

In The Matter Of:
*IN THE MATTER OF AMTRAK AND
PRLBC*

ARBITRATION HEARING
Vol. 3
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1 BEFORE THE AMTRAK/PRLBC ARBITRATION BOARD

2

3 IN THE MATTER OF)

4 NATIONAL RAILROAD PASSENGER)

5 CORPORATION (AMTRAK))

6 and)

7 BROTHERHOOD OF MAINTENANCE OF)

8 WAY EMPLOYEES (BMWED), affiliated)

9 with TEAMSTERS RAIL CONFERENCE,)

10 INTERNATIONAL BROTHERHOOD OF)

11 TEAMSTERS)

12 and) NMB NO. A-13638

13 BROTHERHOOD OF RAILROAD SIGNALMEN,)

14 AFL-CIO(BRS))

15 and their representative)

16 PASSENGER RAIL LABOR)

17 BARGAINING COALITION (PRLBC))

18

19

20

21

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1 PROCEEDINGS

2 ARBITRATOR JAFFE: Good morning, everyone.

3 At your convenience, Mr. Reinert.

4 MR. REINERT: The first thing we're going

5 to do is recall Charlie Woodcock for some brief

6 testimony.

7 Why don't you pull out Exhibit 259?

8 ARBITRATOR JAFFE: That's fine.

9 We don't have to swear you in again,

10 Mr. Woodcock. We do have to remind you, you're

11 still under oath.

12 THE WITNESS: Thank you.

13 Thereupon,

14 CHARLES WOODCOCK

15 Recalled for examination by counsel for

16 the Carrier, having been previously duly sworn, was

17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. REINERT:

20 Q Good morning.

21 A Good morning to the Panel members and the

22 BMW and BRS here today.

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1 Q Mr. Woodcock, I would like to just briefly
2 ask you to identify some documents in response to
3 some questions from last week.
4 First, we're pulling up Amtrak Exhibit
5 259. Do you have that in front of you?
6 A Yes, sir, I do.
7 Q There were some questions last week about
8 bank time among other units.
9 Could you tell us what Amtrak Exhibit 259
10 is?
11 A Yes.
12 This is a rule we have with the shop
13 crafts, and I believe Chairman Jaffe asked me a
14 question on how the bank worked.
15 But essentially, this rule allowed
16 employees in the shop craft units to bank the
17 premium portion of their overtime and then be able
18 to take it in lieu of an otherwise payable day off
19 in the future, subject to service requirements.
20 Q Okay. Let's turn to Amtrak Exhibit 258.
21 Do you recall during Mr. Glass' testimony
22 he had a red-and-blue chart with different

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1 collective bargaining agreements over different
2 rounds?
3 A Yes, sir.
4 Q And there was a question about the BMW
5 national agreement back in the round in 1981.
6 Can you tell us what Amtrak Exhibit 258
7 is?
8 A 258 is a copy of the national BMW
9 agreement with the NRLC and the BMW.
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 Do you recall there were some questions
14 last time about whether Amtrak had costed out the
15 UTU conductor bonus payments and the associated work
16 rule changes?
17 A Yes, sir.
18 Q And did you go find out whether there had
19 been a costing out done of those agreement changes
20 in bargaining?
21 A Yes.
22 There was one done that was in the file,

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1 and it is attached as Exhibit 257.
2 Q Okay. Looking at the first three pages of
3 257, could you tell us what they are?
4 A Yes.
5 The first three pages are a sort of a
6 narrative and an analytical analysis of what Amtrak
7 saw as the quantification of the benefits of the
8 rule and what the eventual payouts might be under
9 that rule for the bonus payments.
10 Q And what was the date of those first three
11 pages?
12 A April 9, 2013.
13 Q And who prepared Amtrak Exhibit 257?
14 A The -- my staff along with the operations
15 people in crew management.
16 Q And the last page has a different date.
17 What date is that?
18 A April 10, 2013.
19 Q And what is the last page of Amtrak
20 Exhibit 257?
21 A The last page is a chart that essentially
22 takes the elements of the first three pages and puts

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1 it into what could be called a modified or a simple
2 spreadsheet.
3 Q And with respect to the question of what
4 is the cost to Amtrak of the UTU conductor promotion
5 and performance bonus payment rules, what answer
6 does the last page of Amtrak Exhibit 257 provide?
7 A Well, the last page shows that, in our
8 opinion, this rule will actually save us money in
9 terms of its impact on our operation and flexibility
10 and efficiencies that it will give us.
11 Q And how much money does it show you in
12 saving in FY14?
13 A FY14 is 855,000 plus.
14 Q And in FY15, '16, and '17 and
15 continuing --
16 A Right.
17 Q -- what are the annual savings projected?
18 A 223,000 each of those years.
19 Q And just briefly, how does the rule
20 provide savings that offset the payout of dollars in
21 performance bonus?
22 A Well, when you look at the document, just

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1 quickly taking you through the pages 1 through 3,
 2 the first element is how the \$250 amount, which is
 3 the annual amount, will save us money.
 4 And that's principally in two areas, as we
 5 indicated, I think, last week.
 6 One is that now, all employees hired are
 7 going to have to go through the promotion rule, take
 8 the promotion, and in turn keep their certification
 9 and all their qualifications up as part of this and
 10 as part of the condition of employment.
 11 And secondly, it allows us -- it's going
 12 to retain -- we believe our most experienced people
 13 will be maintaining their qualifications and be
 14 available to us. That's on the 250.
 15 If you turn to page 2, we believe that a
 16 piece that is quantifiable out of this and pretty
 17 good quantification is that we should have reduced
 18 training for the people from now on coming in the
 19 door. We will always have normal attrition.
 20 But now, we believe because people will
 21 have to retain those qualifications that this in
 22 turn will reduce the amount of training, which you

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1 see there in both a six-week and an eight-week
 2 segment on page 2.
 3 So that is the 250 in terms of how we see
 4 it. We did not attempt within the 250 to put a
 5 number on the ability to utilize people there, but
 6 it will be shown down below when I get to the two
 7 \$500 bonus payments.
 8 When you go to the two \$500 bonus
 9 payments, the operations people, as I understand it,
 10 did an analysis of current status who might be
 11 eligible given the working amounts of time and the
 12 amounts of compensated time that people put in.
 13 And so you see that with 1,300 assignments
 14 in the conductor ranks, we believe that takes the
 15 amount payable with the two \$500 bonuses down to
 16 about 1.3 million.
 17 Then, a further analysis was done looking
 18 at actually how much time people are available.
 19 And then lastly, that number which was
 20 between 540 and 625 shown on the page 2, that was
 21 then looked at with one final filter which raised
 22 that number. The final filter was those that had

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1 sufficient paid time off, such as vacations and
 2 holidays, to credit towards that 118 or 120 days,
 3 and that got us to about 895 people we predict would
 4 be eligible for the bonus, on average, giving us
 5 roughly 895,000.
 6 On the return on investment, there's
 7 really two principal pieces to this.
 8 The first is that, given the number of
 9 vacancies that we are currently and have been
 10 running, we believe that a conservative estimate, if
 11 you take that half of those positions, which is 30,
 12 that were advertised and then in turn take an
 13 additional filter of 25 percent of those are being
 14 filled through overtime, we believe that we would
 15 save at least the premium time on that, which would
 16 be about \$250,000.
 17 And then, if you turn the page that
 18 because we should have less overall hiring on our
 19 extra boards to staff for the vacancies, we believe
 20 a conservative estimate would be about 15 positions
 21 nationwide.
 22 And so we get, based on roughly a \$67,000

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1 composite rate, that would yield about a million
 2 dollars.
 3 None of these numbers, by the way, are
 4 loaded with taxes. And in the case of the 15, they
 5 are not loaded with the benefits that the Company
 6 would also save. So these are fairly conservative
 7 estimates.
 8 And then last but not least, we have other
 9 factors on page 3 we did not put into the
 10 spreadsheet, but we think also could provide us
 11 additional savings.
 12 Q Based upon this analysis, in Amtrak's view
 13 does the UTU conductor promotion and performance
 14 bonus payments impose any cost upon Amtrak beyond
 15 the internal Amtrak pattern?
 16 A No. No, sir.
 17 MR. REINERT: No further questions.
 18 CROSS-EXAMINATION
 19 BY MR. WILDER:
 20 Q Mr. Woodcock, I'm going to draw your
 21 attention to page 2 of Amtrak Exhibit 257.
 22 A Yes, sir.

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1 Q And ask you whether the cost estimates of
2 implementing the six-month \$500 bonus were based
3 entirely on historical data of how the patterns of
4 other conductors staff your operation.
5 A I was not directly involved, but my
6 understanding is that is exactly what our team did.
7 Q Now, from the exhibit, it appears there
8 are 1,300 conductor starts.
9 Is that correct?
10 A Yes, conductor positions.
11 Q And do I understand that your historical
12 analysis indicates that between 540 and 625
13 employees obtained the 118 compensated days
14 necessary to qualify for the \$500 bonus?
15 A Yes, sir.
16 But that was only looking at the actual
17 assignments worked. That particular level was the
18 assignments that people in those categories actually
19 worked.
20 Q Now, is it a purpose of the rule to
21 increase that 500 to 625 closer to 1,300?
22 A It would certainly be to incent people to

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1 get closer. That is correct.
2 But behavior, only time will tell whether
3 behavior actually does change to the positive, how
4 much to the positive. We're optimistic that it
5 will.
6 Q I see.
7 Now, if, hypothetically, you were to move
8 the number of conductors working 118 compensated
9 days for a six-month period, would that increase
10 your cost over your historical costs?
11 A Well, it certainly could. It certainly
12 could.
13 Q And if it in fact occurred, it would,
14 would it not?
15 A Yes.
16 Over and above what, as I said earlier,
17 would be a roughly about an 895 number that led to
18 the 895,000.
19 So we have already added back what we
20 thought would be a number that, based on paid time
21 off, would hit that.
22 But, yes, if it went beyond that, it could

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1 add to greater payouts.
2 Q I see. I see.
3 And would that change affect the cost
4 pattern that's set forth in the last page of this
5 exhibit?
6 I'm referring to the chart.
7 A I think it would, Mr. Wilder, on both
8 sides.
9 It would also probably lead to additional
10 savings. But, again, we didn't model that
11 incremental incentive and what it would do to us
12 over and above reasonable baseline settlements.
13 The proof will be in the pudding when we
14 see how this rule behaves.
15 Q Moving to the \$250 payment.
16 My impression from your earlier
17 testimony -- and this is a question. Correct me if
18 I'm wrong.
19 But my impression of your earlier
20 testimony is that all assistant conductors would be
21 required to stand and obtain promotion within one
22 year of hire and to maintain the conductor

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1 certification.
2 Is that correct?
3 A That is correct except for the initial
4 batch that were considered grandfathered that have
5 up to three years to probably retire, and they were
6 left out of this equation.
7 Q And so the \$250 amount, annual amount,
8 will to be given to all conductors. Is that
9 correct?
10 A After the year, yes.
11 After each class or each attrition that's
12 brought in, they would be expected to maintain that
13 and keep their cert up.
14 Yes, they would be eligible for that.
15 Q And referring to the chart, second line,
16 Less Savings For Utilization, you indicate a figure
17 of 268,000 that would be carried through Fiscal Year
18 2014 through Fiscal Year 2017; correct?
19 A Correct.
20 Q What is that savings based on?
21 A That savings is based -- if you turn to
22 page 2, up towards the top, that savings is based on

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1 what we would call the initial classroom and initial
2 on-the-job training time that we feel will have
3 less.
4 And that's based on a \$16 hourly rate.
5 And that's a rate set by Amtrak. So that's how come
6 that rate is there.
7 Q And how does that amount to 268,000
8 annually?
9 A I believe that if you add the two numbers
10 up, 115,000 plus the 153,600, that's how you get the
11 number.
12 I think we technically shorted ourselves
13 \$600, but that is the number adding up the two.
14 Q And that assumes that you will have 30
15 less employees to hire and train?
16 A This is just the training piece.
17 The actual lesser employees hired we
18 believe are reflected on the bottom of the page and
19 over to the next page.
20 Q What is the basis for determining the
21 savings of 30 employees?
22 A If I could ask, because there's several

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1 numbers here, is it the 30 there you're referring to
2 or the 30 at the bottom?
3 Q I'm referring to the 30 under the 250 at
4 the top of the page.
5 A Well, I believe it comes from 20
6 percent -- again, it's an assumption on our
7 operations team.
8 It's 20 percent of the current assistant
9 conductor population that are promoted not holding
10 the job.
11 So that's how it's arrived at, 20 percent
12 of 150.
13 Q All right. Thank you.
14 MR. REINERT: No further questions.
15 ARBITRATOR JAFFE: Anything you wish to
16 pose?
17 ARBITRATOR DAS: No.
18 ARBITRATOR FISHGOLD: No.
19 ARBITRATOR JAFFE: Just a couple of very
20 brief clarifiers for our education, Mr. Woodcock, on
21 the same Exhibit, 257.
22 Do you know why that document was

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1 prepared?
2 THE WITNESS: This was prepared, I
3 believe, to memorialize. We had quite a lot of
4 money we were paying out in lump sums from a cash
5 point of view.
6 And this was designed to be, I think,
7 talking points internally with our management team
8 on how we saw -- or our operations team saw the
9 expenditure of those monies.
10 ARBITRATOR JAFFE: Got it.
11 Because it bears a date of April 9, 2013,
12 which I think falls in between the agreement and the
13 ratification and signature --
14 THE WITNESS: Right.
15 ARBITRATOR JAFFE: -- in that period, do
16 you know whether any of this data was shared across
17 the table with the UTU in bargaining?
18 THE WITNESS: No. I don't believe it was.
19 ARBITRATOR JAFFE: Okay. Do you know
20 whether the UTU was given any cost estimate at all
21 of this in bargaining?
22 THE WITNESS: I don't believe -- the

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1 reason I'm answering it that way, we had a sub team
2 that helped put this together, but I don't believe
3 it was.
4 But the UTU was aware that there would be,
5 unlike, say, the freight and some of the commuter
6 models, there would be employees that would likely
7 not hit these benchmarks.
8 ARBITRATOR JAFFE: I see.
9 THE WITNESS: I think, as I might have
10 indicated last week, there was a lot of give and
11 take around how to cut the dates and where we would
12 cut them.
13 So I think there was at least an
14 expectation there would be some people in the craft
15 that might not hit these targets.
16 ARBITRATOR FISHGOLD: Was there any
17 thought at the time that that document was being
18 prepared that -- in addition to being able to
19 memorialize and also to explain if the question came
20 up with the UTU prior to ratification where you
21 thought this money would go or what it would
22 achieve -- was any thought given to also, just in

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1 case we have to deal with me-toos down the road to
 2 show, that this is a legitimate cost saving as
 3 opposed to a -- I'm just using the term "signing
 4 bonus" so to speak.
 5 THE WITNESS: Well, when we sat down with
 6 the UTU, we were well aware of what had occurred in
 7 243.
 8 And we were very concerned that whatever
 9 we did not only would not be monetized to other
 10 crafts, which is why you don't see any other UTU
 11 units receiving this, but we also indicated that, in
 12 return for extra money in general of this magnitude,
 13 we really needed to address issues around the use
 14 and the retention of our skilled employees that
 15 were, frankly, inefficiencies and customer service
 16 issues for us.
 17 So that's the way we approached it.
 18 We felt comfortable that because the
 19 me-too refers to general wage increases and refers
 20 to basically benefit changes, that we were fine from
 21 that perspective.
 22 But we were also aware that should it have

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1 been monetized to the other UTU units that that
 2 could likely be a possible problem given 243's
 3 thinking on this issue nationally.
 4 ARBITRATOR FISHGOLD: Thank you.
 5 ARBITRATOR JAFFE: Anything further by way
 6 of direct?
 7 MR. REINERT: No further direct.
 8 ARBITRATOR JAFFE: Any further cross?
 9 MR. WILDER: No, Mr. Chairman.
 10 ARBITRATOR JAFFE: Thank you,
 11 Mr. Woodcock.
 12 THE WITNESS: Thank you.
 13 (Witness stood down.)
 14 MR. REINERT: We're now going to change
 15 counsel and call a new witness.
 16 (Witness sworn by the arbitrator.)
 17 Thereupon,
 18 BRUCE POHLOT
 19 Called for examination by counsel for the
 20 Carrier, having been duly sworn, was examined and
 21 testified as follows:
 22 DIRECT EXAMINATION

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1 BY MR. FRITTS:
 2 Q Mr. Pohlot, could you state your name for
 3 the record?
 4 A Bruce R. Pohlot.
 5 Q And what is your position with Amtrak?
 6 A I am the chief engineer.
 7 Q Can you describe your experience in the
 8 railroad industry?
 9 A Sure.
 10 I started at the railroad approximately 40
 11 years ago, 1974, for the Lehigh Valley Railroad in
 12 the BMW union. I stayed with the freights with the
 13 Conrail takeover, going to Amtrak in April of 1977.
 14 I was -- left Conrail as a supervisor of
 15 track. Came to Amtrak as engineer in programs for
 16 the Northeast Corridor startup, which is a major
 17 capital program from Washington to New York and some
 18 work from Boston.
 19 I was brought to assistant division
 20 engineer, transferred to Baltimore as assistant
 21 division engineer, worked on some major capital
 22 programs there and maintenance work.

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1 Went to Los Angeles as division engineer.
 2 Later transferred to Boston as division engineer
 3 before the takeover and a startup for the New York
 4 program, which was a second phase of a major high
 5 speed rail improvement project.
 6 (Interruption by the court reporter.)
 7 THE WITNESS: Sure. And from there, I was
 8 relocated to Philadelphia to manage the Nero
 9 (phonetic) program, the upgrade of high speed rail
 10 from Boston to New Haven.
 11 Then later promoted to assistant chief
 12 engineer and left there in 1998 as assistant vice
 13 president of engineering program management.
 14 Went to work for Parsons Brinkerhoff,
 15 became their president of a subsidiary company
 16 called PB Transit and Rail Systems, Inc. that
 17 interfaced with all the railroads, including all the
 18 freight railroads at that time.
 19 I agreed to accept the position of chief
 20 engineer in December of 2012. Returned to Amtrak in
 21 order to basically take care of the planning,
 22 design, construction, and maintenance of the

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1 infrastructure in the Northeast Corridor and the
 2 other construction that we own throughout the
 3 nation.
 4 Q Mr. Pohlot, do the BMW and the BRS work
 5 forces report to you through the chain of command?
 6 A Yes. All the BRS, which is about 760
 7 people. And all of the BMW, which is about 2,000
 8 people, 2,600 hundred people.
 9 Q What involvement did you have in this
 10 round of bargaining?
 11 A Well, I have been -- since I returned to
 12 Amtrak in December of 2012, I have been privileged
 13 to attend two mediations that were held since then.
 14 Q Mr. Pohlot, could you explain what your
 15 testimony will cover today?
 16 A Well, basically, in an effort to take
 17 advantage of the opportunities that have become more
 18 efficient, we at times in the engineering department
 19 at Amtrak have some troublesome rules that we have
 20 to overcome.
 21 We have been looking for solutions and
 22 reasonable tradeoffs to work in these work rules and

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1 associated costs which Amtrak has had on the table
 2 since 2010.
 3 I'll be discussing the two work rules that
 4 are in the pattern. They are the one-year lock-in
 5 after training for BMW and the BRS 45-mile rule.
 6 And then I will go through a menu of
 7 options that could fund the additional wage
 8 requests.
 9 And, again, I mentioned that we are
 10 provide -- or I will provide a menu of options, none
 11 of which we are locked into any particular work rule
 12 changes. We have put them on the table with BMW
 13 asking for their response to it or for additional
 14 rules.
 15 We have not received any response to that
 16 to date.
 17 We also, based on Exhibit 49, which was
 18 from the July 2013 mediation, I will not be talking
 19 about all the rules in there because some of the
 20 rules prove not to have substantial savings, and, as
 21 such, we have taken them off the table.
 22 Q Okay. We are going to turn now to the

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1 work rule proposals that Amtrak proposed as part of
 2 the Amtrak pattern.
 3 So what I would like to start with is the
 4 proposal regarding the one-year lock-in period for
 5 the BMW.
 6 Can you explain that proposal?
 7 A Sure. There is a training agreement in
 8 effect with BMW that provides that Amtrak will
 9 train employees for a variety of our positions.
 10 Upon completion of the training and
 11 assignment to a position for which they are trained,
 12 they must stay in that position once assigned for a
 13 six-month period.
 14 Amtrak would like to see this period, this
 15 lock-in period, extended from six months to one year
 16 to improve the skill level of employees, but to also
 17 actively utilize their skills into the full length
 18 of the production season.
 19 Q Is Amtrak proposing to change anything
 20 about the rule other than changing the six months to
 21 one year?
 22 A No.

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1 There will absolutely be no other changes
 2 except the extension of time.
 3 Q Can you explain how the proposal would
 4 help Amtrak?
 5 A Well, generally most of the training that
 6 we do of people in our production gangs occur in the
 7 wintertime prior to our production season, which
 8 begins approximately between March and April of
 9 every year.
 10 We advertise for these positions, and the
 11 most senior person is picked to go and attend the
 12 training and, upon completion of the training,
 13 hopefully have assignment to the position which then
 14 he stays in for a six-month period.
 15 Unfortunately, the six-month period does
 16 not cover our normal full production season, which
 17 runs usually, like our major gangs this year ran to
 18 almost up to Christmastime.
 19 So being allowed to bid off after a
 20 six-month period leaves us with a couple of months
 21 that range anywhere from a one- to three-month void
 22 where we have to fill our production gang, major

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1 operators and foreman, either on overtime or --
 2 well, we really have no choice. We have to fill it
 3 because we have to continue to work with the gang
 4 during that period.
 5 The one-year extension allows a span at
 6 least the production season. Also it allows us
 7 to -- well, the employee himself to become even more
 8 proficient and comfortable in doing this type of
 9 work and with the hope then that he will be able to
 10 stay on the job through his own accord.
 11 Q Can you explain the training process for
 12 BMWED employees?
 13 A As a good convention, it's a rule was
 14 established in 1977.
 15 We do in the assigning office advertise
 16 the positions, which our advertisement period the
 17 week that we have to do our administrative work
 18 takes about three weeks from the opening and the
 19 close to it.
 20 Our training, which we'll go into a little
 21 more deeper, ranges from anywhere from, you know, 12
 22 plus weeks to a couple of weeks in length.

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1 Q Let's discuss some examples of the
 2 training.
 3 Can you explain what this chart shows?
 4 A This is just examples of some of the
 5 training. It's not all inclusive.
 6 It gives us the formal training parts of
 7 the time that it takes in days in order to get
 8 there.
 9 Our estimate on proficiency. Although
 10 some of these positions, their proficiency
 11 capabilities extend beyond the six months because
 12 sometimes you continue getting better for a longer
 13 migration of time.
 14 And all would fall under the six-month
 15 lock-in period.
 16 Q Can you explain what this chart shows?
 17 A Just taking a few examples of some key
 18 positions -- and we have several others that we can
 19 make available.
 20 But basically, if you take the period of
 21 take last year, 2013, track foreman, which is an
 22 integral position within the engineering

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1 organization. We have in that year 314 positions by
 2 our force accounting for that year. We were only
 3 able to fill only 272 of them.
 4 We had a vacancy for that year, last year,
 5 of 42 even although we trained 62 new employees for
 6 that particular position.
 7 However, we had 105 foremen that were not
 8 working in the class as foremen at that time.
 9 Q And when you say a foreman is not working
 10 in classification, what does that mean?
 11 Where are the foremen working if they're
 12 not classified?
 13 A They have generally accepted positions
 14 that are below that and -- well, I'll just leave it
 15 at that.
 16 Q Have you looked at these numbers --
 17 ARBITRATOR JAFFE: I'm sorry. Does
 18 this -- and I apologize for the interruption.
 19 Does this indicate how many of the people
 20 who were working out of class had been trained and
 21 left between the six months and the year that we're
 22 looking at in terms of the existing rule in the

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1 proposed change?
 2 THE WITNESS: No. This chart does not.
 3 But that information is available.
 4 ARBITRATOR JAFFE: Okay. Thank you.
 5 Thank you for the interruption.
 6 BY MR. FRITTS:
 7 Q Have you looked at these numbers prior to
 8 2012?
 9 A Yes, we have.
 10 We have taken several years prior to it
 11 just to see if there was a trend or a peak. And
 12 it's a consistent trend in a negative direction. It
 13 continues to go up.
 14 Q Let's turn to the foreman training
 15 process.
 16 Can you describe that process?
 17 A Yes.
 18 We have -- just want to give a few
 19 examples of the training regiment that our people
 20 have to go through.
 21 This is our foreman training. And as you
 22 can see, it's a six-week formal training. It's

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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.

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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 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

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1 continue towards our goal of into a state of good
 2 repair on the Amtrak system.
 3 So you're going to fill the crane
 4 overtime.
 5 And, as in the foremen, if we look in the
 6 last two years, we have had 20 vacancies on this one
 7 particular crane itself.
 8 Well, that's not true. We have had 20
 9 vacancies for our cranes. We have had some American
 10 cranes in there, and we had 86 crane operators that
 11 were not working in class.
 12 Q Let's talk about one more example,
 13 structural welding.
 14 Why would it be helpful to have a one-year
 15 lock-in period for the structural welders?
 16 A Well, again, I mean, we go through an
 17 eight-week training period. And then -- for the
 18 certification.
 19 And then, of course, the proficiency work
 20 that's after that. In order to have people out
 21 there and to gain the efficiencies for a return on
 22 investment for the training of these operators -- or

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1 these welders.
 2 And, again, in the last few years, we have
 3 had only a half a dozen vacancies in our structural
 4 welders, but we had twice as many people basically
 5 not working in class.
 6 Q So what is Amtrak's position with respect
 7 to the lock-in period for these jobs and other BMW
 8 jobs?
 9 A Well, it's the proficiency and efficiency
 10 of an extension of time of having some major gangs.
 11 We have gangs of over 100 people that --
 12 with one particular position that would not be
 13 there, either your only opportunity is recovery on
 14 overtime or not do the work. And we in no way can
 15 afford the inefficiencies of not working.
 16 Q Let's turn now to the craft-specific work
 17 rule proposal that is part of the Amtrak pattern for
 18 BRS, and that's the 45-mile rule.
 19 Can you explain Amtrak's proposal to
 20 modify the 45-mile rule?
 21 A Yes.
 22 Underneath the BRS agreement, employees --

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1 is this working? There we go.
 2 Under the BRS agreement, employees do not
 3 have to accept an assignment which is more than 45
 4 miles from their headquarters or 45 miles from their
 5 residency.
 6 What this particular option is to extend
 7 that to 60 miles. No other changes to the rule.
 8 And then basically, it's for the people
 9 that we hire in a particular location. And then,
 10 the first opportunity to even potentially downgrade
 11 themselves to a lower level position will move
 12 closer to their residence.
 13 But of course, we hired them in that
 14 particular location. We can now force anybody into
 15 where we had hired them.
 16 Q Under Amtrak's proposal, could an employee
 17 be assigned outside of his seniority district?
 18 A No. No, he cannot be.
 19 Q Why would changing the radius from 45
 20 miles to 60 miles be helpful to Amtrak?
 21 A Well, as I -- well, as I had briefly
 22 mentioned, we hire -- for example -- we have key

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1 hubs within the Northeast Corridor near our major
 2 cities, near Boston, Providence, New Haven, New
 3 York, Philadelphia, Washington DC, for examples.
 4 And we'll hire people in New York City,
 5 Penn Station, New York, in order to perform the
 6 work.
 7 When they gravitate back to their home,
 8 closer-to-home locations, again, we cannot require
 9 to have them move to the area and work in the area
 10 that we have hired them for.
 11 Basically, a change in this rule to a
 12 60-mile radius would allow us then to have them work
 13 in the position that we hired them for and we
 14 trained them for.
 15 Q Let's take the New York example that you
 16 gave.
 17 Here is a map that we're showing of the
 18 45-mile radius. Can you explain what changing the
 19 radius to 60 miles would accomplish?
 20 A Sure. The 45-mile radius, as you can see,
 21 does not cover our Trenton area, Morrisville area,
 22 which we have substantial amount of people.

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1 And again, what this is even less than the
 2 full seniority district for which they work in.
 3 If we go to the next slide, which is a
 4 60-mile radius. This now takes us through the
 5 Trenton area and allows us then to have somebody in
 6 the lower position be assigned back to potentially
 7 the area that we hired them.
 8 One more example is that would just take
 9 because there are several, is our Groton area up in
 10 Connecticut, which is our Midway M and W
 11 headquarters, one of them.
 12 And at the 45-mile radius, we do not cover
 13 New Haven, it looks that, New Haven to Midway/Groton
 14 is 53 miles away. Nor does it cover Groton to
 15 Providence, which is just about 60 miles away.
 16 And so if we go to the 60-mile radius, we
 17 have now covered those integral areas form our
 18 headquarters.
 19 Move forward.
 20 And of course -- and just to mention in
 21 the closing of the pattern, or in the pattern, we
 22 could consider alternate changes from the ones that

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1 I have presented today if the Union so deemed to do
 2 that.
 3 Q Okay. Let's turn now to the options that
 4 Amtrak has presented in order to fund wage increases
 5 in addition to the increases in the Amtrak pattern.
 6 And let's start with the force assignment
 7 rule for the BMWED.
 8 Can you explain the current rule and how
 9 Amtrak proposes to change it?
 10 A Basically, today, we have no way, process
 11 to have employees take a job that we have trained
 12 them for and they're qualified to hold.
 13 We can only assign people for a vacancy if
 14 they're particularly working in that location at --
 15 on that shift, and we can assign them to the gang.
 16 As a result, we have numerous, a host of
 17 vacancies that we are continuously under
 18 advertisement for.
 19 What we have proposed is a rule that
 20 enables us to fill these vacancies in a workable
 21 fashion. And, therefore, getting our return on
 22 investment for our training.

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1 We have proposed that a junior qualified
 2 employee in a work zone would be required to accept
 3 a vacancy, forfeit seniority in a class for where
 4 that vacancy exists.

5 And just for a quick clarification, a work
 6 zone which is set is an area -- we'll take New York
 7 division as an example, Brunswick from Newark, New
 8 Jersey up to New Rochelle, New York, which is about
 9 30 miles. And from Newark to Holmesburg, which is a
 10 little under 60 miles, that's a work zone.

11 So we propose that employees hired and
 12 trained in the future would be required to work in
 13 the highest rated position for which they were
 14 trained.

15 For the four positions noted, the
 16 construction inspector, the HRO operators, the four
 17 that are listed up on top, over the last five-year
 18 period, we have averaged 86 vacancies per year. And
 19 we have had 197 employees who are qualified to fill
 20 the job but were not filling the job, and we cannot
 21 afford these inefficiencies.

22 Q What does Amtrak estimate the cost savings

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1 would be if this rule change is accepted?
 2 A The estimate is \$3.8 million.

3 There's about \$815,000 in overtime
 4 savings. About 2.2, 2.3 million in loss of
 5 productivity, and about \$713,000 savings in training
 6 alone.

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

11 Q Let's turn now to another option that
 12 Amtrak has presented for the BMWWE that's regarding
 13 production.

14 Can you explain the current rule and how
 15 Amtrak is suggesting that the rule be changed?
 16 A Yes.

17 This is basically a two-part proposal, two
 18 rules.

19 Underneath Rule 89, which is a Northeast
 20 Corridor rule, we have the ability to work across
 21 seniority districts.

22 We provisionally have 14 type of gang

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1 categories that fall underneath Rule 89.

2 What we're asking simply is to make that
 3 16 rules -- 16 gangs into 17, and then to tie a gang
 4 to that rule.

5 Underneath Rule 90, we have five different
 6 sections, A, B, C, D, and E.

7 What we're recommending the option is to
 8 put all those underneath one Rule 90(a). The effect
 9 is basically on D and E, which is our electric
 10 traction gangs and our bridge and building southern
 11 district gangs.

12 This is -- by applying Rule 90 to all
 13 these gangs, we have the flexibility and start time
 14 and work week.

15 Q If this rule change is accepted, what does
 16 Amtrak estimate the cost savings would be?
 17 A It's estimated at about \$620,000 annually.

18 The 89 rule in the tie gang is
 19 approximately 221,000. And the 90 rule change with
 20 ET and B&B is close to 400,000.

21 The benefits of having acquired a tie
 22 replacement unit will allow us to utilize our

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1 equipment and schedule our work better.

2 There's significant costs in all projects,
 3 including when I was outside in the private sector,
 4 of mobilization and demobilization.

5 Basically without this rule, what we have
 6 today is that every time we want to cross the
 7 district, we have to abolish a gang and readvertise,
 8 which has usually significant schedule obstruction,
 9 plus you have new people in a gang, and you have to
 10 relocate the equipment.

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

14 (Interruption by the court reporter.)
 15 BY MR. REINERT:

16 Q Can you explain the current rule regarding
 17 temporary shift changes for BMWED employees?
 18 A Basically, we do not have for BMWWE a shift
 19 change rule. If it's required, we would have to do
 20 what we do today, pay overtime.

21 The shift change rule is what is proposed
 22 to be the option is to make it the same as we have

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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

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1 their straight time.
2 But we also have to consider the -- our
3 desire is never to work anybody more than a 16-hour
4 day for safety reasons.
5 So there would be time paid not worked
6 potentially on their regular shift. And then they
7 would get paid a premium time for the shift that we
8 have requirements for.
9 Q Under the proposal that you have suggested
10 here, would a BMWED employee be paid for his normal
11 shift if asked to work a different shift?
12 A No.
13 He would be paid for -- there's
14 clarification required.
15 Our intention is to pay him for this
16 temporary shift change for the time -- for the shift
17 that we require him in.
18 So if he's presently on first shift
19 daylight and we need him to work a night shift, an
20 eight-hour night shift, we temporarily assign him
21 for less than a 30-day period to the night shift.
22 We pay him at a premium time for that

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1 night shift, but we do not pay him because he does
2 not work for the day shift.
3 Q What does Amtrak estimate the cost savings
4 would be if this rule change is accepted?
5 A It's estimated at about \$482,000.
6 Now, the benefits -- the benefit is that,
7 you know, there's a number of occasions during the
8 year when this happens.
9 And, again, one of the -- the ones that's
10 expected to happen every year is our ultrasonic
11 testing of our rail. It is required by FRA to do it
12 twice a year. In some areas, you do it more than
13 twice a year.
14 Unfortunately, we never know how many
15 defects you'll find. You can't schedule it saying
16 it's going to take you one week to do it or two
17 weeks to do it because the more defects you find,
18 the longer duration it is.
19 You also because of that do not know the
20 schedule across the Northeast Corridor because
21 it's -- if it runs quicker down south because they
22 find less defects, it's going to take longer when

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1 you go north or to get to the north. So it's not --
2 there's a scheduling problem for this particular
3 type of inspection process.
4 And this will -- this temporary assignment
5 will allow us to make the assignment of people to
6 where we need them at that time in order to support
7 the inspection process.
8 Q Let's turn to contracting out.
9 Does Amtrak currently contract out
10 specialized non-core work?
11 A Well, yes, we do.
12 And basically, this also is a two-part
13 proposal. It's -- it's non-core work that we
14 professionally contract out with the agreement of
15 the Union. And what we're basically saying is
16 that -- what I'm saying is that BMWED normally agrees
17 to it or I can't think of when they haven't agreed
18 to it.
19 Unfortunately, it requires us to make
20 deals with the unions at a particular cost. And
21 often also is a time delay. A time delay to the
22 schedule of a potential contractor only equates with

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1 additional cost.
 2 There's a number of functions that Amtrak
 3 has consistently contracted out over the years. And
 4 what we really want to do is more formalize how we
 5 can do this in order to shorten the time frame of
 6 allowing us to do it, and then have the process in
 7 place of what we have to do in order to upgrade the
 8 people.
 9 We're not asking to expand what we
 10 presently do today. We only want to formalize the
 11 process of what we do, what we historically have
 12 done, and is being done by BMW, what historically
 13 will continue to be done by BMW. And the grievance
 14 process will also remain in place.
 15 Q Can you explain how you are defining
 16 specialized non-core work?
 17 A Sure. Well, you'll notice on the slide
 18 there are several that are very specific of what we
 19 have done and are requesting to continue to do in
 20 the future.
 21 And we have specialized complex
 22 construction projects that we have traditionally

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1 contracted out.
 2 And, again, we're not taking anything away
 3 from the core work that our BMW forces do perform.
 4 It basically would enable us to timely
 5 complete projects without adding the additional
 6 costs associated with assigning BMW core system
 7 projects that is generally already paid for within
 8 the contract by a contractor.
 9 Q You mentioned that this was a two-part
 10 proposal. Let's talk about leasing equipment from a
 11 vendor.
 12 Under what circumstances does Amtrak need
 13 to lease equipment from a vendor?
 14 A Well, there's various scenarios of when we
 15 have to lease equipment.
 16 Either we don't have the equipment and
 17 it's become available on the outside, equipment that
 18 will have significant increases in efficiency to do
 19 the work.
 20 There's a need for additional equipment
 21 when we want to expedite some work that we have to
 22 get done. We have done this this past year with our

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1 track laying system. We have a track laying
 2 machine, one of them. It's a large gang of 118 men.
 3 But we needed, in my mind, to run second
 4 equipment because of suspect ties, potentially ties
 5 that had become defective. I wanted to get more of
 6 them out this year. So we leased a equipment track
 7 laying machine.
 8 Now, these pieces of equipment are several
 9 million dollars. and there is -- the owners of those
 10 equipment often will not allow to -- us to lease
 11 their equipment without having their operators on it
 12 because they feel more comfortable that they operate
 13 their equipment.
 14 And as such, we lease the equipment, and
 15 we're more than willing to upgrade our people based
 16 on the union names they give us to match the number
 17 of contract people that they bring on the property.
 18 Q So taking these two aspects of the
 19 contracting out proposal, can you explain what
 20 Amtrak estimates the cost savings would be if these
 21 rule changes were accepted?
 22 A The non-core work is about \$830,000

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1 annually.
 2 The vendor equipment with their operators,
 3 about 400,000, for a total of about \$1.23 million
 4 annually.
 5 Q Let's turn now to the options that Amtrak
 6 has presented to the BRS in order to fund wage
 7 increases in the Amtrak pattern.
 8 The first option is the tour of duty/work
 9 week rule. Can you explain that rule?
 10 A Sure.
 11 Presently, the -- in order for us to
 12 support -- well, say if you do -- well, we do a lot
 13 of work at night.
 14 We do a lot of work at night because of
 15 our business is running passengers, and they
 16 normally don't ride at night. So we have to do our
 17 work at night.
 18 And so we do a lot of third trick work,
 19 particularly BMW. And we need the support from BRS
 20 with the track gangs that support BRS to the various
 21 gangs in order for us to put on a third trick
 22 maintainer.

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1 Generally, we would then have to advertise
 2 a first trick and a second trick even though the
 3 first trick and second trick is not necessary for
 4 the construction that we're doing on our third
 5 trick.
 6 Our other option is to take a first trick
 7 maintainer and then put him on overtime to support
 8 the gang on third trick.
 9 It's not only additional overtime on third
 10 trick. Because of the federal hours of service
 11 rules, we would have to let him go early from his
 12 first trick if he even has time at all to be on his
 13 first trick, and pay him for the first trick for
 14 time paid not worked.
 15 What we're basically proposing is the same
 16 type rules that we have today with BMW, Rule 32 and
 17 Rule 42, and which rules basically say that a
 18 40-hour week, you work five days a week, eight-hour
 19 days, for four days a week, ten-hour days. And we
 20 state the Saturday and Sunday on and off and the
 21 penalty that's paid or the incentive that's given
 22 if, in fact, you have to work one of the days.

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1 And if Rule 32, in effect, with less than
 2 three shifts, it gives you starting times for when
 3 the person can -- the position can actually be
 4 advertised.
 5 Q What does Amtrak estimate the cost savings
 6 would be if this rule change is accepted?
 7 A It's about a \$1.3 million annual savings.
 8 About 805,000 of it is on the overtime
 9 side. And about 500,000 is if we have to advertise
 10 and put in the two other positions.
 11 Q Let's turn now to another option that
 12 Amtrak has presented to the BRS in order to fund
 13 additional wage increases. That's the rule on
 14 production units.
 15 Can you explain that rule?
 16 A We're looking to have production units for
 17 BRS with a variable headquarters and work schedules
 18 just like we do with BMW.
 19 And I must say, it's also in effect at all
 20 the freight railroads, and they are utilizing it
 21 throughout this country.
 22 We have a camp car rule with BRS.

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1 However, when we try to substitute hotels for camp
 2 cars, we haven't come to an agreement with the
 3 Union. So we do not have or had that flexibility of
 4 having a gang work across districts, working for a
 5 continuous year in the role of construction.
 6 Q What does Amtrak estimate the cost savings
 7 would be if this rule change is accepted?
 8 A About 249,000 annually.
 9 This rule would increase and improve our
 10 productivity. It allow us to schedule a gang
 11 throughout the whole year. We do not have to then,
 12 when we cross districts, abolish a gang and then
 13 readvertise a new gang.
 14 The basically, again, the
 15 mobilization/demobilization scenario that obviously
 16 has an impact on our cost and our schedule.
 17 Q Let's turn now to the option that Amtrak
 18 has presented with respect to trouble desk.
 19 What is the trouble desk?
 20 A Well, the trouble desk is a location
 21 usually in our dispatcher's office, and their
 22 responsibility has changed over the years.

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1 At one time, they actually used to walk
 2 our field personnel through schematics to make
 3 necessary repairs, the signal people.
 4 However, like many things that change over
 5 time through technology, that function is normally
 6 not -- is not performed by a trouble desk any more.
 7 It's performed by our foremen in the field who has
 8 availability of the schematics and support from the
 9 supervisor.
 10 So our trouble desk over the years is now
 11 becoming more of an administrative function. And it
 12 is being manned by assistant foreman level people.
 13 And with this assistant foreman level and
 14 the trouble desk, which now a better use of them
 15 would be in the field. However, even with that, we
 16 have a 50 percent vacancy rate.
 17 And although their function and support to
 18 the field has changed, it's still an integral part
 19 of the operation because they document what goes on.
 20 They make a call out for people when the trouble
 21 occurs. The transportation people who try to say we
 22 have a TOL, and the trouble desk will call somebody

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1 out and have them make the necessary repairs.
 2 What we're requesting is basically to take
 3 the position and change the title of it to a lower
 4 level position where we can hire from the outside.
 5 Of course, the function of -- by stating
 6 that, it is not our intention to abandon the people
 7 that are presently on the trouble desk as assistant
 8 foremen and want to continue there in that role.
 9 They'll have that capability at their present rate.
 10 Q What does Amtrak estimate the cost savings
 11 would be if the rule change is accepted?
 12 A Approximately 218,000 annually.
 13 Now, I would like to mention that a few
 14 years ago, Amtrak and the Union were getting very
 15 close to an understanding of imposing this
 16 particular -- implementing this particular
 17 recommendation.
 18 And although it was never finalized, I do
 19 believe that we came to a resolution at that time.
 20 Q Has that resolution been implemented?
 21 A No, it has not.
 22 Q With respect to overtime, Amtrak has

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1 presented an option that would be applicable to both
 2 BMW and BRS.
 3 Can you explain the current rule on
 4 overtime?
 5 A Well, currently, the employee does not
 6 have to work his regular assignment and can just
 7 work the overtime.
 8 And but what we're suggesting is adopting
 9 the rule the same as we have had with our
 10 supervisors with the ARASA union, that they would be
 11 paid overtime after they had worked their 40 hours
 12 at their regulatory duty.
 13 I will state that 40 hours would also
 14 include any vacation, time paid not worked, holiday,
 15 would be all accumulated to the 40 hours per week.
 16 Q Why is overtime a problem for Amtrak?
 17 A Well, it's -- well, it's a problem for
 18 efficiencies.
 19 We are trying to -- you probably heard the
 20 saying before, that if you run like a private
 21 business and coming from the private sector, it
 22 would make perfect sense to implement a rule like

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1 this.
 2 But also we get pressure from Congress.
 3 There's a public law that's in effect. We
 4 have to -- our president has to sign off on a number
 5 of people that is projected to make more than
 6 \$35,000 a year in overtime, and that has to be
 7 submitted to Congress.
 8 D.J. Stadler will be talking about that a
 9 little bit later today.
 10 Q What does Amtrak estimate the cost savings
 11 would be if this rule change is accepted for each
 12 craft?
 13 A \$539,000 annually. About 410 of that for
 14 BMW and about 128,000 for BRS.
 15 And one of the main benefits, which I
 16 didn't mention in there is that it would act as a
 17 disincentive for their poor attendance, meaning that
 18 they can make up their monies by working overtime in
 19 lieu of their straight time.
 20 Q Mr. Pohlot, could you summarize why Amtrak
 21 has presented these work rule options to the BMW
 22 and the BRS, the options that are now a part of the

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1 Amtrak pattern?
 2 A Well, I mean, I do want to mention that
 3 we're content to accept the rules that are in the
 4 pattern.
 5 And as far as the cost savings menu of
 6 options that we have presented, we're more than
 7 willing to accept additional options. We have asked
 8 for -- from the unions if they want to supply some
 9 other ones.
 10 Basically, we were looking for a way that
 11 we can fund the additional general wage increases.
 12 Q How much work is there for the BMW and
 13 BRS to perform in the coming years?
 14 A I do not see the amount of work in the
 15 near future changing.
 16 I only see hopefully it will increase over
 17 time.
 18 MR. FRITTS: Thank you.
 19 That concludes my direct.
 20 ARBITRATOR JAFFE: Thank you.
 21 What's your pleasure?
 22 MR. WILDER: May we have a short recess,

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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.)
6 CROSS-EXAMINATION
7 BY MR. WILDER:
8 Q Good morning, Mr. Pohlot.
9 A Good morning.
10 Q I understood from your direct examination
11 that you returned to Amtrak and assumed your present
12 position as chief engineer in December 2012?
13 A That is correct.
14 Q Now, during the period 1998 through 2012,
15 when you were employed by Parsons Brinkerhoff, did
16 you have any involvement with the Amtrak engineering
17 department?
18 A The involvement would be in supporting --
19 in consultancy to Amtrak.
20 That is correct.
21 Q Did you consult regularly with Amtrak?
22 A Not as regularly as we would have hoped,

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1 but it was not as much as other firms, a little bit
2 more than some others.
3 Q Now, did you participate in any way in the
4 preparation by Amtrak for the 2010 round of
5 bargaining?
6 A No, I did not.
7 Q Would it be accurate to say that the work
8 rule proposals you have discussed today were
9 developed and introduced into this bargaining round
10 by others at Amtrak?
11 A By my predecessor, I'm sure, Frank Vacca,
12 who was chief engineer.
13 Q Now, I'm going to ask a general question
14 and see if I can understand the Company's position
15 with respect to the optional work rules that you
16 described.
17 Is it the Company's position that each of
18 the engineering organizations, the BMWED and the
19 BRS, can obtain additional GWI increases by, in
20 effect, trading for the value of work rules?
21 A In order to -- in order to pay for the
22 additional cost that's associated the same as the

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1 freight rules, we need some work rule changes with
2 the associated costs.
3 That is correct.
4 We have offered several today which were
5 also in our mediation documents. And as I had
6 mentioned, we were hoping -- still hoping to if
7 there are other work rule changes that the unions
8 want to propose.
9 Q All right. Now, staying with that line of
10 thought for a moment, Mr. Pohlot, does the Company
11 contemplate that there will be an additional
12 specific percentage amounts for both the BMWED and
13 the BRS?
14 A I don't quite understand that question.
15 Q All right. Let's take a hypothetical.
16 Let's assume that all of the work rule
17 changes that you have described among the optional
18 changes were agreed to by BRS and BMWED. Would that
19 warrant in the Company's view a 1 percent pay
20 increase for both organizations, 2 percent pay
21 increase for both organizations, or perhaps a
22 different percentage increase for the BMWED and the

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1 BRS depending on the value of the work rule savings
2 that the Company has estimated?
3 A From my knowledge, we have estimated each
4 individual rule.
5 I have not taken that and applied it with
6 all of the other in-pattern changes that were made
7 in order to come up and say that it covers the
8 entire cost of the freight rule wage increases.
9 So can I get back to you on that?
10 We have the documentation. It's basically
11 just a calculation that we would have to do. But as
12 again, as I mentioned, it's a menu.
13 So I mean, if you take some, there's a
14 dollar value that we can associate with it. If the
15 Union thinks it's a different value, we're more than
16 willing to sit down and recalculate it.
17 And based on the amount of monies that
18 come to the pot, whether it's a percentage of 1
19 percent or 2 percent increase.
20 Q And could the wage increases be different
21 for the BMWED and the BRS?
22 MR. REINERT: Objection. I'm not sure

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

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1 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.
5 ARBITRATOR FISHGOLD: And in several of
6 the proposed -- or the menu of rule changes, there
7 were different changes attributed to the same rule
8 to both unions, in one instance more for one than
9 the other, so I can understand the nexus of the
10 question.
11 MR. REINERT: The Board members should be
12 aware we have got a different headcount in these two
13 unions as well.
14 ARBITRATOR JAFFE: We understand that.
15 MR. REINERT: Okay.
16 ARBITRATOR JAFFE: Do you want to pose the
17 question again, Mr. Wilder, since it has been a
18 while, if you don't mind, or have it read back?
19 What's your pleasure?
20 BY MR. WILDER:
21 Q The simple question is, does Amtrak
22 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 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 A Yes, I do.
22 Q All right. And of those, how many were

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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 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

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1 readily on hand, but we can easily acquire that for
2 you.
3 Q Now, moving to the right-hand column in
4 the middle block of Slide 9, can you tell me whether
5 some or all of the 86 crane operators working out of
6 class are working as foremen?
7 A Again, I do not have that available, the
8 detailed information.
9 My staff put this information together for
10 me. So we know we have it available, but I do not
11 have it right with me today.
12 Q Is the foremen classification a higher
13 rated classification?
14 A Yes, it is.
15 Q Can you tell me whether other equipment
16 operator positions on the property have a higher
17 potential for overtime opportunities than the crane
18 operators?
19 A I don't know if I would categorize it as
20 positions.
21 There's certain jobs as they come up, and
22 it's not the same one that goes on for decades, that

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1 would have a potential for a higher earning in a
2 lower class because of overtime.
3 But I would not say that we could -- if we
4 made a list up today that that list would still be
5 good next year.
6 Q That list would be what?
7 A Of higher earning at a lower rate because
8 of overtime.
9 Q And would that list of positions change
10 over time? Is that your point?
11 A Yes.
12 Q All right.
13 A By location, by geography, by work.
14 Q Now, are all or most of the 86 qualified
15 crane operators eligible to bid and hold crane
16 operator positions without additional formal
17 training?
18 A If you're qualified on a piece of
19 equipment and you have your card stamped, that is
20 the training that's required in order to be
21 qualified on a piece of equipment.
22 There's annual qualifications that must be

Page 527

1 constantly updated for various positions, whether
2 it's our physical characteristics or whatever the
3 case may be depending on the position.
4 Q Are the crane operators subject to annual
5 requalification?
6 A Annual requalification on, for example,
7 like AMD2?
8 Q Yes.
9 A Yes.
10 Q Referring, again, to 2013 on Slide 10, in
11 the middle of the page.
12 Of the 37 positions, crane operator
13 positions filled in 2013, can you tell us what the
14 average stay in that classification was for that
15 group?
16 A No, I cannot right now.
17 If you would like, we can definitely
18 research that.
19 Q All right. And last of all, with respect
20 to Slide 10, referring to the third column from the
21 left, positions on force account by year, can you
22 tell us what that refers to?

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1 A These are the positions that we have --
2 are advertised and awarded or advertised and go
3 vacant.
4 That is our force account requirement for
5 the year.
6 Q And is it both categories that you have
7 described or just the latter?
8 A Both.
9 Q Both. Now, you have described a change in
10 the lock-in after training requirement for the
11 BMWED, Mr. Pohlot.
12 Can you tell us whether during the
13 extended six months the affected employee would be
14 exposed to forced assignments for that period?
15 A If I understand your question correctly,
16 if he was assigned to a position of which he had
17 been trained to hold and is now qualified to hold,
18 he would not be able to bid out of that position.
19 Q And could he be assigned anywhere within
20 the seniority district in that classification?
21 A We're talking about the training lock-in;
22 correct?

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1 Q Yes.

2 A Yes. The training lock-in is assigned

3 within the work zone for which he -- when he put in

4 for his -- we have advertised for the training of

5 that position there's a zone associated with it, a

6 work zone.

7 But whatever work zone that that

8 advertising went out for which he was awarded the

9 training, he would be required to be in that work

10 zone in that position that he was trained for.

11 Q Would you turn to Slide 21, please?

12 Mr. Pohlot, as I understand your

13 description of the change in the force assignment

14 rule that the Company presents as an option,

15 employees must accept vacancies within the work zone

16 for which hired and trained, or forfeit the

17 seniority and entire classification.

18 Is that correct?

19 A That's correct for employees who were --

20 as of the date of the execution of this contract.

21 Q So it has a prospective effect.

22 Is that correct?

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1 A That's correct.

2 Q All right. Now, staying with that

3 particular rule, do you know whether the effect of

4 that rule was narrowed to the work zone for purposes

5 of this proceeding?

6 A Yes. It is relative to the work zone.

7 Q All right. But my question is, do you

8 know whether the rule that the Company proposed in

9 bargaining, in mediation was confined to the work

10 zone or not?

11 A It is confined to the work zone.

12 I would be happy to look up the exhibit

13 that was a part of the mediation, but I think

14 there's an adjacent work zone.

15 MR. FRITTS: Mr. Pohlot, are you looking

16 for the July mediation materials?

17 THE WITNESS: Yes.

18 I believe I have it here.

19 MR. REINERT: Actually, it would be better

20 if you referred to what's in the exhibit book.

21 We have to get you a different book.

22 MR. FRITTS: Believe it or not, we created

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1 even more paper than you.

2 ARBITRATOR JAFFE: Looking at Joint 54 or

3 something else?

4 MR. FRITTS: 49.

5 ARBITRATOR JAFFE: 49, I see it.

6 Okay. Thank you.

7 THE WITNESS: As far as 49 goes, there is

8 no reference to anything outside the work zone.

9 So my answer would be --

10 BY MR. WILDER:

11 Q Does the proposal confine it to the work

12 zone?

13 A Not in 49.

14 Q Now, is it accurate, Mr. Pohlot, that the

15 BMWED work zones within the Northeast Corridor

16 generally require at least an hour to traverse by

17 car?

18 A That would be an assumption on my part to

19 say an hour.

20 So I -- I really can't answer that

21 question.

22 Q Can you tell us whether the force

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1 assignment rule that the Company is proposing would

2 require longer commutes and higher out-of-pocket

3 costs for affected employees?

4 A Well, I would say not necessarily.

5 You know, it basically is, you know, there

6 would be times when it actually could be a short

7 commute.

8 It could be -- I mean, it would be 50

9 percent either way. That's more getting to the

10 rationale of why they're not holding the position

11 relative to a geographic area.

12 We know -- I know because I have been told

13 by the people themselves, that they take a lower

14 position sometimes because it's a flagman position

15 that they wanted the overtime for, and they don't

16 want to take -- even though they have been trained

17 in these positions, they don't want to take the

18 responsibility even on the associated authority to

19 be a foremen, so I'll just hold a flag.

20 Q Now, are BMWED employees paid for

21 commuting out-of-pocket costs?

22 A No, they are not.

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1 We do give them free transportation on
2 Amtrak trains.
3 MR. WILDER: I'm going to ask that we turn
4 to the rules relating to temporary shift change.
5 That is on Slide 25 of his statement.
6 BY MR. WILDER:
7 Q Now, would this change, if implemented,
8 provide less compensation for production employees
9 affected by the temporary shift change than is
10 available under the current rules?
11 A Potentially, it could actually offer more
12 compensation because we could be getting it at a
13 premium pay.
14 Q I thought the purpose of the rule was to
15 ensure that a production employee could be
16 temporarily reassigned at a premium rate but without
17 paying the straight time rate to that employee.
18 Is that correct?
19 A Well, for clarification, it's not just
20 production. It's also maintenance.
21 And it is shifting temporarily less than a
22 30-day -- for less than a 30-day duration to a

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1 position where he could get potentially time and a
2 half for his pay without getting paid the straight
3 time rate.
4 Q I see.
5 So that temporary assignment for the
6 production employee that you described would result
7 in less pay than a temporary assignment for the same
8 employee under the current rules.
9 Is that correct?
10 A Only if you make an assumption that the
11 employee is on working on a straight time shift.
12 And if you're saying the difference being
13 penalized or at overtime rate and at the straight
14 time rate, that would be correct then.
15 Q The temporary shift change issue does not
16 affect employees on traveling gangs, does it?
17 A It really doesn't because we have that
18 capability underneath 89, for example, Rule 89 to
19 change the shifts.
20 Q In ballpark figures, Mr. Pohlot, would it
21 be accurate to say that approximately 60 percent of
22 the BMWED work force is comprised of production

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1 employees, and 40 percent of the BMWED work force is
2 comprised of employees who travel?
3 A I would have to get that figure for you
4 because you would have to -- in that evaluation
5 analysis, you really have to break that out to the
6 number of months in a year that each one of those
7 crafts are working so you can -- and if you wanted
8 me to pick a particular point in time, then I can
9 easily give you that information, you know, say in
10 July of a year.
11 But since it varies when we get out of our
12 production season, then if you want an answer to
13 that question, we would have to do a calculation
14 analysis.
15 Q Do I understand you correctly to say that
16 the answer to the question cannot be generalized
17 throughout the year?
18 A Oh, it could be.
19 Q It could be.
20 A But generalization would have to account
21 for the times when the production is at a lull or
22 when the production people are at a high.

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1 Q Now, does the current rule with respect to
2 temporary shift changes adversely affect operations?
3 A Well, you say the current rule.
4 As for BMWED, not the current rule for BRS.
5 Q Yes.
6 A The current rule for BMWED could
7 potentially disrupt the operation relative to the
8 long-term effects of not getting the work done.
9 And, again, if we use the -- anything from
10 a Sperry car.
11 If we go out there and if we don't have a
12 gang that will support replacement of the rail, and
13 we find it that -- a Sperry car, gentlemen, is
14 basically an ultrasonic test of the rail which finds
15 rail flaws before they actually become in-service
16 failures and break under a train.
17 And so we can go out there. And if we
18 went with a Sperry car and we didn't have this gang
19 following them with a crane and the manpower to
20 change out a rail; and we find a rail, and then we
21 have to take the track out of service, has a
22 detrimental affect on the operation to the effect

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1 that the passenger potentially on which route it is
 2 could be delayed for several hours in the morning,
 3 in their morning rush.
 4 Q How does that affect on production flow
 5 from the current temporary change rule?
 6 What is the cause-and-effect relationship
 7 that you're describing, if you are?
 8 A Well, what I'm describing is that today
 9 you go into -- go on the Springfield line.
 10 We have no maintenance gangs at night. We
 11 have no maintenance gangs with that magnitude based
 12 within Penn Station at night time. And so we have
 13 to get people to work based on the union rules and
 14 by seniority request them put together a gang that
 15 can go out there at overtime to do it.
 16 And so that's based on the availability of
 17 people and the willingness of them to work overtime,
 18 if they're even available to do it.
 19 The other option is you don't run the car
 20 if you don't have the people.
 21 Q But the question that I'm trying to get
 22 answered and to understand is how the present

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1 temporary shift change rule for the BMWED would
 2 adversely affect anything that you have spoken of.
 3 A Okay. I understand that -- just for my
 4 clarification, are you saying if we -- if the
 5 proposed option is implemented, what would be the
 6 negative effect?
 7 Q No. No.
 8 A Oh.
 9 Q What is the negative effect on production,
 10 if any, of the current temporary shift change rules?
 11 A We have no temporary shift change rules
 12 today for BMWE.
 13 We have temporary shift change rules, Rule
 14 27 under BRS.
 15 Q What is it that you ...
 16 ARBITRATOR DAS: Can I interrupt for just
 17 one second on this point here, just so I can make
 18 sure I'm understanding?
 19 MR. WILDER: Yes.
 20 ARBITRATOR DAS: Are you saying then that
 21 right now for the BMWED, if you need people on a
 22 different shift, you have to solicit them for

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1 overtime to perform that?
 2 THE WITNESS: Yes.
 3 I mean, we have --
 4 ARBITRATOR DAS: You can't assign them to
 5 a different shift?
 6 THE WITNESS: That is correct for
 7 maintenance, unless they're already a production
 8 gang.
 9 But we'll talk about a maintenance gang,
 10 and that is correct for the short durations. My
 11 option is I can advertise it, but the advertising
 12 process is a minimum of three weeks.
 13 ARBITRATOR DAS: Sure.
 14 THE WITNESS: And because of the short
 15 time frame prior to knowing exactly when the need is
 16 for a lot of this work is less than three weeks.
 17 And because you don't know how long it
 18 extends for generally, that's usually short
 19 durations on a couple of weeks in a particular work
 20 zone, is that we end up having to do it on overtime.
 21 ARBITRATOR DAS: And the second
 22 consequence, if you got the change that you are

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1 offering as an option, would -- there would be a
 2 cost difference. I think that's what Mr. Wilder was
 3 asking about before, because then you would only
 4 have to pay -- you would pay a premium for the shift
 5 they're being changed into, but they wouldn't work
 6 their regular shift.
 7 THE WITNESS: That is correct.
 8 BY MR. WILDER:
 9 Q And just to make the record perfectly
 10 clear, the rule that's depicted on Slide 25 of your
 11 presentation is a BMWED rule, is it not?
 12 MR. FRITTS: Mr. Wilder, could you
 13 indicate what part of the slide you're referring to?
 14 Are you referring to the bottom or the
 15 top?
 16 MR. WILDER: The current rule that we're
 17 looking to change. That's what we're talking about.
 18 BY MR. WILDER:
 19 Q There's a reference on the page to the
 20 proposed change being similar to BRS Rule 27.
 21 That's what we're trying to straighten
 22 out.

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1 A That's correct.
 2 It's the BRS Rule 27, not the BMW
 3 production.
 4 Q Would you look at the first bullet point
 5 on Slide 25, Mr. Pohlot?
 6 A Yes.
 7 Q The current rule.
 8 Is the current rule a BMWED rule or a BRS
 9 rule?
 10 A The current rule is a BMW rule.
 11 Q Thank you.
 12 A Or lack of.
 13 Q Would you turn back to Slide 23 of your
 14 presentation, Mr. Pohlot?
 15 And the reference to current rule is to
 16 BMW rule relating to production units.
 17 Is that correct?
 18 A Correct.
 19 Q And for the record, those rules are Rule
 20 89 and Rule 90; correct?
 21 A Correct.
 22 Q Now, would you agree that all track

Page 542

1 production work requires securing and trying on the
 2 track on often adjacent tracks to perform the
 3 improvement work?
 4 A It -- our production gangs, as a
 5 generalization, you could say that we would like to
 6 have track usage and a track being out of service.
 7 There's a lot of preparatory work and a
 8 lot of work where you do not have to have a track
 9 out of service, even from the extent of constructing
 10 bridges on the side, restructuring switch packets
 11 outside the track.
 12 (Interruption by the court reporter.)
 13 THE WITNESS: Is that the question, as I
 14 understood it, was that does it require track usage,
 15 track on the -- time on the track.
 16 And I said generally, as a generalization,
 17 yes, it does. But I also had mentioned that the
 18 gang itself doesn't necessarily always have required
 19 track time to be productive because they may have to
 20 build switches outside the track, or they may have
 21 to actually construct bridges outside the track zone
 22 before the day we put it in.

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1 BY MR. WILDER:
 2 Q Now, would it also be accurate,
 3 Mr. Pohlot, to say in general that bridge
 4 improvements do not always require tracks to be
 5 taken out of service?
 6 A Well, that's true.
 7 But the majority of -- we're going to
 8 construction. At some point in that construction,
 9 the track normally is being taken out of service.
 10 If we're working on a beam below the
 11 bridge, we potentially -- if we can get access to it
 12 without taking the track, meaning work from below,
 13 we can do some welding underneath it.
 14 But if we're changing out bridge timbers
 15 or replacing the bridge with a bow state (phonetic)
 16 bridge, we will obviously need to take the track
 17 out, and some of them for several weeks.
 18 Q Is it possible to repair bridges without
 19 taking all tracks across the bridges out of service?
 20 A Yes.
 21 Q Is that done?
 22 A We -- no.

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1 We do our repairs by minimizing the number
 2 of track outages that we get at a time. We
 3 obviously can't -- we're not like a freight railroad
 4 where you can just stop traffic and then start it
 5 back up a week later.
 6 We have a lot of people relying on the
 7 Northeast Corridor to run trains.
 8 Q Would you agree that scheduling track
 9 production work usually requires greater flexibility
 10 than scheduling bridge rehabilitation?
 11 A No, not necessarily.
 12 The scheduling, master schedule overall
 13 has to encompass all of the major outages and other
 14 outages for the entire year.
 15 We have outages, which we have had several
 16 this past year where we actually have our commuter
 17 stake -- shareholders change their train schedules
 18 in order to accommodate our work because of the
 19 additional delays that we actually give -- put on
 20 the commuter trains for them to run around our work.
 21 Q And that's true of all work, is it not,
 22 both track production work and bridge

Page 545

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

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1 the degree of flexibility that they need to schedule
2 the track work, does it not?
3 A Yes.
4 It's one of the elements that's looked at
5 because it doesn't drive the schedule. The schedule
6 drives the time that the gang will have to work.
7 Q And can you tell me how long Rule 90 has
8 been in effect in the BMW agreement?
9 A I would have to get back to you on that.
10 I don't have the data.
11 Q Is it your testimony that the bridge and
12 building work requires just as much flexibility in
13 scheduling as does the track production that's ...
14 A Yes.
15 The ability to take a gang and work them
16 doing the same kind of function continuously for a
17 year, the productivity and efficiency increases
18 significantly compared to the demobilization and
19 mobilization of gangs strictly because you're going
20 across an imaginary line.
21 Q But your Collective Bargaining Agreement
22 has not so provided for years, has it?

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1 A That is correct.
2 Q Can you tell us, Mr. Pohlot, whether the
3 change that you propose to Rules 89 and 90 would
4 disrupt seniority expectations of employees subject
5 to those rules?
6 A I do not believe so.
7 I don't believe it has had that impact on
8 our track gangs.
9 Q Now, as I understand it, Rule 89 gangs
10 travel throughout the Northeast Corridor.
11 Is that correct?
12 A That is correct.
13 Q And Rule 90 gangs travel in either the
14 northern or the southern seniority districts.
15 Is that correct?
16 A That is correct.
17 Q Is it your proposal to enable all gangs to
18 travel throughout the Northeast Corridor?
19 A 89 gangs.
20 Q 89 gangs only?
21 A Correct.
22 MR. REINERT: I just want to note, we do

Page 548

1 have a ground rule with respect to time.
2 We have now, with respect to cross,
3 equaled the duration of direct. We have reached
4 that point.
5 Amtrak is not going to object to the
6 continued discussion in the area. It's obviously a
7 valuable discussion.
8 I will just note it for the record so
9 that, when our time comes, we will get a comparable
10 accommodation, if necessary.
11 ARBITRATOR JAFFE: Fair enough.
12 So noted, as we say.
13 MR. WILDER: I'm not sure if the effort to
14 set up a proposed waiver is going to be successful,
15 but that's fine.
16 ARBITRATOR JAFFE: That's fine.
17 And I assumed if we were kind of there
18 anyway, it didn't really matter. If it was
19 significant, you would probably let us know anyway,
20 Mr. Wilder.
21 MR. WILDER: My only problem with that
22 comment is that I'm coming to the part of my cross

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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 Is that a fair evaluation?
 18 A Except for the point of fighting over it.
 19 The contracting out, I think, is something
 20 that could be correlated to our -- to our brush
 21 cutting/tree cutting contract.
 22 It's basically to put a process in effect

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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 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?

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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

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1 people working in a lower class outside the 45-mile
 2 radius from where the location -- from where they
 3 were originally hired.
 4 Q Now, isn't it true that those 99 vacancies
 5 occur throughout the Northeast Corridor?
 6 A Again, I haven't -- I would have to get
 7 back to you on the vacancies that you're referring
 8 to.
 9 I'm not so sure 99 is the correct number,
 10 so I will have to get back to you on that.
 11 Q Let me take an example that I think you
 12 used in your direct testimony.
 13 You were referring to the inability to
 14 fill two positions at Trenton from the New York
 15 headquarters.
 16 Is that correct?
 17 A No.
 18 I don't believe my testimony stated the
 19 number of positions, nor that -- I could have made a
 20 comment that it could go either way, you know, with
 21 Trenton to New York and New York to Trenton.
 22 I can say our vacancies are maintainers in

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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

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1 Trenton to New York, they take the lower level
2 position, and it's outside of the 45-mile radius,
3 and I cannot force them back into the location we
4 hired them, the location that we trained them for in
5 order to fill potential jobs in the New York area.
6 Q I'm going to ask you to turn to the
7 portion of your testimony pertaining to the trouble
8 desk changes, and that is on Slide 36 and 37.
9 As I understand it, Amtrak is proposing to
10 downgrade the trouble desk assistant supervisor
11 assignments to coordinate a position that don't even
12 require signalman qualification.
13 Is that correct?
14 A That is correct.
15 Q Referring to the tour of duty/work week.
16 And this is on page 32.
17 What you indicated as a reason for
18 changing the existing rule between Amtrak and the
19 BRS is the idea that we cannot currently establish a
20 standalone third shift.
21 Is that correct?
22 A That is correct.

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1 MR. WILDER: Now, I'm going to ask that we
2 bring up on the screen Joint Exhibit 6, at page 19.
3 MR. LARSON: Mr. Wilder, page 19 of the
4 PDF or of the agreement?
5 MR. WILDER: Pardon me?
6 MR. LARSON: Page 19 of the PDF or of the
7 agreement?
8 MR. WILDER: Yes, that's correct.
9 MR. LARSON: Of the PDF?
10 MR. FRITTS: Mr. Wilder, did you mean page
11 19 of the PDF?
12 MR. WILDER: Pardon me?
13 MR. FRITTS: Page 19 of the PDF?
14 MR. WILDER: Page 19 of the BRS agreement.
15 MR. FRITTS: Okay.
16 MR. WILDER: Yes. That's Joint Exhibit 6.
17 BY MR. WILDER:
18 Q When you get that up on the screen, and I
19 think it's there, I'm going to ask you to turn to
20 Rule 22(d), as in David.
21 And that is on page 19.
22 Do you have that?

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1 A Yes.
2 Q Are you at Rule 22, Mr. Pohlot?
3 A Yes, I am.
4 Q All right. Now, would it be accurate to
5 say that subparagraph D of Rule 22 sets forth
6 exceptions to the starting time limitations that are
7 earlier described in the rule?
8 A Yes.
9 Q And one of the exceptions set forth in
10 subparagraph D, in particular paragraph 2, relates
11 to track servicing gangs?
12 A It does.
13 Q Would that be correct?
14 A It does, correct.
15 Q So there is flexibility in starting times
16 for track servicing gangs.
17 Is that correct?
18 A Based on the rule, yes.
19 Q And you say based on the rule.
20 Is there a practice that --
21 A There's a few things.
22 Q Excuse me, let me finish my question.

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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
4 to mention.
5 One is, I wouldn't call it a practice, but
6 there is usually a disagreement in implementation of
7 some of these rules.
8 The rule also restricts us to the number
9 of gangs that we would need in a particular
10 location.
11 Q But it does refer to two gangs?
12 A In a seniority district.
13 Q Do you customarily adjust the starting
14 times of more than two gangs for a seniority
15 district?
16 A Well, it's not the adjustment of the
17 starting times.
18 It is the -- we have in -- the BRS
19 seniority district can have up to three servicing
20 gangs in there, a switch servicing gang, a high
21 speed gang, and a spot gang, within the seniority
22 district.

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1 And so then immediately I would need three
2 maintainers one for each of those gangs to be
3 available without having -- just to have that person
4 working on the shift of that particular gang, BMW
5 gang.
6 Q That's not a big problem, is it,
7 Mr. Pohlot?
8 A A big problem?
9 Q Yes.
10 A It's relative whether the additional cost
11 is a big problem or not.
12 Q Do I -- it is a problem, but not a big
13 problem?
14 A It is a problem based on our efficiencies.
15 I mean, as I had mentioned before, my role
16 as chief engineer is to perform the work the most
17 efficient way that we possibly can, cost effective,
18 and for the safety of the traveling public.
19 Q Would you turn to page 34 -- I'm sorry,
20 slide 34 of your presentation.
21 As I understand it, your concern with the
22 current rule relating to BRS production units deals

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1 with the inability to change headquarters without
2 readvertising the jobs.
3 Is that correct?
4 A That is correct.
5 Q Now, I'm going to ask you in the exhibit
6 before you, Joint Exhibit 6 at 19, I'm sorry, Joint
7 Exhibit 6 at 21, Rule 25.
8 Do you have Rule 25 before you?
9 A I do.
10 Q All right. The third paragraph of Rule 25
11 provides: "When a headquarters is changed,
12 employees affected will be given five calendar days
13 advance notice and may elect to transfer with their
14 job to the changed headquarters or will be permitted
15 to exercise seniority rights in their seniority
16 district. If they exercise such rights, the vacancy
17 thus created will be advertised."
18 Now, as I understand this rule,
19 Mr. Pohlot, the only -- only if the incumbents do
20 not transfer with their job to the changed
21 headquarters will readvertisement of those jobs be
22 required.

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1 Is that correct?
2 A That is correct.
3 MR. WILDER: Pass the witness.
4 MR. FRITTS: I have nothing on redirect.
5 ARBITRATOR JAFFE: Anything that you wish
6 to pose?
7 ARBITRATOR DAS: Yes. Going back to the
8 45-mile rule and the BRS, I just want to make sure
9 I'm understanding some of the things that probably
10 everybody else in the room understands.
11 But there's reference to a former
12 headquarters and to -- we have had discussion about
13 work zones and seniority districts, and I'm just
14 trying to clarify these different concepts.
15 And using the example that you have here
16 of the employee hired for position in New York City.
17 So that position then, is that the
18 headquarters at that time?
19 THE WITNESS: That would be the
20 headquarters; correct.
21 ARBITRATOR DAS: That would be the
22 headquarters.

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1 And seniority district is -- I have heard
 2 the northern and southern seniority districts?
 3 THE WITNESS: Well, that -- yeah, get's a
 4 little confused between BMW work zones and
 5 seniority districts for BRS.
 6 ARBITRATOR DAS: All right. Well, let's
 7 stick with the BRS then, here.
 8 So what seniority district would that be?
 9 THE WITNESS: Well, it's New York.
 10 And I don't want to give you the wrong
 11 mile post. We have there -- do we have it in here?
 12 MR. REINERT: BRS agreement?
 13 ARBITRATOR DAS: I'm just looking for an
 14 approximate.
 15 I'm trying to relate these different
 16 concepts -- well, I'm calling them concepts, but
 17 work zone, headquarters, seniority district, how do
 18 they line up with each other?
 19 THE WITNESS: The work zone -- these are
 20 the seniority ones.
 21 The work zone, District 1, which is the
 22 Southern District.

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1 ARBITRATOR DAS: So is a work zone within
 2 a seniority district? In other words, you have a
 3 number of --
 4 THE WITNESS: No.
 5 It's a seniority district.
 6 And so we have for the New York area that
 7 we're referring to, is Chelle (phonetic), which is
 8 the New Rochelle, New York location, to where I had
 9 mentioned Holmesburg before, mile post 76, and then
 10 a short area going up.
 11 Basically, what we consider the New York
 12 division. So it's beyond even the 60-mile location
 13 circumference.
 14 A seniority district is larger than the
 15 recommended 60-mile radius.
 16 ARBITRATOR DAS: Okay. Now, in the
 17 example you give here, the employee bids down to a
 18 lower position in Trenton; correct?
 19 THE WITNESS: Correct.
 20 ARBITRATOR DAS: Well, I mean, this is
 21 just the example.
 22 THE WITNESS: Correct.

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1 ARBITRATOR DAS: And then the -- where
 2 does the former headquarters come in?
 3 Is that former headquarters in New York
 4 now for this employee?
 5 THE WITNESS: New York, correct.
 6 ARBITRATOR DAS: But even though that's
 7 the former headquarters, you can't -- it still has
 8 to be 45 miles from his current headquarters or
 9 home?
 10 THE WITNESS: At home, correct.
 11 ARBITRATOR DAS: Okay.
 12 THE WITNESS: That is an and/or
 13 headquarters and/or residence.
 14 (Interruption by the court reporter.)
 15 THE WITNESS: That is and/or, headquarters
 16 or residence.
 17 ARBITRATOR DAS: So when you say here in
 18 the current rule -- I'm looking at Slide 14:
 19 "Cannot assign workers for position more than 45
 20 miles from former HQ..."
 21 I mean, we're talking about --
 22 THE WITNESS: It's not from -- if this

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1 last one was in New York and then he goes to
 2 Trenton, so it's from New York.
 3 No, it's from Trenton.
 4 ARBITRATOR DAS: It's from Trenton.
 5 Okay. All right. I was just confused by
 6 that. Thank you.
 7 ARBITRATOR JAFFE: So it's not really
 8 former headquarters? It's from his current
 9 headquarters?
 10 THE WITNESS: It would be from his present
 11 headquarters or his current headquarters.
 12 ARBITRATOR JAFFE: Let me take you back,
 13 if I may, on Member Das' question, also on the
 14 45-mile rule before we move to some other areas.
 15 If we could take a look at the Groton
 16 maps, which are on 18 and 19.
 17 THE WITNESS: Sure.
 18 ARBITRATOR JAFFE: And I'm using them more
 19 illustratively than anything else.
 20 Is this intended first to depict someone
 21 who is headquartered in Groton?
 22 THE WITNESS: Correct.

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1 ARBITRATOR JAFFE: Okay. And is that a
2 large headquarters for this unit?
3 THE WITNESS: That is becoming our major M
4 and W location.
5 But we have several up there, the larger
6 ones being Providence and Midway, which is Groton,
7 and then the New Haven area.
8 ARBITRATOR JAFFE: And the proposed change
9 would then allow you to go ahead and reassign people
10 who are based in Groton to Providence, Springfield,
11 and New Haven?
12 THE WITNESS: Correct.
13 ARBITRATOR JAFFE: Would that be daily?
14 Weekly? Some other basis?
15 THE WITNESS: That would be based on
16 vacancy, and they would then hold that vacancy.
17 We could continue advertising it, you
18 know, if we so desired.
19 ARBITRATOR JAFFE: Okay. So these are
20 based, not on filling in people who might mark off,
21 for example, for the day --
22 THE WITNESS: No.

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1 ARBITRATOR JAFFE: -- but these are based
2 on filling on a longer-term basis?
3 THE WITNESS: A longer term, that is
4 correct.
5 ARBITRATOR JAFFE: And currently, you have
6 got the right to do that within 45 miles?
7 THE WITNESS: That is correct.
8 ARBITRATOR JAFFE: And you want the right
9 to do that on a more permanent basis.
10 So someone who bids to Groton, you could
11 force them to commute to Springfield?
12 THE WITNESS: Yes, we could.
13 But I would like to mention that there is
14 no rule change of how it's being done for the
15 assignment per district. It's simply an extension
16 of 15 miles.
17 ARBITRATOR JAFFE: I think we understand
18 that.
19 THE WITNESS: Okay.
20 ARBITRATOR JAFFE: But those of us up at
21 the front end of the room don't have a real facile
22 working understanding of the existing rule.

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1 THE WITNESS: Okay.
2 ARBITRATOR JAFFE: I think that's where
3 we're coming from.
4 THE WITNESS: Okay.
5 ARBITRATOR JAFFE: In order to better
6 understand the effects at least of what you're
7 proposing.
8 THE WITNESS: Right.
9 ARBITRATOR JAFFE: Fair enough.
10 And so the rule that you're seeking to
11 extend the 15 miles on applies only to movement into
12 a higher classification, or it extends to any
13 classification for which the individual is
14 qualified?
15 THE WITNESS: Higher classification.
16 ARBITRATOR JAFFE: And since it's the
17 closer of the two, if the employee in question
18 happened to live in Newport, they would just be
19 traveling further if you happen to choose
20 Springfield rather than Providence, which might be
21 somewhat closer.
22 THE WITNESS: Correct.

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1 ARBITRATOR JAFFE: Okay. Do we know how
2 many employees actually bid out into a lower
3 classification beyond 45 miles?
4 THE WITNESS: I do not have that
5 information readily available here.
6 ARBITRATOR JAFFE: And I guess even under
7 the proposed change, if the employee bid to a
8 headquarters that placed him or her 75 miles away
9 from where they were before --
10 THE WITNESS: We could not.
11 ARBITRATOR JAFFE: -- they would be out of
12 reach.
13 THE WITNESS: They would be out of reach.
14 ARBITRATOR JAFFE: So the assumption is
15 they don't change residence, even though that's not
16 part of the wording of the rule?
17 THE WITNESS: Well, it could be an
18 assumption, yes.
19 ARBITRATOR JAFFE: Moving to the BMWED, if
20 we may, and the six months to a year. A few more
21 clarifiers as well, so at least, if no one else, I
22 have a better handle on both ways and what's being

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1 proposed.

2 If we looked at the positions on -- I'm

3 back to Slide 10, I apologize, and I'll wait until

4 you get there.

5 THE WITNESS: That's okay.

6 ARBITRATOR JAFFE: You explained the

7 positions on force account by year as those that

8 were advertised and then either filled or vacant.

9 And in fact, at least the chart

10 mathematically looks like the columns Positions

11 Filled by Year and Vacancy by Year, if you add them

12 up, they total the positions on the Force Account

13 column.

14 THE WITNESS: Correct.

15 ARBITRATOR JAFFE: So at least

16 mathematically that makes sense.

17 If a position is advertised and then not

18 filled, does it get readvertised?

19 THE WITNESS: Correct.

20 ARBITRATOR JAFFE: And so the vacancies

21 may not reference, for example, in Track Foreman, 42

22 actual positions vacant.

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1 If you had 14 of them that you kept

2 advertising during the course of the year and you

3 advertised them three times and wound up with no

4 bidders or no qualified bidder, that would show us

5 42?

6 THE WITNESS: I do not believe so.

7 That should not be cumulative. That's the

8 number of vacancies that we would have based on

9 positions.

10 So what -- I guess if the question was,

11 did we -- we had ten vacancies and just kept

12 readvertising, and we readvertised them five times

13 that year, it would be 50 vacancies.

14 ARBITRATOR JAFFE: Analytically, I think

15 that's correct.

16 THE WITNESS: So that's correct.

17 ARBITRATOR JAFFE: Whether you would

18 readvertise or not or whether they would be filled

19 or not on subsequent announcements may be a

20 different question.

21 THE WITNESS: Correct.

22 ARBITRATOR JAFFE: And I was simply trying

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1 to understand the numbers on Slide 10.

2 THE WITNESS: Right.

3 And so your statement is correct.

4 ARBITRATOR JAFFE: Okay. And if we took a

5 snapshot then rather than the annual approach, you

6 might come up with a different look in terms of

7 those who were still in training versus those that

8 were vacant versus those that may have completed

9 training within six months or a year as the case may

10 be.

11 THE WITNESS: Well, it was based on a

12 year.

13 So, yes, if you were to take a snapshot

14 halfway through the year would be a different

15 number.

16 ARBITRATOR JAFFE: Fair enough.

17 Are there particular jobs that you believe

18 employees left within 12 months in significant

19 numbers.

20 THE WITNESS: Left after 12 months?

21 ARBITRATOR JAFFE: No. Within 12 months.

22 THE WITNESS: Oh, within 12 months.

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1 ARBITRATOR JAFFE: If they leave after 12

2 months, even the proposed extension won't change it;

3 right?

4 THE WITNESS: Correct.

5 ARBITRATOR JAFFE: So we're talking about

6 those that leave within 12.

7 THE WITNESS: Right.

8 ARBITRATOR JAFFE: Yeah.

9 THE WITNESS: We have experienced -- we

10 have experienced problems in those particular areas,

11 and that's why we're recommending this option.

12 The actual numbers, I can get for you.

13 ARBITRATOR JAFFE: Right. I understood

14 you wouldn't have the numbers.

15 I didn't know if they were jobs that you

16 knew -- job titles that you knew were problematic in

17 that regard.

18 THE WITNESS: Yes. There is.

19 And it's normally the ones that we noted

20 in those three as well as particular welders, our

21 bootay (phonetic) welders, electric welders, and our

22 structural welders, our crane operators, our track

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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.

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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

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1 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.

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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

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1 have after you actually get assigned to a
 2 position --
 3 THE WITNESS: Right.
 4 ARBITRATOR DAS: -- and it takes you six
 5 months before that happens, then you -- and maybe
 6 I'm missing something.
 7 THE WITNESS: Okay. The training for --
 8 when we use our production gang, potentially a
 9 training, if it was a one-month training, for ease
 10 of calculation, we potentially may start that
 11 training in February.
 12 We'll have the person trained so that when
 13 the gang would be established, let's say in March,
 14 he could fill that position in March.
 15 And so then there would be six months from
 16 that time going forward.
 17 ARBITRATOR FISHGOLD: So currently then,
 18 is it fair to say that the six months is counted
 19 from the time in which formal training is completed
 20 and the person can otherwise be assigned to the
 21 position?
 22 THE WITNESS: When the training is

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1 completed, and he is assigned.
 2 ARBITRATOR FISHGOLD: Is assigned.
 3 Okay. All right.
 4 ARBITRATOR JAFFE: And that's a lock-in
 5 to, not just the position, but also the location?
 6 THE WITNESS: The position normally is a
 7 location.
 8 ARBITRATOR JAFFE: Well, but if there were
 9 a vacancy in another gang in the same job title, the
 10 six-month bar would preclude movement, currently.
 11 THE WITNESS: Right. We're not going
 12 to -- well, that's correct.
 13 ARBITRATOR JAFFE: And so that would be
 14 true as well under the 12 months.
 15 THE WITNESS: Correct.
 16 ARBITRATOR JAFFE: So it limits both as to
 17 geographic movement as well as to position movement.
 18 THE WITNESS: Correct.
 19 ARBITRATOR JAFFE: That's what I was
 20 trying to zero in on.
 21 And how are the requalification trainings
 22 treated under these rules?

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1 Are they exception, or are they considered
 2 a new type of training that they're covered by six
 3 months currently and would be covered by 12 months
 4 if it were extended?
 5 THE WITNESS: No.
 6 The requalification is the requalification
 7 for people that are in -- presently in the position.
 8 ARBITRATOR JAFFE: So that would not
 9 trigger a new lock-in.
 10 THE WITNESS: No.
 11 ARBITRATOR JAFFE: That's what I was
 12 trying to clarify.
 13 THE WITNESS: No.
 14 It's the initial training to get your card
 15 stamped as being qualified.
 16 ARBITRATOR JAFFE: And then once you're
 17 in, if you then leave and then come back two years
 18 later, if you're still fully trained and qualified,
 19 there would be no new lock-in.
 20 THE WITNESS: That is correct.
 21 ARBITRATOR JAFFE: Okay. The only other
 22 question that I wanted to pose at this time,

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1 Mr. Pohlot, is you described these two rules that we
 2 have focused on, primarily the 45-mile rule and then
 3 the 12 month, six month, 12 months as part of the
 4 pattern.
 5 And I don't know that I follow exactly why
 6 did you treat those as "part of the pattern package"
 7 as distinct from something else?
 8 THE WITNESS: Well, I -- I would have to
 9 say I don't have all the answers to the question,
 10 but I can say they are, in my mind, fairly
 11 simplistic in that we're not changing the rules.
 12 We're just adding basically an extension of time or
 13 distance to each one of the rules.
 14 So it -- from the pattern perspective, it
 15 would be a very easy way to fall into what the
 16 Amtrak pattern is.
 17 ARBITRATOR JAFFE: Well, but if they
 18 weren't there, would that still be part of the
 19 pattern, or not?
 20 THE WITNESS: If?
 21 ARBITRATOR JAFFE: Normally, I think a
 22 pattern is matching something else that's out there

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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.

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1 Did you have anything else?
2 ARBITRATOR FISHGOLD: Yes.
3 I have a question.
4 ARBITRATOR JAFFE: Sure. Go ahead.
5 ARBITRATOR FISHGOLD: First let me just do
6 an overview, if I could, about this.
7 These additional options, were all of
8 these additional options in some form, and if they
9 had been modified -- I think you identified one that
10 was modified -- were these part of, to your
11 knowledge, the mediation proposal?
12 THE WITNESS: They were part of the
13 mediation when I was part of the mediation.
14 And I have been told that they were part
15 of the 2010, in 2010.
16 ARBITRATOR FISHGOLD: Okay. Is there
17 anything new that the Union would not have had
18 access to, whether they considered it or didn't
19 consider it, in any of those optional proposals that
20 you have testified to today?
21 THE WITNESS: Definitely not since I was
22 in mediation.

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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?

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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?

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1 ARBITRATOR DAS: No.
 2 ARBITRATOR JAFFE: We're in good shape.
 3 Any further direct?
 4 MR. FRITTS: Mr. Chairman, I just have one
 5 question so just I understand the witness'
 6 testimony.
 7 ARBITRATOR JAFFE: That's fine,
 8 Mr. Fritts.
 9 REDIRECT EXAMINATION
 10 BY MR. FRITTS:
 11 Q Okay. Slide No. 10, Mr. Pohlot. And this
 12 goes to the question of readvertising the vacancy.
 13 I just want to understand your testimony
 14 in response to the Chairman's question.
 15 So let's just take the track foreman
 16 example for 2013. It says vacancy by year, 42.
 17 So let's say there was a vacancy that was
 18 readvertised three times. Which number would be
 19 included in the 42?
 20 Would it be the one vacancy, or would it
 21 be the three advertisements?
 22 A It would be -- my staff put this together.

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1 The vacancy was the number of vacancies in
 2 that position for the year.
 3 I can verify that, again.
 4 ARBITRATOR DAS: I think we still need to
 5 clarify your question because I had the same
 6 question.
 7 BY MR. FRITTS:
 8 Q To your knowledge, would the number -- if
 9 there was a vacancy that was readvertised three
 10 times a week, would the number that gets plugged
 11 into the 42 be a three or the one?
 12 A I believe it would be the three, and
 13 that's what I'm going to verify.
 14 MR. FRITTS: That's all I have.
 15 ARBITRATOR JAFFE: Any further cross?
 16 RECROSS-EXAMINATION
 17 BY MR. WILDER:
 18 Q There was one question that was suggested
 19 by the question concerning the 45-mile rule asked by
 20 the Chairman.
 21 And as I understand the question and the
 22 answer, it seemed to introduce within the discussion

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1 of the 45-mile rule the notion that a higher
 2 classification was involved.
 3 And I had not understood the 45-mile rule
 4 to turn on whether the classification was higher or
 5 the existing classification, and that is my
 6 question.
 7 Would you clarify that, please, for me?
 8 A Maybe the best way of clarification is by
 9 example.
 10 If I had a single maintainer in Trenton,
 11 then I had a single maintainer's position open in
 12 New York, and I had a signalman who was in Trenton
 13 who was qualified as a signal maintainer, I would
 14 move the signalman to -- assigned to New York, not
 15 the signal maintainer.
 16 So the lower class person who had been
 17 trained in the higher class, the maintainer, would
 18 be assigned to New York.
 19 Q Under the existing rule?
 20 A Underneath -- well, this is all -- no
 21 intent of changing the rule. We're just strictly
 22 adding 15 -- requesting a 15-mile extension on it.

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1 MR. WILDER: Thank you.
 2 ARBITRATOR JAFFE: Any further direct?
 3 MR. FRITTS: No.
 4 ARBITRATOR FISHGOLD: One other. I want
 5 to pick up on it.
 6 When you were discussing force assignment,
 7 I believe Mr. Wilder asked you, based upon the
 8 answers you were giving, is that meant to be applied
 9 prospectively? And I believe your answer to that
 10 was yes.
 11 That would have been Slide 21, if you want
 12 to refer to Slide 21. At least that's what I wrote
 13 down, so if I'm wrong.
 14 And I guess it's prospective relative to
 15 work zone. I added that in my notes, now, if that
 16 helps.
 17 ARBITRATOR JAFFE: Prospective for people
 18 promoted or for new hires?
 19 ARBITRATOR FISHGOLD: Yeah.
 20 THE WITNESS: I just don't exactly
 21 remember what the question at that time was asked.
 22 ARBITRATOR FISHGOLD: Okay. Let me then

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1 ask you.
 2 If a person were a new hire --
 3 THE WITNESS: Correct.
 4 ARBITRATOR FISHGOLD: -- it would be
 5 applicable to that person.
 6 THE WITNESS: Absolutely.
 7 ARBITRATOR FISHGOLD: Okay. But if an
 8 employee had already been employed for a period of
 9 time, when, if at all -- when would it be, if at
 10 all, be applicable to that individual?
 11 THE WITNESS: Well, it's also relative to
 12 when they were promoted.
 13 ARBITRATOR FISHGOLD: Okay.
 14 THE WITNESS: So it could be an existing
 15 employee --
 16 ARBITRATOR FISHGOLD: Okay.
 17 THE WITNESS: -- who then receives a
 18 promotion, and then it's applicable to them.
 19 ARBITRATOR FISHGOLD: Okay. And the
 20 reason I noted that when I wrote it down -- and I
 21 wrote a little note to myself -- are there any other
 22 of these optional work changes that have any

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1 prospective application or any grandfathering
 2 application other than what we just talked about
 3 with regard to force assignment?
 4 THE WITNESS: I would have to go through
 5 each one individually to check it.
 6 ARBITRATOR FISHGOLD: Yeah.
 7 THE WITNESS: And if you would like, I
 8 would be happy to do that and provide it to the
 9 Board, or I can go through each page now.
 10 ARBITRATOR FISHGOLD: No. We don't need
 11 to.
 12 And getting back to us would be fine,
 13 especially if the answer is going to be no.
 14 That's all I have. Thank you.
 15 ARBITRATOR JAFFE: Any further direct?
 16 MR. FRITTS: No, Mr. Chairman. Thank you.
 17 ARBITRATOR JAFFE: Any further cross?
 18 MR. WILDER: No further cross.
 19 ARBITRATOR JAFFE: Very good.
 20 Thank you, Mr. Pohlot.
 21 THE WITNESS: Thank you.
 22 (Witness stood down.)

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1 ARBITRATOR JAFFE: We're off the record.
 2 (A recess was taken.)
 3 (Witness sworn by the arbitrator.)
 4 ARBITRATOR JAFFE: At your convenience,
 5 Mr. Havermann.
 6 MR. HAVERMANN: Thank you, Mr. Jaffe.
 7 Thereupon,
 8 JAMES GILLULA
 9 Called for examination by counsel for the
 10 Carrier, having been duly sworn, was examined and
 11 testified as follows:
 12 DIRECT EXAMINATION
 13 BY MR. HAVERMANN:
 14 Q Mr. Gillula, could you please state your
 15 full name for the record?
 16 A James Walter Gillula, G-I-L-L-U-L-A.
 17 Q And what is your current employment?
 18 A I employed within the economic information
 19 services company IHS.
 20 Q Is that local?
 21 A We do have a local office, yes.
 22 But it's a global company with offices in

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1 many cities around the world.
 2 (Discussion was held off the record.)
 3 MR. HAVERMANN: Okay.
 4 BY MR. HAVERMANN:
 5 Q Thank you. Your expertise -- first of
 6 all, is it Mr. Gillula or Dr. Gillula?
 7 A Dr. Gillula.
 8 Q Dr. Gillula, your expertise is in labor
 9 economics?
 10 A Yes.
 11 I have a Bachelor's degree from Washington
 12 University -- in economics from Washington
 13 University in St. Louis.
 14 And a Master's degree and Doctorate degree
 15 from Duke University. And employed by IHS since my
 16 prior employer was acquired by IHS about four years
 17 ago. That employer was called Global Insight.
 18 And prior to that, Global Insight --
 19 before Global Insight was formed as a function of a
 20 corporate merger, I was employed by a company by the
 21 name of Data Resources, Incorporated for many years,
 22 another economic analysis and forecasting company.

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1 So for the past 25-plus years, I have been
 2 working, apart from a couple of corporate
 3 reorganizations, for the same employer. And for
 4 most of that period actively involved in labor
 5 economic analysis.
 6 Q Have you ever been asked to give expert
 7 testimony before?
 8 A I have given expert testimony on a few
 9 occasions.
 10 I have also been involved in many other
 11 engagements where I worked together with colleagues,
 12 primarily academic colleagues, who were not employed
 13 by either any of the firms that I mentioned going
 14 back about 25 years ago.
 15 I had been involved in perhaps eight or
 16 nine different interest arbitrations involving the
 17 U.S. Postal Service, assisting in the preparation of
 18 written testimony that was presented in interest
 19 arbitration.
 20 And in each instance, a coauthor of
 21 reports that were submitted, although not always
 22 given in testimony.

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1 However, I have testified on economic
 2 issues at three times in Postal Service interest
 3 arbitrations.
 4 Over the years I have also done labor
 5 economics, and, strictly speaking, comparability
 6 analyses like that which I'll present today, in
 7 other industries, including a series of cases that
 8 were not interest arbitration, but testimony I
 9 prepared for testimony in bankruptcy court involving
 10 major airlines, Delta, American, USAir, Northwest,
 11 all of those cases where we worked with their
 12 prepared testimony, although not in all cases did it
 13 go to testimony before the court.
 14 I have also worked in a couple of other
 15 industries, and a series of cases with auto parts
 16 companies, again, bankruptcy court testimony
 17 preparation, Delphi, Dana, Tower (phonetic).
 18 In all of those engagements, working with
 19 academic colleagues who were leading labor
 20 economists.
 21 And I have presented testimony before PEB
 22 242 on Amtrak's behalf in December of 2007.

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1 Q Now, what is the nature of the assignment
 2 you have been given by Amtrak in this proceeding?
 3 A Well, Amtrak asked me to do an assessment
 4 of the comparability, the competitiveness, if you
 5 will, of the wages and benefits of Amtrak's BMW and
 6 BRS employees.
 7 So from a labor economics standpoint, what
 8 that requires is to make a comparison of this target
 9 group of employees, make a comparison of their
 10 compensation with the compensation of employers
 11 elsewhere in the economy who have similar skills and
 12 abilities working in similar jobs with similar
 13 working conditions.
 14 So the objective of this is really to try
 15 to get at what is market wage for the set of skills
 16 and abilities.
 17 So because of that, in doing this, it's
 18 important not to draw the comparison too narrowly.
 19 If you think about an employee working for
 20 any employer, is going to have certain fairly
 21 specific job tasks and requirements he's asked to
 22 do. But that employee almost invariably could take

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1 his skills or her skills and abilities out and
 2 compete for a job that requires similar skills and
 3 abilities elsewhere in the economy.
 4 So in a competitive labor market, what
 5 that means is that Amtrak's employees could take
 6 their skills and abilities and go out and seek jobs
 7 elsewhere.
 8 And many workers across, not just the rail
 9 transportation industry, but in other industries,
 10 could take their skills and abilities and compete
 11 for jobs at Amtrak.
 12 So it's important to recognize from the
 13 standpoint of comparability analysis that Amtrak, in
 14 fact, is competing in a labor market for, not just
 15 within its own industry, but across the economy for
 16 many of the skills and abilities it needs.
 17 Q How did you go about preparing your
 18 comparability analysis?
 19 A Well, in order to do the analysis, we have
 20 to know something about wages that are paid of
 21 comparators.
 22 And I rely on a couple of major federal

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1 government databases to -- that are published
 2 federal government data on wages elsewhere in the
 3 economy.
 4 But those data are collected on the basis
 5 of -- for individual occupations on the basis of the
 6 standard occupation classification that is used
 7 across the government in order to publish those
 8 sorts.
 9 So what we need to do is to understand
 10 what occupations from the perspective of the
 11 Department of Labor's standard occupational
 12 classification, Amtrak, BMW, and BRS employees are
 13 classified.
 14 So I was assisted in this. In fact, the
 15 burden of the analysis of doing the mapping of
 16 Amtrak's BMW and BRS employees was done
 17 fundamentally by a labor relations specialist within
 18 Amtrak who had very detailed and longstanding
 19 knowledge of the jobs that these folks are doing and
 20 the skills and abilities that they have.
 21 He also has a very good understanding of
 22 the government's standard occupational

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1 classification. So he was able to identify which
 2 classifications for purposes of the analysis using
 3 the standard occupational classification Amtrak
 4 employees would be classified in.
 5 Now, they ended up being -- and I, of
 6 course, reviewed all of this. And we discussed
 7 certain nuances of it. But fundamentally his
 8 assessments I felt were very sound.
 9 Now, some of these occupations are defined
 10 so narrowly that they exist really only in the rail
 11 transportation industry, and we'll see that as we go
 12 through.
 13 Others are skills and abilities that,
 14 while they're used in the rail transportation
 15 industry, are used elsewhere in the economy as well.
 16 Therefore, the assignment of the occupation of some
 17 of the Amtrak BMW and BRS employees is not
 18 specifically to an industry, but to an occupation
 19 that is in place across the economy.
 20 Q Now, did you have to look to the Bureau of
 21 Labor Statistics to prepare this comparability
 22 analysis?

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1 A Yes.
 2 The Bureau of Labor Statistics has a
 3 number of data sites that collect data wages and
 4 benefits by occupation as distinct from by industry
 5 or other categories.
 6 There are a couple of surveys that are
 7 surveys of business establishments that I relied on
 8 primarily. They have other surveys that go and
 9 survey households to get at wage information, but
 10 those are a little less appropriate for the analysis
 11 here.
 12 So the two surveys are one called the
 13 occupational employment statistics. And the two
 14 surveys really have different -- have their own
 15 pluses and minuses.
 16 The occupational employment survey is very
 17 handy because it has existed for a long time and
 18 adapted to whatever changes have been made in the
 19 standard occupational classification over time, and
 20 provides a lot of occupational detail.
 21 It also has some regional detail so you
 22 can see some wages by occupation for different

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1 states and metropolitan areas.
 2 At the same time, however, it is a survey
 3 that includes part-time workers, and it includes
 4 government workers.
 5 Now, in recent years, you have been able
 6 to actually parse out for a private sector wage in
 7 the OES. But going back in time, you couldn't
 8 actually do that readily. So I have relied on the
 9 data as published since I want to present a
 10 long-term occupation.
 11 The fact that it included a few government
 12 workers in this list of occupations, which are
 13 fundamentally production occupations across the
 14 economy. If you look at the numbers, the government
 15 workers that are in the sample actually get paid a
 16 little bit more than the private sector.
 17 So I would like to zero in precisely on
 18 private sector.
 19 In using the data source, the data series
 20 as published, we're really somewhat overstating a
 21 little bit the comparable private sector wage.
 22 Now, the second data source that also

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1 comes out of the Bureau of Labor Statistics is the
 2 National Compensation Survey. It also for many
 3 years had occupational data, but the publication of
 4 data by occupation from that survey ceased a couple
 5 of years ago due to budget cutbacks.
 6 So it would be preferable in some respects
 7 because it identifies things like wages for
 8 full-time workers as distinct from an economy line
 9 average that includes part time.
 10 And as we'll see later, as I -- when I
 11 talk about the benefits, it's also the source of the
 12 BLS database on employee cost and employee
 13 compensation, which covers benefits as well as
 14 wages.
 15 So I used these two databases. And, from
 16 Amtrak, what I had was payroll data, not just for
 17 the most current year in 2012 for which the BLS data
 18 are available, but also going back all the way to
 19 2000. So I can build a time series of average wages
 20 in these 19 different detailed occupations that were
 21 identified where the Amtrak workers are classified,
 22 and do the comparison with the long-time series of

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1 data from the Occupational Employment Survey.
 2 Now, there are a couple of specific
 3 methodological issues that are relevant. And I
 4 mentioned this thing about full time/part time.
 5 Using -- while we can't parse out the
 6 differences in the OAS, per se, we can look at it
 7 within the context of the National Compensation
 8 Survey.
 9 So I took a look at the 19 occupations for
 10 which -- where the Amtrak workers are classified, to
 11 the extent that they are part-time workers across
 12 these occupations.
 13 I could see the impact of an average wage
 14 including part-time workers and average wage that
 15 didn't include the part-time workers. And partly as
 16 a function of the fact that there are very few
 17 part-time workers and partly as a function in fact
 18 that the differentials are very small, there was
 19 essentially no difference.
 20 So we can have confidence in using the
 21 data published from the NBI as a good reflection of
 22 a full-time wage.

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1 Now, a second methodological issue that
 2 is -- also warrants attention is the fact that the
 3 Amtrak BMW and BRS employees have job locations
 4 that are fairly concentrated from a geographical
 5 standpoint.
 6 We have heard discussion at a number of
 7 points in these proceedings about the Northeast
 8 Corridor and how they're concentrated.
 9 Clearly, there are some on West Coast rail
 10 lines as well.
 11 But we need to take this into account
 12 because Amtrak BMW and BRS employees need to live
 13 close to where their job is. We need to take into
 14 account the regional difference in wages.
 15 What we have from the Occupational
 16 Employment Survey, it's a database that has a lot of
 17 detail at the U.S. level by occupation. As you go
 18 down to the regional level, you have a little less
 19 occupational detail. So we can't effectively build
 20 long-time series of data that is geographic specific
 21 at the level of occupational detail we would like
 22 to.

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1 What we can do, however, is look at the
 2 impact of regional differences using the database.
 3 And so I did that.
 4 I received from Amtrak information on the
 5 state in which each of its employees works. And so
 6 we could actually define a distribution across
 7 states of where Amtrak workers live and work. And
 8 this, again, is limited to the BMW and BRS
 9 employees.
 10 Then, within parsing those employees,
 11 again, not down to the level of 19 occupations
 12 because we don't have that kind of detail at the
 13 state level systematically, but at the level of four
 14 broad occupations, we can identify regional
 15 differentials between the average wage of these
 16 occupations nationwide and the average wage of the
 17 same occupations in those four occupational
 18 categories in the states where the BMW, BRS
 19 employees are concentrated.
 20 So what I did is calculate an adjustment
 21 factor. That differential is approximately 7
 22 percent.

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1 A lot of times you'll hear much larger
2 regional wage differentials. But what we need to do
3 here is to make sure we're focusing on the
4 differentials that are relevant to the occupations
5 that we're looking at.
6 And when you do the calculations with the
7 OES, we identify a regional wage differential of
8 that magnitude.
9 And what I did is simply adjust my
10 national time series, which are constructed with
11 much more detailed occupational data, boosted the
12 entire time series by 7 percent so that I have
13 effectively a comparison of Amtrak's BMW and BRS
14 employees with full-time workers, comparable
15 occupations, on a regional basis.
16 Q All right. Why don't we get into your
17 findings.
18 If you could turn to Slide 5, please.
19 A So this slide, we can start with the
20 comment at the top, which is a bit of a footnote.
21 So as I said, what I received from Amtrak
22 in the way of wage data was a -- just a tabulation

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1 of -- entire tabulation of what was actually paid
2 out in payroll wages from the period 2000 all the
3 way through 2012 to -- in order to calculate a
4 straight time average hourly earnings.
5 As a function of these proceedings, there
6 will be discussion about the possibility of
7 retroactive pay.
8 So this chart starts with the raw wage
9 calculated from the payroll data, which is \$25.06.
10 And that's an average across all of the Amtrak BMW
11 and BRS employees employed during 2012.
12 Now, what you see below that is a set of
13 average wage figures for the Amtrak employees in
14 four broad occupational categories.
15 So in these categories are standard
16 subdivisions, standard occupational classifications
17 that are in common use in statistical publications,
18 including the occupational employment statistics.
19 Underlying -- these data are here for
20 presentation purposes. For the Board's records, I
21 also provided a list behind my slides. It's labeled
22 Exhibit 1. I think it has got a number of 601 on it

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1 by now.
2 You can see the 19 individual occupations.
3 MR. HAVERMANN: Hold on one second.
4 Can you put 601 on the screen?
5 THE WITNESS: All right. It's still a
6 little hard to read on the screen, but ultimately
7 you have it there.
8 These are the 19 individual occupations
9 into which Amtrak's BMW, BRS employees are
10 classified. They're actually sorted from the
11 standpoint of which has the highest concentration of
12 Amtrak BMW, BRS employees.
13 And if you see the first two, the rail
14 track laying and maintenance equipment operators and
15 the signal track switch repairers, those are
16 occupational categories that are a line item in the
17 standard occupational classification, which is
18 applied across the economy.
19 But virtually the only place they exist is
20 in the rail transportation industry.
21 The first one accounts for 31 percent of
22 the sample in the comparison. The second one

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1 accounts for 21 percent.
2 So these two occupations, which are highly
3 railroad industry specific, account for over half of
4 the overall sample in the data that I will present.
5 So you can see in the far right column for
6 2012, the average straight time wage of all of these
7 employees in the private sector is \$24.88.
8 So this is calculated as a weighted
9 average of the 19 hourly rates using employment
10 rates, which are the Amtrak rates. In other words,
11 the distribution of Amtrak BMW and BRS employees.
12 And so that's how we get to the average wage
13 overall.
14 So if you looked at this, the simplest
15 takeaway you would have is that there's not a lot of
16 difference between Amtrak BMW and BRS employees and
17 a competitive market wage when you look at it
18 measured this way, at least with respect to what was
19 actually paid out in payroll dollars during 2012.
20 ARBITRATOR JAFFE: Dr. Gillula, did the
21 2012 numbers include the 7 percent adjustment for
22 regional that you testified about earlier?

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1 THE WITNESS: The \$24.88 does include the
2 7 percent.
3 ARBITRATOR JAFFE: It includes the 7
4 percent.
5 THE WITNESS: It has already been
6 adjusted.
7 ARBITRATOR JAFFE: Thank you.
8 THE WITNESS: In the far right column, you
9 can see the distribution, the weighting at the level
10 of these four occupations.
11 And this chart also shows some wage
12 differentials for the four broad occupations, and
13 the results aren't too surprising.
14 You see quite often in the context of
15 collective bargaining contracts do a certain wage
16 compression that occurs in some bargaining contexts.
17 It's not uncommon to see a situation, for
18 example, the Installation, Maintenance & Repair
19 category is where the most skilled blue collar
20 workers in the economy are classified. And
21 conversely, the production workers are really in a
22 category that is the least skilled.

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1 So what you often see in this context is
2 instances where the most skilled workers within a
3 bargaining unit may, in fact, have a lower wage
4 premium or, in fact, a wage deficit, while less
5 skilled workers often have larger wage premiums.
6 BY MR. HAVERMANN:
7 Q All right. Did you prepare any findings
8 of comparability under the Amtrak pattern?
9 A Yes.
10 Amtrak provided me with their proposals
11 for the Amtrak pattern, which consist of a sequence
12 of -- I'm sure you have seen this, a sequence of
13 wage increases starting with the period that would
14 be covered by retroactive pay coming forward to
15 2012, and then, of course, the proposals for 2013
16 and beyond.
17 So if you take the cumulative impact on
18 the average wage that would occur as a function of
19 Amtrak's proposal for retroactive pay, that's a
20 total of about a 7.2 percent adjustment between --
21 which would impact the 2012 wage.
22 So this chart shows the original \$25.06

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1 average wage boosted by that retro pay, crediting
2 for retro pay. And as a result, we now have a wage
3 differential of 8 percent between Amtrak BMW, BRS
4 employees and comparable workers economy wide.
5 You know, at this point, we now have at
6 least a small differential relative to all of these
7 four broad categories.
8 Q Have you looked at the comparability over
9 time?
10 A Yes.
11 And as I said a little earlier, I did get
12 time series data from Amtrak on its average earnings
13 of BMW and BRS employees.
14 Again, these are payroll data so -- which
15 indicate what was actually paid out of the payroll
16 system over time. So it might not hurt to go
17 straight to the textboxes on this chart which
18 indicate that the time series for Amtrak, which is
19 the line that runs below there, below \$20 up to
20 2006, those are average wages based on payroll, and
21 they don't reflect the retroactive pay that was
22 awarded as a function of the last PEB.

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1 And similarly, once we get up to the range
2 of 2010 to 2012, the Amtrak line does not at this
3 point reflect retroactive pay.
4 The private sector line is, in fact, a
5 calculation year by year, a weighted average of the
6 private sector wage rates published by the OES data
7 using in each case year by year Amtrak rates.
8 So what you see over the period is that
9 clearly you go back to the year 2000, Amtrak's BMW
10 and BRS employees were essentially at market at that
11 point in time.
12 As a function of the extended negotiations
13 and discussions that ultimately resulted in PEB 242,
14 in a payroll sense, they clearly lagged behind the
15 private sector over that period. As soon as that
16 award was issued, their relative wage increased.
17 And by 2009, they were slightly ahead of the private
18 sector, or very close in any event.
19 Since then, well, growth in private sector
20 wages have slowed a little bit since we came across
21 the recession 2009 to 2012. But -- and, again, the
22 Amtrak line has leveled out as a function of wage

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1 freezes associated with ongoing negotiations.
 2 But the last data points on this chart to
 3 2012 are just a repetition of where we started with
 4 the private sector wage at 24.88 and the Amtrak wage
 5 at 25.06, which represents, you know, less than a 1
 6 percent gap.
 7 Q How does the Amtrak pattern affect this
 8 chart?
 9 A Well, on this chart -- on the next chart,
 10 we have essentially reproduced everything from 2000
 11 to 2012 for the private sector is reproduced from
 12 the previous chart.
 13 Now, if you look at the historical period,
 14 up at least -- recalling history up through 2012
 15 because we don't yet have complete data from the OES
 16 to do a 2013 number.
 17 If you look at the Amtrak time series,
 18 you'll see that I haven't made any attempt to adjust
 19 for retro pay back in that earlier period. That's
 20 likely to be a complicated exercise that would
 21 involve some offsets. And as long as people
 22 understand what we're looking at in this chart, it's

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1 best left unadjusted.
 2 For the near term, however, I think it's a
 3 little more straightforward. So all I have done
 4 with the Amtrak line up through 2010 to 2012 is to
 5 make the adjustments for the pattern that Amtrak has
 6 posed, and that gets the 2012 number up to the
 7 \$26.86, which we saw in our second comparison, the
 8 2012 data a little while ago.
 9 From there, the progression up to what is
 10 shown here is \$28.80 in 2015, is simply the Amtrak
 11 proposal applying percentage increases proposed in
 12 2013 through 2015 to that starting point of the
 13 average wage that I have there.
 14 Now, the private sector you'll see also
 15 has a forecast in it. This forecast is not
 16 something that I specifically prepared for these
 17 proceedings.
 18 I mentioned earlier that part of my
 19 company is in the business of economic analysis and
 20 forecasting. Indeed, we provide regularly updated
 21 microeconomic regional and industry forecasts to a
 22 healthy share of the U.S. corporate sector.

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1 We do have a business unit that is in the
 2 business of forecasting a lot of very detailed
 3 prices and wages, and that includes routinely
 4 updated forecasts of wages by occupation.
 5 So this series is simply derived as a
 6 function of the current IHS world view about where
 7 the labor market is headed in the next three years,
 8 in particular, the labor market for occupations
 9 where Amtrak's BMW and BRS employees are
 10 classified.
 11 So what you see then is by 2015, when you
 12 take into account the Amtrak retro -- retroactive
 13 pay and proposal for future wage increases, Amtrak's
 14 BMW and BRS employees would still be about almost 9
 15 percent ahead of our projection of where the private
 16 sector rate would be for comparable private sector
 17 employees.
 18 ARBITRATOR JAFFE: Looks like that's about
 19 a 2 percent forecast.
 20 THE WITNESS: It's very close to 2
 21 percent, very close.
 22 And indeed, everybody is somewhat

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1 optimistic for 2014 that things will begin to pick
 2 up.
 3 Even if it does pick up -- and our
 4 forecast is that it won't -- we're not looking at 3
 5 percent growth rates, if you think about the
 6 underlying microeconomic world view behind that
 7 forecast -- it's slow but steady improvement in the
 8 labor market over the next two to three years.
 9 BY MR. HAVERMANN:
 10 Q Did you examine how this chart would
 11 change if the freight deal wage increases were
 12 applied retroactively?
 13 A Yes.
 14 Here on Slide 9, the private sector line
 15 here is exactly the same as the previous chart.
 16 The Amtrak BMW, BRS wage line is the same
 17 up until 2010, at which point what I have put in
 18 here is the freight deal proposal for retroactive
 19 pay up to 2012 and including 2013, since 2013 is now
 20 effectively behind us, and the freight deal proposal
 21 for continuing wage increases up to the one --
 22 beginning of 2015.

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1 So in this chart, if you look at 2012, you
 2 see the private sector wage of \$24.88. And a
 3 corresponding Amtrak wage in this case is \$27.33.
 4 Certainly not a big difference, but a slightly
 5 higher percentage differential compared to the
 6 private sector.
 7 The increase is going into the future,
 8 however, continue and reach an average straight time
 9 wage of \$30.10 by 2015, which is a wage differential
 10 of 13.8 percent relative to our private sector
 11 projection.
 12 Q What does Slide 10 show, please?
 13 A This chart just shows previous the two
 14 charts all combined into one.
 15 All of the numbers are the same. The
 16 Amtrak projected wage of \$28.88 in 2015, being 8.9
 17 percent above the comparable private sector. And
 18 the freight deal proposal of \$30.10 being 13.8
 19 percent above.
 20 Q Now, in addition to performing a wage
 21 comparability, did you also examine benefits to look
 22 at the total compensation?

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1 A Yes.
 2 Any comparability analysis clearly must
 3 address benefits as well as wages in order to look
 4 at the total package of compensation because it's
 5 certainly what influences employees' thinking.
 6 I know that you have heard other testimony
 7 in these proceedings about benefits, in particular
 8 healthcare benefits, and the focus on the nature of
 9 the benefits provided, comparing Amtrak's BMW and
 10 BRS employees to other parts of the economy.
 11 My focus here is not on the nature of the
 12 benefits provided or even their value in an
 13 actuarial sense, as Mr. Rand referred to the CMS
 14 tool that permits doing that, but to the cost of the
 15 worker of providing benefits so that we can layer on
 16 the cost of wages, the cost of benefits.
 17 And this analysis is facilitated by the
 18 fact that, once again, the BLS has been in the
 19 business of building a data set which calculates the
 20 cost of benefits to employers for a long time.
 21 So we have a great source of information.
 22 From the Amtrak side, what I received was

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1 information on the cost of Amtrak's benefits that
 2 permitted me to do a calculation that was entirely
 3 comparable to what the BLS publishes.
 4 So from the BLS standpoint, once again, we
 5 try to zero in on a benefit structure being paid to
 6 full-time workers, and a benefit structure for the
 7 kinds of jobs that the BMW and BRS employees are
 8 classified in.
 9 Now, for this analysis, we can't go down
 10 to the level of 19 detailed occupations because the
 11 BLS just doesn't publish it.
 12 But I come back to those four broad
 13 occupational categories for which I presented some
 14 wage differentials earlier and look at the benefit
 15 structure of each one of those and, once again, use
 16 a weighting based on the share of Amtrak employees,
 17 BMW and BRS employees, in those four categories to
 18 build up a picture of the comparable benefit costs
 19 for comparable private sector workers.
 20 So I'm looking at three broad categories
 21 of workers. There's paid leave, insurance, which
 22 will include health insurance, life insurance, any

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1 other kind of insurance you can imagine that an
 2 employer might incur some costs for its employees.
 3 And then retirement plans broadly defined
 4 where we're taking the railroad plan for Amtrak,
 5 which anything paid in the private sector is going
 6 to include defined benefit plans to the extent that
 7 some still exist, 401K plans, social security, all
 8 of that will be rolled into the private sector
 9 employers.
 10 And the analysis is based on data for
 11 2012.
 12 Q All right. Let's look at your first set
 13 of calculations on Slide 12.
 14 Can you walk us through that, please?
 15 A Sure. So the starting point here is the
 16 average wage for Amtrak BMW and BRS employees is
 17 \$25.06 average wage, which was the wage for 2012,
 18 which I presented earlier.
 19 And keep in mind, again, that this is the
 20 wage that doesn't include retroactive pay. And
 21 trying to include retroactive pay in this sort of
 22 analysis, once again, it gets -- it would require

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1 some additional judgment issues because there may be
 2 offsets with respect to healthcare as well.
 3 So I present this analysis based just on
 4 the payroll records. And you can make your mental
 5 calculations about the implications if you were to
 6 include that retroactive pay.
 7 You'll also see in this chart, going to
 8 the right of the 25.06, the \$24.88 wage.
 9 So what we want to see is what's the
 10 effective cost of a worker out there with comparable
 11 skills and abilities to the Amtrak BMW, BRS
 12 employees whose paid this 24.88 wage, which we have
 13 identified as the competitive market wage.
 14 And the way we build the benefits is to
 15 look at the structure of benefit costs in the
 16 calculation I just described in the set of
 17 occupations where Amtrak's BMW and BRS employees
 18 are classified.
 19 So essentially, we have from the BLS data
 20 a ratio of paid leave benefit costs to wages and
 21 salaries, and insurance benefit costs to wages and
 22 salaries, and retirement benefit cost to wages for

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1 each of those. And that generates the dollar
 2 numbers in those three categories, which then get
 3 added up to calculate a total compensation of the
 4 competitive worker.
 5 As I said before, the Amtrak data to do
 6 paid leave, I actually had the value total count of
 7 all of the different categories of leave for which
 8 Amtrak's BMW, BRS employees were paid and what the
 9 actual dollars were paid out for that. And you take
 10 that dollar cost, and you load it onto the hours
 11 that are actually worked.
 12 And that's the methodology that BLS uses.
 13 So with insurance and retirement benefits,
 14 internally, as a company -- Amtrak and many other
 15 companies, if they have plans that span multiple
 16 groups within the company, they use a set of
 17 accounting ratios which allocate those broader costs
 18 to particular groups of employees. And I had that
 19 kind of information to develop these estimates.
 20 So what we see from this is that, while
 21 we're talking about a comparison here, which has
 22 Amtrak's BMW and BRS employees pretty much at

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1 market with respect to a wage comparison; when you
 2 look at total compensation incorporating benefits,
 3 we have got a benefits premium which is about 80
 4 percent, and that translates into a total
 5 compensation premium of 23 percent.
 6 ARBITRATOR JAFFE: Dr. Gillula, is that a
 7 function in large part of the difference in service
 8 with lower turnover at the railroad versus the
 9 comparable BLS market?
 10 THE WITNESS: Are you referring the impact
 11 on the cost?
 12 ARBITRATOR JAFFE: On paid leave, yeah.
 13 For example, if there's a schedule that
 14 provides for greater weeks of vacation for people
 15 who have been there more years --
 16 THE WITNESS: Correct.
 17 ARBITRATOR JAFFE: -- wouldn't you expect
 18 to find a more senior workforce having a higher paid
 19 leave number allocated per hour worked?
 20 THE WITNESS: I think it's definitely a
 21 combination of a more generous schedule of paid
 22 leave, possibly also to some extent a differential

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1 in the average experience.
 2 ARBITRATOR JAFFE: Okay. And this
 3 combines the two?
 4 The analysis on Slide 12.
 5 THE WITNESS: Correct.
 6 ARBITRATOR JAFFE: Thank you.
 7 BY MR. HAVERMANN:
 8 Q All right. What other measures of
 9 comparability did you examine, Dr. Gillula?
 10 A Well, the other thing I took a look at is
 11 the Amtrak's quit rate.
 12 Now, the quit rate is, you know, I would
 13 have to think about it as a pulse on the labor
 14 market.
 15 Any time you do an analysis that focuses
 16 in on differentials with respect to wages or total
 17 compensation one can always argue that, well, the
 18 job's a whole lot tougher. The job involves very
 19 onerous working conditions.
 20 In order to make some assessment as to
 21 whether a differential might be interpreted as a
 22 wage premium or a wage deficit, it's always useful

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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 BMW 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 BMW 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 BMW, 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 BMW, 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 BMW, 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

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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 BMW 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

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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

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1 the average straight time earnings of Amtrak's BMW

2 and BRS employees starting in 2008 and plotting out

3 an index number for the wage growth first using just

4 the payroll data.

5 And that wage trend takes the Amtrak BMW,

6 BRS employees up to a 10 percent gain, hence the

7 line with the squares between 2008 and 2012.

8 And then when you factor in proposed

9 retroactive pay under the Amtrak pattern proposal,

10 it takes it up to about 17 and a half percent.

11 So this is still, again, the Amtrak

12 pattern proposal.

13 There are three other lines on this chart

14 for comparison purposes. One is drawn, the one with

15 the little triangles is drawn from the average

16 full-time private sector comparison that I presented

17 earlier.

18 And you can see that that chart, that wage

19 gain for a comparable private sector worker is up to

20 a little over 106 percent relative -- in 2012

21 relative to 2008.

22 Two other lines on this chart, first, how

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1 have things fared in the federal sector. Not so

2 good. After a 2.9 percent increase in 2009 and a

3 1.5 increase in 2010, federal general schedule

4 workers have been living under a wage freeze for a

5 while.

6 As of January 1, I think, they finally got

7 another 1 percent. But that is a wage growth

8 experience that puts them at less than 5 percent

9 during this period.

10 Finally, the measure of the union sector

11 here is the employment cost index, again, drawn from

12 the National Compensation Survey, which shows wage

13 gains in union -- in the private union sector.

14 So if you look at the Amtrak pattern

15 proposal, the top line by 2012 in terms of wage gain

16 relative to 2008, it's 8 percent above the union

17 sector, about 10 percent above comparable private

18 sector workers, and about 12 percent ahead of the

19 federal general schedule employees.

20 Q Thank you, Dr. Gillula.

21 Could you sum up for us your conclusions?

22 A Well, very quickly, starting with the

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1 analysis focused on those current data 2012, if we

2 look at wages paid out through the payroll system,

3 as I did in my first analysis, you see that Amtrak

4 BMW, BRS employees pretty much at market.

5 And you factor in proposed retroactive

6 pay, however, they'll be effectively 8 percent above

7 the market.

8 When we look at benefits, what we find is

9 a benefits premium of approximately 80 percent,

10 reflecting the very rich healthcare and retirement

11 plans that they have. That translates into a total

12 compensation premium of 23 percent.

13 And the finding of interpreting those

14 differentials as a wage and benefits premium is

15 supported by the very low quit rates of 1 to 3

16 percent that the BMW, BRS employees have shown over

17 the last six years.

18 Amtrak's proposal, the Amtrak pattern

19 proposal would take BMW, BRS employees by 2015 to a

20 level that benchmarks against our projections for

21 what's going on in the private sector would still be

22 9 percent above comparable workers in the private

Page 633

1 sector.

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

3 minute.

4 When you were quoting the total

5 compensation premium numbers, we have 18 percent on

6 a slide.

7 A Well, I think the thing to do is to go

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

9 So I think the 23 is accurate.

10 I think maybe somebody must have picked up

11 an older version of this. We can check the

12 arithmetic.

13 Q In other words, this may not be the

14 current PowerPoint?

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

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

17 So I think 23 is correct.

18 In fact, I thought my version was printed

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

20 is printed here.

21 Q All right.

22 A In any event, I think the fundamental

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1 conclusion from my analysis is -- which the really

2 the critical one from the standpoint of labor

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

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

5 attract and retain the qualified and skilled labor

6 force that it needs.

7 MR. HAVERMANN: Thank you.

8 That's all I have.

9 ARBITRATOR JAFFE: Thank you.

10 MR. WILDER: I have just one question for

11 clarification.

12 And that is, is the 23 percent, which is a

13 correction of the 18 percent, the same 23 percent

14 that Dr. Gillula was referencing in connection with

15 slide 12 in response to the Chairman's question?

16 MR. HAVERMANN: Yeah. The total

17 compensation premium is reflected in Slide 12.

18 THE WITNESS: Yes. Yes.

19 It is total compensation in this 23, yes.

20 ARBITRATOR DAS: It says 18 percent.

21 MR. HAVERMANN: Well, we'll correct that.

22 THE WITNESS: So you have 18 on your

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1 version as well?

2 MR. HAVERMANN: We have 18.

3 ARBITRATOR FISHGOLD: We'll leave the

4 record open, obviously.

5 MR. HAVERMANN: We'll fix it.

6 THE WITNESS: It would be worth checking

7 the version that's on the library of documents, I

8 think.

9 MR. HAVERMANN: Do you need a few minutes,

10 Roland?

11 MR. WILDER: I obviously will have some

12 other questions, but I would like to take a quick

13 recess.

14 ARBITRATOR JAFFE: That's fine.

15 Let's go off the record.

16 MR. WILDER: Thank you.

17 (A recess was taken.)

18 ARBITRATOR JAFFE: We're going to

19 reconvene. Thank you.

20 Mr. Havermann, you indicated you had a few

21 clarifying questions you wanted to complete before

22 we started cross.

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1 MR. HAVERMANN: Thank you, Mr. Jaffe.

2 I appreciate it.

3 ARBITRATOR JAFFE: Sure.

4 BY MR. HAVERMANN:

5 Q When we covered slide 12 during your

6 presentation, Dr. Gillula, you mentioned that this

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

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

9 conclusions.

10 Can you correct the record for us?

11 A Yes.

12 Clearly, since there was one number

13 printed in the slides and transmitted to the Panel,

14 and another that I gave in oral testimony, that

15 there was a mistake involved.

16 I'm happy to report that the correct

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

18 printed testimony and in the slides displayed and in

19 the underlying data analysis that is available to

20 both sides in the library.

21 I'm not happy to report to you that I was

22 testifying from a printed version for the benefit of

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1 having some notes to myself, which was not the most
 2 recent version.
 3 And in fact, very late in the process of
 4 preparing the testimony, in fact, I was overseas,
 5 received some revised data with respect to benefits
 6 that are now correctly incorporated in the version
 7 that you have in front of you.
 8 So the correct number for total
 9 compensation on Slide 12, the total compensation
 10 premiums should be 18 percent. And that same number
 11 should appear in my summary and conclusions.
 12 MR. HAVERMANN: That's all I have.
 13 ARBITRATOR JAFFE: Thank you for the
 14 clarification.
 15 At your convenience, Mr. Wilder.
 16 CROSS-EXAMINATION
 17 BY MR. WILDER:
 18 Q Good afternoon.
 19 A Good afternoon.
 20 Q Did you prepare a similar wage
 21 comparability study for the dispute that was heard
 22 by Presidential Emergency Board 242?

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1 A Yes, I did.
 2 Q And did you present that study to PEB 242?
 3 A Yes, I did.
 4 Q Do you happen to recall whether that study
 5 was relied upon by the Board in its decision in that
 6 case?
 7 A I'm not sure how I could know the extent
 8 to which they relied on it.
 9 Q You don't know whether they relied on it
 10 or not, is that what you're saying?
 11 A I do not.
 12 Q All right. It wasn't mentioned in their
 13 decision, was it?
 14 A I haven't reviewed that decision recently.
 15 I honestly don't recall.
 16 Q I want to draw your attention to Slide 5.
 17 And try to understand the basic way that
 18 this study was constructed.
 19 Let me draw your attention to the second
 20 column from the left entitled BMWED and BRS average.
 21 How was that figure of 25.06 constructed?
 22 A That is the average hourly earnings of all

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1 BMWED and BRS employees across all hours worked at a
 2 straight time rate during 2012.
 3 Q Were premiums included in that?
 4 A No. There are no -- as far as I know,
 5 no -- certain no overtime premiums.
 6 Q All right. I take it that was a more
 7 complicated process than simply adding up all the
 8 rates in the BMWED contracts and the BRS contracts
 9 and taking a simple average.
 10 A I did not use the contract rates in this
 11 analysis.
 12 This is the average actually paid to BMWED
 13 and BRS employees during 2012.
 14 Q So you used actual payroll data. Is that
 15 correct?
 16 A That's correct.
 17 Q Now, let me draw your attention to Amtrak
 18 Exhibit 601.
 19 MR. WILDER: If you can put that on the
 20 screen, please. Thank you.
 21 BY MR. WILDER:
 22 Q Do you have 601 before you, Doctor?

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1 A Yes, I do.
 2 Q I take it from your direct testimony that
 3 the average BMWED and BRS rate was constructed using
 4 actual wage data for those two crafts at Amtrak;
 5 correct?
 6 A That's correct.
 7 Q All right. Now, did you perform this
 8 analysis, or was it done by Amtrak personnel?
 9 A I performed the analysis.
 10 Q Did you weight the figures in any way?
 11 A I described in my direct testimony that I
 12 did do a weighting of the average straight time wage
 13 rates of the different private sector occupations.
 14 Q I see.
 15 A Using as weights the weights of shares of
 16 straight time hours worked by Amtrak employees.
 17 Q I'm only talking about BMWED and BRS --
 18 A Correct.
 19 Q -- workers now.
 20 A Correct.
 21 Q We haven't gotten to the private sector.
 22 A If I say Amtrak, I mean the BMWED and BRS.

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

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1 Q Take the first entry, rail track laying
2 and maintenance equipment operators, 23.76?
3 A Correct.
4 Q And what Amtrak job classifications were
5 found to belong to that worker category?
6 A I don't -- I don't have that list right in
7 front of me. I do not know off the top of my head.
8 Very likely the backup data sheet that was
9 put on the collective database for these proceedings
10 contains that information.
11 Q Is that information available?
12 A It's on the database.
13 My assumption is it's available to
14 everybody in the proceeding.
15 Q I think the question was, is it available?
16 MR. REINERT: Two points, very important
17 points.
18 We developed the system here where we did
19 a disclosure of data on December 20, and put that in
20 the client site.
21 And you had an opportunity under the
22 ground rules to ask by December 27 was there any

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1 additional information you needed with -- for your
2 analysis of the expert testimony.
3 We did not receive any additional
4 requests.
5 So while we have been very receptive in
6 this proceeding to say, Well, is there additional
7 backup, we're now in an area of asking an expert on
8 backup with respect to something where that request
9 should have been fashioned and submitted to us on
10 December 27.
11 ARBITRATOR JAFFE: I think it's there.
12 MR. REINERT: What?
13 ARBITRATOR JAFFE: I think it's there.
14 MR. REINERT: If it's there, we're fine.
15 ARBITRATOR JAFFE: I think it's in the
16 BMWED, BRS wages 2000-2006 Excel spreadsheet.
17 There's a listing.
18 MR. WILDER: I have that on my computer.
19 It doesn't do the trick on that score.
20 ARBITRATOR JAFFE: I can't go further than
21 that, as you can appreciate, Mr. Wilder.
22 MR. WILDER: The problem is that it is

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1 difficult to know in a proceeding in which
2 depositions are not available or interrogatories are
3 not available what information you really need
4 before you hear the witness testimony.
5 That's the difficulty that we're facing
6 here.
7 ARBITRATOR JAFFE: I didn't view this as a
8 request for additional information as much as it was
9 is it there already; right?
10 And what's there is there.
11 I think we're all looking at the same
12 document, at least the two of us. I suspect counsel
13 for the other side may be as well. I don't know
14 that the witness has it in front of him, in all
15 fairness.
16 MR. WILDER: I think that's right.
17 And I think we are interested in looking
18 at the documents the witness used to come up with
19 this, which by definition are in existence.
20 ARBITRATOR JAFFE: That's fine.
21 MR. WILDER: And we're not asking for
22 something new to be created on that.

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1 ARBITRATOR JAFFE: Okay.
2 MR. WILDER: Without the job match, it's
3 extremely difficult to understand what's been done
4 here.
5 MR. REINERT: Well, with all due respect,
6 it is now January, what, 13, and that should have
7 been requested on December 27 so we wouldn't be
8 delaying this proceeding and my people have to go
9 scrambling back for more information.
10 ARBITRATOR JAFFE: Okay. I'm not sure
11 we're at the scramble point yet, by any stretch,
12 Mr. Reinert.
13 MR. REINERT: Okay.
14 ARBITRATOR JAFFE: I'm going to suggest,
15 why don't we continue with cross?
16 You can either focus attention on the
17 backup information that the witness has referenced,
18 or not, as you wish. It's your cross; right?
19 And we'll see where it takes us,
20 Mr. Wilder.
21 MR. WILDER: Fine.
22 ARBITRATOR JAFFE: Thank you.

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1 BY MR. WILDER:
2 Q Were foremen -- and I'm speaking of both
3 signal foremen and track foremen -- used in
4 constructing the BMWED and BRS average on Slide 5?
5 A My understanding is they were.
6 Q Referring -- referring again to Amtrak
7 Exhibit 601, were foremen used as a part of any of
8 these 19 classifications?
9 A If my recollection is correct that foremen
10 were included in the analysis, which I think they
11 were, they would have been based on the jobs that
12 they were doing and the skills and the tasks that
13 they were doing.
14 They would have been matched to one of
15 these categories and included in the analysis.
16 Q Are you saying that track foremen, for
17 example, with a much higher rate would be included
18 within the rail track laying and maintenance
19 equipment?
20 A I do not know that.
21 Q Aren't foremen separately categorized in
22 BLS data?

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1 A In some cases, they are separate
2 categories that indicate supervisory people within
3 production and maintenance repair crafts.
4 Q Do you know which this may be or which
5 this is?
6 A What?
7 Q Withdrawn.
8 What I'm asking you is whether you know
9 whether track supervisors are included within the
10 first category on Amtrak Exhibit 601?
11 A No. The answer is the same.
12 I don't know off the top of my head which
13 category they would have been put in.
14 Q Or whether it is part of any category?
15 A I would think it is part of a category,
16 but, again, I obviously would have to review the
17 backup materials myself.
18 Q You also indicated that the BLS data sets
19 that you used do not distinguish between full-time
20 and part-time employment within geographic areas?
21 A Well, the OES database does not. That is
22 correct.

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1 The NCS does.
2 Q How did you adjust to be certain that you
3 were using only full-time employment within the
4 private sector comparator?
5 A Well, as I just said, the National
6 Compensation Survey does.
7 And at least up until a couple of years
8 ago, they were recording occupational wage data.
9 Were they still doing it, I might have preferred
10 that database.
11 But using the National Compensation Survey
12 for each of these occupations, these 19 occupations
13 across the private sector, you can see what is the
14 full-time average straight time wage and what is the
15 economy wide and/or separately what is the part-time
16 wage.
17 You can identify a differential between
18 the full-time wage and the economy wide wage
19 including part-time workers for each of those 19.
20 If you take all those differentials and
21 weight them up by weights that reflect the
22 composition of the BMWED and BRS work force, you get

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1 something close the 1.0 percent.
2 In other words, there's virtually no
3 difference.
4 Q I see.
5 A On that basis, I felt that it was
6 satisfactory to go ahead and use an economy wide
7 wage that has not necessarily culled out the
8 part-time people.
9 Q So you applied no weight to that problem?
10 A You know, if I had done an adjustment, it
11 would probably have been to reduce the private
12 sector wage -- I think reduce the public wage.
13 It was within tenths of a percentage
14 point, so I did apply no weight to it, that's
15 correct.
16 Q In using Amtrak 601, did you look -- and
17 I'm referring to the far right-hand column, the 2012
18 column, whether there were any BMWED classifications
19 that were at or above 23.76?
20 A Were there individual categories of Amtrak
21 employees being paid an average rate above 23.76? I
22 didn't look at that specifically.

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1 Q I see. You didn't take into account the
2 actual 2012 wages for the BMWED employees?
3 A Exhibit 1 -- Exhibit 601 is solely about
4 the comparable private sector workers.
5 The only Amtrak data used in referencing
6 it is the employment rates for the BMWED, BRS
7 employees.
8 Q Now, you indicated during your direct
9 examination that you applied a geographic
10 adjustment --
11 A Correct.
12 Q -- of 7 percent?
13 A Correct.
14 Q And what was the purpose of that
15 adjustment?
16 A Well, one, I had a -- I had long-time
17 series data of private sector wages from the OES,
18 which were national data.
19 I could not construct similar long-time
20 series data on a geographic basis for the detailed
21 occupations that I wanted to analyze.
22 However, in my view, a regional wage

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1 adjustment was warranted because Amtrak workers, the
2 BMWED, BRS workers must work within proximity of
3 their jobs.
4 Therefore, it is relevant to take into
5 account what the prevailing wage is on a geographic
6 basis. And so that was the motivation for making
7 the calculation in order to do that adjustment.
8 Q Did anyone tell you where Amtrak BMWED and
9 BRS workers were employed?
10 A Yes. Yes.
11 As I testified, I received a file that had
12 the base of operations for every single BMWED and
13 BRS employee.
14 Q Were these the headquarters that have been
15 referred to?
16 A Sure. Well, I don't know technically what
17 that term -- it seems to be a term of art.
18 I don't know whether it was headquarters.
19 But there were a large number of different bases of
20 operation, my term of art.
21 Establishments, if you will. I like to
22 use that term.

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1 Q Now, can you tell us how the additional
2 figures in Column 2, Slide 5 under BMWED and BRS
3 were derived?
4 A Yeah.
5 Those are, as I said before, each of
6 the -- all of the Amtrak workers were slotted into
7 one of the 19 occupations, one of those occupations
8 rolled up into one of these four broad categories.
9 So each of these numbers is a simple
10 average of the average hourly earnings of that group
11 of Amtrak employees during 2012.
12 So the 23.70 is the average straight time
13 earnings of all of the BMWED, BRS employees who were
14 classified as being in, say, an occupational
15 classification, occupations that fall within this
16 broad group.
17 Q Now, moving to the third column from the
18 left entitled Private Sector, how were those figures
19 derived?
20 A Well, that 22.80 would be a weighted
21 average of the average hourly earnings of a
22 comparable private sector workers.

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1 If you look across the exhibits that we
2 were looking at, some --
3 Q 601?
4 A 601, correct.
5 Some subset of those detailed occupations
6 are classified within the broader category of
7 construction and extraction workers, for example.
8 And a weighted average of the private
9 sector wages in those detailed occupations, again,
10 using Amtrak rates would give you the 22.80.
11 Q Now, on Amtrak Exhibit 601, you refer to
12 average BMWED, BRS employment weights.
13 Is that the weighting that you're
14 referring to?
15 A Correct.
16 Q And how was that weighting done?
17 A The weighting was done actually using --
18 since I actually had data on the numbers straight
19 time hours worked, I actually used the percentage
20 distribution across BMWED and BRS employees in 2012
21 of all straight time hours worked.
22 So you can think of it as sort of a

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1 full-time equivalent weighting, if you will.
2 Q Now, while we're talking about weighting,
3 I'm going to direct your attention to Slide 8 and
4 ask you, Are the employment weights held constant
5 for this time steady?
6 A They are not.
7 Q They are not.
8 A Each year of this -- well, historical
9 period, in each year of this 13-year period, I knew
10 I had received from Amtrak the number of straight
11 time hours worked by all BMWED, BRS employees.
12 So there are different weights in each
13 year.
14 Q Would that be true for Slide 9 and 10 as
15 well?
16 A That historical period up through 2012,
17 that is correct, yes.
18 Q Now, while we're speaking -- we're moving
19 back to Slide 5.
20 Were the employment weights used in
21 constructing the private sector entries in Column
22 3 --

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1 A Yes.
2 Q -- the same ones?
3 A Yes.
4 Q And were those employment weights used in
5 constructing the blue line on Slide 9?
6 A Yes.
7 As I said, not the specific weights on
8 Slide 5 because each year I had different weights.
9 Q Yes. Fine.
10 Now, I had one more question on Slide 5,
11 and that has to do with the column on the far right.
12 From your explanation, in using the second
13 entry, Installation, Maintenance & Repair, I think
14 what you're depicting in the last column is the
15 number of private sector classifications within the
16 installation, maintenance, and repair area that are
17 the same as the BMWED and BRS job classification?
18 A Perhaps. That didn't sound quite right to
19 me.
20 What that column represents, as the
21 heading indicates, is the share of work hours of
22 BMWED and BRS employees. Those are the weights

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1 that, in fact, are used to weight up the individual
2 private sector averages.
3 Q All right. Did that information in the
4 far right-hand column, was that used for
5 constructing any of the other columns on this chart?
6 A Well, it was used in constructing the
7 average private sector weight column; correct.
8 But other than that ...
9 Q Now, moving to slide -- moving to Slide 9.
10 The solid black line on the right
11 represents a cutoff between the calculation based on
12 actual historical data and your projection?
13 A That's correct.
14 Q All right. Can you tell us how the 30.10
15 figure was calculated for 2015?
16 A Yes.
17 The starting point for that calculation is
18 the average wage of BMWED, BRS employees in the last
19 year, last effective date, which I believe the last
20 year unaffected -- retro pay would be 2010.
21 What we're doing is taking that average
22 annual earnings and increasing it year by year by a

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1 percentage increase in wages that has been proposed
2 under the freight deal.
3 Q I'm not sure I can ask this in the way
4 that would sound good, but maybe I can make it
5 comprehensible.
6 Is the 26.45 figure on Slide 9, which is
7 the projection for 2015 for comparable private
8 sector wages, higher than the 2012 figure, actual
9 figures for -- let me withdraw that and ask, if you
10 see the solid black line on the right-hand side that
11 bisects both the red line for Amtrak, BMW and BRS
12 and private sector workers?
13 A Yeah. The vertical line, yes.
14 Q What would that figure be for private
15 sector workers right where the lines intersect?
16 A The 2012 value?
17 Q Yes.
18 A Is 24.88. That's the same figure reported
19 on previously in Slide 5, and 6.
20 Q And what causes that line to go upward
21 from 24.88 to 26.45?
22 A That is based on a wage forecast of the

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1 annual percentage change in wages in each of those
2 three years in the four broad occupations where
3 Amtrak BMW and BRS employees are classified.
4 That percentage, annual percentage wage
5 forecast comes from an IHS commercial forecasting
6 service that provides its forecast on a subscription
7 basis to a large number of private sector clients.
8 It is an IHS forecast contingent on an IHS
9 world view of the, near term, future direction of
10 the macro economy.
11 Q All right. Now, referring to Slide 8, the
12 red line on that slide refers to Amtrak BMW and BRS
13 workers to which you have added the so-called Amtrak
14 pattern wage proposal to the existing rates.
15 Is that correct?
16 A That's correct.
17 Q All right. And what is the ballpark
18 basis, the difference between 28.80 and 30.10 is
19 about four and a half percent.
20 Is that about right?
21 A Seems close.
22 A little less, I think.

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1 Q I can tell you, Doctor, that that wage
2 spread is more substantial than any that have been
3 projected thusfar in this proceeding.
4 And since this thing is a matter of purely
5 mathematics, I'm wondering what I'm missing, if
6 anything.
7 A Yeah. I would have to know what the other
8 data that you're looking at and how it was derived.
9 It may not start with a differential that
10 I observed in 2012 and/or in 2010.
11 That's one possibility.
12 Q Do you have where you started in your
13 papers --
14 A Yes.
15 Q -- before you?
16 A Yes. I think the whole calculation -- do
17 I have -- no -- do I have it in front of me?
18 I do not.
19 Q You do not. I see.
20 Now, referring to Slide 10, can you tell
21 us the total increase, and I'm referring to the red
22 line from 2010 through -- I meant 2009, excuse me,

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1 through the projection 2015.
2 What was the total amount of increase
3 that --
4 A I don't have that number in front of me,
5 but, again, I would believe that that's in the
6 backup papers as well.
7 MR. WILDER: Excuse me, Mr. Chairman.
8 ARBITRATOR JAFFE: Of course.
9 We're off.
10 (A recess was taken.)
11 BY MR. WILDER:
12 Q Dr. Gillula, you provided certain backup
13 materials. Is that correct?
14 A I did, yes.
15 Q Now, are the job matches included within
16 those backup materials?
17 A Honestly, I don't remember, but I know
18 there's a lot of detail on the underlying --
19 underlying data.
20 I just don't remember whether that
21 included -- in order to aggregate the Amtrak wages,
22 I didn't really need to know what the

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1 classifications were.
2 I needed to know the weights. I just
3 don't remember. I would have to look at it again.
4 MR. WILDER: I am going to ask that this
5 document be displayed on the screen.
6 And I have it as Gillula OES wage data
7 1-2-2014. And this is all I have. I'm going to ask
8 you to put up -- is that the right document, or not?
9 (A discussion was held off the record.)
10 MR. WILDER: I am going to -- may I show
11 this to the witness?
12 ARBITRATOR JAFFE: Of course.
13 BY MR. WILDER:
14 Q All right. I'm not going to be able to
15 reach you.
16 A Okay.
17 Q Take a look at that document, and could
18 you identify it for the record and tell me if that
19 is the weighting that we're speaking of?
20 A The file that's currently opened up on OES
21 data, which looks a whole lot like Exhibit 601.
22 This file, however, does also contain a

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1 tab. It's an Excel file with a second tab, which is
2 identified as ST hours.
3 And with your permission, I'll just click
4 on that. And here you will see the weighting that
5 weights for each individual year.
6 Q Yeah. Why don't I come around?
7 A There you go. I left it on that.
8 Q Oh, thank you.
9 A I left it on that tab.
10 So these are the annual wage rates.
11 Those represent the annual number of
12 straight time hours worked by the BMW and BRS
13 employees in each individual year.
14 And I believe the formulas confirm the
15 calculation of the averages of the overall private
16 sector wage.
17 (Interruption by the court reporter.)
18 THE WITNESS: I said, I believe that the
19 formula is in the workbook confirm the calculation
20 of the overall private sector average wage.
21 MR. WILDER: Mr. Chairman.
22 ARBITRATOR JAFFE: Yes, sir.

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1 MR. WILDER: The document that we're
2 looking at does not contain the BRS, BMWED job
3 matches for each of the classifications.
4 ARBITRATOR JAFFE: I understand that the
5 one you put on the display and showed to Dr. Gillula
6 doesn't reflect that.
7 I believe one of the tabs in the 2000 to
8 2006 BMWED, BRS wages does at least identify what
9 the match was.
10 I don't know yet because no one has asked
11 whether the matching for 2000 through 2006 was
12 static and continued forward in time as well, or
13 whether something else is there.
14 So I can't take us the next step,
15 Mr. Wilder.
16 If you don't mind my interrupting, I can
17 probably clean it up, one question.
18 MR. WILDER: Surely.
19 ARBITRATOR JAFFE: I'll pose the same
20 question.
21 Can we show Dr. Gillula that exhibit?
22 I'll even pass my second computer up.

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1 That will make it easy, if you all don't mind taking
2 it.
3 It's open to the page I identified,
4 Mr. Wilder.
5 Oh, if you want to come up, that works,
6 too. I was going to pass the machine back, but feel
7 free.
8 And if you're going to testify from there,
9 use my mic as well so that Joey gets it.
10 THE WITNESS: Oh.
11 ARBITRATOR JAFFE: That was all I could
12 find anyway. I plead guilty.
13 That's in a file that bears the title at
14 least of 2000-2006 wages.
15 THE WITNESS: Correct.
16 ARBITRATOR JAFFE: And so the first
17 question before the house is, is that the match that
18 was used throughout all of your analysis, or did you
19 change over time based on changes in either standard
20 occupational classification, job duties at the
21 carrier, addition or deletion, if there are any, of
22 any jobs.

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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.

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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.

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1 ARBITRATOR JAFFE: Okay.
2 THE WITNESS: But I don't -- as I sit
3 here, I don't remember the answer to that.
4 ARBITRATOR JAFFE: Okay.
5 THE WITNESS: But as I said, my
6 recollection is you're talking about one- to
7 two-tenths of a percent of the overall sample.
8 ARBITRATOR JAFFE: Okay. I'll be happy to
9 hold any others until you're done with cross.
10 And if you need for me to pass this back,
11 let me know, Mr. Wilder.
12 MR. WILDER: Yes. We're still looking at
13 these documents, but I do not have other questions
14 at this point.
15 ARBITRATOR JAFFE: Okay.
16 Was there any further direct?
17 MR. HAVERMANN: Nothing further.
18 ARBITRATOR JAFFE: Is there anything that
19 you wish to pose?
20 ARBITRATOR DAS: No.
21 ARBITRATOR FISHGOLD: No.
22 ARBITRATOR JAFFE: Okay.

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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

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1 these groups?
2 THE WITNESS: That's correct.
3 ARBITRATOR JAFFE: Okay. When you dealt
4 with the freight pattern in your graph and slide,
5 how did you account, if you accounted at all, for
6 the changes in the health program?
7 THE WITNESS: I did not.
8 ARBITRATOR JAFFE: Okay. And just so the
9 record is clear, when it came to benefits, your
10 focus was on the projected cost to the employer
11 rather than any costs the employee bore?
12 THE WITNESS: That's correct.
13 ARBITRATOR JAFFE: Okay. And does the BLS
14 data include any data relative to employee costs
15 towards pension, towards health, those kind of
16 things.
17 THE WITNESS: Not the data set that I'm
18 using, which is the employee cost for employer
19 compensation.
20 ARBITRATOR JAFFE: Okay. Fair enough.
21 And I think it was obvious, but I may as
22 well close the loop here.

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1 The exhibit relative to the GS schedule
2 for the federal government that focused on the
3 schedule and not on steps --
4 THE WITNESS: That is correct.
5 ARBITRATOR JAFFE: -- so promotions and
6 the like; right.
7 THE WITNESS: Correct. It's not
8 entirely --
9 (Interruption by the court reporter.)
10 ARBITRATOR JAFFE: Didn't focus on step
11 increase, promotions, or the like.
12 THE WITNESS: And the answer was, solely
13 an indication of the change in the wage scale as a
14 function.
15 ARBITRATOR FISHGOLD: Did you get that?
16 (Court reporter response.)
17 THE WITNESS: The changes in the wage
18 scale is a function of annual changes in the wage
19 scale and doesn't reflect changes in the job mix or
20 step increases.
21 That's correct.
22 ARBITRATOR JAFFE: And I said that was the

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1 last one. I apologize. There was one more that
2 jumped out.
3 We had some discussion in terms of a
4 question and answer relative to the leave issue.
5 And the fact that a more senior workforce
6 might trigger larger numbers attributed to that per
7 hour than a workforce that may have been junior,
8 even under comparable schedules.
9 Is that true as well in connection with
10 wages, or are the jobs that we're looking at here
11 and elsewhere primarily as you understand it single
12 wage rate regardless of whether they have been there
13 long time, short time, or the like?
14 THE WITNESS: Yeah. That's certainly a
15 relevant question from the standpoint of a
16 comparable analysis.
17 And if we had the data set to sort of do
18 an econometric analysis, what you do is put
19 parameters in there that measured the wage pattern
20 over the lifetime of the workforce.
21 And in order then to get at what the net
22 impact is in terms of the differential, that

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1 actually allows you then to measure quantitatively
2 the difference between the age profile of your
3 target labor group and the age profile of your
4 comparators.
5 Now, measuring the age profile of the
6 targeted group is not difficult. You just ask
7 Amtrak for a file of the age and the date of entry
8 of all of their employees, which I did.
9 If you going to the private sector
10 comparators, you have to zero in on these 19
11 occupations that we're interested in a couple of
12 those.
13 And the way to do it -- there's no
14 published data. But by manipulating public-use
15 microdata files from some of the survey databases
16 that the BLS uses to report information on wages at
17 the household level, you can track the age
18 distribution.
19 But you can't do it so well for a couple
20 of very narrowly defined occupations. The sample
21 sizes just aren't big enough, those railroad
22 occupations.

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1 But if you hold those fixed, what I did is
 2 compare the age distribution of the Amtrak workers
 3 with the corresponding comparables economy wide.
 4 And then, you know, based on other
 5 econometric work I have done, I tried to say, well,
 6 what does that amount to?
 7 And I think for this population the Amtrak
 8 population being a little more senior might
 9 contribute one or two percentage points, if you --
 10 if you could actually do a thorough econometric
 11 analysis.
 12 ARBITRATOR JAFFE: Okay. So you looked at
 13 it, came up with that ballpark, and that's not
 14 reflected in the exhibit; right?
 15 THE WITNESS: It's not.
 16 It's not in the exhibits.
 17 ARBITRATOR JAFFE: That's fine.
 18 THE WITNESS: It's due diligence on
 19 comparability.
 20 ARBITRATOR JAFFE: I'm fine. That covered
 21 it from my end.
 22 Let me find out if the advocates have

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1 anything else.
 2 Any further direct?
 3 MR. REINERT: No, sir.
 4 ARBITRATOR JAFFE: Any further cross?
 5 MR. WILDER: Just one.
 6 RE-CROSS-EXAMINATION
 7 BY MR. WILDER:
 8 Q The data set that was drawn to our
 9 attention by the Chairman ends in 2006.
 10 Were there later data sets of the same
 11 type which you used in constructing your study?
 12 A Yes.
 13 And once again, I would hope that that
 14 file is also there somewhere in the backup
 15 materials. But if it's not, it was just an
 16 oversight.
 17 Q All right. We will...
 18 A It maybe had a title that is less
 19 intuitive. I'm not sure.
 20 (A discussion was held off the record.)
 21 MR. WILDER: I think the answer to that is
 22 yes.

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1 THE WITNESS: Good.
 2 MR. WILDER: No further questions.
 3 ARBITRATOR JAFFE: Okay. Anything
 4 further?
 5 You guys in good shape?
 6 I'm in good shape as well.
 7 Thank you, Dr. Gillula.
 8 (Witness stood down.)
 9 MR. REINERT: I would like to take a
 10 ten-minute break before the next witness.
 11 ARBITRATOR JAFFE: Sure. We're off.
 12 (A recess was taken.)
 13 (Witness sworn by the arbitrator.)
 14 ARBITRATOR JAFFE: At your convenience,
 15 Mr. Fritts.
 16 Thereupon,
 17 DONALD STADTLER
 18 Called for examination by counsel for the
 19 Carrier, having been duly sworn, was examined and
 20 testified as follows:
 21 DIRECT EXAMINATION
 22

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1 BY MR. FRITTS:
 2 Q Mr. Stadler, good afternoon.
 3 A Good afternoon.
 4 Q Could you state your name for the record?
 5 A My name is Donald Stadler.
 6 I go by DJ.
 7 Q What is your current position with Amtrak?
 8 A Currently, I'm Amtrak's vice president of
 9 operations.
 10 Q Can you summarize your career with Amtrak
 11 and in the railroad industry?
 12 A Certainly. I started my career in the
 13 federal government.
 14 I spent the last 12 years of that career
 15 working for DOT specifically. Most of that time in
 16 the Federal Railroad Administration, starting in
 17 finance as a budget analyst, worked my way up.
 18 When I left the FRA, I was the deputy
 19 chief financial officer. Came to Amtrak in 2009.
 20 Was the chief financial officer. At the end of
 21 2011, I was moved over temporarily to be vice
 22 president of operations.

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1 That was made permanent in April of 2012.

2 Q Can you identify the topics you will

3 address in your testimony today?

4 A Certainly. I have been asked today to

5 talk about Amtrak's unique financial structure, the

6 way we get our funding as a corporation, give a

7 brief update of our financial status from 2010 to

8 present, talk about how our financials have been

9 improving, about how we continue to be challenged.

10 And take a look at the financial

11 projections moving forward between now and 2017.

12 I have also been asked to testify on the

13 pricing of the labor proposals.

14 (Interruption by the court reporter.)

15 (A discussion was held off the record.)

16 BY MR. FRITTS:

17 Q Can you explain how Amtrak is funded?

18 A Sure.

19 Amtrak is a private corporation, but it

20 relies very heavily on funding from the federal

21 government.

22 It was created in 1971. And at least for

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1 the past few years, we get an operating subsidy from

2 the federal government, and a capital subsidy from

3 the federal government.

4 On the operating side of our budget, a

5 good portion of our revenue comes from passenger

6 revenue from folks who actually ride the trains.

7 This year about 12 percent of our

8 operating funds will come from the federal

9 government.

10 On the capital side, we get an

11 appropriation for capital and debt.

12 Basically, 100 percent of our capital

13 spending comes from the government. We also have

14 partner states, that otherwise provide some capital

15 for us.

16 Q How does the appropriations process affect

17 Amtrak's ability to retain funds from year to year?

18 A Our fiscal year goes from October to

19 September, and we get annual appropriations. We

20 have for the last 40 years.

21 We get the appropriation as close to the

22 start of the fiscal year as possible. Sometimes,

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1 this year for example, we don't have appropriation

2 on time. But the grant that we get from the Federal

3 Railroad Administration clearly has an end date.

4 So our 2013 grant that covers the

5 appropriation only gives us three extra months of

6 funding. We need to have all the funding spent or

7 accounted for three months after the end of the

8 fiscal year.

9 So we're truly funded on a year-to-year

10 basis.

11 Q And how does that differ from a private

12 corporation in terms of carrying over funds from

13 year-to-year?

14 A Private corporations are in a much better

15 position to plan their capital funding and plan

16 their capital spending.

17 They're not in a situation where they have

18 to break projects up year by year by year. They can

19 commit to capital projects that span fiscal years.

20 We don't have that luxury, at least under

21 the current funding mechanism.

22 Q Can you describe the extent to which

Page 680

1 Congress exercises oversight over Amtrak's

2 operations and finances?

3 A Congress has a great level of oversight on

4 our operations, funding operating capital side

5 between the DOT Inspector General, our own Inspector

6 General, the different Congressional committees, the

7 appropriators, the authorizers, Congressional Budget

8 Office, Congressional Research Service --

9 (Interruption by the court reporter.)

10 ARBITRATOR DAS: Yeah.

11 Actually, let me second that.

12 I would appreciate it if you can slow down

13 just a little bit.

14 THE WITNESS: We have a great deal of

15 federal oversight from Congress and otherwise.

16 We have the different Congressional

17 committees. We have appropriators, the authorizers.

18 We have our Inspector General, the Amtrak Inspector

19 General. We have the DOT Inspector General. We

20 have the Congressional Budget Office, Congressional

21 Research Service, General Accountability Office, a

22 number of federal entities that watch what we do.

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1 Specifically, we have hearings every year
 2 both on the authorizing and appropriating side where
 3 the appropriators and the authorizers develop their
 4 language, their bill language, based on what we do
 5 and how we manage our funds and manage our
 6 operations.
 7 BY MR. FRITTS:
 8 Q Let's talk about overtime pay
 9 specifically.
 10 Can you describe how Congress exercises
 11 oversight over the amount of overtime pay that
 12 Amtrak pays to its employees?
 13 A Sure. That's just one example of the
 14 oversight that they perform.
 15 A few years back, there was one of the
 16 staffers on the House appropriations side that
 17 looked at our overtime spending and asked why it was
 18 the number that it was and why it had been
 19 increasing over a couple of years.
 20 So, unlike a private corporation, the
 21 group was able to come into Amtrak and say, Give us
 22 a list of positions, position by position, with a

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1 breakout of what the straight time spending was,
 2 what the time paid not worked was, and what the
 3 overtime was.
 4 And based on the analysis of that data,
 5 they felt we were spending too much money on
 6 overtime, and they wanted to eliminate all overtime
 7 greater than \$35,000 per individual employee.
 8 We pushed back on that pretty strongly
 9 because there are times, storms and otherwise, and
 10 also efficiencies where it's prudent to spend
 11 extra -- more than 35,000 on overtime.
 12 So the language was put into place that
 13 every time we want to spend more than that amount
 14 for one employee, our president has to sign a waiver
 15 saying that it's critical for us to spend this
 16 money.
 17 Q And in Calendar Year 2013, how many of
 18 those waivers were signed off on by the president
 19 for BMW, BRS employees?
 20 A In 2012, the total number -- I don't think
 21 I have it right now broken out for just those two,
 22 but the total for all employees was 703.

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1 In 2013, the total number is over 1,000.
 2 And I have that broken out by the two
 3 unions.
 4 Of the 2013 members, we had 235 folks that
 5 were paid over \$35,000. And for BRS, we had 115
 6 folks that were paid over \$35,000.
 7 Q You referenced state governments as
 8 partners.
 9 Can you describe the extent to which
 10 Amtrak is dependent on state governments?
 11 A Sure. One of the other things that
 12 Congress has done recently is they implement PRIIA.
 13 And what PRIIA forces us to do is partner
 14 with the states to provide operating services and
 15 also capital projects.
 16 Starting in this fiscal year, Fiscal Year
 17 '14, we rely on the states for operating funds to
 18 run the trains. And we also get significant capital
 19 contributions from them.
 20 Their funding is sporadic just like the
 21 federal funding is. So we can't always plan
 22 long-term what those projects are going to be.

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1 Q For those of us that don't know, what is
 2 PRIIA?
 3 A I'm sorry. PRIIA is the recent
 4 authorizing bill for Amtrak.
 5 It's the Passenger Rail Investment and
 6 Infrastructure (sic) Act. I may have switched the
 7 Is.
 8 Q Let's turn now to Amtrak's financial
 9 performance during this round of bargaining for
 10 Fiscal Year 2010 through Fiscal Year 2013.
 11 Can you provide an overview of Amtrak's
 12 financial performance during that period of time?
 13 A Certainly.
 14 If you look at the chart on Slide 8,
 15 you'll see broken out this is just our operating --
 16 our operating revenues, expenses, and other
 17 categories.
 18 Revenues and expense have both increased
 19 pretty steadily from '10 to '13, as you'll see.
 20 However, on the bottom line, the adjusted
 21 operating loss has been pretty consistent.
 22 We have made great progress. We lost \$420

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1 million on the operating side in 2010. We have been
 2 able to reduce that number to 354 in 2013.
 3 So we have got a good story to tell.
 4 Q The first yellow line on this chart, the
 5 expense line, do those expenses include the wage
 6 increases that are in the Amtrak pattern agreements?
 7 A Yes.
 8 The expenses that you see on this chart
 9 include the wage increases for all of the settled
 10 unions at the Amtrak pattern.
 11 Q Let's turn to this next chart.
 12 Could you explain what it shows?
 13 A What this chart shows is basically the
 14 numbers from the slide before, but what it's
 15 intended to point out is that, even as our expenses
 16 and our revenues increase, we always have that net
 17 loss, the red line, red bar on the far right.
 18 So the blues here are revenue. The gray
 19 is our expenses. Each year our revenue is less than
 20 our expenses. So the net loss year by year is in
 21 the same ballpark.
 22 Q This is a somewhat complicated chart.

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1 Can you explain what this shows in terms
 2 of how the Amtrak pattern wage increases have
 3 affected Amtrak's financial performance during this
 4 period of time?
 5 A Certainly. This is our total expense, so
 6 this includes operating and capital.
 7 And it's meant to show from 2010 to 2013
 8 the changes.
 9 The red on the left-hand side shows the
 10 categories that have increased. And you'll see that
 11 258 million of that was for wage increases. 146 was
 12 for other operating expenses. And then 46 was an
 13 increase to noncash operating depreciation interest
 14 otherwise. This is offset by a \$300 million
 15 decrease in capital expenses.
 16 In the 2010 time frame, we were doing a
 17 lot of work with the stimulus bill. That work has
 18 ended, so that has reduced our capital spending.
 19 The point there, though, is that, of the
 20 increase, the overwhelming majority of the increase
 21 is indeed tied to wages.
 22 Q And the same question I asked you before,

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1 is the 258 million number the number for the wage
 2 increases for all of the settled unions in the
 3 Amtrak pattern?
 4 A That's correct. It matches the pattern.
 5 Q Can you describe the extent to which
 6 Amtrak's operations and capital budget are
 7 subsidized by the federal government?
 8 A Yes.
 9 On the capital side, almost 100 percent
 10 comes from the federal government.
 11 As I mentioned earlier, there's a small
 12 percentage of capital funding we get from states,
 13 other partners like the Long Island Railroad, New
 14 Jersey Transit, et cetera. But the overwhelming
 15 majority of the capital comes from the federal
 16 government.
 17 On the operating side, 88 percent of our
 18 funding comes self-generated. The other 12 percent
 19 comes from the government.
 20 Q And what does this graph show?
 21 A If you look at the graph on Slide 12, this
 22 is a summary of the funding we received just from

Page 688

1 our federal appropriations.
 2 And it's broken out into three separate
 3 categories, operating appropriations, capital, and
 4 debt service to pay off our legacy debt.
 5 What you'll see here is that, even though
 6 we have made great improvement in our operating
 7 loss -- and you can see that by the decrease in
 8 operating funding from the government -- it has not,
 9 as we had hoped, led to more capital appropriations.
 10 We had hoped that, as we reduced our
 11 operating reliance on the government, that we would
 12 be able to use more funds for capital because we're
 13 a capital intensive company for sure.
 14 However, as we have reduced our operating
 15 costs, the total funding level has decreased as
 16 well.
 17 Q Can you describe the recent trend in the
 18 federal funding levels that Amtrak has received?
 19 A Certainly. As you can see on Slide 12,
 20 the total funding was 1.5, 1.6 if you round up
 21 billion in 2011. And that has dropped to just over
 22 1.3 billion in 2013.

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1 The operating number has stayed pretty
 2 consistent, reducing a little bit each year in line
 3 with our reduction in operating loss. And the
 4 capital number has shrunk slightly as well.
 5 Much of this is tied to the sequestration
 6 that I think folks have heard a great deal about.
 7 Our budget for the last couple of years has been
 8 based on FY12 and then reduced each year due to
 9 sequestration.
 10 Q And what do you expect the funding level
 11 to be in Fiscal Year 2014?
 12 A Although Fiscal Year 2014 started in
 13 October, we still don't have our final funding.
 14 We're under continuing resolution until January 15,
 15 which is two days from now.
 16 There does not seem to be a solution. So
 17 our guess, at this point -- and this is just our
 18 guess -- is that they will extend the continuing
 19 resolution and likely hope to have appropriations
 20 finalized in February, coincidentally, the same time
 21 that the debt limit conversation will take place.
 22 However, based on what we have seen from

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1 the House and Senate so far, our 2014 level will be
 2 just about where we are this year, perhaps slightly
 3 below.
 4 Q So can you summarize Amtrak's recent
 5 financial performance?
 6 A Sure. We have done a good job over the
 7 last five years of increasing our ridership.
 8 We have set records in each of the last
 9 four years and in I guess nine of the last ten or
 10 ten of the last 11.
 11 So we're doing a good job on ridership.
 12 We are, however, continuing to defer
 13 maintenance on the Northeast Corridor. We're
 14 investing much less each year than we need to, so
 15 our deferred maintenance number increases each and
 16 every year.
 17 We remain dependent on the federal
 18 government for our operating capital needs. And we
 19 need to continue focusing on our operating loss to
 20 ensure that we continue to get credibility from
 21 Congress.
 22 We have worked very hard in the last five

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1 years to bring our loss down, to increase our
 2 transparency with the Hill and with DOT, and we have
 3 been successful. But we can't stop that success.
 4 Q Let's take a closer look at ridership.
 5 What is the trend in ridership,
 6 particularly in the Northeast Corridor?
 7 A Yeah. The ridership has increased for ten
 8 of the last 11 years.
 9 The Northeast Corridor has gone up
 10 significantly. Acela is our premier service, and
 11 the regional has increased as well.
 12 However, it's growing faster than
 13 capacity. We're rapidly running out of capacity on
 14 the Northeast Corridor. Anybody that has ridden on
 15 the Corridor can tell you that it's very difficult
 16 to find a seat, especially a seat by yourself.
 17 So we are running out of room, which is a
 18 good thing. But the fact that we're running out of
 19 room is not a good thing over the next couple of
 20 years.
 21 Q Let's look at the graph that's on slide
 22 16.

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1 What does this show?
 2 A If you look at the graph on 16, you see,
 3 specifically beginning in 2006 when the service
 4 really became sure and started to level out, that
 5 the ridership has increased significantly.
 6 We had a little dip in 2009. That was
 7 less because of 2009 and more because of the
 8 dramatic increase in 2008. 2008 was when the gas
 9 prices went through the roof and everybody was doing
 10 anything they could to get out of their cars.
 11 So we dipped a little in 2009.
 12 We have been steadily increasing since
 13 then.
 14 Q And there are Fiscal Year '14 and '15
 15 numbers.
 16 Can you explain the line that extends out
 17 to the '15?
 18 A Sure. Based on our market data and our
 19 current estimates of the increase in population and
 20 the historical ridership, those are our best
 21 estimates for '14 and '15 moving forward.
 22 Q Now, can you explain the chart that is on

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1 slide 17?

2 A What the slide on 17 shows you is a
3 comparison of 2006 load factors, and they're in
4 blue, and 2013 load factors, and they're in gray.
5 If you -- 100 percent is the top, so that
6 means that it's a sold-out train. And the top 15
7 percent we call a full-track train, 85 percent or
8 greater.
9 If you look at the blue bars, you can see
10 that in 2006, we only had our peak departures were
11 in that full utilization, and that was the 2 o'clock
12 through 5 o'clock. This is leaving from Washington
13 going north to New York Penn.
14 Moving forward to 2013, just about every
15 departure is in that same peak. Even the nonpeak
16 are in that same fully utilized trains. So we're
17 running out of capacity fast.
18 Q There's another similar slide on slide 18.
19 Can you explain what this shows?
20 A Sure. This slide shows similar data for
21 the same time frame.
22 This is southbound going from New York

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1 Penn down to Washington.
2 Similar in that 2006 we had quite a few
3 trains below utilized. In 2013, most of the trains
4 are fully utilized.
5 Q Let's turn to slide 19.
6 Can you explain Amtrak's financial
7 performance in Fiscal Year 2013?
8 A Sure. This chart is just our operating
9 funds.
10 It shows our revenue and our expenses
11 broken out. Unaudited, though, it's not complete
12 yet, but it gives you the different category of
13 spending that we have. It shows you the adjusted
14 and operating loss of about \$354 million.
15 You see a good portion of our spending
16 goes to wages and overtime. And then benefits right
17 below that.
18 Q On that point, let's turn to slide 20.
19 What does this pie chart represent?
20 A Slide 20 shows specifically on the
21 right-hand side of the chart that nearly half of our
22 operating expenses are, indeed, wages and benefits.

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1 Q Okay. Let's move to slide 21.
2 What do you project with respect to
3 Amtrak's financial performance in the coming years?
4 A We expect that it will continue to operate
5 the loss.
6 Our operating number will stay pretty much
7 where it is now. We're continuing to increase in
8 our revenue. But with specifically on the Northeast
9 Corridor, the inability to increase our ridership as
10 we run out of capacity, we're going to be struggling
11 to continue the success that we have.
12 We have got to focus, and we have worked
13 very hard with the Hill on increasing our capital
14 spending increasing the capital funding that we
15 receive from Congress. The Northeast Corridor,
16 specifically on the south, we have a lot of work to
17 do.
18 Recently, in the weather event over the
19 last couple of weeks, we fared much better on the
20 north end because the electrical catenary is only 30
21 years old compared to the catenary on the south end
22 that is nearly 80 years old.

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1 We have an aging infrastructure that we
2 need to invest in.
3 Q Let's turn to slide 22.
4 Can you explain the projections that are
5 reflected for Fiscal Years 2014 through 2017?
6 A Sure.
7 This chart is similar to the one we looked
8 at a couple of slides back. These are our
9 projections moving forward from '14 to '17, breaking
10 out both revenue and expenses.
11 You see on the revenue side a slight
12 increase each year in revenue, both passenger
13 related and otherwise. And on the expense side,
14 you'll see a pretty consistent increase in expenses
15 as well.
16 The numbers that you see here on the
17 expense side reflect the Amtrak pattern for all
18 unions, not just the settled unions.
19 Q Have these projections been submitted to
20 Congress?
21 A Yes.
22 Each year we send a five-year plan to

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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 What does the chart on Slide 23 show?
 5 A 23, similar to the slide we saw
 6 previously, just shows that from '14 to '17, our
 7 estimates will continue forward with our revenue
 8 coming less than our expenses.
 9 Our expenses will exceed our revenue.
 10 And you'll see the net operating loss
 11 projection varies the 344 in Fiscal Year '14, up to
 12 428 in '17.
 13 Q Why do you project the next loss to grow
 14 over this period of time?
 15 A The net loss is projected to grow here
 16 because we don't have the same ability to increase
 17 revenue on the Northeast Corridor. And as that
 18 flattens out, the expenses don't flatten out in the
 19 same way.
 20 Q I think you have covered this already, but
 21 is there any further information you can provide on
 22 the status of the appropriations process for Fiscal

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1 Year 2014?
 2 A Only that it is still not final.
 3 And at this point, it looks like it may be
 4 February before it's final. And as we work to plan
 5 our construction season, which starts in March, it
 6 makes it very challenging not knowing what our
 7 funding is going to be.
 8 Q All right. Let's turn to slide 25.
 9 What does the chart there show?
 10 A Slide 25 breaks out for 2014 our current
 11 budget, the budget that we're working towards.
 12 It is a little higher than what we expect
 13 the appropriation to be. When we submit our
 14 figures, we do it on the knowledge that we have at
 15 that time. So when we get an appropriation, we'll
 16 have to wind this down just a little bit.
 17 For '15, '16, and '17, it shows the
 18 federal appropriation needed that we estimated to
 19 Congress, broken between debt, capital, and
 20 operating.
 21 You'll see there's a little dip in 2016.
 22 This is just based on the current projects that we

Page 699

1 have in place. 2015, for example, where we spend a
 2 good deal of money on some projects that are
 3 ongoing, ordering some long-distance cars, for
 4 example. So the final payment is in 2015.
 5 Starting in 2017, you'll see more work
 6 upon our next-generation high speed rail cars that
 7 are coming in.
 8 (Interruption by the court reporter.)
 9 THE WITNESS: Cars that are coming in.
 10 Just an estimate of our needs over the
 11 next few years.
 12 BY MR. FRITTS:
 13 Q Okay. Let's go to slide 26.
 14 Can you describe Amtrak's capital needs in
 15 the next several years?
 16 A Sure. As I talked about previously, the
 17 Northeast Corridor specifically is very capital
 18 intensive. And we have not done a good job as a
 19 country of funding the maintenance and replacement
 20 needs on the corridor.
 21 The list you see here is just a small
 22 portion of the capital projects that we have got to

Page 700

1 address over the coming year.
 2 We have done a good job of late in trying
 3 to catch up. We're nowhere near caught up. We
 4 still have deferred maintenance of over \$5.8
 5 billion, and that does not include a lot of major
 6 projects that we haven't even begun to address.
 7 We have done a good deal of capital work
 8 since January 2008. For example, the folks in this
 9 room have done that work. And you'll see that the
 10 number of positions for BMW has grown by 30 percent
 11 thanks to this work. And the BRS positions have
 12 grown by 23 percent. So we're making progress, just
 13 not fast enough.
 14 Q Let's turn now to the costing of the labor
 15 proposals that are at issue here.
 16 Can you summarize what you're going to
 17 address in your testimony with respect to the costs
 18 of Amtrak's pattern proposal and the PRLBC's
 19 proposal?
 20 A When we first started this round of
 21 negotiations, we were coming off of a very long
 22 eight-year period where we didn't have a great

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1 relationship with the union.
2 And Mr. Boardman came in in 2008, and the
3 directive he gave the team was we have got to be
4 collaborative and we have got to reconcile with our
5 crafts on the labor agreements.
6 His words, we specifically need to stop
7 talking about management and unions. We need to
8 become one Amtrak.
9 I talk about this all the time with my
10 employees. When folks get off the train and they're
11 not happy, it's not because of the BMW. It's not
12 because of the UTU. It's not because of management.
13 It's because of Amtrak.
14 We need to focus on and be one company.
15 So with that in mind, we set out to offer
16 fair contracts for the unions and to settle them as
17 quickly as possibly because we didn't want another
18 extended negotiation. We put the pattern in place
19 and went on talking about it.
20 The next couple of slides is the
21 difference between the pattern that we have been
22 using for the past few years and the proposal that

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1 is put forth by these unions.
2 Q Let's turn to slide 28.
3 What does slide 28 show?
4 A Slide 28 is just a general slide that
5 talks about the cost of just a 1 percent wage
6 increase, and also the cost of a one-person wage
7 increase.
8 So if we increases wages by one penny for
9 just the unions here, if you include railroad
10 retirement, is \$86,000. For all of the unions, it's
11 about \$500,000 per year.
12 Cost of a 1 percent wage increase, again,
13 just the unions that have not yet settled, you're
14 looking at about \$2.4 million a year. For all of
15 the unions, you're looking at about \$14 million.
16 Q And just so it's clear for the record,
17 what is the RRTA column?
18 A RRTA is the railroad retirement cost that
19 we need to pay, we, Amtrak need to pay.
20 And I can talk more about regular
21 retirement if you want.
22 Q All right. Let's turn to slide 29.

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1 Can you explain the cost of the Amtrak
2 pattern wage increases?
3 A Sure.
4 This chart breaks out the total cost and
5 this includes all of the unions, if we were to have
6 the pattern in place for the full FY10 through FY15.
7 It's broken out into operating capital,
8 and I can talk to it if you would like. But, in
9 summary, the total cost of the pattern is about \$579
10 million.
11 So it goes to show that we are investing a
12 great deal in this pattern, and we didn't go lightly
13 when we put the pattern in place. It's a
14 significant investment into our people at a critical
15 time in the Company's history.
16 Q Let's turn now to slide 30.
17 Focusing on the BMW and the BRS.
18 What does this slide show with respect to
19 cost of retroactive pay for these two crafts?
20 A What this shows is that, assuming that the
21 pattern continues, we have been accruing -- now, we
22 don't have a separate cash account, but we have

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1 accrued the amount of what the retro pay would be.
2 If we come to resolution on April 1, that
3 retroactive payment amount would be about \$51.2
4 million.
5 And you see it broken out between
6 operating capital and between BMW -- BMW's share
7 would be 37.3 million, and the BRS's share would be
8 13.9 million.
9 So under the pattern, we're prepared to
10 make a payment of 51.2 in retro pay.
11 Q Okay. Now, let's turn to slide 31 and
12 look at the cost of the Amtrak pattern as compared
13 to the PRLBC proposed wage increases over the term
14 of these potential agreements.
15 Can you explain what is on slide 31?
16 A Sure.
17 The current Amtrak pattern goes through
18 January 1, 2015. And if you were to apply that
19 pattern to the BMW and the BRS, that total cost
20 would be \$71 million, and that's on the top of the
21 slide.
22 If you extend that same pattern through

Page 705

1 December 31 of 2015, just to be analogous to the
 2 time limit that's proposed, that cost would be
 3 \$102.9 million, those two figures compared to the
 4 proposal that's presented here of 122.7.
 5 So, as you can see, even if you extend our
 6 timeline through December 31, it's a \$20 million
 7 difference just for these two unions.
 8 Q Now, let's talk about the cost if the
 9 PRLBC's wage proposal were applied to all craft
 10 unions pursuant to the Me-Too agreements.
 11 What is that cost?
 12 A That cost is \$123.7 million.
 13 And it's broken out on this slide between
 14 the two unions here and the me-too for all of the
 15 settled unions.
 16 If you look at slide 33, you see it broken
 17 out between just the wage increases and also the
 18 proposed lump sum.
 19 Q Would that \$123 million cost be material
 20 for purposes of Amtrak's financial reports?
 21 A The auditors would consider that material.
 22 Q So can you summarize the significance of

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1 this dispute to Amtrak from a financial standpoint?
 2 A Sure.
 3 From a financial standpoint, \$100 million,
 4 \$123 million is a big deal for us.
 5 We're at a critical time in the Company's
 6 history. We have a bright future ahead of us, but
 7 that future relies on us investing in the Corridor.
 8 And as we set forth, we put a responsible
 9 pattern forward. We have presented that pattern to
 10 Congress, and we have based our estimates for the
 11 next five years on that pattern.
 12 Any difference from that pattern will
 13 negatively impact the way we're looking to run our
 14 business.
 15 MR. FRITTS: That concludes my direct for
 16 questions.
 17 ARBITRATOR JAFFE: Okay.
 18 Do you want some time, Mr. Wilder? Of
 19 course.
 20 MR. WILDER: Let's take a few moments, ten
 21 minutes.
 22 ARBITRATOR JAFFE: That's fine, sure.

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1 We're off the record.
 2 (A recess was taken.)
 3 CROSS-EXAMINATION
 4 ARBITRATOR JAFFE: We're back on whenever
 5 counsel is ready.
 6 BY MR. WILDER:
 7 Q Mr. Stadler, I just have a few clarifying
 8 questions.
 9 The first relates to slide 22.
 10 And on the expense entry on the economic
 11 projection 2014 to 2017, referring to wages,
 12 overtime, and employee benefits, do those
 13 projections include all of the organized crafts
 14 including the BMWED and the BRS, or is it exclusive
 15 of those two crafts?
 16 A They include all of the crafts.
 17 And if I may, they include all of the
 18 crafts. The current pattern expires in 2015.
 19 What we did is we assumed that there would
 20 be a 1.5 percent increase each six months after that
 21 through the end of this chart, knowing full well
 22 that those were all subject to negotiation.

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1 Q I see.
 2 Now, on slide 19, again, for
 3 clarification, did the expense data relating to
 4 wages and overtime and employee benefits also
 5 include the BMWED and the BRS?
 6 A They include, on this sheet, an accrual
 7 amount for what the pattern would be for Fiscal Year
 8 '13 for these two unions, yes, BMWED and BRS.
 9 Q For all of the unions including -- all
 10 right.
 11 Now, are these figures -- and I'm
 12 referring to 1,078.3 and 716.2, do they cover the
 13 organized and the unorganized, or just the
 14 organized?
 15 A They cover -- they cover the organized and
 16 the unorganized.
 17 Q I see.
 18 A Let me make sure I understand the
 19 question.
 20 Yeah. Right. They cover the settled and
 21 the not settled -- I'm sorry, by unorganized you
 22 mean management employees. No. Management

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1 employees are under salaries.
2 Q All right. Are unorganized nonmanagement
3 employees in salaries, or are they wage and
4 overtime?
5 A I guess I don't understand unorganized
6 nonmanagement.
7 Q All right. You have salaried employees
8 who are not represented by a union other than
9 management?
10 A All nonagreement employees --
11 Q Yes.
12 A -- are under salaries, under the salaries
13 line.
14 Q All right. Thank you.
15 Now, referring to the wages and overtime
16 figure in -- for entry in slide 19, does that
17 include an assumption for -- no, that includes
18 actual overtime, does it not?
19 A That's correct, for 2013, it does.
20 Q Now, moving to slide 22, the projection.
21 Does the projection include assumed
22 overtime?

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1 A The projection on slide 22 assumes
2 overtime at approximately the rate that was
3 experienced in 2013.
4 Q All right. So in other words, you took
5 the actual 2013 overtime experience and projected it
6 forward through 2017?
7 A That's correct.
8 However, at the time we did this, we did
9 not have final 13 numbers. So it would have been
10 when the projection was done was probably halfway
11 through the year of '13.
12 But it used the actual figures we had at
13 the time we did the estimate.
14 Q Turning to slide 17 -- or really, 16, 17,
15 and 18 relating to capacity and ridership.
16 Does Amtrak have the ability to increase
17 capacity on the Acela by adding more cars?
18 A We do not at this time have that ability,
19 no, we do not have the extra cars.
20 Q Is that because there's a shortage of
21 cars, or why?
22 A Well, that's because the Acelas are train

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1 sets, and we cannot add cars to the train sets.
2 We have looked into purchasing additional
3 train sets.
4 Q But you can add trains, can you not, even
5 if it's not Acela?
6 A We can add trains, but we also in the
7 current infrastructure, there are not many slots
8 available.
9 Most of the slots that are available are
10 outside of peak hours.
11 Q Let me ask this, with reference to the
12 northbound train on slide 17.
13 I'm referring to the afternoon period, 2
14 p.m. through 5 p.m. Have those trains always
15 operated close to capacity?
16 A I can't answer that question.
17 Are you asking before 2006?
18 I can't answer that question.
19 Q All right. Now, at what point does Amtrak
20 consider a fare increase when you are at capacity?
21 A We have fare increases regularly at least
22 every year, if not more often than every year.

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1 And we revenue manage the trains based on
2 the ridership and based on the elasticity of demand.
3 Q Then moving to slide 33, my question is
4 does this contemplate a six-year agreement of the
5 BMWED and the BRS?
6 A These figures assume that the agreement
7 ends December of 2015.
8 Q 2015?
9 A That's correct.
10 Q And but the caption of it deals with the
11 total additional cost to Amtrak of breaking the
12 Amtrak pattern.
13 A That's correct.
14 Q So does this exhibit accept the
15 organization proposal for an agreement ending on
16 December 31, 2015 and going into 2016, or does it
17 assume the contract ending in 2015?
18 A These figures assume a contract ending
19 December 31, 2015.
20 Q Does the figure 123.7 assume anything with
21 respect to 2016?
22 A It does not.

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1 Q Let me ask this question, too.
 2 Does the 123.7 assume anything with
 3 respect to 2015 for the crafts other than the BMWED
 4 and the BRS?
 5 A It does.
 6 This assumes that all of the already
 7 settled crafts receive the same increases that are
 8 being proposed by the BMWED and the BRS.
 9 MR. WILDER: Pass the witness.
 10 ARBITRATOR JAFFE: Any further direct?
 11 MR. FRITTS: If you could just excuse me
 12 for one moment.
 13 ARBITRATOR JAFFE: Sure.
 14 MR. FRITTS: I don't have any questions on
 15 redirect.
 16 ARBITRATOR JAFFE: Just a couple of brief
 17 ones for our education, Mr. Stadler.
 18 Could you take a look at slide 28, please,
 19 which has the cost of both the one cent and then a 1
 20 percent wage increase?
 21 THE WITNESS: I'm there.
 22 ARBITRATOR JAFFE: The cost of 1 percent,

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1 let me start with the two groups that are here in
 2 this proceeding.
 3 What's the date effective as of?
 4 In other words, is this building on the
 5 existing current wage base for those groups?
 6 THE WITNESS: That's my understanding, but
 7 I would want to make sure.
 8 ARBITRATOR JAFFE: Okay. And with respect
 9 to the settled unions, do you know whether that's
 10 looking at their current wages, which would include
 11 the Amtrak pattern "adjustments" up until this point
 12 in time, or does it reflect back as of the same base
 13 date or measuring date?
 14 I'm trying to figure out if we have apples
 15 and apples or apples and oranges in the 1 percent.
 16 THE WITNESS: And I understand the
 17 question.
 18 ARBITRATOR JAFFE: Do you know the answer?
 19 Oh, I'm sorry.
 20 You're trying to get the mic on, aren't
 21 you?
 22 THE WITNESS: I understand the question,

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1 and I want to double check to make sure I know the
 2 answer.
 3 ARBITRATOR JAFFE: That's fine as well.
 4 And if we could just get clarification,
 5 Mr. Fritts, later is fine. It can either be from
 6 counsel or from a witness, it doesn't matter, but
 7 whatever it is, it is.
 8 MR. FRITTS: We will do that,
 9 Mr. Chairman.
 10 ARBITRATOR JAFFE: That's fine.
 11 And the only other one relates to slide
 12 31, which are the costs of applying the proposal in
 13 this case, as well as what's been labeled as the
 14 Amtrak pattern.
 15 Do you know whether there is anything in
 16 the costing of the PRLBC proposal that attempts to
 17 reflect the changes in health as a result of the
 18 freight settlement and potential roll over?
 19 THE WITNESS: There is not.
 20 This is just wages.
 21 ARBITRATOR JAFFE: Just wages. That's
 22 what I was trying to zero in on.

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1 I'm going to leave it at that.
 2 Let me see if counsel has anything else,
 3 please.
 4 Any further direct?
 5 MR. FRITTS: No, Mr. Chairman.
 6 ARBITRATOR JAFFE: Any further cross?
 7 MR. WILDER: One question.
 8 I have been told that I keep asking the
 9 wrong question. So I'm going to try it again.
 10 THE WITNESS: I thought your questions
 11 were fine, sir.
 12 RE-CROSS-EXAMINATION
 13 BY MR. WILDER:
 14 Q Let me refer you to Slide 33.
 15 And you told me that this covered a time
 16 period from January 1, 2010 through December 31,
 17 2015.
 18 The question that I want to ask is, does
 19 the figure, in other words, the cost of -- to Amtrak
 20 of breaking the Amtrak pattern at 123.7 million,
 21 presume that for Calendar Year 2015, the crafts
 22 other than the BMWED and the BRS will take a wage

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1 freeze?
 2 A Ask the question again, please.
 3 I'm sorry.
 4 Q I got the question right.
 5 A But I don't think I understood the
 6 question.
 7 Q Oh, come on.
 8 ARBITRATOR JAFFE: I'll make it easy for
 9 you.
 10 Can we have it read back?
 11 MR. WILDER: You want to try that,
 12 Mr. Chairman?
 13 ARBITRATOR JAFFE: I could, but I'm going
 14 to have it read back.
 15 I could do it, but let's have it read
 16 back.
 17 MR. WILDER: All right.
 18 (The record was read back as requested.)
 19 ARBITRATOR JAFFE: Right on the money.
 20 THE WITNESS: The figure assumes that the
 21 me-too crafts, the crafts that have already been
 22 settled, get the same increase on January 1, 2015

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1 that's proposed here.
 2 BY MR. WILDER:
 3 Q But the -- I understand.
 4 All right. I am looking beyond January 1,
 5 2015. Because on that date, the last wage increase
 6 of the so-called Amtrak pattern will be paid, which
 7 I think is how you answered my question.
 8 A That's correct.
 9 Q I am looking for -- does the 121. -- 123.7
 10 million figure presume that there will be no other
 11 increases within 2015 for the other crafts?
 12 A If I understand the question correctly,
 13 yes, we do not assume that the other crafts will
 14 receive any additional increase after the first.
 15 MR. WILDER: Thank you.
 16 ARBITRATOR JAFFE: Any further direct?
 17 MR. FRITTS: No further direct.
 18 ARBITRATOR JAFFE: Anything?
 19 Okay. Thank you, Mr. Stadler.
 20 (Witness stood down.)
 21 ARBITRATOR JAFFE: Anything else today
 22 before we stand in recess until tomorrow morning?

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1 MR. REINERT: That's it for today.
 2 ARBITRATOR JAFFE: Okay. We'll stand in
 3 adjournment until 9 a.m. tomorrow.
 4 Thank you all very much.
 5 (Whereupon, the proceedings in the above-captioned
 6 matter were recessed at 4:55 p.m. to resume at 9:00
 7 a.m. on January 14, 2014.)
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1 CERTIFICATE OF REPORTER
 2 I, Joseph A. Inabnet, do hereby certify
 3 that the transcript of the foregoing proceedings was
 4 taken by me in Stenotype and thereafter reduced to
 5 typewriting under my supervision; that said
 6 transcript is a true record of the proceedings; that
 7 I am neither counsel for, related to, nor employed
 8 by any of the parties to the action in which these
 9 proceedings were taken; and further, that I am not a
 10 relative or employee of any attorney or counsel
 11 employed by the parties thereto, nor financially or
 12 otherwise interested in the outcome of the action.
 13
 14
 15
 16

 17 Joseph A. Inabnet
 18 Court Reporter
 19
 20
 21
 22

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