

2011 NEGOTIATIONS IN FULL SWING

The official start to collective bargaining over the terms of the 2011 National Agreement occurred on August 30, 2011, when representatives of the NPMHU and the Postal Service met to exchange opening statements and goals for this round of bargaining. President Hegarty's opening statement, already published during September as the second of this year's NPMHU Contract Updates, made several key points:

First, that the Postal Service faces some severe economic conditions, including the worst American recession since the Great Depression of the 1930s and a decline in mail volume caused, in part, by electronic diversion.

Second, that despite the ongoing recession and continuing volume losses, the USPS generally has taken in more money from its postal operations than it spends, with postal revenues generally exceeding costs until this past fiscal year.

Third, that the billions of dollars in losses over the last few years have little to do with a failing business model or the obsolescence of the mail, and cannot be blamed on Mail Handlers or other postal employees who have continued to work productively and efficiently as more than 130,000 of their colleagues have been lost through attrition.

Fourth, that most of the financial losses suffered by the Postal Service are attributable to Congressional mandates for pre-funding retiree health benefits and overfunding retiree benefits.

Fifth, that the Postal Service inexplicably has been using its current financial predicament as an excuse for launching an unprecedented attack on its employees and the collective bargaining process, including proposals to abrogate the no-layoff clause and to terminate the USPS participation in federal retirement and health programs.

Sixth, that despite this hostile posturing by management, the NPMHU remains deeply committed to collective bargaining. In that light, the union expects, and demands, that the USPS engage in good-faith bargaining in this round of negotiations.

And finally, that the NPMHU seeks a negotiated agreement that is both protective and constructive. The agreement must protect career Mail Handlers who have dedicated their lives to the Postal Service, and it should protect the Postal Service against those who seek its demise. It also should contain practical solutions to the problems faced by the parties, so that the Postal Service and all of its employees can continue to provide the American public with the service that they have come to expect.

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Since the formal opening of negotiations, representatives of the NPMHU and the Postal

Service have been meeting frequently, in both formal on-the-record meetings and more informal off-the-record sessions. Subcommittees have been formed to address most of the complicated non-economic work rules, with separate sessions devoted to Article 7 on employee complement, Article 12 on seniority and excessing, Article 15 on the grievance and arbitration procedure, and Article 32 on subcontracting. Other proposals also have been presented by the union, covering a wide range of topics that deserve improved language and practical solutions to ongoing problems.

As the bargaining deadline of November 20 approaches, the parties will focus more of their attention on the key economic drivers included in the National Agreement, including all matters related to wages and benefits and the composition of the mail handler workforce. In these areas, the Postal Service has publicly demanded significant concessions, and the agency's private posture in bargaining certainly has been consistent with its public communications.

Only time will tell whether the parties are able to narrow their divide and reach an overall settlement. If the bargaining process culminates in a tentative agreement between the parties, that agreement is subject to a ratification vote by the membership of the NPMHU. As required by the NPMHU National Constitution, the vote would be by mail ballot, and would be run in accordance with procedures to be adopted by the National Executive Board.

If, on the other hand, the parties fail to reach a tentative agreement, the governing statute (that is, the Postal Reorganization Act, as amended, or the PRA) contains a series of alternative procedures that the parties may follow to resolve their bargaining dispute. (Remember that the PRA prohibits strikes by postal employees and lockouts by postal management, and therefore the objective of the PRA is to resolve a bargaining dispute without resort to these economic weapons.)

In particular, the PRA initially makes clear that, should they choose, the parties to a bargaining dispute "may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement." If a mutually satisfactory dispute-resolution procedure is not adopted by the parties, however, then a specific procedure set forth in the PRA would control. That procedure contains several steps, and can be summarized as follows:

Initially, the Federal Mediation and Conciliation Service (FMCS) would be responsible for appointing a mediator of nationwide reputation and professional stature, who is also a member of the National Academy of Arbitrators. The parties have to

cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

If mediation does not lead to an agreement within 60 days after the expiration or termination of the agreement, then an arbitration board will be established, consisting of 3 members, 1 of whom is selected by the Postal Service, 1 by the NPMHU, and the third by the 2 thus selected. If the members chosen by the parties fail to agree on the third person, the selection will be made from a list of names provided by the FMCS. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who also are members of the National Academy of Arbitrators and whom the FMCS has determined are available and willing to serve. The parties then would alternately strike names from the list that has been provided until only one name remains. That person then becomes the "neutral" arbitrator on the panel.

This arbitration board then gives the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board are issued, and those decisions are conclusive and binding upon the parties. Absent agreement to an extension, the arbitration board must render its decision within 45 days after its appointment.

Thus, an arbitration award would not be issued—at the very earliest—for at least 100 days after contract expiration. Moreover, in past rounds of bargaining, the parties often have extended these deadlines, so that final agreements are not reached until many months beyond the statutory deadline. For example, the specific terms of the 1994 National Agreement between the NPMHU and the USPS were not finally determined in arbitration until April 1996, some 18 months after expiration of the pre-existing contract. Likewise, the specific terms of the 2000 National Agreement between the NPMHU and the USPS were not finally bargained until February 2002, approximately 15 months after expiration of the prior contract.

The National Office has called for a meeting of all Local Union Presidents, to be held in Washington, DC on December 1, 2011, to discuss this year's bargaining, any possible settlement in negotiations, or the need to proceed to mediation and/or arbitration. All members should be certain to watch their bulletin boards so that they can read the latest information distributed by the National Office.