

The Amtrak Collective Bargaining Dilemma for the Record

M. B. Kenny, General Chairman

Today, our BLET membership on Amtrak property has a laundry list of issues to contend with at every turn. The uncertainty of continued federal and/or state funding, threats of service discontinuance, realignment of work and crew base locations, carrier ignorance of employee protection schemes, overly demanding work schedules resulting in fatigue and a diminished quality of life, a largely incompetent and overly saturated management structure comprised of arrogant individuals incapable of admitting error or accepting accountability, unreasonable and arbitrary labor relations decisions, aggressive focus on operating performance, unerring compliance with Part 240 regulatory obligations, egregious discipline and uneven attendance policies, manpower shortages, inadequacies of Engineer training, endless and equally unsound restructuring of system operations, sorely lacking crew management processes, and a Board of Directors predominately composed of Bush Administration cronies hell bent on achieving the Administration's goal to destroy organized labor and place the financial burden of operations on working men and women under the guise of needed operational reform in order to sustain the Amtrak system.

The list goes on indefinitely and the issues mentioned above only begin to scratch the surface. Viewed in its totality, the current situation is enough to make any reasonable person want to scream out in disgust...I know I do! Of course, at the very forefront of these problems is the inescapable fact that we are just as far away from reaching a new collective bargaining agreement today as we were when Section 6 notices were served in 1999. Worse still, there is no relief in sight on that issue as Amtrak continues to stalemate

negotiations by simply ignoring its obligation to negotiate in good faith as required by the Railway Labor Act. Moreover, the National Mediation Board (NMB), the governing body empowered to ensure the integrity of the collective bargaining process, has failed miserably in its fundamental obligation to assist the parties in reaching a mutually acceptable agreement. The NMB has even gone a step further by making it well known to Rail Labor that it intends to follow a course prescribed by the White House in terms of bringing any potential Amtrak collective bargaining to a conclusion. And, Brothers and Sisters, you can rest assured that any CBA solution drafted by the Bush Administration will not be even remotely close to meeting our expectations or satisfaction.

As such, our membership is understandably disgusted and for good reason. Morale is at an all time low even for those of us who have endured this same form of nonsense for nearly thirty years. There is a growing disconnect between labor leaders and their respective memberships as a result of that frustration. Which is precisely the sentiment Amtrak's Labor Relations Department and the majority of Amtrak's Board of Directors wants to foster and nurture on a daily basis. Creating dissent, and pitting division against division, local chairman against local chairman, brother & sister against brother & sister and members against labor leaders is the oldest game in the book and has been management's first plan of attack to disrupt and undermine union solidarity since the dawn of industrialized labor.

Case in point: Despite its obvious inability to manage day to day operations with any reasonable degree of efficiency, Central Division management in Chicago is a prime example of that approach. In fact, it has raised that style of management to a new art

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form. They unnecessarily divert the work of one crew base or seniority zone to another, combine unrelated extra boards and the territory protected by those boards and then sit back and wait for the negative fallout to begin because of the organizational infighting such arrangements are certain to bring forward. The clowns running the circus in the Southern Division are equally as bad, if not worse. Even more galling is often times they use our own members to help facilitate their plans by circumventing the Local Chairman having jurisdiction and going directly to certain members inclined to follow the carrier's course of action because it better fits with their personal agenda in terms of work opportunities. As a Union, we can not let those unethical practices continue to flourish. We are all in this thing together and if we don't start standing together in solidarity and speaking with one voice, we are certain to fall together. We need to get past the dog eat dog mentality of what's good for me is good...and to hell with everybody else.

Please don't be fooled by management's tactics or threats. They try to convince our members that if they just go along with some of the carrier recommended changes and bend a few rules here and there, everything will be fine and the stability of their jobs will not be threatened. Believe me because I've seen it time and time again; if Amtrak intends to rearrange jobs at a certain location, I don't care if you promise them your "first born", they will eventually attempt to implement changes as they see fit, despite whatever promises were made to the contrary.

Turning to the all important issue of contract negotiations, there is hardly a day that goes by that I don't get asked, "...where are we in contract negotiations"? And, although the

information I'm sharing here has been thoroughly explained and widely distributed in various BLET venues (i.e., last year's GCA meeting, regional meetings, division meetings, etc., there still seems to be a large number of our membership who listen and buy into the ever churning gossip mills that exist in every crew base and locker room around the system. Those rumors, many of which are originated by management, only add to our problems and confusion. As such, they should be disregarded for the nonsense they are. We have some of the best and most knowledgeable Local Chairmen in the BLET Organization as officers in this GCA. Don't let yourself be misguided by locker room chest beating and gossip. If you want to know the real story, apply to your Local Chairman for guidance and accurate information. Relative to our contract negotiations, I want to take this opportunity to set the facts straight on that issue for all of our membership to firmly understand.

Pursuant to the terms of the Railway Labor Act, Section 6 Notices were filed by the BLET GCA with the carrier in December 1999. Each Division was furnished a copy of that notice by the GCA office and should have same on file for membership review. Serving that notice constituted the first step in the negotiation process for the collective bargaining round to change and improve wage rate schedules, work rules and health and welfare benefit levels for our members. Likewise, the carrier served a similar notice upon the BLET aimed at achieving concessions in the form of keeping pay rate improvements minimal, significant work rule relaxation, and reductions in health and welfare benefit levels; including, for the first time, substantial employee contributions for H&W benefits. Following two negotiation

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sessions between the parties (BLET & Amtrak) in early 2000, which produced nothing more than each side outlining their respective bargaining positions, the process came to a halt because Amtrak contended that it could not pay for any of the contract improvements sought by the BLET due to inadequate federal funding and its continuing financial struggle to keep system operations functioning absent necessary federal subsidies. Amtrak further demanded that work rule concessions would have to be made by the BLET in order to pay for any contract improvements in the new agreement.

For many of us, that same old, tired excuse rings hollow because we are all painfully aware of Amtrak's ability to spend money like drunken sailors on everything from ill-planned reorganization efforts and nonsensical programs and projects such as: Continuous Service Improvement; Right and Ready Trains; Amtrak Service Standard Guarantees; Trans-gender Sensitivity Training; unsound crew base alignments; new paint schemes for equipment and facilities; and personal SUVs for its over-bloated management staff, just to name a few. And, of course, let us not forget the utterly inspiring mountain climbing expedition we were all forced to endure in the Block Training Program developed by that brain trust of mental giants in Wilmington, DE. Still, no matter how you cut it — and notwithstanding Amtrak's pitiful poor performance in the areas mentioned above — there is a legitimate, inescapable basis of fact to its precarious overall financial condition, particularly under the Bush Administration over the past six years. One only needs to read a national newspaper or watch the evening news and business reports to understand those continued financial difficulties are as real and present today as

they were in 2000, if not more so. Quite frankly, when the Administration attempted to zero out the Amtrak budget last year, things had never looked so bleak in Amtrak's thirty year history and there was a real potential for the death knell to be sounded for operations as we know them today.

With respect to the bargaining stalemate, it should also be firmly understood that we in the BLET are not alone in this contract struggle. In fact, with the exception of certain facets of the TCU organization, virtually every labor union on Amtrak property is in the very same undesirable predicament.

Given those circumstances, the negotiation process was thoroughly frustrated and effectively stalled on that basis. Moreover, considering Amtrak's position that it was financially incapable of paying for CBA improvements without substantial concessions in the existing agreement, any further negotiation efforts absent an infusion of federal money and the GCA agreeing to work rule concessions simply became an exercise in futility. Consequently, there was no further movement in negotiations for the next three years.

Then in 2003, the TCU agreed to certain bargaining concessions demanded by Amtrak and settled their contract for a portion of the crafts they represent. In reviewing the terms of that settlement, the overwhelming majority of labor leaders representing the other unions, BLET included, felt the TCU agreement failed to provide their respective memberships with reasonable and necessary CBA improvements that were, in fact, already long overdue. Adding further insult to injury and most notably, the unprecedented employee H&W contribution obligation found within the TCU

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agreement was widely viewed by most labor leaders to be a less than acceptable contractual provision and certainly one that would not pass muster with the rank and file in terms of the requisite ratification process.

However, emboldened by their settlement with that one union, Amtrak Labor Relations took the hard line position that an on-property pattern had been established and that all successive agreements with the other unions would be firmly bound by that pattern. At that juncture, many of the unsettled unions turned to the National Mediation Board (NMB) for mediation services. The BLET chose not to follow that course of action primarily due to past experience and the potential for becoming log jammed in the process and not being able to seek release for self-help under the terms of the RLA until the controlling political administration sanctioned a release from mediation. Entering into mediation efforts would also preclude any possibility of reaching an agreement with Amtrak, if at all possible, in the event some form of dramatic change occurred with respect to its federal funding condition. Today, while we are not substantially better off than the other labor organizations, at least we are not deadlocked in fruitless mediation efforts as the other unsettled unions find themselves.

Following settlement with the TCU in 2003, Amtrak should have made the same pattern settlement offer to the other unsettled unions at that point in time. That, however, simply did not occur. Instead, Amtrak's Labor Relations Department elected not to proffer that agreement to the other unions and simply adopted a "do nothing" posture. And, although the application of the Harris COLA was keeping most crafts in relative proximity

of the salary increases provided by the TCU settlement during that year, by mid-summer 2004 it was clear to our GCA that we were reaching a "tip over" point and we would begin to fall behind if the process did not move forward. As such, instead of waiting for Amtrak to approach us offering similar terms to that of the TCU agreement, we became the moving party and scheduled several bargaining sessions in the hope of bringing some form of satisfactory closure to the long outstanding contract stalemate.

Those negotiating sessions produced what we considered to be substantive movement in resolving our contract dispute within the context of the established TCU pattern. Ultimately, we reached a point where an agreement in principle appeared to be within striking distance. And, although the terms of that agreement construct were a far cry from our Section 6 expectations of four years earlier, considering the political environment, the arrival of David Gunn, and Amtrak's spiraling downward financial condition, it did provide some encouraging improvement in existing work rules and; more importantly, prevented our pay rate from degenerating any further without incurring any major work rule concessions. Moreover, the entire wage and benefit package of the agreement would have become effective two months later in October 2004. Thus, bringing about a fairly substantial improvement to the hourly pay rate and opening the door for us to serve Section 6 notices for the next round of collective bargaining in November 2004.

Encouraged by the prospect of bringing finality to another extremely frustrating round of bargaining, the terms of the agreement in principle were explained and discussed with Division Local Chairmen for the purpose of

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gaining their input and perception relative to membership acceptance of the agreement terms within the ratification process. Having weighed the pros and cons and considered the alternatives, a clear majority of the entire GCA agreed that we should move forward, accept the contract terms that were on the table and that membership ratification would be likely. So, for a very brief and fleeting moment, things were looking up...for a change!

That progress, however, was short lived. Because when the tentatively agreed upon terms of the agreement were presented to Amtrak's Vice President of Labor Relations, Joe Bress and his cadre of D.C. bean counters, things began to unravel almost immediately. Bress rejected our core position in terms of bargaining strategy and insisted that "cost offsets" would have to be achieved by Amtrak within the agreement terms in order for any improvements to be made in hourly rates or work rules. Simply put, he wanted a cost neutral agreement and despite Amtrak's insistence on our accepting the TCU pattern, it adamantly rejected the obligation of paying the dollar equivalent clearly provided within that agreement construct. Alternatively, Amtrak suggested that it would review the tentative agreement terms and attempt to "find" the offsets necessary to make the agreement a reality. Totally disgusted with that turn of events, but not wanting to totally jeopardize the possibility of a settlement, we agreed to allow Amtrak to identify possible off-sets for our review and consideration.

Well, find they did. About two weeks later, a counter proposal was made to what we had tentatively agreed upon weeks earlier. The offer was for us to accept sweeping, unprecedented changes to our H&W plan in

exchange for the negotiated improvements to the agreement, all of which fit within the economic model embodied in the TCU settlement. Additionally, although Amtrak proposed to diminish our H&W benefits, we would still be required to make employee contributions toward the plan consistent with terms set by the TCU agreement. Knowing full well that such a proposal would have to be rejected on its face, but still not wanting to kill the deal completely in the event some type of compromise could be reached, Amtrak was advised that we would perform our own analysis of the numbers generating their offset scheme and advise them accordingly. Not surprisingly, our calculations revealed that not only would Amtrak realize cost offsets to pay for the contract improvements, their proposed plan also generated further additional savings in the overall settlement scheme.

It became plainly obvious to us that, under the totally unacceptable terms proposed, any possibility of reaching an agreement was now dead. Consequently, negotiations were again hopelessly stalled and remained as such for the next year. However, immediately following the departure of David Gunn, one last attempt was made by the GCA to move the negotiation process forward by meeting with Labor Relations in Washington, D.C. But, as anticipated, that effort again proved to be in vain when Amtrak advised that — because of its continuing funding crisis and the controversy swirling around its newly appointed and unsettled Board of Directors — even the terms of the contract offered a year earlier were no longer in the offering.

That brings us to today, rapidly approaching nearly seven years after our initial Section 6 Notice was served. And, while I will not lay out our strategy in this forum for obvious

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reasons, what I can tell you is this: Our avenue of recourse at this point is rather narrow and equally dangerous. The first option is to accept a substandard contract without equitable improvements and while making considerable personal dollar contributions toward a substantially diminished H&W plan.

In my personal estimation, this option is a non-starter and a new General Chairman would have to go down that road, because I simply will not!

The other alternative is going to mediation, finding ourselves lumped in with the other organizations seeking release from same and moving toward a self-help situation, when and if the NMB releases us from the very same failed mediation efforts that have produced absolutely nothing for the other unions. Then, upon such release, we would be free to seek "self help," which is withdrawing from service after certain "cooling off" periods" prescribed by the Act. For those of us who have been around here since our last attempt to strike, you will probably remember how that strike lasted for about 12 minutes, if that, before we were legally enjoined and forced back to work. In any event, at that juncture of today's process, pursuant to Section 10 of the Railway Labor Act, a Presidential Emergency Board (PEB) would be appointed and empowered to make recommendations for a settlement. That PEB would be appointed by the Bush White House.

Now, anybody who thinks either of those options, particularly the latter, would prove advantageous to our membership, really needs to stop drinking the Amtrak Kool Aid and rejoin the more logical thinking majority of our membership. At best, our past experience

with PEBs on Amtrak property has been largely unsuccessful, even when appointed by considerably more labor friendly political administrations. A PEB appointed by the current administration would be nothing more than a hand picked gang of Bush bullies acting as an extension of the majority composition of Amtrak's Board of Directors and the Republican driven Congress who has repeatedly rejected legislation to raise the minimum wage in this country to a poverty standard. So, once again, GCA consensus maintains that following the alternative PEB process holds absolutely no attraction or benefit whatsoever as a viable approach.

All that leaves us undeniably between a rock and a hard place marking time, and I have no intention of attempting to sugar coat the hard and cold reality of that frustrating situation. Believe me Brothers and Sisters, nobody wants this contract round settled more than I do. But, having carefully weighted our alternatives, I remain convinced that, as difficult as it may be, we need to remain focused on the larger issue, accept our situation for what it is and move forward intelligently. Accepting a substandard agreement or a process that may very well place us in a worse condition than we already are today — just to say we brought this nightmare to closure — just defies rational thought.

In the final analysis, today more than ever our situation demands that we maintain union solidarity within our ranks and on every front, both on and off the property. Personal agendas need to be set aside once and for all. Like it or not, we are all in this mess together and we need to start functioning as one cohesive and thoroughly unified work force

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and that is the message we need to deliver to Amtrak everyday of the week!

Brothers and Sisters, we are in agonizingly difficult times in today's world and I will not pretend for one moment to have the answer to each and every problem facing us here on the property. Make no mistake about it, working men and women in the U.S. today are under attack. To hell with Osama Bin Laden, personally I'm more worried about George Bush and his attack on working class Americans. On a similar but somewhat lesser scale here at Amtrak, we are under attack by the Board of Directors, Labor Relations and a band of unscrupulous managers who are as dishonest and disingenuous as the day is long, but have the unmitigated gall to impose the asinine Amtrak Standards of Excellence on our membership at every opportunity. As sad and disgusting as that may be, this is precisely where we find ourselves today.

In closing, I just want to say that I have attempted to be as straightforward and candid as possible in explaining our current situation. Furthermore, I also fully understand that you probably will not find this information the least bit pretty or comforting. It is, however, a brutally honest depiction of where we stand in terms of contract negotiations. And, for the record, I also want you to firmly understand that despite the myriad of problems discussed here, our GCA is thoroughly committed to continuing our battle with every resource at our disposal. We are, however, only as strong as our weakest link and that means, above everything else, I need each and every one of our Members to stand tall, strong and prepared to do whatever it takes when the time comes.

Please remember this, the bosses run the railroad...but **we run the trains!** And, no matter how long it takes and whether that fight takes us to Capitol Hill, the Board of Directors, Amtrak conference rooms or the street, we are going to win this battle!

With that said, I trust some much needed light has been shed on our situation and I respectfully ask for your continued support, solidarity, brotherhood and assistance in making our common goals a reality.