In The Matter Of:

IN THE MATTER OF AMTRAK AND PRLBC

ARBITRATION HEARING
Vol. 3
January 13, 2014
BEFORE THE AMTRAK/PRLBC ARBITRATION BOARD

IN THE MATTER OF

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES (BMWED), affiliated with TEAMSTERS RAIL CONFERENCE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

and

BROTHERHOOD OF RAILROAD SIGNALMEN, AFL-CIO (BRS)

and their representative

PASSENGER RAIL LABOR BARGAINING COALITION (PRLBC)

The hearing in the above entitled matter recommenced on the 13th day of January, 2014, at 9:04 a.m., at the offices of Morgan Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC.

BEFORE: IRA JAFFE, ESQ. CHAIRMAN
HERBERT FISHGOLD, ESQ.
SHYAM DAS, ESQ.

ON BEHALF OF THE PASSENGER RAIL LABOR BARGAINING COALITION (PRLBC):

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P R O C E E D I N G S

ARBITRATOR JAFFE: Good morning, everyone.
At your convenience, Mr. Reinert.

MR. REINERT: The first thing we're going
to do is recall Charlie Woodcock for some brief
testimony.

Why don't you pull out Exhibit 259?

ARBITRATOR JAFFE: That's fine.
We don't have to swear you in again,
Mr. Woodcock. We do have to remind you, you're
still under oath.

THE WITNESS: Thank you.

Thereupon,

CHARLES WOODCOCK
Recalled for examination by counsel for
the Carrier, having been previously duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. REINERT:
Q Good morning.
A Good morning to the Panel members and the
BMWE and BRS here today.

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(1) Pages 457 - 460
1 Q Mr. Woodcock, I would like to just briefly ask you to identify some documents in response to some questions from last week.
2 A Yes, sir, I do.
3 Q There were some questions last week about bank time among other units.
4 A This is a rule we have with the shop crafts, and I believe Chairman Jaffe asked me a question on how the bank worked.
5 But essentially, this rule allowed employees in the shop craft units to bank the premium portion of their overtime and then be able to take it in lieu of an otherwise payable day off in the future, subject to service requirements.
6 Q Okay. Let's turn to Amtrak Exhibit 258.
7 A 258 is a copy of the national BMWE agreement with the NRLC and the BMWE.
8 Q And what was the date of that agreement?
9 A December 11, 1981.
10 Q And what was the date of that agreement?
11 A December 11, 1981.
12 Q Okay. If we turn up Amtrak Exhibit 257.
13 A The -- my staff along with the operations people in crew management.
14 Q And what is the last page of Amtrak Exhibit 257?
15 A The last page is a chart that essentially takes the elements of the first three pages and puts it into what could be called a modified or a simple spreadsheet.
16 Q And with respect to the question of what is the cost to Amtrak of the UTU conductor promotion and performance bonus payment rules, what answer does the last page of Amtrak Exhibit 257 provide?
17 A Well, the last page shows that, in our opinion, this rule will actually save us money in terms of its impact on our operation and flexibility and efficiencies that it will give us.
18 Q And how much money does it show you in saving in FY14?
19 A FY14 is 855,000 plus.
20 Q And in FY15, '16, and '17 and continuing --
21 A Right.
22 Q -- what are the annual savings projected?
23 A 223,000 each of those years.
24 Q And just briefly, how does the rule provide savings that offset the payout of dollars in performance bonus?
25 A Well, when you look at the document, just
quickly taking you through the pages 1 through 3, the first element is how the $250 amount, which is the annual amount, will save us money. And that's principally in two areas, as we indicated, I think, last week.

One is that now, all employees hired are going to have to go through the promotion rule, take the promotion, and in turn keep their certification and all their qualifications up as part of this and as part of the condition of employment.

And secondly, it allows us -- it's going to retain -- we believe our most experienced people will be maintaining their qualifications and be available to us. That's on the 250.

If you turn to page 2, we believe that a piece that is quantifiable out of this and pretty good quantification is that we should have reduced training for the people from now on coming in the door. We will always have normal attrition.

But now, we believe because people will have to retain those qualifications that this in turn will reduce the amount of training, which you see there in both a six-week and an eight-week segment on page 2.

So that is the 250 in terms of how we see it. We did not attempt within the 250 to put a number on the ability to utilize people there, but it will be shown down below when I get to the two $500 bonus payments.

When you go to the two $500 bonus payments, the operations people, as I understand it, did an analysis of current status who might be eligible given the working amounts of time and the amounts of compensated time that people put in. And so you see that with 1,300 assignments in the conductor ranks, we believe that takes the amount payable with the two $500 bonuses down to about 1.3 million.

Then, a further analysis was done looking at actually how much time people are available. And then lastly, that number which was between 540 and 625 shown on the page 2, that was then looked at with one final filter which raised that number. The final filter was those that had sufficient paid time off, such as vacations and holidays, to credit towards that 118 or 120 days, and that got us to about 895 people we predict would be eligible for the bonus, on average, giving us roughly 895,000.

On the return on investment, there's really two principal pieces to this. The first is that, given the number of vacancies that are currently and have been running, we believe that a conservative estimate, if you take that half of those positions, which is 30, that were advertised and then in turn take an additional filter of 25 percent of those are being filled through overtime, we believe that we would save at least the premium time on that, which would be about $250,000.

And then, if you turn the page that because we should have less overall hiring on our extra boards to staff for the vacancies, we believe a conservative estimate would be about 15 positions nationwide.

And so we get, based on roughly a $67,000 composite rate, that would yield about a million dollars.

None of these numbers, by the way, are loaded with taxes. And in the case of the 15, they are not loaded with the benefits that the Company would also save. So these are fairly conservative estimates.

And then last but not least, we have other factors on page 3 we did not put into the spreadsheet, but we think also could provide us additional savings.

Based upon this analysis, in Amtrak's view does the UTU conductor promotion and performance bonus payments impose any cost upon Amtrak beyond the internal Amtrak pattern?

A No. No, sir.

MR. REINERT: No further questions.

CROSS-EXAMINATION

BY MR. WILDER:

Q Mr. Woodcock, I'm going to draw your attention to page 2 of Amtrak Exhibit 257.

A Yes, sir.
Q. And ask you whether the cost estimates of implementing the six-month $500 bonus were based entirely on historical data of how the patterns of other conductors staff your operation.
A. I was not directly involved, but my understanding is that is exactly what our team did.
Q. Now, from the exhibit, it appears there are 1,300 conductor starts.
A. Yes, conductor positions.
Q. And do I understand that your historical analysis indicates that between 540 and 625 employees obtained the 118 compensated days necessary to qualify for the $500 bonus?
A. Yes, sir.
But that was only looking at the actual assignments worked. That particular level was the assignments that people in those categories actually worked.
Q. Now, is it a purpose of the rule to increase that 500 to 625 closer to 1,300?
A. It would certainly be to incent people to get closer. That is correct.
But behavior, only time will tell whether behavior actually does change to the positive, how much to the positive. We're optimistic that it will.
Q. I see.
Now, if, hypothetically, you were to move the number of conductors working 118 compensated days for a six-month period, would that increase your cost over your historical costs?
A. Well, it certainly could. It certainly could.
Q. And if it in fact occurred, it would, would it not?
A. Yes.
Over and above what, as I said earlier, would be a roughly about an 895 number that led to the 895,000.
So we have already added back what we thought would be a number that, based on paid time off, would hit that.
But, yes, if it went beyond that, it could add to greater payouts.
Q. I see. I see.
And would that change affect the cost pattern that's set forth in the last page of this exhibit?
A. I'm referring to the chart.
Q. I think it would, Mr. Wilder, on both sides.
It would also probably lead to additional savings. But, again, we didn't model that incremental incentive and what it would do to us over and above reasonable baseline settlements.
The proof will be in the pudding when we see how this rule behaves.
Q. Moving to the $250 payment.
My impression from your earlier testimony -- and this is a question. Correct me if I'm wrong.
But my impression of your earlier testimony is that all assistant conductors would be required to stand and obtain promotion within one year of hire and to maintain the conductor certification.
A. After the year, yes.
After each class or each attrition that's brought in, they would be expected to maintain that and keep their cert up.
Yes, they would be eligible for that.
Q. And so the $250 amount, annual amount, will to be given to all conductors. Is that correct?
A. After the year, yes.
A. That is correct except for the initial batch that were considered grandfathered that have up to three years to probably retire, and they were left out of this equation.
Q. And so the $250 amount, annual amount, will to be given to all conductors. Is that correct?
A. After the year, yes.
A. That is correct except for the initial batch that were considered grandfathered that have up to three years to probably retire, and they were left out of this equation.
Q. And so the $250 amount, annual amount, will to be given to all conductors. Is that correct?
A. Correct.
Q. What is that savings based on?
A. That savings is based -- if you turn to page 2, up towards the top, that savings is based on

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(4) Pages 469 - 472
what we would call the initial classroom and initial on-the-job training time that we feel will have less. And that's based on a $16 hourly rate. And that's a rate set by Amtrak. So that's how come that rate is there. Q And how does that amount to 268,000 annually? A I believe that if you add the two numbers up, 115,000 plus the 153,600, that's how you get the number. I think we technically shorted ourselves $600, but that is the number adding up the two.

Q And that assumes that you will have 30 less employees to hire and train? A This is just the training piece. The actual lesser employees hired we believe are reflected on the bottom of the page and over to the next page.

Q What is the basis for determining the savings of 30 employees? A If I could ask, because there's several numbers here, is it the 30 there you're referring to or the 30 at the bottom?

Q I'm referring to the 30 under the 250 at the top of the page. A Well, I believe it comes from 20 percent -- again, it's an assumption on our operations team. It's 20 percent of the current assistant conductor population that are promoted not holding the job.

So that's how it's arrived at, 20 percent of 150.

Q All right. Thank you. MR. REINERT: No further questions. ARBITRATOR JAFFE: Anything you wish to pose?

ARBITRATOR DAS: No. ARBITRATOR FISHGOLD: No. ARBITRATOR JAFFE: Just a couple of very brief clarifiers for our education, Mr. Woodcock, on the same Exhibit, 257.

Do you know why that document was prepared?

THE WITNESS: This was prepared, I believe, to memorialize. We had quite a lot of money we were paying out in lump sums from a cash point of view. And this was designed to be, I think, talking points internally with our management team on how we saw -- or our operations team saw the expenditure of those monies.

ARBITRATOR JAFFE: Got it. Because it bears a date of April 9, 2013, which I think falls in between the agreement and the ratification and signature --

THE WITNESS: Right. ARBITRATOR JAFFE: -- in that period, do you know whether any of this data was shared across the table with the UTU in bargaining?

THE WITNESS: No. I don't believe it was. ARBITRATOR JAFFE: Okay. Do you know whether the UTU was given any cost estimate at all of this in bargaining?

THE WITNESS: I don't believe -- the reason I'm answering it that way, we had a sub team that helped put this together, but I don't believe it was.

But the UTU was aware that there would be, unlike, say, the freight and some of the commuter models, there would be employees that would likely not hit these benchmarks.

ARBITRATOR JAFFE: I see. THE WITNESS: I think, as I might have indicated last week, there was a lot of give and take around how to cut the dates and where we would cut them.

So I think there was at least an expectation there would be some people in the craft that might not hit these targets.

ARBITRATOR FISHGOLD: Was there any thought at the time that that document was being prepared that -- in addition to being able to memorialize and also to explain if the question came up with the UTU prior to ratification where you thought this money would go or what it would achieve -- was any thought given to also, just in
case we have to deal with me-toos down the road to show, that this is a legitimate cost saving as opposed to a -- I'm just using the term "signing bonus" so to speak.

THE WITNESS: Well, when we sat down with the UTU, we were well aware of what had occurred in 243. And we were very concerned that whatever we did not only would not be monetized to other crafts, which is why you don't see any other UTU units receiving this, but we also indicated that, in return for extra money in general of this magnitude, we really needed to address issues around the use and the retention of our skilled employees that were, frankly, inefficiencies and customer service issues for us.

So that's the way we approached it. We felt comfortable that because the me-too refers to general wage increases and refers to basically benefit changes, that we were fine from that perspective. But we were also aware that should it have been monetized to the other UTU units that that could likely be a possible problem given 243's thinking on this issue nationally.

BY MR. FRITTS:
Q     Mr. Pohlot, could you state your name for the record?
A     Bruce R. Pohlot.
Q     And what is your position with Amtrak?
A     I am the chief engineer.
Q     Can you describe your experience in the railroad industry?
A     Sure.

I started at the railroad approximately 40 years ago, 1974, for the Lehigh Valley Railroad in the BMWE union. I stayed with the freights with the Conrail takeover, going to Amtrak in April of 1977. I was -- left Conrail as a supervisor of track. Came to Amtrak as engineer in programs for the Northeast Corridor startup, which is a major capital program from Washington to New York and some work from Boston. I was brought to assistant division engineer, transferred to Baltimore as assistant division engineer, worked on some major capital programs there and maintenance work.

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Went to Los Angeles as division engineer. Later transferred to Boston as division engineer before the takeover and a startup for the New York program, which was a second phase of a major high speed rail improvement project.

(Interruption by the court reporter.)
THE WITNESS: Sure. And from there, I was relocated to Philadelphia to manage the Nero (phonetic) program, the upgrade of high speed rail from Boston to New Haven.

Then later promoted to assistant chief engineer and left there in 1998 as assistant vice president of engineering program management. Went to work for Parsons Brinkerhoff, became their president of a subsidiary company called PB Transit and Rail Systems, Inc. that interfaced with all the railroads, including all the freight railroads at that time. I agreed to accept the position of chief engineer in December of 2012. Returned to Amtrak in order to basically take care of the planning, design, construction, and maintenance of the
Mr. Pohlot, do the BMWE and the BRS work forces report to you through the chain of command?

Yes. All the BRS, which is about 760 people. And all of the BMWE, which is about 2,000 people, 2,600 hundred people.

What involvement did you have in this round of bargaining?

Well, I have been -- since I returned to Amtrak in December of 2012, I have been privileged to attend two mediations that were held since then.

Mr. Pohlot, could you explain what your testimony will cover today?

Well, basically, in an effort to take advantage of the opportunities that have become more efficient, we at times in the engineering department at Amtrak have some troublesome rules that we have to overcome.

We have been looking for solutions and reasonable tradeoffs to work in these work rules and associated costs which Amtrak has had on the table since 2010. I'll be discussing the two work rules that are in the pattern. They are the one-year lock-in after training for BMWE and the BRS 45-mile rule. And then I will go through a menu of options that could fund the additional wage requests.

And, again, I mentioned that we are provide -- or I will provide a menu of options, none of which we are locked into any particular work rule changes. We have put them on the table with BMWE asking for their response to it or for additional rules. We have not received any response to that to date. We also, based on Exhibit 49, which was from the July 2013 mediation, I will not be talking about all the rules in there because some of the rules prove not to have substantial savings, and, as such, we have taken them off the table.

Okay. We are going to turn now to the work rule proposals that Amtrak proposed as part of the Amtrak pattern.

So what I would like to start with is the proposal regarding the one-year lock-in period for the BMWE. Can you explain that proposal?

Sure. There is a training agreement in effect with BMWE that provides that Amtrak will train employees for a variety of our positions. Upon completion of the training and assignment to a position for which they are trained, they must stay in that position once assigned for a six-month period. Amtrak would like to see this period, this lock-in period, extended from six months to one year to improve the skill level of employees, but to also actively utilize their skills into the full length of the production season.

Is Amtrak proposing to change anything other than changing the six months to one year?

No.

There will absolutely be no other changes except the extension of time.

Can you explain how the proposal would help Amtrak?

Well, generally most of the training that we do of people in our production gangs occur in the wintertime prior to our production season, which begins approximately between March and April of every year. We advertise for these positions, and the most senior person is picked to go and attend the training and, upon completion of the training, hopefully have assignment to the position which then he stays in for a six-month period. Unfortunately, the six-month period does not cover our normal full production season, which runs usually, like our major gangs this year ran to almost up to Christmastime. So being allowed to bid off after a six-month period leaves us with a couple of months that range anywhere from a one- to three-month void where we have to fill our production gang, major
operators and foreman, either on overtime or -- well, we really have no choice. We have to fill it because we have to continue to work with the gang during that period.

The one-year extension allows a span at least the production season. Also it allows us to -- well, the employee himself to become even more proficient and comfortable in doing this type of work and with the hope then that he will be able to stay on the job through his own accord.

Q Can you explain the training process for BMWED employees?

A As a good convention, it's a rule was established in 1977.

We do in the assigning office advertise the positions, which our advertisement period the week that we have to do our administrative work takes about three weeks from the opening and the close to it.

Our training, which we'll go into a little more deeper, ranges from anywhere from, you know, 12 plus weeks to a couple of weeks in length.

---

Q Let's discuss some examples of the training.

Can you explain what this chart shows?

A This is just examples of some of the training. It's not all inclusive.

It gives us the formal training parts of the time that it takes in days in order to get there.

Our estimate on proficiency. Although some of these positions, their proficiency capabilities extend beyond the six months because sometimes you continue getting better for a longer migration of time.

And all would fall under the six-month lock-in period.

Q Can you explain what this chart shows?

A Just taking a few examples of some key positions -- and we have several others that we can make available.

But basically, if you take the period of take last year, 2013, track foreman, which is an integral position within the engineering organization. We have in that year 314 positions by our force accounting for that year. We were only able to fill only 272 of them.

We had a vacancy for that year, last year, of 42 even although we trained 62 new employees for that particular position.

However, we had 105 foremen that were not working in the class as foremen at that time.

Q And when you say a foreman is not working in classification, what does that mean?

Where are the foremen working if they're not classified?

A They have generally accepted positions that are below that and -- well, I'll just leave it at that.

Q Have you looked at these numbers --

ARBITRATOR JAFFE: I'm sorry. Does this indicate how many of the people who were working out of class had been trained and left between the six months and the year that we're looking at in terms of the existing rule in the proposed change?

THE WITNESS: No. This chart does not.

But that information is available.

ARBITRATOR JAFFE: Okay. Thank you. Thank you for the interruption.

BY MR. FRITTS:

Q Have you looked at these numbers prior to 2012?

A Yes, we have.

We have taken several years prior to it just to see if there was a trend or a peak. And it's a consistent trend in a negative direction. It continues to go up.

Q Let's turn to the foreman training process.

Can you describe that process?

A Yes.

We have -- just want to give a few examples of the training regiment that our people have to go through.

This is our foreman training. And as you can see, it's a six-week formal training. It's
1 partially a requirement of FRA. All our track.
2 inspectors and the foremen have to meet certain
3 criteria.
4 And I should mention that in the last year
5 average, for each year, we had 34 vacancies in the
6 track foreman class, and we had over 100 people that
7 are qualified foremen that were not working in that
8 class.
9 Q So why would a one-year lock-in period be
10 helpful for foremen?
11 A Well, like all of the other positions, as
12 I mentioned before, the lock-in particularly helps
13 us in the production season for foremen, say that,
14 to carry through the rest of the production season.
15 Now, we have -- we also feel that the
16 additional time will give an additional competency
17 and proficiency for that particular craft and
18 potentially ease some tension on that person who
19 then will stay in that position willing to accept
20 the authority and responsibility that goes with it.
21 Q Let's turn to the next slide, which is the
22 example of the Kirow crane.

1 What is a Kirow crane?
2 A It's one of our largest cranes that we
3 have, though we have several different type cranes.
4 This is particular training is a six-week
5 training period for this crane.
6 This crane is shown because of its size.
7 You can imagine that the qualification
8 being -- this crane can lift 63 tons.
9 It's also an integral part of some of our
10 capital production gangs where an operator has to be
11 available for normally weekend work, which, without
12 them, the work does not progress.
13 Q So why would it be helpful to have a
14 one-year lock-in period for this equipment?
15 A Well, it would -- first of all, it's the
16 same as I mentioned before. It takes me through the
17 production season, which is -- this crane is used
18 mainly in production season.
19 And if that's vacated, we'll say based on
20 a March start and six-month period in, you know, in
21 September, I, again, cannot afford not to do the
22 work because the work has to be done in order to
23 continue towards our goal of into a state of good
24 repair on the Amtrak system.
25 So you're going to fill the crane
26 overtime.
27 And, as in the foremen, if we look in the
28 last two years, we have 20 vacancies on this one
29 particular crane itself.
30 Well, that's not true. We have had 20
31 vacancies for our cranes. We have had some American
32 cranes in there, and we had 86 crane operators that
33 were not working in class.
34 Q Let's talk about one more example,
35 structural welding.
36 Why would it be helpful to have a one-year
37 lock-in period for the structural welders?
38 A Well, again, I mean, we go through an
39 eight-week training period. And then -- for the
40 certification.
41 And then, of course, the proficiency work
42 that's after that. In order to have people out
43 there and to gain the efficiencies for a return on
44 investment for the training of these operators -- or
45 these welders.
46 And, again, in the last few years, we have
47 had only a half a dozen vacancies in our structural
48 welders, but we had twice as many people basically
49 not working in class.
50 Q So what is Amtrak's position with respect
51 to the lock-in period for these jobs and other BMWE
52 jobs?
53 A Well, it's the proficiency and efficiency
54 of an extension of time of having some major gangs.
55 We have gangs of over 100 people that --
56 with one particular position that would not be
57 there, either your only opportunity is recovery on
58 overtime or not do the work. And we in no way can
59 afford the inefficiencies of not working.
60 Q Let's turn now to the craft-specific work
61 rule proposal that is part of the Amtrak pattern for
62 BRS, and that's the 45-mile rule.
63 Can you explain Amtrak's proposal to
64 modify the 45-mile rule?
65 A Yes.
66 Underneath the BRS agreement, employees --
is this working? There we go.

Under the BRS agreement, employees do not have to accept an assignment which is more than 45 miles from their headquarters or 45 miles from their residency.

What this particular option is to extend that to 60 miles. No other changes to the rule. And then basically, it's for the people that we hire in a particular location. And then, the first opportunity to even potentially downgrade themselves to a lower level position will move closer to their residence.

But of course, we hired them in that particular location. We can now force anybody into where we had hired them.

Q Under Amtrak's proposal, could an employee be assigned outside of his seniority district?

A No. No, he cannot be.

Q Why would changing the radius from 45 miles to 60 miles be helpful to Amtrak?

A Well, as I -- well, as I had briefly mentioned, we hire -- for example -- we have key hubs within the Northeast Corridor near our major cities, near Boston, Providence, New Haven, New York, Philadelphia, Washington DC, for examples.

And we'll hire people in New York City, Penn Station, New York, in order to perform the work.

When they gravitate back to their home, closer-to-home locations, again, we cannot require to have them move to the area and work in the area that we have hired them for.

Basically, a change in this rule to a 60-mile radius would allow us then to have them work in the position that we hired them for and we trained them for.

Q Let's take the New York example that you gave.

Here is a map that we're showing of the 45-mile radius. Can you explain what changing the radius to 60 miles would accomplish?

A Sure. The 45-mile radius, as you can see, does not cover our Trenton area, Morrisville area, which we have substantial amount of people.

And again, what this is even less than the full seniority district for which they work in.

If we go to the next slide, which is a 60-mile radius. This now takes us through the Trenton area and allows us then to have somebody in the lower position be assigned back to potentially the area that we hired them.

One more example is that would just take because there are several, is our Groton area up in Connecticut, which is our Midway M and W headquarters, one of them.

And at the 45-mile radius, we do not cover New Haven, it looks that, New Haven to Midway/Groton is 53 miles away. Nor does it cover Groton to Providence, which is just about 60 miles away.

And so if we go to the 60-mile radius, we have now covered those integral areas form our headquarters.

Move forward.

And of course -- and just to mention in the closing of the pattern, or in the pattern, we could consider alternate changes from the ones that I have presented today if the Union so deemed to do that.

Q Okay. Let's turn now to the options that Amtrak has presented in order to fund wage increases in addition to the increases in the Amtrak pattern.

Amtrak has presented the force assignment rule for the BMWED.

Can you explain the current rule and how Amtrak proposes to change it?

Basically, today, we have no way, process to have employees take a job that we have trained them for and they're qualified to hold.

We can only assign people for a vacancy if they're particularly working in that location at -- on that shift, and we can assign them to the gang.

As a result, we have numerous, a host of vacancies that we are continuously under advertisement for.

What we have proposed is a rule that enables us to fill these vacancies in a workable fashion. And, therefore, getting our return on investment for our training.
We have proposed that a junior qualified employee in a work zone would be required to accept a vacancy, forfeit seniority in a class for where that vacancy exists. And just for a quick clarification, a work zone which is set is an area -- we'll take New York division as an example, Brunswick from Newark, New Jersey up to New Rochelle, New York, which is about 30 miles. And from Newark to Holmesburg, which is a little under 60 miles, that's a work zone. So we propose that employees hired and trained in the future would be required to work in the highest rated position for which they were trained. For the four positions noted, the construction inspector, the HRO operators, the four that are listed up on top, over the last five-year period, we have averaged 86 vacancies per year. And we have had 197 employees who are qualified to fill the job but were not filling the job, and we cannot afford these inefficiencies.

Q    What does Amtrak estimate the cost savings would be if this rule change is accepted?

A    The estimate is $3.8 million. There's about $815,000 in overtime savings. About 2.2, 2.3 million in loss of productivity, and about $713,000 savings in training alone.

These proposals would ensure that we can fill these vacancies on a straight-time basis with qualified employees. And, again, ensure that we're getting our return on investment for our training.

Q    Let's turn now to another option that Amtrak has presented for the BMWE that's regarding production. Amtrak has presented for the BMWE that's regarding production. Can you explain the current rule and how Amtrak is suggesting that the rule be changed?

A    Yes. This is basically a two-part proposal, two rules. Underneath Rule 89, which is a Northeast Corridor rule, we have the ability to work across seniority districts. We provisionally have 14 type of gang categories that fall underneath Rule 89. What we're asking simply is to make that 16 rules -- 16 gangs into 17, and then to tie a gang to that rule. Underneath Rule 90, we have five different sections, A, B, C, D, and E. What we're recommending the option is to put all those underneath one Rule 90(a). The effect is basically on D and E, which is our electric traction gangs and our bridge and building southern district gangs. This is -- by applying Rule 90 to all these gangs, we have the flexibility and start time and work week.

Q    If this rule change is accepted, what does Amtrak estimate the cost savings would be?

A    It's estimated at about $620,000 annually. The 89 rule in the tie gang is approximately 221,000. And the 90 rule change with ET and B&B is close to 400,000.

The benefits of having acquired a tie replacement unit will allow us to utilize our equipment and schedule our work better. There's significant costs in all projects, including when I was outside in the private sector, of mobilization and demobilization. Basically without this rule, what we have today is that every time we want to cross the district, we have to abolish a gang and readvertise, which has usually significant schedule obstruction, plus you have new people in a gang, and you have to relocate the equipment.

Q    Okay. Let's turn now to another option that Amtrak has presented to the BMWE to fund additional wage increases.

A    Basically, we do not have for BMWE a shift change rule. If it's required, we would have to do what we do today, pay overtime.

Q    The shift change rule is what is proposed to be the option to make it the same as we have
1 in BRS, where we're temporarily, temporarily being
2 less than a 30-day period, we can reassign people to
3 work on a different shift, whether first trick or
4 third, or third to work first, to meet the
5 operational needs.
6 With that, we are willing to pay the
7 penalty, to pay a premium rate for that time, and
8 they would not work their regular shift. They would
9 stay in that position, again, for normally or less
10 than a 30-day duration.
11 Q How does that compare to the current rule?
12 How are employees paid currently if you
13 need them to work a different shift?
14 MR. WILDER: Objection. We're having more
15 than one question, and I'm not sure what the answer
16 is going to be.
17 MR. FRITTS: Okay.
18 BY MR. FRITTS:
19 Q Can you explain the current rule and how
20 employees would be paid if they are asked to work a
21 different shift than their normal assignment?
22 A Well, like I said, today we pay them for
23 their straight time.
24 But we also have to consider the -- our
25 desire is never to work anybody more than a 16-hour
26 day for safety reasons.
27 So there would be time paid not worked
28 potentially on their regular shift. And then they
29 would get paid a premium time for the shift that we
30 have requirements for.
31 Q Under the proposal that you have suggested
32 here, would a BMWED employee be paid for his normal
33 shift if asked to work a different shift?
34 A No.
35 He would be paid for -- there's
36 clarification required.
37 Our intention is to pay him for this
38 temporary shift change for the time -- for the shift
39 that we require him in.
40 So if he's presently on first shift
41 daylight and we need him to work a night shift, an
42 eight-hour night shift, we temporarily assign him
43 for less than a 30-day period to the night shift.
44 We pay him at a premium time for that
45 night shift, but we do not pay him because he does
46 not work for the day shift.
47 Q What does Amtrak estimate the cost savings
48 would be if this rule change is accepted?
49 A It's estimated at about $482,000.
50 Now, the benefits -- the benefit is that,
51 you know, there's a number of occasions during the
52 year when this happens.
53 And, again, one of the -- the ones that's
54 expected to happen every year is our ultrasonic
55 testing of our rail. It is required by FRA to do it
56 twice a year. In some areas, you do it more than
57 twice a year.
58 Unfortunately, we never know how many
59 defects you'll find. You can't schedule it saying
60 it's going to take you one week to do it or two
61 weeks to do it because the more defects you find,
62 the longer duration it is.
63 You also because of that do not know the
64 schedule across the Northeast Corridor because
65 it's -- if it runs quicker down south because they
66 find less defects, it's going to take longer when
67 you go north or to get to the north. So it's not --
68 there's a scheduling problem for this particular
69 type of inspection process.
70 And this will -- this temporary assignment
71 will allow us to make the assignment of people to
72 where we need them at that time in order to support
73 the inspection process.
74 Q Let's turn to contracting out.
75 Does Amtrak currently contract out
76 specialized non-core work?
77 A Well, yes, we do.
78 And basically, this also is a two-part
79 proposal. It's -- it's non-core work that we
80 professionally contract out with the agreement of
81 the Union. And what we're basically saying is
82 that -- what I'm saying is that BMWE normally agrees
83 to it or I can't think of when they haven't agreed
84 to it.
85 Unfortunately, it requires us to make
86 deals with the unions at a particular cost. And
87 often also is a time delay. A time delay to the
88 schedule of a potential contractor only equates with
1 additional cost.
2 There's a number of functions that Amtrak has consistently contracted out over the years. And what we really want to do is more formalize how we can do this in order to shorten the time frame of allowing us to do it, and then have the process in place of what we have to do in order to upgrade the people.

Q Can you explain how you are defining specialized non-core work?
A Sure. Well, you'll notice on the slide there are several that are very specific of what we have done and are requesting to continue to do in the future.
And we have specialized complex construction projects that we have traditionally contracted out.

Q You mentioned that this was a two-part proposal. Let's talk about leasing equipment from a vendor.
A Under what circumstances does Amtrak need to lease equipment from a vendor?

Q Let's turn now to the options that Amtrak has presented to the BRS in order to fund wage increases in the Amtrak pattern. The first option is the tour of duty/work week rule. Can you explain that rule?
A Sure.

Q And as such, we lease the equipment, and we're more than willing to upgrade our people based on the union names they give us to match the number of contract people that they bring on the property.

Q Now, these pieces of equipment are several million dollars. and there is -- the owners of those equipment often will not allow to -- us to lease their equipment without having their operators on it because they feel more comfortable that they operate their equipment.

Q And so taking these two aspects of the contracting out proposal, can you explain what Amtrak estimates the cost savings would be if these rule changes were accepted?
A The non-core work is about $830,000 annually.

Q The vendor equipment with their operators, about 400,000, for a total of about $1.23 million annually.

Q Let's turn now to the options that Amtrak has presented to the BRS in order to fund wage increases in the Amtrak pattern. The first option is the tour of duty/work week rule. Can you explain that rule?
A Sure.

Q Presently, the -- in order for us to support -- well, say if you do -- well, we do a lot of work at night.

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Q We do a lot of work at night because of our business is running passengers, and they normally don't ride at night. So we have to do our work at night.

Q And so we do a lot of third trick work, particularly BMWE. And we need the support from BRS with the track gangs that support BRS to the various gangs in order for us to put on a third trick maintainer.
Generally, we would then have to advertise a first trick and a second trick even though the first trick and second trick is not necessary for the construction that we're doing on our third trick.

Our other option is to take a first trick maintainer and then put him on overtime to support the gang on third trick. It's not only additional overtime on third trick. Because of the federal hours of service rules, we would have to let him go early from his first trick if he even has time at all to be on his first trick, and pay him for the first trick for time paid not worked.

What we're basically proposing is the same type rules that we have today with BMWE, Rule 32 and Rule 42, and which rules basically say that a 40-hour week, you work five days a week, eight-hour days, for four days a week, ten-hour days. And we state the Saturday and Sunday on and off and the penalty that's paid or the incentive that's given if, in fact, you have to work one of the days.

And if Rule 32, in effect, with less than three shifts, it gives you starting times for when the person can -- the position can actually be advertised.

Q What does Amtrak estimate the cost savings would be if this rule change is accepted?
A It's about a $1.3 million annual savings. About 805,000 of it is on the overtime side. And about 500,000 is if we have to advertise and put in the two other positions.

Q Let's turn now to another option that Amtrak has presented to the BRS in order to fund additional wage increases. That's the rule on production units.
A We're looking to have production units for BRS with a variable headquarters and work schedules just like we do with BMWE.

Can you explain that rule?
A We have a camp car rule with BRS.

However, when we try to substitute hotels for camp cars, we haven't come to an agreement with the Union. So we do not have or had that flexibility of having a gang work across districts, working for a continuous year in the role of construction.

Q What does Amtrak estimate the cost savings would be if this rule change is accepted?
A About 249,000 annually.

This rule would increase and improve our productivity. It allow us to schedule a gang throughout the whole year. We do not have to then, when we cross districts, abolish a gang and then readvertise a new gang.

Q What is the trouble desk?
A Well, the trouble desk is a location usually in our dispatcher's office, and their responsibility has changed over the years. At one time, they actually used to walk our field personnel through schematics to make necessary repairs, the signal people.

However, like many things that change over time through technology, that function is normally not -- is not performed by a trouble desk any more. It's performed by our foremen in the field who has availability of the schematics and support from the supervisor.

So our trouble desk over the years is now becoming more of an administrative function. And it is being manned by assistant foreman level people.

And with this assistant foreman level and the trouble desk, which now a better use of them would be in the field. However, even with that, we have a 50 percent vacancy rate.

And although their function and support to the field has changed, it's still an integral part of the operation because they document what goes on.

They make a call out for people when the trouble occurs. The transportation people who try to say we have a TOL, and the trouble desk will call somebody.
out and have them make the necessary repairs.

What we're requesting is basically to take the position and change the title of it to a lower level position where we can hire from the outside.

Of course, the function of -- by stating that, it is not our intention to abandon the people that are presently on the trouble desk as assistant foremen and want to continue there in that role.

They'll have that capability at their present rate.

Q What does Amtrak estimate the cost savings would be if the rule change is accepted?
A Approximately 218,000 annually.

Now, I would like to mention that a few years ago, Amtrak and the Union were getting very close to an understanding of imposing this particular -- implementing this particular recommendation.

And although it was never finalized, I do believe that we came to a resolution at that time.

Q Has that resolution been implemented?
A No, it has not.

With respect to overtime, Amtrak has presented an option that would be applicable to both BMWE and BRS.

Can you explain the current rule on overtime?
A Well, currently, the employee does not have to work his regular assignment and can just work the overtime.

And but what we're suggesting is adopting the rule the same as we have had with our supervisors with the ARASA union, that they would be paid overtime after they had worked their 40 hours at their regulatory duty.

I will state that 40 hours would also include any vacation, time paid not worked, holiday, would be all accumulated to the 40 hours per week.

Q Why is overtime a problem for Amtrak?
A Well, it's -- well, it's a problem for efficiencies.

We are trying to -- you probably heard the saying before, that if you run like a private business and coming from the private sector, it would make perfect sense to implement a rule like this.

But also we get pressure from Congress. There's a public law that's in effect. We have to -- our president has to sign off on a number of people that is projected to make more than $35,000 a year in overtime, and that has to be submitted to Congress.

D.J. Stadtler will be talking about that a little bit later today.

Q What does Amtrak estimate the cost savings would be if this rule change is accepted for each craft?
A $539,000 annually. About 410 of that for BMWE and about 128,000 for BRS.

And one of the main benefits, which I didn't mention in there is that it would act as a disincentive for their poor attendance, meaning that they can make up their monies by working overtime in lieu of their straight time.

Q Mr. Pohlot, could you summarize why Amtrak has presented these work rule options to the BMWE and the BRS, the options that are now a part of the Amtrak pattern?
A Well, I mean, I do want to mention that we're content to accept the rules that are in the pattern.

And as far as the cost savings menu of options that we have presented, we're more than willing to accept additional options. We have asked for -- from the unions if they want to supply some other ones.

Basically, we were looking for a way that we can fund the additional general wage increases.

Q How much work is there for the BMWE and BRS to perform in the coming years?
A I do not see the amount of work in the near future changing.

I only see hopefully it will increase over time.

MR. FRITTS: Thank you.

That concludes my direct.

ARBITRATOR JAFFE: Thank you.

What's your pleasure?

MR. WILDER: May we have a short recess,
1 say until 10:30?
2 ARBITRATOR JAFFE: Sure.
3 We will stand in adjournment.
4 MR. WILDER: Thank you.
5 (A recess was taken.)

CROSS-EXAMINATION

BY MR. WILDER:

Q Good morning, Mr. Pohlot.
A Good morning.
Q I understood from your direct examination
that you returned to Amtrak and assumed your present
position as chief engineer in December 2012?
A That is correct.
Q Now, during the period 1998 through 2012,
when you were employed by Parsons Brinkerhoff, did
you have any involvement with the Amtrak engineering
department?
A The involvement would be in supporting --
in consultancy to Amtrak.
Q Did you consult regularly with Amtrak?
A Not as regularly as we would have hoped,
but it was not as much as other firms, a little bit
more than some others.
Q Now, did you participate in any way in the
preparation by Amtrak for the 2010 round of
bargaining?
A No, I did not.
Q Would it be accurate to say that the work
rule proposals you have discussed today were
developed and introduced into this bargaining round
by others at Amtrak?
A By my predecessor, I'm sure, Frank Vacca, who was chief engineer.
Q Now, I'm going to ask a general question
and see if I can understand the Company's position
with respect to the optional work rules that you
described.
Is it the Company's position that each of
the engineering organizations, the BMWED and the
BRS, can obtain additional GWI increases by, in
effect, trading for the value of work rules?
A In order to -- in order to pay for the
additional cost that's associated the same as the
freight rules, we need some work rule changes with
the associated costs.
Q That is correct.
A We have offered several today which were
also in our mediation documents. And as I had
mentioned, we were hoping -- still hoping to if
there are other work rule changes that the unions
want to propose.
Q All right. Now, staying with that line of
thought for a moment, Mr. Pohlot, does the Company
contemplate that there will be an additional
specific percentage amounts for both the BMWED and
the BRS?
A I don't quite understand that question.
Q All right. Let's take a hypothetical.
A Let's assume that all of the work rule
changes that you have described among the optional
changes were agreed to by BRS and BMWED. Would that
warrant in the Company's view a 1 percent pay
increase for both organizations, 2 percent pay
increase for both organizations, or perhaps a
different percentage increase for the BMWED and the
BRS depending on the value of the work rule savings
that the Company has estimated?
A From my knowledge, we have estimated each
individual rule.
Q I have not taken that and applied it with
all of the other in-pattern changes that were made
in order to come up and say that it covers the
entire cost of the freight rule wage increases.
Q So can I get back to you on that?
A We have the documentation. It's basically
just a calculation that we would have to do. But as
again, as I mentioned, it's a menu.
Q So I mean, if you take some, there's a
dollar value that we can associate with it. If the
Union thinks it's a different value, we're more than
willing to sit down and recalculate it.
Q And based on the amount of monies that
come to the pot, whether it's a percentage of 1
percent or 2 percent increase.
A In order to -- in order to pay for the
additional cost that's associated the same as the
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IN THE MATTER OF AMTRAK AND PRLBC

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1 this is the appropriate witness to be asking these
2 questions.
3 You're asking a bargaining strategy issue
4 of whether -- how the valuation would be done with
5 respect to the two unions.
6 He has given the numbers on work rules.
7 You can cross him on that. He hasn't talked on the
8 methodology of converting.
9 And quite frankly, if you want to talk
10 about that issue, we can talk about that issue. But
11 that conversation never occurred at the table as for
12 as I know.

ARBITRATOR JAFFE: I don't know that it
13 exceeded the scope of direct. So I think it's
14 within bounds in terms of cross.
15 In all fairness, though, if it's something
16 that Mr. Pohlot knows -- because I understand
17 they're not asking for bargaining strategies. He's
18 actually asking for position in this proceeding.
19 If he knows, he can enlighten us. And if
20 the answer is he doesn't know, nobody is asking him
21 to speculate. He'll tell us he doesn't know. That

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works too; right?
2 And if you want to cover it with another
3 witness, you have obviously got the ability to do
4 that.

ARBITRATOR FISHGOLD: And in several of
5 the proposed -- or the menu of rule changes, there
6 were different changes attributed to the same rule
7 to both unions, in one instance more for one than
8 the other, so I can understand the nexus of the
9 question.
10 MR. REINERT: The Board members should be
11 aware we have got a different headcount in these two
12 unions as well.
13 ARBITRATOR JAFFE: We understand that.
14 MR. REINERT: Okay.
15 ARBITRATOR JAFFE: Do you want to pose the
16 question again, Mr. Wilder, since it has been a
17 while, if you don't mind, or have it read back?
18 What's your pleasure?

BY MR. WILDER:
19 Q The simple question is, does Amtrak
20 contemplate that, depending upon the work rule

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1 savings involved, there could be different wage
2 percentage, wage increases for the BMWED and the
3 BRS?
4 A It's my understanding it would be the same
5 since you approach this as a unified organization.
6 However, that being said, again, I am not
7 privy to all of the strategies at all, how it was
8 set up.
9 I have concentrated specifically on what I
10 mentioned today, as how it affects the engineering
11 department relative to the work rule changes.
12 Q I'm going to ask you to turn to Slide 9 in
13 Carrier Exhibit 500.
14 A Now, according to Slide 9, Mr. Pohlot,
15 in 2013 -- excuse me.
16 I'm referring to -- let's turn to page to
17 Slide 10. And I'm referring to the middle block,
18 which indicates that in 2013, ten crane operators
19 were trained.
20 Do you see that?
21 Q I'm going to ask you to turn to Slide 9 in
22 Carrier Exhibit 500.

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1 Kirow crane operators?
2 A I do not have that information readily
3 available, but I can definitely get it for you.
4 Q How many Kirow cranes are there on the
5 property?
6 A One.
7 Q One. And what is the staffing for a Kirow
8 crane?
9 A For all our cranes, it's one operator.
10 So I had put up there the Kirow crane just
11 to show the magnitude of the type of equipment we
12 have. But we have an American crane that is a
13 significant size crane, also.
14 A It's a high rail crane.
15 Q Now, referring on Slide 10 to the 18
16 vacancies that were created in 2013 among the crane
17 operators.
18 Of those 18 vacancies, how many were
19 created by employees transferring to a different job
20 classification within one year of their having been
21 trained?
22 A Again, I don't have that information
readily on hand, but we can easily acquire that for you.

Q    Now, moving to the right-hand column in the middle block of Slide 9, can you tell me whether some or all of the 86 crane operators working out of class are working as foremen?
   A    Again, I do not have that available, the detailed information.
   My staff put this information together for me. So we know we have it available, but I do not have it right with me today.

Q    Is the foremen classification a higher rated classification?
   A    Yes, it is.

Q    Can you tell me whether other equipment operator positions on the property have a higher potential for overtime opportunities than the crane operators?
   A    I don't know if I would categorize it as positions.
There's certain jobs as they come up, and it's not the same one that goes on for decades, that would have a potential for a higher earning in a lower class because of overtime.

   But I would not say that we could -- if we made a list up today that that list would still be good next year.

Q    That list would be what?
   A    Of higher earning at a lower rate because of overtime.

Q    And would that list of positions change over time? Is that your point?
   A    Yes.

Q    All right.
   A    By location, by geography, by work.

Q    Now, are all or most of the 86 qualified crane operators eligible to bid and hold crane operator positions without additional formal training?
   A    If you're qualified on a piece of equipment and you have your card stamped, that is the training that's required in order to be qualified on a piece of equipment.

There's annual qualifications that must be constantly updated for various positions, whether it's our physical characteristics or whatever the case may be depending on the position.

Q    Are the crane operators subject to annual requalification?
   A    Annual requalification on, for example, like AMD2?

   Q    Yes.
   A    Yes.

Q    Referring, again, to 2013 on Slide 10, in the middle of the page.
   Of the 37 positions, crane operator positions filled in 2013, can you tell us what the average stay in that classification was for that group?
   A    No, I cannot right now.
   If you would like, we can definitely research that.

Q    All right. And last of all, with respect to Slide 10, referring to the third column from the left, positions on force account by year, can you tell us what that refers to?

A    These are the positions that we have -- are advertised and awarded or advertised and go vacant.

   That is our force account requirement for the year.

Q    And is it both categories that you have described or just the latter?
   A    Both.

Q    Both. Now, you have described a change in the lock-in after training requirement for the BMWED, Mr. Pohlot.

Can you tell us whether during the extended six months the affected employee would be exposed to forced assignments for that period?

A    If I understand your question correctly, if he was assigned to a position of which he had been trained to hold and is now qualified to hold, he would not be able to bid out of that position.

   Q    And could he be assigned anywhere within the seniority district in that classification?
   A    We're talking about the training lock-in; correct?
Q    Yes.
A    Yes. The training lock-in is assigned within the work zone for which he -- when he put in for his -- we have advertised for the training of that position there's a zone associated with it, a work zone.
But whatever work zone that that advertising went out for which he was awarded the training, he would be required to be in that work zone in that position that he was trained for.

Q    Would you turn to Slide 21, please?
Mr. Pohlot, as I understand your description of the change in the force assignment rule that the Company presents as an option, employees must accept vacancies within the work zone for which hired and trained, or forfeit the seniority and entire classification.

Mr. Fritts: Mr. Pohlot, are you looking for the July mediation materials?

The Witness: Yes.

Q    Does the proposal confine it to the work zone?
A    That's correct for employees who were -- as of the date of the execution of this contract.
Q    So I -- I really can't answer that question.

BY MR. WILDER:
Q    Does the proposal confine it to the work zone?
A    Not in 49.
Q    Now, is it accurate, Mr. Pohlot, that the BMWED work zones within the Northeast Corridor generally require at least an hour to traverse by car?
A    That would be an assumption on my part to say an hour.
So I -- I really can't answer that question.
Q    Can you tell us whether the force assignment rule that the Company is proposing would require longer commutes and higher out-of-pocket costs for affected employees?
A    Well, I would say not necessarily.
You know, it basically is, you know, there would be times when it actually could be a short commute.
It could be -- I mean, it would be 50 percent either way. That's more getting to the rationale of why they're not holding the position relative to a geographic area.
We know -- I know because I have been told by the people themselves, that they take a lower position sometimes because it's a flagman position that they wanted the overtime for, and they don't want to take -- even though they have been trained in these positions, they don't want to take the responsibility even on the associated authority to be a foremen, so I'll just hold a flag.
Q    Now, are BMWED employees paid for commuting out-of-pocket costs?
A    No, they are not.
We do give them free transportation on Amtrak trains.

MR. WILDER: I'm going to ask that we turn to the rules relating to temporary shift change. That is on Slide 25 of his statement.

BY MR. WILDER:

Q    Now, would this change, if implemented, provide less compensation for production employees affected by the temporary shift change than is available under the current rules?

A    Potentially, it could actually offer more compensation because we could be getting it at a premium pay.

Q    I thought the purpose of the rule was to ensure that a production employee could be temporarily reassigned at a premium rate but without paying the straight time rate to that employee. Is that correct?

A    Well, for clarification, it's not just production. It's also maintenance. And it is shifting temporarily less than a 30-day duration to a position where he could get potentially time and a half for his pay without getting paid the straight time rate.

Q    I see.

A    So that temporary assignment for the production employee that you described would result in less pay than a temporary assignment for the same employee under the current rules. Is that correct?

A    Only if you make an assumption that the employee is on working on a straight time shift. And if you're saying the difference being penalized or at overtime rate and at the straight time rate, that would be correct then.

Q    The temporary shift change issue does not affect employees on traveling gangs, does it?

A    It really doesn't because we have that capability underneath 89, for example, Rule 89 to change the shifts.

Q    In ballpark figures, Mr. Pohlot, would it be accurate to say that approximately 60 percent of the BMWED work force is comprised of employees, and 40 percent of the BMWED work force is comprised of employees who travel?

A    I would have to get that figure for you because you would have to -- in that evaluation analysis, you really have to break that out to the number of months in a year that each one of those crafts are working so you can -- and if you wanted me to pick a particular point in time, then I can easily give you that information, you know, say in July of a year.

But since it varies when we get out of our production season, then if you want an answer to that question, we would have to do a calculation analysis.

Q    Do I understand you correctly to say that the answer to the question cannot be generalized throughout the year?

A    Oh, it could be.

Q    It could be.

A    But generalization would have to account for the times when the production is at a lull or when the production people are at a high.

Q    Now, does the current rule with respect to temporary shift changes adversely affect operations?

A    Well, you say the current rule.

A    As for BMWE, not the current rule for BRS.

Q    Yes.

A    The current rule for BMWE could potentially disrupt the operation relative to the long-term effects of not getting the work done. And, again, if we use the -- anything from a Sperry car.

If we go out there and if we don't have a gang that will support replacement of the rail, and we find it that -- a Sperry car, gentlemen, is basically an ultrasonic test of the rail which finds rail flaws before they actually become in-service failures and break under a train.

And so we can go out there. And if we went with a Sperry car and we didn't have this gang following them with a crane and the manpower to change out a rail; and we find a rail, and then we have to take the track out of service, has a detrimental affect on the operation to the effect

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that the passenger potentially on which route it is could be delayed for several hours in the morning, in their morning rush.

Q    How does that affect on production flow from the current temporary change rule?

A    Well, what I'm describing is that today you go into -- go on the Springfield line. We have no maintenance gangs at night. We have no maintenance gangs with that magnitude based within Penn Station at night time. And so we have to get people to work based on the union rules and by seniority request them put together a gang that can go out there at overtime to do it. And so that's based on the availability of people and the willingness of them to work overtime, if they're even available to do it. The other option is you don't run the car if you don't have the people.

Q    But the question that I'm trying to get answered and to understand is how the present temporary shift change rule for the BMWED would adversely affect anything that you have spoken of.

A    Okay. I understand that -- just for my clarification, are you saying if we -- if the proposed option is implemented, what would be the negative effect?

Q    No. No.

A    Oh.

Q    What is the negative effect on production, if any, of the current temporary shift change rules?

A    We have no temporary shift change rules today for BMWE. We have temporary shift change rules, Rule 27 under BRS.

Q    What is it that you ... ARBITRATOR DAS: Can I interrupt for just one second on this point here, just so I can make sure I'm understanding?

MR. WILDER: Yes.

ARBITRATOR DAS: Are you saying then that right now for the BMWED, if you need people on a different shift, you have to solicit them for overtime to perform that?

THE WITNESS: Yes.

I mean, we have -- ARBITRATOR DAS: You can't assign them to a different shift?

THE WITNESS: That is correct for maintenance, unless they're already a production gang.

But we'll talk about a maintenance gang, and that is correct for the short durations. My option is I can advertise it, but the advertising process is a minimum of three weeks.

ARBITRATOR DAS: Sure.

THE WITNESS: And because of the short time frame prior to knowing exactly when the need is for a lot of this work is less than three weeks.

And because you don't know how long it extends for generally, that's usually short durations on a couple of weeks in a particular work zone, is that we end up having to do it on overtime.

ARBITRATOR DAS: And the second consequence, if you got the change that you are offering as an option, would -- there would be a cost difference. I think that's what Mr. Wilder was asking about before, because then you would only have to pay -- you would pay a premium for the shift they're being changed into, but they wouldn't work their regular shift.

THE WITNESS: That is correct.

BY MR. WILDER:

Q    And just to make the record perfectly clear, the rule that's depicted on Slide 25 of your presentation is a BMWED rule, is it not?

MR. FRITTS: Mr. Wilder, could you indicate what part of the slide you're referring to?

Are you referring to the bottom or the top?

MR. WILDER: The current rule that we're looking to change. That's what we're talking about.

BY MR. WILDER:

Q    There's a reference on the page to the proposed change being similar to BRS Rule 27. That's what we're trying to straighten out.

Page
1 A That's correct.
2 Q It's the BRS Rule 27, not the BMWE production.
3 A Yes.
4 Q The current rule.
5 A The current rule is a BMWE rule.
6 Q Thank you.
7 A Or lack of.
8 Q Would you turn back to Slide 23 of your presentation, Mr. Pohlot?
9 A And the reference to current rule is to BMWE rule relating to production units.
10 Q Is that correct?
11 A Correct.
12 Q And for the record, those rules are Rule 89 and Rule 90; correct?
13 A Correct.
14 Q Now, would you agree that all track production work requires securing and trying on the track on often adjacent tracks to perform the improvement work?
15 A It -- our production gangs, as a generalization, you could say that we would like to have track usage and a track being out of service.
16 Q There's a lot of preparatory work and a lot of work where you do not have to have a track out of service, even from the extent of constructing bridges on the side, restructuring switch packets outside the track.
17 A ( Interruption by the court reporter.)
18 Q THE WITNESS: Is that the question, as I understood it, was that does it require track usage, track on the -- time on the track.
19 A And I said generally, as a generalization, yes, it does. But I also had mentioned that the gang itself doesn't necessarily always require track time to be productive because they may have to build switches outside the track, or they may have to actually construct bridges outside the track zone before the day we put it in.
20 Q Now, would it also be accurate, Mr. Pohlot, to say in general that bridge improvements do not always require tracks to be taken out of service?
21 A Well, that's true.
22 Q But the majority of -- we're going to construction. At some point in that construction, the track normally is being taken out of service. If we're working on a beam below the bridge, we potentially -- if we can get access to it without taking the track, meaning work from below, we can do some welding underneath it. But if we're changing out bridge timbers or replacing the bridge with a bow state (phonetic) bridge, we will obviously need to take the track out, and some of them for several weeks.
23 Q Is it possible to repair bridges without taking all tracks across the bridges out of service?
24 A Yes.
25 Q Is that done?
26 A We -- no.
27 Q We do our repairs by minimizing the number of track outages that we get at a time. We obviously can't -- we're not like a freight railroad where you can just stop traffic and then start it back up a week later.
28 A We have a lot of people relying on the Northeast Corridor to run trains.
29 Q Would you agree that scheduling track production work usually requires greater flexibility than scheduling bridge rehabilitation?
30 A No, not necessarily.
31 Q The scheduling, master schedule overall has to encompass all of the major outages and other outages for the entire year. We have outages, which we have had several this past year where we actually have our commuter stake -- shareholders change their train schedules in order to accommodate our work because of the additional delays that we actually give -- put on the commuter trains for them to run around our work.
32 Q And that's true of all work, is it not, both track production work and bridge Min-U-Script®
1 rehabilitation?
2 A Potentially if the work can be done on a
3 shift at night time, productivity -- with a high
4 enough level of productivity, we will take our
5 outages when the least amount of trains are running.
6 And then they have the flexibility because
7 of the additional capacity that's given to them to
8 run the trains on time at night time.
9 When we particularly have an element of a
10 bridge, if you want to use that, where we know it's
11 going to take us a day, two days, three days, or
12 more to do the installation, then that outage for
13 that amount of time has to be looked at closely.
14 Because for the three-day job, it will probably be a
15 weekend job.
16 If it's an extended period of time, then
17 we'll look at the work with our partners, planning
18 out a year ahead in order to have schedule changes.
19 Q Does Rule 90(a) deal with track
20 production?
21 A Yes, it does.
22 Q And Rule 90(a) enables the schedulers to
23 the degree of flexibility that they need to schedule
24 the track work, does it not?
25 A Yes.
26 It's one of the elements that's looked at
27 because it doesn't drive the schedule. The schedule
28 drives the time that the gang will have to work.
29 Q And can you tell me how long Rule 90 has
30 been in effect in the BMWE agreement?
31 A I would have to get back to you on that.
32 I don't have the data.
33 Q Is it your testimony that the bridge and
34 building work requires just as much flexibility in
35 scheduling as does the track production that's ...
36 A Yes.
37 The ability to take a gang and work them
38 doing the same kind of function continuously for a
39 year, the productivity and efficiency increases
40 significantly compared to the demobilization and
41 mobilization of gangs strictly because you're going
42 across an imaginary line.
43 Q But your Collective Bargaining Agreement
44 has not so provided for years, has it?
45 A That is correct.
46 Q Can you tell us, Mr. Pohlot, whether the
47 change that you propose to Rules 89 and 90 would
48 disrupt seniority expectations of employees subject
49 to those rules?
50 A I do not believe so.
51 Q I don't believe it has had that impact on
52 our track gangs.
53 Q Now, as I understand it, Rule 89 gangs
54 travel throughout the Northeast Corridor.
55 Q Is that correct?
56 A That is correct.
57 Q And Rule 90 gangs travel in either the
58 northern or the southern seniority districts.
59 Q Is that correct?
60 A That is correct.
61 Q Is it your proposal to enable all gangs to
62 travel throughout the Northeast Corridor?
63 A 89 gangs.
64 Q 89 gangs only?
65 A Correct.
1 that will move quite rapidly, and it will look like
2 I'm intimidated.
3 ARBITRATOR JAFFE: There's an entire room
4 of people here who have worked with you before.
5 I doubt anyone believes that either of the
6 attorneys will feel intimidated by the other.
7 BY MR. WILDER:
8 Q    Now, on contracting out, as I understand
9 your proposal for the BMWED, Mr. Pohlot, you're
10 proposing to replace the current system in which the
11 parties deal with contracting out issues and
12 difficulties in conference in advance of the
13 contracting out with a system in which the carrier
14 implements a rule and then you fight over the
15 implementation in the grievance proceeding
16 afterwards.
17 A    Except for the point of fighting over it.
18 The contracting out, I think, is something
19 that could be correlated to our -- to our brush
20 cutting/tree cutting contract.
21 It's basically to put a process in effect
22

1 that allows a quick implementation, when we have to
2 have an expedited construction project, to move
3 forward with an understanding of the implications of
4 what -- who the people -- what positions that would
5 normally be upgraded.
6 We will continue doing the work. We will
7 continue doing what is necessary to protect the
8 property, whether it be from an inspection
9 perspective or whether it be from the protection of
10 the people themselves if it's near the railroad.
11 In no way have we ever in our minds
12 thought that we were going to let that go to the
13 contractor. It's on our property.
14 We just basically want to formalize what
15 we have been doing so we can do it more efficiently.
16 Q    I'm going to ask you to turn to the BRS
17 45-mile rule, Mr. Pohlot, that appears on Slide 14
18 of your presentation.
19 A    I'm wondering, how does the rule as it
20 exists, that is with a 45-mile radius, tender
21 Amtrak's ability to assign new hires to positions
22 when they have completed training?
23

1 A    I don't believe that it has an effect of
2 assigning people when they finish their training
3 because it's within their work area, their work
4 district.
5 So once they complete their training where
6 they can meet that assignment, our particular
7 situation -- we'll call it a problem -- is that they
8 are allowed to bid down after they're in that
9 position to a lower class outside a 45-mile radius
10 from where we hired them and then we have no way to
11 bring them back to a location where we hired them
12 and where we trained them to be a higher class.
13 Q    Isn't the real problem, Mr. Pohlot, the
14 fact that you have 99 vacancies within the signalmen
15 and the signal maintainers classification?
16 You have 200 hirees, and they're not
17 getting through training?
18 A    Well, we have now expedited our training.
19 I cannot speak to the numbers because they
20 will also change. And I can easily get back to you
21 on the number of vacancies that we presently have.
22 But what I could say is that we do have
23 people working in a lower class outside the 45-mile
24 radius from where the location -- from where they
25 were originally hired.
26 Q    Now, isn't it true that those 99 vacancies
27 occur throughout the Northeast Corridor?
28 A    Again, I haven't -- I would have to get
29 back to you on the vacancies that you're referring
30 to.
31 I'm not so sure 99 is the correct number,
32 so I will have to get back to you on that.
33 Q    Let me take an example that I think you
34 used in your direct testimony.
35 You were referring to the inability to
36 fill two positions at Trenton from the New York
37 headquarters.
38 Is that correct?
39 A    No.
40 I don't believe my testimony stated the
41 number of positions, nor that -- I could have made a
42 comment that it could go either way, you know, with
43 Trenton to New York and New York to Trenton.
44 I can say our vacancies are maintainers in
1 New York.
2 Q The vacancies -- you have vacancies to
3 fill in New York. Is that correct?
4 A In New York.
5 Q And your complaint is that you couldn't
6 use new hires in the New York headquarters to fill
7 vacancies in Trenton?
8 A No.
9 The point I was trying to bring across --
10 and it's more of an example than anything else -- is
11 that if we hire somebody in New York City because we
12 know based on attrition rates and future needs that
13 we'll need additional people in the New York City
14 area potentially two or three years from now, we can
15 hire people to be eventually signal maintainers
16 after two years of training in the New York area.
17 My point is we can train them for two
18 years where we hired them in New York, and, after
19 they get the job, the first signal position that --
20 signalman's position that comes up, which is a lower
21 rated job in Trenton, which means the location where
22 they may presently live and are commuting in from

Trenton to New York, they take the lower level
position, and it's outside of the 45-mile radius,
and I cannot force them back into the location we
hired them, the location that we trained them for in
order to fill potential jobs in the New York area.
Q I'm going to ask you to turn to the
portion of your testimony pertaining to the trouble
desk changes, and that is on Slide 36 and 37.
As I understand it, Amtrak is proposing to
downgrade the trouble desk assistant supervisor
assignments to coordinate a position that don't even
require signalman qualification.
Q Is that correct?
A That is correct.
Q Referring to the tour of duty/work week.
And this is on page 32.
What you indicated as a reason for
changing the existing rule between Amtrak and the
BRS is the idea that we cannot currently establish a
standalone third shift.
Q Is that correct?
A That is correct.
1. Is there a practice that departs from the
2. rule which you have in front of you?
3. A There's -- there was a few things I wanted
to mention.
4. One is, I wouldn't call it a practice, but
5. there is usually a disagreement in implementation of
6. some of these rules.
7. The rule also restricts us to the number
8. of gangs that we would need in a particular
9. location.
10. Q But it does refer to two gangs?
11. A In a seniority district.
12. Q Do you customarily adjust the starting
times of more than two gangs for a seniority
district?
13. A Well, it's not the adjustment of the
14. starting times.
15. It is the -- we have in -- the BRS
16. seniority district can have up to three servicing
17. gangs in there, a switch servicing gang, a high
18. speed gang, and a spot gang, within the seniority
district.
19. And so then immediately I would need three
20. maintainers one for each of those gangs to be
21. available without having -- just to have that person
22. working on the shift of that particular gang, BMWE
gang.
23. Q That's not a big problem, is it,
24. Mr. Pohlot?
25. A A big problem?
26. Q Yes.
27. A It's relative whether the additional cost
28. is a big problem or not.
29. Q Do I -- it is a problem, but not a big
30. problem?
31. A It is a problem based on our efficiencies.
32. I mean, as I had mentioned before, my role
33. as chief engineer is to perform the work the most
34. efficient way that we possibly can, cost effective,
35. and for the safety of the traveling public.
36. Q Would you turn to page 34 -- I'm sorry,
37. slide 34 of your presentation.
38. As I understand it, your concern with the
39. current rule relating to BRS production units deals
40. with the inability to change headquarters without
41. readvertising the jobs.
42. A That is correct.
43. Q Now, I'm going to ask you in the exhibit
44. before you, Joint Exhibit 6 at 19, I'm sorry, Joint
45. Exhibit 6 at 21, Rule 25.
46. Do you have Rule 25 before you?
47. A I do.
48. Q All right. The third paragraph of Rule 25
49. provides: "When a headquarters is changed,
50. employees affected will be given five calendar days
51. advance notice and may elect to transfer with their
52. job to the changed headquarters or will be permitted
53. to exercise seniority rights in their seniority
54. district. If they exercise such rights, the vacancy
55. thus created will be advertised."
56. Now, as I understand this rule,
57. Mr. Pohlot, the only -- only if the incumbents do
58. not transfer with their job to the changed
59. headquarters will readvertisement of those jobs be
60. required.
And seniority district is -- I have heard the northern and southern seniority districts?

THE WITNESS: Well, that -- yeah, get's a little confused between BMWE work zones and seniority districts for BRS.

ARBITRATOR DAS: All right. Well, let's stick with the BRS then, here. So what seniority district would that be?

THE WITNESS: Well, it's New York. And I don't want to give you the wrong mile post. We have there -- do we have it in here?

MR. REINERT: BRS agreement?

ARBITRATOR DAS: I'm just looking for an approximate. I'm trying to relate these different concepts -- well, I'm calling them concepts, but work zone, headquarters, seniority district, how do they line up with each other?

THE WITNESS: The work zone -- these are the seniority ones.

The work zone, District 1, which is the Southern District.

ARBITRATOR DAS: So is a work zone within a seniority district? In other words, you have a number of --

THE WITNESS: No. It's a seniority district.

And so we have for the New York area that we're referring to, is Chelle (phonetic), which is the New Rochelle, New York location, to where I had mentioned Holmesburg before, mile post 76, and then a short area going up.

Basically, what we consider the New York division. So it's beyond even the 60-mile location circumference.

A seniority district is larger than the recommended 60-mile radius.

ARBITRATOR DAS: Okay. Now, in the example you give here, the employee bids down to a lower position in Trenton; correct?

THE WITNESS: Correct.

ARBITRATOR DAS: Well, I mean, this is just the example.

THE WITNESS: Correct.
ARBITRATOR JAFFE: Okay. And is that a large headquarters for this unit?

THE WITNESS: That is becoming our major M and W location.

But we have several up there, the larger ones being Providence and Midway, which is Groton, and then the New Haven area.

ARBITRATOR JAFFE: And the proposed change would then allow you to go ahead and reassign people who are based in Groton to Providence, Springfield, and New Haven?

THE WITNESS: Correct.

ARBITRATOR JAFFE: Would that be daily? Weekly?

THE WITNESS: Some other basis?

ARBITRATOR JAFFE: That would be based on vacancy, and they would then hold that vacancy. We could continue advertising it, you know, if we so desired.

THE WITNESS: Okay. So these are based, not on filling in people who might mark off, for example, for the day --

ARBITRATOR JAFFE: Okay. So these are based on filling on a longer-term basis?

THE WITNESS: A longer term, that is correct.

ARBITRATOR JAFFE: And currently, you have got the right to do that within 45 miles?

THE WITNESS: That is correct.

ARBITRATOR JAFFE: And you want the right to do that on a more permanent basis.

So someone who bids to Groton, you could force them to commute to Springfield?

THE WITNESS: Yes, we could.

But I would like to mention that there is no rule change of how it's being done for the assignment per district. It's simply an extension of 15 miles.

ARBITRATOR JAFFE: I think we understand that.

THE WITNESS: Okay.

ARBITRATOR JAFFE: But those of us up at the front end of the room don't have a real facile working understanding of the existing rule.

THE WITNESS: Right.

ARBITRATOR JAFFE: Fair enough.

And so the rule that you're seeking to extend the 15 miles on applies only to movement into a higher classification, or it extends to any classification for which the individual is qualified?


ARBITRATOR JAFFE: And since it's the closer of the two, if the employee in question happened to live in Newport, they would just be traveling further if you happen to choose Springfield rather than Providence, which might be somewhat closer.

THE WITNESS: Correct.

ARBITRATOR JAFFE: -- but these are based on filling on a longer-term basis?

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THE WITNESS: Okay.

ARBITRATOR JAFFE: I think that's where we're coming from.

THE WITNESS: Fair enough.

ARBITRATOR JAFFE: In order to better understand the effects at least of what you're proposing.

THE WITNESS: Right.

ARBITRATOR JAFFE: Fair enough.

And so the rule that you're seeking to extend the 15 miles on applies only to movement into a higher classification, or it extends to any classification for which the individual is qualified?


ARBITRATOR JAFFE: And since it's the closer of the two, if the employee in question happened to live in Newport, they would just be traveling further if you happen to choose Springfield rather than Providence, which might be somewhat closer.

THE WITNESS: Correct.

ARBITRATOR JAFFE: Okay. Do we know how many employees actually bid out into a lower classification beyond 45 miles?

THE WITNESS: I do not have that information readily available here.

ARBITRATOR JAFFE: And I guess even under the proposed change, if the employee bid to a headquarters that placed him or her 75 miles away from where they were before --

THE WITNESS: We could not.

ARBITRATOR JAFFE: -- they would be out of reach.

THE WITNESS: We could not.

ARBITRATOR JAFFE: -- they would be out of reach.

THE WITNESS: They would be out of reach.

ARBITRATOR JAFFE: So the assumption is they don't change residence, even though that's not part of the wording of the rule?

THE WITNESS: Well, it could be an assumption, yes.

ARBITRATOR JAFFE: Moving to the BMWED, if we may, and the six months to a year. A few more clarifiers as well, so at least, if no one else, I have a better handle on both ways and what's being
proposed.
If we looked at the positions on -- I'm back to Slide 10, I apologize, and I'll wait until you get there.

THE WITNESS: That's okay.

ARBITRATOR JAFFE: You explained the positions on force account by year as those that were advertised and then either filled or vacant.

And in fact, at least the chart mathematically looks like the columns Positions Filled by Year and Vacancy by Year, if you add them up, they total the positions on the Force Account column.

THE WITNESS: Correct.

ARBITRATOR JAFFE: So at least mathematically that makes sense.

If a position is advertised and then not filled, does it get readvertised?

THE WITNESS: Correct.

ARBITRATOR JAFFE: And so the vacancies may not reference, for example, in Track Foreman, 42 actual positions vacant.

If you had 14 of them that you kept advertising during the course of the year and you advertised them three times and wound up with no bidders or no qualified bidder, that would show us 42?

THE WITNESS: I do not believe so.

That should not be cumulative. That's the number of vacancies that we would have based on positions.

So what -- I guess if the question was, did we -- we had ten vacancies and just kept readvertising, and we readvertised them five times that year, it would be 50 vacancies.

ARBITRATOR JAFFE: Analytically, I think that's correct.

THE WITNESS: So that's correct.

ARBITRATOR JAFFE: Whether you would readvertise or not or whether they would be filled or not on subsequent announcements may be a different question.

THE WITNESS: Correct.

ARBITRATOR JAFFE: And I was simply trying to understand the numbers on Slide 10.

THE WITNESS: Right.

And so your statement is correct.

ARBITRATOR JAFFE: Okay. And if we took a snapshot then rather than the annual approach, you might come up with a different look in terms of those who were still in training versus those that were vacant versus those that may have completed training within six months or a year as the case may be.

THE WITNESS: Well, it was based on a year.

So, yes, if you were to take a snapshot halfway through the year would be a different number.

ARBITRATOR JAFFE: Fair enough.

Are there particular jobs that you believe employees left within 12 months in significant numbers.

THE WITNESS: Left after 12 months?

ARBITRATOR JAFFE: No. Within 12 months.

THE WITNESS: Oh, within 12 months.

ARBITRATOR JAFFE: If they leave after 12 months, even the proposed extension won't change it; right?

THE WITNESS: Correct.

ARBITRATOR JAFFE: So we're talking about those that leave within 12.

THE WITNESS: Right.

ARBITRATOR JAFFE: Yeah.

THE WITNESS: We have experienced -- we have experienced problems in those particular areas, and that's why we're recommending this option.

ARBITRATOR JAFFE: Right. I understood you wouldn't have the numbers.

I didn't know if they were jobs that you knew -- job titles that you knew were problematic in that regard.

THE WITNESS: Yes. There is.

And it's normally the ones that we noted in those three as well as particular welders, our bootay (phonetic) welders, electric welders, and our structural welders, our crane operators, our track...
1 foremen, which is the track foreman category would
2 be track inspectors and foremen -- track foremen,
3 are our areas of particular concern.

4 ARBITRATOR FISHGOLD: Can I -- can we go
5 back to slide 9, then?
6 The ones you just identified, there's a
7 particular problem about leaving within a 12-month
8 period.
9 If you look at the first four types that
10 you identify on that slide, they're encompassed by
11 the job classifications you just talked about, are
12 they not?
13 THE WITNESS: That is correct.
14 ARBITRATOR FISHGOLD: And if you look at
15 the last column which says current -- not current,
16 but proficiency development, let me look at
17 Proficiency Development.
18 The representation is that it basically
19 takes six months in those positions to get to the
20 point of efficiency that makes it -- makes them more
21 productive, becomes efficient from the point of view
22 of Amtrak, et cetera.

1 THE WITNESS: That is correct.
2 ARBITRATOR FISHGOLD: And that right now
3 they can say, Great, I'm proficient. I have been
4 here for six months; I'm going somewhere else.
5 THE WITNESS: Correct.
6 ARBITRATOR FISHGOLD: Okay. Now, look at
7 the remaining positions, and their proficiency
8 development is substantially less.
9 Is that correct?
10 THE WITNESS: That is correct.
11 ARBITRATOR FISHGOLD: And yet, you want --
12 and they are still subject -- they're all subject to
13 the six months.
14 Can you tell me -- I can -- I say I can
15 understand in a literal sense why it is you want to
16 extend the lock-in period for undercutter, welder,
17 crane, and foreman.
18 Can you explain why it is you want to lock
19 in those other positions for more than the six
20 months?
21 THE WITNESS: Well, they are -- from the
22 construction standpoint, they are positions that are
23 part of the gang.
2 But the length of training, you're right,
3 and the length of gaining proficiency are a lot
4 less, which leads to the assumption that you can
5 keep filling their jobs more and more.
6 But in the same respect, in a production
7 season, if I took that approach, I would potentially
8 have to do it about five times during the year if
9 they kept leaving.
10 ARBITRATOR FISHGOLD: Fine.
11 ARBITRATOR JAFFE: Okay. Let me jump
12 back, if I may, to another facet of the same area
13 that I don't think I have gotten to yet.
14 The six-month period in the current rule,
15 do you know whether that's measured from the date of
16 selection, the date of completion of formal
17 training, or something else?
18 THE WITNESS: The date of completion,
19 being considered qualified, and having an
20 assignment.
21 ARBITRATOR JAFFE: Okay. So let's take
22 the welder as an example.

1 What would that date be?
2 THE WITNESS: It would be the -- after he
3 received the certification on a number of months
4 that's shown on the slide, and he fills a position.
5 Because of the number of people,
6 potentially there's always the possibility because
7 number of people that are qualified not filling
8 those positions, after he finishes his training,
9 there may not be a position at that particular time
10 available.
11 So if a month later, it is available.
12 That's when he would start. He would fill that
13 position, and then his six months would start.
14 ARBITRATOR DAS: So the example that
15 Member Fishgold gave you before isn't accurate.
16 You couldn't start your training and then
17 six months later move on.
18 THE WITNESS: Well, you could.
19 Because the majority of the time, as you
20 can see from our list, there are vacancies.
21 ARBITRATOR DAS: No. But I mean, if you
22 start the six months lock-in, which you currently
have after you actually get assigned to a
position --

THE WITNESS: Right.

ARBITRATOR DAS: -- and it takes you six
months before that happens, then you -- and maybe
I'm missing something.

THE WITNESS: Okay. The training for --
when we use our production gang, potentially a
training, if it was a one-month training, for ease
of calculation, we potentially may start that
training in February.

We'll have the person trained so that when
the gang would be established, let's say in March,
he could fill that position in March.

And so then there would be six months from
that time going forward.

ARBITRATOR FISHGOLD: So currently then,
is it fair to say that the six months is counted
from the time in which formal training is completed
and the person can otherwise be assigned to the
position?

THE WITNESS: When the training is
completed, and he is assigned.

ARBITRATOR FISHGOLD: Is assigned.

 Okay. All right.

ARBITRATOR JAFFE: And that's a lock-in
to, not just the position, but also the location?

THE WITNESS: The position normally is a
location.

ARBITRATOR JAFFE: Well, but if there were
a vacancy in another gang in the same job title, the
six-month bar would preclude movement, currently.

THE WITNESS: Right. We're not going
to -- well, that's correct.

ARBITRATOR JAFFE: And so that would be
true as well under the 12 months.

THE WITNESS: Correct.

ARBITRATOR JAFFE: So it limits both as to
geographic movement as well as to position movement.

THE WITNESS: Correct.

ARBITRATOR JAFFE: That's what I was
trying to zero in on.

And how are the requalification trainings
treated under these rules?

Are they exception, or are they considered
a new type of training that they're covered by six
months currently and would be covered by 12 months
if it were extended?

THE WITNESS: No.

The requalification is the requalification
for people that are in -- presently in the position.

ARBITRATOR JAFFE: So that would not
trigger a new lock-in.

THE WITNESS: No.

ARBITRATOR JAFFE: That's what I was
trying to clarify.

THE WITNESS: No.

ARBITRATOR JAFFE: And then once you're
in, if you then leave and then come back two years
later, if you're still fully trained and qualified,
there would be no new lock-in.

THE WITNESS: That is correct.

ARBITRATOR JAFFE: Okay. The only other
question that I wanted to pose at this time,
1 in terms of other agreements; right?
2 Are there any other terms of other
3 agreements that you know of that mirror these in
4 some way? And then, if so, could you explain why
5 they mirror?
6 THE WITNESS: No. I cannot answer that
7 question.
8 ARBITRATOR JAFFE: Fair enough.
9 And if it was in here, I'm going to
10 apologize. I'm normally right on top of this. But
11 I'm not focused on it right now, so I'll ask.
12 Were there any projections of cost
13 relative to these rules?
14 If they're already in the record, I'm not
15 looking to ask you to do that.
16 THE WITNESS: If there was --
17 ARBITRATOR JAFFE: Okay.
18 THE WITNESS: There were projection of
19 costs, and they are in the record.
20 ARBITRATOR JAFFE: I thought they were,
21 but I wasn't focused on it. Now, I would be happy
22 to leave that then.

23 Did you have anything else?
24 ARBITRATOR FISHGOLD: Yes.
25 I have a question.
26 ARBITRATOR JAFFE: Sure. Go ahead.
27 ARBITRATOR FISHGOLD: First let me just do
28 an overview, if I could, about this.
29 These additional options, were all of
30 these additional options in some form, and if they
31 had been modified -- I think you identified one that
32 was modified -- were these part of, to your
33 knowledge, the mediation proposal?
34 THE WITNESS: They were part of the
35 mediation when I was part of the mediation.
36 And I have been told that they were part
37 of the 2010, in 2010.
38 ARBITRATOR FISHGOLD: Okay. Is there
39 anything new that the Union would not have had
40 access to, whether they considered it or didn't
41 consider it, in any of those optional proposals that
42 you have testified to today?
43 THE WITNESS: Definitely not since I was
44 in mediation.

1 ARBITRATOR FISHGOLD: Okay.
2 Now another question.
3 You have identified the two -- the 45, 60,
4 and the one-year lock-in as being "part of the
5 pattern."
6 And my understanding of a pattern in terms
7 of the other unions that entered into agreements is
8 that they had all agreed to one or two work rule
9 changes, and this is consistent with asking for one
10 or two work rule changes.
11 So is that the context of the pattern that
12 you understand?
13 THE WITNESS: That's my understanding of
14 it; correct.
15 ARBITRATOR FISHGOLD: Okay. Now are any
16 of these -- as you sit here today, would any of
17 these additional options be interchangeable with the
18 two work rule changes that you have identified as
19 being part of the pattern so that hypothetically two
20 of the optional changes that you talked about would
21 become the pattern changes as opposed to optional
22 changes?

1 I don't know if I artfully stated that or
2 not.
3 THE WITNESS: No.
4 We're open to changing what we consider
5 bargaining pattern.
6 ARBITRATOR FISHGOLD: Okay. And you
7 presented these in a particular order.
8 Is there any significance to that?
9 Have you prioritized -- in terms of the
10 optional changes that are subject to discussion,
11 have you prioritized those in some fashion?
12 Because I know the dollar amounts that you
13 indicate are savings, vary, and some -- when you get
14 to, I can't remember whether it was number three or
15 number four that you were talking about, that seemed
16 to save more money than number one did,
17 hypothetically.
18 THE WITNESS: Actually, I think it was
19 just random.
20 ARBITRATOR FISHGOLD: Okay. That's all I
21 have.
22 ARBITRATOR JAFFE: Anything else?
ARBITRATOR DAS: No.

ARBITRATOR JAFFE: We're in good shape.

Any further direct?

MR. FRITTS: Mr. Chairman, I just have one question so just I understand the witness' testimony.

ARBITRATOR JAFFE: That's fine, Mr. Fritts.

REDIRECT EXAMINATION

BY MR. FRITTS:

Q    Okay. Slide No. 10, Mr. Pohlot. And this goes to the question of readvertising the vacancy. I just want to understand your testimony in response to the Chairman's question. So let's just take the track foreman example for 2013. It says vacancy by year, 42. So let's say there was a vacancy that was readvertised three times. Which number would be included in the 42? Would it be the one vacancy, or would it be the three advertisements?

A    It would be -- my staff put this together. The vacancy was the number of vacancies in that position for the year. I can verify that, again.

ARBITRATOR DAS: I think we still need to clarify your question because I had the same question.

BY MR. FRITTS:

Q    To your knowledge, would the number -- if there was a vacancy that was readvertised three times a week, would the number that gets plugged into the 42 be a three or the one?

A    I believe it would be the three, and that's what I'm going to verify.

MR. FRITTS: That's all I have.

ARBITRATOR JAFFE: Any further cross?

RECROSS-EXAMINATION

BY MR. WILDER:

Q    There was one question that was suggested by the question concerning the 45-mile rule asked by the Chairman. And as I understand the question and the answer, it seemed to introduce within the discussion of the 45-mile rule the notion that a higher classification was involved. And I had not understood the 45-mile rule to turn on whether the classification was higher or the existing classification, and that is my question. Would you clarify that, please, for me?

A    Maybe the best way of clarification is by example.

If I had a single maintainer in Trenton, then I had a single maintainer's position open in New York, and I had a signalman who was in Trenton who was qualified as a signal maintainer, I would move the signalman to -- assigned to New York, not the signal maintainer.

So the lower class person who had been trained in the higher class, the maintainer, would be assigned to New York.

Q    Under the existing rule?

A    Underneath -- well, this is all -- no intent of changing the rule. We're just strictly adding 15 -- requesting a 15-mile extension on it.

MR. WILDER: Thank you.

ARBITRATOR JAFFE: Any further direct?

MR. FRITTS: No.

ARBITRATOR FISHGOLD: One other. I want to pick up on it. When you were discussing force assignment, I believe Mr. Wilder asked you, based upon the answers you were giving, is that meant to be applied prospectively? And I believe your answer to that was yes.

That would have been Slide 21, if you want to refer to Slide 21. At least that's what I wrote down, so if I'm wrong.

And I guess it's prospective relative to work zone. I added that in my notes, now, if that helps.

ARBITRATOR JAFFE: Prospective for people promoted or for new hires?

ARBITRATOR FISHGOLD: Yeah.

THE WITNESS: I just don't exactly remember what the question at that time was asked.

ARBITRATOR FISHGOLD: Okay. Let me then
ask you.

If a person were a new hire --

THE WITNESS: Correct.

ARBITRATOR FISHGOLD: -- it would be applicable to that person.

THE WITNESS: Absolutely.

ARBITRATOR FISHGOLD: Okay.  But if an employee had already been employed for a period of time, when, if at all -- when would it be, if at all, be applicable to that individual?

THE WITNESS: Well, it's also relative to when they were promoted.

ARBITRATOR FISHGOLD: Okay.

THE WITNESS: So it could be an existing employee --

ARBITRATOR FISHGOLD: Okay.

THE WITNESS: -- who then receives a promotion, and then it's applicable to them.

ARBITRATOR FISHGOLD: Okay.  And the reason I noted that when I wrote it down -- and I wrote a little note to myself -- are there any other of these optional work changes that have any prospective application or any grandfathering application other than what we just talked about with regard to force assignment?

THE WITNESS: I would have to go through each one individually to check it.

ARBITRATOR FISHGOLD: Yeah.

THE WITNESS: And if you would like, I would be happy to do that and provide it to the Board, or I can go through each page now.

ARBITRATOR FISHGOLD: No.  We don't need to.

And getting back to us would be fine, especially if the answer is going to be no.

That's all I have.  Thank you.

ARBITRATOR JAFFE: Any further direct?

MR. FRITTS: No, Mr. Chairman.  Thank you.

ARBITRATOR JAFFE: Any further cross?

MR. WILDER: No further cross.

ARBITRATOR JAFFE: Very good.

Thank you, Mr. Pohlot.

THE WITNESS: Thank you.

(Witness stood down.)
So for the past 25-plus years, I have been working, apart from a couple of corporate reorganizations, for the same employer. And for most of that period actively involved in labor economic analysis.

Q    Have you ever been asked to give expert testimony before?
A    I have given expert testimony on a few occasions. I have also been involved in many other engagements where I worked together with colleagues, primarily academic colleagues, who were not employed by either any of the firms that I mentioned going back about 25 years ago.

I had been involved in perhaps eight or nine different interest arbitrations involving the U.S. Postal Service, assisting in the preparation of written testimony that was presented in interest arbitration. And in each instance, a coauthor of reports that were submitted, although not always given in testimony.

However, I have testified on economic issues at three times in Postal Service interest arbitrations.

Over the years I have also done labor economics, and, strictly speaking, comparability analyses like that which I'll present today, in other industries, including a series of cases that were not interest arbitration, but testimony I prepared for testimony in bankruptcy court involving major airlines, Delta, American, USAir, Northwest, all of those cases where we worked with their prepared testimony, although not in all cases did it go to testimony before the court.

I have also worked in a couple of other industries, and a series of cases with auto parts companies, again, bankruptcy court testimony preparation, Delphi, Dana, Tower (phonetic).

In all of those engagements, working with academic colleagues who were leading labor economists.

And I have presented testimony before PEB 242 on Amtrak's behalf in December of 2007.

Q    Now, what is the nature of the assignment you have been given by Amtrak in this proceeding?
A    Well, Amtrak asked me to do an assessment of the comparability, the competitiveness, if you will, of the wages and benefits of Amtrak's BMWE and BRS employees.

So from a labor economics standpoint, what requires is to make a comparison of this target group of employees, make a comparison of their compensation with the compensation of employers elsewhere in the economy who have similar skills and abilities working in similar jobs with similar working conditions.

So the objective of this is really to try to get at what is market wage for the set of skills and abilities.

So because of that, in doing this, it's important not to draw the comparison too narrowly.

If you think about an employee working for any employer, is going to have certain fairly specific job tasks and requirements he's asked to do. But that employee almost invariably could take his skills or her skills and abilities out and compete for a job that requires similar skills and abilities elsewhere in the economy.

So in a competitive labor market, what that means is that Amtrak's employees could take their skills and abilities and go out and seek jobs elsewhere.

And many workers across, not just the rail transportation industry, but in other industries, could take their skills and abilities and compete for jobs at Amtrak.

So it's important to recognize from the standpoint of comparability analysis that Amtrak, in fact, is competing in a labor market for, not just within its own industry, but across the economy for many of the skills and abilities it needs.

Q    How did you go about preparing your comparability analysis?
A    Well, in order to do the analysis, we have to know something about wages that are paid of comparators.

And I rely on a couple of major federal
government databases to -- that are published
federal government data on wages elsewhere in the
economy.
But those data are collected on the basis
of -- for individual occupations on the basis of the
standard occupation classification that is used
across the government in order to publish those
sorts.
So what we need to do is to understand
what occupations from the perspective of the
Department of Labor's standard occupational
classification, Amtrak, BMWE, and BRS employees are
classified.
So I was assisted in this. In fact, the
burden of the analysis of doing the mapping of
Amtrak's BMWE and BRS employees was done
fundamentally by a labor relations specialist within
Amtrak who had very detailed and longstanding
knowledge of the jobs that these folks are doing and
the skills and abilities that they have.
He also has a very good understanding of
the government's standard occupational
classification. So he was able to identify which
classifications for purposes of the analysis using
the standard occupational classification Amtrak
employees would be classified in.
Now, they ended up being -- and I, of
course, reviewed all of this. And we discussed
certain nuances of it. But fundamentally his
assessments I felt were very sound.
Now, some of these occupations are defined
so narrowly that they exist really only in the rail
transportation industry, and we'll see that as we go
through.
Others are skills and abilities that,
while they're used in the rail transportation
industry, are used elsewhere in the economy as well.
Therefore, the assignment of the occupation of some
of the Amtrak BMWE and BRS employees is not
specifically to an industry, but to an occupation
that is in place across the economy.
Q Now, did you have to look to the Bureau of
Labor Statistics to prepare this comparability
analysis?
A Yes.
The Bureau of Labor Statistics has a
number of data sites that collect data wages and
benefits by occupation as distinct from by industry
or other categories.
There are a couple of surveys that are
surveys of business establishments that I relied on
primarily. They have other surveys that go and
survey households to get at wage information, but
those are a little less appropriate for the analysis
here.
So the two surveys are one called the
occupational employment statistics. And the two
surveys really have different -- have their own
pluses and minuses.
The occupational employment survey is very
handy because it has existed for a long time and
adapted to whatever changes have been made in the
standard occupational classification over time, and
provides a lot of occupational detail.
It also has some regional detail so you
can see some wages by occupation for different
states and metropolitan areas.
At the same time, however, it is a survey
that includes part-time workers, and it includes
government workers.
Now, in recent years, you have been able
to actually parse out for a private sector wage in
the OES. But going back in time, you couldn't
actually do that readily. So I have relied on the
data as published since I want to present a
long-term occupation.
The fact that it included a few government
workers in this list of occupations, which are
fundamentally production occupations across the
economy. If you look at the numbers, the government
workers that are in the sample actually get paid a
little bit more than the private sector.
So I would like to zero in precisely on
private sector.
In using the data source, the data series
as published, we're really somewhat overstating a
little bit the comparable private sector wage.
Now, the second data source that also
1. Comes out of the Bureau of Labor Statistics is the National Compensation Survey. It also for many years had occupational data, but the publication of data by occupation from that survey ceased a couple of years ago due to budget cutbacks.

2. So it would be preferable in some respects because it identifies things like wages for full-time workers as distinct from an economy line average that includes part-time.

3. And as we'll see later, as I -- when I talk about the benefits, it's also the source of the BLS database on employee cost and employee compensation, which covers benefits as well as wages.

4. So I used these two databases. And, from Amtrak, what I had was payroll data, not just for the most current year in 2012 for which the BLS data are available, but also going back all the way to 2000. So I can build a time series of average wages in these 19 different detailed occupations that were identified where the Amtrak workers are classified, and do the comparison with the long-time series of data from the Occupational Employment Survey.

5. Now, there are a couple of specific methodological issues that are relevant. And I mentioned this thing about full time/part time. Using -- while we can't parse out the differences in the OAS, per se, we can look at it within the context of the National Compensation Survey.

6. So I took a look at the 19 occupations for which -- where the Amtrak workers are classified, to the extent that they are part-time workers across these occupations. I could see the impact of an average wage including part-time workers and average wage that didn't include the part-time workers. And partly as a function of the fact that there are very few part-time workers and partly as a function in fact that the differentials are very small, there was essentially no difference.

7. So we can have confidence in using the data published from the NBI as a good reflection of a full-time wage.

8. Now, a second methodological issue that is -- also warrants attention is the fact that the Amtrak BMWE and BRS employees have job locations that are fairly concentrated from a geographical standpoint.

9. We have heard discussion at a number of points in these proceedings about the Northeast Corridor and how they're concentrated.

10. Clearly, there are some on West Coast rail lines as well.

11. But we need to take this into account because Amtrak BMWE and BRS employees need to live close to where their job is. We need to take into account the regional difference in wages.

12. What we have from the Occupational Employment Survey, it's a database that has a lot of detail at the U.S. level by occupation. As you go down to the regional level, you have a little less occupational detail. So we can't effectively build long-time series of data that is geographic specific at the level of occupational detail we would like to.

13. What we can do, however, is look at the impact of regional differences using the database.

14. And so I did that. I received from Amtrak information on the state in which each of its employees works. And so we could actually define a distribution across states of where Amtrak workers live and work. And this, again, is limited to the BMWED and BRS employees.

15. Then, within parsing those employees, again, not down to the level of 19 occupations because we don't have that kind of detail at the state level systematically, but at the level of four broad occupations, we can identify regional differentials between the average wage of these occupations nationwide and the average wage of the same occupations in those four occupational categories in the states where the BMWE, BRS employees are concentrated.

16. So what I did is calculate an adjustment factor. That differential is approximately 7 percent.
A lot of times you'll hear much larger regional wage differentials. But what we need to do here is to make sure we're focusing on the differentials that are relevant to the occupations that we're looking at. And when you do the calculations with the OES, we identify a regional wage differential of that magnitude. And what I did is simply adjust my national time series, which are constructed with much more detailed occupational data, boosted the entire time series by 7 percent so that I have effectively a comparison of Amtrak's BMWE and BRS employees with full-time workers, comparable occupations, on a regional basis.

Q All right. Why don't we get into your findings. If you could turn to Slide 5, please.

A So this slide, we can start with the comment at the top, which is a bit of a footnote. So as I said, what I received from Amtrak in the way of wage data was a -- just a tabulation of what was actually paid out in payroll wages from the period 2000 all the way through 2012 to -- in order to calculate a straight time average hourly earnings.

As a function of these proceedings, there will be discussion about the possibility of retroactive pay.

So this chart starts with the raw wage calculated from the payroll data, which is $25.06. And that's an average across all of the Amtrak BMWE and BRS employees employed during 2012.

Now, what you see below that is a set of average wage figures for the Amtrak employees in four broad occupational categories. So in these categories are standard subdivisions, standard occupational classifications that are in common use in statistical publications, including the occupational employment statistics.

Underlying -- these data are here for presentation purposes. For the Board's records, I also provided a list behind my slides. It's labeled Exhibit 1. I think it has got a number of 601 on it by now.

You can see the 19 individual occupations into which Amtrak's BMWED, BRS employees are classified. They're actually sorted from the standpoint of which has the highest concentration of Amtrak BMWE, BRS employees. And if you see the first two, the rail track laying and maintenance equipment operators and the signal track switch repairers, those are occupational categories that are a line item in the standard occupational classification, which is applied across the economy.

But virtually the only place they exist is in the rail transportation industry. The first one accounts for 31 percent of the sample in the comparison. The second one accounts for 21 percent.

So these two occupations, which are highly railroad industry specific, account for over half of the overall sample in the data that I will present. So you can see in the far right column for 2012, the average straight time wage of all of these employees in the private sector is $24.88. So this is calculated as a weighted average of the 19 hourly rates using employment rates, which are the Amtrak rates. In other words, the distribution of Amtrak BMWE and BRS employees.

And so that's how we get to the average wage overall.

So if you looked at this, the simplest takeaway you would have is that there's not a lot of difference between Amtrak BMWE and BRS employees and a competitive market wage when you look at it measured this way, at least with respect to what was actually paid out in payroll dollars during 2012.

ARBITRATOR JAFFE: Dr. Gillula, did the 2012 numbers include the 7 percent adjustment for regional that you testified about earlier?
THE WITNESS: The $24.88 does include the 7 percent.

ARBITRATOR JAFFE: It includes the 7 percent.

THE WITNESS: It has already been adjusted.

ARBITRATOR JAFFE: Thank you.

THE WITNESS: In the far right column, you can see the distribution, the weighting at the level of these four occupations.

And this chart also shows some wage differentials for the four broad occupations, and the results aren't too surprising. It's not uncommon to see a situation, for example, the Installation, Maintenance & Repair category is where the most skilled blue collar workers in the economy are classified. And conversely, the production workers are really in a category that is the least skilled.

So what you often see in this context is instances where the most skilled workers within a bargaining unit may, in fact, have a lower wage premium or, in fact, a wage deficit, while less skilled workers often have larger wage premiums.

BY MR. HAVERMANN:

Q All right. Did you prepare any findings of comparability under the Amtrak pattern?

A Yes.

Amtrak provided me with their proposals for the Amtrak pattern, which consist of a sequence of -- I'm sure you have seen this, a sequence of wage increases starting with the period that would be covered by retroactive pay coming forward to 2012, and then, of course, the proposals for 2013 and beyond.

So if you take the cumulative impact on the average wage that would occur as a function of Amtrak's proposal for retroactive pay, that's a total of about a 7.2 percent adjustment between -- which would impact the 2012 wage.

So this chart shows the original $25.06 average wage boosted by that retro pay, crediting for retro pay. And as a result, we now have a wage differential of 8 percent between Amtrak BMWE, BRS employees and comparable workers economy wide.

You know, at this point, we now have at least a small differential relative to all of these four broad categories.

Q Have you looked at the comparability over time?

A Yes.

And as I said a little earlier, I did get time series data from Amtrak on its average earnings of BMWE and BRS employees.

Again, these are payroll data so -- which indicate what was actually paid out of the payroll system over time. So it might not hurt to go straight to the textboxes on this chart which indicate that the time series for Amtrak, which is the line that runs below there, below $20 up to 2006, those are average wages based on payroll, and they don't reflect the retroactive pay that was awarded as a function of the last PEB.

And similarly, once we get up to the range of 2010 to 2012, the Amtrak line does not at this point reflect retroactive pay.

The private sector line is, in fact, a calculation year by year, a weighted average of the private sector wage rates published by the OES data using in each case year by year Amtrak rates.

So what you see over the period is that clearly you go back to the year 2000, Amtrak's BMWE and BRS employees were essentially at market at that point in time.

As a function of the extended negotiations and discussions that ultimately resulted in PEB 242, in a payroll sense, they clearly lagged behind the private sector over that period. As soon as that award was issued, their relative wage increased. And by 2009, they were slightly ahead of the private sector, or very close in any event.

Since then, well, growth in private sector wages have slowed a little bit since we came across the recession 2009 to 2012. But -- and, again, the Amtrak line has leveled out as a function of wage
freezes associated with ongoing negotiations. But the last data points on this chart to 2012 are just a repetition of where we started with the private sector wage at 24.88 and the Amtrak wage at 25.06, which represents, you know, less than a 1 percent gap.

Q: How does the Amtrak pattern affect this chart?
A: Well, on this chart -- on the next chart, we have essentially reproduced everything from 2000 to 2012 for the private sector is reproduced from the previous chart.

Now, if you look at the historical period, up at least -- recalling history up through 2012 because we don't yet have complete data from the OES to do a 2013 number.

If you look at the Amtrak time series, you'll see that I haven't made any attempt to adjust for retro pay back in that earlier period. That's likely to be a complicated exercise that would involve some offsets. And as long as people understand what we're looking at in this chart, it's best left unadjusted.

For the near term, however, I think it's a little more straightforward. So all I have done with the Amtrak line up through 2010 to 2012 is to make the adjustments for the pattern that Amtrak has posed, and that gets the 2012 number up to the $26.86, which we saw in our second comparison, the 2012 data a little while ago.

From there, the progression up to what is shown here is $28.80 in 2015, is simply the Amtrak proposal applying percentage increases proposed in 2013 through 2015 to that starting point of the average wage that I have there.

Now, the private sector you'll see also has a forecast in it. This forecast is not something that I specifically prepared for these proceedings. I mentioned earlier that part of my company is in the business of economic analysis and forecasting. Indeed, we provide regularly updated microeconomic regional and industry forecasts to a healthy share of the U.S. corporate sector.

We do have a business unit that is in the business of forecasting a lot of very detailed prices and wages, and that includes routinely updated forecasts of wages by occupation.

So this series is simply derived as a function of the current IHS world view about where the labor market is headed in the next three years, in particular, the labor market for occupations where Amtrak's BMWE and BRS employees are classified.

So what you see then is by 2015, when you take into account the Amtrak retro -- retroactive pay and proposal for future wage increases, Amtrak's BMWE and BRS employees would still be about almost 9 percent ahead of our projection of where the private sector rate would be for comparable private sector employees.

ARBITRATOR JAFFE: Looks like that's about a 2 percent forecast.

THE WITNESS: It's very close to 2 percent, very close.

And indeed, everybody is somewhat optimistic for 2014 that things will begin to pick up.

Even if it does pick up -- and our forecast is that it won't -- we're not looking at 3 percent growth rates, if you think about the underlying microeconomic world view behind that forecast -- it's slow but steady improvement in the labor market over the next two to three years.

BY MR. HAVERMANN:

Q: Did you examine how this chart would change if the freight deal wage increases were applied retroactively?
A: Yes.

Here on Slide 9, the private sector line here is exactly the same as the previous chart.

The Amtrak BMWE, BRS wage line is the same up until 2010, at which point what I have put in here is the freight deal proposal for retroactive pay up to 2012 and including 2013 is now effectively behind us, and the freight deal proposal for continuing wage increases up to the one -- beginning of 2015.
So in this chart, if you look at 2012, you see the private sector wage of $24.88. And a corresponding Amtrak wage in this case is $27.33. Certainly not a big difference, but a slightly higher percentage differential compared to the private sector. The increase is going into the future, however, continue and reach an average straight time wage of $30.10 by 2015, which is a wage differential of 13.8 percent relative to our private sector projection.

Q What does Slide 10 show, please?
A This chart just shows previous the two charts all combined into one. All of the numbers are the same. The Amtrak projected wage of $28.88 in 2015, being 8.9 percent above the comparable private sector. And the freight deal proposal of $30.10 being 13.8 percent above.

Q Now, in addition to performing a wage comparability, did you also examine benefits to look at the total compensation?
A Yes. Any comparability analysis clearly must address benefits as well as wages in order to look at the total package of compensation because it's certainly what influences employees' thinking. I know that you have heard other testimony in these proceedings about benefits, in particular healthcare benefits, and the focus on the nature of the benefits provided, comparing Amtrak's BMWE and BRS employees to other parts of the economy. My focus here is not on the nature of the benefits provided or even their value in an actuarial sense, as Mr. Rand referred to the CMS tool that permits doing that, but to the cost of the worker of providing benefits so that we can layer on the cost of wages, the cost of benefits. And this analysis is facilitated by the fact that, once again, the BLS has been in the business of building a data set which calculates the cost of benefits to employers for a long time. So we have a great source of information.

From the Amtrak side, what I received was information on the cost of Amtrak's benefits that permitted me to do a calculation that was entirely comparable to what the BLS publishes. So from the BLS standpoint, once again, we try to zero in on a benefit structure being paid to full-time workers, and a benefit structure for the kinds of jobs that the BMWE and BRS employees are classified in. Now, for this analysis, we can't go down to the level of 19 detailed occupations because the BLS just doesn't publish it. But I come back to those four broad occupational categories for which I presented some wage differentials earlier and look at the benefit structure of each one of those and, once again, use a weighting based on the share of Amtrak employees, BMWE and BRS employees, in those four categories to build up a picture of the comparable benefit costs for comparable private sector workers. So I'm looking at three broad categories of workers. There's paid leave, insurance, any other kind of insurance you can imagine that an employer might incur some costs for its employees. And then retirement plans broadly defined where we're taking the railroad plan for Amtrak, which anything paid in the private sector is going to include defined benefit plans to the extent that some still exist, 401K plans, social security, all of that will be rolled into the private sector employers.

And the analysis is based on data for 2012. Q All right. Let's look at your first set of calculations on Slide 12. Can you walk us through that, please?
A Sure. So the starting point here is the average wage for Amtrak BMWE and BRS employees is $25.06 average wage, which was the wage for 2012, which I presented earlier. And keep in mind, again, that this is the wage that doesn't include retroactive pay. And trying to include retroactive pay in this sort of analysis, once again, it get's -- it would require...
some additional judgment issues because there may be offsets with respect to healthcare as well.

So I present this analysis based just on the payroll records. And you can make your mental calculations about the implications if you were to include that retroactive pay.

You'll also see in this chart, going to the right of the 25.06, the $24.88 wage. So what we want to see is what's the effective cost of a worker out there with comparable skills and abilities to the Amtrak BMWE, BRS employees whose paid this 24.88 wage, which we have identified as the competitive market wage.

And the way we build the benefits is to look at the structure of benefit costs in the calculation I just described in the set of occupations where Amtrak's BMWE and BRS employees are classified.

So essentially, we have from the BLS data a ratio of paid leave benefit costs to wages and salaries, and insurance benefit costs to wages and salaries, and retirement benefit cost to wages for each of those. And that generates the dollar numbers in those three categories, which then get added up to calculate a total compensation of the competitive worker.

As I said before, the Amtrak data to do paid leave, I actually had the value total count of all of the different categories of leave for which Amtrak's BMWE, BRS employees were paid and what the actual dollars were paid out for that. And you take that dollar cost, and you load it onto the hours that are actually worked.

And that's the methodology that BLS uses. So with insurance and retirement benefits, internally, as a company -- Amtrak and many other companies, if they have plans that span multiple groups within the company, they use a set of accounting ratios which allocate those broader costs to particular groups of employees. And I had that kind of information to develop these estimates.

So what we see from this is that, while we're talking about a comparison here, which has Amtrak's BMWE and BRS employees pretty much at market with respect to a wage comparison; when you look at total compensation incorporating benefits, we have got a benefits premium which is about 80 percent, and that translates into a total compensation premium of 23 percent.

Dr. Gillula, is that a function in large part of the difference in service with lower turnover at the railroad versus the comparable BLS market?

Are you referring the impact on the cost?

For example, if there's a schedule that provides for greater weeks of vacation for people who have been there more years --

Correct.

Wouldn't you expect to find a more senior workforce having a higher paid leave number allocated per hour worked?

I think it's definitely a combination of a more generous schedule of paid leave, possibly also to some extent a differential in the average experience.

Okay. And this combines the two?

The analysis on Slide 12.

Correct.

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... wouldn't you expect to find a more senior workforce having a higher paid leave number allocated per hour worked?

I think it's definitely a combination of a more generous schedule of paid leave, possibly also to some extent a differential in the average experience.
1 to look at the quit rate. Because all other things
2 equal, workers who highly value their jobs don't
3 quit.
4 And when we see -- when we look at the
5 data for Amtrak's BMWE and BRS employees, you'll see
6 that.
7 First a bit about the method.
8 The quit rate measures the voluntary --
9 the voluntary quits by the employees. It does not
10 include retirements, although they are a category of
11 voluntary as well. It doesn't include discharges.
12 So we're looking at the voluntary quits,
13 people who, of their own volition, decide to leave
14 their jobs.
15 And the BLS, since 2001, there was the
16 long hiatus when the Department of Labor wasn't
17 publishing quit rate data. But starting in 2001,
18 they had the Job Openings and Labor Turnover Survey,
19 which is a very focused look and a very
20 well-measured picture of the quit rates as well as a
21 lot of other churning in the labor force that's
22 going on.

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1 So we have direct data from JOLTS.
2 From Amtrak's side, what I received were
3 headcounts at -- year-by-year headcounts and counts,
4 actual counts of the number of BMWE and BRS
5 employees who were voluntarily quits in each of a
6 series of years.
7 Q Right. Let's look at your findings on
8 slide 14.
9 A So the top line is the calculation of the
10 BMWE, BRS quit rate.
11 It ranges, you see, right around 2
12 percent, actually dipped below that in all, but the
13 first and last years.
14 I won't say these quit rates are
15 unprecedentedly low because I -- as I mentioned
16 earlier, I have been involved in a number of other
17 cases, and I have seen quit rates that are close to
18 these in other environments as well, both interest
19 arbitration and certainly in bankruptcy court.
20 The comparable here, I provided a couple
21 of lines. First, we have the overall private sector
22 quit rate, which things turn over virtually once

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1 every four years on average when you look at these
2 over time.
3 What you can see in this private sector
4 line, is you come up on the 2009 recession, you'll
5 see that quit rate drop pretty precipitously. When
6 there are a lot fewer job prospects out there,
7 people are going to quit their jobs with a much
8 lower frequency. And so it did bottom out.
9 And you can see that it has come back a
10 little bit. But it's not really back to anywhere
11 near prerecession levels for the private sector.
12 On the whole, that's a corollary of the
13 general weakness in the labor market that I referred
14 to earlier.
15 You can actually see that trend a bit in
16 the BMWE, BRS numbers as well because it does dip
17 down to only 0.7 percent in 2009. So it's not as if
18 the BMWE, BRS employees are not responding to some
19 extent to market forces. But even in good times,
20 they're not going to be quitting their jobs.
21 I present another comparable here which is
22 an overall rate for the transportation and

---

1 warehousing and utilities industry, the industry, of
2 course, where Amtrak is classified.
3 You can see that on a whole, the quit
4 rates are a little bit lower. You have got a
5 similar pattern coming over the recession and the
6 recovery.
7 One reason it's useful to present a little
8 more focused comparison here other than the fact
9 that Amtrak is actually classified there is that
10 these -- the collection of the quit rates does
11 combine once again part-time workers as well as full
12 time.
13 So within the private sector, you have got
14 a certain amount. Within the transportation sector
15 the, incident of part-time work is much lower than
16 it is in the private.
17 So I don't think you can argue anything
18 other than from these data than the Amtrak BMWE and
19 BRS employees do greatly value the jobs that they
20 have.
21 Q What's the takeaway from the slide
22 regarding the existence or absence of the
1 compensation?
2 This is confirming evidence?
3 I'm not on slide 15 yet.
4 A Well, I think that to me, I stated that
5 the fundamental premise that Amtrak employees
6 clearly value their jobs.
7 And I think the takeaway is that it's
8 confirming evidence that there is a compensation
9 premium relative to comparable employees in the
10 private sector.
11 Q All right. Let's move to slide 15.
12 What does this depict?
13 A Well, in this slide, Amtrak asked me to do
14 a couple of additional comparisons.
15 I think the slide is, if anything, it's a
16 story about this weakness in the labor market the
17 last four years that I talked about because it
18 starts in 2008. Otherwise, it wouldn't be a strong
19 argument for what the start is.
20 It draws out data from elsewhere in the
21 presentation.
22 So the top two lines are, indeed, taking

the average straight time earnings of Amtrak's BMWE
and BRS employees starting in 2008 and plotting out
an index number for the wage growth first using just
the payroll data.
And that wage trend takes the Amtrak BMWE,
BRS employees up to a 10 percent gain, hence the
line with the squares between 2008 and 2012.
And then when you factor in proposed
retroactive pay under the Amtrak pattern proposal,
it takes it up to about 17 and a half percent.
So this is still, again, the Amtrak
pattern proposal.
There are three other lines on this chart
for comparison purposes. One is drawn, the one with
the little triangles is drawn from the average
full-time private sector comparison that I presented
earlier.
And you can see that that chart, that wage
gain for a comparable private sector worker is up to
a little over 106 percent relative -- in 2012
relative to 2008.
Two other lines on this chart, first, how

analysis focused on those current data 2012, if we
look at wages paid out through the payroll system,
as I did in my first analysis, you see that Amtrak
BMWE, BRS employees pretty much at market.
And you factor in proposed retroactive
pay, however, they'll be effectively 8 percent above
the market.
When we look at benefits, what we find is
a benefits premium of approximately 80 percent,
reflecting the very rich healthcare and retirement
plans that they have. That translates into a total
compensation premium of 23 percent.
And the finding of interpreting those
differentials as a wage and benefits premium is
supported by the very low quit rates of 1 to 3
percent that the BMWE, BRS employees have shown over
the last six years.
Amtrak's proposal, the Amtrak pattern
proposal would take BMWE, BRS employees by 2015 to a
level that benchmarks against our projections for
what's going on in the private sector would still be
9 percent above comparable workers in the private
sector.

Q    Dr. Gillula, I just want to stop you for a

1 hour.

A    When you were quoting the total

2 compensation premium numbers, we have 18 percent on

3 a slide.

4 Q    Well, I think the thing to do is to go

5 back to -- we could do the math on 42 over 34.

6 So I think the 23 is accurate.

7 A    I think maybe somebody must have picked up

8 an older version of this. We can check the

9 arithmetic.

10 Q    In other words, this may not be the

11 current PowerPoint?

12 A    Yeah. We have -- yeah, we have 23

13 against -- yeah, that's the only analysis we did.

14 So I think 23 is correct.

15 In fact, I thought my version was printed

16 from the version I submitted, and it says 23, which

17 is printed here.

18 Q    All right.

19 A    In any event, I think the fundamental

20 conclusion from my analysis is -- which the really

21 critical one from the standpoint of labor

22 economics, is that, with the proposals that it has

23 made, it will be possible for Amtrak to continue to

24 attract and retain the qualified and skilled labor

25 force that it needs.

26 MR. HAVERMANN: Thank you.

27 I appreciate it.

28 ARBITRATOR JAFFE: Sure.

29 BY MR. HAVERMANN:

30 Q    When we covered slide 12 during your

31 presentation, Dr. Gillula, you mentioned that this

32 is 23 percent, and I let it go because I thought it

33 was a slip, and you mentioned it again in your

34 conclusions.

35 Can you correct the record for us?

36 A    Yes.

37 Clearly, since there was one number

38 printed in the slides and transmitted to the Panel, and

39 another that I gave in oral testimony, that

40 there was a mistake involved.

41 I'm happy to report that the correct

42 number is the number that has been before you in the

43 printed testimony and in the slides displayed and in

44 the underlying data analysis that is available to

45 both sides in the library.
having some notes to myself, which was not the most
recent version.
And in fact, very late in the process of
preparing the testimony, in fact, I was overseas,
received some revised data with respect to benefits
that are now correctly incorporated in the version
that you have in front of you.
So the correct number for total
compensation on Slide 12, the total compensation
premiums should be 18 percent. And that same number
should appear in my summary and conclusions.
MR. HAVERMANN: That's all I have.
ARBITRATOR JAFFE: Thank you for the
clarification.
At your convenience, Mr. Wilder.
CROSS-EXAMINATION
BY MR. WILDER:
Q    Good afternoon.
A    Good afternoon.
Q    Did you prepare a similar wage
comparability study for the dispute that was heard
by Presidential Emergency Board 242?
A    Yes, I did.
Q    And did you present that study to PEB 242?
A    Yes, I did.
Q    Do you happen to recall whether that study
was relied upon by the Board in its decision in that
case?
A    I'm not sure how I could know the extent
to which they relied on it.
Q    You don't know whether they relied on it
or not, is that what you're saying?
A    I do not.
Q    All right. It wasn't mentioned in their
decision, was it?
A    I haven't reviewed that decision recently.
I honestly don't recall.
Q    I want to draw your attention to Slide 5.
And try to understand the basic way that
this study was constructed.
Let me draw your attention to the second
column from the left entitled BMWED and BRS average.
How was that figure of 25.06 constructed?
A    That is the average hourly earnings of all
BMWED and BRS employees across all hours worked at a
straight time rate during 2012.
Q    Were premiums included in that?
A    No. There are no -- as far as I know,
no -- certain no overtime premiums.
Q    All right. I take it that was a more
complicated process than simply adding up all the
rates in the BMWED contracts and the BRS contracts
and taking a simple average.
A    I did not use the contract rates in this
analysis.
This is the average actually paid to BMWED
and BRS employees during 2012.
Q    So you used actual payroll data. Is that
correct?
A    That's correct.
Q    Now, let me draw your attention to Amtrak
Exhibit 601.
MR. WILDER: If you can put that on the
screen, please. Thank you.
BY MR. WILDER:
Q    Do you have 601 before you, Doctor?
IN THE MATTER OF AMTRAK AND PRLBC 
ARBITRATION HEARING - Vol. 3 
January 13, 2014 

Q    All right.  Now, looking at 601, as I understand your testimony, these 19 occupations include the classifications that fall under the BMWED and the BRS contracts; correct?
A    Correct.  These are the -- if the BLS came to Amtrak and asked them what kinds of employees they had, they would assign them to these occupational categories, correct.
Q    As I understand your testimony, you were assisted in relating the BMWED and the BRS classifications to these 19 classifications by a personnel specialist.  Is that correct?
A    Yes.  More than assisted.  Very significantly assisted, yes.
Q    Was that work reduced to written form?
A    It was certainly written in electronic form in the sense of communication about which Amtrak job categories were assigned to which standard occupation.  It could be printed, I guess, but ... 

Q    Take the first entry, rail track laying and maintenance equipment operators, 23.76?
A    Correct.
Q    And what Amtrak job classifications were found to belong to that worker category?
A    I don't -- I don't have that list right in front of me.  I do not know off the top of my head.  Very likely the backup data sheet that was put on the collective database for these proceedings contains that information.
Q    Is that information available?
A    It's on the database.  My assumption is it's available to everybody in the proceeding.
Q    I think the question was, is it available?
A    MR. REINERT: Two points, very important points.
18        We developed the system here where we did a disclosure of data on December 20, and put that in the client site.
19        And you had an opportunity under the ground rules to ask by December 27 was there any additional information you needed with -- for your analysis of the expert testimony.
20        We did not receive any additional requests.
21        So while we have been very receptive in this proceeding to say, Well, is there additional backup, we're now in an area of asking an expert on backup with respect to something where that request should have been fashioned and submitted to us on December 27.
22        ARBITRATOR JAFFE: I think it's there.
23        MR. REINERT: What?
24        ARBITRATOR JAFFE: I think it's there.
25        MR. REINERT: If it's there, we're fine.
27        There's a listing.
28        MR. WILDER: I have that on my computer.  It doesn't do the trick on that score.
29        ARBITRATOR JAFFE: I can't go further than that, as you can appreciate, Mr. Wilder.
30        MR. WILDER: The problem is that it is difficult to know in a proceeding in which depositions are not available or interrogatories are not available what information you really need before you hear the witness testimony.  That's the difficulty that we're facing here.
31        ARBITRATOR JAFFE: That's fine.
32        MR. WILDER: And we're not asking for something new to be created on that.
33
ARBITRATOR JAFFE: Okay.
MR. WILDER: Without the job match, it's extremely difficult to understand what's been done here.
MR. REINERT: Well, with all due respect, it is now January, what, 13, and that should have been requested on December 27 so we wouldn't be delaying this proceeding and my people have to go scrambling back for more information.
ARBITRATOR JAFFE: Okay. I'm not sure we're at the scramble point yet, by any stretch, Mr. Reinert.
MR. REINERT: Okay.
ARBITRATOR JAFFE: I'm going to suggest, why don't we continue with cross? You can either focus attention on the backup information that the witness has referenced, or not, as you wish. It's your cross; right?
MR. WILDER: Fine.
ARBITRATOR JAFFE: Thank you.

BY MR. WILDER:
Q    Were foremen -- and I'm speaking of both signal foremen and track foremen -- used in constructing the BMWED and BRS average on Slide 5?
A    My understanding is they were.
Q    Referring -- referring again to Amtrak Exhibit 601, were foremen used as a part of any of these 19 classifications?
A    If my recollection is correct that foremen were included in the analysis, which I think they were, they would have been based on the jobs that they were doing and the skills and the tasks that they were doing.
Q    They would have been matched to one of these categories and included in the analysis.
A    I do not know that.
Q    Aren't foremen separately categorized in BLS data?
A    In some cases, they are separate categories that indicate supervisory people within production and maintenance repair crafts.
Q    Do you know which this may be or which this is?
A    What?
Q    Withdrawn.
Q    What I'm asking you is whether you know whether track supervisors are included within the first category on Amtrak Exhibit 601?
A    No. The answer is the same.
Q    I don't know off the top of my head which category they would have been put in.
Q    Or whether it is part of any category?
A    I would think it is part of a category, but, again, I obviously would have to review the backup materials myself.
Q    You also indicated that the BLS data sets that you used do not distinguish between full-time and part-time employment within geographic areas?
A    Well, the OES database does not. That is correct.
Q    I see.
A    On that basis, I felt that it was satisfactory to go ahead and use an economy wide wage that has not necessarily culled out the part-time people.
Q    So you applied no weight to that problem?
A    You know, if I had done an adjustment, it would probably have been to reduce the private sector wage -- I think reduce the public wage.
Q    So you applied no weight to that problem?
A    If I had done an adjustment, it would probably have been to reduce the private sector wage.
Q    In using Amtrak 601, did you look -- and I'm referring to the far right-hand column, the 2012 column, whether there were any BMWED classifications that were at or above 23.76?
A    Were there individual categories of Amtrak employees being paid an average rate above 23.76? I didn't look at that specifically.
Q    I see.  You didn't take into account the actual 2012 wages for the BMWED employees?
A    Exhibit 1 -- Exhibit 601 is solely about the private sector or the comparable private sector workers.
Q    Now, you indicated during your direct examination that you applied a geographic adjustment --
A    Correct.
Q    -- of 7 percent?
A    Correct.
Q    And what was the purpose of that adjustment?
A    Well, one, I had a -- I had long-time series data of private sector wages from the OES, which were national data.
Q    So you applied no weight to that problem?
A    On that basis, I felt that it was satisfactory to go ahead and use an economy wide wage that has not necessarily culled out the part-time people.
Q    In using Amtrak 601, did you look -- and I'm referring to the far right-hand column, the 2012 column, whether there were any BMWED classifications that were at or above 23.76?
A    Were there individual categories of Amtrak employees being paid an average rate above 23.76? I didn't look at that specifically.
Q    I see.  You didn't take into account the actual 2012 wages for the BMWED employees?
A    Exhibit 1 -- Exhibit 601 is solely about the private sector or the comparable private sector workers.
Q    Now, you indicated during your direct examination that you applied a geographic adjustment --
A    Correct.
Q    -- of 7 percent?
A    Correct.
Q    And what was the purpose of that adjustment?
A    Well, one, I had a -- I had long-time series data of private sector wages from the OES, which were national data.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
Q    So the 23.70 is the average straight time earnings of all of the BMWED, BRS employees who were classified as being in, say, an occupational classification, occupations that fall within this broad group.
A    Correct.
If you look across the exhibits that we were looking at, some --

Q   601?

A   601, correct.

Some subset of those detailed occupations are classified within the broader category of construction and extraction workers, for example.

And a weighted average of the private sector wages in those detailed occupations, again, using Amtrak rates would give you the 22.80.

Q   Now, on Amtrak Exhibit 601, you refer to average BMWED, BRS employment weights. Is that the weighting that you're referring to?

A   Correct.

Q   And how was that weighting done?

A   The weighting was done actually using -- since I actually had data on the numbers straight time hours worked, I actually used the percentage distribution across BMWE and BRS employees in 2012 of all straight time hours worked.

So you can think of it as sort of a full-time equivalent weighting, if you will.

Q   Now, while we're talking about weighting, I'm going to direct your attention to Slide 8 and ask you, Are the employment weights held constant for this time steady?

A   They are not.

Q   They are not.

Each year of this -- well, historical period, in each year of this 13-year period, I knew I had received from Amtrak the number of straight time hours worked by all BMWE, BRS employees.

So there are different weights in each year.

Q   Would that be true for Slide 9 and 10 as well?

A   That historical period up through 2012, that is correct, yes.

Q   Now, while we're speaking -- we're moving back to Slide 5.

Were the employment weights used in constructing the private sector entries in Column 3 --

A   Yes.

Q   -- the same ones?

A   Yes.

Q   And were those employment weights used in constructing the blue line on Slide 9?

A   Yes.

Q   As I said, not the specific weights on Slide 5 because each year I had different weights.

Q   Now, I had one more question on Slide 5, and that has to do with the column on the far right. From your explanation, in using the second entry, Installation, Maintenance & Repair, I think what you're depicting in the last column is the number of private sector classifications within the installation, maintenance, and repair area that are the same as the BMWED and BRS job classification?

A   Perhaps. That didn't sound quite right to me.

Q   What that column represents, as the heading indicates, is the share of work hours of BMWED and BRS employees. Those are the weights that, in fact, are used to weight up the individual private sector averages.

Q   All right. Did that information in the far right-hand column, was that used for constructing any of the other columns on this chart?

A   Well, it was used in constructing the average private sector weight column; correct.

But other than that ...

Q   Now, moving to slide -- moving to Slide 9.

The solid black line on the right represents a cutoff between the calculation based on actual historical data and your projection?

A   That's correct.

Q   All right. Can you tell us how the 30.10 figure was calculated for 2015?

A   Yes.

The starting point for that calculation is the average wage of BMWED, BRS employees in the last year, last effective date, which I believe the last year unaffected -- retro pay would be 2010.

What we're doing is taking that average annual earnings and increasing it year by year by a
percentage increase in wages that has been proposed under the freight deal.
Q    I'm not sure I can ask this in the way that would sound good, but maybe I can make it comprehensible.
   Is the 26.45 figure on Slide 9, which is the projection for 2015 for comparable private sector wages, higher than the 2012 figure, actual figures for -- let me withdraw that and ask, if you see the solid black line on the right-hand side that bisects both the red line for Amtrak, BMWE and BRS and private sector workers?
A    Yeah. The vertical line, yes.
Q    What would that figure be for private sector workers right where the lines intersect?
A    The 2012 value?
Q    Yes.
A    Is 24.88. That's the same figure reported on previously in Slide 5, and 6.
Q    And what causes that line to go upward from 24.88 to 26.45?
A    That is based on a wage forecast of the annual percentage change in wages in each of those three years in the four broad occupations where Amtrak BMWE and BRS employees are classified. That percentage, annual percentage wage forecast comes from an IHS commercial forecasting service that provides its forecast on a subscription basis to a large number of private sector clients. It is an IHS forecast contingent on an IHS world view of the, near term, future direction of the macro economy.
Q    All right. Now, referring to Slide 8, the red line on that slide refers to Amtrak BMWE and BRS workers to which you have added the so-called Amtrak pattern wage proposal to the existing rates.
A    That's correct.
Q    All right. And what is the ballpark basis, the difference between 28.80 and 30.10 is about four and a half percent.
A    Is that about right?
Q    Seems close.
A    A little less, I think.
classifications were.
I needed to know the weights. I just
don't remember. I would have to look at it again.
MR. WILDER: I am going to ask that this
document be displayed on the screen.
And I have it as Gillula OES wage data
1-2-2014. And this is all I have. I'm going to ask
you to put up -- is that the right document, or not?
(A discussion was held off the record.)
MR. WILDER: I am going to -- may I show
this to the witness?
ARBITRATOR JAFFE: Of course.
BY MR. WILDER:
Q    All right. I'm not going to be able to
reach you.
A    Okay.
Q    Take a look at that document, and could
you identify it for the record and tell me if that
is the weighting that we're speaking of?
A    The file that's currently opened up on OES
data, which looks a whole lot like Exhibit 601.
This file, however, does also contain a
1 tab. It's an Excel file with a second tab, which is
identified as ST hours.
And with your permission, I'll just click
on that. And here you will see the weighting that
weights for each individual year.
Q    Yeah. Why don't I come around?
A    There you go. I left it on that.
Q    Oh, thank you.
A    I left it on that tab.
So these are the annual wage rates.
Those represent the annual number of
straight time hours worked by the BMWE and BRS
employees in each individual year.
And I believe the formulas confirm the
calculation of the averages of the overall private
sector wage.
(Interrupt by the court reporter.)
THE WITNESS: I said, I believe that the
formula is in the workbook confirm the calculation
of the overall private sector average wage.
MR. WILDER: Mr. Chairman.
ARBITRATOR JAFFE: Yes, sir.
MR. WILDER: The document that we're
looking at does not contain the BRS, BMWED job
matches for each of the classifications.
ARBITRATOR JAFFE: I understand that the
one you put on the display and showed to Dr. Gillula
doesn't reflect that.
I believe one of the tabs in the 2000 to
2006 BMWED, BRS wages does at least identify what
the match was.
I don't know yet because no one has asked
whether the matching for 2000 through 2006 was
static and continued forward in time as well, or
whether something else is there.
So I can't take us the next step,
Mr. Wilder.
If you don't mind my interrupting, I can
probably clean it up, one question.
MR. WILDER: Surely.
ARBITRATOR JAFFE: I'll pose the same
question.
Can we show Dr. Gillula that exhibit?
I'll even pass my second computer up.
That will make it easy, if you all don't mind taking
it.
It's open to the page I identified,
Mr. Wilder.
Oh, if you want to come up, that works,
too. I was going to pass the machine back, but feel
free.
And if you're going to testify from there,
use my mic as well so that Joey gets it.
THE WITNESS: Oh.
ARBITRATOR JAFFE: That was all I could
find anyway. I plead guilty.
That's in a file that bears the title at
least of 2000-2006 wages.
THE WITNESS: Correct.
ARBITRATOR JAFFE: And so the first
question before the house is, is that the match that
was used throughout all of your analysis, or did you
change over time based on changes in either standard
occupational classification, job duties at the
carrier, addition or deletion, if there are any, of
any jobs.
1 Or is this the universe, and does it go
2 forward and backwards in time?
3 If I can pose it that way.
4 THE WITNESS: And you pose it very well
5 because, indeed, there were changes over time, very
6 negligible changes in the standard occupational
7 classification.
8 So if we look at the corresponding file in
9 the second half of the period, you might see the
10 shift because the standard occupational
11 classification changes.
12 The other thing you might see is that
13 certain Amtrak job titles might not have existed in
14 all of the periods.
15 ARBITRATOR JAFFE: Okay. And before you
16 leave that, why don't you hold onto that?
17 Mr. Wilder, do you mind if I follow up and
18 close the loop on that exhibit?
19 MR. WILDER: No. Please do.
20 ARBITRATOR JAFFE: Thank you.
21 I thought I ought to ask since I have
22 interrupted.

1 There are a number of job titles listed in
2 that spreadsheet that have an NA next to them for
3 the standard occupational classification.
4 THE WITNESS: Right. Those are, I
5 think -- I believe, those are just jobs that the
6 Amtrak personnel specialist felt there was not a
7 single match.
8 In my -- I'm pretty sure it amounts to
9 tenths of a percentage of the overall sample.
10 ARBITRATOR JAFFE: And the question I'm
11 going to pose is, Do you know what you did with
12 those after you determined there was no match?
13 Did they get excluded from the data
14 completely, both the wages and otherwise?
15 Were they included, but something else
16 happened?
17 THE WITNESS: They would not have been
18 included in the analysis based on the 19
19 occupations.
20 I would have to go back and look at the
21 spreadsheet to see if they were included in an
22 overall average as an NA category.

1 I'll clean up with just a couple of brief
2 ones if I may.
3 Did you engage, Dr. Gillula, in any
4 separate analysis of the BRS group by itself and
5 then the BMWED group by itself?
6 THE WITNESS: The only thing I can recall
7 doing is that, in discussions with the Amtrak
8 personnel specialist, particularly -- it
9 specifically with respect to the quit rates, there
10 was the question are the quit rates for the two
11 groups somehow different.
12 And so I did have the data that supported
13 calculation of the quit rate separately over the
14 entire period. And what I learned was that there's
15 virtually no difference.
16 If you take the average quit rate over the
17 six-year period for the two groups, they were both a
18 shade under 2 percent.
19 ARBITRATOR JAFFE: But for the core
20 question of wage and benefit comparability --
21 THE WITNESS: I did not.
22 ARBITRATOR JAFFE: -- you didn't separate
1. these groups?

The Witness: That's correct.

Arbitrator Jaffe: Okay. When you dealt with the freight pattern in your graph and slide, how did you account, if you accounted at all, for the changes in the health program?

The Witness: I did not.

Arbitrator Jaffe: Okay. And just so the record is clear, when it came to benefits, your focus was on the projected cost to the employer rather than any costs the employee bore?

The Witness: That's correct.

Arbitrator Jaffe: Okay. And does the BLS data include any data relative to employee costs towards pension, towards health, those kind of things.

The Witness: Not the data set that I'm using, which is the employee cost for employer compensation.

Arbitrator Jaffe: Okay. Fair enough. And I think it was obvious, but I may as well close the loop here.

The exhibit relative to the GS schedule for the federal government that focused on the schedule and not on steps --

The Witness: That is correct.

Arbitrator Jaffe: -- so promotions and the like; right.

The Witness: Correct. It's not entirely --

(Interruption by the court reporter.)

Arbitrator Jaffe: Didn't focus on step increase, promotions, or the like.

The Witness: And the answer was, solely an indication of the change in the wage scale as a function.

Arbitrator Fishgold: Did you get that?

(Court reporter response.)

The Witness: The changes in the wage scale is a function of annual changes in the wage scale and doesn't reflect changes in the job mix or step increases.

That's correct.

Arbitrator Jaffe: And I said that was the last one. I apologize. There was one more that jumped out.

We had some discussion in terms of a question and answer relative to the leave issue. And the fact that a more senior workforce might trigger larger numbers attributed to that per hour than a workforce that may have been junior, even under comparable schedules.

Is that true as well in connection with wages, or are the jobs that we're looking at here and elsewhere primarily as you understand it single wage rate regardless of whether they have been there long time, short time, or the like?

The Witness: Yeah. That's certainly a relevant question from the standpoint of a comparable analysis.

And if we had the data set to sort of do an econometric analysis, what you do is put parameters in there that measured the wage pattern over the lifetime of the workforce.

And in order then to get at what the net impact is in terms of the differential, that actually allows you then to measure quantitatively the difference between the age profile of your target labor group and the age profile of your comparators.

Now, measuring the age profile of the targeted group is not difficult. You just ask Amtrak for a file of the age and the date of entry of all of their employees, which I did.

If you going to the private sector comparators, you have to zero in on these 19 occupations that we're interested in a couple of those.

And the way to do it -- there's no published data. But by manipulating public-use microdata files from some of the survey databases that the BLS uses to report information on wages at the household level, you can track the age distribution.

But you can't do it so well for a couple of very narrowly defined occupations. The sample sizes just aren't big enough, those railroad occupations.
But if you hold those fixed, what I did is compare the age distribution of the Amtrak workers with the corresponding comparables economy wide. And then, you know, based on other econometric work I have done, I tried to say, well, what does that amount to? And I think for this population the Amtrak population being a little more senior might contribute one or two percentage points, if you -- if you could actually do a thorough econometric analysis.

ARBITRATOR JAFFE: Okay. So you looked at it, came up with that ballpark, and that's not reflected in the exhibit; right?

THE WITNESS: It's not. It's not in the exhibits.

ARBITRATOR JAFFE: That's fine. That covered it from my end.

Let me find out if the advocates have anything else.

Any further direct?

MR. REINERT: No, sir.

ARBITRATOR JAFFE: Okay. Anything further?

MR. WILDER: No further questions.

ARBITRATOR JAFFE: Okay. Anything further?

You guys in good shape?

I'm in good shape as well. Thank you, Dr. Gillula.

(Witness stood down.)

MR. REINERT: I would like to take a ten-minute break before the next witness.

ARBITRATOR JAFFE: Sure. We're off.

(A recess was taken.)

(Witness sworn by the arbitrator.)

ARBITRATOR JAFFE: At your convenience, Mr. Fritts.

Thereupon,

DONALD STADTLER

Called for examination by counsel for the Carrier, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FRITTS:

Q   Mr. Stadtler, good afternoon.

A    Good afternoon.

Q   Could you state your name for the record?

A    My name is Donald Stadtler.

Q   What is your current position with Amtrak and in the railroad industry?

A    Currently, I'm Amtrak's vice president of operations.

Q   Can you summarize your career with Amtrak and the Federal Railroad Administration from the time you started your career as a budget analyst until you were moved to be vice president of operations?

A    Certainly. I started my career in the federal government. I spent the last 12 years of that career working for DOT specifically. Most of that time in the Federal Railroad Administration, starting in finance as a budget analyst, worked my way up. When I left the FRA, I was the deputy chief financial officer. Came to Amtrak in 2009. I was the chief financial officer. At the end of 2011, I was moved over temporarily to be vice president of operations.

Q   Where were there later data sets of the same type which you used in constructing your study?

A    Yes.

Q   And once again, I would hope that that file is also there somewhere in the backup materials. But if it's not, it was just an oversight.

Q   All right. We will...

A    It maybe had a title that is less intuitive. I'm not sure.

(A discussion was held off the record.)

MR. WILDER: I think the answer to that is yes.
That was made permanent in April of 2012.

Q    Can you identify the topics you will address in your testimony today?

A    Certainly.  I have been asked today to talk about Amtrak's unique financial structure, the way we get our funding as a corporation, give a brief update of our financial status from 2010 to present, talk about how our financials have been improving, about how we continue to be challenged. And take a look at the financial projections moving forward between now and 2017. I have also been asked to testify on the pricing of the labor proposals.

BY MR. FRITTS:

Q    Can you explain how Amtrak is funded?

A    Sure.

Amtrak is a private corporation, but it relies very heavily on funding from the federal government. It was created in 1971. And at least for the past few years, we get an operating subsidy from the federal government, and a capital subsidy from the federal government.

On the operating side of our budget, a good portion of our revenue comes from passenger revenue from folks who actually ride the trains. This year about 12 percent of our operating funds will come from the federal government.

On the capital side, we get an appropriation for capital and debt. Basically, 100 percent of our capital spending comes from the government. We also have partner states, that otherwise provide some capital for us.

Q    How does the appropriations process affect Amtrak's ability to retain funds from year to year?

A    Our fiscal year goes from October to September, and we get annual appropriations. We have for the last 40 years. We get the appropriation as close to the start of the fiscal year as possible. Sometimes, this year for example, we don't have appropriation on time. But the grant that we get from the Federal Railroad Administration clearly has an end date. So our 2013 grant that covers the appropriation only gives us three extra months of funding. We need to have all the funding spent or accounted for three months after the end of the fiscal year.

Q    So we're truly funded on a year-to-year basis.

A    And how does that differ from a private corporation in terms of carrying over funds from year-to-year?

A    Private corporations are in a much better position to plan their capital funding and plan their capital spending. They're not in a situation where they have to break projects up year by year by year. They can commit to capital projects that span fiscal years. We don't have that luxury, at least under the current funding mechanism.

Q    Can you describe the extent to which Congress exercises oversight over Amtrak's operations and finances?

A    Congress has a great level of oversight on our operations, funding operating capital side between the DOT Inspector General, our own Inspector General, the different Congressional committees, the appropriators, the authorizers, Congressional Budget Office, Congressional Research Service --

ARBITRATOR DAS: Yeah.

Actually, let me second that. I would appreciate it if you can slow down just a little bit.

THE WITNESS: We have a great deal of federal oversight from Congress and otherwise. We have the different Congressional committees. We have appropriators, the authorizers. We have our Inspector General, the Amtrak Inspector General. We have the DOT Inspector General. We have the Congressional Budget Office, Congressional Research Service, General Accountability Office, a number of federal entities that watch what we do.
Specifically, we have hearings every year both on the authorizing and appropriating side where the appropriators and the authorizers develop their language, their bill language, based on what we do and how we manage our funds and manage our operations.

**BY MR. FRITTS:**

Q Let's talk about overtime pay specifically.

Can you describe how Congress exercises oversight over the amount of overtime pay that Amtrak pays to its employees?

A Sure. That's just one example of the oversight that they perform.

A few years back, there was one of the staffers on the House appropriations side that looked at our overtime spending and asked why it was the number it was and why it had been increasing over a couple of years.

So, unlike a private corporation, the group was able to come into Amtrak and say, Give us a list of positions, position by position, with a breakout of what the straight time spending was, what the time paid not worked was, and what the overtime was.

And based on the analysis of that data, they felt we were spending too much money on overtime, and they wanted to eliminate all overtime greater than $35,000 per individual employee.

We pushed back on that pretty strongly because there are times, storms and otherwise, and also efficiencies where it's prudent to spend extra -- more than 35,000 on overtime.

So the language was put into place that every time we want to spend more than that amount for one employee, our president has to sign a waiver saying that it's critical for us to spend this money.

Q And in Calendar Year 2013, how many of those waivers were signed off on by the president for BMWE, BRS employees?

A In 2012, the total number -- I don't think I have it right now broken out for just those two, but the total for all employees was 703.

In 2013, the total number is over 1,000. And I have that broken out by the two unions.

Of the 2013 members, we had 235 folks that were paid over $35,000. And for BRS, we had 115 folks that were paid over $35,000.

Q You referenced state governments as partners.

Can you describe the extent to which Amtrak is dependent on state governments?

A Sure. One of the other things that Congress has done recently is they implement PRIIA.

And what PRIIA forces us to do is partner with the states to provide operating services and also capital projects. Starting in this fiscal year, Fiscal Year '14, we rely on the states for operating funds to run the trains. And we also get significant capital contributions from them.

Their funding is sporadic just like the federal funding is. So we can't always plan long-term what those projects are going to be.

Q For those of us that don't know, what is PRIIA?

A I'm sorry. PRIIA is the recent authorizing bill for Amtrak. It's the Passenger Rail Investment and Infrastructure (sic) Act. I may have switched the Is.

Q Let's turn now to Amtrak's financial performance during this round of bargaining for Fiscal Year 2010 through Fiscal Year 2013.

Can you provide an overview of Amtrak's financial performance during that period of time?

A Certainly.

If you look at the chart on Slide 8, you'll see broken out this is just our operating -- our operating revenues, expenses, and other categories.

Revenues and expense have both increased pretty steadily from '10 to '13, as you'll see. However, on the bottom line, the adjusted operating loss has been pretty consistent.

We have made great progress. We lost $420
1 million on the operating side in 2010. We have been able to reduce that number to 354 in 2013. So we have got a good story to tell.

Q    The first yellow line on this chart, the expense line, do those expenses include the wage increases that are in the Amtrak pattern agreements?

A    Yes. The expenses that you see on this chart include the wage increases for all of the settled unions at the Amtrak pattern.

Q    Let's turn to this next chart. Could you explain what it shows?

A    What this chart shows is basically the numbers from the slide before, but what it's intended to point out is that, even as our expenses and our revenues increase, we always have that net loss, the red line, red bar on the far right. So the blues here are revenue. The gray is our expenses. Each year our revenue is less than our expenses. So the net loss year by year is in the same ballpark.

Q    This is a somewhat complicated chart. Can you explain what this shows in terms of how the Amtrak pattern wage increases have affected Amtrak's financial performance during this period of time?

A    Certainly. This is our total expense, so this includes operating and capital. And it's meant to show from 2010 to 2013 the changes. The red on the left-hand side shows the categories that have increased. And you'll see that 258 million of that was for wage increases. 146 was for other operating expenses. And then 46 was an increase to noncash operating depreciation interest otherwise. This is offset by a $300 million decrease in capital expenses. In the 2010 time frame, we were doing a lot of work with the stimulus bill. That work has ended, so that has reduced our capital spending. The point there, though, is that, of the increase, the overwhelming majority of the increase is indeed tied to wages.

Q    And the same question I asked you before, is the 258 million number the number for the wage increases for all of the settled unions in the Amtrak pattern?

A    That's correct. It matches the pattern.

Q    Can you describe the extent to which Amtrak's operations and capital budget are subsidized by the federal government?

A    Yes. On the capital side, almost 100 percent comes from the federal government. As I mentioned earlier, there's a small percentage of capital funding we get from states, other partners like the Long Island Railroad, New Jersey Transit, et cetera. But the overwhelming majority of the capital comes from the federal government.

Q    On the operating side, 88 percent of our funding comes self-generated. The other 12 percent comes from the government.

A    If you look at the graph on Slide 12, this is a summary of the funding we received just from our federal appropriations. And it's broken out into three separate categories, operating appropriations, capital, and debt service to pay off our legacy debt. What you'll see here is that, even though we have made great improvement in our operating loss -- and you can see that by the decrease in operating funding from the government -- it has not, as we had hoped, led to more capital appropriations. We had hoped that, as we reduced our operating reliance on the government, that we would be able to use more funds for capital because we're a capital intensive company for sure. However, as we have reduced our operating costs, the total funding level has decreased as well.

Q    Can you describe the recent trend in the federal funding levels that Amtrak has received?

A    Certainly. As you can see on Slide 12, the total funding was 1.5, 1.6 if you round up billion in 2011. And that has dropped to just over 1.3 billion in 2013.
The operating number has stayed pretty consistent, reducing a little bit each year in line with our reduction in operating loss. And the capital number has shrunk slightly as well. Much of this is tied to the sequestration that I think folks have heard a great deal about. Our budget for the last couple of years has been based on FY12 and then reduced each year due to sequestration.

Q    And what do you expect the funding level to be in Fiscal Year 2014?
A    Although Fiscal Year 2014 started in October, we still don't have our final funding. We're under continuing resolution until January 15, which is two days from now. There does not seem to be a solution. So our guess, at this point -- and this is just our guess -- is that they will extend the continuing resolution and likely hope to have appropriations finalized in February, coincidentally, the same time that the debt limit conversation will take place. However, based on what we have seen from the House and Senate so far, our 2014 level will be just about where we are this year, perhaps slightly below.

Q    So can you summarize Amtrak's recent financial performance?
A    Sure. We have done a good job over the last five years of increasing our ridership. We have set records in each of the last four years and in I guess nine of the last ten or ten of the last 11. So we're doing a good job on ridership. We are, however, continuing to defer maintenance on the Northeast Corridor. We're investing much less each year than we need to, so our deferred maintenance number increases each and every year. We remain dependent on the federal government for our operating capital needs. And we need to continue focusing on our operating loss to ensure that we continue to get credibility from Congress.

Q    Let's take a closer look at ridership. What is the trend in ridership, particularly in the Northeast Corridor?
A    Yeah. The ridership has increased for ten of the last 11 years. The Northeast Corridor has gone up significantly. Acela is our premier service, and the regional has increased as well. However, it's growing faster than capacity. We're rapidly running out of capacity on the Northeast Corridor. Anybody that has ridden on the Corridor can tell you that it's very difficult to find a seat, especially a seat by yourself. So we are running out of room, which is a good thing. But the fact that we're running out of room is not a good thing over the next couple of years.

Q    Let's look at the graph that's on slide 16.

A    If you look at the graph on 16, you see, specifically beginning in 2006 when the service really became sure and started to level out, that the ridership has increased significantly. We had a little dip in 2009. That was less because of 2009 and more because of the dramatic increase in 2008. 2008 was when the gas prices went through the roof and everybody was doing anything they could to get out of their cars. So we dipped a little in 2009. We have been steadily increasing since then. Q    And there are Fiscal Year '14 and '15 numbers. Can you explain the line that extends out to the '15?
A    Sure. Based on our market data and our current estimates of the increase in population and the historical ridership, those are our best estimates for '14 and '15 moving forward.

Q    Now, can you explain the chart that is on
slide 17?
A    What the slide on 17 shows you is a comparison of 2006 load factors, and they're in blue, and 2013 load factors, and they're in gray. If you -- 100 percent is the top, so that means that it's a sold-out train. And the top 15 percent we call a full-track train, 85 percent or greater.

If you look at the blue bars, you can see that in 2006, we only had our peak departures were in that full utilization, and that was the 2 o'clock through 5 o'clock. This is leaving from Washington going north to New York Penn.

Moving forward to 2013, just about every departure is in that same peak. Even the nonpeak are in that same fully utilized trains. So we're running out of capacity fast.

Q    There's another similar slide on slide 18. Can you explain what this shows?
A    Sure. This slide shows similar data for the same time frame.

This is southbound going from New York Penn down to Washington. Similar in that 2006 we had quite a few trains below utilized. In 2013, most of the trains are fully utilized.

Q    Let's turn to slide 19. Can you explain Amtrak's financial performance in Fiscal Year 2013?
A    Sure. This chart is just our operating funds. It shows our revenue and our expenses broken out. Unaudited, though, it's not complete yet, but it gives you the different category of spending that we have. It shows you the adjusted and operating loss of about $354 million.

You see a good portion of our spending goes to wages and overtime. And then benefits right below that.

Q    On that point, let's turn to slide 20. What does this pie chart represent?
A    Slide 20 shows specifically on the right-hand side of the chart that nearly half of our operating expenses are, indeed, wages and benefits.

Q    Okay. Let's move to slide 21. What do you project with respect to Amtrak's financial performance in the coming years?
A    We expect that it will continue to operate the loss.

Our operating number will stay pretty much where it is now. We're continuing to increase in our revenue. But with specifically on the Northeast Corridor, the inability to increase our ridership as we run out of capacity, we're going to be struggling to continue the success that we have.

We have got to focus, and we have worked very hard with the Hill on increasing our capital spending increasing the capital funding that we receive from Congress. The Northeast Corridor, specifically on the south, we have a lot of work to do.

Recently, in the weather event over the last couple of weeks, we fared much better on the north end because the electrical catenary is only 30 years old compared to the catenary on the south end that is nearly 80 years old.

Q    Have these projections been submitted to Congress?
A    Yes. Each year we send a five-year plan to Congress.
1 Congress, and these are the numbers that come from
2 the most recent five-year plan.
3 Q Let's turn to slide 23.
4 A 23, similar to the slide we saw
5 previously, just shows that from '14 to '17, our
6 estimates will continue forward with our revenue
7 coming less than our expenses.
8 Our expenses will exceed our revenue.
9 And you'll see the net operating loss
10 projection varies the 344 in Fiscal Year '14, up to
11 428 in '17.
12 Q Why do you project the next loss to grow
13 over this period of time?
14 A The net loss is projected to grow here
15 because we don't have the same ability to increase
16 revenue on the Northeast Corridor. And as that
17 flattens out, the expenses don't flatten out in the
18 same way.
19 Q I think you have covered this already, but
20 is there any further information you can provide on
21 the status of the appropriations process for Fiscal
22 Year 2014?
23 A Only that it is still not final.
24 And at this point, it looks like it may be
25 February before it's final. And as we work to plan
26 our construction season, which starts in March, it
27 makes it very challenging not knowing what our
28 funding is going to be.
29 Q All right. Let's turn to slide 25.
30 A Slide 25 breaks out for 2014 our current
31 budget, the budget that we're working towards.
32 It is a little higher than what we expect
33 the appropriation to be. When we submit our
34 figures, we do it on the knowledge that we have at
35 that time. So when we get an appropriation, we'll
36 have to wind this down just a little bit.
37 For '15, '16, and '17, it shows the
38 federal appropriation needed that we estimated to
39 Congress, broken between debt, capital, and
40 operating.
41 You'll see there's a little dip in 2016.
42 This is just based on the current projects that we
43 have in place. 2015, for example, where we spend a
44 good deal of money on some projects that are
45 ongoing, ordering some long-distance cars, for
46 example. So the final payment is in 2015.
47 Starting in 2017, you'll see more work
48 upon our next-generation high speed rail cars that
49 are coming in.
50 Q Okay. Let's go to slide 26.
51 Can you describe Amtrak's capital needs in
52 the next several years?
53 A Sure. As I talked about previously, the
54 Northeast Corridor specifically is very capital
55 intensive. And we have not done a good job as a
56 country of funding the maintenance and replacement
57 needs on the corridor.
58 The list you see here is just a small
59 portion of the capital projects that we have got to
60 address over the coming year.
61 We have done a good job of late in trying
62 to catch up. We're nowhere near caught up. We
63 still have deferred maintenance of over $5.8
64 billion, and that does not include a lot of major
65 projects that we haven't even begun to address.
66 We have done a good deal of capital work
67 since January 2008. For example, the folks in this
68 room have done that work. And you'll see that the
69 number of positions for BMWE has grown by 30 percent
70 thanks to this work. And the BRS positions have
71 grown by 23 percent. So we're making progress, just
72 not fast enough.
73 Q Let's turn now to the costing of the labor
74 proposals that are at issue here.
75 Can you summarize what you're going to
76 address in your testimony with respect to the costs
77 of Amtrak's pattern proposal and the PRLBC's
78 proposal?
79 A When we first started this round of
80 negotiations, we were coming off of a very long
81 eight-year period where we didn't have a great
And Mr. Boardman came in in 2008, and the directive he gave the team was we have got to be collaborative and we have got to reconcile with our crafts on the labor agreements.

His words, we specifically need to stop talking about management and unions. We need to become one Amtrak.

I talk about this all the time with my employees. When folks get off the train and they're not happy, it's not because of the BMWE. It's not because of the UTU. It's not because of management. It's because of Amtrak.

So with that in mind, we set out to offer fair contracts for the unions and to settle them as quickly as possibly because we didn't want another extended negotiation. We put the pattern in place and went on talking about it.

The next couple of slides is the difference between the pattern that we have been using for the past few years and the proposal that is put forth by these unions.

Let's turn to slide 28.

What does slide 28 show?

A Slide 28 is just a general slide that talks about the cost of just a 1 percent wage increase, and also the cost of a one-person wage increase.

So if we increases wages by one penny for just the unions here, if you include railroad retirement, is $86,000. For all of the unions, it's about $500,000 per year.

Cost of a 1 percent wage increase, again, just the unions that have not yet settled, you're looking at about $2.4 million a year. For all of the unions, you're looking at about $14 million.

And just so it's clear for the record, what is the RRTA column?

RRTA is the railroad retirement cost that we need to pay, we, Amtrak need to pay.

And I can talk more about regular retirement if you want.

All right. Let's turn to slide 29.

Can you explain the cost of the Amtrak pattern wage increases?

Sure.

This chart breaks out the total cost and this includes all of the unions, if we were to have the pattern in place for the full FY10 through FY15.

It's broken out into operating capital, and I can talk to it if you would like. But, in summary, the total cost of the pattern is about $579 million.

So it goes to show that we are investing a great deal in this pattern, and we didn't go lightly when we put the pattern in place. It's a significant investment into our people at a critical time in the Company's history.

Let's turn now to slide 30.

Focusing on the BMWE and the BRS. What does this slide show with respect to cost of retroactive pay for these two crafts?

What this shows is that, assuming that the pattern continues, we have been accruing -- now, we don't have a separate cash account, but we have accrued the amount of what the retro pay would be.

If we come to resolution on April 1, that retroactive payment amount would be about $51.2 million.

And you see it broken out between operating capital and between BMWE -- BMWE's share would be 37.3 million, and the BRS's share would be 13.9 million.

So under the pattern, we're prepared to make a payment or 51.2 in retro pay.

Okay. Now, let's turn to slide 31 and look at the cost of the Amtrak pattern as compared to the PRLBC proposed wage increases over the term of these potential agreements.

Can you explain what is on slide 31?

Sure.

The current Amtrak pattern goes through January 1, 2015. And if you were to apply that pattern to the BMWE and the BRS, that total cost would be $71 million, and that's on the top of the slide.

If you extend that same pattern through...
December 31 of 2015, just to be analogous to the
time limit that's proposed, that cost would be
$102.9 million, those two figures compared to the
proposal that's presented here of 122.7.

So, as you can see, even if you extend our
timeline through December 31, it's a $20 million
difference just for these two unions.

Q  Now, let's talk about the cost if the
PRLBC's wage proposal were applied to all craft
unions pursuant to the Me-Too agreements.

A  That cost is $123.7 million.

And it's broken out on this slide between
the two unions here and the me-too for all of the
settled unions.

If you look at slide 33, you see it broken
out between just the wage increases and also the
proposed lump sum.

Q  Would that $123 million cost be material
for purposes of Amtrak's financial reports?

A  The auditors would consider that material.

Q  So can you summarize the significance of
this dispute to Amtrak from a financial standpoint?

A  Sure.

From a financial standpoint, $100 million,
$123 million is a big deal for us.

We're at a critical time in the Company's
history. We have a bright future ahead of us, but
that future relies on us investing in the Corridor.

And as we set forth, we put a responsible
pattern forward. We have presented that pattern to
Congress, and we have based our estimates for the
next five years on that pattern.

Any difference from that pattern will
negatively impact the way we're looking to run our
business.

MR. FRITTS: That concludes my direct for
questions.

ARBITRATOR JAFFE: Okay.

Do you want some time, Mr. Wilder? Of
course.

MR. WILDER: Let's take a few moments, ten
minutes.

ARBITRATOR JAFFE: That's fine, sure.

Q  I see.

Now, on slide 19, again, for
clarification, did the expense data relating to
wages and overtime and employee benefits also
include the BMWED and the BRS?

A  They include, on this sheet, an accrual
amount for what the pattern would be for Fiscal Year
'13 for these two unions, yes, BMWE and BRS.

Q  For all of the unions including -- all
right.

Now, are these figures -- and I'm
referring to 1,078.3 and 716.2, do they cover the
organized and the unorganized, or just the
organized?

A  They cover -- they cover the organized and
the unorganized.

Q  I see.

A  Let me make sure I understand the
question.

Yeah. Right. They cover the settled and
the not settled -- I'm sorry, by unorganized you
mean management employees. No. Management
employees are under salaries.
Q  All right.  Are unorganized nonmanagement employees in salaries, or are they wage and overtime?
A  I guess I don't understand unorganized nonmanagement.
Q  All right.  You have salaried employees who are not represented by a union other than management?
A  All nonagreement employees --
Q  Yes.
A  -- are under salaries, under the salaries line.
Q  All right.  Thank you.
Now, referring to the wages and overtime figure in -- for entry in slide 19, does that include an assumption for -- no, that includes actual overtime, does it not?
A  That's correct, for 2013, it does.
Q  Now, moving to slide 22, the projection. Does the projection include assumed overtime?

A  The projection on slide 22 assumes overtime at approximately the rate that was experienced in 2013.
Q  All right.  So in other words, you took the actual 2013 overtime experience and projected it forward through 2017?
A  That's correct. However, at the time we did this, we did not have final 13 numbers. So it would have been when the projection was done was probably halfway through the year '13.
Q  Turning to slide 17 -- or really, 16, 17, and 18 relating to capacity and ridership. Does Amtrak have the ability to increase capacity on the Acela by adding more cars?
A  We do not at this time have that ability, no, we do not have the extra cars.
Q  Is that because there's a shortage of cars, or why?
A  Well, that's because the Acelas are train sets, and we cannot add cars to the train sets.
Q  We have looked into purchasing additional train sets.
A  But you can add trains, can you not, even if it's not Acela?
Q  We can add trains, but we also in the current infrastructure, there are not many slots available.
A  Most of the slots that are available are outside of peak hours.
Q  Let me ask this, with reference to the northbound train on slide 17. I'm referring to the afternoon period, 2 p.m. through 5 p.m. Have those trains always operated close to capacity?
A  I can't answer that question.
Q  Are you asking before 2006?
A  I can't answer that question.
Q  All right.  Now, at what point does Amtrak consider a fare increase when you are at capacity?
A  We have fare increases regularly at least every year, if not more often than every year.

A  And we revenue manage the trains based on the ridership and based on the elasticity of demand.
Q  Then moving to slide 33, my question is does this contemplate a six-year agreement of the BMWED and the BRS?
A  These figures assume that the agreement ends December of 2015.
Q  2015?
A  That's correct.
Q  And but the caption of it deals with the total additional cost to Amtrak of breaking the Amtrak pattern.
A  That's correct.
Q  So does this exhibit accept the organization proposal for an agreement ending on December 31, 2015 and going into 2016, or does it assume the contract ending in 2015?
A  These figures assume a contract ending December 31, 2015.
Q  Does the figure 123.7 assume anything with respect to 2016?
A  It does not.
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Q    Let me ask this question, too.
A    Does the 123.7 assume anything with respect to 2015 for the crafts other than the BMWED and the BRS?
A    This assumes that all of the already settled crafts receive the same increases that are being proposed by the BMWE and the BRS.

ARBITRATOR JAFFE: Any further direct?
MR. FRITTS: If you could just excuse me for one moment.

ARBITRATOR JAFFE: Sure.
MR. FRITTS: I don't have any questions on redirect.

ARBITRATOR JAFFE: That's fine as well. And if we could just get clarification, Mr. Fritts, later is fine. It can either be from counsel or from a witness, it doesn't matter, but whatever it is, it is.
MR. FRITTS: We will do that, Mr. Chairman.

ARBITRATOR JAFFE: That's fine. And the only other one relates to slide 31, which are the costs of applying the proposal in this case, as well as what's been labeled as the Amtrak pattern.
Do you know whether there is anything in the costing of the PRLBC proposal that attempts to reflect the changes in health as a result of the freight settlement and potential roll over?
THE WITNESS: There is not.
This is just wages.

ARBITRATOR JAFFE: Just wages. That's what I was trying to zero in on.
I'm going to leave it at that. Let me see if counsel has anything else, please.

ARBITRATOR JAFFE: Any further cross?
MR. WILDER: One question. I have been told that I keep asking the wrong question. So I'm going to try it again.

ARBITRATOR JAFFE: That's fine. Just a couple of brief ones for our education, Mr. Stadtler.
Could you take a look at slide 28, please, which has the cost of both the one cent and then a 1 percent wage increase?
The WITNESS: I'm there.

ARBITRATOR JAFFE: The cost of 1 percent, let me start with the two groups that are here in this proceeding.
What's the date effective as of?
In other words, is this building on the existing current wage base for those groups?
The WITNESS: That's my understanding, but I would want to make sure.
ARBITRATOR JAFFE: Okay. And with respect to the settled unions, do you know whether that's looking at their current wages, which would include the Amtrak pattern "adjustments" up until this point in time, or does it reflect back as of the same base date or measuring date?
I'm trying to figure out if we have apples and apples or apples and oranges in the 1 percent.
The WITNESS: And I understand the question.

ARBITRATOR JAFFE: Do you know the answer?
Oh, I'm sorry.
You're trying to get the mic on, aren't you?
The WITNESS: I understand the question, and I want to double check to make sure I know the answer.

ARBITRATOR JAFFE: That's fine as well.
And if we could just get clarification, Mr. Fritts, later is fine. It can either be from counsel or from a witness, it doesn't matter, but whatever it is, it is.
MR. FRITTS: We will do that, Mr. Chairman.

ARBITRATOR JAFFE: That's fine.
And the only other one relates to slide 31, which are the costs of applying the proposal in this case, as well as what's been labeled as the Amtrak pattern.
Do you know whether there is anything in the costing of the PRLBC proposal that attempts to reflect the changes in health as a result of the freight settlement and potential roll over?
THE WITNESS: There is not.
This is just wages.

ARBITRATOR JAFFE: Just wages. That's what I was trying to zero in on.
I'm going to leave it at that. Let me see if counsel has anything else, please.

ARBITRATOR JAFFE: Any further direct?
MR. FRITTS: No, Mr. Chairman.

ARBITRATOR JAFFE: Any further cross?
MR. WILDER: One question. I have been told that I keep asking the wrong question. So I'm going to try it again.

THE WITNESS: I thought your questions were fine, sir.

RECROSS-EXAMINATION
BY MR. WILDER:
Q    Let me refer you to Slide 33.
A    And you told me that this covered a time period from January 1, 2010 through December 31, 2015.
The question that I want to ask is, does the figure, in other words, the cost of -- to Amtrak of breaking the Amtrak pattern at 123.7 million, presume that for Calendar Year 2015, the crafts other than the BMWED and the BRS will take a wage
freeze?
A Ask the question again, please.
I'm sorry.
Q I got the question right.
A But I don't think I understood the question.
Q Oh, come on.
ARBITRATOR JAFFE: I'll make it easy for you.
Can we have it read back?
MR. WILDER: You want to try that, Mr. Chairman?
ARBITRATOR JAFFE: I could, but I'm going to have it read back.
I could do it, but let's have it read back.
MR. WILDER: All right.
(The record was read back as requested.)
ARBITRATOR JAFFE: Right on the money.
THE WITNESS: The figure assumes that the me-too crafts, the crafts that have already been settled, get the same increase on January 1, 2015 that's proposed here.
BY MR. WILDER:
Q But the -- I understand.
All right. I am looking beyond January 1, 2015. Because on that date, the last wage increase of the so-called Amtrak pattern will be paid, which I think is how you answered my question.
A That's correct.
Q I am looking for -- does the 121. -- 123.7 million figure presume that there will be no other increases within 2015 for the other crafts?
A If I understand the question correctly, yes, we do not assume that the other crafts will receive any additional increase after the first.
MR. WILDER: Thank you.
ARBITRATOR JAFFE: Any further direct?
MR. FRITTS: No further direct.
ARBITRATOR JAFFE: Anything?
Okay. Thank you, Mr. Stadtler.
(Witness stood down.)
ARBITRATOR JAFFE: Anything else today before we stand in recess until tomorrow morning?
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ARBITRATION HEARING - Vol. 3

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