

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 5512

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)  
NORTHEAST CORRIDOR

AWARD NO. 1

System Docket No. NEC-BMWE-SD-3206

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier advertised all gangs within the Electric Traction Department on Advertisements 001/040-PETC-0193 dated January 25, 1993 within the Philadelphia South Seniority District as "Construction" and "Maintenance" gangs.

2. As a consequence of the violation referred to in Part (1) above, the bulletins will be rescinded and re-advertised so that there is no distinction between construction and maintenance duties.

FINDINGS

Following discussion with the Organization, the Carrier announced its intention to establish gangs in the Electric Traction Department as either "construction" or "maintenance" gangs. Previously, no such distinction was made for Electric Traction Department employees. As a result, positions were posted as Lineman/Construction, Electrician/Construction, Lineman/Mainten-

ance, Electrician/Maintenance. The record shows that the Carrier continued to consider Electric Traction Department Electricians and Lineman as qualified for maintenance or construction work, as in the past.

The Organization argues the Carrier is in violation of the Agreement by its unilateral change in the long-standing practice not to designate gangs or employes as separately assigned to maintenance or construction work. The Organization relies on the Scope Rule and Work Classification Rule, which read in pertinent part as follows:

A. SCOPE

These rules, subject to the exceptions herein, shall constitute the agreement between National Railroad Passenger Corporation, hereinafter referred to as "AMTRAK", and its respective employes of the classifications herein set forth, represented by the Brotherhood of Maintenance of Way Employes, hereinafter referred to as Brotherhood, engaged in work generally recognized as Maintenance of Way work, such as, inspection, construction, repairs and maintenance of water facilities, bridges, culverts, buildings and other structures, tracks, fences and roadbed, including catenary system, third rail, substations and transmission in connection with electric train operation, and work which as of June 1, 1945, was being performed by these employes, such as station lighting, power lines, floodlights, on elevators and drawbridges, and shall govern the rates of pay, rules and working conditions of such employes.

B. WORK CLASSIFICATION RULE

. . .

ARTICLE III - ELECTRIC TRACTION DEPARTMENT - except Northern District

The description of each position title outlined in this Article is intended to cover the primary duties of that position and, in addition, it is understood that each title comprehends other work generally recognized as work of the particular classification.

. . . .

16. Electrician-Substation - Constructs, installs, maintains, repairs and tests Substation switching apparatus, cable controls and associated batteries.. Operates Substations and protects workmen and work equipment in proximity of high tension lines or apparatus.

. . . .

18. Lineman - Constructs, installs, maintains and repairs high voltage transmission and catenary systems,

. . . .

RULE 65

RATES OF PAY

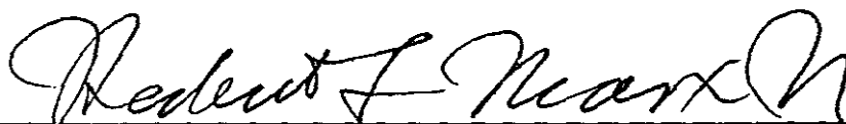
The rates of pay which have been agreed upon between the Director of Labor Relations and General Chairman are a part of this Agreement and are contained in Supplement. The listing of such rates and positions is for the sole purpose of providing information with respect to the rates of pay applicable to such positions and does not in any way affect Management's right to establish new positions or to abolish any existing position or positions subsequently established, in accordance with the provisions of the Schedule Agreement. Where new classifications are established, rates of pay therefor will be a matter of negotiation between the General Chairman and the Director of Labor Relations.

The Organization argues, in effect, that the Carrier has created "new" classifications, in that employes are assigned to only a portion of the principal duties specified in the appropriate categories of the Work Classification Rule. As a result, the Organization contends that the Carrier has failed to negotiate with the General Chairman, as provided in Rule 65. The Organization also emphasizes that this revision constitutes a change from a long-standing practice.

The Board finds that the Organization has failed to demonstrate that the Carrier's action is in violation of the Agreement. It is appropriate for the Carrier to direct employees to undertake particular tasks (such as maintenance work or construction) within their classification. There is also no showing that any "new" classifications have been established, since there are no duties not covered in the existing classifications. Thus, no action under Rule 65 is required. While change has been effected, it is not contrary to rule or to any binding commitment between the parties.

A W A R D

Claim denied.



HERBERT L. MARX, Jr., Chairman and Neutral Member



JED DODD, Employee Member



RICHARD F. PALMER, Carrier Member

NEW YORK, NY

DATED: *May 22, 1995*