

RAIL LABOR BARGAINING COALITION

CONTRACT NEGOTIATION UPDATE

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The Fight of Our Life



It is clear that all rail union members are in for the fight of our lives in this round of national bargaining.

On December 14, 2005, the National Carriers' Conference Committee (NCCC), representing the Class 1 carriers, refused to set new dates for bargaining with the Rail Labor Bargaining Coalition (RLBC) and a few days later the NCCC wrote the National Mediation Board (NMB) and requested to be released from mediation. The RLBC represents seven rail labor unions (ATDA, NCFO-SEIU, IBB, SMWIA, BRS, BLET and BMWED) whose contracts cover nearly 85,000 rail workers or 45 percent of the carriers' employees. The NCCC represents the Class 1 carriers (Union Pacific, Burlington Northern Santa Fe, Norfolk Southern, CSX, etc.) that transport most of the rail freight in the country.

"The NCCC's refusal is mystifying," said Freddie Simpson, President of the Brotherhood of Maintenance of Way Employes Division (BMWED), "It is premature to refuse to bargain over the serious items both sides have placed on the table. What this round of negotiations needs is patience, hard work and willingness on both sides to listen and respond meaningfully to

the other's issues. We have scarcely begun this process when suddenly the carriers up and walk away from the table."

At best, the NCCC request is premature; at worst, it furnishes still another example of the Carriers' persistent refusal to engage in good-faith negotiations as it has all year during this round of national handling.

Overall, it signals to all rail union members that we are in for the fight of our lives.

From Day One, the NCCC Seeks Release and a PEB

The Board should release the parties from mediation for only one reason: mediation to produce an amicable settlement has failed after the Board has exerted every reasonable effort to get the parties to make a voluntary agreement. The Board cannot grant release yet because the parties have scarcely begun discussion of the critical issues in their Section 6 Notices. For example, the parties have not discussed the RLBC's wage notice. Incredibly, at the last session, the Carriers declined to discuss health and welfare altogether because, in the words of their spokesperson, "it is too late." Apparently, the carriers meant it was too late for them to bargain in good faith. But the RLBC has responded that it is not too late to engage in meaningful good faith negotiations over a critical issue in the railroad industry and the nation as a whole.

"The seven member unions of the RLBC are united in their desire to reach an agreement voluntarily," said Dan Pickett, President of the Brotherhood of Railroad

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Signalmen (BRS). "We are willing to sit at the table and talk to the carriers for as long as it takes to get an agreement done. You must fulfill the intent of the process – proposing your own substantive proposals and responding to theirs."

Yet the Carriers' approach to this round of bargaining has been remarkably consistent. At the first substantive bargaining session, on March 9, 2005, the NCCC broke off negotiations when the RLBC would not abandon its proposal for the development of simple ground rules governing scheduling of meetings, mutual requests for information and other similar items, many of which were drawn from suggested procedural agreements made available to parties by the Board. That ploy was followed, on March 16, 2005, by a premature and wholly unnecessary request for mediation by the Carriers, which was withdrawn on May 9, 2005 after the NMB interceded. Thus, substantive discussions over the parties' notices did not begin until May 18, 2005. Less than one month later, on June 10, 2005, the Carriers again applied for the Board's mediation services. The request was filed after just one conference and before the bargaining session scheduled for June 14-15, 2005 could take place. In other words, the Carriers spent the first six months of 2005 jockeying for some type of "procedural advantage" rather than engage in good faith bargaining with the RLBC.

NCCC Rejects Proposals Out of Hand

In June 2005, the RLBC submitted six new proposals to the rail carriers that addressed sick leave, vacation and personal leave time, and employment stability. The RLBC employment stability proposal outlined how rail carriers selling or leasing lines must offer employment to current employees and notify them of the pending sale or lease.

"Rail carriers started a trend of spinning off less profitable lines to subcontractors," said George Francisco, coordinator of the RLBC and President of the National Coalition of Firemen and Oilers (SEIU). "Our proposals were designed to help ensure that our members follow the work."

The sick, vacation and personal leave proposals sought to increase the number of days employees are allowed to use.

"It's our members who have kept the rail lines moving," Simpson said. "These proposals would ensure that when the work moves, so do our members. And, the increases in personal and sick leave would counteract the hardship of our members who are absent from work through no fault of their own."

The NCCC rejected these proposals, as they have all other proposals, out of hand, without offering any counter proposals.

Detailed, Innovative Proposals Rejected Outright

In 2005, the parties met in June, July, September, November and December for a total of eleven scheduled days, although most meetings ended early and many were abruptly cancelled. The RLBC presented detailed, often innovative proposals tailored to present-day conditions in the industry. All were rejected outright with little or no discussion by the NCCC. Naked statements, such as "We're not interested" and "You're going in the wrong direction," do not represent good faith bargaining. This is especially so where the Carriers have thus far declined to make counter-proposals or suggest how an accommodation might be reached. The Carriers' proposals reflect extreme positions abandoned at the bargaining table in past rounds or rejected by past PEBs. Put simply, the NCCC is not even trying to bargain toward an agreement.

"What is shocking about the NCCC's refusal to continue negotiations is that it comes at a time of record profits for the rail carriers," said John Murphy, Director of the Rail Conference and Teamsters International Vice President. "Yet their intractable, non-negotiable demands would change the nature of all railroad crafts through ill-conceived consolidation and elimination of jobs. One would think the carriers' level of profits would provide them with some flexibility – at least the flexibility to stay at the table. Instead, the Carriers want to pretend to be what they are not, marginal companies barely keeping alive, and hoping to "cash-in" on concessions negotiated in those other industries. In fact, the Carriers have enjoyed record profits and have more customers than they have capacity to serve."

NCCC Fails to Address Craft Specific and Local Issues

The RLBC's January 3, 2005 Section 6 Notice recognized that the parties' dispute included craft-specific and local issues, in addition to the national issues common to all participating organizations. Craft-specific issues have been discussed separately. The NCCC met with the BLET and BMWED several times, and once with the BRS on a local basis. No agreements were reached, but those discussions should be continued and developed. They should also be expanded to include a more detailed consideration of related Organization notices. Indeed, the BRS has developed comprehensive subcontracting and work rule proposals tailored to the Norfolk Southern, which it furnished to the Carriers and the NCCC in January 2006.

Obviously, the parties have scarcely begun to discuss these issues in this round of national negotiations. The Carriers are anxious to abandon bargaining and place this complicated dispute before a PEB believing that,

because Vice President Cheney was on UP's Board of Directors; Treasury Secretary Snow was CSX's CEO and President Bush's Chief of Staff Andrew Card was a UP official, a PEB would be stacked with "Bush Pioneers" who believe workers are an annoying inconvenience and anything the company wants is both necessary and justified.

"The carriers are attempting to distort the bargaining process by manipulating and misconstruing the procedure under the Railway Labor Act to obtain a government imposed resolution," said Don Hahs, BLET President. "The Act is designed to resolve remaining disputes when good faith bargaining has reached impasse. We are far from reaching that point because the carriers have not yet begun to negotiate in good faith to resolve any of the parties' issues."

The NMB Must Compel the NCCC to Negotiate

The RLBC wrote the Board stating that if the NMB grants release to the NCCC, it would be seen as a failure of mediation scarcely before the process has begun and would be tantamount to abandonment of the Board's statutory responsibility.

We cautioned the Carriers not to assume that the dispute will end quietly simply with a carrier-friendly PEB report that will be approved by Congress. As demonstrated in a letter from Congressman Oberstar, who, citing the railroads' deteriorating safety record, wrote that "while positive train control and other electronic management systems may help reduce the number of train accidents, fatalities, and injuries over time, reducing crew size on a freight train from two persons to one person may actually negate any safety improvements these new technologies achieve."

Oberstar went on to state, "I want to be very clear. There should be no expectation by either party that the Congress will become involved in this dispute, even in the event that a PEB is established and recommendations are issued.

It is never certain what Congress will do in these situations. Countermeasures and other safeguards, possibly even unrelated railroad measures, could be attached to such legislation. It is therefore in the best interest of both parties to reach a voluntary agreement."

Democratic Sen. Dick Durbin, the

and bus workers serves as a timely and important reminder that disruptions to the nation's transportation system are not necessarily avoided by prohibitions of the right to strike," said Roland Wilder, counsel for the RLBC. No one can predict how rail workers, if they are abandoned to a broken process, will respond.



Senate's assistant minority leader, wrote: "I am concerned that placing highly technical equipment on locomotives to be operated by overburdened or fatigued employees at the same time that crew sizes are reduced may result in increasingly unsafe operations."

Durbin added that should the matter of crew-size reduction come before the Senate by way of PEB recommendations, "all parties involved should not expect the Senate to look on these matters merely as economic issues."

It is clear that no one should presume that Congress would mindlessly impose the recommendations of a carrier-friendly PEB. A voluntary agreement is the only way to assure that the important public and private interests involved in this dispute are protected. The RLBC has respectfully asked the Board to require the Carriers to bargain seriously by refusing to give them the release they seek.

"The recent New York City mass transit dispute involving the MTA and the rail

On January 5, we were successful: the NMB declined the NCCC request for a release from mediation with rail unions represented by the RLBC. The Board also directed the parties to continue mediation sessions. We met on Jan. 31 and Feb. 1, 2006, in Washington, D.C. and on February 7, 8 and 10, 2006, in Florida. The RLBC believes that meetings should be scheduled for March 2006 and beyond as well, in accordance with the parties' procedural agreement for quarterly scheduling.

The Views From The Shop

National Conference of Firemen and Oilers

—George J. Francisco, Jr.

Just a quick look at the proposals by the Carriers to the Shopcraft unions makes it obvious the NCCC has no interest in actually bargaining and reaching an agreement.

Unless, that is, the craft unions are willing to roll over and play dead.

You'd have to be dead to buy what they are selling.

They want new loopholes on Shopcraft subcontracting so wide that a locomotive could be driven through them. A few examples of what they want:

- The right to subcontract work if doing it in-house involves "greater cost." That replaces "substantially greater cost" language and deletes the prevailing wage requirement;
- A change in the "minor transaction" limit from eight to 40 hours;
- To delete language barring subcontracting if furloughs of employees result;
- Elimination of all restriction on subcontracting in the current agreement that involve such matters as: maintenance and/or repair of buildings, structures or facilities; equipment inspection, maintenance and repair outside of railroad terminals; situations that "require prompt action to avoid unnecessary delay to operations or service.
- The right to proceed with subcontracting without engaging in expedited arbitration first.

Concerning the Incidental Work Rule, the Carriers want to double—from two to four hours—the allowable time to require out of classification work for performing tasks, and "without regard to whether such tasks require special training or tools."

The Carriers also seek the right to impose on Shopcraft employees a "work week consisting of eight ten-hour days with any six consecutive days off in each fourteen day period."

They want to be able to provide as little as 24 hours advance notice to switch employees to a different work schedule, without any right to exercise seniority rights.

Seniority rights are also stripped away in a pro-

posed provision allowing the companies to change work starting times by as much as four hours with only 36 hours notice (48 hours if it's more than four hours).

Our counterproposals include:

- A good faith effort by the Carriers to return work currently contracted out to the property, where it will be performed by union members;
- A requirement that any changes in starting times and any alternative work week schedules be implemented only when found mutually acceptable by the General Chairman and the carrier at the particular location;
- Maintain the current Incidental Work Rule; and
- Require all job assignments be governed strictly by seniority.

When we return to the bargaining table, we'll be ready to bargain. We hope that the Carriers—now that they have been ordered back to mediation—will take the process seriously too.

It's time for them to work towards reaching an agreement instead of just spewing out their wish list of what they hope a panel of Bush appointees will impose on us down the line.

Sheet Metal Workers International Association

—Dewey Garland

To my knowledge, the railroads have never before requested the National Mediation Board for a release from mediation in national negotiations. The only reason they could be requesting a release at this time is because they believe they will be able to get a better deal with a Bush-appointed Presidential Emergency Board than they can by sitting down with our bargaining coalition. The railroads do not want to share any of their wealth with the people, our members. That is one of the major reasons they continue to enjoy record profits.

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Brotherhood of Railroad Signalmen (BRS)

—Dan Pickett

During this round of negotiations the carriers have chosen to let the NCCC negotiate local issues for them. That is their prerogative. However the BRS General Chairmen have chosen to handle local issues just as the BRS has always done, and that is by each individual agreement. As of January 1, 2006, the NCCC has agreed to meet with the Brotherhood of Railroad Signalmen only one time in order to address craft specific issues. Since the beginning of this round of negotiations, the BRS has reminded the NCCC, once again, that any work rule changes are local issues and have to be addressed with each individual General Chairman. Once the NCCC agrees to set dates to negotiate, the appropriate BRS representatives remain ready and willing to address these issues.

Brotherhood of Maintenance of Way Employees Division

—Freddie Simpson

We face two serious Carrier proposals in this round.

First, the Carriers want to eliminate almost half of us by subcontracting all production work. The Carriers proposed this in the last round and abandoned it; if we stick together in this coalition, I know they will be forced to abandon this silly proposal. The Carriers are expanding and they need trained employees who they can trust to do the job right – the first time. Those employees are the men and women who work for the railroads and are members of our union. Think of the railroad like a sandwich shop, when you sell more sandwiches than your one employee can make, you usually add employees to make them, you don't look to layoff the guy who makes the sandwiches and then outsource sandwich production to some guy across town working in his kitchen.

Second, the Carriers want to make a drastic increase in employee contributions to health insurance.

Personally, I believe it is a disgrace that we do not have some type of national health insurance in place in this country. When you look to Canada, the one thing you immediately notice is that employers and unions do not have to bargain about health care because it has been taken care of legislatively. However, in the U.S., health care is a private matter and must be bargained collectively. For the last 15 years, BMWED members have contributed to health insurance premiums through lower wage increases and lump sum payments instead of hourly wage increases. We have paid more than our "fair share" of health insurance costs. I know that if the Carriers actually engage in good faith bargaining on this issue, we will reach a voluntary agreement that is fair to the members.

The goal of the RLBC is fair wages and just treatment for rail workers in collective bargaining. The Carriers do not like the Coalition and they have and will continue to do anything they can to destroy it. They won't succeed because the Rail Union Presidents are united in their resolve. In the very near future, the RLBC will be calling on its rank and file to demonstrate that same resolve and solidarity. When that call comes, the Carriers will be shaken to see maintenance of way workers, locomotive engineers, signalmen and Shopcraft workers united and speaking with one voice for good wages, fair rules and justice for them and their families. We will win by working together.

Brotherhood of Boilermakers

—Alan M. Scheer

The obvious attempt of the Carriers Conference Committee to manipulate the National Mediation Board into providing them the key to pursuing their goal, which is obviously to put their demands before a PEB that will be completely sympathetic to their agenda is disgraceful. It fully illustrates the fact that their interests do not include providing a better working environment for their many honest hard working employees.