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February 4, 2010

The Honorable John L. Mica  
Ranking Republican Member  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Bill Shuster  
Ranking Republican Member  
Subcommittee on Railroads, Pipelines, and Hazardous Materials  
Committee on Transportation and Infrastructure  
House of Representatives

*Subject: Use of the Railroad Retirement Board Occupational Disability Program across the Rail Industry*

We recently reported that Long Island Rail Road (LIRR) workers applied for U.S. Railroad Retirement Board (RRB) occupational disability benefits at a rate 12 times higher than workers from the other commuter railroads covered under the Railroad Retirement Act.<sup>1</sup> RRB provides an occupational disability benefit to eligible workers whose physical or mental impairments prevent them from performing their specific railroad jobs. For example, a railroad engineer who cannot frequently climb, bend, or reach, as required by the job, may be found occupationally disabled.

On March 18, 2009, you asked us to conduct a systematic review of RRB's occupational disability program. Per our discussions following the release of our September 2009 report on LIRR and commuter rail workers' experience with the program, you refined your request. You told us that your primary interest was quickly determining whether unusual patterns in claims like those exhibited at LIRR exist elsewhere across the rail industry, including class I, II, and III railroads.<sup>2</sup> This letter formally conveys the information we provided during a briefing with you and your staff on December 2, 2009. In summary, we found that no other

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<sup>1</sup>GAO, *Railroad Retirement Board: Review of Commuter Railroad Occupational Disability Claims Reveals Potential Program Vulnerabilities*, [GAO-09-821R](#) (Washington, D.C.: Sept. 9, 2009).

<sup>2</sup>We classified railroads in accordance with RRB's 2007 Actuary Consolidations, which RRB officials report is generally based on Surface Transportation Board (STB) classifications. The STB classifies railroads as class I, II, and III based on operating revenues. Most of the eligible rail workers were employed by class I railroads in the years we reviewed. LIRR and the other seven commuter railroads are included in class III. We also analyzed other employers—such as car loan companies and rail labor unions—covered under the Railroad Retirement Act.

rail employers in our analysis had the consistently high rates of occupational disability awards that existed at LIRR from calendar years 2004 to 2007, the most current data available at the time of our review.

To perform this work we calculated occupational disability rates using RRB occupational disability award and rail employment data. Specifically, for each rail employer we analyzed RRB awards to rail workers relative to the total number of eligible workers—those who satisfied RRB occupational disability age and service requirements—for calendar years 2004 to 2007.<sup>3</sup> We also reviewed occupational disability award data for calendar year 2008, but employment data for this year were not available from RRB at the time we performed our work. We assessed the reliability of RRB’s data by interviewing knowledgeable agency officials and electronically testing the data to identify obvious problems with completeness or accuracy. While we determined that the data were sufficiently reliable for the purposes of this briefing, our data analysis had one key limitation. RRB does not have data readily available on the number of applications it denied by railroad, so our analysis assumed that approval rates were consistent across railroads. We believe this is a reasonable assumption given the consistently high approval rates—on average about 98 percent—reported by the RRB.<sup>4</sup> In addition, our prior analyses of claims from the commuter rail industry showed that while LIRR workers in fiscal year 2007 applied for occupational disability benefits at a rate 12 times higher than the other commuter rail workers, all commuter rail workers were approved at the same rate of nearly 100 percent.

We conducted this performance audit from August 2009 to February 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In our analysis, we found that no other rail employers had the consistently high rates of occupational disability awards, relative to the number of eligible workers, that existed at LIRR. A small number of employers exhibited high rates in one or more years, but LIRR was the only consistent outlier across the rail industry for each year from 2004 to 2007 in terms of workers’ use of RRB’s occupational disability program.<sup>5</sup> For example, in 2006, LIRR had

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<sup>3</sup>Railroad workers are eligible to apply for occupational disability at age 60 if they have 10 years of service, or at any age if they have at least 20 years of service. We analyzed data for calendar years 2004 through 2007, because 2004 was the earliest year that RRB had complete data on rail employees’ ages and years of service. Further, our analysis only included employers with at least one occupational disability annuitant and 50 or more eligible workers during the time period we analyzed.

<sup>4</sup>RRB produces a monthly report showing the percentage of all claims decided that month that were approved and denied, but this report does not disaggregate claims by railroad. For calendar years 2007 and 2008, we found that the average approval rate was 98.4 percent.

<sup>5</sup>We defined a high occupational disability rate as two standard deviations or more above the average. We considered employers with occupational disability rates three or more standard deviations above average as outliers. From calendar years 2004 to 2007, only one employer other than LIRR qualified as a statistical outlier in one year only (2006). LIRR was the only employer that qualified as a statistical outlier each year of our analysis. Beyond identifying these patterns in occupational disability awards, we did not conduct additional audit work to determine why certain employers’ occupational disability rates exceeded the industry-wide average during our period of analysis.

an occupational disability rate of 17.1 percent compared to the industry-wide average of 3.7 percent. While LIRR workers did receive fewer occupational disability awards in calendar year 2008 than 2007, they still received twice as many awards as workers from the other seven commuter railroads combined.

As we previously reported, RRB did not detect the unusual patterns in LIRR workers' occupational disability claims. The data we used for our analyses are readily available to RRB. The agency could have used these data to identify such patterns as part of its routine monitoring and oversight of the occupational disability program. Recently, RRB initiated efforts to create a new position responsible for collecting, developing, and analyzing relevant data to assist in the management and oversight of the occupational disability program. As a result of these actions, we are making no recommendations at this time.

We provided a copy of this report to the Chairman, Labor Member, and Management Member of the Railroad Retirement Board for review and comment. The agency had no comments on our report.

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We understand that the briefing on December 2, 2009, and this letter complete our review in response to your request. As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Chairman, Labor Member, and Management Member of the Railroad Retirement Board; relevant congressional committees; and other interested parties. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or [bertonid@gao.gov](mailto:bertonid@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report include Jeremy Cox, Arthur Merriam, Rachael Valliere, Jacob Beier, Carl Barden, James Bennett, Nora Boretti, Jessica Botsford, Joanna Chan, Virginia Chanley, Gloria Hernandezsaunders, Jessica Orr, Linda Siegel, and Gregory Wilmoth.



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