

STATE EMPLOYMENT  
RELATIONS BOARD

2005 JAN 24 P 12:15

**FACT-FINDING BETWEEN**

**AMALGAMATED TRANSIT UNION,  
LOCAL 627**

**and**

**SOUTHWEST OHIO REGIONAL  
TRANSIT AUTHORITY/Metro**

**Decision Issuing January 21, 2005**

)  
)  
)  
)  
) **SERB Case 04-MED-09-0959**  
)  
)  
)  
)

**I. Hearing**

The undersigned fact-finder, Cynthia Stanley, conducted a fact-finding between the Amalgamated Transit Union, Local 627 ("ATU") and Southwest Ohio Regional Transit Authority ("SORTA") on January 13, 2005, commencing at 9 a.m. at the Garfield Suites Hotel, Cincinnati, Ohio.

SORTA was represented by Charles Roesch and Emerson Moser of Dinsmore & Shohl. Also participating for SORTA were: Thomas Hock of Thomas Hock & Associates; SORTA General Manager Mike Setzer; Barry Frank, Assistant General Manager; Michael Brown, General Manager, Operations; William Desmond, Legal Affairs Director; Vaughn Davis, Human Resources Director; William Sproul, Queensgate Division Director; Phil Lind, Bond Hill Division Director; and Jennifer Patterson, Human Resources/Legal Intern.

ATU was represented by Joseph Pass of Jubelirer, Pass & Intrieri. Also participating for ATU were: Janis Borchardt, ATU International Vice President; Mitchell Hampton, President and Business Agent of Local 627; Troy Hoskins, Vice President; Sharon Anderson, Financial

Secretary-Treasurer; Todd Jaffe, Recording Secretary; James Nerlinger, Steward; and Dan Reynolds, Steward.

The parties' pre-fact-finding submissions were duly received and reviewed prior to the day of hearing. The fact-finder wishes to thank the parties and their representatives for their well-organized presentations.

The bargaining unit consists of Coach Operators, Maintenance, Division and Board Clerks, Fare Box Pullers and Traffic Checkers. There are currently 747 bargaining unit members. The parties' current Memorandum of Agreement ("contract") has effective dates of February 1, 2003 through January 31, 2005.

## II. Mediation

After a brief mediation session, the parties were ready to proceed to hearing.

## III. Criteria

The fact-finder has given consideration and weight to the criteria set forth in SERB Rule 4117-9-05(J).

## IV. Issues and Recommendations

Each party's fact-finding proposal as presented is incorporated herein by reference. The fact-finder will not attempt to detail all of the evidence from the comprehensive presentations at hearing.

All portions of the February 1, 2003 through January 31, 2005 Memorandum of Agreement not specifically amended or deleted by this fact-finding report should continue unchanged through the term of the agreement. The issues, the parties' positions and the fact-finder's recommendations are summarized below.

The parties have submitted a variety of issues that each seeks to have incorporated into the new collective bargaining agreement which takes effect February 1, 2005. The fact finder has carefully reviewed those issues. While each issue is significant, I have concluded that, considering the ramifications of each issue, the current financial situation, and my estimate of the likelihood of the parties accepting my report, only those issues directly dealing with overall compensation and health care can be effectively dealt with at this time. Doing so does not mean that the other issues presented are unimportant. What it means is that as a result of the problems facing the parties, the immediate issue of overall compensation and health care will be all that can be meaningfully accomplished until SORTA works through its current funding problems.

What this fact finder must recommend is something that most likely the parties will accept "reluctantly" and yet at the same time is fair and equitable to all parties.

Although the fact finder has no authority to direct governmental agencies, including SORTA, where to go to receive the necessary money to maintain and operate the transit system, I would be remiss in my responsibility if I failed to note a fairly reasonable way exists for obtaining

needed funding. In reaching that conclusion, I am compelled to focus on what are remarkable and surprising facts.

SORTA maintains that as a result of a poor and struggling economy, the earned income tax resource which provides the local funding has fallen off. Although there is some hope that the economy will soon expand and with an upswing there will come an increase in those revenues, SORTA management rightfully contends that it cannot depend on that "hopeful possibility". As the various news accounts entered into evidence demonstrate, however, there is a method by which SORTA can improve its financial situation: a general fare increase. In order to obtain such a hike, however, apparently as a result of its agreement with the City, it must obtain the consent of the City fathers.

In the news accounts provided, a fare increase appears to be a rather contentious issue. The City fathers, as well as SORTA management, are reluctant to raise any fares which may adversely impact the transit riders, many of whom depend on public transit as their sole means of transportation. Obviously, no one wants to pay more for any service which they receive. There is, therefore, no easy solution and the fact finder sympathizes with SORTA management and the City fathers over their dilemma.

While no one likes to see a fare hike, if there were ever a case that cried out for a fare hike in order to assist SORTA in its operation, this is the case. Based on the evidence presented I find it remarkable that SORTA has been able to effectively operate this system for more than 12 years without any fare increase. The last fare increase occurred in 1992. From the evidence

introduced, there is not another system of its size in the United States that has had such a remarkable transit system which maintains a \$.65 base fare for so long a period of time. From all the evidence introduced, SORTA's fare stands as the lowest fare in the entire United States for transit systems of comparable size. Indeed, for all transit systems throughout the United States, there are only a handful as low as the Cincinnati rate.

What is even more compelling is that SORTA has been able to operate this transit system on a fare which is \$.10 higher than the fare that was in existence when the private carrier sold the system to the City of Cincinnati in 1972! At that time, the base fare was \$.55. Today it is \$.65! During that same period, the cost-of-living has risen 350%, with fuel costs and health insurance costs outstripping the 350% Cost of Living rise. A mere 20% fare increase in a period when the cost-of-living rose 350%! If ever there existed evidence of sound management and careful planning and operation, this is it.

Equally remarkable is that throughout this entire period, Cincinnati's transit system has enjoyed exemplary service and received several awards throughout the years commending the service being provided by its employees.

As noted previously, this fact finder has no authority to direct how management obtains funding for its system, but I cannot ignore that fact that the choice appears to be between recommending these employees receive a wage freeze or raising of the fares of the riders who have used this system and whose fares have only increased \$.10 over 32 years. The choice then is very easy.

The fact finder has no hesitancy in suggesting that a wage freeze would be totally inappropriate in this situation. No one can reasonably expect to be paying only \$.10 more for a base bus fare over and above what was being paid 32 years ago. Especially considering the inflationary times of the 1970's and early 1980's, SORTA's management must be commended as doing a fine job. But as all good things, it cannot last forever.

## **POSITIONS AND RECOMMENDATION**

### **Wages**

ATU has asked the fact finder to recommend 6% increases in each of three contract years. SORTA asks this fact-finder to recommend no wage increase in the first year of a two-year contract, with a wage reopener in the second year.

I recommend that in the first year of the Agreement, wages shall be increased as follows: \$.20 per hour payable the first day of the payroll week following June 1, 2005, September 1, 2005 and December 1, 2005.

The second year of the Agreement, \$.25 payable the first day of the payroll week following February 1, 2006 and August 1, 2006.

The third year of the Agreement, \$.30 payable the first day of the payroll week following February 1, 2007 and August 1, 2007.

All wages rates should be adjusted as appropriate to reflect the above increases.

### Health Insurance

ATU asks the fact-finder to amend the contract to require SORTA to bear the full cost of health insurance. SORTA asks the fact-finder to recommend a new plan, the equivalent of the Anthem 80/50 Plan with Preventative CIF for full time employees, and Anthem Blue Access PPO 28-hour plan for 28-hour employees.

Post-hearing, I requested that the parties send health insurance options not mentioned by either party at the hearing. The health insurance options presented by each side at the hearing reflected radically different positions. If I had recommended either party's proposal it is extremely unlikely that my recommendation would be accepted by both parties. Accordingly, I am recommending adoption of what I believe is a reasonable middle ground between the two proposals.

I recommend Humana renewal option 1(c) with \$20.00 co-pays as the appropriate plan. During the first year of the agreement the employees' contribution shall be the same percentage which they are currently paying. Those percentages shall be as follows:

Full time employee, single, .0826%

Full time employee, family plan, .0641%.

28 Hour employee, single, .0613%

28 Hour employee, family, .0572%

Notwithstanding the above, the employees' monthly contribution shall not increase over that which the employees are currently paying until June 2005, at which time the employees' percentage contribution as set forth above shall be applied to the rate set forth in Humana Plan

1(c). Any premium increases in the year 2006 and/or 2007 shall be shared 75% by the employer/25% by the employee.

- Change language of the last sentence on page 31 to read as follows:

If Humana's monthly premium renewal rates for the HMO Network plan exceed **12%** in the second year or third year of the contract, the parties have agreed to open Section 11 of the contract for the purpose of negotiating a different health insurance plan and/or a different carrier *in an effort to reduce the premium increase.*

#### **Pension**

ATU proposes to amend Section 13(b) to increase benefits by 10% effective on March 1 in each contract year for the retirees not receiving benefits from the Public Employees Retirement System ("PERS"). The proposed increases track those in the current contract.

The fact finder recommends that all non-PERS retirees shall receive 10% increase in their pension in 2005; an additional 10% increase in 2006; an additional 10% increase in 2007.

#### **Life Insurance**

ATU asks the fact-finder to amend contract language to delete language making coverage of new employees conditional upon acceptance by the insurance company, for a substantial increase in the death benefit amount from the 2004 amount of \$25,000 to \$40,000 effective March 1, 2005;

\$45,000 effective March 1, 2006; and \$50,000 effective March 1, 2007, and for SORTA's cost for pensioners' group life insurance to increase from \$1500 to \$2500 annually.

SORTA asks for a one year freeze and then an increase in the death benefit amount to \$26,000 effective March 1, 2006, and then to \$27,000 effective March 1, 2007.

The fact finder recommends that life insurance shall be increased as follows:

March 2005, \$26,000.00

March 2006, \$27,000.00

March 2007, \$28,000.00

#### **Tool Allowance**

ATU proposes increases in the tool allowance from \$330 to \$350 effective August 1, 2005; \$375 effective August 1, 2006; and \$400 effective August 1, 2007. SORTA asks for increases to \$335 effective March 1, 2006 and \$340 effective March 1, 2007.

The fact finder recommends that the employee's tool allowance shall be increased as follows:

August 2005, \$340.00

August 2006, \$350.00

August 2007, \$360.00

**Uniform Allowance**

ATU, citing to statistics showing bargaining unit members falling far behind other SMSAs in Ohio, asks the fact-finder to recommend an increase in the uniform allowance to 100% of initial and replacement costs. SORTA proposes to increase its contribution to the Uniform Allowance to 70% effective March 1, 2006 and 71% effective March 1, 2007.

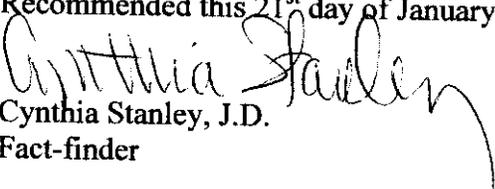
The fact finder recommends that employee's uniform allowance shall be adjusted as follows:

Effective February 2006, the employer shall pay 70% of the cost

Effective February 2007, the employer shall pay 72% of the cost

ALL OTHER PROVISIONS OF THE AGREEMENT REMAIN AS IS WITH THE EXCEPTION THAT ALL DATE-SENSITIVE PROVISIONS SHALL BE CHANGED TO REFLECT A THREE YEAR AGREEMENT.

Recommended this 21<sup>st</sup> day of January 2005.

  
Cynthia Stanley, J.D.  
Fact-finder

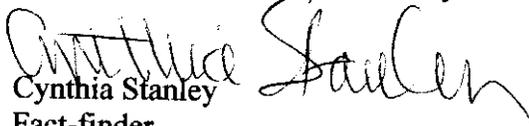
Certificate of Service

The undersigned hereby certifies that a true and accurate copy of the "Fact-finder's Report and Recommendation" was served upon:

Joseph Pass  
Jubelirer, Pass & Intrieri  
419 Fort Pitt Blvd.  
Pittsburgh, PA 15222-1576

Charles Roesch  
Dinsmore & Shohl  
1900 Chemed Center  
255 E. Fifth Street  
Cincinnati, OH 45202

By overnight delivery this 21<sup>st</sup> day of January 2005.

  
Cynthia Stanley  
Fact-finder