

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 5512

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

and

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
NORTHEAST CORRIDOR

AWARD NO. 7

System Docket No. NEC-BMWE-SD-3219

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier advertised four (4) HRO Linemen positions at Lancaster Pennsylvania under advertisement number 017-PETC-0193 when only one (1) HRO vehicle was assigned to the gang.

2. As a consequence of the violation referred to in Part (1) above, two (2) of the four (4) HRO positions shall be abolished and readvertised as linemen positions.

FINDINGS

This dispute concerns application of the May 12, 1976 Memorandum of Agreement concerning Lineman/Highway-Rail Truck Operator positions. This Memorandum is reviewed in Award 8, to which reference is here made.

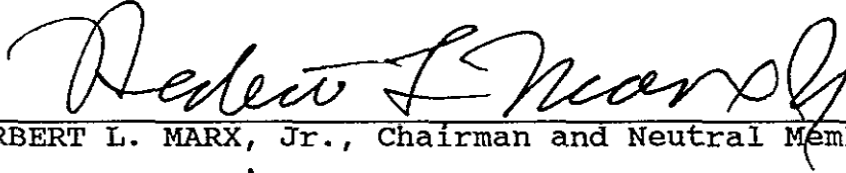
Gang J-162 originally included a Foreman, two Gang Foreman, and eight Linemen. One truck was regularly assigned to the gang. The Carrier established four of the eight Lineman positions as

Lineman/HRO, which required four employees to have the necessary license and qualifications. The Organization contends that establishing four such positions, instead of two (one regular driver and one relief), is excessive. The Organization argues that this creates a possible impediment for some employees and could lead to the situation where all Lineman are required to be qualified truck drivers. The Carrier notes that the gang, as constituted at the time of establishing the positions, occasionally has the use of and requirement for two trucks; hence, there is a logical need for the qualified truck operators. The Carrier further states that there is no Agreement provision limiting the number of employees in designated classifications.

The Board finds no contractual basis to support the Organization's contention of rule violation. The Organization's concern with the possible ultimate motivation for the Carrier's action is speculation. Given the facts at hand, no adverse effect on any employee has been demonstrated.

A W A R D

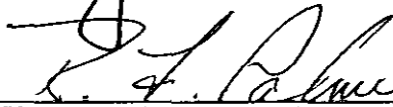
Claim denied.



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



JED DODD, Employee Member



RICHARD F. PALMER, Carrier Member

NEW YORK, NY

DATED: *May 22, 1995*