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# EL PASO EXPRESS

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## The POWER of ONE!

WELCOME! You have accessed the latest edition of the El Paso Express, either by use of the above internet address, or you have received a copy in the mail, or personally at the New Orleans Regional Meeting.

The United Transportation Union has clearly established itself as the premier rail labor union in the world with the recent "hugh" margin of victory over the "Best Agreement in 30 Years"! They have harnessed technology with their RCO Agreement and Protection, changed our old antiquated Job Benefit to be more responsive to the needs of the hierarchy, and have provided such innovative leadership that its 135,000 members are united as never before! An A-Card vote is imminent on the KCS and thereafter on every Class I wherein the Power of One will prevail. Let there be no mistake about it, UTU is the "ONLY" proactive rail union that can deliver with the regularity we have seen since October 1995 when Charles Little and Byron Boyd took over the reins of the UTU. The integrity of this Administration is questioned by none and their record of accomplishments is the envy of all rail labor!

As a smile came over my face just knowing that trip rates guarantee what every member is going to get each day they go to work, I was rudely awakened by the wet tongue of "Whiskers", my faithful cat! Talk about a nice dream wherein this irreverent dissident was finally happy with the UTU hierarchy and their "accomplishments", the reality of the situation began to set in. No doubt this latest agreement has some Rail CEO's and Government Officials experiencing some -

## JOY?

While I wasn't much of a scholar, I was always an athlete; my main game our "national pasttime", baseball, i.e., I started at about 7 years of

age and did the whole gambit! The whole gambit means little league, high school, college, and semi-pro ball; then on to "fast pitch" softball and finally "slow pitch" softball (kinda like going from birth to death wherein at the final stage, you not only can't play anymore but someone else has to help you go to the bathroom?!)

During this process, I can never forget "Casey at the Bat", i.e., poetry that I always assumed every high schooler had to read just like every college kid had to read "Catcher in the Rye"? Significant was the line "There is no joy in Mudville, Mighty Casey has struck out" (or something like that? Hell - I'm not going to do any internet research like I had to do with Robert Service and the "**shooting of Dan McGrew**" - click here if on web page).

Suffice to say while there probably is resounding joy in "Cleveland" over the alleged "overwhelming" passage of this non-agreement, 70% of the membership have spoken in plain terms - I cannot or will not vote for this agreement! The "theory" that everyone that didn't vote supported the agreement is as viable as 21% outvoting 7% is a "hugh majority" ! One would hope the UTU, based upon this voter turnout, will give up their "scam" that there should be an "A Card" Vote on the KCS, obviously leading to "decertification" of both unions!

Not to worry, no vote will ever happen and of course it has nothing to do with whether BLE and IBT merge! The UP panel decision is "solid" from three (3) respected neutrals and it will not be overturned in favor of UTU's specious averment that all Class I's need to be treated the same as short lines! (YO - Monty - I give you a better chance of making "precedent" that a District Judge has no jurisdiction pursuant to 45 U.S. C. §§ 153(q) than

getting a vote on the KCS!)! Opps, I forgot that you already won that one in District Court? Now cite your victory the next time out and see if any federal judge will give up his authority as easily as "Petie" did? Please note that it is not expected that normal union members other than designated legal counsel (they still do have to be a union member of a local?), high ranking union officers, and Special Reps will understand this comment!

While there may be "JOY" in Cleveland (both UTU and BLE hierarchy), there is no joy throughout the land as concerns the UTU and BLE membership who still rightfully fear any agreement that allows everything to be determined at a "later date" and all subject to "binding arbitration"!

The "TRUTH" is rather simple at this stage for the "drones", i.e. workers - we have an agreement which was passed by a small minority and we have no way of knowing how it will impact us other than our hierarchy says "it's the best agreement in 30 years"? The question in every workers mind is will you prove that statement correct before you ask us to re-elect you in Miami in August next year? Inquiring Minds Want to Know?\*

\*Note: this article appeared on the web page on August 10<sup>th</sup>.

## **Where's the LM-2 for 2001?**

Seems the UTU has either obtained several extensions or is simply willing to pay big fines in order to keep the 2001 LM-2 report from the membership until after the vote on the "Trick Rate" Agreement and after the last Regional Meeting in New Orleans in August. Ah . . . , can't have another embarrassment like Greensboro where all the Special Reps pay and accurate figures from the LM-2 didn't quite jive with the "averments" of our esteemed President relative to our "strong and stable" financial position (haha)! Obviously, things haven't changed therefore no report will be available to the membership until after the vote and final meeting. Danny boy - stop signing those articles Frank writes for you and come to Cleveland for a day and sign the LM-2; we can't get it before New Orleans now no matter what (Recent release from EPE Web page).

While the Washington, DC Regional Meeting Speech from "little sac-bb" was probably the worst I've ever read, at least this Union doesn't tell the

"big lie" anymore that the UTU is strong and stable! The last GS&T report I saw for March of 2002 indicated the "Funds in Trust" still exceeded all funds by some 4 or 5 Million? Hard to say what the payout was to eradicate the old "ISP - Income Security Protection" in favor of the new and improved "JBI - Job Benefit Protection" but the purpose was evident - to circumvent the DOL decision that the ISP was covered by ERISA. While our hierarchy can't live within their means even with the \$5 "WAR CHEST", they have now devised a "new" argument that will allow them to siphon money from JBI until they are challenged! I personally don't think it will take much longer before this and their "double dipping" come to light before an appropriate agency of the Government. Obviously, given their "promise" written in stone in Miami, even a \$2 dues increase is political disaster; making "reorganization" of Job Benefit the only viable option. Ah . . . , you didn't expect them to stop double dipping, did you - they have to socialize!

Here's what I wanted to present as the Reno Edition of the Express except I just didn't have the time to mess with it back then. Remember, this was written before the current agreement was put out for ratification.

## **Does "U're" Puppy Stink?**

(From our favorite Guest Columnist - Mr. Robert A. Cushing, Jr.)

My good friend Lance asked for my input on the most recently revealed "National Agreement" by the leadership of the UTU in Cleveland.

Initially, having been retired for in excess of four years, much of the ongoing disputes have an air of "full of sound and fury, signifying nothing". Railroads and their employees are part of the backbone of the American economy, the railroads have a deep seated history of being somewhat ruthless in their dealings with employees and the public in general, so to have dissent regarding a "National Agreement" is somewhat "de ja vous", sorta like the "cost of doing business". When one lays down with dogs, chances are you will get up with fleas.

Having talked with Lance and going over the "agreement", it struck me that it wasn't really an

agreement, in the traditional sense of the word, but moreover, an agreement in principle to develop a direction for the movement of what is left of rail labor.

I find it quite stimulating that, as ever, the Union professes that this is a great agreement, but what is the comparison? Talk is cheap, and the cheaper the talker, the cheaper the talk.

Let's look at one very telling part of this so-called National Agreement. Basically little to anything concerning the "wage and rule" movement has been settled, in its stead, it is yet to be resolved in "arbitration". To listen to the Union leadership, we would rather "negotiate than arbitrate", however, when it comes to the membership rates of pay and working conditions, there has been "negotiation" which leads to "arbitration".

As Lance and I are well aware from the Smoot case, it is somewhat questionable as to the professed "fear" of the input of a disinterested third party on the part of the Union hierarchy, when it is clear that they have a proven track record of achieving the desired result in any "arbitration" proceeding. Remember, the desired result may not be desirable to the membership.

It is interesting to note that as the rhetoric concerning the agreement rises to a fevered pitch, the Union leadership pulls out the famous, ". . . rail workers are the highest paid." This is undoubtedly a true statement, but is it true because of the excellent work that has been done by the negotiators, or is it somewhat axiomatic that those who are the most productive should by nature be the highest compensated.

First look at what a railroad does, it merely moves freight from Point A to Point B. Not really complex, but highly lucrative. Next get a copy of the stockholders reports from any railroad and look at the "ton miles" handled by each operating employee. Then get the same stockholders report from five or ten years ago. You will be shocked, there are less operating employees, hauling more freight, and based on the stockholders reports you are actually underpaid.

Then look at the total employees on the railroad, and make a comparison with the previous

stockholders report. Ton miles hauled has increased, operating employees have decreased, however, the total number of employees has increased. Sure looks like advances in electronics have caused more management types to come to the trough, but the question is "what do they really do"?

Did your negotiators look into this, employ the best consultants, and create a negotiating argument that would put egg all over the face of the railroads, did they address the safety of the employees and the public, or did they spend their money on self-serving interests? Double pay on the per diem for International officers, unlimited monies for the paid puppets, the general counsel crafting specious legal "theories", and a Board of Directors who doesn't even mandate that officers report for work consistent with the Constitution, are what they feel is necessary.

Ego and ignorance oft times go hand in hand, with respect to the UTU, ego rules Cleveland, ignorance is a by product of the culture that allows these egos to remain unchecked and bring "National Agreements" that do not really serve the interests of the membership.

Should the membership blame the ruling cartel in Cleveland, I think not. Cause always remember brothers and sisters, you put them there, and it was the dues monies that you pay that allows them to continue to lead you in uniform manner to the slaughter.

Another interesting aspect of this "National Agreement" has to do with the ongoing battle to decide who will represent what is left of the operating employees. Honestly, who cares! Should you fight to maintain your present Union who will sell out you and the other side, or should you jump ship and run with the opposition who will sell you out to save the other side?

The problems did not come up overnight, it all started many years ago, and the 1985 National Agreement is finally coming full circle. The pre-85's who were the ruling elite are now the aging minority, and the post 85's who were the "newby" minority are now the youthful majority. Question is, how come the post-85's don't have a representative voice in Cleveland?

I think the appropriate word is “apathy”, and your Banana Republic dictatorship is running at breakneck speed to solidify the ultimate oxymoron, i.e a single craft of train and engine service employees. One craft, with two separate and distinct classes of employees.

And hey, look at the bright side, it is not if, it is when this dream comes to fruition, you as a member may not have a job, but rest assured that the elected leadership shall have more than adequate job protection. Remember, you didn’t let the other side win, reminiscent of cutting you nose off to spite your face.

Ostensibly, most if not all of the membership have at some point in life owned a pet, like a dog, and when that little puppy comes home for the first time, it is probably the cutest and sweetest thing one has ever seen. Then the reality sets in, the puppy “shits” on the floor. To ensure that you don’t have “shit” in your house, you have two paths, first rub its nose in the “shit”, or in the alternative, contract with a steam cleaning carpet service to ensure that you at least don’t see the “shit” in your house, and hope for the best.

You now have allowed your elected “puppies” to “shit” a worthless National Agreement in your house, question is, are you going to rub their collective noses in it, or are you going to just hope for the best, and let the “special reps” attempt to sanitize it?

Just like a “puppy”, these boys will continue to “shit” in your house until each and every member decides that enough is enough, and work as a cohesive team to send them on their merry way, and hopefully put some sense of dignity back into your lives.

Remember, no matter what you say, the National Agreement is a fact of life, a pile of “shit” that must be cleaned up, but it cannot be removed. The trick is to make sure that it doesn’t happen again. The membership hasn’t, in my years on the railroad, shown a proven track record for correcting the problems of the “kennel class”, instead, the membership rewards them by being apathetic.

RAC, Jr.

**Thanks Bob** - an excellent article as always! Your check is in the mail but don’t hold your breath! Bob’s health remains fairly steady and he serves as a Commissioner on the Civil Service Commission of the City of El Paso. That body use to be like the UTU Board of Appeals, i.e., a rubber stamp for the union hierarchy (city personnel management and attorneys) but has now become a venue wherein aggrieved City Employees can get a full and fair hearing of their complaints/appeals! No slight intended upon my friends who still serve on the Board of Appeals but SURELY even they now realize that any decision for a member against a GC or the International can’t be enforced (and probably won’t be)! Bob still represents the downtrodden in our society and I recently assisted him before an Administrative Law Judge in an Amtrak employees denial of a disability! There is no doubt in my mind he will prevail and not even Sac-C or “little sac-bb” could throw enough weight around to change the result. By the way, it appears the RRB (or whomever was behind it?) has given up attempting to force Bob into a full (permanent) disability for psychiatric reasons in order to be able to “question” his expert credentials when he testifies in FELA cases! I always thought this was hilarious because I could never envision a “psychiatrist” being smarter than Bob wherein he could make such a determination unless Bob wanted it! And, of course, unlike the senior “poofall”, Bob only represents employees - he never “scabs” for the Carriers!

## Questions and Answers?

Q: What did Smoot give Assistant President Boyd at the 1997 Atlanta Region Meeting that “appeared” to be the Executive Session Transcript?

A: The Atlanta Edition of the El Paso Express!

Q: Why do you feel this is so significant?

A: Despite knowing Smoot didn’t give the Ex. S. T. to AP Boyd, President Boyd had his outside attorneys seek \$100 G’s in punitive damages against Smoot anyway, i.e., spending union member’s money to aver a known lie, to prosecute and persecute a former member, and insure the corrupt “arbitration” system prevalent in the Railroad Industry!

Q: The same system that could determine our Health and Welfare costs and our trip rates if the NCCC and Union Hierarchy don't "mutually agree"?

A: YES!

Q: Do you have a copy of the Executive Session Transcript on your web site?

A: YES!

Q: Is it your opinion that any member of the UTU, other than you and Smoot, has no right to ever read this pursuant to the "Settlement Agreement and Release"?

A: YES!

Q: Is it your opinion that this National agreement is a disaster for all rail operating employees?

A: YES!

## **Smoot Update**

Ken's "second bite of the apple" is deadlocked at the First Division and should be heard within the next year? I guess VP Wigent would like to get re-elected and was smart enough not to agree with the Carrier's position (not entitled) behind closed doors like VP Earley!

Ken is in bankruptcy and still has \$39,000 frozen in an account which is what is left of his "FELA" Settlement! Such injury settlements used to be exempt from creditor process but UTU and CSXT have made a mockery of previous legal precedent in this area and under 45 U.S.C. § 153(q) to the detriment of all rail and/or injured workers! Congratulations - and it only cost us members about a half million dollars to support the corrupt arbitration process instead of the member and the "final and binding" Board of Appeals decision! Ken's malpractice suit against Merritt Green for selling him out in Court much as Earley did at the PLB (behind closed doors in the Judge's Chambers) sits idle as the Trustee doesn't want to win hundred's of thousands of dollars for the estate if it could interfere with the specious judgments of UTU and CSXT.

## **Win a Free Express Shirt?**

While "U" can always get an "Express Yourself" shirt for a donation of \$25, you can now

win a free shirt just by making a "lucky guess"? As the LM-2 for 2001 has yet to be released, just guess the amount of total days "little sac-bb", "shame on you", and "Mr. Reality" spent in Seattle, Shawnee Mission, and Tucson respectively, sleeping in their own bed and collecting \$113 a day "per diem" for being away from the International Headquarters?

Another free shirt for the closest guess on how many total days the "terrific trio" spent in Cleveland last year based upon their own reports? Any member guessing more than 180 days total for all three will be recommended for a medical evaluation!

## **APATHY?**

If the membership shows the same apathy in the upcoming "delegate" elections that they exhibited in the National Agreement vote, Miami will be a coronation for TEAM "little sac-bb" and they can siphon the rest of the JBI money over the next five years as they put UTU into receivership and/or out of business altogether.

Two things to realize: First - there will never be any "winner take all vote" on any Class I; second, no engineer is going to be put out of a job by RCO since all have ground service seniority. The alleged protection is minimal anyway since the Carrier will be able to "buy out the protection" from employees over 58 years of age very cheaply.

Many of you are going to get first hand knowledge over the next few years of how this agreement is going to adversely effect each of you, no matter what your seniority. Safety and Quality of life are going to continue to be "buzzwords" for the UTU Company Union® with no improvement of either over the life of this agreement.

While the UTU Hierarchy, special reps, and loyal GCA/SLD officers continue to avoid the "Smoot Debacle" as if it never happened or was just some "isolated incident", the matter was the defining statement of the Little/Boyd Regime. That statement is that they have no character, no integrity, and can't distinguish right from wrong!

When, not "IF", this becomes evident to the working members pursuant to the recently ratified Agreement, no one will be able to argue that we just didn't know!





