October 10, 2011

Re: Presidential Emergency Board No. 243; Carriers’ Submissions and Exhibits

Dear Chairman Jaffe, Board Members, Mr. Graber & Ms. Parker:

With this letter, the Carriers are submitting their written presentations to Presidential Emergency Board No. 243 in electronic form, in accordance with the instructions in Ms. Parker’s letter of October 7, 2011. These materials include a total of seven submissions and ten exhibits. A brief description of each is as follows:

**Carrier Submissions**

1. **Summary of Position (C530 – C568):** This submission outlines the Carriers’ core position in this matter – that the Board’s recommendations should be based on the Carriers’ recent agreements with the United Transportation Union (“UTU”) and Yardmasters, which set a pattern for resolution of the wage, benefit, and work rule issues in this round of national handling. We also show that the pattern is generous in the current economic climate, and as compared to other recent union settlements. In addition, this submission responds to what we
anticipate will be the Coalition Unions’ arguments regarding recent profitability and productivity in the railroad industry.

2. History and Context of the Dispute (C569 – C590): In this submission, we briefly describe the history of this round of national handling. In particular, we outline the Carriers’ perspective on the economic context for this bargaining round, as well as the extent of the parties’ efforts to reach a voluntary settlement.

3. Total Compensation (C591 – C627): The Carriers contend that the Board should approach the issue in this case as a question of total compensation (the combined value of wages and benefits). This submission explains that, before any increases are applied, the compensation of railroad employees substantially exceeds that of employees in comparable jobs. It also shows that the Carriers’ proposed increase to total compensation includes elements that are designed to provide fair value for the special increases obtained by UTU (entry rate lump sums and certification pay). Overall, the Carriers’ proposal will increase total compensation by more than 20 percent over the next six years, which is far more than comparable groups can expect to receive. It also shows that the aggregate difference between the Carriers’ proposal and the Unions’ proposal is more than $2.5 billion over the term of the agreements.

4. Wages (C628 – C652): In Submission No. 4, we show that the same conclusions with respect to total compensation apply to the wage component of the parties’ respective proposal. Thus, even if we view wages in isolation from other aspects of compensation, this aspect of the Carriers’ offer substantially exceeds applicable benchmarks, including the average of recent settlements in other unionized industries.

5. Health Care Plan Design Changes (C653 – C751): Health care is the crux of the dispute in this round of bargaining. We show that the changes to plan design proposed by the Carriers are necessary to bring the Carriers’ health care plans closer to the modern mainstream of plan design. Such changes will serve to discourage harmful and costly over-utilization of medical services, increase the use of efficacious generic drugs, and reflect and advance critical public policy goals of health reform legislation.

6. Work Rules (C752 – C823): There are no significant work rule changes in the UTU and Yardmaster agreements. The parties agreed instead to refer certain issues to voluntary discussions on a local basis. In this submission, we argue that the same result should be recommended here, especially because the Carriers have refrained from pursuing their own work rule demands.

7. Miscellaneous Compensation Issues (C824 – C850): Finally, in Submission No. 7, we explain why the Board should not recommend any of the additional (mostly craft-specific) compensation demands listed in the Coalitions’ October 4, 2011 Proposal. We show that there is no room in the pattern for such additional compensation increases, absent some *quid pro quo*, and that many of these issues were never even mentioned – much less fully discussed – across the table in national bargaining.
Carrier Exhibits

1. United Transportation Union Agreement (C1 – C46): This is the agreement that sets the pattern for this bargaining round.

2. Yardmasters Agreement (C47-C82): The Yardmaster agreement is also part of the pattern, and provides an example of how to translate the value of the certification pay received by some UTU members to a fair equivalent for other crafts, which are not subject to the same new certification requirements.

3. Report of Dr. Kevin Murphy (C83 – C130): Dr. Murphy is a labor economist. He offers a theory of compensation, grounded in modern economic principles, that provides an objective framework for assessing the issues in this case. In particular, Dr. Murphy explains that employee compensation is a function of market forces, not the profitability of particular companies or industries. He also notes some of the consequences of setting compensation too high, especially with respect to the negative impact on job growth.

4. Report of Dr. Charles Fay (C131 – C250): Dr. Fay compares current railroad employee compensation to the compensation of similar workers on a job-to-job and skill-set-to-skill-set basis. His analysis demonstrates that, by any measure, current railroad employee compensation exceeds compensation paid to similar workers, including other unionized workers.

5. Report of Dr. Robert Topel (C251 – C284): Dr. Topel’s report analyzes recent patterns of recruiting and retention in the railroad industry. He concludes that these behavioral patterns strongly support the idea that current compensation levels are more than adequate to recruit and retain railroad employees, and, in fact, indicate that such employees already enjoy a large premium in compensation relative to their peers in comparable jobs.

6. Report of Dr. David Evans (C285 – C341): Dr. Evans’ report is similar to the report of Dr. Fay, except that instead of benchmarking railroad employee compensation at the job level, he analyzes comparative compensation at the industry level. Thus, Dr. Evans demonstrates that current railroad compensation exceeds compensation in most other industries, including the rest of the transportation sector. He also shows that the rate of growth of railroad employee compensation has exceeded compensation growth of other workers, and that it will continue to do so under the Carriers’ proposal.

7. Report of Dr. Robert Gallamore & John Gray (C342 – C396): This report discusses the economics of the railroad industry. It demonstrates, in particular, that accounting for the railroads’ massive capital requirements are critical to any fair assessment of the industry’s finances. It also shows that, while the industry’s economic picture has improved, the railroads still do not consistently earn their cost of capital, and still face intense competition as well as various other risks. To assume that the railroads’ current profitability will continue indefinitely – or that railroads can afford to pay excessive labor costs without affecting their ability to invest and grow – is unwise.
8. Report of Dr. Kelly Eakin & Dr. Philip Schoech (C397 – C438): Drs. Eakin and Schoech respond to the Unions’ traditional argument regarding productivity trends and the relationship between productivity and labor. They show that while railroad productivity has increased substantially, that is largely a function of factors other than changes in labor skill or effort. They also show that the rate of productivity growth has slowed, and that most of the benefit of productivity growth has been passed on to the industry’s customers, meaning that it would not be appropriate to use productivity trends as a basis for increasing employee compensation.

9. Report of Dr. Joseph Newhouse (C439 – C497): Dr. Newhouse provides the first of two expert opinions with respect to the Carriers’ proposed changes in health care plan design. Referring to his seminal study on how cost sharing affects medical services, Dr. Newhouse offers two main conclusions. First, he explains that increased point-of-service cost-sharing helps to control over-utilization of medical services. Second, he notes that decreased use of medical services does not, on average, materially affect patient health among populations similar to railroad employees and dependents.

10. Report of Stuart Piltch (C498 – C529): The Carriers’ second expert report relating to health care plan design focuses on the proposed changes to prescription drug provisions. Mr. Piltch analyzes the proposed changes and concludes that they are well within the mainstream for modern plan design and likely to improve efficiency, quality, and adherence while still lowering costs for both the Plan and its participants.

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If you have any questions about these materials, we will be prepared to address them at the hearing beginning on October 13, 2011. We look forward to working with the Board and with counsel for the Coalition Unions.

Very truly yours,

/s/ Donald J. Munro

Donald J. Munro

cc: All counsel