BEFORE EMERGENCY BOARD No. 243

Between

The Railroads Represented
By The National Carriers’ Conference Committee

And Their Employees
Represented By
American Train Dispatchers Association,
International Association of Machinists and Aerospace Workers,
International Brotherhood of Electrical Workers,
Transportation Communications International Union,
Transport Workers Union,

And

The Rail Labor Bargaining Coalition.

National Mediation Board Case Nos. A-13569; A-13570;
A-13572; A-13573; A-13574; A-13575; A-13592

CARRIERS’ SUBMISSION No. 3:
TOTAL COMPENSATION

October 10, 2011
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INTRODUCTION

By any measure, the railroad workers represented by the Coalition Unions ("Coalition Employees") are among the most highly compensated employees in the U.S. labor market.\(^1\) In 2010, the average Coalition Employee received $46.58 per hour ($93,046 annualized) in total compensation, which is 46.2 percent more than the average full-time worker in private industry in the United States.\(^2\) Coalition Employees’ total compensation package includes wages, supplements, and fringe benefits such as paid holidays, vacations, health, life, dental, vision, and short term disability insurance,\(^3\) supplemental sickness benefits, railroad unemployment benefits, and railroad retirement benefits. This above-market compensation package is one of the reasons why jobs in the freight rail industry are in such high demand among job seekers.\(^4\)

In the negotiations leading up to this Presidential Emergency Board ("PEB") proceeding, the Carriers offered to increase the total compensation of Coalition Employees by more than 20.8 percent on a compounded basis through January 1, 2015. Under these proposals, the average Coalition Employee would receive $112,404 per year ($56.27 per hour) in total compensation by 2015, at a total annual cost to the Carriers of approximately $9.5 billion (assuming no change in current force levels). These proposed

\(^1\) See Carriers’ Ex. 6 (Report of Dr. Evans) at 19.


\(^3\) Only BLET employees receive short term disability insurance.

\(^4\) See Carriers’ Ex. 5 (Report of Dr. Topel) at 13.
increases in total compensation substantially outpace projected inflation, providing real compensation growth of more than 11.7 percent. Moreover, total compensation growth under the Carriers’ proposal is expected to significantly outpace compensation growth elsewhere in the labor market, thereby maintaining or expanding the compensation premiums currently enjoyed by Coalition Employees.

Not content with merely maintaining their status among the most highly compensated workers in the U.S. economy, the Coalition Unions are demanding even greater increases in compensation – far more than provided in the recent pattern agreement with the United Transportation Union (‘‘UTU’’). In particular, the Coalitions are seeking general wage increases (‘‘GWIs’’) of 19 percent (20.5 percent compounded) over the life of the proposed collective bargaining agreement. In addition to these large increases in hourly wage rates, the Coalitions are also seeking substantial additional compensation in the form additional paid vacation, elevated supplemental sickness benefits, and a number of costly craft-specific demands. These demands come at a time when many U.S. workers are facing long-term unemployment and minimal compensation growth.

See Carriers’ Ex. 6 (Report of Dr. Evans) at 33.

As the Secretary of Labor Hilda Solis recently observed: “[T]his is a difficult time for American Workers and businesses. The current combination of prolonged high unemployment and record numbers of job seekers out of work for 6 months or more has had profound effects on the U.S. labor market.” See www.dol.gov/sec/media/congress/20110922_green_energy.html (App. A-45). As a result, “recent indicators point to minimal expectations of wage increases over the next year. . . [and] compensation growth has been and is likely to remain rather subdued. . . .” K. Fee and M. Schweitzer, Unemployment, Labor Costs, and Recessions: Implications for the Inflation Outlook, at 4 (Federal Reserve Bank of Cleveland September 7, 2011) (App. A-46).
At the same time, the Coalition Unions vehemently oppose the changes to the “platinum” health care plan agreed to by the UTU. Left unaltered, the cost of the plan will continue to spiral upward, further adding to the already excessive compensation demands of the Coalitions. Current health care spending by the Carriers far exceeds market norms, due primarily to the lack of consumer-based plan designs to encourage efficient use of health care resources. In their proposal, the Carriers are seeking modest changes in health care plan design to rationalize utilization and better control escalating health care costs, with no diminution in overall health care outcomes for participating Coalition Employees and their beneficiaries.\(^7\) These prudent changes would not halt the escalation in health care spending by any means, but should help to moderate the rate of increase (from about 32.6 percent to around 25 percent through the end of 2014).

When the costs associated with the Coalition Unions’ vacation, supplemental sickness, and craft-specific proposals are added to their demands for higher wage increases and their opposition to any plan design changes, the aggregate cost of their proposal – over the five year term of the agreements – would be more than $2.6 billion above and beyond the increases offered by the Carriers. Significantly, the Carriers would receive no measurable benefit or improvement in recruiting, retention or productivity as a result of these substantial increases.\(^8\)

\(^7\) *See* Carriers’ Submission No. 5 (Heath Care Plan Design) at 2-3. The Carriers’ proposals also maintain the freeze on employee contributions for health care coverage at current levels for the term of the new agreements.

\(^8\) *See* Carriers’ Ex. 7 (Report of Dr. Eakin and Dr. Schoech) at 37.
There is no sound economic argument to support the compensation increases demanded by the Coalitions. Although the Carriers’ financial performance has improved in recent years, the short-term profitability of the freight rail industry does not justify the wage and benefit demands of the Coalitions. Indeed, acceding to the Coalition Unions’ demands would undermine the progress that the Carriers have made towards revenue adequacy over the years. More importantly, excessive compensation increases for Coalition Employees would siphon financial resources away from much-needed capital investments that are essential to growing the industry – a goal that serves the Carriers’ and employees’ interests alike.

In Part I below, we explain why total compensation is the appropriate yardstick. In Part II, we summarize current compensation. In Part III, we compare current railroad compensation to similarly situated employees working in other industry sectors. In Part IV, we explain how the Carriers’ proposal to the Coalitions reflects the compensation provided under the UTU pattern. In Part V, we outline the generous compensation growth provided under the Carriers’ proposal. Finally, in Part VI, we show that the Coalitions’ competing proposal would result in unreasonably higher total costs.

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9 Carriers’ Ex. 7 (Report of Dr. Gallamore and Mr. Gray) at 22; see also Carriers’ Ex. 3 (Report of Dr. Murphy) at 16-33.

10 See Carriers’ Ex. 7 (Report of Dr. Gallamore and Mr. Gray) at 3.

11 Id. at 28.; see also National Surface Transportation Policy and Revenue Study Comm., *Transportation for Tomorrow*, at 4-14–4-15 (December 2007) (“An average annual total investment of $5.3 billion per year from all sources is expected to be adequate to accommodate projected freight rail demand in 2035. . . . The $5.3 billion average annual investment level . . . translates to a cumulative level of $148 billion over a 28-year period from 2007 to 2035, of which the portion attributable to Class I railroads is projected to be $135 billion.”).
ARGUMENT

I. TOTAL COMPENSATION PROVIDES THE APPROPRIATE FRAMEWORK FOR EVALUATING THE PARTIES’ COMPETING PROPOSALS.

In evaluating the competing proposals offered by the Carriers and the Coalitions, the Board should consider the total cost of those proposals to the Carriers, including all of the various elements combined, rather than viewing each particular proposal in isolation. This principle was cogently explained by Arbitrator David Gaba in *City of Aurora*:

> In determining the appropriate level of compensation, it is appropriate to base remuneration and make comparisons based on total compensation…. When most employees hear the term “compensation,” they typically think of the money they receive in their paycheck each payday. However, “total compensation” goes beyond salary, it is the complete pay package for any group of employees. This includes all forms of money, benefits, services, and other “perks”…. Total compensation can be defined as all of the resources available to employees which are used by the employer to attract, motivate, and retain employees…. [Employees] enjoy a total compensation package that far exceeds the value of their base salary alone, and which includes both direct and indirect compensation for services performed…. Using a total compensation methodology, it is axiomatic that the cost of the entire benefit packages is considered…. In determining which proposals to recommend, the Fact Finder looks at the … total aggregate value of the changes proposed rather than addressing each financial proposal individually.


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12 *See also City of Oswego*, NYS PERB Case No. IA 2010-019, M 2010-21 (2011) (Lobel, Gold, Cook) (“Any examination of wages must include an examination of the total economic package, including fringe benefits’’); *City of Albany*, NYS PERB Case No. IA 2006-015, M 2005-302 (2008) (Lobel, Roemer, Corsi) (“Total compensation must be considered and must include both the percentage wage and benefit increases ….”); William Aitchison, INTEREST ARBITRATION 107 (2nd Ed., LRIS 2000) (“Terming total compensation analysis ‘a more realistic pay comparison,’ arbitrators prefer to base their opinions on the package of all economic benefits paid to employees as a whole.’”).
Indeed, from an economic standpoint, it is an error to value contract proposals by focusing on a single component, such as wages\textsuperscript{13} Both employers and employees value compensation packages on a holistic basis, such that greater growth in one component – say wages – may offset lesser growth in another, such as health care benefits.\textsuperscript{14} Thus, from an employee’s perspective, the desirability of any particular employment opportunity is dependent not only on the wages or salary provided but also based upon fringe benefits such as vacation, holidays, health, welfare, and retirement programs.\textsuperscript{15} Likewise, from an employer’s perspective, the elements of an employee compensation

\textsuperscript{13} \textit{See also} U.S. Government Accountability Office, GAO-11-318SP, \textit{Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Increase Revenue}, Section II – Total Compensation Approach Is Needed to Manage Significant Growth in Military Personnel Costs, at 171-72 (2011) (App. A-52) (“[T]he GAO continues to assert that with a total compensation strategy the department would be in a better position to make business case arguments for and against changes to its compensation system, and provide fact-based evidence regarding the efficiency of the allocation of cash, non-cash, or deferred compensation.”); \textit{see also} 46 Participating Hospitals, Interest Arbitration Award, § 5 (1981) (Weiler) (“In fact, the general wage hike itself generates corresponding increases in the vast bulk of the compensation package represented by the wages, since it increases the regular hourly rate upon which holidays, vacations, overtime, and other premiums depend.”).

\textsuperscript{14} \textit{See} Carriers’ Ex. 3 (Report of Dr. Murphy) at 8-10. From the employer’s perspective, total compensation is defined as the total cost to provide the various elements of a compensation bundle. This is an objective measure of total compensation since the value of a dollar does not change depending upon the manner in which it is spent. Instead, from an employer’s perspective, dollars spent on wages and benefits have the same economic impact on labor costs. \textit{See id.} at 9-10.

bundle are economic substitutes. In other words, a dollar spent on wages costs the same as a dollar spent on benefits, and vice versa.

As a consequence, any negotiation or settlement process must recognize the effective trade-off among different elements in a compensation bundle.\textsuperscript{16} That is certainly the case here. The Board should look at the total aggregate cost of all of the elements of value in the parties’ respective proposals – wages, special compensation elements, and benefits – in order to accurately assess the difference between the parties’ positions. We refer to this approach as “total compensation.”

II. **Coalition Employees Receive Extremely Generous Compensation Packages.**

Employees represented by the Coalitions enter these proceedings among the most highly compensated workers in the U.S. labor market. Their compensation includes, of course, very high base hourly wages.\textsuperscript{17} But in addition to their wages, Coalition Employees are provided with a comprehensive benefit package, including vacations, paid holidays, sick leave, health, life, dental, vision, and short term disability insurance, retirement benefits, and unemployment benefits. These benefits are a sizable piece of the total compensation package enjoyed by Coalition Employees.

\textsuperscript{16} The new agreement between the Carriers and the UTU illustrates this point. That agreement provides for general wage increases of 18.24 percent (over six years) plus a small amount of additional compensation for adjustments to entry rates and certification pay. The UTU pattern agreement also freezes employee contributions for the Carriers’ national health care plan at $200 per month. In return, the UTU agreed to plan design modifications that will control over-utilization.

\textsuperscript{17} See Carriers’ Submission No. 4 (Wages). The average Coalition Employee is paid a wage of $26.66 per hour.
As illustrated in Figure 1 below, in 2010, the total compensation of the average Coalition Employee, including all wage payments, lump sums, supplements and fringe benefits (translated to an hourly rate) was $46.58 per hour ($93,046 annualized). As can be seen, there were variations in the total compensation for different crafts and job classification in the bargaining units represented by the Coalitions. But, in all cases, Coalition Employees substantial total compensation packages.

Employee compensation constitutes the largest single expense borne by the Carriers. In 2010, the Carriers paid more than $7.8 billion in total compensation to Coalition Employees.\(^{18}\) Compensation costs for just the Coalition Employees were equivalent to 13.8 percent of operating revenues and 19.2 percent of operating expenses. Significantly, these numbers exclude the substantial amounts of compensation paid to

\(^{18}\) This does not include the substantial costs incurred by the Carriers in feeding and housing Coalition Employees when they must travel on work assignments away from their homes. The inclusion of these additional expenses pushes the Carriers’ labor costs even higher.
railroad workers represented by the UTU and Yardmasters, as well as executive, salaried and non-bargaining unit workers employed by the Carriers.

For purposes of comparison, the total compensation of Coalition Employees can be broken down into its constituent elements based upon the broad categories of compensation outlined by the U.S. Bureau of Labor Statistics (“BLS”) in its Employer Costs for Employee Compensation (“ECEC”) survey. The ECEC report defines total compensation as the total cost to the employer from wages and salaries and five categories of benefits: paid leave (vacations, holidays, sick leave, and personal leave); supplemental pay (premium pay for work in addition to the regular work schedule [such as overtime, weekend, and holiday work], shift differentials, and nonproduction bonuses [such as year end, referral, and attendance bonuses]); insurance benefits (such as life, health, short-term disability, and long-term disability insurance); retirement and savings benefits (defined benefit and defined contribution plans); and legally required benefits (Social Security, Medicare, Federal and State Unemployment Insurance, and Workers’ Compensation). As illustrated by Figure 2 below, the average Coalition Employee receives compensation derived from each of these categories, aggregating to an annual average total compensation of $93,046.

19 The ECEC provides quarterly data on employer costs per hour worked for total compensation, wages and salaries, and benefits. Further, the ECEC report provides aggregated total compensation statistics for the entire U.S. private sector as well as total compensation statistics for various industry groups. For detailed information on the BLS ECEC report, see BLS, Handbook of Methods, Chapter 8 –National Compensation Measures, at 15-16 (revised Apr. 18, 2011) (available at www.bls.gov/opub/hom/pdf/homch8.pdf) (App. A-42).

20 Id. at 10.
In particular, the total compensation of Coalition Employees\textsuperscript{21} consists of the following components:

Wages and Salaries. The most significant component of the total compensation package provided to Coalition Employees is a well-above-market straight-time hourly wage. In 2010, the average Coalition Employee received wages of $26.66 per hour.\textsuperscript{22} Although the substantial majority of this wage rate consists of traditional straight-time hourly wage payments, consistent with the ECEC survey methodology, this hourly wage

\textsuperscript{21} The aggregate value of these components vary from union to union. For details, see Attachment A Chart A.1.

\textsuperscript{22} Carriers’ Submission Ex. 6 (Report of Dr. Evans) at 20.
rate also includes lump payments and overmile payments. Overmile payments are additional wage payments for work performed in excess of the number of miles comprising a basic day. Figure 3 below illustrates the variations in annual wage earnings between employees represented by the various Coalition Unions.

Supplemental Pay. In addition to straight time wages, Coalition Employees are also eligible for premium pay and supplemental wages. The average Coalition Employee received $1,908 in premium pay and supplemental wages in 2010. A Coalition Employee’s premium pay and supplemental wages are composed of the premium portion of overtime pay, other wage premiums, and assorted payments for myriad reasons, including pay in lieu of meal periods, payments related to longevity bonuses, pay for hauls in excess of one million pounds,23 differentials for engineers working without firemen, shift differentials, skill differentials, licensing differentials, and certification

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23 Only locomotive engineers receive this payment.
differentials. Supplemental wage payments average to approximately 96¢ per hour for all Coalition Employees.

**Paid Leave.** Coalition Employees receive generous paid leave benefits, including vacations, holidays, sick leave, and personal leave. Constructive allowances and arbitraries also fall under the category of pay for time not worked. Examples of situations where constructive allowances and arbitraries are paid include time spent deadheading, in final terminal delays, held away from home, and operating with a short crew. The average Coalition Employee received $12,664 (or $6.34 per hour) in paid leave benefits and compensation in 2010.

**Insurance Benefits.** Coalition Employees also receive various insurance benefits, including health care for themselves and their families. While employees are obligated to pay a portion of the cost of their health benefits, the Carriers pay by far the lion’s share.24 (We have excluded employee contributions from our calculation of total compensation, using only the portion of plan costs funded by the Carriers.) The average Coalition Employee received $12,214 in health, dental, and vision insurance paid by the Carriers.25 In addition, Coalition Employees received, on average, $49 in life insurance, $181 in

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24 Currently, Coalition Employees contribute $200 per month for their group health, dental and vision insurance. Under the Carriers’ proposals, employee contributions will continue to be capped at $200 per month.

25 See Carriers’ Submission No. 5 (Health Care Plan Design) at Figure 21. This amount does not include costs incurred by the Carriers in providing medical benefits to retirees. These benefits further increase the Carriers’ health care costs.
supplemental sickness benefits, and $74 in short term disability insurance.\textsuperscript{26} Overall, the average insurance benefit cost to the Carriers for Coalition Employees in 2010 was $12,518 (or $6.27 per hour).\textsuperscript{27}

**Retirement and Savings Benefits.** Railroad employees receive retirement benefits under the Railroad Retirement Act.\textsuperscript{28} Railroad retirement benefits are structured in two tiers. The Tier I benefit is based on combined railroad retirement and social security credits, using social security benefit formulas. The Tier II benefit is comparable to the pensions paid over and above social security benefits in other industries.\textsuperscript{29} The Carriers pay the equivalent of 6.2 percent of an employee’s earnings (up to a maximum of $6,621.60) in Tier I retirement benefits, 1.45 percent to Medicare, and 12.1 percent (up to a maximum of $9,583.20) in Tier II retirement benefits.\textsuperscript{30} In 2010, the Carriers contributed $12,169 ($6.09 per hour) for each Coalition Employee for retirement benefits: $4,951 in Tier I retirement benefits and Medicare and $7,218 in Tier II retirement benefits.

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\textsuperscript{26} Supplemental sickness benefits provide compensation in addition to that provided under the Railroad Unemployment Insurance Act (“RUIA”), 45 U.S.C. §§ 351 \textit{et seq.}, for employees who are unable to work due to illness, injury, or pregnancy. Only BLET employees receive short term disability insurance. In its 2003 national agreement, the BLET negotiated a $40 per month per employee contribution to a short-term disability plan in lieu of a 0.5 percent GWI.

\textsuperscript{27} Carriers’ Submission Ex. 4 (Report of Dr. Fay) at 7.


\textsuperscript{29} The Carriers’ Tier II taxes for Railroad Retirement benefits are based upon a ratio reflecting railroad retirement funding levels. Depending upon this ratio, the Tier II taxes paid by the Carriers may fluctuate between 8.2 percent and 22.1 percent annually.

Legally Required Benefits. Coalition Employees are eligible for Railroad Unemployment Insurance ("RUIA") under federal law.\textsuperscript{31} Railroad unemployment insurance provides benefits to railroad workers who cannot find a job in the rail industry. The RUIA provides eligible employees with a basic benefit of up to $320 per week, available for up to 26 weeks.\textsuperscript{32} The RUIA also provides up to 26 weeks of sickness benefits to those temporarily unable to work due to illness, injury, or pregnancy.\textsuperscript{33} The Carriers paid, on average, $525 for each Coalition Employee for RUIA in 2010.

Although the ECEC definition of legally required benefits also includes workers’ compensation,\textsuperscript{34} the Carriers’ payments under the Federal Employers Liability Act ("FELA") – the railroad equivalent of workers’ compensation – are not included in this comparison. Employers in private industry contributed, on average, 42 cents per hour for workers’ compensation costs.\textsuperscript{35} In contrast, the Carriers’ costs for FELA liabilities (in 2009) was estimated at $1.49 per hour. Thus, this analysis understates the true aggregate value of Coalition Employees’ legally required benefits and total compensation.

\textsuperscript{31} 45 U.S.C. §§ 351 et seq.
\textsuperscript{32} The RUIA establishes minimum benefit levels which may be enhanced based on state law. See U.S. Railroad Retirement Board Bureau of the Actuary, Railroad Unemployment and Sickness Insurance Programs Compared with State Programs – January 2010 (Feb. 2011) (App. A-53).
III. COALITION EMPLOYEES ENJOY A PREFERRED POSITION WITH RESPECT TO TOTAL COMPENSATION.

The high levels of total compensation paid to Coalition Employees compare favorably with the total compensation earned by other workers in the labor market. Indeed, in 2010, Coalition Employees enjoyed significant total compensation premiums over their peers, both in the transportation industry and throughout the U.S. economy. These premiums are explained in detail in Carriers’ Ex. 6 (Statement of Dr. Evans) and Carriers’ Ex. 4 (Statement of Dr. Fay).

The best source of comparison data is the BLS’s ECEC report.\(^\text{36}\) It demonstrates that Coalition Employees enjoy significant total compensation premiums. In 2010, the average Coalition Employee enjoyed hourly total compensation premiums of $14.72 (46.2 percent) over the average full-time private industry worker and $9.14 (24.4 percent) over the average unionized private industry worker.\(^\text{37}\) These numbers are even more impressive given disparities in education levels. The U.S. Census Bureau’s Current Population Survey (“CPS”) indicates that only 5.5 percent of rail industry employees have a college degree,\(^\text{38}\) while 9.5 percent of private industry workers have at least a college degree.\(^\text{39}\)

\(^{36}\) See Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2010 (March 9, 2011) (App. A-41); see also Carriers’ Ex. 6 (Report of Dr. Evans) at 18.

\(^{37}\) See Carriers’ Ex. 4 (Report of Dr. Fay) at 7.

\(^{38}\) See Carriers’ Ex. 6 (Report of Dr. Evans) at 25.

On an industry basis, the total compensation disparity is even more pronounced. The most analogous industry sector is the “Transportation and Material Moving” industry. In 2010, the average full time employee in a Transportation and Material Moving occupation earned total compensation of $26.00 per hour ($17.34 in hourly wages plus $8.66 in benefits). As Figure 4 below illustrates, the average Coalition total compensation of $46.58 per hour ($26.66 in hourly wages, plus $19.92 in benefits) yields a total compensation premium of $20.58 (79.2 percent) over the average full time employee in a Transportation and Material Moving occupation in private industry.

Figure 4: 2010 ECEC Hourly Total Compensation Premiums Enjoyed by Coalition Employees

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40 Carriers’ Ex. 6 (Report of Dr. Evans) at 20. The “Transportation and Material Moving” industry includes the North American Industry Classification System (“NAICS”) code for the rail transportation industry. Accordingly, the high level of total compensation paid to Coalition Employees inflates the “Transportation and Material Moving” comparator data.
Coalition Employees not only enjoy total compensation premiums relative to the rest of the transportation industry, they also earn more than their peers in virtually all comparable industries.\textsuperscript{41} According to Bureau of Economic Analysis (“BEA”) data, the average rail industry employee is better compensated than employees in 82 percent of other industries. As illustrated in Figure 5 below, rail industry compensation significantly exceeds compensation in competing shipping modes, as well as other industries.\textsuperscript{42}

![Figure 5: 2010 Total Compensation by Industry](image)

Of the 18 percent of U.S. industries that provide higher compensation than the rail industry, many, like the Securities and Commodities industry, are comprised largely of individuals with bachelors and advanced degrees. This difference in education levels explains why these employees earn more than rail industry employees. Indeed, it is well

\textsuperscript{41} Carriers’ Ex. 6 (Report of Dr. Evans) at 23-24.

known that college graduates and individuals with advanced degrees, on average, earn significantly higher compensation than individuals with less than a college degree. But as shown in Figure 6, railroad industry employees earn more, on average, than even those employees in industries with workforces largely comprised of college graduates. Controlling for education levels, Coalition Employees are among the best compensated employees in the country.

![Figure 6: 2010 Total Compensation by Industry](image)

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45 See Carriers’ Ex. 6 (Report of Dr. Evans) at 2.
Moreover, the total compensation premiums currently enjoyed by Coalition Employees are not a recent development. To the contrary, Coalition Employees have enjoyed significant total compensation premiums for many years. Further, as Figure 7 below illustrates, these premiums have increased significantly since 2006:
IV. THE CARRIERS’ PROPOSAL OFFERS VALUE EQUIVALENT TO THE UTU PATTERN AGREEMENT.

As discussed in detail in the Carriers’ Submission No. 1 (Summary of Position), the Carriers’ proposal to the Coalitions is patterned on the recent agreements with UTU and Yardmasters. Thus, the total compensation growth under the Carriers’ proposal is equivalent to that provided to those groups. Of course, the general wage increases and the health care plan design changes are identical – Coalition Employees are in line to receive the same 18.24 percent compounded wage increase in exchange for the same health care plan design changes accepted by UTU.\(^\text{46}\) And, as we now show, the Carriers’ proposal also includes additional compensation that is equivalent to the special compensation elements of the UTU agreement, including both the entry rate lump sums and new allowances for UTU conductor certification.

A. Entry Rates.

Newly hired employees represented by the UTU are subject to a multi-year wage progression before reaching full (100 percent) wage rates.\(^\text{47}\) Until now, the national UTU service scales included a five-year wage progression (75-80-85-90-95) before reaching the full wage rate for any particular job classification.\(^\text{48}\) However, these wage progressions have been subject to local variations on some Carriers.

\(^\text{46}\) Alternatively, the Carriers are willing to forego the January 1, 2015 three percent GWI, and agree to 14 percent over five years.
\(^\text{47}\) National agreements with UTU also provide for pay increases upon promotion from trainman to foreman, and again upon promotion to engineer.
\(^\text{48}\) See Carriers’ Ex. 1 (UTU Agreement) at 15.
In this round of bargaining, the UTU sought wholesale elimination of entry rates, which the Carriers strongly resisted because of the enormous cost impact. They compromised on an arrangement that reduces the national service scale from five years to four years (75-80-85-90). They further agreed to a one-time lump sum payment to UTU-represented employees in service on the date of the Agreement who were subject to entry rates at any time during the period May 1, 2011 through the Agreement date. Most of the eligible employees will receive a single lump sum payment of $3,000. A subset of employees will receive a single lump sum payment of $1,200 because they were subject to more favorable local entry rate arrangements. The lump sums are to be paid within 90 days of the date of the UTU agreement.

The one-time lump sum payments under the UTU agreement average out to approximately $711.87 per employee on a craft-wide basis:

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<th>Payment Amount</th>
<th>No. of Recipients (approximately)</th>
<th>Estimated Cost</th>
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<tr>
<td>UTU Employees on National Entry Rates</td>
<td>$3,000</td>
<td>7726</td>
</tr>
<tr>
<td>UTU Employees on More Favorable Local Entry Rates</td>
<td>$1200</td>
<td>1951</td>
</tr>
<tr>
<td>UTU Employees at Full Rates</td>
<td>$0</td>
<td>26,138</td>
</tr>
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**Total:** 35,851 $25,521,200
**Per employee:** $711.87
However, the $25.5 million total cost of the lump sum payments is more than offset by the savings that the UTU entry rates generate. Entry rates for UTU-represented employees currently save the Carriers roughly $96 million per year in compensation costs (as compared to what compensation costs would be without entry rates). The one-time lump sum payments under the UTU agreements constitute a partial refund of those annual savings. Thus, there is no justification for providing lump sum payments to employees who are not or have not been on entry rates.

The Carriers have proposed the exact same terms for all employees represented by the Coalition Unions.\(^{49}\) In other words, the Carriers have offered to modify any existing five-year wage progressions for Coalition Employees, reducing these progressions to four years (75-80-85-90) (and give Coalition Unions the option to preserve more favorable entry rate rules), plus provide a one-time $3,000 lump sum payable to anyone who is currently on five-year entry rates (or $1,200 for any Coalition Employees subject to more favorable local entry rates rules).

Alternatively, the Carriers will provide a one-time lump sum payment of $300 per person for all of the current employees represented by the Coalitions, regardless of seniority or current pay status. This amount is, of course, less than the overall average per-person amount noted above under the UTU agreement, but that is because the Carriers do not currently obtain the same degree of savings from entry rates in the other

\(^{49}\) In their proposal, the Coalitions propose that all entry rates for Coalition Employees in the BLET bargaining unit be eliminated. As noted above, the UTU made this same proposal which was rejected by the Carriers.
crafts. In the UTU, an estimated total of 9,677 employees will continue to be covered by some form of entry rates over the term of the agreements. By contrast, only about 6,250 employees represented by the Coalitions are currently on entry rates. In total, Coalition Employee entry rates generate less than half the savings produced by the UTU entry rates, and so Coalition Employees should receive, at most, only about half the average value if they choose craft-wide per-person lump sums. In any event, either variation on the Carriers’ proposal is a fair equivalent to the value of the entry rate provisions in the UTU pattern agreement.

B. Certification Pay.

The $5 per start certification allowance in the new UTU agreement is rooted in a provision of the Rail Safety Improvement Act, 49 U.S.C. § 20163, which mandated (among other things) that conductors obtain a federal certification in order to perform certain jobs associated with the operation of trains. The UTU agreement requires this $5 payment for each start (i.e., a qualified daily work assignment) for which a certification is required, beginning on July 1, 2012 (or when the federal government finalizes the certification requirement, whichever is later). See Carriers’ Ex. 1 (UTU National Agreement) at 17. The $5 per-start payment mirrors the certification allowance paid to

50 See 75 Fed. Reg. 69166 et seq. (to be codified at 49 C.F.R. Part 242). The new conductor certification regulations will be modeled on existing engineer certification regulations. Id. FRA certification is expected to be applicable only to individuals working as a conductor/foreman, remote control operator, or passenger conductor. Other jobs, such as trainman, brakeman or yard helper, are not expected to require a certification and so are not eligible for the allowance. Id.
locomotive engineers, who are required to have a similar federal license to operate a train. See 49 C.F.R. § 240.51

The Carriers estimate that this certification allowance will impose an additional labor cost of $21.2 million per year, beginning in July 2012. That figure is based on estimated annual starts among eligible employees of approximately 4.2 million.52 Using an estimated population of 30,017 employees on the covered properties, that amounts to approximately $708 per person and 140 starts per year.

It is worth emphasizing that this allowance is based solely on the new certification requirement. Because a conductor now must be licensed in order to work, he is at risk of losing his livelihood if he fails to comply with the applicable federal regulations. Except for locomotive engineers, Coalition Employees have no similar certification requirement, and so face no similar heightened risk. Hence, the rationale for a $5 certification allowance does not apply to the employees represented by the Coalitions. It would be entirely appropriate – and consistent with the pattern principle – to recommend no equivalent amount for the employees before this Board.

Nevertheless, the Carriers’ proposal does include an additional element of compensation that is analogous to certification pay. In the case of the Yardmasters – who

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51 The Coalition Unions propose that certification pay for eligible employees in the BLET bargaining unit should be increased from $5.00 to $10.00 per start. As explained in Carriers’ Submission No. 7 (Miscellaneous Compensation Issues), these demands for additional certification pay are inconsistent with the UTU pattern agreement and should be rejected.

52 The estimated number of starts includes only those assignments that require certification. Moreover, this figure does not include portions of CSXT that are governed by a local agreement on certification pay, and so are not covered by the national UTU agreement provisions.
are not subject to FRA certification – the Carriers agreed to a special wage adjustment, effective June 30, 2011, in exchange for the union’s withdrawal of its proposal for the equivalent of trainmen certification pay as well as all of their other bargaining demands. The Carriers are offering that identical special wage adjustment to the Coalition Unions, which averages out to a 0.5 percent wage adjustment, in exchange for the withdrawal of all other Coalition demands for additional compensation.

To be sure, a 0.5 percent wage adjustment is less, in annual per employee dollars, than the projected annual average per employee cost of certification pay for UTU members. But even leaving aside the fact – as noted above – that most Coalition Employees do not face a new certification requirement, there are multiple reasons why a 0.5 percent special wage adjustment is more than fair equivalent value.

*First*, the Carriers’ proposed special compensation adjustment is effective June 30, 2011, whereas the UTU members will not begin receiving certification pay until July 1, 2012. Thus, under the Carriers’ proposal, Coalition Employees will receive additional compensation a year before the UTU members.

*Second*, the proposed increase is a wage adjustment, meaning that the amount is rolled into the base hourly wage rate. As such, it will be subject to compounding (essentially increasing forever) as well as subject to overtime increases and other payments linked to the base hourly wage rate. The $5 per start certification payment for UTU is not rolled into wages and so is worth far less, over time, compared to an increase in the base wage rate.
Third, the total value of the package provided to UTU was predicated on health care cost savings resulting from plan design changes effective January 1, 2012. Under the current timetable of this proceeding, as well as the need for negotiations based on this Board’s recommendations and subsequent employee ratification, it is highly unlikely that the plan design changes sought by the Carriers can be implemented as of the same date. That will substantially impact the value of the overall package, and so requires off-setting changes to the compensation provided. The Carriers’ proposed 0.5 percent special wage adjustment assumes full implementation of the plan design changes early in 2012, but not as early as January 1, 2012.

Finally, the Carriers’ proposed 0.5 percent special wage adjustment is the direct equivalent to the Yardmasters’ payment. It would be unfair to that group, not to mention contrary to the pattern principle, to exceed this bargained-for equivalent of certification pay.

V. THE CARRIERS’ PROPOSAL PROVIDES FOR EXTREMELY GENEROUS TOTAL COMPENSATION GROWTH OVER THE TERM OF THE AGREEMENTS.

As more fully explained below, the Carriers’ proposal will raise the total compensation of Coalition Employees to unprecedented levels. In 2015, the Carriers will spend approximately $9.5 billion compensating Coalition Employees (assuming no change in current force levels). This figure equals 16.7 percent of current Carrier operating revenues and 23.2 percent of current Carrier operating expenses.

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53 As with 2010 labor costs, this figure understates the actual cost burden to the Carriers because it does not include FELA or retiree medical benefits.
Under the Carriers’ proposal, every element of compensation stands to grow substantially. Coalition Employees will enjoy significant wage growth, commensurate growth in overtime pay rates and retirement contributions (which are tied to the straight-time wage rates), and substantially more valuable health benefits under the Carriers’ proposal. In total, the average Coalition Employee’s yearly total compensation will grow by 20.8 percent by the end of 2015 – an average of 3.5 percent per year – reaching $112,404 ($56.27 per hour). See Figure 8 below and Table B.1 contained in Attachment B.
With respect to health care costs in particular, it is worth emphasizing that, even with the plan design changes proposed by the Carriers, the value of the employees’ health care benefits will continue to rise. Although the changes are expected to slow the growth of health care costs to some degree, the Carriers’ costs for providing health care to Coalition Employees are still projected to rise to $1.4 billion per year – or $16,503 per Coalition Employee – by 2015. This will increase the total compensation of the average Coalition Employee by an additional 4.6 percent through 2015. See Figure 9 below.

The 20.8 percent total compensation growth provided by the Carriers’ proposal will significantly outpace inflation over the same period – projected by the Congressional Budget Office’s Consumer Price Index (“CPI”) at 9.1 percent\(^{54}\) – thereby providing

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\(^{54}\) Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2011 to 2021*, Table D1, at 128 (January 2011) (This table presents projections for the consumer price index for all urban consumers.); *see also* Carriers’ Ex. 6 (Report of Dr. Evans) at 33.
Coalition Employees with 11.7 percent real total compensation growth. See Figure 10 below.

![Figure 10: Total Compensation Growth Under the Carriers' Proposal as Compared to Inflation](image)

The Carriers’ proposed total compensation growth will likely exceed employee compensation growth elsewhere in the labor market.\(^5^5\) This means that Coalition Employees, who are already among the most highly compensated workers in the U.S. economy, will enjoy even larger total compensation premiums.\(^5^6\) Given the size of these anticipated premiums, there can be no valid economic rationale for increasing compensation for Coalition Employees even further.\(^5^7\)

\(^{55}\) Carriers’ Ex. 6 (Report of Dr. Evans) at 34.

\(^{56}\) \textit{Id.}

\(^{57}\) Carriers’ Ex. 3 (Report of Dr. Murphy) at 46.
VI. **The Coalitions’ Proposal Would Significantly Increase Total Compensation Well Beyond Reasonable Levels.**

The Coalition Unions demand a total compensation increase of at least 2.6 billion $beyond$ the increase proposed by the Carriers.\(^58\) As we now show, the Coalition Unions’ proposed increases are entirely unjustified.\(^59\)

**A. Total Compensation Costs Under the Coalition Unions’ Proposal Are Excessive.**

Under the Coalition Unions’ proposal, annual Carrier compensation costs per Coalition Employee would reach $114,524 ($57.33 per hour) by 2014 – $7,672 ($3.84 per hour) more than under the Carriers’ proposal.\(^60\) See Figure 11 below. To put the difference between these proposals in perspective, the difference would be sufficient to fund approximately 4,325 additional bargaining unit positions.

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\(^{58}\) The Unions’ proposed term is five years while the Carriers propose wage adjustments over a six year period. This submission compares the total compensation growth under the Unions’ proposed five year term with the total compensation growth under the first five years of the Carriers’ proposals. For the sake of simplicity, total compensation cost projections exclude the Coalition Unions’ craft-specific demands.

\(^{59}\) Carriers’ Ex. 3 (Report of Dr. Murphy) at 46. Please note, the costing of the Coalition Unions’ proposals in Dr. Murphy’s report was performed prior to the Coalition Unions’ October 4 proposal and thus does not take into account the substantial compensation costs associated with the Coalition Unions’ craft-specific demands, vacation proposal, and supplemental sickness proposal. This means that Dr. Murphy’s cost estimates are significantly understated.

\(^{60}\) Hourly and Annual compensation cost projections only account for the Coalition Unions’ joint proposal. These projections exclude the $481 million in additional compensation costs over the life of the Coalition Unions’ craft-specific demands. *See* Carriers’ Submission No. 7 (Miscellaneous Compensation Issues) for more details on the Coalition Unions’ craft-specific compensation demands.
Total compensation growth under the Coalition Unions’ proposal exceeds total compensation growth under the Carriers’ proposal by 8.2 percent through 2014. The Coalitions offer no benchmarks, no pattern, no *quid pro quo*, and no logic or rationale of any kind for such a huge additional increase. Further, the Coalition Unions have also rejected any plan design changes to the Carriers’ national health care plan or any increases in employee contributions (currently $200 per month) for health care coverage.

**B. The Coalition Unions’ Craft-Specific Demands Further Add to Carrier Compensation Costs.**

Regardless of the label, most of the Coalition Unions’ craft-specific proposals would merely serve to further increase compensation. In particular, various Coalition Unions seek the elimination of entry rates, increased certification pay, unified rates of
pay, wage responsibility adjustments, wage equity adjustments, wage equalization, and
differential pay.\textsuperscript{61} Altogether, these demands would increase the Carriers’ compensation
costs by \textit{at least} $481 million, and potentially much more.

All told – combining the total compensation growth in the joint proposal and the
craft specific demands – the Coalition Unions’ proposal is at over $2.6 billion more
expensive than the Carriers’ proposal. A total of $2.6 billion would be sufficient replace
more than 5,000 miles of track,\textsuperscript{62} or purchase approximately 1,500 new EPA-compliant
fuel efficient road locomotives.\textsuperscript{63} Were an additional $2.6 billion invested in Carrier
infrastructure, it would have the potential to create or sustain more than 51,000 jobs.\textsuperscript{64}
But there is no rationale whatsoever for layering this huge amount on top of the already
generous total compensation increases offered by the Carriers – increases that will
preserve the Coalition Employees’ preferred position among the highest paid workers in
America.

\begin{footnotesize}
\textsuperscript{61} See Carriers’ Submission No. 7 (Miscellaneous Compensation Issues) for more details on
the Coalition Unions’ craft-specific compensation demands.

\textsuperscript{62} See \textit{Freight Passenger Rail: Present and future Roles, Performance, Benefits, and Needs},
Hearing Before the H. Subcomm. on Railroads, Pipelines, and Hazardous Materials of the H.
Comm. on Transportation and Infrastructure, 111th Cong. (2009) (statement of James R. Young,
Chairman, CEO, and President of Union Pacific Corporation and Chairman of the Association of


\textsuperscript{64} BlueGreen Alliance, \textit{Gauging Growth: The Freight Rail Supply Chain and Job-Creation
A-39).
\end{footnotesize}
CONCLUSION

For the reasons stated above, the Board should recommend total compensation increases patterned on the Carriers’ recent agreement with UTU, and reject the Coalitions’ demands for more.

Respectfully submitted,

/s/ Donald J. Munro

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Jeff Rodgers
Joanna Moorhead
National Railway Labor Conference
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Washington, D.C. 20036

Donald J. Munro
Brian West Easley
Carter DeLorme
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
## Attachment A: Table A.1: Average 2010 Total Compensation by ECEC Category, by Union.

<table>
<thead>
<tr>
<th>Category</th>
<th>ATDA</th>
<th>BLET</th>
<th>BMMED</th>
<th>BRC</th>
<th>BRS</th>
<th>IAI</th>
<th>IBB</th>
<th>IBEW</th>
<th>NCOO</th>
<th>SMMIA</th>
<th>TCU</th>
<th>All Union</th>
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65 Columns may not sum due to rounding.
## Attachment B: Table B.1: Average 2015 Total Compensation by ECEC Category, by Union, Under the Carriers’ Proposal.

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<td>$13,229</td>
<td>$12,246</td>
<td>$13,256</td>
<td>$10,878</td>
<td>$12,876</td>
<td>$12,414</td>
<td>$14,461</td>
</tr>
<tr>
<td>Legally Required Benefits Railroad Unemployment Insurance</td>
<td>$523</td>
<td>$534</td>
<td>$523</td>
<td>$521</td>
<td>$519</td>
<td>$525</td>
<td>$520</td>
<td>$519</td>
<td>$522</td>
<td>$521</td>
<td>$525</td>
<td></td>
</tr>
<tr>
<td>Total Benefits</td>
<td>$53,267</td>
<td>$62,353</td>
<td>$44,863</td>
<td>$41,911</td>
<td>$51,628</td>
<td>$43,095</td>
<td>$39,685</td>
<td>$43,587</td>
<td>$37,535</td>
<td>$41,477</td>
<td>$41,734</td>
<td>$49,110</td>
</tr>
<tr>
<td>Total Compensation</td>
<td>$128,691</td>
<td>$135,780</td>
<td>$103,723</td>
<td>$100,156</td>
<td>$121,130</td>
<td>$101,604</td>
<td>$94,452</td>
<td>$101,798</td>
<td>$84,983</td>
<td>$99,005</td>
<td>$95,321</td>
<td>$112,404</td>
</tr>
</tbody>
</table>

Columns may not sum due to rounding.