Interest Arbitration Before the Board Of Arbitration

Washington Metropolitan Area Transit Authority
and
Amalgamated Transit Union, Local 689

Hearings Held Feb. 14,15,16,26,27,28, Mar. 1, Apr. 23,24,25,26, 2018

Before the Arbitration Board
Richard I. Bloch, Esq. - Chair
Thomas R. Roth - Union Appointed Member
Jonathan C. Fritts, Esq. – Authority Appointed Member

OPINION

FACTS

The Washington Metropolitan Area Transit Authority ("Metro" or "Authority") and its certified bargaining representative, The Amalgamated Transit Union ("ATU", "Local 689" or "Union") have reached impasse in their efforts to construct a successor labor agreement to the contract that expired in 2016. During negotiations, the parties successfully resolved more than 50 outstanding issues, but they remained apart on a range of compensation-related and other issues, ultimately submitting these for binding resolution before the undersigned Arbitration Panel. Eleven days of hearings were held

in Washington DC, written and testimonial evidence was presented, and a verbatim transcript was made of the proceedings. The parties also presented pre- and post-hearing arguments. Following submission of the case, the Board met in executive session on May 18, June 13,14 and August 13, 2018.

Each party has submitted a its proposal for this Board's consideration. The parties agree the Arbitration Board shall consider the respective offers but that it is free to choose among the various items submitted and to modify them so as to construct a final award that, in its judgment, best represents the appropriate resolution.

POSITIONS OF THE PARTIES

AUTHORITY POSITION

The Authority characterizes Washington's transit system as in a current state of crisis, related to a long history of inadequate funding and years of neglect that have led to degradation of facilities and equipment that are now in need of immediate attention. It posits the specter of a "death spiral"[1] that, absent an increase in capital investment, will occur as the system continues to crumble, driving away riders and exacerbating the longstanding funding shortfall. It directs the Board's attention to sharp declines in operating revenue resulting from substantially lower ridership in both the bus and rail areas, taken together with rapidly increasing operating expenses, including recent

[1] Prehearing brief, at 1

surges in the operating subsidies from local governments by as much as 9 percent per year.

Metro's proposal is part of a broad array of responses to the current pressures. Internally, it has implemented a policy of shared sacrifice by, among other things, instituting layoffs, a multi-year wage freeze and steep reductions in benefits among managers and non-union employees. It also directs this Board's attention to the fact that Metro consumers have experienced fare hikes, reduced service and recurring disruptions from overdue repair work. For these reasons, the Authority's LBFO would implement an across-the-board freeze on General Wage Increases for the first three years of a 4-year agreement, with a 2% increase in year four, in addition to other contract modifications to be described in greater detail below.

In the overall, says the Authority, Metro bargaining unit members operate in the context of a total compensation package that is better than comparable occupations in the region. The employer's offer, it is argued, is responsive not only to the needs of the workforce, but also to the serious economic dilemma facing the Authority. Consideration of a variety of statutory mandates, taken together with a reasoned consideration of the public welfare of the citizens in the participating jurisdictions requires that meaningful steps be taken, now, to rectify the system's problems and ensure continuation of vital service to the citizenry.

UNION POSITION

ATU urges the Board to note that the existing terms and conditions of employment have been forged jointly by Metro and the predecessors for more than 100 years. The contract at issue is one that, over the years, has been molded by mutual agreement during more than 40 rounds of negotiations, most of which have ended in consensual agreements.[2] On 17 occasions, ATU, and its predecessor, have resorted to final and binding arbitration to resolve various sticking points that stood in the way of total agreement. The current "Interest" arbitration[3] is the sixth such case since 1973, when WMATA was created, at which time it acquired the Local 689 - represented employees. During the intervening years, the parties have operated collaboratively to fashion agreements and understandings that, by definition, represented recognition of each sides' mutual needs. The arbitration in this case represents, to be sure, important areas where mutual agreement could not be achieved. But, the parties were able to reach agreement on most of the proposals for contract change and, in the overall, the contract itself cannot be viewed in isolation, informed as it has been, by the history of

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[2] Union opening brief, at 3.

[3] The term "interest" is used to refer to the type of arbitration that results in the formation of part or all of the collective bargaining agreement, as distinguished from "rights" arbitration, which involves the interpretation and/or application of existing contract language.

recognizing valid needs from the other side. ATU proposes a 3-year labor agreement, beginning July 1, 2016 through June 30,2019. Additionally, the Union requests an increase in the cost of living adjustment to match increases in the Consumer Price Index over the general wage increase, as well as a variety of proposals designed to enhance benefits and working conditions.

ANALYSIS

An Enterprise in Crisis

This arbitration takes place at a significant time in the history of this collective bargaining relationship. On the one hand, Metro is a transit system facing immediate, serious, financial issues that are in most respects related, in one way or another, to the specter of deteriorating facilities, service anomalies and declining ridership. WMATA faces a current cash crisis, a state of affairs that has been exacerbated by the absence, until very recently, of permanent funding commitments from jurisdictions served by Metro.[4]

On the other hand, Metro is receiving, for the first time, long overdue commitments from the jurisdictions it serves, for critically necessary dedicated funding. The funding-related good news cannot, in the short run, overshadow the bad news that urgent capital construction needs, taken together with predicable service disruptions,

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[4] As noted in the LaHood Report, (see *infra*, p. 4) funding has been based on past payments based on historical levels, with insufficient recognition that the system was aging and in need of repair, not simply normal maintenance.

will challenge Metro's ability to live within the boundaries of available income, including subsidies. These concerns underlie the Authority's proposal in this case, which includes a 4-year agreement that freezes wages during the first 3 years. Management's proposal also seeks dramatic changes in the pension plan, coupled with other contract modifications that would modify the shape of the ATU bargaining unit.

The Union does not contest the economic challenges, but claims they should not be seen as justification for disrupting an industrial relationship that has existed for a century. It proposes a 3-year agreement that would incorporate four percent general wage increases annually, together with other work rule modifications designed to enhance work conditions and safety considerations.

The arbitration in this case, (and in virtually all such cases), is properly regarded as a failure of the collective bargaining relationship due, almost always, to the specific inability of the parties to find common ground on economic and non-economic issues. As such, consistent with Section 66(C) of the Compact among the Commonwealth of Virginia, the State of Maryland and the District of Columbia, an agreement directed to what otherwise would be an immobilizing standoff, the parties have submitted the unresolved issues to this three-person Board constituted of one partisan Board member from each side and a neutral chair.

The role of the Board may be best described by highlighting what we believe the Board was *not* intended to do. We do not sit to dispense our own concepts of industrial, economic or labor relations justice. This Board exists in the context of a stalled

collective bargaining process, wherein representatives of management and the employee workforce have attempted to find common ground that would somehow have accommodated, with due regard for necessary compromises, the goals and interests of the respective participants. We do not regard the suspension of that process as either an invitation or a license to impose our own view of a "right answer."[5] The labor relationship, it should be remembered, continues unabated both during the deliberations and following the decision in this case. As such, the role of this Board, properly considered, is to assess, to the best of its ability, the shape and content of the agreement that would have been consummated had the parties themselves reached an agreement.[6] The search for that "sweet spot" in no way suggests that the respective offers should somehow be compromised or split, Solomon-like. It may well be that a particular position on the new agreement is fully justified in recognition of the impact on the bargained relationship. Alternatively, one might reject an offer, concluding the parties would likely have agreed to import particular changes at a more measured pace. Ultimately, the Panel has approached the final formation of this particular agreement by considering carefully the statutory standards set forth above but evaluating, as well, the

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[5] Indeed, two of the three Board members are appointed by the respective sides to this dispute. Properly executed, their job is to champion their group's needs before the jointly selected neutral chairman. Under the circumstances, it is all the more important that the decision be based not on the panel's personal views of which side should come out on top, but rather how the parties themselves might best have resolved this impasse.

[6] See, e.g. the 2009 decision of the Arbitration Panel, wherein Chairman Richard Kasher stated: "This Award seeks to blend [the parties' respective positions] in the context of the applicable standards and the underlying goal of all interest arbitrations. This Award attempts to fashion a result that the parties likely would have achieved had they reached agreement through direct negotiations." *Washington Metropolitan Area Transit Authority and Amalgamated Transit Union, Local 689* (Nov. 4, 2009) at 9.

reality that this is a continuing relationship founded on collectively bargained contract rules.

The Arbitration Board is informed by legislated guidelines contained in the National Capital Area Interest Arbitration Standards Act[7] (hereinafter "Standards"), which are to be considered in rendering a final judgment on the disputed elements. In relevant part, the Standards require that an "arbitrator rendering an arbitration award involving the employees of [WMATA] may not make a finding or a decision for inclusion in a collective bargaining agreement without considering" seven identified factors:

> (b)FACTORS IN MAKING ARBITRATION AWARD.—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not make a finding or a decision for inclusion in a collective bargaining agreement governing conditions of employment without considering the following factors:
> (1) The existing terms and conditions of employment of the employees in the bargaining unit.
> (2) All available financial resources of the interstate compact agency.
> (3) The annual increase or decrease in consumer prices for goods and services as reflected in the most recent consumer price index for the Washington metropolitan area, published by the Bureau of Labor Statistics.
> (4)The wages, benefits, and terms and conditions of the employment of other employees who perform, in other jurisdictions in the Washington standard metropolitan statistical area, services similar to those in the bargaining unit.
> (5)The special nature of the work performed by the employees in the bargaining unit, including any hazards or the relative ease of employment, physical requirements, educational qualifications, job training and skills, shift assignments, and the demands placed upon the employees as compared to other employees of the interstate compact agency.
> (6) The interests and welfare of the employees in the bargaining unit, including—
> (A)the overall compensation presently received by the employees, having regard not only for wage rates but also for wages for time not worked, including vacations, holidays, and other excused absences;
> (B) all benefits received by the employees, including previous bonuses, insurance, and pensions; and

[7] 40 U.S.C. § 18301 *et seq.*, submitted as Authority Ex. 2.

(C) the continuity and stability of employment.
(7) The public welfare.

We refer to some of these factors below, in the course of this Opinion, but all have been carefully considered. Our review of the evidence in this case supports the conclusion, for the reasons that follow, that neither of the offers, taken alone, adequately responds to the current needs of these parties. The Union's wage demands, we find, are unsupported in the context of the critical financial challenges facing this transit system. Taken in its entirety, Managements proposal, on the other hand, seeks to dig too deeply, from both a financial and a contractual standpoint, into the foundations of a relationship that has been long and constant in its service to the traveling public. For purposes of our consideration in this matter, therefore, we have reviewed the parties evidence and arguments toward the goal of constructing a decision and award that has taken into account the goal of providing a fair and equitable compensation package for WMATA bargaining unit employees, while, at the same time, recognizing the competing concern of the employer to be able to make its transportation services reasonably available and affordable to the ridership in the participating jurisdictions. Our decision has been made on the basis of a careful consideration of all the evidence, taken together with the guidance of the requisite Standards, some of which will be discussed below.

AVAILABILITY OF FINANCIAL RESOURCES AND ABILTY TO PAY

It is by no means unusual for an employer, particularly in the pubic or quasi-public, sector to raise relative availability of funding in the context of an overall "Ability to Pay" argument. Particularly where municipal or, as here, state and district, budgets are the prime drivers of required funding, one cannot reasonably ignore the state of available funds as one of the elements to be considered in reviewing requests for modifications to economic benefits. The question of Metro's source of funds and consequent ability to pay for its contractual obligations has been specifically referenced in the Standards Act, § 18303(c) – "Ability to Finance Salaries and Benefits Provided in Award.":

> An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the National Area may not, with respect to a collective bargaining agreement governing additions of employment, provide for salaries and other benefits that exceed the ability of the interstate compact agency, or of any governmental jurisdiction that provides subsidy payments or budgetary assistance to the interstate compact agency, to obtain the necessary financial resources to pay for wage and benefit increases for employees of the interstate compact agency.

WMATA projects Metro ridership will decrease over the next several years. Even with additional fare increases, it argues, operating revenue cannot cover *any* increase in

labor expenses. As a result, the Authority will remain heavily dependent on the funding jurisdictions for subsidies. However, this option, it observes, will be constrained by the newly legislated limits on operating subsidies that leave no room for labor cost increases.[8]

In April and May, 2018, Virginia, Maryland, and the District of Columbia passed legislation - long awaited and urgently required by Metro – providing dedicated capital funding as well as other operating and capital subsidies. Under the "Washington Metropolitan Area Transit Authority Capital Fund"[9], the Virginia Legislature committed to provide approximately $154 million dollars in dedicated annual capital funding. The Maryland Metro/Transit Funding Act,[10] enacted on April 25, 2018, provides for annual dedicated payments of a minimum of $167 million, allocated to "the capital costs of the Washington Metropolitan Area Transit Authority."[11] However, the Maryland and Virginia legislation both carried an important proviso: Funding would continue year to year, but in any year in which budgeted operating expenses exceeded the prior year's expenses by more than 3 percent would result in that jurisdiction's financial contribution being cut by 35 percent.[12] The Virginia Statute provides:

In any year that the total Virginia operating assistance in the approved WMATA budget increases by more than 3 percent from the total operating assistance in the prior

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[8] Authority opening brief, at 3.
[9] § 33.2-3401(A)-(B), 33.2-3401(A).
[10] House Bill 372.
[11] H.B. 372 § 10-205(g)(2).
[12] The issue itself is very much a factor in these proceedings, at least potentially (see the existing dispute as to its legal applicability) because personnel costs comprise, according to the record, some 70 percent of Metro's operating budget.

years approved WMATA budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision C(3).[13]

The District of Columbia enacted the "dedicated funding for the Washington Metropolitan Area Transit Authority Emergency Act of 2018" on April 13, 2018. This legislation authorizes D.C. to pay $178.5 million in subsidies annually, beginning in fiscal year 2019 through 2059. D.C.'s commitment contains no cap on Metro's operating expenditure. It does, however, provide that funds will be dispersed to WMATA only during fiscal years in which both Maryland and Virginia have authorized dedicated capital funding of at least $167 million (Maryland) annually and $154.5 million annually (Virginia).[14]

Among the unanswered questions surrounding the state statutes is whether the current arbitration proceeding, and a decision resulting therefrom, is to be construed as exempt from those jurisdictions' cap restrictions. The Maryland and Virginia legislation each contains an "exemption" provision with respect to the year-on-year subsidy increase. The Virginia statute excludes from the calculation:

> (i) Any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after the effective date of this provision; and (iii) *any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity.*[15]

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[13] § 33.2-1526.1(J). The referenced subdivision C3 provides for non-dedicated funding for both "capital purposes and operating assistance." § 33.2-1526.1(C)(3). The amount withheld, if any, would impact the non-dedicated funding, not the dedicated capital funding.

[14] D.C. Act 22-316 § 3.

[15] § 33.2-1526.1(J). Italics supplied. The Maryland statute is essentially similar. See § 10-205(b)(3)(II).

It is unclear, among other things, as to whether this Arbitration proceeding will be viewed as a "legal dispute or proceeding" and, as such, exempt from the 3% cap. We render no judgment on that. The charge of this Board is to construct an opinion that settles the contract dispute. We do not understand that charge to include the interpretation of expressed intent by the Virginia and Maryland legislatures.

We turn, now, to selected observations related to the legislated Standards.

GENERAL COMMENT ON PAY AND BENEFIT COMPARISONS[16]

[16] In the best of circumstances, close comparisons of disparate workforces can be elusive. It is of little value to confine one's inquiry solely to the question of whether the precise job functions are facially similar, although that is not by any means irrelevant. But, as between enterprises, the mere fact they are geographically close cannot, in and of itself, settle the question. Often, information such as the nature and length of a labor agreement, length of time to the top rate, the relative strength of other benefits such as the pension plan, the age of the workforce, the tax base of the community and whether the funding is public or private: These and a wide variety of other variables can result in widely differing statistics. And, the habits and history of the contracting parties themselves may be highly germane.

The parties vigorously dispute the question of appropriate comparables. The Authority directs the Board's attention to the unambiguous direction of the Standards to consider, among other things, *"the wages, benefits, and terms and conditions of the employment of other employees who perform, in other jurisdictions in the Washington standard metropolitan statistical area, services similar to those in the bargaining unit."*[17] The Union, for its part, proposes a review based on major transit systems throughout the country. Consideration of the transit systems surrounding Washington, such as DASH, Ride On, Connector and various other markedly smaller systems makes it readily apparent that those systems are, as a general matter, not sufficiently comparable to rely on. To confine one's view to the local, smaller, firms disregards both the compensation requirements experienced by the larger transit groups serving major metropolitan areas and what is often an extensive history of labor relationships that have produced the various contracts at issue. It is perhaps for this reason that parties and arbitration boards have routinely looked to a broad spectrum of agreements for comparison.[18]

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[17] § 18303(b)(4), *italics supplied.*

[18] See for example, the selection of arbitral opinions concerning the issue of transit comparisons cited in the Union's prehearing brief at 21–22, including Arbitrator Sinicropi's observation:

> "[for] wage comparisons, the Arbitrator subscribes to the views expressed by the overwhelming body of experienced arbitrators, i.e..... that the most relevant benchmark comparison groups should be the wages of comparable occupations in the same industry. (*Waukegan- North Chicago Transit Company and ATU Local 900*, 1978)."

See also Union Exhibit 61, a comparison of transit Operator wage rates, which reflects Washington as generally in the middle of the pack that includes New York, Chicago, Los Angeles, Philadelphia, Newark, Boston, Seattle, San Francisco and Atlanta.

In a report issued in December of 2017, a study (herein the "LaHood Report") by the firm WSP USA[19] concluded that over a period of time from 2002 through 2016, WMATA's hourly labor work force costs have been "consistently average or close to it".[20] Compensation at the various agencies, (not including fringe benefits), was compared to the respective regions' cost of living. The study concluded that "the average WMATA employee earns 106 percent of the D.C. regions' cost of living, which makes WMATA average among peer transit agencies:[21]

> By multiple measures, WMATA'S cost structure is generally average for a large transit agency. All-in labor costs per hour, including salaries, wages and fringe benefits, are average. The unit cost to deliver service, as measured by total operating and maintenance (O&M) spending per hour of service delivered, is average for Metrobus and 9 percent above average for Metrorail. Higher than average Metrorail O&M costs derive from rail maintenance spending

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[19] See Union Ex. 80.

[20] *Id.*, at 4. Comparison systems included Los Angeles, Boston, New Jersey, Atlanta, Southeast Pennsylvania, San Francisco, Baltimore and Chicago.

[21] *Id.* The study noted that two of the WMATA's labor policies were "outliers," in terms of being more generous than the comparables. Metro hourly employees contribute and average of 3.1 percent of wages to pension, as contrasted to the national average of 7.1 percent. And, the unionized employees counted overtime earnings in determining post-retirement pension payments, unlike some of the comparison agencies. Even so, the study concluded:

> "... first, even with these policies in place, WMATA's all-in labor costs per hour have been average among peer transit agencies. Second, WMATA's method of calculating base retirement payments is slightly less generous than an average of 20 selected local agencies. ...the WMATA retirement formula pays an employee retiring at age 62 with 30 years of service 55 percent of their final and annual salary. The average paid by the 20 city and county governments [in the study] is 60 percent. Pensions were funded on a par with, or slightly above, both the national average for pension plans and major pensions in Maryland and Virginia, although D.C.'s fire/police and teacher pensions were stronger."

> that is 20 percent or more above average. Costs for rail operations are average.[22]

EXISTING TERMS AND CONDITIONS

The current compensation package is comprehensive. WMATA contends Local 689 Bargaining Unit members receive "more-than fair compensation, including higher than average wages and generous benefits." As a general matter, while it is true that Metro employees in the 689 Bargaining Unit receive generally higher wages than counterparts in the D.C. Metropolitan area and while the negotiated benefits are substantial, there are a variety of elements that warrant consideration in answering the overall question of whether the compensation is "fair." For example, WMATA argues that, inasmuch as it has no difficulty in attracting and retaining sufficient talent, therefore "basic principles of labor economics"[23] require the conclusion that no increase in compensation is justified. This assertion, however, overlooks, among other things,

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[22] *Id*, at 1. The report identified two labor policies, considered to be "outliers," that contributed to costs:

> On average, WMATA's hourly employees contribute 3.1 percent of wages to pension, where the national average among all workers in defined benefit plans is 7.1 percent. In addition, WMATA's unionized employees count overtime earnings in determining post-retirement pension payments. Changing these policies would generate savings, although it should be noted that WMATA's all-in labor costs per hour were average even with these policies in place.

[23] Metro Pre-hearing brief, at 6.

the general aspiration of workers that longevity, loyalty, more experience and continuing satisfactory performance in a job will be met with economic advancement.

CONSUMER PRICE INDEX

Similarly, WMATA maintain that, inasmuch as increases in the consumer price index have been minimal, a temporary pause in retroactive wage increases, with a modest increase in fiscal year 2020 is appropriate. Given that the purpose of a cost of living adjustment is to avoid the devitalization of real wages, we cannot conclude that a relatively stable cost of living thereby justifies, in and of itself, a halt in any general wage progression. The Board has considered a wide variety of factors in constructing the economic package herein, but we are not persuaded that the ability to maintain a pace equal to the cost of living settles the question on appropriate wage increases.

PENSION

We decline the Authority's request to terminate the current TERP retirement plan, replacing it for new-hires with a defined contribution plan. To be sure, the current WMATA/ATU plan is, as characterized in the LaHood report, an "outlier."[24] Under this collective bargaining agreement, overtime earnings for Local 689 member are counted in determining post-retirement pension payments. This is a substantial economic benefit to the employee that exists in some, but by no means all, transit contracts. The

[24] LaHood Report, at 6. See n. 22, *supra*.

report also focused on the fact that hourly employees[25] contribute an average of 3.1 percent of wages to pension, as contrasted to the national average reported by the Bureau of Labor Statistics for all workers in defined-benefit plans as 7.1 percent.[26] This dichotomy, however, is the direct result of an agreement struck by the parties in July 1983: At that time, existing employee pension contributions of 5.5 percent were eliminated, the result being that the Authority assumed 100 percent of contribution cost. The *quid pro quo* for that action was an agreement, effective for the 3-year term of that contract, that the Union waived its right to the first-year general wage increase of 6.5 percent. This trade debt of the GWI in return for eliminating the 5.5 percent employee contribution resulted in a win/win situation for both sides.[27] Shortly thereafter, the parties entered into a second agreement wherein management was released from its obligation to pay a fixed minimum percentage into the plan in return for an improvement in the plan multiplier by 8 percent.[28] Thus, effective May 1, 1986, the Authority paid 100 percent of required contributions, with the minimum contribution being eliminated by agreement of the parties. Thereafter, and for a period of some 16 years, the S&P grew at a compound annual growth rate at 15.2 percent. But the market softened in 2000 and culminating with the Great Recession.[29] The S&P Index fell about 8 percent per year.

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[25] It appears from the 2017 report that the calculation was based on research through 2016. We assume the result is essentially unchanged.
[26] Report, at 6.
[27] See full description at Tr., Pages 1,590 *et seq.*
[28] The multiplier went from 1.25 percent to 1.35 percent for all years of service. Tr., at 1604.
[29] The so-called "Great Recession" terminated in the first quarter of 2009.

During the time of the massive market value increase, the required contribution by the employer declined to zero, due to the enhanced value of the pension assets.[30] The employer paid nothing in 1999 and made the judgment to continue making no contributions for 8 years thereafter. In a very real sense, the employer took a quote "pension holiday."[31] However, had the trade-off not been struck in 1983 the employees would have participated in the required contributions (their share would have fallen to zero during the Halcyon 8 years, but they would being paying about 6 percent or more currently.). We are not persuaded that the case for change in this area has been made.

DECISIONS

Our conclusion in this case is that there ought to be modifications that respond to the size and urgency of the current physical upgrading needed in the Metro system. Thus, while we hold there should be general wage increases throughout most, but not all the term of this agreement, they ought to be tempered. That said, a 4-year agreement will create a measure of stability that has value, in and of itself, and that should be recognized in the compensation scheme. As a general matter, the *status quo* existing under the recently-expired agreement shall remain, except to the extent indicated by the following modifications.

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[30] Union Ex. 119, at 17.

[31] Even with suffering the disastrous impact of the Great Recession, the Authority did reasonably well on its bet that it was better off trading the assumption of contribution obligations for the forfeited wage increment. See Tr., pp. 16, 17 *et seq.*

AWARD

CONTRACT DURATION

July 1, 2016 through June 30, 2020.

GENERAL WAGE INCREASES

0 percent GWI effective July 1, 2016

1 percent GWI effective July 1, 2017

2.5 percent GWI effective July 1, 2018

1.5 percent effective July 1, 2019, 1.5 percent effective January 1, 2020

Retroactive wage payment will be made within 120 days of the date of this award. Only those employed as of the date of the Award, and those who retire during the retroactive wage period, are eligible for retroactive wage increases. Employees who quit or who are dismissed for cause during this period shall be ineligible. The wage increases provided herein shall be effective at the beginning of the payroll period nearest the effective dates stated herein above.

HEALTHCARE

Contributions for active healthcare coverage (basic medical) shall increase from 17 percent to 20 percent, effective January 1, 2019. Increases in required contributions after January 1, 2019 shall continue to be shared 75 percent by the Authority and 25 percent by the employees.

RETIREE COST OF COVERAGE

Effective January 1, 2019, contributions for individuals who are eligible for retiree healthcare coverage shall be modified as follows:

- Pre-Medicare: increase from approximately 17 percent to 20 percent of the cost of coverage.
- Post-Medicare: Increase from approximately 17 percent to 20 percent of the cost of the lowest cost Medicare Advantage Plan with Part D. Retirees who enroll in a higher-post Medicare option shall be required to pay the full amount of any difference in premium.
- The forgoing increases shall be applicable only to employees who retire on or after January 1, 2019
- Increases in required contributions after January 1, 2019 shall continue to be shared 75 percent by the Authority and 25 percent by retirees.

GENERIC VERSUS BRAND NAME PRESCRIPTION DRUGS

Effective January 1, 2019, participants shall be required to first use a generic prescription drug before switching to a brand name drug, subject to waiver in limited circumstances, as determined and/or adopted by the Plan Trustees.

PRESCRIPTION DRUG CO-PAYMENTS

Effective January 1, 2019, the co-payment structure under the prescription drug coverage shall be modified as follows:

Retail (30-day supply) program

*Generic – increase from $5.00 to $10.00

*Preferred – increase from $20.00 to $25.00

*Non-preferred – increase from $30.00 to $40.00

Mail Order (90-day supply) program

*Generic – increase from $10.00 to $20.00

*Preferred – increase from $40.00 to $50.00

*Non-preferred – increase from $60.00 to $80.00

DENTAL BENEFITS

Effective January 1, 2019, the annual limit on dental benefits shall be $1,500.00.

STIPULATED AWARDS

Tentative Agreements Between WMATA and ATU Local 689 for Inclusion in Arbitration Award

March 28, 2018

Sec. 103	Add a new paragraph (d), to read: "The Authority will arrange for employees newly hired into the bargaining unit to be briefed by the Union for one hour during new employee orientation (NEO), at a time and place determined by the Authority."
Sec. 109(c)	Authority accepts 30 office working days for the Authority to issue discipline to a non-bargaining unit employee who previously held seniority in the Local 689 bargaining unit. Add new sentence following the 5th sentence of Sec. 104(d), to read: "In the case of an Authority employee who previously held seniority in the Union and who is no longer in the bargaining unit, who has certain rights as set out in Section 109(c), the Authority shall send such notice not later than 30 office working days from the date the employee's superintendent/manager (or designee) first obtained knowledge of the incident or act which forms the basis of the charge or charges."
Sec. 111	MOU Pilot for 12 months. Pilot continues without change, year to year thereafter, unless written notice to change or end is delivered by either party not later than 30 calendar days before [date of interest arbitration award] : "Concerning tickets associated with a WMATA vehicle (e.g., parking, red light cameras, and speed cameras), the Authority will pay the fine after notice to the employee of the violation and shall be reimbursed by the employee/driver of the vehicle via direct pay at the time of notice or by payroll deduction on the next payroll period following notice to the employee and the employee must sign the payroll deduction authorization when presented. However, if an employee informs the Supervisor that he or she intends to appeal the ticket, the employee must timely file the appeal and will be required to pay the fine at the time the appeal is heard, if not granted." "Employees who are charged with a moving violation while operating a WMATA vehicle, for which they are directly issued tickets, are responsible for addressing the charge with the charging jurisdiction."

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Sec. 115 (n)	(1) Add: "Effective June 30, 2018, vacation carryover will be discontinued and balances will be cashed out as provided, herein." [Intent is to cash out all unused vacation as of June 30, 2018, including amounts in excess of the maximum accumulated for vacation year July 1, 2017 through June 30, 2018.] (2) Add at the end of this subsection: "Effective for the vacation year ending June 30, 2018, and each year thereafter, up to five (5) bid, but unused, vacation days remaining at the end of each vacation year, shall be cashed out by the Authority at the employee's hourly rate in effect on the last day of the vacation year."
Sec. 135	Delete.
Sec. 204(d)	Change #3 to read: "In no case will an employee be compelled to work with less rest than provided by contract or law. Where a volunteer or compelled ~~operator~~ employee has, by virtue of their overtime service, less than the minimum required ~~eight (8) hours~~ rest; their regular service run will be modified to provide the appropriate rest period, providing their work day will not be extended by more than one hour before the overtime rate will apply."
Sec. 212(a)	Amend the first sentence to read: "All employees required or who have agreed to report or stand extra shall be paid full time from the time they report until put to work or relieved, it being understood that employees standing extra may be required to do work in the Internal Division falling within, but not below, their qualifications; provided, that no report shall pay less than ~~one (1) hour~~ two (2) hours.
Sec. 212(c)	Amend to read: "Any report for extra duty by an employee shall be paid at least ~~one (1) hour's~~ two (2) hours of time."

Tentative Agreements Between WMATA and ATU Local 689 for Inclusion in Arbitration Award

March 28, 2018

Sec. 111(c)	Replace with: "In the event a CDL records check results in an employee being withheld from their regular schedule and such employee is able to establish that his or her record was incorrect and he or she was wrongly held from work, the Authority will reimburse the employee for one day lost from his or her regular schedule. An employee subject to the first sentence of this paragraph, who has lost time in excess of one regular workday, due solely to the Authority's notice to the employee occurring after hours of the DMV or when the DMV offices will not be open on the employee's next regular workday, may request in writing to have his or her situation reviewed by the Department Director to determine if an exception should be made to the maximum payment of one day's pay. Under such circumstances, the Authority will pay one half of the lost time in excess of one day's pay, not to exceed one additional day of pay."
Sec. 115(f)	Add to the 3rd paragraph: "The Authority will approve or deny the requested day off in writing as soon as practical after requested, but not later than 48 hours before the requested day off."
Sec. 115 (h)	Add a new paragraph to read: "In the case of an employee who leaves the bargaining unit for any reason, the vacation weeks or days that the departing employee had selected at the annual vacation pick shall be posted by the Authority at that employee's division and offered to any other employee at that division. Such vacated weeks or days will be will be posted as soon as practical but not later than ten (10) calendar days after the departing employee's last day of work. The vacation weeks or days of the employee who is awarded the newly available vacation slots will not be posted for bid."
Sec. 115(l)	Amend the 6th sentence to read: "Employees ~~with four or more weeks of vacation entitlement~~ may volunteer to sell one week of vacation per year."

Richard I. Bloch
Chairman

Thomas R. Roth
Union-Appointed Panel Member

Jonathan C. Fritts
WMATA- Appointed Member
Dissenting

August 14, 2018