

REPORT
to
THE PRESIDENT
by
EMERGENCY BOARD
NO. 247

SUBMITTED PURSUANT TO

EXECUTIVE ORDER DATED OCTOBER 10, 2014 ESTABLISHING AN EMERGENCY
BOARD TO INVESTIGATE A DISPUTE BETWEEN THE SOUTHEASTERN
PENNSYLVANIA TRANSPORTATION AUTHORITY AND BROTHERHOOD OF
LOCOMOTIVE ENGINEERS AND TRAINMEN

AND SECTION 9a OF THE RAILWAY LABOR ACT, AS AMENDED

(National Mediation Board Case No. A-13559)

WASHINGTON, D.C.
November 6, 2014

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The Honorable Barack Obama
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Pursuant to Section 9a of the Railway Labor Act, as amended, and by Executive Order dated October 10, 2014, you established an Emergency Board, effective 12:01 a.m., Eastern Daylight Time, October 13, 2014, to investigate a dispute between the Southeastern Pennsylvania Transportation Authority and its Locomotive Engineers represented by the Brotherhood of Locomotive Engineers and Trainmen.


Following its investigation of the issues in dispute, the Board now has the honor to submit its Report to you concerning resolution of the dispute between the parties.

The Board acknowledges with thanks the assistance of Norman L. Graber, Esq. and Angela I. Heverling, Esq. of the National Mediation Board, who rendered invaluable counsel and aid to the Board throughout the proceedings.

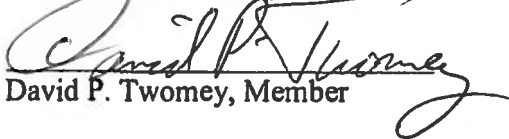
Respectfully submitted,



Elizabeth C. Wesman, Chairman



Barbara C. Deinhardt, Member



David P. Twomey, Member

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I. CREATION OF THE EMERGENCY BOARD

Presidential Emergency Board No. 247 (“PEB” or “Board”) was established by the President pursuant to Section 9a of the Railway Labor Act (“RLA”), as amended, 45 U.S.C. §151 *et seq.* including §159a, and by Executive Order dated October 10, 2014. The Board was created to investigate and report its findings and recommendations regarding a dispute between the Southeastern Pennsylvania Transportation Authority (“SEPTA”) and its Locomotive Engineers represented by the Brotherhood of Locomotive Engineers and Trainmen (“BLET”). A copy of the Executive Order is attached as Appendix A.

The President appointed Elizabeth C. Wesman, of Camas, Washington, as Chairman of the Board, and Barbara C. Deinhardt, of Brooklyn, New York, and David P. Twomey, of Quincy, Massachusetts, as Members. The National Mediation Board (“NMB”) appointed Norman L. Graber, Esq. and Angela I. Heverling, Esq. as Special Counsel to the Board.

II. PARTIES TO THE DISPUTE

SEPTA

SEPTA is a metropolitan transportation authority that operates various forms of public transit—commuter rail, bus, subway and elevated rail, light rail, trolleybus, paratransit, and shared-rides—and serves 3.9 million people in and around Philadelphia, Pennsylvania. Overall, SEPTA has the 6th-largest transportation system in the United States, providing approximately 337 million passenger trips a year. In total it controls 280 stations, over 450 miles of track, 2,800 revenue vehicles, and 145 routes covering approximately 2,200 route miles. SEPTA's headquarters are located in Center City, Philadelphia.

SEPTA's commuter rail operation, covered by the RLA, serves the combined city and county of Philadelphia, Delaware County, Montgomery County, Bucks County, and Chester

County. It also serves Newark, Wilmington, and Claymont in Delaware, and Trenton and West Trenton in New Jersey. The commuter rail operation has 13 separate train routes and provided 36 million passenger trips in Fiscal Year 2013.

BLET

BLET represents approximately 200 Locomotive Engineers on SEPTA's Regional Rail Division. They are responsible for the operation of passenger rail cars.

III. HISTORY OF THE DISPUTE

On February 2, 2009 and July 23, 2009, pursuant to Section 6 of the RLA, the International Brotherhood of Electrical Workers ("IBEW") and BLET (collectively "the Organizations"), respectively, served on SEPTA formal notices for changes in current rates of pay, rules, and working conditions. The parties were unable to resolve the issues in dispute in direct negotiations. Applications for mediation were filed with the NMB by BLET on April 9, 2010 and by IBEW on June 21, 2010.

Following the applications for mediation, representatives of all parties worked with the NMB mediators and with Board Members of the NMB in an effort to reach agreements. Various proposals for settlement were discussed, considered, and rejected. On May 1, 2014, the NMB, in accordance with Section 5, First, of the RLA, urged SEPTA and the Organizations to enter into agreements to submit their collective bargaining disputes to arbitration as provided in Section 8 of the RLA ("proffer of arbitration"). On May 2 and 6, 2014, BLET and IBEW, respectively, accepted the NMB's proffer of arbitration, and on May 8, 2014, SEPTA declined the NMB's proffer of arbitration.

On May 14, 2014, the NMB served notices that its services had been terminated under the provisions of Section 5, First, of the RLA. Accordingly, self-help became available at 12:01

a.m., Eastern Daylight Time, on Saturday, June 14, 2014. Absent the establishment of an Emergency Board, BLET and IBEW commenced a strike on June 14, 2014.

On June 14, 2014, in accordance with Section 9a of the RLA, the Governor of Pennsylvania requested that the President establish an Emergency Board to investigate and issue a report and recommendations regarding the dispute. Section 9a(c)(1) of the RLA, in setting forth special procedures for commuter service, provides that any party to a dispute that is not adjusted under the other procedures of the RLA, or a Governor of any State through which the service that is subject to dispute is operated, may request the President to establish an Emergency Board. Thereafter, on June 14, 2014, the President created Emergency Board No. 246, effective June 15, 2014. BLET and IBEW ceased striking when the Emergency Board became effective.

On July 14, 2014, PEB 246 issued its Report and Recommendations to the President. When the recommendations of PEB 246 did not result in a prompt resolution of the disputes, the NMB conducted a public hearing on August 4, 2014, at which the Organizations and SEPTA discussed their reasons for not accepting the recommendations of PEB 246. Subsequent to the public hearing, SEPTA and IBEW reached an agreement of their dispute. The dispute between SEPTA and BLET remained unresolved.

On October 7, 2014, SEPTA requested that the President create a second Emergency Board pursuant to Section 9a(e) of the RLA regarding its dispute with BLET. The President created this Board, effective October 13, 2014, to recommend adoption of a final offer from those submitted by the Parties.

IV. ACTIVITIES OF THE EMERGENCY BOARD

Following an organizational meeting by conference call, the Board issued an organizational letter on October 16, 2014, in which the ground rules for the Board's procedures

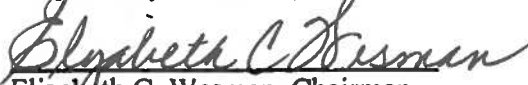
were set forth. The letter acknowledged that the Board had been advised that the parties had reached a Tentative Agreement on the issues in dispute before the PEB and that ratification should be complete by approximately November 9, 2014, if not sooner. The Board directed the parties, in the event that ratification failed, to submit a copy of the PEB 246 evidentiary record, including hearing submissions and transcripts. The PEB 246 record was submitted to the Board. The ground rules further provided that, absent ratification, and pursuant to §9a(f) of the Railway Labor Act, the parties would be required to submit final offers to the Board on Tuesday, November 11, 2014.

On October 22, 2014, BLET's members and SEPTA's Board of Directors ratified the tentative agreement.

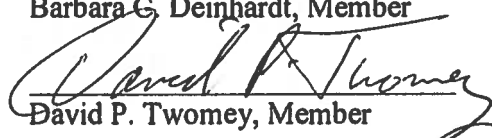
V. REPORT

This Emergency Board is pleased to report to the President that the parties' agreement has been ratified and the dispute has been resolved.

Respectfully submitted,


Elizabeth C. Wesman, Chairman


Barbara C. Deinhardt, Member


David P. Twomey, Member

APPENDIX A

Presidential Documents

Executive Order 13679 of October 10, 2014

Establishing an Emergency Board To Investigate a Dispute Between the Southeastern Pennsylvania Transportation Authority and Its Locomotive Engineers Represented by the Brotherhood of Locomotive Engineers and Trainmen

A dispute exists between the Southeastern Pennsylvania Transportation Authority (SEPTA) and its Locomotive Engineers represented by the Brotherhood of Locomotive Engineers and Trainmen (BLET).

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, 45 U.S.C. 151–188 (RLA).

A first emergency board to investigate and report on this dispute and disputes involving other SEPTA employees represented by other labor organizations was established on June 15, 2014, by Executive Order 13670 of June 14, 2014. The emergency board terminated upon issuance of its report. Subsequently, its recommendations were not accepted by the parties to this dispute.

A party empowered by the RLA has requested that the President establish a second emergency board pursuant to section 9A of the RLA (45 U.S.C. 159a).

Section 9A(e) of the RLA provides that the President, upon such request, shall appoint an emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 9A of the RLA, it is hereby ordered as follows:

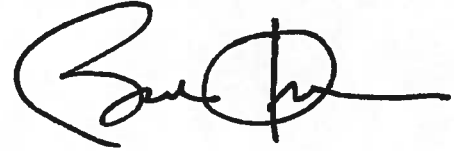
Section 1. *Establishment of Emergency Board (Board).* There is established, effective 12:01 a.m. eastern daylight time on October 13, 2014, a Board of three members to be appointed by the President to investigate and report on this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* Within 30 days after the creation of the Board, the parties to the dispute shall submit to the Board final offers for settlement of the dispute. Within 30 days after the submission of final offers for settlement of the dispute, the Board shall submit a report to the President setting forth its selection of the most reasonable offer.

Sec. 3. *Maintaining Conditions.* As provided by section 9A(h) of the RLA, from the time a request to establish a second emergency board is made until 60 days after the Board submits its report to the President, no change in the conditions out of which the dispute arose shall be made by the parties to the controversy, except by agreement of the parties.

Sec. 4. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration.* The Board shall terminate upon the submission of the report provided for in section 2 of this order.



THE WHITE HOUSE,
October 10, 2014.