

In the Matter of the FACT FINDINGS between the
PORT AUTHORITY of ALLEGHENY COUNTY and
AMALGAMATED TRANSIT UNION, LOCAL 85

PLRB CASE NOS. PERA-F-08-251-W; PERA-F-08-252-W

Jane Rigler, Fact Finder

August 29, 2008

BACKGROUND

The Pennsylvania Labor Relations Board (PLRB) was notified, as required by law, that the Amalgamated Transit Union, Local 85 (Union) and the Port Authority of Allegheny County (Port Authority), as of the expiration of their most recent collective agreements covering rank-and-file employees and first-level supervisors, had been unable to reach agreement on the terms of new contracts. The PLRB determined it would effectuate the statutory scheme of the Public Employee Relations Act, and the Second Class County Port Authority Act, to appoint a fact finder and, on July 15, 2008, named me to act in that capacity. The parties were duly notified and we met on July 29 and August 6, 2008. A formal hearing was held, on August 20, 2008, at which both parties presented evidence in support of their positions. The Port Authority and the Union have been bargaining for several months and have numerous unresolved issues.

ISSUES IN DISPUTE

The Authority has proposed no **wage** increase in calendar year 2009 and a lump sum bonus payment (not included in base wage) of \$750 in each of 2010 and 2011. The Union seeks a first year increase of 4.5%, and second and third year increases of 3.5%, in each year, with possible additional second and third year increases tied to any increase in the cost of living. The Union has also proposed a \$5 an hour “separation” increase for first-level supervisors to further distinguish supervisor pay rates from the rates of rank-and-file employees.

The Authority wants to increase the amount employees contribute to the cost of their **medical insurance** so that the Authority pays ninety percent (90%) of the monthly

premium of the lowest priced plan and the employee pays ten percent (10%) of the premium of the lowest priced plan (if the employee selects a higher priced plan, she/he would also pay the premium cost difference between the lowest priced plan and the plan selected). The Authority wants to change the design of the PPO so it has deductibles of \$250 (single) and \$500 (family), and prescription drug co-payments of \$10 (generic), \$25 (brand formulary) and \$50 (non-brand formulary). The Authority would like to change the HMO to increase office and physical therapy co-pays as well as prescription drug co-pays. The Authority proposes eliminating duplicate medical insurance coverage when both members of a couple are Port Authority employees and precluding spouses who have medical insurance available elsewhere from obtaining Port Authority coverage. The Authority wants the ability to change plans or carriers when less expensive comparable coverage is available and to have the right to self-insure. The Union wants no change in the medical insurance provisions of the most recent contracts.

The Authority wants to increase employees' contributions to the **pension** plan to six percent (6%), effective July 1, 2008, six and one-half percent (6.5%) in 2009, and seven percent (7%) in 2010. It also wants to, effective July 1, 2008, eliminate the use of unused sick leave towards the calculation of years of service for **retirement**, and to revise the pension plan so that an unreduced retirement benefit is only available to those with at least twenty-five years of service who have reached age 60. The Authority would eliminate the current \$500 supplemental retirement benefit and would provide for a maximum pension benefit calculation based on no more than eighty (80) hours per pay; it would limit maximum annual pension benefits to \$50,000. The Union opposes the Authority's proposed changes and proposes instead that the pension calculation multiplier

be increased to 2.5% and that many of those already retired receive “*ad hoc*” increases to their current pension benefits.

Issues involving **post-retirement health insurance** are disputed. The Authority wants to eliminate post-retirement health insurance (including medical, dental and vision coverage) for bargaining unit members who retire subsequent to June 30, 2008. The Union wants no change in the entitlement to post-retirement health insurance benefits but has proposed that a trust be created, with employee and employer contributions, to help pay for the costs associated with post-retirement premiums.

The Authority, to address what it believes is excessive **absenteeism**, has proposed changes to the current leave provisions. It has also asked for changes to the **overtime** provisions so that overtime would only be paid if an employee worked in excess of forty (40) hours in a workweek. The Union is opposed to these proposed changes.

The Authority made a wide variety of other proposals dealing with subjects such as sub-contracting, employees who arrive late for work, the bidding process, the grievance procedure, and the Maintenance Apprenticeship Program. The Union also sought a number of other changes involving subjects such as the grievance procedure, the meal allowance, vacations, leaves of absence, holidays, bereavement, life insurance, run-related issues, legal services, uniform allowance, and various items relating to off-board fare collectors and secretaries.

PERTINENT FACTS

The Port Authority of Allegheny County is a transportation authority created by state legislation; it is governed by a nine person board of directors, all of whom are appointed

by the chief executive of Allegheny County. The Authority's singular focus is public transit (bus, incline, light rail) throughout Allegheny County, its primary service area.¹

The Union has long represented the two Port Authority bargaining units involved in these fact findings, one constituted of rank-and-file employees and the other of first-level supervisors. The first-level supervisor bargaining unit has approximately 230 members and the rank-and-file unit has between 2,250 and 2,300 members. A majority of the rank-and-file unit is made up of "operators", i.e., drivers.

Appropriations from federal, state, and local (Allegheny County, exclusively) governments, as well as amounts generated by riders' fares, constitute the Authority's major sources of operating revenue. For budgetary purposes, the Authority operates on a fiscal year (July 1-June 30) basis. In fiscal year 2008-09, it is anticipated that slightly more than sixty-one percent (61%) of the Authority's expected \$350,286,580 operating revenue will come from state and local funds.² Twenty-one to twenty-five percent (21%-25%) of fiscal year 2008-09's anticipated operating revenue will come from riders' fares.

Fares for Port Authority service users increased by twenty-five cents (\$0.25), about fourteen percent (14%), effective January 1, 2008³ and the current, basic (zone one) bus

¹ Small amounts of service are also provided in parts of counties which are adjacent to Allegheny, i.e., Beaver, Butler, Westmoreland, and Washington.

² State and local funds are closely tied, with receipt of state funds conditioned on local provision of a specified percentage of "matching" funds; the Commonwealth of Pennsylvania contributes, and has long contributed, more than fifty percent of the Port Authority's operating revenue. The County's current, required, operating match, \$27,500,000, has been financed by two new taxes, one on the sale of beer and alcoholic beverages and the other on rental cars. Despite the link between state and local funds, were the County to provide an appropriation to the Port Authority in an amount which exceeded the County's statutorily-required match, there would be no concomitant increase in state funds.

³ Only in relatively recent years have there been somewhat regular Port Authority fare increases. April 1, 2001 marked the first fare increase in ten years and, from 2003 through 2007, there were no fare increases.

fare is two dollars (\$2).⁴ The Authority's current plan is for fare increases of five percent (5%) in each of fiscal years 2009-2010 and 2011-12.⁵

Port Authority ridership declined almost one percent (1%), per year, during the period of 1994-2004. Fiscal year 2005-2006 saw about a two percent (2%) increase in ridership and there was a similar increase in fiscal year 2006-2007.⁶

Hours of service offered by the Port Authority were reduced by fifteen percent (15%) in June of 2007, and more than 250 bargaining unit members lost their jobs. Because of a spate of recent retirements, all (or almost all) of the bargaining unit members who were laid off have since returned to work with the Port Authority.

The population of the City of Pittsburgh, over the period 1990-2006, decreased by almost twenty percent (20%). Over that same period, Allegheny County's population decreased by close to nine percent (9%). *Per capita* 2000 income, of Allegheny County, was \$22,491 and, in the City of Pittsburgh, it was \$18,816. Median family income, in Pittsburgh for the year 2000, was \$38,795 and, in Allegheny County, it was \$49,815.⁷

The U.S. Bureau of Labor Statistics reported that, in the third quarter of 2007, the Allegheny County average weekly wage was \$864.

Recent state legislation, commonly referred to as Act 44, resulted in what most believe will be a more reliable and predictable form of state funding for operating public transit

⁴ If riders were the exclusive source of operating revenue, the current basic fare would be at least eight dollars (\$8) and it could be as high as almost ten dollars (\$10).

⁵ A five percent (5%) increase in the current basic fare should generate anywhere between 3.25 million to 3.75 million dollars of new revenue. Historical data reveals that mass transit fare increases have been accompanied by ridership reductions, with a five percent (5%) fare increase causing about a two percent (2%) decrease in ridership. Current high gasoline prices may make it reasonable to conclude that a modest fare increase would have virtually no impact on ridership. Mass transit ridership, nationwide "rose 3.4% in the first quarter, according to the American Public Transportation Association." Justin Lahart, Conor Dougherty, *U.S. Retools Economy, Curbing Thirst for Oil*, Wall S. J., Aug. 8, 2008, at A. 1.

⁶ Data from the Pennsylvania Department of Transportation indicates that, in fiscal year 2006-2007, the Port Authority had 69,081,443 "riders carried".

⁷ U.S. median family income, in 2000, was \$50,046.

systems by virtue of, among other things, creating a “statewide operating assistance pool”. Act 44 has not yet resulted in a significant increase in the amount of state money available for the Port Authority’s operations. In fiscal year 2007-08, the Port Authority received \$183,020,400 from the Commonwealth for operational use. The figure projected for fiscal year 2008-09 is \$184,457,990, less than a one percent (1%) increase, and the second smallest increase of all eligible transit systems in the Commonwealth.⁸

As of January, 2006, the Port Authority had in the neighborhood of 3,100 employees. That number decreased, by July of 2008, to between 2,650 and 2,750. About ninety percent (90%) of the total workforce is represented by organized labor with Local 85 representing a significant majority of that ninety percent.

The two bargaining units involved in these fact findings bear a wide variety of job titles, ranging from bus operators to plumbers, electricians, mechanics, secretaries, and sign painters. Base hourly wage rates, in 2008, extend from \$23.24 an hour to \$24.90 an hour in the rank-and-file unit to an annual salary of \$55,833.24 (\$26.84/hour for 40 hours) in the first-level supervisor unit. The 2008, base hourly wage rate for a Port Authority operator is \$23.53. New employees in the rank-and-file unit receive sixty-five percent (65%) of the base hourly wage in their first year, sixty-seven percent (67%) in the second year, seventy percent (70%) in the third year, and, in the fourth year, seventy-eight percent (78%) of the base hourly wage. In calendar year 2007, the median hourly wage for the rank-and-file bargaining unit was \$22.85 an hour.⁹

⁸ SEPTA, the Commonwealth’s largest transit provider, is expected to receive a 1.7% increase in fiscal year 2008-2009. Among other aspects of Act 44 is the fact that, for a significant portion of the available funds, Pennsylvania’s transit agencies will, essentially, compete against each other for revenue, with the competition based on a formula made of up four factors: “number of passengers carried”, “number of senior passengers carried”, “number of revenue vehicle hours”, and “number of revenue vehicle miles”.

⁹ A significant number of Local 85-represented employees regularly work overtime and, in 2003, a third of the employees in these two bargaining units grossed \$50,000 or more.

In the parties' most recent contract, base wages increased by three percent (3%) on January 1 in each of 2006, 2007, and 2008. The consumer price index, during that time period, increased annually, on average, by in excess of three percent (3%).

Medical, dental, and vision insurance are available to bargaining unit members and their families. Employees may choose between a HMO plan and a PPO plan for medical insurance.¹⁰ As a condition of participation in the HMO or PPO, an employee is required to contribute, on a weekly basis, one percent (1%) of her/his hourly wage rate multiplied by forty hours.¹¹

The co-pay for doctor visits and physical therapy, under the HMO, is \$10 and \$20 under the PPO. The emergency room co-pay, \$100, is the same for both plans. The HMO prescription drug co-pay is \$5 for generic, \$10 for brand name (formulary) and \$25 for brand name (non-formulary). Prescription drug co-pays under the PPO are \$10 generic, \$15 brand name (formulary) and \$30 brand name (non-formulary). There is no deductible for either the HMO or PPO.

The 2008, monthly medical insurance premiums, for each plan, are as follows: indemnity=\$2,194 (single), \$6,509.39 (family); HMO=\$403.59 (single), \$1,187.36 (family); PPO=\$387.96 (single), \$1,141.37 (family). Over the last three years, the cost of medical insurance premiums has increased between three and five percent (3%-5%) annually. The Port Authority offered information which suggested that, in 2009, medical insurance premiums may increase by as much as 10%.

¹⁰ An indemnity plan is also available to a limited number of individuals; they, by virtue of choosing the indemnity plan, must contribute significantly more to the cost of such insurance than those who elect the PPO or HMO.

¹¹ The Kaiser Family Foundation and the Health Research and Educational Trust recently conducted a national survey of private and public employers with three or more employees. The survey's results found that the vast majority of employees with employer-provided health insurance contribute to the premium cost. The 2007, average annual employee contribution for single coverage was \$694 and, for family coverage, \$3,281.

Local 85-represented bargaining unit members are entitled to full, i.e., unreduced, pension benefits for life if they have at least twenty-five (25) years of continuous service¹² at retirement, or have reached age sixty-five (65) with ten (10) years of continuous service. Bargaining unit members contribute four and one-half percent (4.5%) of base earnings, each year, to the pension plan.¹³ A retiree's pension benefit is calculated by multiplying 2.25% by the number of years of service multiplied by the highest four years of earnings (with the earnings figure limited by the fact that no more than ninety-five hours of earnings may be included over any two week period for rank-and-file employees and one hundred three and one-half hours, in any pay period, for first level supervisors). Entitlement to a full retirement benefit for an employee hired after June 30, 2005 requires at least twenty-five years of service but the retiree must also, as of her/his retirement date, have reached age fifty-five (55).

Local 85-represented retirees receive a five hundred dollar (\$500) a month pension "supplement" if they have at least twenty-five years of service at retirement. Payment of the supplement ceases the month the retiree first reaches age sixty-two (62).

The parties' defined benefit pension plan, covering both bargaining units, was about ninety-four percent (94%) funded, as of January 1, 2007. There has been no increase in pension benefits for pre-December of 1997 retirees since July 1, 2003 when benefits were increased by 10% if the individual retired prior to January 1, 1985, increased 7.5% if the

¹² In calculating the number of years of service, employees are entitled to count unused sick leave days. First-level supervisors may accumulate, during their Port Authority tenure, no more than 260 unused sick days while there is no limit to the number of days of unused sick leave rank-and-file bargaining unit members may accumulate (rank-and-file employees earn, after five years of employment, ten (10) days of sick leave per year). A "year", for purposes of the pension plan's calculation of years of continuous service, is constituted of 260 days.

¹³ Return on investment was such that, between 1989 and 1994, and between 1998 and 2004, the Port Authority made no contribution to the Local 85 pension plan. In 2006, the Authority contributed \$10,145,028 and, it is estimated, in 2007, the Authority's plan contribution was \$12,913,315.

individual retired between January 1, 1985 and November 30, 1991, and increased by 3.75% if the individual retired between December 1, 1991 and November 30, 1997.

Retirees (and their spouses/families) are entitled to continue to participate in the Port Authority's health insurance offerings until the retiree is eligible for Medicare if, at retirement, the retiree had at least twenty-five years of service or, was at least fifty-five (55) years old at retirement with at least ten years of Authority service.¹⁴ Employees who retired prior to February 1, 2006 make no contribution to the cost of their post-retirement health insurance but those who retired subsequent to that date contribute, on an annual basis, one percent (1%) of the retiree's average hourly rate in the retiree's last year of employment, multiplied by 2080 hours.¹⁵

Approximately four thousand (4,000) active bargaining unit members and retirees, in 2007, availed themselves of health insurance with regard to which the Authority paid the majority of the cost. Retirees constituted almost forty percent (40%) of that total.¹⁶ In 2007, the median age of bargaining unit members was almost forty-eight (48) years. Through 2011, more than 500 current bargaining unit members will be at least fifty-five (55) and have a minimum of ten (10) years of service.

¹⁴ At age 65, the Authority provides a retiree either Select Blue or Freedom Blue insurance, as a Medicare supplement, at a cost to the Authority of \$265 a month per Local 85 retiree. The Authority also reimburses retirees for Medicare Part B coverage at a current cost to the Authority of \$96.40, per Local 85 retiree, per month. Individuals who have retired under the terms of the most recent contract, once eligible for Medicare, contribute, on an annual basis, one percent (1%) of the retiree's average hourly rate in the retiree's last year of employment, multiplied by 2080 hours.

¹⁵ The costs the Port Authority must bear associated with retirees' \$500/month supplements, and payment of retirees' health insurance premiums, are frequently referred to as "legacy" costs or "other post-retirement benefits (OPEB).

¹⁶ Widows and widowers of active, Local 85-represented employees participate in the Authority's medical insurance program but, after two years of one hundred premium payment by the Authority, widows/widowers must pay one hundred percent (100%) of the cost of the premium. Widows and widowers of retirees are eligible for one year of Authority-provided medical insurance, with the Authority paying the entire premium. If, using 2007 data, widows and widowers who participated in the insurance program were included with the retirees who participated, that group (i.e., retirees, widows, widowers) would constitute close to half of the total receiving health insurance under the Authority's plan.

The U.S. Department of Labor, Bureau of Labor Statistics, produced a document entitled “May 2007 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates”. It states that, for the Pittsburgh metropolitan area, in the occupation group “Transportation and Material Moving Occupations”, and sub-group “First-Line Supervisors/Managers of Transportation and Material-Moving Machine and Vehicle Operators”, the estimated, median hourly wage was \$23.05 an hour and the estimated, mean hourly wage was \$24.59 an hour. The 2007, estimated median hourly wage for the sub-group “Bus Drivers, Transit and Intercity”, was \$17.49, and the 2007 estimated, mean hourly wage was \$17.13.

Looking at public transit operator wage rates in metropolitan areas nationwide, the 2008 Port Authority operator base rate (\$23.53/hour) is higher than many, but certainly not all. Operators in New York, Chicago, San Francisco, and Boston earn in excess of \$26 an hour, Philadelphia’s (SEPTA) rate is almost exactly the same as the Authority rate, while Minneapolis/St. Paul, Miami, Cleveland, Baltimore, and Portland are in the \$23.20-\$22.42 an hour range.

SEPTA employees contribute to the cost of their health insurance premiums in a way that is identical to that of Port Authority employees (1% of base hourly rate, multiplied by forty hours). SEPTA retirees are entitled to fifty (50) months of post-retirement health insurance coverage. New Jersey Transit operators contribute fifteen percent (15%) of the cost of their health insurance premiums, and Washington, D.C. operators contribute ten percent (10%) of the cost of the premium. In the New Jersey system, retirees may continue with employer-provided health insurance until they reach age sixty-five (65).

A SEPTA retiree's pension is calculated by multiplying 1.8% by the average pay multiplied by the years of service. Unreduced pension benefits are paid if the retiree is the earlier of age sixty-two (62) or age fifty-five (55), with thirty (30) years of service. A Washington, D.C. operator is entitled to a pension benefit based on multiplying 1.85% by the highest four years of earnings, and the retiree obtains an unreduced benefit with twenty-seven (27) years of service or at age sixty-five (65) with ten (10) years of service.

Employees of Allegheny County contribute one percent (1%) of base compensation to the cost of their health insurance premiums. None are entitled to County-provided health insurance subsequent to retirement. Most employees of the City of Pittsburgh contribute fifteen percent (15%) of the cost of the health insurance premium and most have virtually no access to employer-provided, post-retirement health insurance.

Allegheny County employees contribute seven percent (7%) of their pay to their pension plan and receive a benefit calculated by multiplying 2.5% by average pay multiplied by years of service (with a cap of 20 years) plus 1% multiplied by average pay multiplied by years of service in excess of twenty (20). An unreduced pension benefit is only available if the retiree is age sixty (60), with eight (8) years of service.

During the time period of July 1, 2005 through August 1, 2008, sixty-two (62) Port Authority employees resigned. The Authority does not collect data on reasons for resignations so it is not possible to determine how many of those resignations were prompted by an opportunity to work at an establishment which paid higher wage rates or had better benefits. When bargaining unit vacancies occur, the Authority receives an abundance of applications.

The Port Authority's highest paid employee is Stephen Bland, chief executive officer. His 2007, base annual compensation was \$180,000. There were five additional Port Authority non-represented employees who, in 2007, received base compensation in excess of \$100,000. The lowest paid, non-represented Port Authority employee, in 2007, received annual compensation of \$22,932.

The benefits package of Port Authority non-represented personnel, for many, many years, closely resembled the benefits package of Local 85-represented employees, with unrepresented employees enjoying benefits as (if not more) generous than those enjoyed by Local 85-represented employees. That changed effective July 1, 2007. No longer may non-represented employees avail themselves of unused sick leave as credit towards years of service for retirement. In addition, a post-June 30, 2007, non-represented retiree is not entitled to a \$500 monthly supplement and may only participate in the Authority's health insurance plan if the retiree pays 100% of the cost of the premium (although the retiree is entitled to a \$500 a month stipend for as many as five years for the period of time between ages sixty (60) to sixty-five (65) or until eligible for Medicare, whichever comes first). Non-represented, post-June 30, 2007 retirees are not entitled to an Authority-provided Medicare supplement (i.e., Select Blue/Freedom Blue) nor are they entitled to reimbursement, by the Authority, for the payment of Medicare Part B premiums (they may, however, avail themselves of Select Blue/Freedom Blue by paying 100% of the cost).

Non-represented Port Authority employees, subsequent to June 30, 2007, contributed two percent (2%) of base salary to the cost of health insurance and, effective July 1, 2008, three percent (3%) of base salary. Non-represented employees received salary and

wages increases, pursuant to a merit-based system, of three percent (3%) in 2005, three percent (3%) in 2006, three percent (3%) in 2007, and no increase in 2008.

As a transit agency, a major, recurring expense of the Port Authority is diesel fuel. For much of 2008, the Port Authority has been able to purchase diesel fuel at the price of \$2.27 a gallon. That price will expire on August 31, 2008 when the price will, through December 31, 2008, be \$4.15 a gallon. The Authority has not yet entered into a contract for diesel fuel for the post-December 31, 2008 period.

RECOMMENDATIONS

1. **Wages.** Effective January 1, 2009, 2008 base wage rates shall increase by 3.00%. Effective January 1, 2010, 2009 base wage rates shall increase by 3.00%. Effective January 1, 2011, 2010 base wages shall increase by 3.0%.

2. **Medical Insurance--Plan Design.** Effective no sooner than January 1, 2009, and on the condition that the medical insurance available to Port Authority non-represented employees is no more generous, the PPO Plan shall be modified to include a \$250 deductible (single) and \$500 deductible (family), and the prescription drug co-pays shall be \$0 (generic), \$25 (brand formulary) and \$50 (non-brand formulary). The HMO Plan shall be modified so that the co-pay for doctor visits and physical therapy visits is \$20 and the prescription drug co-pays shall be \$0 (generic), \$20 (brand formulary), and \$45 (non-brand formulary).

3. **Medical Insurance--Two Spouses Employed by Authority.** Effective no sooner than January 1, 2009, if a woman and her husband are both employed by the Authority, the couple shall be entitled to coverage under only one medical insurance policy. The

total amount of the couple's contribution to the medical insurance premium shall be calculated using the appropriate yearly percentage, applied to the lesser of the wife or husband's wage rate.

4. Medical Insurance--Premium Contributions. Effective January 1, 2009, first-level supervisors, and rank-and-file employees who have completed at least forty-eight (48) months of Authority employment, shall contribute two percent (2%) of base wages to the cost of their medical insurance premiums. Rank-and-file employees who have not, as of January 1, 2009, completed at least forty-eight (48) months of Authority employment, shall contribute one and one-half percent (1.5%) of base wages until such time in 2009 as they may commence their forty-ninth (49th) month of Authority employment. Then, they shall contribute two percent (2%) of base wages. Effective January 1, 2010, and continuing through the contract's term, first-level supervisors, and rank-and-file employees who have completed at least forty-eight (48) months of Authority employment, shall contribute three percent (3%) of base wages to the cost of their medical insurance premiums. Rank-and-file employees who have not, as of January 1, 2010, completed at least forty-eight (48) months of Authority of employment, shall contribute two and one-half percent (2.5%) of base wages until such time in 2010, or later, as they may commence their forty-ninth (49th) month of Authority employment. Then, they shall contribute three percent (3%) of base wages.

5. Pensions—Multiplier. For all retirements which become effective subsequent to September 30, 2008, pension benefits shall be calculated as follows: Years of "continuous service" (as described in the pension plan but modified by recommendation #7, below, and with the number of years of continuous service capped at 25) multiplied

by highest four years of earnings (limited to no more than ninety-five hours of earnings over any two week period, for rank-and-file employees, and limited to no more than one hundred three and one-half hours, in any pay period, for first-level supervisors) multiplied by 2.25% plus the number of years of continuous service in excess of twenty-five (25) years multiplied by highest four years of earnings multiplied by 2.50%.¹⁷

6. Pensions--Supplement. The \$500/month pension supplement is eliminated for all retirements which become effective subsequent to September 30, 2008.

7. Pensions and Post-Retirement Benefits--Years of Service. For retirements which become effective on a date subsequent to September 30, 2008 and through July 31, 2009, “continuous service” for purposes of calculating pension eligibility and entitlement to any post-retirement benefits shall include no more than 150 days of unused sick leave. For retirements which become effective August 1, 2009 and through July 31, 2010, “continuous service” for purposes of calculating pension eligibility and entitlement to any post-retirement benefits shall include no more than seventy-five (75) days of unused sick leave. For retirements which become effective August 1, 2010 and thereafter, “continuous service” for purposes of calculating pension eligibility and entitlement to any post-retirement benefits shall include no days of unused sick leave.

8. Pensions-- “Ad Hoc” Increases. Effective May 1, 2009, retirees who retired prior to January 1, 2008 with an unreduced Port Authority pension shall be entitled to the following increases: If the retiree’s 2008, total, gross, annual income from all sources (including, e.g., the retiree’s Authority pension, any other pension from any other source, a Social Security old age benefit, income from employment) was \$10,400 (the 2008

¹⁷ For example, if a retiree retired on February 1, 2009, with thirty years of continuous service and highest four years of earnings of \$50,000, her/his pension would be calculated as follows: 25 years x \$50,000 x 2.25% + 5 years x \$50,000 x 2.50%.

federal poverty threshold) or less, the retiree shall receive a \$100 a month increase in her/his Port Authority pension. If the retiree's 2008, total, gross, annual income from all sources was more than \$10,400 but less than \$11,000, the retiree shall receive a \$50 a month increase in her/his Port Authority pension.

9. Post-Retirement Medical Insurance--Eligibility. To be eligible for Authority-provided, post-retirement medical insurance, members of these bargaining units who retire subsequent to September 30, 2008 must be entitled to an unreduced pension benefit, i.e., at least sixty-five (65) years of age, with a minimum of ten years of "continuous service" (as described in the pension plan but modified by recommendation #7, above), or a minimum of twenty-five years of "continuous service", or, if hired subsequent to June 30, 2005, at least fifty-five (55) years of age, with a minimum of twenty-five (25) years of service.

10. Post-Retirement Medical Insurance--Payment. A post-September 30, 2008 "eligible retiree" (as described in recommendation #9, above) who is desirous of medical insurance will have payment responsibilities dependent upon membership in one of five categories. Category #1 is constituted solely of eligible retirees who, at the onset of retirement, are least sixty (60) years of age but not yet sixty-five (65) years of age, with thirty (30), or more, years of "continuous service" (as described in the pension plan but modified by recommendation #7, above). Such Category #1 eligible retirees are entitled, until eligible for Medicare, to the same Authority-provided single/family medical insurance offered active employees, but at no cost to the retiree. On reaching eligibility for Medicare, Category #1 retirees shall be entitled, at the Authority's sole expense, to a Medicare supplement (currently, either Select Blue or Freedom Blue), as well as to

reimbursement, at the Authority's sole expense, of Medicare Part B premiums. Category #2 is constituted solely of eligible retirees who, at the onset of retirement, are at least sixty-five (65) years old, with thirty (30) or more years of continuous service. Such Category #2 eligible retirees, on retirement, shall not be entitled to Authority-provided medical insurance but shall be entitled to a Medicare supplement, at the Authority's sole expense, as well as to reimbursement, at the Authority's sole expense, of Medicare Part B premiums. Category #3 is constituted solely of eligible retirees who, at the onset of retirement, are younger than age sixty (60) and who have thirty (30), or more, years of continuous service. Such retirees are entitled, until eligible for Medicare, to the same Authority-provided single/family medical insurance offered active employees. Category #3 eligible retirees shall contribute to the cost of medical insurance as though the eligible retiree were still an active employee (i.e., the Category #3 eligible retiree's contribution, each year, shall be the amount it would have been had the retiree still been employed¹⁸). Category #3 eligible retirees, on reaching eligibility for Medicare, shall no longer be entitled to Authority-provided medical insurance but shall be entitled to a Medicare supplement (currently, either Select Blue or Freedom Blue) and reimbursement for Medicare Part B premiums. Category #3 eligible retirees shall contribute to the cost of the supplement and reimbursement as though the eligible retiree were still an active employee (as explained in footnote #18 of this report). Category #3 eligible retirees shall

¹⁸ For example, if an individual retired on December 1, 2008, her/his contribution for the period December 1, 2008 through December 31, 2008 would be 1% of her/his last year, average hourly wage, multiplied by 2080, and divided by twelve (12) months. Effective January 1, 2009, that same retiree's 2009 contribution would be 2% of her/his 2008, average hourly wage, and multiplied by 2080, and, effective January 1, 2010, her/his 2010 contribution would be 3% of her/his 2008, average hourly wage, and multiplied by 2080. In subsequent contract years, her/his contribution would be the same percentage (either a percentage of wage, as is the current approach, or, should a subsequent contract specify a percentage of premium, a percentage of premium) as an active bargaining unit employee in each of those contract years was required to contribute.

be permitted to pay for required pre-Medicare premium contributions, and Medicare supplement premium contributions and Medicare Part B reimbursement, utilizing unused sick leave days. Category #4 is constituted solely of eligible retirees who, at the onset of retirement, are at least sixty-five (65) years of age, with at least ten (10) years of continuous service but fewer than thirty (30) years of continuous service. Category #4 eligible retirees are entitled, at the retiree's sole expense, to a Medicare supplement (Select Blue/Freedom Blue) and reimbursement for Medicare Part B premiums. Category #4 eligible retirees shall be permitted to pay for required Medicare supplement premium contributions, and Medicare Part B reimbursement, utilizing unused sick leave days. Category #5 is constituted solely of eligible retirees who, at the onset of retirement, are younger than age sixty-five (65) and who have twenty-five (25), or more, years of continuous service but fewer than thirty (30) years of continuous service. Category #5 eligible retirees are entitled, until eligible for Medicare, to the same Authority-provided single/family medical insurance offered active employees, but are required to pay 100% of the premium cost. Category #5 eligible retirees, on reaching eligibility for Medicare, shall no longer be entitled to Authority-provided medical insurance but shall be entitled, at the retiree's sole expense, to a Medicare supplement. Category #5 eligible retirees shall be permitted to pay for required pre-Medicare premium contributions, and Medicare supplement premium contributions, utilizing unused sick leave days.

11. **Health and Medical Insurance Committee.** Effective no later than October 15, 2008, a six person (three Union, three Authority) committee shall be constituted. It shall have authority to meet, discuss, exchange information and ideas, and make recommendations about a variety of health insurance issues such as self-insurance, claims

audits, joining with other employers in a trust or consortium, different healthcare providers and insurers, achieving a healthier workforce, and any other matter related to the cost of health insurance. The committee's chair, from October 15, 2008 through July 31, 2009, shall be a Local 85 member, the committee's chair, from August 1, 2009 through November 30, 2010, shall be an Authority representative, and the committee's chair, from December 1, 2010 through June 30, 2011, shall be a Local 85 member. The committee shall meet, at the call of the chair, no fewer than two (2) times each chairship.

12. **All Other Matters.** Any provision of the parties' previous collective bargaining agreements (July 1, 2005 through June 30, 2008 and August 1, 2005 through July 31, 2008) not specifically changed by the recommendations above is recommended for inclusion. Any other matters not previously agreed upon or specifically addressed herein are recommended for withdrawal. Any agreements mutually made by the parties not specifically addressed in this report are recommended for inclusion.

DISCUSSION

The recommendations in this report are the result of careful consideration of all the facts presented. Because the parties are required to consider the recommendations *in toto*, rather than singly, the discussion which follows does not address the specific basis for each recommendation. Rather, it is meant to provide a relatively broad perspective from which all the recommendations should be considered.

It is obvious that public transit is critical to the City of Pittsburgh and Allegheny County. Given that, in a area with a population of less than two million (2,000,000) people, nearly seventy million (70,000,000) rides are taken annually via Port Authority

vehicles, it simply cannot be disputed that the economic, educational, and social fabric of southwest Pennsylvania would suffer a dramatic, and adverse, change were the Authority's operations to cease, or shrink in any significant way. It is equally apparent, given Pittsburgh's and Allegheny County's *per capita* and household income figures, and their shrinking populations, that the economic livelihood of this area absolutely needs well-paying jobs like those held by Local 85-represented employees. Should the compensation and benefits for the employees holding these jobs be seriously diminished, the larger community would also suffer.

The Union and the Authority are equally supportive of the infusion of meaningfully greater amounts of revenue from any of the federal government, the Commonwealth of Pennsylvania, or Allegheny County. Neither party to this proceeding presented evidence that there was a real likelihood of such an infusion within the term of their new agreements. Act 44, as virtually brand-new legislation, is probably not going to receive serious re-thinking within the next three years. If and when it does come under legislative scrutiny, it is simply a fact of life that, as the population of Pittsburgh and Allegheny County decrease, this area's legislative voice may become more difficult for others to hear.

Implementation of the report's recommendations will result in a restructuring of the Port Authority's costs for its Local 85-represented employees in a manner similar to the March, 2007, restructuring for non-represented employees. In addition, the recommendations will permit the Authority to reduce its legacy costs. Local 85-represented employees will, by virtue of the report's recommendations, see their wages increase while, at the same time, continuing to enjoy an enviable benefits package.

Throughout the fact-finding process, it has been made plain to the bargaining representatives of the Authority and the Union that their respective constituencies must be prepared to live with recommendations considerably less attractive than what each would like. I trust both groups will give this report's recommendations their most serious consideration.¹⁹

JANE RIGLER

¹⁹ It might be valuable for the parties to appreciate that I gave very serious consideration to recommendations which would have been consistent with many of the recommendations above but which also would have included the following: 1) wage increases of 7% in 2009, 5% in 2010, and 5% in 2111; 2) subsequent to September 30, 2008, total elimination of the use of unused sick leave for "continuous service" purposes; 3) an unreduced pension benefit only to those who have either reached age 65, with a minimum of 10 years of service, or those who have reached age 60 with a minimum of 25 years of service; and 4) post-retirement medical insurance benefits the same as those available to non-represented employees (as described on page 13 of this report).