

STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of the Fact-Finding Between

TEAMSTERS LOCAL NO. 348, affiliated
with the INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Employee Organization

and

METRO REGIONAL TRANSIT
AUTHORITY,

The Employer

CASE NO. 2014-MED-06-0868
Fact-Finder: Jerry B. Sellman
Date of Report: April 6, 2015

FACT FINDERS REPORT AND RECOMMENDATION

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

John R. Doll, Esq. – Attorney with Doll, Jansen & Ford representing Teamsters Local 348

Patrick J. Darrow - Secretary –Treasurer and Business Manager, Teamsters Local 348

FOR THE EMPLOYER:

G. Frederick Compton, Jr., Esq. – Attorney with Roetzel & Andress, L.P.A., representing the the
Metro Regional Transit Authority

I. INTRODUCTION

This matter concerns a Fact-finding proceeding between the Metro Regional Transit Authority (hereinafter referred to as the “Employer” or the “Metro RTA”) and Teamsters Local 348, affiliated with the International Brotherhood of Teamsters (hereinafter referred to as the “Teamsters” or “Union”). The State Employment Relations Board (SERB) duly appointed the undersigned as Fact-finder on February 20, 2015 to conduct a Fact-finding hearing. A Fact-finding hearing was held on March 20, 2015 at which time the Fact-finder invited the parties to enter into mediation pursuant to the Ohio Administrative Code and the Policies of SERB in an effort to find consensus on all remaining disputed provisions of the new Collective Bargaining Agreement. The Parties engaged in mediation and were close in mutually agreeing on most of the unresolved issues, but the inability to mutually agree on a comprehensive economic package and a few other issues prevented resolution of a global agreement on all issues

The open issues identified and discussed by both parties included:

- Article 1, §5 – Coverage of the Bargaining Unit: “Outsourced Work
- Article VI, §4 – Hours of Work and Working Conditions;
Personal Days
- Article VI, §5 – Shift Differential
- Article XII - Wages
- Article XIV – Health and Welfare
- Article XIX - Miscellaneous
- NEW Article – Charitable Educational & Recreational Fund
- Modification of Side Letter 3
- Modification of Side Letter 4

The Fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of the State Employment Relations Board, as amended. During the Fact-finding proceeding, this Fact-finder provided the parties the opportunity to

present arguments and evidence in support of their respective positions on the issues remaining for this Fact-finder's consideration. The Parties waived the taking of a transcript.

In making the recommendations in this report, consideration was given to all reliable evidence presented relevant to the outstanding issues before him and consideration was given to the following criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board:

- (1) Past collectively bargaining agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

II. BACKGROUND

Teamsters Local 348 represents bargaining members with Metro RTA consisting of 34 employees. The Union's bargaining unit is comprised of employees in the positions of Mechanics, Storeroom Keeper, Maintenance Person and Off-site Maintenance Person. The bargaining unit is made up primarily of vehicle mechanics, numbering approximately thirty-two (32) full-time employees, with two (2) partroom clerks and two (2) building maintenance employees. The parties have a negotiated apprenticeship program and some of the mechanics are still in the apprenticeship program. The vehicle mechanics perform a variety of work at the Employer's facilities. The two building maintenance employees perform skilled building

maintenance type work and the two partroom employees primarily maintain an inventory of parts for the vehicles on which the vehicle mechanics perform services and provide the parts to the vehicle mechanics as needed while maintaining an inventory control system for the parts.

Metro RTA is a countywide transit system with a service area that covers 419.92 square miles in Summit County, Ohio, with express service to downtown Cleveland. Metro RTA is a public entity and considered a public employer under the provisions of Chapter 4117 of the Ohio Revised Code. Its governing body is a 12 member Board of Trustees and its members are appointed by the governmental entities. Metro RTA serves Akron, Barberton, Cuyahoga Falls, Stow, and Summit County. The operation of Metro RTA is in the hands of an employed Executive Director and the administrative staff, which involves Human Resources, Finance, Customer Service, and Maintenance functions. The Metro RTA nonsupervisory employees are represented by two bargaining units: the bus operators, vehicle service employees, and salaried office personnel are represented by the Transportation Workers Union of America ("TWU") and the Mechanics, Storeroom Keeper(s), Maintenance Person(s), and Off-site Maintenance Person(s) are represented by the Teamsters Union. In 2014, a tentative agreement was reached with TWU, which resulted in a successor agreement with that bargaining unit for a term from August 1, 2014 through July 31, 2017.

Metro RTA has a revenue-producing fleet of approximately 228 vehicles, which is composed of about 60% passenger buses and about 40% Para-transit buses. Through a concentrated effort on the part of Metro RTA, the average of the revenue-producing vehicles is less than seven (7) years with the oldest being thirteen (13) years of service and the newest with less than one year of service. The Employer and other public transit authorities must constantly be aware of the need to replace revenue-producing vehicles that typically have a thirteen (13)

year life for transit type buses and 5 to 7 year life for Para-transit vehicles. Based upon recent statistics, labor and fringe benefits expenses constitute over 70% of Metro RTA's operating expenses. Through sound fiscal management, the Employer has been able to avoid deficit operations and maintains a fiscally prudent operation, even when recent economic downturns challenged other public authorities.

The operations of the Metro RTA are funded primarily by a one quarter of one percent ($\frac{1}{4}$ of 1%) continuous sales and use tax passed in November of 1999 and an additional one quarter of one percent ($\frac{1}{4}$ of 1%) continuous sales and use tax approved by voters in March of 2008. As of December 31, 2013, Metro RTA had total assets of \$120.4 million and total liabilities of \$3.5 million, leaving Metro RTA with a net positive financial position of \$116.9 million. Based on the 2015 budget documents, Metro RTA has estimated a net income from 2014 operations of \$12,531,672.00. According to the May 14, 2014, Independent Auditors' Report, Metro RTA's overall financial picture was in a very good position as of December 31, 2013. Based on Metro RTA's estimates for 2014, its financial picture had substantially improved. For 2015, Metro RTA has budgeted \$42,922,000.00 in sales and use tax revenue and total revenue of \$53,688,477.

The current Collective Bargaining Agreement expired on July 31, 2014, and Extension Agreements have been executed by the parties to allow for Fact-finding on unresolved issues. The parties tentatively agreed to language in all but seven (7) negotiated articles in the new proposed Collective Bargaining Agreement prior to the Fact-finding Hearing.

The following recommendations of the Fact-finder on the remaining disputed issues are based on his consideration of an overall solution to the positions and concerns of the parties as opposed to an independent analysis of each issue unrelated to the other.

III. UNRESOLVED ISSUES

1. ARTICLE I, SECTION 5, OUTSOURCED WORK

The Employer's Position

The Employer proposes to add “snow removal/plowing” to the list of activities that it could outsource. The Employer is also receptive to additional modifications to this section proposed by the Union regarding outsourcing work on garage and man doors [Section 5 (b)] and hoists [Section 5 (e)], if the Union were to accept its overall economic package and restrict outsourcing on (b) and (e) above to situations where a bargaining unit member is deemed capable of performing the work, is not already engaged in assigned duties, and has all of the equipment needed to perform the job.

The Employer wants to outsource snow removal/plowing for very practical reasons. During the winter months, it has an immediate need to have snow removed or plowed from its properties so that the transportation services and rider safety can continue even in inclement weather and it has not found the bargaining unit members receptive to the tasks of snow removal. Currently, it contracts out this service to the Summit County Board of Developmental Disabilities; it needs to continue to do this to ensure that sufficient equipment is available to adequately remove the snow.

If the Union wants to be assigned repair and maintenance work on garage and man doors, as well as hoists, the Employer needs to put some qualifications on the performance of this work. The Federal Transportation Authority (FTA) requires Metro RTA to develop, file and update maintenance plans for its vehicle and for its buildings, grounds, and equipment. A key component to the Maintenance Plan is the overall safe environment and maintenance of the

physical plant. In the Maintenance Plan, the manner by which equipment is to be inspected and maintained is spelled out. For example, the plan calls for the hoists to be inspected and maintained by “Northcoast Lift.” Similarly, garage doors are to be repaired “by one of three available service centers.” The Employer’s concern about totally restricting its ability to outsource the inspection and maintenance of safety sensitive equipment is rooted in the overall safe operation of the garage.

The Union’s Position

The Union proposes to amend the Article I, Section 5, by deleting the Employer’s right to outsource work on garage and man doors [Section 5 (b)], hoists [Section 5 (e)], and non-vehicle painting [Section 5 (f)]. In exchange, it is willing to exclude offsite maintenance and building employees from the minimum thirty-three (33) staffing requirement to outsource. It is opposed to adding snow removal and plowing to the permissive list.

The Union argues that bargaining unit employees have routinely been assigned to repair the garage and man doors, repair the hoist, and to perform non-vehicle painting duties. The Union proposed that these specific job duties not be outsourced and be performed by bargaining unit employees based on the current practice that these functions are, for the vast majority of the time, being performed by bargaining unit employees. The current practice of having bargaining unit employees perform the garage and man door maintenance and repair, hoist repair, and maintenance and non-vehicle painting demonstrates that the bargaining unit employees have the skill and ability to perform these job duties, and that the Employer has the equipment necessary to have bargaining unit employees perform these job duties. The Union further submits that its members have the ability to do snow removal/plowing, and there is no need to allow the Employer to outsource this work.

Discussion, Findings and Recommendation

The work duties set forth in the “outsourcing” provisions of the Agreement are permissive in nature, and currently, the Employer may not outsource any of the job duties set forth therein if there are bargaining unit employees are on layoff and/or the bargaining unit drops below 33 employees including mechanics, storeroom keepers, apprentices, off-site maintenance, and building maintenance employees. There is no question that bargaining unit employees have performed all of the twelve duties listed in this section. The contested issue is whether snow removal should be added and whether the other identified job duties set forth on the permissive outsourcing list should be deleted.

In regard to repair and maintenance of garage and man doors, hoists, and non-vehicle painting, the Employer made a number of valid points in favor of retaining the option of outsourcing these duties. In order to comply with FTA regulations and maintain a safe environment at its facilities, there are times when specialized equipment is necessary to complete the tasks at hand, or additional specialized skills to repair or maintain the facility. While it is recognized that the current bargaining unit members can do much of the work, Metro RTA often does not have the equipment and bargaining unit members do not have the extra specialized ability or time to perform the required work. For example, repairing garage and man doors, as well as hoists, periodically require equipment that only an outside contractor possesses to complete the job. In regard to non-vehicle painting, there are times when the Employer does not possess the necessary equipment to safely and efficiently complete the job. It is more efficient and safer for an outside contractor to perform this work, particularly in light of the minimum manning and layoff restrictions already placed on the Employer.

While the Union is opposed to adding snow removal and plowing to the list of jobs the

Employer may outsource, it appears to the Fact-finder that it only makes sense to add this permissive duty to the list in order for the Employer to adequately serve the public, whose members are paying for its services through sales and use taxes. When large snow storms hit northeast Ohio, where the Employer's service area is located, busses cannot continue to run, and passengers cannot get to bus stops, if the snow is not removed. When bargaining unit members are fully assigned to other work, the Employer should have this option, particularly in light of the minimum manning and layoff restrictions already placed on the Employer, as mentioned above.

The Employer's compromise, as an alternative to fully deleting outsourcing on garage and man doors and hoists, makes no sense to the Fact-finder. Incorporating language that "allows a bargaining unit member to do work on garage and man doors or hoists, if the bargaining unit member is deemed capable, is not already engaged in assigned duties, and has all of equipment needed to perform the job" is meaningless. All the Employer needs to do is assign the employee to other work. In order to avoid disputes over this, it is best to decide whether the Employer may or may not outsource these job duties. The Fact-finder finds no evidence to indicate that the Employer has used or intends to use these enumerated rights to reduce the work of the bargaining unit. As a result, adding snow removal to the list and otherwise maintaining the current list of outsourcing duties in is not harmful to the bargaining unit members and is in the best interest of the public in maintaining well-maintained transportation facilities.

RECOMMENDATION

It is recommended that snow removal and plowing be added to the permissive list of outsourced duties in Article I, Section 5. All other provisions of this Article should remain the same.

2. **ARTICLE VI, SECTION 4 – HOURS OF WORK AND WORKING CONDITIONS; PERSONAL DAYS**

The Union's Position

The Union proposes to add two additional holidays to the list of holidays: Veterans' Day and Presidents' Day. The Union also proposes to eliminate the cutoff date for employees hired prior to June 1, 1998, for the receipt of a sixth personal day, thereby entitling all bargaining unit employees to six personal days.

The Union submits that the vast majority of public sector contracts in Ohio recognize Veterans' Day and Presidents' Day as a paid holiday for Public Sector employees. The Union submits that the inclusion of Veterans' Day and Presidents' Day in the collective bargaining agreement herein would be consistent with the other public sector collective bargaining agreements. The 1998 cutoff date for the sixth personal day is a holdover from the collective bargaining agreement between the Employer and the previous representative. The Union submits that there is no justification for a large number of bargaining unit employees not to receive the sixth personal day when they have been employed up to seventeen (17) years by the Employer.

The Employer's Position

The Employer proposes retaining current language. The Employer argues that, in light of its wage proposal, it is not persuaded that providing more paid time off when the members of the bargaining unit currently have five (5) or more personal days is necessary or justified. There is no reason to add the personal days requested. In regard to eliminating the cutoff date for employees hired prior to June 1, 1998, for the receipt of a sixth personal day, there are currently ten (10) employees with greater service to Metro RTA prior to June 1, 1998, and they have received recognition of that fact through the sixth day of personal leave. The Employer was

assured that in time the number of employees who have six (6) personal leave days will be reduced and eventually will not exist. No other group of employees (bus operators, non-union employees or management employees) has an assurance of six (6) personal leave days per year. Management sees no reason to extend this benefit to the entire bargaining unit.

Discussion, Findings and Recommendation

While the Union pointed out that the inclusion of Veterans' Day and Presidents' Day would be consistent with other public sector collective bargaining units, the evidence reveals that these holidays are not given to other bargaining units or management groups within the Metro RTA organization. If the Fact-finder were to add these holidays, it would not be consistent with the holidays of the other employees. For this reason, the Fact-finder finds no reason to add the additional holidays to this collective bargaining agreement.

It appears that establishing a cutoff date for employees to receive a sixth personal day was based upon a foreseeable time period in which those employees hired before the cut-off date would be limited in number and would be phased out over time. To eliminate the cut-off date from the Agreement would basically be adding an additional benefit, an additional personal day, for the majority of the bargaining unit members not anticipated or provided for in a prior collective bargaining agreement. The provision was obviously included at a time when senior employees were deemed deserving of the additional day. As the Union points out, however, a number of employees hired after the cut-off date in 1998 have almost seventeen years' experience. In light of the Employer's statements that no other group of employees (bus operators, non-union employees or management employees) has an assurance of six (6) personal leave days per year and the increased cost to the Employer without any substantial justification,

the Fact-finder finds that without more rational for this increase, the current language in the contract should be retained.

RECOMMENDATION

It is recommended that the language contained in Article VI, Section 4 – Personal Days, should remain the same.

3. ARTICLE VI, SECTION 5 – HOURS OF WORK AND WORKING CONDITIONS; SHIFT DIFFERENTIAL

The Union's Position

The Union proposed that the shift differential set forth in Article VI, Section 5, be increased from thirty (\$.30) to seventy-five (\$.75) per hour. The shift differential amount has not been increased for a number of years and an increase in the shift differential is long overdue. Employees should be paid more for working less desirable shifts.

The Employer's Position

The Employer proposes to retain current language. It alleges that in the recent past the shift differential was increased by \$.05 to the current \$.30. The Employer has not noticed any difficulty with having members take on work in the second or third shifts at the current differential pay and sees no reason to increase the current amount

Discussion, Findings and Recommendation

Shift differential has long been recognized as either an incentive to work less desirable shifts or a reward for working less desirable shifts. The Union points out that the shift differential has not been increased in a number of years, yet the Employer opines that it was increased by \$.05 in the recent past, but that was not defined. The amount of increase sought by the Union is an unrealistic request, but it is not unreasonable to provide a meaningful increase for this unit.

Increasing the differential by an additional \$.15 per hour would be reasonable.

RECOMMENDATION

It is recommended that Article VI, Section 5 – Shift Differential, be modified to provide for a shift differential rate of forty-five cents (\$.45) per hour for all hours worked during the applicable shift(s). The remainder of the language in Article VI, Section 5, should remain the same.

4. ARTICLE XII – Wages

The Position of the Employer

The Employer proposes wage increases and other economic benefits as follows:

Wages: A wage increase of 1.5%, effective as of the date when the parties ratify and approve a successor collective bargaining agreement with no retroactive application; 1.5%, effective February 1, 2016; and 2%, effective February 1, 2017

PERS Pick-up: As part of its economic package, the Employer would increase the Ohio Public Employee Retirement System (PERS) contribution pick-up by .5% each year resulting in a total increase to 3.5%, effective February I, 2015; 4.0%, effective February I, 2016; and thereafter remain at 4.0%.

Year-end bonus language: Any such bonus would be paid only to eligible employees who are employed as the first pay in December of the year in question.

Maintenance Person (Building Maintenance): Maintain current language.

Off-Site Maintenance Wage, starting salary: The Employer proposes that a starting rate of \$14.00 per hour be established for an Off-Site Maintenance person effective upon the ratification of this Agreement. The base starting rate shall remain the same for each year of the Agreement. Once an employee is hired into this classification, he or she shall have his or her wage adjusted by the general wage rate increases and cost of living adjustments that occur subsequent to the

employee's hire date.

Tool and Boot allowance: Remove language.

The Employer argues that its overall wage and benefit package is generous and keeps the bargaining unit members competitive with peers in the industry. The wage increase is in line with increases given other employees. The PERS contribution increase is designed to offset some or most of the increase in Health Care costs proposed by the Employer. In regard year-end bonuses, a year-end bonus was and is intended for current employees and not for individuals who decided to leave prior to the calculation and distribution of the bonus at year's end.

While the Union proposed that the rate for the Maintenance Person position should be the same as Mechanic top rate [it is currently one dollar (\$1) less], the Employer prefers to maintain the current wage difference of one dollar (\$1.00) less than the Mechanic's top rate. While a Mechanic/Journeymen can perform duties of the Maintenance person, the Maintenance Person does not possess the credentials to, nor is allowed to perform, the duties of a Mechanic/Journeyman. In the recently expired contract, the parties clearly agreed that "a maintenance person shall not be assigned to perform a mechanic's work." For this reason, the Employer is not persuaded that the wage rate for the Maintenance Person position(s) should or needs to be equal to the top rate of a Mechanic/Journeyman when there is such a recognized difference in the level of expected duties from the two positions.

On the issue of a wage for an "Off-Site Maintenance employee," the Employer asserts that there are currently no employees in this position. The duties of the Off-Site Maintenance position require the maintenance (cleaning and upkeep) of bus shelters along the various Metro RTA routes and other maintenance duties away from the main Metro RTA location. The position is viewed as an entry level position. As a result, there is no viable reason to increase the entry

level wage rate in the contract.

In light of the overall wage package, the Employer finds no reason to continue to provide a boot or tool allowance.

The Position of the Union

The Union proposes wage increases and other economic benefits as follows:

Wages: A wage increase of 3%, effective February 1, 2015; 3%, effective February 1, 2016; and 3%, effective February 1, 2017

PERS Pick-up: The Ohio Public Employee Retirement System (PERS) contribution pick-up by the Employer would be increased .5% each year resulting in a total increase to 3.5%, effective February I, 2015; 4.0%, effective February I, 2016; and thereafter remain at 4.0%.

Year-end bonus: Retain the current bonus language, but provide for the same increase in year-end bonus provided the TWU in its new agreement, which was an increase in the year-end bonus to \$.02 for every \$50,000.00 increase in the sales and use tax revenue over the previous year, which increased the year-end bonus of the TWU bargaining unit employees by \$970.20..

Off-Site Maintenance Wage, starting salary: The Union proposed a new starting rate of \$16.00 per hour, \$17.00 per hour after one (1) year and \$18.00 per hour after two (2) years. All general increases and SOLA increases shall be applied to this pay scale.

Maintenance Person (Building Maintenance): The Union proposes that the agreement be amended to provide that the top hourly rate for a Maintenance person equal the top rate paid a Mechanic.

Tool and Boot allowance: The Union proposes an annual boot allowance of \$200.00 and an annual tool allowance of \$750.

The financial health of the Employer is very strong. As of December 31, 2014, the Employer has a carryover balance in excess of \$120,000,000. The Employer essentially has no debt to finance and has sufficient funds to pay the increases requested by the Union.

Additionally, the hourly wage increases over the prior two collective bargaining agreements have failed to keep up with the cost-of-living even though the financial health of the Employer remained strong throughout the period from 2008 through 2011.

The Employer agreed to give its other bargaining unit (TWU) a 1.5% across-the-board wage increase for each year of a three (3) year agreement beginning February 1, 2015. The new TWU agreement also included an increase in the year-end bonus. The Union submits that the increase requested by the Union would help offset the increases in the prior years that did not keep up with the cost-of-living and provide an opportunity for the Employer to retain current employees and recruit new employees. It is also deserving of the same bonus as given to the TWU bargaining unit members.

While the collective bargaining agreement includes an Off-Site Maintenance position, this position has not been filled for a number of years, perhaps going back to January 1, 2002. As a result, the rate of pay for the Off-Site Maintenance person has not been properly adjusted. Based on the proposals submitted by both parties, it is clear that both parties agree that the rate of pay for the Off-Site Maintenance position should be increased, with increases occurring thereafter. The parties disagree on whether all general increases and SOLA increases shall be applied, and, if so, where. The Union submits that the wage rate for the Off-Site Maintenance employees should be increased as proposed by the Union, with the general increases and SOLA increases as provided to all other bargaining unit employees.

The Union submits that, based upon the skills required of employees assigned the duties

of a maintenance person, the requested increase in the top rate for the maintenance person to the top rate of the mechanic is long overdue and completely warranted. This is but a small increase, and the maintenance employees are deserving of the equalization of pay.

The current collective bargaining agreement provides for a one-time tool and boot allowance/reimbursement of \$400.00. The Union proposed in its initial proposal an annual \$200.00 boot reimbursement and an annual \$750.00 tool allowance. The Employer did not make a response to the Union's tool and boot allowance proposal. The Union submits that an annual boot allowance is a common feature in private sector and public sector collective bargaining agreements, especially in professions where OSHA requires safety shoes. An annual boot allowance of \$200.00 is consistent with the retail cost of a good quality safety boot to be worn in the conditions of a mechanic work area. For vehicle mechanics, an annual tool allowance is also a common feature when the mechanics have to provide their own tools, as is the case with the Employer. The constant use of personal tools causes wear and tear, and sometimes breakage, necessitating the replacement of tools on a frequent basis. With the cost of vehicle maintenance tools consistently increasing, a \$750.00 tool allowance is certainly not unreasonable.

Discussion, Findings and Recommendation

The financial health of Metro RTA is very positive. That is certainly due to sound fiscal management by its management team. The Employer agrees that a wage increase is appropriate for this bargaining unit; the Union believes that the Employer can afford generous wage increases. The disagreement among the parties lies not in entitlement to a wage increase, but the appropriate amount.

Notwithstanding the fact that the Employer is healthy financially, it must continue to be

prudent in its spending in order to maintain its fleet of vehicles and deal with constantly increasing operating costs. Keeping in mind competitive rates paid to others doing comparable work in the State of Ohio and the region, the overall benefit package available to this bargaining unit and taking into consider my recommendation regarding health care premium contributions and costs, the Fact-finder believes that appropriate increases in all of the disputed areas are warranted (with the exception of equalizing the top hourly rate for a maintenance person equal the top rate paid a Mechanic, which will be discussed below).

Considering the two percent annual increases in the basic wage rate over the last three years given to the bargaining unit members, the wage increase proposed by the Employer (1.5%, 1.5% and 2%) is reasonable, particularly in light of the PERS pick-up, which is included in the wage proposal, the increase in shift differential (discussed below) and other benefits outlined herein. It is also in line with the increase given to the TWU bargaining unit workers. Increasing the wage rate by three percent (3%) per year is not appropriate in light of the other economic benefits recommended by the Fact-finder in the Report.

In regard to year-end bonuses, it is not unreasonable for the Employer to want an employee to be employed at the end of the year, or at the time a bonus is calculated. Likewise, this bargaining unit should be treated the same for bonus calculations as other bargaining units within the Metro RTA organization. As such, it is recommended that this bargaining unit receive the same bonus package as offered to the TWU bargaining unit, and the bonus will be paid out only to employees that have not terminated employment for any reason before December 15 of the year on in which the bonus is calculated.

The Off-Site Maintenance position, which has been unmanned for years, does need an appropriately updated base wage, since it appears the Employer will be hiring into this position

in the near future. After listening to the supporting arguments of both parties, an appropriate starting rate of pay for this job classification is \$14.00 per hour. While the Union proposes to increase the starting rate of pay in each year of the contract, the Employer's position on this is more persuasive, since the position has not been filled for a number of years, and it is an entry level job. I agree with the Union, however, that once an individual is hired into the position, the individual should receive applicable general and SOLA increases.

While the Union argues that the top hourly rate for a maintenance person should be equal the top rate paid a Mechanic, the Fact-finder believes the Employer's argument against raising the rate of the maintenance job classification to be more persuasive. While a Mechanic can perform duties of the Maintenance person, the Maintenance Person does not possess the credentials to, nor is allowed to perform, the duties of a Mechanic/Journeyman. The Union made a point of this in the recently expired contract when it clearly agreed that "a maintenance person shall not be assigned to perform a mechanic's work." As such, the current language should remain the same.

The Employer is proposing to eliminate a tool and boot allowance. The Fact-finder does not agree with this position. The Mechanics provide most, if not all of their tools, but an allowance to replace some of the tools is commonplace in the industry. In addition, just as uniform allowances are provided to bus drivers and officers in uniform, a boot allowance is common in this industry. The Union's proposal to more than double the current one-time tool and boot allowance for each year of the contract is not reasonable or justified. It is my recommendation that a \$500 boot and tool allowance be paid on July 1, 2015, and a \$250 boot and tool allowance be paid on July 1, 2016. This will give the bargaining unit members an increase in the allowance over a reasonable period of time for the duration of this Agreement..

RECOMMENDATION

It is recommended that Article XII – Wage and Salary Rates, be modified as

follows:

Wages: A wage increase of 1.5%, effective February 1, 2015; 1.5%, effective February 1, 2016; and 2%, effective February 1, 2017. The Ohio Public Employee Retirement System (PERS) contribution pick-up by the Employer is to be increased .5% each year resulting in a total increase to 3.5%, effective February 1, 2015; 4.0%, effective February 1, 2016; and thereafter, remain at 4.0%.

Year-end

Bonus: The year-end bonus rate shall be increased to \$.02 for every \$50,000.00 increase in the sales and use tax revenue over the previous year. Additionally, a new provision shall be added to this section providing that the bonus will be paid out only to employees that have not terminated employment for any reason before December 15 of the year in which the bonus is calculated.

Maintenance Person

(Building Maintenance): Retain current contract language.

Off-site Maintenance

Wage: The rate of pay for this job classification shall start at \$14.00 per hour effective upon the ratification and approval of this agreement and this rate shall not be subject to general wage rate increases or cost of living adjustments. Once the employee is hired into the position, he/she shall have his/her wage adjusted by general wage rate increases and cost of living adjustments that occur subsequent to the employee's hire date. This job classification entry wage rate shall not receive an adjustment under Article XII, Section 1 and Section 2 or any other adjustment provided under this Agreement.

Tool and Boot

Allowance: The Company will provide all bargaining unit members with a \$500 boot and tool allowance/reimbursement to be paid on July 1, 2015 and a \$250 boot and tool allowance be paid on July 1, 2016.

5. ARTICLE XIV – HEALTH AND WELFARE

Position of the Employer

The Employer proposes several changes and amendments to the Health and Welfare provisions of the Agreement. Its package of proposals consists of the following:

Employee Premium Contribution Increase: Bargaining Unit members' current premium contribution rate is two percent (2%) of the base wage rate. The Employer proposes an increase of one percent (1%), effective January 1, 2015, which would increase the employee contribution to three percent (3%) of the base wage rate; an increase of one percent (1%), effective January 1, 2016, which would increase the employee contribution to four percent (4%) of the base wage rate; and no increase in the third year of the Agreement.

Self-reporting tobacco cessation program: The addition of a contribution rebate/discount of .5%, if the employee participates in a self-reporting tobacco cessation program, effective January 1, 2016.

Wellness Program: The addition of a contribution rebate/discount of .5% if the employee participates in a wellness program, yet to be designed by the Company.

Orthodontia care: Increase the maximum lifetime maximum amount paid from \$1500 to \$2500.

Spousal Assessment: A new provision providing an assessment of \$10 per pay to any employee to carry the employee's spouse on Metro RTA's family plan, if the employee's spouse has access to other health insurance.

Sickness & Accident Benefits: Modify the current Agreement to provide Sickness & Accident Benefits from \$200.00 per week for up to 26 weeks to \$400.00 per week for the first 13

weeks and then \$250.00 per week for the next 13 weeks.

The Employer's plan is a self-funded plan and is susceptible to the cost increases experienced by all coverage providers of health benefits. It argues that its proposal is intended to keep pace with anticipated cost increases. Over the life of the expired collective bargaining agreement, the cost of family health care coverage increased by 2.9% and the cost of single health care coverage increased 4.49%. As the Company is presented with inevitable health care increases over the next several years, it needs to offset the increases with some modest increases in employee contributions. In order to offset the increased employee contribution for health care, Metro RTA has proposed increasing the PERS contributions picked up by it over the next two years. At a time when many public employees are contributing more than 10% of the insurance premiums, the Employer's believes that its proposal is fair and reasonable.

The self-reporting tobacco cessation and the wellness programs are intended to improve the health of the employees. If the employees participate, they can offset the increased cost of premium contributions. Metro RTA negotiated a premium contribution rebate of .025% of the base wage rate for the Bus Operators to participate in a tobacco cessation program that goes into effect January 1, 2016.

The increased maximum amount for orthodontia care is the same as negotiated in the TWU Agreement.

The spousal assessment proposal is an effort to provide health benefits for all employees and their dependents where there is no access to other health benefits. The surcharge is intended to persuade employees not to use the Metro RTA health benefit plan when another health plan is available to provide for the costs associated with the health of an employed spouse.

The Position of the Union

The Union also proposes several changes and amendments to its health care proposal and objects to several proposals of the Employer. Its position on the issues raised by the Employer are as follows:

Employee Premium Contribution: The Union proposes to delete Section 2 of Article XIV, which would eliminate the obligation of bargaining unit employees to make any premium payments for the medical coverage provided in Article XIV.

Self-reporting tobacco cessation program: The Union is unwilling to accept the Employer's proposal.

Wellness Program: The Union is unwilling to accept the Employer's proposal.

Orthodontia care: The Union is willing to accept the Employer's increase the maximum lifetime maximum amount paid from \$1500 to \$2500 on a stand-alone basis.

Spousal Assessment: The Union is opposed to the Employer's proposal.

Sickness & Accident Benefits: The Union is willing to accept the Employer's proposal.

The Bargaining-unit members are paying much higher contributions toward health insurance premiums than the Employer's other union group. By comparison, the bus operators in the recently negotiated TWU collective bargaining agreement for the same PPO health plan will only be required to pay .75% of the employee's base hourly rate, an increase of .25% over the prior collective bargaining agreement between the Employer and TWU. In other words, effective January 1, 2016, the bus operators would be paying .75% of the employee's base hourly rate toward the health insurance premium, while the mechanics would be paying under the Employer's proposal 4% of the employees base hourly rate, over four (4) times greater. The Employer's proposal to require this bargaining unit to have their insurance co-pay increased by

100% over a two (2) year period is outlandish. The bargaining unit employees are already paying much more than the TWU represented employees and the Employer proposes to increase that gap significantly. There is no justification, economic or by comparison, for the Employer's proposal. This bargaining unit should pay no more than the TWU represented employees.

The Union is not in favor of a tobacco cessation program or the wellness program. Neither plan has been established nor do the bargaining unit members desire to participate in an undefined program.

The Union is in favor of the proposed dental and accident and sickness proposals of the Employer, but they were only offered as part of an overall economic package and the bargaining unit members do not agree the Employer's overall economic package as discussed.

Discussion, Findings and Recommendation

The Employer's method of determining an employee's premium contribution is novel, at best. With the continuing high cost of health insurance, there is little question that employees are and will be responsible for sharing in the payment of increased premium contributions. Under the current formula for determining an employee's premium co-pay, the premium co-pay is determined by an agreed-to percentage of the employee's base hourly rate (based upon 80 hours per pay), rather than expressing the payment in terms of a dollar amount or a percentage of premium payment. As such, as wages increase, so will the employee's co-pay amount. Rather than addressing the calculation formula, the parties are at odds over the amount of the increase and comparative contributions by other employees within the Metro RTA organization. The Employer, which is self-funded, needs to keep its health care premium costs in line and needs increases in premium co-pays from its employees. The bargaining unit is upset that it is paying much more in contributions than other union members employed by the Employer.

In addressing the rate of premium co-pay, the Union has a legitimate gripe that they are being asked to pay an additional one percent (1%), effective January 1, 2015, which would increase the employee contribution to three percent (3%) of the base wage rate, and an increase of one percent (1%), effective January 1, 2016, which would increase the employee contribution to four percent (4%), when the TWU just completed an agreement that increased their employee contribution for the same PPO health plan to .75% of the employee's base hourly rate (based upon 80 hours per pay), an increase of just .25% over the prior collective bargaining agreement between the Employer and TWU. This bargaining unit is being asked to carry an unproportioned amount of the Employer's health care premium costs compared to the TWU employees. If the percentage rate of contribution stayed the same over the next three years, the members of this bargaining unit would still be paying more than double what their counterparts in the TWU would be paying at the end of the three year period.

The Employer provided evidence that its health care premium costs for family coverage rose 2.9%, and its health care premium costs for single coverage rose 4.49% over the last three years. Calculations provided by the Employer in its Exhibit N reflect that the bargaining unit employees are currently paying only a small portion of the actual premium cost; about six percent (6%) of the premium cost. In comparison to many bargaining units throughout the State of Ohio, this is lower than average. Nonetheless, the disparity among the bargaining units is quite large. The Fact-finder would have recommended that the parties discuss a different formula for premium co-pay calculations, but they had not chosen not to do so in their negotiations. Based upon the circumstances presented to the Fact-finder, the Employer's need for an increased premium co-pay is clear. The Union's proposal to eliminate all co-pays is neither reasonable nor realistic. As such, it will be the recommendation of the Fact-finder on this issue that the

bargaining unit member's premium co-pays remain at two percent (2%) of the base wage rate for the duration of the Agreement. As a result of the wage increases, these co-pay amounts will increase, but not to the extent requested by the Employer. This is a fair resolution of the issue among the parties, taking into consideration balancing the amount of a wage increase with the amount of the insurance premium co-pay(s).

The self-reporting tobacco cessation and the wellness programs proposed by the Employer have great merit. They are designed to assist an employee in improving his/her health, which will in turn keep the cost of health care down. The Fact-finder is puzzled why the Union members are opposed to the programs when such programs generally result in better health and a reduction in premium co-pays, in this case a proposed one half of one percent (.5%) rebate of the base hourly rate for participation and no penalty for declining to participate. It is problematic, however, that the Employer did not identify the specifics of a program. While it referred to the tobacco cessation rebate agreed to by the TWU members, that program provides a rebate for being tobacco free. The proposal to this Union was a rebate for participating in a self-reporting tobacco cessation program. There are no details to determine if the tobacco cessation program involves being tobacco free or taking a course to become tobacco free, which is a program instituted by a number of employers throughout the country. There were also no details about what participation in a wellness program involves. It is difficult for Union members to determine if proposed increases in premium co-pays can be offset by rebates if details of "participation" are undefined. While the Fact-finder would prefer to recommend the rebates and provide an increase in employee co-pay contributions that would be off-set by the rebates, the lack of a clearly defined program prohibits such a result. Based upon the above discussion about premium co-pays, it would make no sense to propose no increase in premium co-pays and also give rebates.

The proposed increases in orthodontia care and sickness and accident benefits were only offered by the Employer if the Union accepted its overall economic proposal. These benefits are not used by all employees and therefore are only incremental costs to the Employer. In light of the recommended wage proposal, the Fact-finder is of the opinion that these benefits should be included in the overall benefit package.

The Fact-finder will recommend the spousal assessment proposal of the Employer. With premium costs continually rising, families that have more than one option for health care coverage should determine which plan is most cost effective for them. It is not unreasonable for the Employer to seek to spread the cost of healthcare across insureds. The proposed ten dollars (\$10) per pay can be determined by the member to be more cost effective or less depending upon the cost of insurance for the spouse. With the proposal to keep the percentage of the base wage rate for premium co-pays constant for the duration of the Agreement, this is not an unreasonable additional provision to be added to the Agreement.

RECOMMENDATION

It is recommended that Article XIV – Health and Welfare, be modified as follow:

Section 2 (premium

Co-pay:

Retain current contract language. The premium co-pay will remain at 2% of the base hourly rate (based upon 80 hours per pay).

Section 5 (sickness and accident insurance)

Effective upon ratification of the Agreement, the Company will provide sickness and accident insurance benefits of \$400 per week for the first thirteen (13) weeks and, after the first thirteen (13) weeks are exhausted, \$250 per week for the next thirteen weeks. The remainder of the section shall remain the same.

Section 6 (Dental)

Increase lifetime limit for orthodontia to \$2500

Section 9 (Spousal Assessment)

Amend Section 9 by providing that an employee who has a family

plan and his/her spouse has access to another health insurance plan, there shall be an additional charge of \$10.00 per pay in order to carry the employee's spouse on the Metro Plan.

6. Article XIX - Miscellaneous, Section 1 - Tool Insurance

The Position of the Employer

The Employer proposes to increase the minimum insured amount on tools to \$20,000.00, but only to the extent the Union accepts its full economic package.

The Position of the Union

The Union accepts the Employer's proposal, but only as a stand-alone provision.

Discussion, Findings and Recommendation

Since the Fact-finder has provided other benefits to the bargaining unit having a cost impact on the Employer, it is the recommendation of the Fact-finder that no changes be made to this provision.

RECOMMENDATION

It is recommended that the language in Article XIX remain the same as in the prior contract.

7. Article XIX-Miscellaneous, Section 21 (New)

The Position of the Union

The Union proposes that a new section be added to Article XIX requiring the Employer to make contributions to the Local 348 Charitable, Educational and Recreational Fund in an amount of \$2.00 per week for each employee actively working in the bargaining unit.

The proposed Charitable, Educational and Recreational Fund is a 501(c)3 Charitable Organization with a tax exempt determination letter from the Internal Revenue Service making

the contributions to the Fund fully tax deductible. The Fund is a multi-employer benefit fund with an equal number of management and union representatives on the Board of Trustees. The Union submits that the funds, which are used for various charitable, educational and recreational activities for all employees of all of the employers with which Local 348 has a collective bargaining agreement, helps develop and maintain a collegial working relationship between the Union and the employers, between the bargaining unit employees and their supervisors and between the employees and the employer. This is a worthwhile program in which the Employer should participate.

Position of the Employer

The Employer is willing to deduct an amount of \$2.00 per week from an employee's wages to be contributed to a charity of the Union's choice, but it is unwilling to make contributions as proposed by the Union.

Discussion, Findings and Recommendation

The intent of the Union is to entice the Employer to financially participate in the Charitable, Educational and Recreational Fund. While the Employer is willing to take voluntary deductions from each members pay, it chooses not to participate. The Fact-finder cannot recommend the Union's proposal, although it certainly is a worthwhile program.

RECOMMENDATION

The adoption of a new article regarding the establishment of an Educational and Recreational Fund is not recommended.

8. MODIFICATION OF SIDE LETTERS 3 AND 4

The Fact-finder would note that Side Letter 3 and Side Letter 4 deal with the scheduling of bargaining unit members. These Side Letters contain language indicating that the scheduling

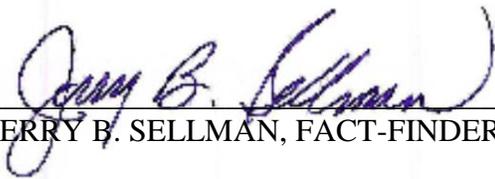
provisions contained therein were to exist only for the duration of the now expired collective bargaining agreement, unless the parties agreed to an extension or modification of the Side Letters. In the event the parties did not agree to an extension or modification, at the end of the contract (July 31, 2014), the work schedule provisions that existed in the 2001-2004 labor agreement would be reinstated.

Since the parties have not agreed on an extension or a modification, by the terms of the agreement, the work schedule provisions that existed in the 2001-2004 labor agreement are reinstated by the Side Letter's express terms. As such, there is no recommendation that can be made by the Fact-finder.

CONCLUSION

In conclusion, this Fact-finder hereby submits the above referenced recommendations on the outstanding issues presented to him for his consideration. Further, the Fact-finder incorporates all tentative agreements previously reached by the parties and recommends that they be included in the Parties' Final Agreement.

April 6, 2015



JERRY B. SELLMAN, FACT-FINDER

CERTIFICATE OF SERVICE

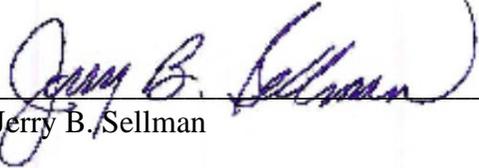
The undersigned certifies that a true copy of the Fact Finder's Report was sent via email, receipt confirmed, on April 6, 2015 to:

SERB

Mary E. Laurent
Administrative Assistant
65 E. State Street
Columbus, OH 43215
Mary.Laurent@serb.state.oh.us

Mr. G. Frederick Compton, Jr.
Roetzel & Andreas L.P.A.
222 South Main Street
Akron, Ohio 44308-1533
fcompton@ralaw.com

John R. Doll, Esq.
Doll, Jansen and Ford
111 West First Street, Suite 1100
Dayton, Oh 45402-1156
jdoll@djflawfirm.com



Jerry B. Sellman