



August 12, 2009

THE ARBITRATION PANEL HAS MADE ITS AWARD ON THE **2009-2012** CONTRACTS for TA/OA and for MTA Bus. These awards are good for our members and their families. They provide for **wage increases of 11.3% compounded** that will get us through the next three years, the **capping of the health benefit contribution at 1.5% and 40 hours**, and additional benefits. **There are also gains for specific departments.**

Regrettably, the MTA has publically denounced the awards and is trying to make us the scapegoat for future service cuts and fare hikes. This is an attempt to set transit riders against transit workers. We will stand our ground and we will encourage riders to stand with us.

An arbitration award does not look like a Memorandum of Understanding, the document that comes out of contract negotiations at other times. The award is a lengthy legal document with a convoluted structure. The full document will be posted on the internet. Here we reproduce excerpts of greatest interest to members: the award sections and appendices, which spell out some of the particulars of the award.

You will find in these sections the awards on wages, health benefit contributions, and many other points. You will not find an award on Regional Bus – because **there is no award on Regional Bus**. You will find no award on OPTO – because **there is no award on OPTO**. You will find no award on a new, lower pension tier for new hires – because **there is no new pension tier**. We have succeeded in holding the line on all of these.

Our Union committed to holding the wolves at bay and delivering a solid contract. We have done it. Please familiarize yourself with the gains in this award; they are there for your use.

IN SOLIDARITY,

Roger Toussaint
President

Curtis Tate
Acting President



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*This technical section includes creation
of the Wellness Program for TA/OA*

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*This section contains many particular gains
for TA/OA, for example, banking AVAs and
OT, RDO swaps, etc.*

TA/OA AWARD

1. Wage Increases:

The Panel has determined that the TA/OA contract covering the period from January 16, 2009 through January 15, 2012 shall include wage increases as follows:

2009: 2 percent (effective April 16, 2009, retroactive), 2 percent (effective October 16, 2009);

2010: 2 percent (effective April 16, 2010), 2 percent (effective October 16, 2010);

2011: 3 percent (effective January 16, 2011).

All wage increases shall be added to the applicable wage progressions. The 2010 total wage increase shall be compounded on the wage rate in effect on February 1, 2010. The 2011 wage increase shall also be compounded on the wage rate in effect on February 1, 2010.

The total increase in base labor costs of these wage increases is 11.28 percent.

2. Non-Wage Provisions At Issue In the Language Submission:

(1) effective August 15, 2009, the employees' health contribution shall be reduced to 1.5 percent of wages, calculated based upon a maximum of 40 hours per week times the base hourly rate;

(2) the dental benefit⁵⁴ shall not be awarded;

(3) the OPTO provision⁵⁵ was withdrawn by the Employer and is therefore not included in this Award (*see* MTA June 19, 2009 Written Submission);

(4) a new Station Maintainer Helper position shall be created, subject to the conditions set forth in Modified Language Submission, Attachment A, Paragraph 12;

(5) the improvement of a sick leave cash-out at retirement from 60 percent to 70 percent⁵⁶ shall not be awarded;

(6) the 3-day leave for train operators witnessing 12-9s, where a train strikes an individual,⁵⁷ shall not be awarded;

(7) Modified Language Submission, Attachment A, Paragraph 11(e) shall now read as follows: "Where the point of report for a female employee has a locker room or restroom for male employees but does not have a locker room or restroom for female employees, the female employee shall be entitled, without

⁵⁴ Proposed Language Submission, Item 3.

⁵⁵ Proposed Language Submission, Item 6.

⁵⁶ Proposed Language Submission, Attachment A, Paragraph 4.

⁵⁷ Proposed Language Submission, Attachment A, Paragraph 7.

loss of pay, to report to the nearest reporting facility with a women's restroom or locker room"; and

(8) Modified Language Submission, Attachment A shall be supplemented with Paragraph 13, which shall now read as follows: "The Authority agrees to include 40 restricted duty jobs for Conductors on the pick."⁵⁸

3. The Other Material Terms In the Proposed Language Submission:

The other material terms set forth in the Proposed Language Submission were not in dispute and will be incorporated by reference in the Panel's Opinion and Award, subject to the modifications discussed above, and only to the extent they are consistent with the Panel's determinations contained in this Opinion and Award and the Modified Language Submission.

4. Dissent

Public Employee Panel Member Dall W. Forsythe dissents with respect to the TA/OA Award, and Panel Member Forsythe's Dissent ("Dissent") is attached hereto as Appendix D.

5. Majority Comment

The Majority respects and appreciates the views of dissenting Member Forsythe. The bases of disagreement are sufficiently discerned from a reading of the Opinion and Award and Member Forsythe's Dissent and need not be elaborated. The Majority notes, however, that while the fall 2008 understandings between the negotiators were taken into account, the Majority did not, as Member Forsythe suggests, adhere to the draft October 2008 MOU as the benchmark or starting point for this Award. Far more significant to the Majority was the economic data and other evidence submitted by the parties. The Majority arrived at its Award after a detailed analysis and consideration of the statutory criteria set forth in Section 209.5 of the Civil Service Law.

⁵⁸ The Panel includes this supplemental provision in its Award pursuant to the MTA's June 24, 2009 Written Submission Attachment at page 7.

MTA BUS II AWARD

1. Wage Increases:

With respect to the MTA Bus contract covering the period April 1, 2009 through January 15, 2012, the Panel has determined that the MTA Bus employees shall receive wage increases commensurate with TA/OA employees, as set forth in this Award. Thus, wage increases for MTA Bus employees shall be as follows:

2009: 2 percent (effective July 1, 2009, retroactive), 2 percent (effective January 1, 2010);

2010: 2 percent (effective July 1, 2010), 2 percent (effective January 1, 2011);

2011: 3 percent (effective April 1, 2011).

All wage increases shall be added to the applicable wage progressions. The 2010 total wage increase shall be compounded on the wage rate in effect on May 1, 2010. The 2011 wage increase shall also be compounded on the wage rate in effect on May 1, 2010.

The total increase in base labor costs of these wage increases is 11.28 percent.

The MTA Bus II contract shall terminate on January 15, 2012, at the same time as the TA/OA contract.

2. Other Provisions:

The Panel has further determined, that, commensurate with the TA/OA Award and benefits:

(1) the MTA Bus employees' health contribution shall continue at the current contribution rate of 1.5307 percent of gross wages until November 30, 2009;

(2) effective December 1, 2009, the health contribution rate for MTA Bus employees shall be reduced to 1.5 percent of wages, calculated based upon a maximum of 40 hours per week times the base hourly rate;⁵⁹ and

(3) effective as of the date of this Award, MTA Bus is hereby ordered to begin monthly contributions of \$5,800 to the Training and Upgrading Fund and \$3,200 to the Childcare Fund.

3. Net Economic Value With the TA/OA Award:

The total increase in base labor cost for the TA/OA contract is 11.771 percent (*see* Appendix A). However, the total increase in base labor cost for the MTA Bus II contract is 12.067 percent – 0.296 percent greater than the total increase in base labor cost in the TA/OA contract.

⁵⁹ This November 2009 effective date ensures parity of treatment between TA/OA employees (original rate effective date of December 15, 2005) and MTA Bus employees (original rate effective date of April 1, 2006). As the original rate effective date for MTA Bus employees began 3.5 months after the original rate effective date for TA/OA employees, the reduced rate effective date for MTA Bus employees shall begin 3.5 months after the reduced rate effective date for TA/OA employees.

As pension benefits for MTA Bus employees do not escalate with wage increases⁶⁰ as they do for TA/OA employees,⁶¹ the Employer realizes a savings of 0.7 percent with MTA Bus employees that is not realized with TA/OA employees.⁶² In the MTA Bus II Award, this 0.7 percent savings from the non-escalation of pension contributions is offset by the 0.7 percent cost of the January 15, 2012 terminal date.⁶³ However, the total increase in base labor costs in the MTA Bus II Award still remains 0.296 percent above the total increase in base labor costs in the TA/OA Award due to the following differences: (1) additional costs of 0.077 percent from the Training and Upgrading Fund contributions; and (2) the lack of a parallel provision to the savings of 0.219 percent realized from the creation of a new Station Maintainer Helper position in TA/OA.

As the MTA Bus II contract is 0.296 percent greater than the total increase in base labor cost in the TA/OA contract, the parties are hereby ordered to negotiate and resolve this costing gap within 60 days of the publication of this Opinion and Award. The Panel shall retain jurisdiction with respect to this matter, and should the parties fail to come to a resolution within the requisite time period, the parties are hereby directed to make written submissions to the Panel.

	<u>Provision</u>	<u>Increase In Base Labor Cost</u>
1)	<p>Wage increases</p> <p><u>2009</u> July 1, 2009: 2% retroactive January 1, 2010: 2%</p> <p><u>2010</u> July 1, 2010: 2% January 1, 2011: 2%</p> <p><u>2011*</u> April 1, 2011: 3 %</p>	<p>11.28%</p> <p>* The 2011 wage increase shall be compounded on the wage rate in effect on May 1, 2010.</p>
2)	<p>Limitation on healthcare contribution (1.5% without escalation, on 40 hours)</p>	<p>0.71%</p>
4)	<p>Contribution to Training & Upgrading Fund</p>	<p>0.077%</p>

⁶⁰ Pensions for MTA Bus employees are determined by multiplying a fixed dollar amount by years of service.

⁶¹ Pensions for TA/OA employees are calculated as a percentage of their final average salaries.

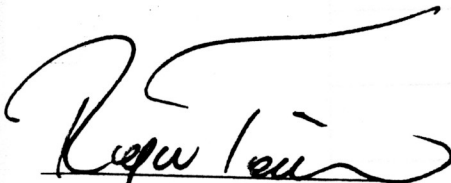
⁶² See also MTA Bus I Award (June 9, 2009), where this Panel awarded a cost advantage related to the non-escalation of pension benefits from wage increases.

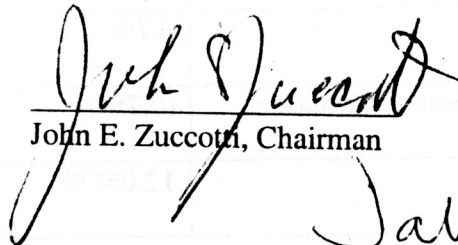
⁶³ See MTA Bus Exhibit 18 at 15-16.

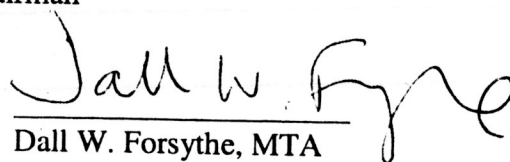
	\$5,800/month Contribution to Childcare Fund \$3,200/month	
5)	Terminal date of January 15, 2012	0.7%
6)	Savings from non-escalation of pension contributions	(0.7%)
	TOTAL	12.067%

The Panel shall retain jurisdiction to resolve any disagreements as to the meaning, interpretation or application of this Award. Either party may invoke that jurisdiction upon written notice to the Panel members.

Dated: August 11, 2009

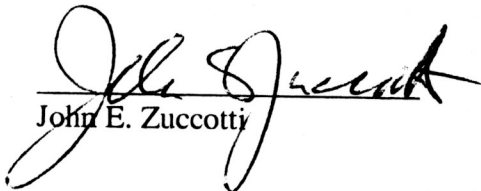

Roger Toussaint, TWU


John E. Zuccotti, Chairman


Dall W. Forsythe, MTA

ACKNOWLEDGEMENT

On this 11th day of August 2009, I, John E. Zuccotti, affirm, pursuant to Section 7507 of the Civil Practice Law and Rules of the State of New York, that I have executed and issued the foregoing as my Opinion and Award in the above matter.


John E. Zuccotti

APPENDIX C

MODIFIED LANGUAGE SUBMISSION

1. TERM

This agreement shall continue in effect through January 15, 2012.

2. REDUCTION OF EMPLOYEE HEALTH CONTRIBUTION

The employees' health contribution shall continue to be 1.5307% of gross wages through August 14, 2009. Effective August 15, 2009, the employees' health contribution rate shall be reduced to 1.5% of wages, measured as a maximum of 40 hours per week times the base hourly rate.

3. NEW SICK LEAVE BENEFIT

The practice of pro-rating sick leave shall be changed as follows. On each May 1, beginning with the sick leave year that commences May 1, 2009, all employees who have been in the employ of the Authorities for at least one year, including all employees in unpaid status, shall have twelve (12) days added to their sick leave banks. On each April 30, beginning April 30, 2010, the sick leave allotment for the year ending that day shall be reduced by one day for each month in the preceding twelve (12) months that the employee was on an unpaid leave of absence for the majority of the month, but no reduction may result in a negative sick leave balance.

4. SURVIVING SPOUSE BENEFITS

The three-year entitlement to health benefits for surviving spouses of employees who suffer accidental death in the line of duty shall be continued during this contract. These shall include the surviving spouses already covered. The line of duty death benefit (\$100,000) shall be maintained during this contract.

5. SAFETY

A. The Authorities will provide to the Union immediate notification of investigations, accidents and serious exposure reports received by the Office of System Safety (OSS) that relate to bargaining unit members.

B. Management agrees that departments will not implement or publish new safety policies without the prior approval of the Office of System Safety. OSS will provide the Union with the opportunity to review and comment on new and revised policy instructions and safety rules before they are approved. Safety bulletins, advisories and memos from all departments will be sent to the Union immediately upon issuance.

C. Participants of the Joint Management Union Committee established to accept input and suggestions regarding new bus procurements and bus design will be provided with five (5)

days of training on ergonomics and design annually, provided by trainers selected by TWU Local 100. The Authorities will absorb the costs associated with this training. The Committee will be provided with adequate lead time, notice and information to be able to influence issues such as operator station design, maintenance as it affects ergonomics and work demands, and vibration impact. The extension of these activities to other departments shall be investigated during this contract period and implemented where indicated. (This paragraph is not intended as a waiver of the Union's legal or other rights.)

D. Any Union Representative released for safety related work will not incur a loss of pay (for example, Specialist pay), excluding extras in the Department of Buses.

E. The parties agree that the Safety Resolution Form procedure (2002 MOU Attachment G) shall be continued.

F. All full time safety union representatives will be provided the two (2) day Dupont Safety training and other safety trainings currently provided to managers and supervisors.

6. MISCELLANEOUS

See Attachment A.

7. CED Release

In 14 CED shops where no release time currently exists, release time will be available on the same basis as in DOB Maintenance and charged to the TWU separately.

8. WELLNESS

The parties agree to establish a jointly administered Wellness Program.

9. Timekeeping Procedures for Release

As currently is the practice with respect to employees released with pay to perform Authority-wide functions, such as safety and Membership Services, weekly or biweekly timekeeping records for employees who are released from RTO, MOW and Stations, will be signed off on by Union staff representatives (or their designee) responsible for their whereabouts and for coordinating their movement. Approved timesheets or time documents will be submitted to the individual payroll or timekeeping departments of the employee's work department. The union shall maintain and furnish complete and accurate records to the timekeeping departments which carry the individual.

10. Traffic Checkers

The terms of the Traffic Checking agreement of 08/20/08 (including the differential for traffic checkers with driving positions and for special assignments in the Administrative Support Group, the Rapid Support Group and the GO Support Group, additional 35-hour positions on the pick, the provision of transportation and pay for Traffic Checkers who pick assignments at facilities outside MTA/New York City Transit). Additionally, the parties shall work expeditiously towards ensuring that promotional opportunities for Traffic Checkers do not adversely impact their pension or their benefit accruals.

11. Titles For Which Vacancies Are Chronically Difficult to Fill

- A. MTA NYCT may increase the hourly rate by up to \$4.00 per hour for titles with chronic vacancies that historically MTA NYCT have been chronically difficult to fill.
- B. Any such increases are irrevocable.

12. Discipline

For purposes of Sections 2.1-B-3-a and 2.1-C-19-a, the Line General Managers in the Department of Subways and Group Assistant General Managers in Maintenance of Way will serve as the Department Heads referred to in those sections for Step 1 hearings. For purposes of Sections 2.1-B-3-b and 2.1-C-19-b, the Senior Vice President, Department of Subways or designee, and the Senior Vice President, Department of Buses or designee will be substituted for "Deputy Vice President, Labor Disputes Resolution or designee" for Step 2 hearings.

ATTACHMENT A -- Miscellaneous

1. All Departments shall allow employees to bank up to 8 AVA days, except that where existing agreements or practices allow for more than 8 days, employees shall continue to be allowed to accumulate the number of days provided by those agreements or practices. All employees may replenish their banks as days are used. The third paragraph of section 2.5(C) is hereby deleted and of no further force or effect.

2. Employees may elect to bank overtime hours in lieu of receiving overtime pay (OTO). Such time shall correspond to the overtime earned. This bank of overtime hours may be accrued up to a maximum of 72 hours. Use of such banked time as paid time off shall be within established AVA/ personal day quotas. Utilization of such banked time beyond established quotas must be approved by Management. Time not utilized by December 31 of each year will be paid in cash during the subsequent January. In schedule-driven Departments, OTO shall be used in increments of whole days only.

3. Employees shall be allowed to swap RDOs with the following understanding:

- Employees may swap one or both RDOs within the pay week;
- Requests for swaps must be submitted seven days in advance, and any requests on less than seven days' notice will require specific management approval;
- Failure to appear on two occasions for a day of work arranged by RDO swap will disqualify the employee from further RDO swaps for six months from the date of occurrence;
- The employee agreeing to the swap must be already be qualified to cover the job of the employee requesting the swap; and

- Both employees agree to accept the actual pay associated with the job worked – one may have a penalty job and the other doesn't; one may have a yard job, etc.

In RTO, TWU representatives will coordinate directly with the RTO crew offices and access crew offices to help facilitate the pairing of RDOs for purposes of the swaps.

4. For the purposes of calculating all retirement sick time cash out, OA employees hired before September 1, 2003, shall be entitled to a Fresh Start commencing with the grant of additional sick days effective September 1, 2003.

5. All newly hired employees shall receive a half-day Union orientation. Conductors, Station Agents, Train Operators and Station Cleaners shall receive this orientation at the Union Hall. The location of Union orientation for Bus Operators will be arranged by the respective bargaining units' representatives.

6. All Divisions and Responsibility Centers shall furnish the Union-designated representative with reports of overtime distribution by employee not less than monthly. Where such reports are currently furnished more frequently, they will continue to be furnished at such frequency.

7. Effective the date of this award, the overtime caps in Maintenance of Way shall be established at \$117,000.

8. The Operating Authority (OA) shall fill clerical vacancies by seniority from among bargaining unit clerical workers presently employed in OA before seeking to fill those positions from outside the bargaining unit.

9. In Supply Logistics, in the re-selection of assignments within a location that occurs when a vacancy arises between picks, a full realignment of those in the location will be permitted.

10. RPCs (OA) shall receive the Maintainer Supplement.

11. Women's Employment in Non-Traditional Jobs Committee

a. The Authority and the Union agree to establish a joint labor-management

Women's Employment in Non-Traditional Jobs Committee with the objective to establish programs to address the under-representation of women in nontraditional titles.

b. No later than sixty (60) days after the issuance of the award, the parties will convene this Committee to develop strategies to prepare, recruit, train and retain women in non-traditional titles.

c. The Committee will begin to identify the issues and concerns women face obtaining and working in non-traditional jobs, including but not limited to working conditions, facilities, job retention, security, and access to training for promotion and advancement.

d. Within one year of the effective date of this Award, the Authority will implement a pilot program based on the recommendations of this Committee and establish metrics to measure the program's outcomes and track its progress.

e. Where the point of report for a female employee has a locker room or restroom for male employees but does not have a locker room or restroom for female employees, the female employee shall be entitled, without loss of pay, to report to the nearest reporting facility with a women's restroom or locker room.

12. A new Station –Maintainer Helper ("SMH") position shall be created subject to the following conditions:

A. SMH duties -- Assigned to stations to clean the station, work with Structure and Lighting Maintainers to make repairs of the station, and perform the following minor repairs,

after receiving training by Structure and Lighting Maintainers to perform these housekeeping skills:

1. Lighting: Replaces light bulbs and cleans lighting fixtures.
2. Plumbing: Clears clogged drains, toilets, floor drains, and waste traps and replaces faucet washers, flush kits, toilet seats, and towel and soap dispensers.
3. Carpentry: Repairs and replaces door and cabinet hardware, such as hinges, knobs, and door closers.
4. Painting: Performs spot and incidental painting.
5. Masonry: Makes minor masonry repairs and replaces individual tiles.
6. Air conditioning: Replaces filters.

Additional duties are subject to the agreement of the parties.

B. The SMH positions will be promotional opportunities for incumbent Cleaners.

C. Station Maintainer Helpers will be paid top Cleaner rate plus \$1.70 per hour.

D. Structure Maintainers in the titles of plumber, carpenter, painter, mason, and HVAC

and Lighting Maintainers will instruct and work with Station Maintainers. Consistent with training pay practices in other departments, Structure and Lighting Maintainers will be paid a \$4.00 per hour differential for time spent working with and instructing Station Maintainers.

These assignments will be posted on the Structure and Lighting Maintainer picks.

13. The Authority agrees to include 40 restricted duty jobs for Conductors on the pick.



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Women's Hotline	646.208.4545
Veterans Affairs	212.873.6000 x2113
Training and Upgrade Fund	646.505.4500
Childcare Fund	646.505.4500
Member Services	347.643.8065
• MTA Bus Issues	347.643.8069
UAP	212.736.3579
NYCERS	347.643.3000
Retirees	212.873.6000 x2160

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