

National Freight Railroads Bargaining Update

October 6, 2011

Obama Establishes Presidential Emergency Board

Strike Averted For At Least Another 60 Days

Today President Obama intervened in the ongoing contract dispute between Rail Labor and the National Freight Railroads by issuing an “Executive Order” establishing a “Presidential Emergency Board (PEB).” The PEB will hold hearings, expected to begin within the next two weeks, and make settlement recommendations to the White House and the involved parties in an effort to resolve the disputes in a peaceful manner. An initial 30 day cooling-off period was set to expire at 12:01a.m. Friday October 7th, at which time the railroads and the unions would have been free to resort to self-help. The appointment of the PEB forestalls any self-help action for at least another 60 days. The PEB usually has 30 days to hold the hearings and make their recommendations, followed by another 30 day cooling-off period (time limits may be extended by mutual agreement between all parties involved). At the end of this 30 day cooling off period the parties would then again be able to resort to self-help, and also at this point Congress could intervene in the dispute and legislatively impose agreements on the unions and the railroads.

“We are pleased to see President Obama get involved in this dispute,” stated IBEW President Hill. “We are hopeful that the PEB members will give serious consideration to the record-setting profit situation of the railroads and recommend that Rail Labor’s proposals be adopted. Not only will his intervention spare the country of a serious disruption in the day to day business of commerce in this country, it will also provide a path for the disputes to be resolved without financial harm to our members.” Hopefully the process should conclude right around the end of the year.

As stated in our last update, the IBEW bargaining coalition and the Rail Labor Bargaining Coalition (RLBC) have joined forces to move forward to a PEB. Our bargaining coalition is made up of the American Train Dispatchers (ATDA), the Brotherhood of Railway Carmen (BRC), the International Association of Machinists (IAM), the IBEW, the Transportation Communications Union (TCU), and the Transport Workers Union (TWU). The RLBC is made up of the Brotherhood of Locomotive Engineers – Teamsters (BLE-T), the Brotherhood of Maintenance of Way Employees – Teamsters (BMWE-T), the Brotherhood of Railway Signalmen (BRS), the International Brotherhood of Boilermakers (IBB), and the Sheet Metal Workers International Association (SMWIA). A copy of President Obama’s Executive Order is attached.

Again, thanks to all of you for your patience during this process. As stated before, our goal is to obtain a contract for you, our members, that is fair and equitable and that gets you your hard-earned share of the record profits these railroads are making today.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 6, 2011

EXECUTIVE ORDER

ESTABLISHING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES
BETWEEN CERTAIN RAILROADS REPRESENTED BY THE NATIONAL CARRIERS'
CONFERENCE COMMITTEE OF THE NATIONAL RAILWAY LABOR CONFERENCE
AND THEIR EMPLOYEES REPRESENTED BY CERTAIN LABOR ORGANIZATIONS

Disputes exist between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and their employees represented by certain labor organizations. The railroads and labor organizations involved in these disputes are designated on the attached list, which is made part of this order.

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

I have been notified by the National Mediation Board that in its judgment these disputes threaten substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 10 of the RLA (45 U.S.C. 160), 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 7, 2011, a Board composed of a chair and four other members, all five of whom shall be appointed by the President to investigate and report on these disputes. 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. The Board shall report to the President with respect to the disputes within 30 days of its creation.

Sec. 3. Maintaining Conditions. As provided by section 10 of the RLA, from the date of the creation of the Board and for 30 days after the Board has submitted its report to the President, no change in the conditions out of which the disputes 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.

BARACK OBAMA

THE WHITE HOUSE,
October 6, 2011.

RAILROADS

Union Pacific Railroad Company
 BNSF Railway Company
 CSX Transportation, Inc.
 Norfolk Southern Railway Company
 The Kansas City Southern Railway Company

Alton & Southern Railway Company
 The Belt Railway Company of Chicago
 Brownsville and Matamoros Bridge Company
 Central California Traction Company
 Columbia & Cowlitz Railway Company
 Consolidated Rail Corporation
 Gary Railway Company
 Indiana Harbor Belt Railroad Company
 Kansas City Terminal Railway Company
 Longview Switching Company
 Los Angeles Junction Railway Company
 Manufacturers Railway Company
 New Orleans Public Belt Railroad
 Norfolk & Portsmouth Belt Line Railroad Company
 Northeast Illinois Regional Commuter Railroad Corporation
 Oakland Terminal Railway
 Port Terminal Railroad Association
 Portland Terminal Railroad Company
 Soo Line Railroad Company (Canadian Pacific)
 South Carolina Public Railways
 Terminal Railroad Association of St. Louis
 Texas City Terminal Railway Company
 Union Pacific Fruit Express
 Western Fruit Express Company
 Wichita Terminal Association
 Winston-Salem Southbound Railway Company

LABOR ORGANIZATIONS

Rail Labor Bargaining Coalition consisting of:
 Brotherhood of Railroad Signalmen
 Brotherhood of Locomotive Engineers and Trainmen
 Brotherhood of Maintenance of Way Employes
 International Brotherhood of Boilermakers, Blacksmiths,
 Iron Ship Builders, Forgers and Helpers
 Sheet Metal Workers' International Association
 National Conference of Firemen & Oilers

Bargaining Together:
 Transportation-Communications International Union
 American Train Dispatchers Association
 International Association of Machinists and Aerospace
 Workers
 International Brotherhood of Electrical Workers
 Transport Workers Union of America

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THE WHITE HOUSE
Office of the Press Secretary

FOR IMMEDIATE RELEASE

October 6, 2011

President Obama Announces the Creation of a Presidential Emergency Board, Names Members

WASHINGTON - Today, President Barack Obama signed an Executive Order creating a Presidential Emergency Board to help resolve an ongoing dispute between major freight rail carriers and their unions.

President Obama said, "Freight rail is vital to our economy and our future. It's in our national interest to make sure our freight rail system runs smoothly, since a disruption could affect businesses across the country and cause unnecessary damage to our already-fragile economy. These dedicated individuals have a wealth of experience and talent addressing and resolving labor-management disputes. I'm grateful they have agreed to serve in this capacity, and I trust them to work toward a swift and smooth resolution of these outstanding contracts."

The Presidential Emergency Board will provide a structure for the two sides to resolve their disagreements. The Presidential Emergency Board will hear evidence and, within 30 days, will deliver a report to the President recommending how the dispute should be resolved.

President Obama also announced that he intends to appoint the following members to Presidential Emergency Board No. 243:

- **Ira F. Jaffe** - Chair, Presidential Emergency Board No. 243
- **Roberta Golick** - Member, Presidential Emergency Board No. 243
- **Joshua M. Javits** - Member, Presidential Emergency Board No. 243
- **Gil Vernon** - Member, Presidential Emergency Board No. 243
- **Arnold M. Zack** - Member, Presidential Emergency Board No. 243

Ira F. Jaffe, Appointee for Chair, Presidential Emergency Board

Ira F. Jaffe has been an arbitrator and mediator of labor and employment disputes since 1981 and has presided over more than 4,000 cases in a wide variety of industries in the private and public sectors. Mr. Jaffe serves on over 60 permanent arbitration panels and has served on three separate PEBs, one in 2001 and two in 2007. Mr. Jaffe is also a Vice-President of the National Academy of Arbitrators (NAA) and has been a frequent contributor at the NAA Meetings and at other professional conferences. Mr. Jaffe served as the National President of the Society of Federal Labor Relations Professionals in 1990. As an Adjunct Professor at the George Washington University Law School in

the 1980s, Mr. Jaffe taught courses in labor law, collective bargaining and labor arbitration, and agency and partnership. He is a Charter Fellow in the American College of Employee Benefits Counsel and has arbitrated and mediated a wide variety of employee benefits disputes. He is also a Fellow in the College of Labor and Employment Lawyers. Mr. Jaffe is a graduate of the Cornell University School of Industrial and Labor Relations and of the George Washington University Law School.

Roberta Golick, Appointee for Member, Presidential Emergency Board

Roberta Golick is President of the National Academy of Arbitrators, one of the leading North American organizations of neutral arbitrators of labor-management and employment disputes. With more than 35 years' experience in the profession, Ms. Golick has handled thousands of cases in both the private and public sectors during the course of her career. Ms. Golick was the 1996 recipient of the Cushing-Gavin Award, given annually by the Boston Labor Guild to a single neutral each year for "Excellence in Labor-Relations, Exemplifying Moral Integrity, Professional Competence and Community Concern." She received her B.A. from Barnard College, Columbia University and her J.D. from Boston University School of Law.

Joshua M. Javits, Appointee for Member, Presidential Emergency Board

Joshua M. Javits is a neutral mediator and arbitrator and serves on numerous permanent arbitration panels. He served on a Presidential Emergency Board in 2007. From 1993 to 2001, Mr. Javits was a Partner at Ford & Harrison LLP where he also served as executive director of the Labor Relations Association of Passenger Railroads. He was also an adjunct professor at the Georgetown University Law Center where he taught courses in labor arbitration, transportation labor law, and alternative dispute resolution. He was Chairman and Member of the National Mediation Board from 1988 to 1993. He began his career as a trial attorney with the National Labor Relations Board. Mr. Javits has represented both labor unions and management, at different times, and is on the rosters of the American Arbitration Association, the Federal Mediation and Conciliation Service, and the National Mediation Board. He has been rated "AV" - the highest rating - by Martindale Hubbell's *Best Lawyers in America* since 2001. Mr. Javits is a graduate of Yale College and Georgetown University Law Center.

Gil Vernon, Appointee for Member, Presidential Emergency Board

Gil Vernon has been engaged in the practice of labor arbitration and dispute resolution since 1979. From 1979 to 1983, he was also an instructor in the Department of Business Administration of the University of Wisconsin, Eau Claire, teaching labor relations, labor law, personnel, compensation administration and management. Prior to that, Mr. Vernon was a carrier member of the National Railroad Adjustment Board in Chicago, Illinois. Previously, he was a Labor Relations Officer, and before that a Crew Dispatcher and union member, for the Chicago, Milwaukee, St. Paul and Pacific Railroad in Chicago. He was appointed to a Presidential Emergency Board in 1996. Mr. Vernon is the immediate past President of the National Academy of Arbitrators. He is

on the Major League Baseball Salary Arbitration panel, the National Railroad Adjustment Board, and more than 15 airline arbitration panels, among others. He previously served on seven multi-year railroad arbitration panels as well as the Protective Benefits Panel of the Railroad Retirement Board. Mr. Vernon received his B.A. from Hope College and his M.A. from the University of Chicago.

Arnold M. Zack, Appointee for Member, Presidential Emergency Board

Arnold M. Zack has been an arbitrator and mediator of over 5,000 labor disputes since 1957 and a Member of four Presidential Emergency Boards, serving as Chair twice. He is currently the President and Chief Judge of the Asian Development Bank Administrative Tribunal. Mr. Zack was the President of the National Academy of Arbitrators from 1994 to 1995. From 1990 to 2000 he was the Chair of the Essential Industries Dispute Settlement Board in Bermuda, and the Chair of the Essential Services Dispute Settlement Board there from 1998 to 2001. Mr. Zack has also served and taught as a senior research associate at the Labor and Worklife Program at Harvard Law School since 1985. He was a Fulbright Scholar, a Wortheim fellow, and is a member of the College of Labor and Employment Lawyers. Among his awards is the Distinguished Service Award of the American Arbitration Association and the Pioneer Award and Willoughby Abner Award of the Association on Conflict Resolution. Mr. Zack holds degrees from Tufts University, Yale Law School and Harvard University's Kennedy School of Government.

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