

Mac A. Fleming
President



Freddie N. Simpson
Secretary-Treasurer

Brotherhood of Maintenance of Way Employes
Affiliated with the A.F.L.-C.I.O. and C.L.C.

July 8, 2003

via hand delivery

Benetta M. Mansfield, Chief of Staff
National Mediation Board
1301 K Street, N.W., Suite 250 East
Washington, D C. 20572

Re: Mediation Case No A-13080 (BMWE and Amtrak)

Dear Ms. Mansfield:

The Brotherhood of Maintenance of Way Employes ("BMWE") and the National Railroad Passenger Corporation ("Amtrak") have been unable to reach an amicable settlement of BMWE's Section 6 Notice of November 1, 1999 and Amtrak's Section 6 Notice of June 12, 2000. Accordingly, the BMWE respectfully requests the Board to seek to induce the parties to submit their controversy to arbitration as provided in Section 5 First (b) of the Railway Labor Act. It is very clear to us that additional bargaining with Amtrak, with or without the Board's assistance, will not result in a voluntary settlement of this controversy.

BMWE administers two contracts with Amtrak governing the rates of pay, rules and working conditions applicable to its maintenance of way employees. One agreement applies to Amtrak's Northeast Corridor operations, the other to the rest of Amtrak's operations nationwide. Both of these agreement were amendable effective January 1, 2000. BMWE promptly served Section 6 Notices to amend these agreements on November 1, 1999, to become effective January 1, 2000. Amtrak's response was dilatory from the start, as it did not serve Section 6 Notices on BMWE until June 12, 2000, over two months after the Board assumed jurisdiction of this controversy. Since April 7, 2000, the parties have engaged in mediated bargaining on 19 different occasions.¹

¹The parties met in mediation on May 12, 2000 June 13 and 14, 2000, June 27, 2000, August 22 and 23, 2000, September 12 and 13, 2000, June 4 and 5, 2001, July 10 and 11, 2001, August 27 and 28, 2001, April 10 and 11, 2003, May 2, 2003 and July 2, 2003 Over our strenuous objections the NMB suspended mediation from August 2001 until April 2003

President's Dept.
FAX 248-948-7150

26555 Evergreen Road, Suite 200
Southfield, MI 48076-4225
Telephone 248-948-1010

Secretary-Treasurer's Dept.
FAX 248-948-9140

BMW presented Amtrak with a series of proposals for settlement on August 22, 2000, August 27, 2001 and July 2, 2003. Each proposal represented a reduction of issues and demands. Our last and final proposal presented on July 2, 2003, was patterned on the May 31, 2001 BMW National Freight Agreement with the National Carriers' Conference Committee ("NCCC").² The BMW-NCCC Agreement features modest wage increases, meaningful employee contributions to health insurance coverage and no work rules changes whatsoever. That Agreement was used as a template for the arbitrated settlement of the NCCC-Transportation Communications International Union ("TCU") dispute by Arbitrator Robert O. Harris earlier this year and our Agreement and its companion, the Harris Award, were adopted by the Brotherhood of Railroad Signalmen ("BRS") and the NCCC in their tentative agreement signed last week. In other words, our July 2, 2003 proposal was based solidly on the "pattern" established between the various rail labor organizations and the other Class I carriers.³ Our July 2, 2003 proposal was rejected out of hand by Amtrak. Amtrak's response must be contrasted with developments in the Boston, Massachusetts area on territory formerly operated by Amtrak. On July 1, 2003, Amtrak was replaced as operator of the commuter rail operations in Boston by the Massachusetts Bay Commuter Rail Corporation ("MBCR"). As part of that transition, MBCR made agreements with all the involved unions, including the BMW, that provided wage increases of 20% over a five year term (including an immediate 5% pay increase coupled with a \$1000 per person signing bonus), no employee contributions to health insurance and adoption of the Amtrak work rules with no changes. It is evident from the foregoing that our last proposal was firmly within the "mainstream" of recent contract settlements in the railroad industry.

Amtrak presented an initial proposal for settlement on August 27, 2001 which was substantially modified through the addition of a plethora of work rule demands presented on April 10, 2003. At the July 2, 2003 meeting, Amtrak further amended the proposal to indicate that the wage package now consisted of the following elements:⁴

1. no retroactive wage increases whatsoever,
2. a roll in of only \$0.25/ hour of the so-called "Harris COLA" to basic wage rates effective June 30, 2002, (the current Harris COLA payment is \$0.75/hour);
3. a 2% general wage increase on the effective date of the agreement, and
4. a 2% general wage increase, effective July 1, 2004.

²A copy of our July 2, 2003 proposal is Attachment A.

³The TCU-NCCC agreement and BRS-NCCC tentative agreement are Attachment B.

⁴Amtrak's final proposal, as explained to us on July 2, 2003, is Attachment C.

Under Amtrak's proposal, an employee who earned \$18.00/hour on January 1, 2000, would earn \$18.99/hour on July 1, 2004 (that employee currently earns \$18.75/hour under the Harris COLA adjustments currently applicable to pay rates). Additionally, Amtrak proposes health insurance cost sharing by the employees of 15% of the cost of insurance. Presently, that amount is about \$100/month. Therefore, Amtrak's final proposal would result in our sample employee's net wages being reduced \$57.76/month below what he or she currently earns. This reduction in real wages does not even put a value on the myriad of work rules changes that Amtrak also seeks in its final proposal.

The work rule demands themselves are being presented by Amtrak in bad faith. Amtrak has refused to provide any information pertaining to the value of the work rule concessions that they are seeking. Indeed, their chief spokesperson at the bargaining table has characterized such an attempt as "an exercise in futility." Many of the work rule concessions that Amtrak now seeks were bargained away by its negotiators in prior rounds as part of a *quid pro quo*. Moreover, as Amtrak knows, no recent agreement in the rail industry included work rules changes, certainly none that are as draconian and sweeping as Amtrak's final proposal.

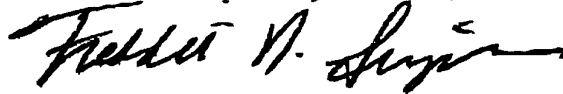
Finally, Amtrak's intransigence makes no sense given Congress' proposed treatment of the carrier. For the first time in many years, members of Congress in both parties acknowledge the need for Amtrak and the need to fund Amtrak's operations and capital needs at a level that will permit it to improve service. Throughout that discussion on Amtrak's future, there has been little or no call from Congress that Amtrak should negotiate wholesale changes in the work rules applicable to its employees as a condition for future appropriations. This is so because Amtrak's work rules with the BMW fit squarely within the "mainstream" of work rules on Class I freight railroads and other heavy commuter rail operations. Put simply, Amtrak's entire proposal which couples wage cuts with work rules concessions is in bad faith. There is no possible basis for an amicable voluntary settlement of this controversy. The BMW respectfully requests the Board to proffer arbitration to the parties.

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Please contact me or my designee, Director of Strategic Coordination and Research, Donald Griffin, if you have any questions regarding this request. Thank you.

Respectfully submitted,



Acting President

attachments

cc: L. Below
J. Dodd
H. Granier
S. Hurlburt
J Knight
B. Winter
P. Geller
D. Griffin