

ARTICLE 56 - UNION SHOP AND DUES DEDUCTION

Section A - Union Shop Agreement

*USA eff.

3/1/53 Bkm

M/A eff.

7/1/73 Bkm

L/U dated

6/25/73 Cdr

L/U dated

4/27/73 Cdr

4/27/73 Nat. Agr. Cdr
(Art. II)

Revised

*ADOPTED HERE FOR
CONDUCTORS

(1) In accordance with and subject to the terms and conditions hereinafter set forth, all employees of the Carrier now or hereafter subject to the rules and working conditions agreements between the parties hereto, except as hereinafter provided, shall, as a condition of their continued employment subject to such agreements, become members of the Organization within 60 calendar days of the date they first performed compensated service as such employees after the effective date of this Section A, and thereafter shall maintain membership in the Organization; except that such membership shall not be required of any individual until he has performed compensated service on 30 days within a period of 12 consecutive calendar months. Nothing in this Section A shall alter, enlarge or otherwise change the coverage of the present or future rules and working conditions agreements.

(2) The requirements of membership provided for in Paragraph (1) of this Section A shall be satisfied if any employee shall hold or acquire membership in any one of the labor organizations, national in scope, organized in accordance with the Railway Labor Act and admitting to membership employees of a craft or class in train, yard, engine or hostling service that is, in any of the services or capacities, covered in Section 3, First, (h), of the Railway Labor Act, defining the jurisdictional scope of the First Division of the National Railroad Adjustment Board; provided, however, that nothing contained in this Section A shall prevent any employee from changing membership from one organization to another organization admitting to membership employees of a craft or class in any of the services above specified.

(3) (a) Employees who retain seniority under the rules and working conditions agreements governing their class or craft and who are regularly assigned or transferred to full time employment not covered by such agreements, or who, for a period of 30 days or more, are (1) furloughed on account of force reduction, or (2) on leave of absence, or (3) absent on account of sickness or disability, will not be required to maintain membership as provided in Paragraph (1) of this Section A so long as they remain in such other employment, or furloughed or absent as herein provided, but they may do so at their option. Should such employees return to any service covered by the said rules and working conditions agreements

(Article 56, Section A Cont'd)

Ditto

and continue therein 30 calendar days or more, irrespective of the number of days actually worked during that period, they shall, as a condition of their continued employment subject to such agreements, be required, within 35 calendar days from date of their return to such service, to comply with the provisions of Paragraphs (1) and (2) of this Section A.

(b) The seniority status and rights of employees furloughed to serve in the Armed Forces or granted leaves of absence to engage in studies under an educational aid program sponsored by the federal government or a state government for the benefit of ex-service men shall not be terminated by reason of any of the provisions of this Section A but such employees shall, upon resumption of employment, be considered as new employees for the purposes of applying this Section A.

(c) Employees who retain seniority under the rules and working conditions agreements governing their class or craft and who, for reasons other than those specified in Paragraphs (3)(a) and (b) above, are not in service covered by such agreements, or leave such service, will not be required to maintain membership as provided in Paragraphs (1) and (2) of this Section A so long as they are not in service covered by such agreements, but they may do so at their option. Should such employees return to any service covered by the said rules and working conditions agreements they shall, as a condition of their continued employment, be required, from the date of return to such service to take membership in one of the Organizations specified in Paragraphs (1) and (2) of this Section A.

(4) Nothing in this Section A shall require an employee to become or to remain a member of the Organization if such membership is not available to such employee upon the same terms and conditions as are generally applicable to any other member, or if the membership of such employee is denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this Section A, dues, fees, and assessments, shall be deemed to be "uniformly required" if they are required of all employees in the same status at the same time.

(5)(a) Each employee covered by the provisions of this Section A shall be considered by the Carrier to have met

(Article 56, Section A Cont'd)

Ditto

the requirements of this Section A unless and until the Carrier is advised to the contrary in writing by the Organization. The Organization will notify the Carrier in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, of any employee who it is alleged has failed to comply with the terms of this Section A and who the Organization therefore claims is not entitled to continue in employment subject to the rules and working conditions agreements. The form of notice to be used shall be agreed upon by the Carrier and the Organization and the form shall make provision for specifying the reasons for the allegation of non-compliance. Upon receipt of such notice, the Carrier will, within 10 calendar days of such receipt, so notify the employee concerned in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. Copy of such notice to the employee shall be given the Organization. An employee so notified who disputes the fact that he has failed to comply with the terms of this Section A, shall, within a period of 10 calendar days from the date of receipt of such notice, request the Carrier in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, to accord him a hearing. Upon receipt of such request the Carrier shall set a date for hearing which shall be held within 10 calendar days of the date of receipt of request therefor. Notice of the date set for hearing shall be promptly given the employee in writing with copy to the Organization, by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. A representative of the Organization shall attend and participate in the hearing. The receipt by the Carrier of a request for a hearing shall operate to stay action on the termination of employment until the hearing is held and the decision of the Carrier is rendered.

In the event the employee concerned does not request a hearing as provided herein, the Carrier shall proceed to terminate his seniority and employment under the rules and working conditions agreements not later than 30 calendar days from receipt of the above described notice from the Organization, unless the Carrier and the Organization agree otherwise in writing.

(b) The Carrier shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the terms of this Section A and

(Article 56, Section A Cont'd)

Ditto

shall render a decision within 20 calendar days from the date that the hearing is closed, and the employe and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

If the decision is that the employe has not complied with the terms of this Section A, his seniority and employment under the rules and working conditions agreements shall be terminated within 20 calendar days of the date of said decision except as hereinafter provided or unless the Carrier and the Organization agree otherwise in writing.

If the decision is not satisfactory to the employe or to the Organization it may be appealed in writing, by Registered or Certified Mail, Return Receipt Requested, directly to the highest Officer of the Carrier designated to handle appeals under this Section A. Such appeals must be received by such Officer within 10 calendar days of the date of the decision appealed from and shall operate to stay action on the termination of seniority and employment, until the decision on appeal is rendered. The Carrier shall promptly notify the other party in writing of any such appeal, by Registered or Certified Mail, Return Receipt Requested. The decision on such appeal shall be rendered within 20 calendar days of the date the notice of appeal is received, and the employe and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

If the decision on such appeal is that the employe has not complied with the terms of this Section A, his seniority and employment under the rules and working conditions agreements shall be terminated within 20 calendar days of the date of said decision unless selection of a neutral is requested as provided below, or unless the Carrier and the Organization agree otherwise in writing. The decision on appeal shall be final and binding unless within 10 calendar days from the date of the decision the Organization or the employe involved requests the selection of a neutral person to decide the dispute as provided in Paragraph (5)(c) below. Any request for selection of a neutral person as provided in Paragraph (5)(c) below shall operate to stay action on the termination of seniority and employment until not more than 10 calendar days from the date decision is rendered by the neutral person.

(c) If within 10 calendar days after the date of a decision on appeal by the highest Officer of the Carrier designated to handle appeals under this Section A the

(Article 56, Section A Cont'd)

Ditto

Organization of the employe involved requests such highest Officer in writing by Registered or Certified Mail, Return Receipt Requested, that a neutral be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide the dispute shall be selected by the highest Officer of the Carrier designated to handle appeals under this Section A or his designated representative, the Chief Executive of the Organization or his designated representative, and the employe involved or his representative. If they are unable to agree upon the selection of a neutral person any one of them may request the Chairman of the National Mediation Board in writing to appoint such neutral. The Carrier, the Organization and the employe involved shall have the right to appear and present evidence at a hearing before such neutral arbitrator. Any decision of such neutral arbitrator shall be made within 30 calendar days from date of receipt of the request for his appointment and shall be final and binding upon the parties. The Carrier, the employe, and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested. If the position of the employe is sustained, the fees, salary and expenses of the neutral arbitrator shall be borne in equal shares by the Carrier and the Organization; if the employe's position is not sustained, such fees, salary and expenses shall be borne in equal shares by the Carrier, the Organization, and the employe.

(d) It is understood that if an employe produces evidence to an officer or duly authorized member of the General Committee of the Organization that he is a member in any one of the labor organizations as specified in Paragraph (2) of this Section A that will satisfy this Section A and no notice will be served by the Organization on the Carrier to have employe removed from service. Employe will be required to produce such evidence on demand of an officer or duly authorized member of the General Committee of the Organization, but will not be required to produce such evidence more than once in a calendar month. If employe fails or refuses to produce such evidence, he may be cited to the Carrier by the Organization as not complying with this Section A.

(e) The time periods specified in this Paragraph (5) may be extended in individual cases by written agreement between the Carrier and the Organization.

(Article 56, Section A Cont'd)

Ditto

(f) Provisions of investigation and discipline rules contained in the rules and working conditions agreements between the Carrier and the Organization will not apply to cases arising under this Section A.

(g) The General Chairman of the Organization shall notify the Carrier in writing of the title(s) and address(es) of its representatives who are authorized to serve and receive the notices described in this Section A. The Carrier shall notify the General Chairman of the Organization in writing of the title(s) and address(es) of its representatives who are authorized to receive and serve the notices described in this Section A.

(h) In computing the time periods specified in this Section A, the date on which a notice is received or decision rendered shall not be counted.

(6) Other provisions of this Section A to the contrary notwithstanding, the Carrier shall not be required to terminate the employment of an employee until such time as a qualified replacement is available. The Carrier may not, however, retain such employee in service under the provisions of this Paragraph (6) for a period in excess of 60 calendar days from the date of the last decision rendered under the provisions of Paragraph (5), or 90 calendar days from date of receipt of notice from the Organization in cases where the employee does not request a hearing. The employee whose employment is extended under the provisions of this Paragraph (6) shall not, during such extension, retain or acquire any seniority rights. The position will be advertised as vacant under the bulletining rules of the agreement but the employee may remain on the position he held at the time of the last decision, or at the date of receipt of notice where no hearing is requested pending the assignment of the successful applicant, unless displaced or unless the position is abolished or annulled. The above periods may be extended by agreement between the Carrier and the Organization.

(7) An employee whose seniority and employment under the rules and working conditions agreements is terminated pursuant to the provisions of this Section A or whose employment is extended under Paragraph (6) shall have no time or money claims by reason thereof.

If the final determination under Paragraph (5) of this Section A is that an employee's seniority and employment

(Article 56, Section A Cont'd)

Ditto

in a craft or class shall be terminated, no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, misapplication or non-compliance with any part of this Section A shall arise or accrue during the period up to the expiration of the 60 or 90 day periods specified in Paragraph (6), or while such determination may be stayed by a court, or while a discharged employee may be restored to service pursuant to judicial determination. During such periods, no provision of any other agreement between the parties hereto shall be used as the basis for a grievance or time or money claim by or on behalf of any employee against the Carrier predicated upon any action taken by the Carrier in applying or complying with this Section A or upon an alleged violation, misapplication or non-compliance with any provision of this Section A. If the final determination under Paragraph (5) of this Section A is that an employee's employment and seniority shall not be terminated, his continuance in service shall give rise to no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, misapplication or non-compliance with any part of this Section A.

(8) In the event that seniority and employment under the rules and working conditions agreements is terminated by the Carrier under the provisions of this Section A and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the Organization shall indemnify and save harmless the Carrier against any and all liability arising as the result of such improper, unlawful, or unenforceable termination of seniority and employment; provided, however, that this paragraph shall not apply to any case in which the Carrier involved is the plaintiff or the moving party in the action in which the aforesaid determination is made or in which case the Carrier acts in collusion with any employee; provided further, that the aforementioned liability shall not extend to the expense to the Carrier in defending suits by employees whose seniority and employment are terminated by the Carrier under the provisions of this Section A.

(9) This Section A shall not apply to employees who are subject to the provisions of agreement governing rates of pay, hours of service, and working conditions between the parties hereto, applicable to Dining Car Stewards and Assistant Dining Car Stewards.

(Article 56, Section A Cont'd)

Ditto

(10) An employe whose employment is terminated as a result of non-compliance with the provisions of this Section A shall be regarded as having terminated his employe relationship for vacation purposes.

Understanding:

It is agreed that in the application of the Union Shop Agreement effective March 1, 1953, that any employe in service on the date of that agreement who is not a member of an organization as provided in Section A, Paragraph (2) of the Union Shop Agreement and who will make affidavit he was a member of a bona fide and recognized religious group, on the date of that agreement, having scruples against joining an organization, will, if he would otherwise be required to join an organization under the Union Shop Agreement, be deemed to have met the requirements of the Union Shop Agreement if he agrees to and does pay initiation fees, periodic dues and assessments to one of the organizations as specified in Section A, Paragraph (2) of the Union Shop Agreement.

Section B - Dues Deduction

(Effective August 1, 1955)

Indicated

(1) (a) Subject to the terms and conditions of this Section B, the Carrier shall periodically deduct and withhold from the wages of the employes subject to this Section B, who acquire and maintain membership in the Organization, amounts equal to the monthly membership dues initiation fees, assessments and insurance premiums (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Organization and shall pay the amount so deducted and withheld to the designated Treasurer of the various Locals of the Organization; provided, however, that this requirement shall not be effective with respect to any individual employe until the Carrier shall have been furnished with a written wage assignment authorization to the Organization of such membership dues, initiation fees, assessments and insurance premiums, which wage assignment authorization shall be revocable in writing after the expiration of one year from the date of its execution, or upon the termination of this Section B, or upon the termination of the rules and working conditions agreement between the parties hereto applicable to employes in train and yard service, whichever occurs sooner.

(Article 56, Section B Cont'd)

Ditto

(b) Both the wage assignment authorization and the revocation of the wage assignment authorization forms shall be subject to approval by the Carrier.

(c) The Organization shall assume full responsibility for the procurement and execution of the wage assignment authorization revocation and for delivery of such forms to the Assistant Controller-Disbursements of the Carrier.

(2) (a) The Treasurer of each Local of the Organization shall furnish to the Assistant Controller-Disbursements of the Carrier, not later than the first of each month, a certified statement in duplicate showing the name, the payroll account number, the division on which employed, and the gross amount of any assessment to be deducted from the wage of each member who has signed a wage assignment form and which form has been filed with the Carrier.

(b) The deductions will be made from the wages earned in train or yard service in the first pay period of the month only. Employee deduction authorization must be in the Office of Assistant Controller-Disbursements of the Carrier not later than the first of the month in which deductions are to be made. The following payroll deductions will have priority over deductions in favor of the Organization, as provided for in this Section B:

(i) Federal, state and municipal taxes and other deductions required by law, including garnishments and attachments.

(ii) Amounts due the Carrier.

(iii) Amounts due in payment for meal books and amounts due on watch and board and lodging deduction orders.

(iv) Insurance and hospitalization premiums other than insurance premiums referred to in this Section B.

(c) If the earnings of an employee are insufficient to remit the full amount of deduction for such employee, no deduction shall be made, and the same will not be accumulated and deducted in subsequent months.

(Article 56, Section B Cont'd)

Ditto

(d) No deductions will be made from other than the regular payrolls.

(3) This Section B shall cease to apply to any employee who may be adjudicated bankrupt or insolvent under any federal or state laws, and any wage assignment authorization given hereunder shall become void.

Deleted 1st sentence
per M/A eff. 7/1/73

(4) The Carrier will make such remittance on or before the end of the month succeeding that in which deductions are made. The Carrier will, at the time of such remittance, furnish the Treasurer of each Local with a list of the employees from whom deductions were made showing the amount of such deductions. One copy of this statement only to be furnished the Organization.

(5) Responsibility of Carrier under this Section B shall be limited to remitting to the Organization amounts actually deducted from wages of the employees pursuant to this Section B, and the Carrier shall not be responsible to any employee for making deduction specified on a deduction list or for failure to do so. Any question arising as to the correctness of the amount listed and deducted shall be handled between the employee involved and the Organization, and any complaints against the Carrier in connection therewith shall be handled by the Organization on behalf of the employee concerned. The dues deduction amounts may not be changed more often than once every 3 months.

Added sentence per
M/A eff. 7/1/73

(6) Assistant Controller-Disbursements of the Carrier shall be furnished a list showing all Locals, and the name, address and title of Organization Local Officers to whom deductions made pursuant to this Agreement are to be forwarded. The Organization will also advise the Assistant Controller-Disbursements of the Carrier of any changes in names, addresses and titles of Organization Officers to whom deductions are to be forwarded, such original list and advice of any changes on or before the first day of the month in which deductions are to be made.

(7) No part of this Section B or any other Agreement between the Carrier and the Organization shall be used either directly or indirectly as a basis for any grievance or claim by or on behalf of any employee

(Article 56, Section B. Cont'd)

Ditto

predicated upon any violation of, or misapplication or non-compliance with, any part of this Section B.

(8) The Organization shall indemnify, defend and save harmless the Carrier from any and all claims, demands, liability, losses or damage resulting from the execution of, or compliance with the provisions of this Section B.