250 million, or about 50 percent of the Carrier's total railway operating revenues.

The freight operating revenues were approximately $8.5 million in 1985, which are down from recent years. In 1982, freight operating revenues were $13 million. The LIRR, however, is undertaking a major effort to increase volume and operate freight service on a break-even basis.

The last round of labor negotiations between the LIRR and its employees was in 1984 when four emergency boards were created. Emergency Board Nos. 202 and 205 were created to investigate a dispute involving the Brotherhood of Locomotive Engineers. Emergency Board Nos. 203 and 206 were created to investigate a dispute involving the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes. The last strike on the LIRR occurred in 1980.

B. THE ORGANIZATIONS

Fourteen labor organizations are parties to these disputes:

1. Brotherhood of Railway and Airline Clerks ARASA Division, representing: Supervisors and/or Foremen in the Maintenance Departments; and Train Dispatchers.
2. Brotherhood of Locomotive Engineers (BLE), representing Locomotive Engineers.
3. Brotherhood of Railroad Signalmen (BRS), representing Signalmen.
4. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes (BRAC), representing Clerical, Office, Station and Storehouse Employees.
5. Brotherhood Railway Carmen of the U.S. and Canada (BRC), representing Carmen and Coach Cleaners.
6. International Association of Machinists and Aerospace Workers (IAM&AW), representing Mechanics.
7. International Brotherhood of Boilermakers and Blacksmiths (IBB&B), representing Boilermakers.
8. International Brotherhood of Electrical Workers (IBEW), representing Electricians.
9. International Brotherhood of Firemen and Oilers (IBF&O), representing Laborers and Stationary Engineers.
10. National Transportation Supervisors Association (NTSA), representing Technical Engineers, Architects, Draftsmen and Allied Workers.
11. Police Benevolent Association (PBA), representing Police Officers below the rank of Captain.
12. Sheet Metal Workers International Association (SMWIA), representing Sheet Metal Workers.
13. United Transportation Union-Railroad Yardmasters of America Division, representing Yardmasters.
14. United Transportation Union (UTU), representing: Conductors and Trainmen; Special Service Attendants; Maintenance of Way Supervisors; and Maintenance of Way Employees.

III. ACTIVITIES OF THE EMERGENCY BOARD

The Board held an organizational meeting prior to conducting on-the-record hearings with the parties. On October 1, 1986, a hearing was held in New York City to establish the ground rules for submission of the participants' final offers to the Board. Final offers were prepared and sent to the Board on October 17, 1986. Subsequently, on October 21 and 22, 1986, the Board conducted hearings in New York City at which the parties presented additional written evidence and oral testimony. The Board held informal meetings with the parties on October 23, in an attempt to narrow the disputes in issue. Subsequently, the Board met in executive session on October 31 in New York City and on November 3, 4, 10 and 11, 1986, in Washington, D.C. Also, the Board met with the parties, in both Washington, D.C. and New York City on November 10, 11, 12, 13, 14 and 15, 1986.

IV. HISTORY OF THE DISPUTES

The Board has before it two sets of disputes. The first pertains to changes in the LIRR pension plans, and the second to changes in rates of pay, rules, and working conditions, including health and welfare.

In June 1984, the Organizations involved in these disputes, pursuant to Section 6 of the Railway Labor Act, individually served on the railroad notices of demands to amend provisions of their collective bargaining agreements with the Carrier pertaining to the LIRR pension plans. These Section 6 Notices were served as follows:

ARASA 5076	June 6, 1984
ARASA 5077	June 11, 1984 (agreement reached 9/25/86-case closed)
BLE	June 1, 1984
BRAC	June 1, 1984
BRCUSC	June 15, 1984
BRS	June 11, 1984
IAM&AW	June 6, 1984
IBB&B	June 5, 1984
IBEW	June 22, 1984
IBF&O	June 6, 1984
NTSA	June 6, 1984 (notice served by prior representative; agreement reached 9/25/86-case closed)
PBA	June 6, 1984
RYA	June 6, 1984
SMWIA	June 1, 1984
UTU	May 24 and June 6, 1984 (2 notices; notice of May 24 served by prior representative)

The LIRR did not serve its Section 6 Notice with respect to pension matters at the same time as the Organizations, but chose to hold its proposals for the full round of negotiations. Following a joint meeting with the Organizations, the Carrier filed for mediation of the pension dispute. The pension cases were all docketed by the National Mediation Board (NMB) on July 24, 1984, as follows:

ORGANIZATION	NMB CASE NO.
BRAC-ARASA, NTSA	A-11452 (NTSA notice served by prior representative; agreement reached with NTSA on 9/25/86)
BLE	A-11453
BRS	A-11454
BRAC	A-11455
BRCUSC	A-11456
IAM&AW	A-11457
IBB&B	A-11458
IBF&O	A-11459
IBEW	A-11460
UTU	A-11461
PTA	A-11462
RYA	A-11463
SMWIA	A-11464
UTU	A-11465

On October 1, 1984, the LIRR served its Section 6 Notice with respect to rates of pay, rules, and conditions of employment on each of the Organizations. Included were the Carrier's pension proposals. By the end of 1984, 13 of the 15 Organizations had served their Section 6 Notices. By early 1986, all of the Organizations had served their notices. These Section 6 Notices were served as follows:

ARASA 5076 AND 5077	November 28, 1984 (agreement reached with ARASA 5077 on 9/25/86)
BLE	December 1, 1984
BRAC	December 12, 1984
BRCUSC	November 29, 1984
BRS	November 30, 1984
IAM&AW	November 1, 1985
IBB&B	December 21, 1984
IBEW	December 20, 1984
IBF&O	December 27, 1984
NTSA	November 5, 1984 (notice served by prior representative; agreement reached 9/25/86)
PBA	January 27, 1986
RYA	December 1, 1984
SMWIA	December 1, 1984
UTU	October 23, 1984 and November 26, 1984 (2 notices; notice of October 23, 1984, served by prior representative)

Negotiations took place between the LIRR and each of the Organizations throughout 1985 and the early part of 1986. At various times applications for mediation were filed with the NMB. The order of docketing of mediation cases is as follows:

DATE OF APPLICATION	ORGANIZATION	NMB CASE NO.
January 7, 1985	BLE	A-11525
January 28, 1985	UTU	A-11549
February 7, 1985	UTU	A-11561
February 13, 1985	SMWIA	A-11564
February 13, 1985	NTSA	A-11565 (application made by prior representative; agreement reached 9/25/86)
February 13, 1985	BRAC/ARASA 5077	A-11566 (agreement reached 9/25/86)
February 13, 1985	BRAC/ARASA 5076	A-11567
February 13, 1985	RYA	A-11568
March 1, 1985	BRAC	A-11571
March 12, 1985	IBEW	A-11579
March 18, 1985	BRS	A-11583
April 4, 1985	BRCUSC	A-11590
April 30, 1985	IBF&O	A-11599
April 30, 1985	IBB&B	A-11600
April 30, 1985	IAM&AW	A-11601
February 12, 1986	PBA	A-11698

Mediators Robert J. Brown and Paul Chorbajian commenced mediation on all the pension cases on May 16, 1985. On that same date, mediation was also commenced on the work rules cases with all the Organizations except the IBF&O, the IBB&B, the IAM&AW, and the PBA. Mediator Chorbajian commenced mediation on Case No. A-11599 and A-11600 on June 25, 1985. Mediation began on Case A-11601 on November 1, 1985, and on Case A-11698 on March 24, 1986.

Subsequently, the NMB determined that the parties were deadlocked, and on April 8, 1986, the NMB proffered arbitration in accordance with Section 5, First, of the Railway Labor Act. Arbitration was rejected by the UTU, RYA, IAM&AW, IBEW, and BRS. The Carrier rejected the proffer of arbitration with respect to all the disputes on April 11, 1986. Therefore, on April 16, 1986, the NMB released the parties from mediation, and the statutory 30-day "status quo period" began to run.

Although the parties were freed from formal mediation, on May 13, 14 and 15, 1986, the NMB engaged in intensive mediation sessions with each of the parties. These meetings were conducted under the auspices of NMB Member Charles L. Woods and Mediator Chorbajian.

On May 15, 1986, the LIRR requested that President Reagan create an emergency board pursuant to Section 9A of the Railway Labor Act, which governs publicly funded and operated commuter authorities. The Brotherhood of Locomotive Engineers also invoked Section 9A on May 15, 1986. Emergency Board No. 210 was created on May 16, 1986, and a new status quo period was established.

With the approval of the President, the Board submitted its report on June 25, 1986. Subsequently, on July 15, 1986, the NMB conducted a public hearing at which the parties explained their reasons for not accepting the recommendations of Emergency Board No. 210.

Mediation continued under NMB oversight throughout July and August. On September 8, 9 and 10, 1986, NMB Member Walter C. Wallace joined Mediator Chorbajian in further public interest mediation.

As the expiration of the 120-day statutory "status quo" period drew near, the LIRR requested that President Reagan create a second emergency board pursuant to Section 9A (e) of the Railway Labor Act. The request was submitted to the President on September 11, 1986, and on September 12, 1986, President Reagan issued Executive Order 12563, creating Emergency Board No. 212. Section 9A (f) provides that the parties must submit their "final offers for settlement of the dispute" to the Board within 30 days of the creation of the Board. Thereafter, the Board must choose "the most reasonable offer" within the next 30 days. During this 60-day period, and for 60 days after the submission of the report, the parties must maintain the status quo.

Subsequent to the appointment of this Board, the National Transportation Supervisors Association and the American Railway and Airway Supervisors Association, Lodge 5077, reached agreement with the Carrier. The parties completed ratification of these agreements on September 25, 1986.

V. SELECTION OF THE MOST REASONABLE FINAL OFFER

A. PERSPECTIVE

The Board, in its organizational meeting with the parties, determined that it would make its selection from amongst the parties' final offers on a package basis. That is, the Board would select either the complete final offer of the Carrier or that of the Organizations. There would be no issue-by-issue determination.

Our motivation for this procedure was to induce each side to introduce its most reasonable final offer for fear that the other side's final package would be selected. We hoped that the parties' would review their respective positions seriously and then submit and support their "bottom line," proposals. The time for posturing would have passed.

Our hopes were not realized. Neither side has viewed the Section 9A process as an opportunity to put forward its true bottom line proposals in the hope that we would select those proposals over those of the other side.

Instead, the parties have used this Board as yet another stage in the ever-increasing process of negotiation. Both have submitted offers designed for the negotiations that they expect to follow this report.

We view this strategy as unfortunate. A valuable opportunity for truly narrowing the parties' differences has been lost. The posturing herein guarantees further delay, and the frustration that accompanies delay, in the inevitable "real" bargaining that must ensue if an acceptable accord is to be reached.

Moreover, we do not believe that Congress intended the parties to take this approach. It is clear that Congress, in enacting Section 9A, expected that the final offer selection process would further narrow the parties' differences. The process was not to be pro forma. The language of Section 9A evidences an intent that this Board's selection of final offer would either resolve the dispute in toto or would, at the very least, bring the parties sufficiently close so as to make settlement imminent.

The parties have not followed that Congressional intention.

While the different Organization's final offers differ in many ways, we conclude that our selection in favor of the Carrier would be the same if each of the Organization's proposals were individually compared with the final offer of the Carrier.

Faced with the choice as to which full final package to select, in all cases, we conclude that the Carrier's final offer is more reasonable. We do not accept the Organizations' wholesale refusal to deal with the reasoned arguments submitted by the Carrier as to its need to reduce the cost of benefits received by employees. This failure to come to grips with this issue is especially glaring in the area of pension for new hires. Some cost containment in fringe benefits is essential.

We are persuaded that no agreement can fail to address the compelling argument raised, and supported by the Carrier, that its labor costs are out of line, especially in the area of the supplemental pension, as compared to its sister railroads, the Transit Authority and Metro-North.

Thus, forced to choose between the final offers, as presented, and in accordance with the statute, we choose the Carrier's final offer.

We believe, however, that we would be remiss in performing our public function if we did not comment further. After all, we have had the advantage of considerable evidence and argument on the crucial issues in dispute. We have also had the advantage of the wisdom of Presidential Emergency Board No. 210. Finally, we have the advantage of having had, in our official capacity, informal discussions with the parties on the various issues.

Acccordingly, we set forth below our view of what we believe should serve as an outline for a reasonable settlement.

The public interest demands bargaining to resolution.

Our specific suggestions address the major issues of moratorium, wages, pensions, health and welfare, sick leave, on-duty injuries, employee protection, jurisdictional arbitration, and subcontracting.

These issues affect virtually all of the Organizations.

B. WAGES

1. Moratorium

The Carrier proposed a moratorium until January 1, 1989, not to be effective until July 1, 1989. In essence, this would constitute a moratorium of four and one-half years. Most Organizations have publicly argued for a three-year moratorium. However, in the Board's informal sessions, it seemed that the Organizations would not object to a longer moratorium, if the package was acceptable.

We agree that some period of freedom from the need to negotiate is required. Time to operate under a new agreement and to recover from the burden of these negotiations is beneficial to all involved. Thus, we have set forth our suggestions in terms of a four-year moratorium.

2. Wages—Non-Supervisory Employees

This issue entails three subsections. They are wages, shift differential, and the new-hire progression to the job rate.

The Carrier's main thrust during its presentation to this Board was its insistence that the wage scales of all employees be moderated in comparison to the wage scales of the employees working for the Transit Authority and Metro- North. It submitted evidence to show the increasing spread between wage scales for its employees and those of the other carriers.

The Carrier has two objectives to meet this problem. First, the rate of increases to its employees must be less, in percentage terms, than those agreed upon by its sister railroads. (The Transit Authority accepted increases of 5%, 6%, and 6% over three years. Metro North has agreed recently with several unions to a three-year agreement of 5%, 4.5%, and 5%.)

Second, the Carrier argues that any wage increase must not be reflected entirely in the rate structure. Instead, it proposes that certain monies be paid as a lump sum only.

Before this Board, the Carrier proposed a 5% lump sum for 1985; a 5% lump sum for the first half of 1986; a 5% increase in the rate of wages from July 1, 1986 to June 30, 1987; a 4.5% increase in the rate of wages from July 1, 1987 to June 30, 1988; and a 5% increase into the wage rate from July 1, 1988 through June 30, 1989.

The Carrier relied on the Metro-North settlement to support the percentage increases it proposed. It also stressed national rail settlements and other large national settlements incorporating non-rate increases.

Additionally, the Carrier pointed out that full wage rate increases, applied retroactively, would encourage the Organizations to engage in protracted negotiations, since all employees would be assured that a settlement, no matter how long it took, would apply retroactively. Thus, the Carrier maintained that the lump sum, non-rate increases, constitutes a deterrent to overuse and misuse of the process.

Emergency Board No. 210 adopted the Carrier's arguments that all wage increases not be retroactive in the wage rate. They concluded that, of the four years recommended in the agreement, the first year increase of 5% not be in the rate. They recommended that wage increases of 6% for 1986, 6% for 1987 and 5% for 1987 all be applied to the wage rate. Board 210 stressed national settlements, as well as a desire to limit the cumulative effect of the increases on the pay scale as reasons for its recommendations.

The Organizations, on the other hand, insisted that all wage increases must be fully applied to the wage scale. Some Organizations described the national lump sum settlements as a "cancer" that needed to be "cut out."

The Organizations also insisted, to a man, that the responsibility for the process being so protracted rested with the Carrier. They maintained that they were willing to settle expeditiously but were delayed as Carrier officials waited for the Transit Authority and the Metro-North settlements. According to the Organizations, the Carrier did not respond to requests for serious discussions.

Further, the Organizations argued that the lack of full application of the increases to the pay scale would encourage the Carrier to delay bargaining, recognizing that it was in its best interest to do so, as the eventual increases would not be included in the wage rate.

The Organizations' wage proposals, ranging from 5%, 6%, and 6% to 7%, 7%, and 7%, annually, call for full retroactivity in the rate.

The issue of the amount of rate increases and whether they are applied fully to the wage scale is the single most important question in dispute. We are persuaded that the Carrier's desire to bridge the gap between the wages among MTA employees is valid. To widen the differences in labor costs in these negotiations will exacerbate an already difficult problem.

We do not believe, however, that the payment of lump sums is the only method to achieve the desired result. We conclude that wage increases of 5% for 1985, 4.5% for 1986, 5% for 1987, and 5% for 1988 are appropriate. All increases shall be fully retroactive in the wage scale, but upon conditions limiting the economic impact on the Carrier by applying a one-time reduction of pay-back or stretching pay increases over a longer contract.

This proposal will begin to shrink the difference between Transit Authority and the LIRR employee costs. It is also roughly in line with the Metro-North settlements reached to date, as it provides—unlike the Metro-North settlement, which does not address this question—a reasonable wage increase for 1989.

3. Wages—Supervisory

The Carrier proposed a flat dollar increase to supervisory employees, primarily to avoid the compression between their salaries and those of salaried employees to whom they report. In addition, the Carrier sought lump sum, non-rate, increases for these employees, as it did from non-supervisory employees.

We are not persuaded of the merits of the Carrier's arguments. Instead, we believe that the approach recommended for non-supervisory employees, in terms of percent increases and back pay treatment, is equally applicable here. The concern about compression may be resolved through other, more reasonable approaches.

4. Shift Differentials

Currently, the shift differential is 10% of pay for most employees. The Carrier asserted that the shift differential be frozen at the cents-per-hour rate in effect on December 31, 1984. Some of the Organizations were willing to agree with the Carrier's proposal. Others were willing to meet the Carrier proposal partially. Other Organizations argued for retention of the current program. Still others proposed to embellish the present plan.

Emergency Board No. 210 saw merit in the Carrier's proposal and so do we. This type of conversion was part of the recent Transit Authority package. It makes good sense and contributes equitably to bringing wage costs into line without unduly burdening the employees affected.

This recommendation applies to all categories of employees enjoying night differential. We do not propose expanding its application to any other employee category.

5. New Hire Progression

At this time, the progression for new hires generally provides for an entry level of 80%, with four steps to reach the job rate. The Carrier contended that an entry rate of 70%, with five annual steps to full rate, be adopted.

Emergency Board No. 210 accepted this Carrier proposal. It was also part of the recent Metro North settlements.

We agree that this proposal would generate substantial savings to the Carrier. At the same time, we do not believe that this will substantially hinder the Carrier's recruitment efforts. If it does, the Carrier and the affected Organization may wish to provide for a different method of progression. For example, the on-the-record discussion about Assistant Signalmen may suggest the need for a different approach.

Moreover, we believe that the new hire progression is better than the two-tier wage scale adopted by other employers. Under the two-tier program, a new hire will never be able to reach the wage level of an incumbent employee. Such systems breed morale problems and internal strife.

In contrast, the new hire progression recommended here holds the promise of eventually achieving parity with one's peers. That progression is set forth in advance so that an applicant understands what to expect on pay parity.

We, like Emergency Board No. 210, embrace the Carrier's new hire progression proposal for all employee categories currently covered by a new hire progression program.

C. PENSIONS

1. Current Supplementary Pension Plan

The matter of supplementary pensions is a major sticking point between the parties.[1]

Under the current supplementary pension plan, an employee may retire on an immediate unreduced annuity equal to approximately 48% of his base pay at age 50 with 20 years of service. Certain "offsets" to supplementary pension benefits are triggered when railroad retirement benefits are authorized at age 65. The offset generally is either 50% or 100% of primary benefits. There is no cost for supplementary pension benefits to employees hired prior to July 1, 1978; employees hired thereafter contribute 3% of earnings to the plan, matched by the employer.

The unions acknowledge that the current supplementary pension plan is generous as compared to other plans in the industry,[2] but argue that they gave concessions to get this pension plan when adopted in 1971 and that, since that time, changes in the plan have reduced its attractiveness, such as the requirement that an employee hired after July 1, 1978 contribute 3% of his earnings to the plan.

The unions are also distressed that the Carrier has not funded its liability to pay benefits under the current supplementary benefit plan, in an amount of $850 million—and increasing.

The Carrier is concerned that the current plan results in a "disincentive" for employees to remain with the Carrier because of substantial benefits at an early age. More importantly, the Carrier recognizes the dangers to the plan because of the plan's substantial unfunded liability.[3] The Carrier sees the cost of continuing the current supplementary pension plan as potentially 'breaking the bank', as the Board construes the Carrier's representations.

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[1] The primary pension plan is based on benefits under the Railroad Retirement Act.

[2] Employees of the Metro-North Commuter Railroad, also owned by the Metropolitan Transportation Authority (and subject to the Railway Labor Act), do not have any such supplemental benefit plan. The Long Island Railroad maintains that the supplementary pension plan for its employees "is one of the most generous in the United States, rivalled only by police, firefighters, and military pensions."

[3] The Carrier states in this respect that New York State has refused to provide money to fund the plan. There is no evidence that the Carrier has acted improperly with respect to this funding problem.

2. Early Bargaining

Bargaining on the matter of pensions started with very contrary objectives.

The unions generally would have reduced the vesting period to 10 years and the offsets to 25%.

The Carrier originally proposed: to raise the retirement age for all non-vested employees, to reduce benefits by eliminating earned but unused vacation from the base for calculating benefits; and to provide no pension for new hires. In its presentations to Emergency Board No. 210, the Carrier proposed to introduce a new pension plan for employees hired after the date of the next collective bargaining agreement. The essence of this plan was a defined contribution plan whereby the employee and the Carrier each would contribute 3% of earnings into the plan, to be invested in mutual funds with substantial discretion in the employee to invest in money market funds, bonds or equities, the balance to be accumulated in the employee's account to be used to purchase an annuity at—or after—retirement, which would be at age 65, with early retirement at age 55 with 30 years of service or age 60 with 15 years of service. Benefits would vest after ten years' service, with no railroad retirement offset at any time.

Emergency Board No. 210 favored the Carrier's new pension plan, without accepting any of the changes proposed by the Organizations.

3. Final Offers before Emergency Board No. 212

The Organizations have generally agreed to the new pension plan presently proposed by the Carrier but hold to their request of reducing vesting from 20 to 10 years and offset to 25% under the existing supplementary pension plan. The Carrier, relying on favorable recommendations by Emergency Board No. 210 on its proposed new pension plan, has made the same offer to the unions in this proceeding.

4. Board Recommendations

By its nature a "pension" implies benefits for a lifetime of working—or at least a very long time. In such life-time, the business of a commuter railroad, like many other industries, may prosper, fail or stagnate. Government subsidies are no sure thing, given changes in public need for service, general economic conditions or "politics".

The unions have reason to be angry that the existing pension plan is vulnerable because so much of it is unfunded, for reasons outside their control and inconsistent with at least implicit assurances when the plan was first set up that actuaries had calculated contributions to assure plan objectives and that a "government plan" for pensions would be backed by the government.[4]

Expected contributions and governmental backing not appearing on the horizon should persuade the unions it is better to deal with realities than real or supposed injustices.

As matters stand, all current employees, including the 750 employees hired during the period of bargaining for a new collective bargaining agreement, have a very attractive supplementary pension plan. Nothing would change for them. There has been no default in pension payments. None is expected in the near future. Chances improve that full benefits under the current plan will be paid, as unfunded liability decreases as current employees retire.

Under the circumstances, we do not favor the Unions' demand to reduce the offset. We accept, however, the Unions' request to reduce vesting from 20 years to 10 years. Such period of vesting is in keeping with current trends, is not expensive for the Carrier (based on its own estimates) and it would provide consideration to the Unions in exchange for accepting a new pension plan for new hires.

The new pension plan is by no means unattractive.

Since 1978, employees have been making a contribution of 3% of their earnings. The new plan does not change this condition. The new plan authorizes vesting at 10 year service, better then the current plan and consistent with national trends.

A defined contribution plan is modern, promising in results and it puts the employee in considerably more control than the present plan of plan results, in accordance with *his* personal requirements, permiting as it does changes in plan objectives, depending on changes in general economic conditions and personal needs, which frequently vary with age.

Offset being eliminated should permit total pension benefits at retirement at age 65 approximating such benefits under the existing plan, with offset. And, retirement sooner than age 65 is still authorized, with vested rights under a benefit plan that can be left in place to continue to grow without penalty.

The new plan not only is not unattractive; it is attractive. It should be adopted. The Board so recommends.

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[4] An open question at the time of deliberations by Emergency Board No. 210 was whether the Employee Retirement Income Security Act (ERISA) applies to the current supplementary pension plan. A federal court then considering the question has since ruled that the LIRR pension plan is a "governmental plan" and therefore exempt from ERISA requirements. The Carrier's proposal on the new pension plan was predicated on a negative finding on this question, therefore presently pending Carrier pension proposals are not affected by the court's decision.

D. HEALTH AND WELFARE

Emergency Board No. 210 found that: "the Carrier has a medical reimbursement plan whose benefits levels, in the opinion of all parties, are at very least quite adequate".

No evidence or argument presented to this Board warrants a different finding.

The existing health and welfare plans include in their principal features: a deductible of $100 for major medical expenses; cost sharing limited to $1,000 in the worst case; low co-insurance levels before the plans make full payment; no employee contribution to plans providing life insurance, hospital and physician treatment, major medical insurance, prescription drug plan and dental and vision care coverage. Hospital plans provide reimbursement at 100% and surgical fees, for the most part, are reimbursable at 100% of reasonable and customary charges.

The Carrier in this proceeding was persuasive that the cost of providing health and welfare benefits has "skyrocketed", showing, for example, that in 1980 the average monthly cost per employee was $124.01. By 1986, this average had risen to $340.89, an increase of 175% in six years.

Because the health and welfare insurance program is so comprehensive and at virtually no cost to the employee, the Carrier insists that certain cost containment provisions be included in the plan to reduce the rate of increase of cost to the Carrier.

The Carrier has modified, down, certain of its original cost containment proposals.

Present cost containment proposals provide for a phased-in increase of the deductible to $150 in 1987 and $200 in 1988. Beginning in 1989, the deductible would be adjusted by the percentage in percentage increase in the Carrier's health benefit costs in the previous year. The Carrier has dropped its demand for 10% co-insurance, if the Organizations accept the proposed increase in deductibles.

Cost containment measures in the Carrier's proposals on health and welfare benefits still include: limiting to 30 per year outpatient mental and nervous visits, with specified exceptions; limiting chiropractic visits to 25 per year; requiring a pre-admission review for specified hospital procedures, under a procedure to be established; and a requirement for a second surgical opinion before specified operations are to be performed. Further, the Carrier will offer health maintenance organizations and preferred provider/individual practioner association options for employees which will have no deductibles or out of pocket-expense for employees who enroll in these plans.

The Organizations, variously, would: reject all the Carrier's cost containment proposals; increase benefits by as much as 25% for 1986, in particular, Maintenance of Way employees who are said not to enjoy equal benefits with employees in other crafts; or increase the level of benefits of active and retired employees to that granted to non-represented management employees.

The Carrier's need to contain health and welfare cost is evident. Existing plans are most generous. Increasing benefits, as most of the unions urge, is not realistic or justified. The Carrier's cost containment proposals do not significantly decrease benefits; they add some procedural hurdles to their realization for the purpose of better insuring that the medical care to be provided squares with the patient's actual medical needs.

We endorse the Carrier's proposals on cost containment.

E. Other Proposals

This Board has commented on those specific areas in dispute it considers most critical. We do not think that the remaining issues in dispute are unimportant, but we believe, for the most part, that insufficient information is available to conduct a proper analysis. We offer, however, the following general throughts about remaining issues.

1. Sick Leave and On-Duty Injuries

The Carrier proposes a complex scheme for controlling use and abuse of leave for on-duty injuries. We support any system that will effectively control abuse of sick leave, but considerably more discussion between the Carrier and the Organizations should take place before such a plan is put in place.

2. Jurisdictional Arbitration

The Board supports the Carrier's proposal for implementation of an arbitration procedure to solve jurisdictional disputes. We note, favorably, that the Carrier has offered to pay arbitrator fees in this instance.

3. Subcontracting

The Board does not support a non-restrictive right to subcontract work. The Carrier should utilize its own work force whenever possible. Subcontracting should be limited to circumstances where ability and economic concerns dictate the need for outside forces.

4. Employee Protection

The Board supports the notion of lifetime protection for Carrier employees, as proposed by the Carrier. In exchange, we see merit in the need to provide the Carrier with greater flexibility in the utilization of its manpower. The proposed scheme is overly complex and has the potential of inducing unnecessary disputes.

5. Senior Journeymen

As did Emergency Board No. 210, this Board supports the Carrier's position on the establishment of a senior journeyman in the six shop crafts. The Carrier would have flexibility in assignment and craft employees would have an opportunity for advancement to a higher-rated position.

6. Further Comment

In its report, Emergency Board 210 commented that insufficient bargaining had taken place over the many work rule proposals on the table. This Board is compelled to voice the same concern. We find this disturbing and not conducive to good labor-management relations. As a result, the testimony offered at the hearings on work rules lack factual support, as well as sufficient arguments on which to make a reasoned judgment. The Board can, however, offer some general remarks about these proposals:

- The Board does not favor work rules that add new arbitraries or increase arbitraries now in effect.
- The Board does not favor proposals that add vacation time, holidays, personal leave time, or sick leave time.
- The Board supports proposed changes in the grievance procedures that will streamline the system. The new procedures must continue to grant employees due process and a fair hearing for their grievances.
- The Board supports joint committees to investigate and report on issues of mutual interest (for example, safety and technological changes).
- The Board does not favor changes in the Scope Rules that will do more than clarify language that is already well understood by all parties.
- The Board does not favor changes that will hold an employee harmless for false statements made on his or her employment application.
- The Board supports Carrier's efforts to bring additional freight service to the Railroad. The mutual benefit of this increased business is readily apparent. A great deal of bargaining is required before such an increase in freight service can be realized.

We think this report is the basis for a settlement to this dispute. We cannot supply magical answers to the parties' problems, but we commend these thoughts and suggestions to their consideration, in their interest—and in the public interest.

F. Late Developments

Our report, so far, has reviewed the parties' proposals and our corresponding comment, following formal hearings and our initial, separate, discussions with the parties about their respective, but clearly divergent, proposals.

Discouragement about the usefulness of collective bargaining under Section 9A should have been apparent.

Given the distortions to traditional collective bargaining, because of the practical effects of subsidies in this labor-management relationship, it was not surprising we would feel that the parties had not bargained and would not bargain until after our report—if at all.

We were not unique in this assessment. Emergency Board No. 210 and prior Emergency Boards were equally concerned about the process.

There is reason to amend our earlier views.

Very substantial bargaining took place after our report was fully prepared but before its release.

The story is worth telling—for this dispute and for whatever may be the operation of future Section 9A Boards.

Looking beyond their words, on and off paper, we sensed that the parties wanted to talk—to us and, when appropriate, to each other.

The timing and means by which neutrals attempt to start such talks may mean the difference between productive discussions and the other kind.

Providing a catharsis seemed to be essential to starting productive talks. To this end, we gave the parties an outline of our views on the respective issues.[5]

In meetings in Washington, D.C. on November 10, 11 and 12, 1986, after very intensive bargaining, with Board participation, ranking officials of the Carrier and of the United Transportation Union, representing Conductors and Trainmen, Special Service Attendants, Maintenance of Way Supervisors and Maintenance of Way Employees, by far the most numerous of the bargaining unit employees employed on this railroad, signed a Memorandum of Agreement.[6] (Appendix "C")

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[5] These views are contained in this report up to this point. To provide the full history of developments in this proceeding and because the parties already knew our basic views, we chose not to revise such report; rather we preferred to add to it in these comments on late developments.

[6] The Yardmasters, a division of the UTU, also signed a Memorandum of Agreement with the Carrier.

The Board's prior "suggestions" were used as a reference for bargaining. The results were close to those suggestions. Noteworthy in this Memorandum of Agreement are provisions concerning:

- a proposed agreement long enough (54 months) to give the parties breathing time until negotiations for a subsequent contract;
- wage increases which do no violence to the terms of agreements of the other constituent railroads within the Metropolitan Transportation Authority;
- full retroactivity of pay, but staggered and extended in a way to reduce the economic impact on the Carrier;
- containment of wage costs by the addition of an extra step in the new-hire wage progression plan, while still retaining ultimate parity between employees doing the same work so as not to demoralize new hires;
- realistic improvement of existing pension plans by reducing the vesting period and, for new hires, a pension plan which will not increase unfunded liability of any pension plans and which, at the same time, is modern, forward-looking in plan results and which permits employee participation in plan funding to help accomplish personal pension objectives;
- cost containment of health and welfare benefits, but improvement of such benefits for a particular group deserving of equal benefits with other employee groups;
- changes in work rules, discipline procedure, holidays and related conditions of work and benefits to help correct injustices or inequities that have crept into relationships since earlier contracts;
- and, exceedingly significant, a moratorium plan on service of Section 6 notices so that if the parties have not resolved all issues by April 1, 1989, regarding a new contract, they have committed themselves to jointly requesting from the National Mediation Board a proffer of arbitration, thus giving substantial promise that the current impasse in labor-management relations will not be repeated.

Full agreement and ratification not having been reached between the parties signing this Memorandum of Agreement, and with other agreements between the Carrier and other Organizations still pending, it cannot be concluded at this juncture that no difficulties remain to realizing labor peace on this railroad, but there is reason for optimism. We salute the parties who have so far negotiated towards a final agreement and encourage those who have not reached this stage to do so with reference to this Board's recommendations and the consensus already reached on the essence of a reasonable, fair, workable collective bargaining agreement, as contemplated by procedures under Section 9A of the Railway Labor Act.

Respectfully submitted,
RODNEY DENNIS, *Chairman*
ROBERT J. ABLES, *Member*
MARTIN F. SCHEINMAN, *Member*

APPENDIX "A"

EXECUTIVE ORDER 12563

ESTABLISHING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE LONG ISLAND RAIL ROAD AND CERTAIN LABOR ORGANIZATIONS REPRESENTING ITS EMPLOYEES

A dispute exists between the Long Island Rail Road and certain of its employees represented by the labor organizations named on the list attached hereto and made a part hereof.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (the "Act").

A party empowered by the Act has requested that the President establish a second emergency board pursuant to Section 9A(e) of the Act.

Section 9A(e) of the Act provides that the President, upon such a request, shall appoint an emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me by Section 9A(e) of the Act (45 U.S.C. § 159a(e)), it is hereby ordered as follows:

Section 1. *Establishment of Board.* There is hereby established a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

Section 2. *Report:*

(a) Within 30 days after creation of the board, the parties to the dispute shall submit to the board final offers for settlement of the dispute.

(b) Within 30 days after submission of final offers for settlement of the dispute, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

Section 3. *Maintaining Conditions.* As provided by Section 9A (h) of the Act, from the time a request to establish a board is made until 60 days after the board makes its report, no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

Section 4. *Expiration.* The board shall terminate upon the submission of the report provided for in Section 2 of this Order.

RONALD REAGAN

THE WHITE HOUSE,
September 12, 1986.

LABOR ORGANIZATIONS

ARASA Division, Brotherhood of Railway, Airline and Steamship Clerks
Brotherhood of Locomotive Engineers
Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
Brotherhood of Railway Carmen of the United States and Canada
Brotherhood of Railroad Signalmen
International Association of Machinists and Aerospace Workers, AFL–CIO
International Brotherhood of Boilermakers and Blacksmiths
International Brotherhood of Electrical Workers
International Brotherhood of Firemen and Oilers
National Transportation Supervisors Association
Police Benevolent Association
Sheet Metal Workers' International Association
United Transportation Union
United Transportation Union—Railroad Yardmasters of America Division

APPENDIX "B"

SUMMARY OF FINAL OFFERS

Wages	*LIRR*	*BLE*	*UTU—TS, SSA, M of W Employees*
(1) Retro. Pay	1985—5% lump sum lst half 1986, 5% lump sum	1985—5% 1986—6%	1985—7% 1986—7%
(2) Rate Increases	7/01/86—5% rate inc. 7/01/87—4.5% rate inc. 7/01/88—5% rate inc.	1987—6% 1988—5%	1987—7%
(3) Shift Differential	Freeze at 12/31/84 dollar amounts.	Freeze at 12/31/84 dollar amounts.	15% for all hours except 6 AM—6 PM Monday—Friday.
(4) New Hire Progression	70-75-80-85-90-100 1 year steps	Grade II—1984 rate—12 mos. Grade I—1984 rate—3 mos.	No proposal.
Pensions	Close enrollment in current plan. New plan for new hires.	Reduced offset. New Plan to be NYSERS Tier 3.	10-yr. vesting, reduced offset. No new plan.
Health & Welfare	Cost containment, higher deductibles, second opinions.	Reject all cost containment.	Increase benefits for MW by $200 per month for 1985 and 25% for 1986. For other employees, an additional 3% of payroll to UTU for benefits. For all retirees, same benefits as management.

SUMMARY OF FINAL OFFERS—(Continued)

	LIRR	*BLE*	*UTU—TS, SSA, M of W Employees*
Wages *Sick Leave* *On-duty Injuries*	Use actuarial tables to determine benefits, Board of Doctors to resolve disputes, use restricted duty positions.	No proposal.	No proposal.
Work Force Utilization			
(1) Employee Protection	Lifetime job guarantee; replaces existing rules.	No proposal.	Change stabilization date to signing date.
(2) Jurisdictional Arbitration	Expedited arbitration of jurisdictional disputes.	No proposal.	No proposal.
(3) Subcontracting	Uniform rule for all crafts.	No proposal.	No proposal.

SUMMARY OF FINAL OFFERS—(Continued)

Wages	*LIRR*	*BRAC*	*BRS*	*PBA Patrolmen*
(1) Retro. Pay	1985—5% lump sum 1st half 1986, 5% lump sum	1985—5% 1986—6%	1985—5% 1986—6%	1985—5% 1986—6%
(2) Rate Increases	7/01/86—5% rate inc. 7/01/87—4.5% rate inc. 7/01/88—5% rate inc.	1987—6% 1988—5%	1987—6%	1987—6%
(3) Shift Differential	Freeze at 12/31/84 dollar amounts.	Freeze at 12/31/84 dollar amounts.	No change in current agreement.	No proposal.
(4) New Hire Progression	70-75-80-85-90-100 1 year steps	70-75-80-85-90-95-100 6 month steps; 80-90-100 for Exc. 5, 1 year steps	No change for Asst., delete for Mechanic.	No proposal.
Pensions	Close enrollment in current plan. New plan for new hires.	10-yr. vesting, reduced offset. New plan for new hires.	10-yr. vesting, reduced offset. New plan acceptable.	10-yr. vesting, reduced offset. No new plan.
Health & Welfare	Cost containment, higher deductibles, second opinions.	Increase contributions to trust by $33 per mo. per member.	Increase level of benefits to that granted to non-represented mgmt. employees.	Increase retiree benefits to that granted to non-represented mgmt. employees.

SUMMARY OF FINAL OFFERS—(Continued)

	LIRR	*BRAC*	*BRS*	*PBA Patrolmen*
Wages *Sick Leave* *On-duty Injuries*	Use actuarial tables to determine benefits, Board of Doctors to resolve disputes, use restricted duty positions.	No proposal.	No proposal.	Unlimited sick leave for both occupational and non-occupational sickness & injury.
Work Force Utilization				
(1) Employee Protection	Lifetime job guarantee; replaces existing rules.	Change stabilization date to signing date. New employees covered after 2 yrs. of service.	Change stabilization date to signing date.	Change stabilization date to signing date.
(2) Jurisdictional Arbitration	Expedited arbitration of jurisdictional disputes.	No proposal.	No proposal.	No proposal.
(3) Subcontracting	Uniform rule for all crafts.	No proposal.	No proposal.	No proposal.

SUMMARY OF FINAL OFFERS—(Continued)

Wages	*LIRR*	*SHOP CRAFT COALITION (BRCUSC, IAM, IBBB, IBEW, IBFO SMWIA)*
(1) Retro. Pay	1985—5% lump sum 1st half 1986, 5% lump sum	1985—5% 1986—6%
(2) Rate Increases	7/01/86—5% rate inc. 7/01/87—4.5% rate inc. 7/01/88—5% rate inc.	1987—6%, plus cost-of-living allowance.
(3) Shift Differential	Freeze at 12/31/84 dollar amounts.	10% for all hours except day shift, Monday—Friday.
(4) New Hire Progression	70-75-80-85-90-100 1 year steps	Delete all new hire progressions.
Pensions	Close enrollment in current plan. New plan for new hires.	10-yr. vesting; reduced offset. New plan for new hires.
Health & Welfare	Cost containment, higher deductibles, second opinions.	Increase level of benefits to that granted to non-represented management employees for active and retired employees.

SUMMARY OF FINAL OFFERS—(Continued)

	LIRR	*SHOP CRAFT COALITION (BRCUSC, IAM, IBBB, IBEW, IBFO SMWIA)*
Wages *Sick Leave* *On-duty Injuries*	Use actuarial tables to determine benefits, Board of Doctors to resolve disputes, use restricted duty positions.	No proposal.
Work Force Utilization		
(1) Employee Protection	Lifetime job guarantee; replaces existing rules.	No proposal.
(2) Jurisdictional Arbitration	Expedited arbitration of jurisdictional disputes.	No proposal.
(3) Subcontracting	Uniform rule for all crafts.	No proposal.
(4) Sr. Journeyman	Shop Crafts specialist.	No proposal.

SUMMARY OF FINAL OFFERS—(Continued)

	LIRR	*ARASA 5076*	*YARDMASTERS*	*UTU-MW Supervisors*	*PBA Sgt. & Lt.*
Wages					
(1) Retro. Pay	1985—5% 1st half 1986, 5%	1985—6% 1986—7%	1985—5% 1986—6%	1985—7% 1986—7%	1985—5% 1986—6%
(2) Rate Increases	7/01/86—$780 p.a. 7/01/87—$780 p.a. 7/01/88—$780 p.a.	1987—7%	1987—6% 1988—5%	1987—7%	1987—6%
(3) Shift Differential	Freeze at 12/31/84 dollar amounts.	12% for all hrs. exc. 7 AM–3:30 PM Monday–Friday	10% for all hrs. exc. 6 AM–6 PM Mon.–Fri. (Presently have none.)	15% for all hrs. exc. 6 AM–6 PM Monday–Friday	No proposal.
(4) New Hire Progression	70-75-80-85-90-100 1 year steps	No proposal.	70-75-80-85-90-95-100 1 year steps	No proposal.	No proposal.
Pensions	Close enrollment in current plan. New plan for new hires.	15-yr. vesting; reduced offset, red. contribution. New plan acceptable.	10-yr. vesting, reduced offset. New plan acceptable.	10-yr. vesting, reduced offset. No new plan.	10-yrs. vesting, reduced offset. No new plan.
Health & Welfare	Cost containment, higher deductibles, second opinions.	Inc. contrib. to trust by $15 per mo. per member.	Inc. contrib. to trust by $12 per mo. per member; inc. retiree benefits.	Increase benefits for retirees to management level.	
Sick Leave On-duty Injuries	Use actuarial tables to determine benefits, Board of Doctors to resolve disputes, use restricted duty positions.	No proposal.	No proposal.	No proposal.	Unlimited sick leave for both occupational and non-occupational sickness & injury.
Work Force Utilization					
(1) Employee Protection	Lifetime job guarantee; replaces existing rules.	Change stabilization date to 12/31/84.	Change stabilization date to 1/01/85.	Change stabilization date to signing date.	Change stabilization date to signing date.
(2) Jurisdictional Arbitration	Expedited arbitration of jurisdictional disputes.	No proposal.	No proposal.	No proposal.	No proposal.
(3) Subcontracting	Uniform rule for all crafts.	No proposal.	No proposal.	No proposal.	No proposal.

APPENDIX "C"

MEMORANDUM OF AGREEMENT

The following constitute the elements of an agreement between The Long Island Rail Road Company and the United Transportation Union in settlement of NMB Case Nos. A-11465 and A-11549.

1. *Wages:*
Effective 1/1/85—5%
Effective 1/1/86—5%
Effective 8/1/87—5%
Effective 8/1/88—4.5%

All wage rate increases will be fully retroactive and compounded.

Shift differential frozen at 12/31/84 rates per Carrier proposal.

New hire progression—70%—75%—80%—85%—90%—100%; 240 days of compensated service per step.

2. *Pension:*
New pension plan for new hires per Carrier proposal.

Additional retirement option—age 65 with 10 years (120 months Credited Service), for all current employees in LIRR Pension Plan and Plan For Additional Pensions. No break in service due to illness (language to be resolved).

3. *Health and Welfare:*
(a) Train Service/Special Service—hospital coverage provided to a maximum of 180 days paid in full. The current 60-day limit for in-patient psychiatric and substance abuse paid in full remains.
(b) Employee life insurance will be increased to $28,000, effective 1/1/87.
(c) Cost containment—2nd surgical opinions, hospital pre-admission review.
Train Service Employees and Special Service Attendants will receive the following nervous and mental benefits: In any calendar year, each covered individual will be covered for 20 visits at reasonable and customary rates, and ten visits at one-half of reasonable and customary rates, subject to an annual individual deductible of $100. This provision will be effective January 1, 1987.
The LI Trainmen's Health & Welfare Fund will remit to the Carrier $150,000 to be used to offset the cost of additional health & welfare coverage. The additional balance remaining in the Fund after payment of remaining claims, legal and accounting fees, and taxes, shall be remitted to the Carrier. To the extent such remittance exceeds $30,000, the Carrier will supply additional benefits to be negotiated with the UTU. The cost of such benefits will not exceed the amount of the balance in excess of $30,000.
(d) M of W coverage—[To be negotiated]

3A. *M of W Supervisors:*
(a) $5.00 meal allowance.
(b) Holiday transfer rule.
(c) Expanded optical coverage if existing reserves are adequate.
(d) Carrier will arrange a meeting to discuss such issues as vacations, promotions, rates of pay and other issues of mutual concern.

4. *Sick Leave-On Duty Injury:*
   (a) The provisions of Article 42 (b) of the M of W agreement are amended to provide that the parties will mutually agree to a panel of medical specialists to replace the board of doctors. The Carrier will bear the expenses and fees of the panel members. A single specialist shall review each case.
   (b) The provisions of Article 42(b), as amended above, will apply to all employees represented by the UTU.

5. *Discipline*—change existing rules to provide that the time within which the Carrier may bring charges shall be ten days from the time the department head has actual knowledge of the offense.

6. *Probation Period*—extend to six months.

7. *Bridging Holidays*—employee must work (or be available) scheduled days immediately before and after Lincoln's Birthday.

8. *Stabilization of Forces*—add two years.

9. *Train Service:*
   (a) Lincoln's Birthday shall be a holiday. Employee birthday shall be a vacation day for all purposes, effective January 1, 1987.
   (b) Relief list—change to 8 refusals.
   (c) Vacations—change Art. 17(K)—"18 years" to "15 years" effective 1/1/87.
   (d) A committee of 3 Carrier and 3 UTU representatives shall be established to review issues on relief day lists, extra lists, and general picks. Report within 60 days to LIRR President, who will resolve all disputes with General Chairman.

10. *Special Services:*
   (a) Extra list positions will be.guaranteed 40 hours and bridge holidays.
   (b) Extra list employees who bridge holidays will receive holiday pay.

11. *M of W Employees:*
   (a) Tool allowance increase to $35 in 1986 and $45 in 1987. Include B & B mechanics.
   (b) Carrier's proposal to BRAC re: parkas will be amended to include gloves and delete foul weather, and will apply.
   (c) Meal allowance at $5.00.
   (d) The grievance and discipline procedures will be revised to shorter steps and time limits.
   (e) The Carrier and UTU will investigate sanitation conditions to resolve issues of mutual concern.

12. *Jurisdictional Arbitration*—per Carrier proposal.

13. *Moratorium:*

There shall be a moratorium on the service of notices pursuant to Section 6 of the Railway Labor Act until January 1, 1989, not to be effective before July 1, 1989. If the parties have not resolved all issues by April 1, 1989, they shall jointly request the services of the NMB. If the dispute has not been resolved by June 30, 1989, the parties shall jointly request a proffer of arbitration from the NMB.

For the United Transportation Union: EXCEPT LOCAL 29:

Edward Yule, Jr.	General Chairman
Martin F. Burke	Vice General Chairman
Robert G. Tuttle	Secretary G0505
Alfred Mazzone	Local Chairman G0505
Michael J. Canino	Local Chairman G0505
Frank S. Collura	Local Chairman G0505
Michael Romano	Local Chairman G0505
William P. Stysiack	Local Chairman G0505

Witness: Ricardo McKay

For the Long Island Rail Road Company:
David M. Cohen, Director-Labor Relations

For Emergency Board 212:
Rodney Dennis, Chairman

Agreement subject to ratification by both parties. Effective upon ratification except as provided.

Washington, D.C.
November 12, 1986

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