Through the Mediation process a number of issues were addressed that caused our membership much concern and we felt that contributed significantly to the contract proposal failing. Among those issues were the System Extra Board language whereby the parties could agree to expand it over the life of the contract. The removal of the Medical Arbitration Language, the duration of the contract at four years versus the three years that we’ve traditionally had and the change in the 1999 Memorandum of Agreement (MOA) regarding customer complaints.

Both Recording Secretary Paul Bachtel and I will explain in this issue the changes that we negotiated to those issues. The Customer Complaint MOA: The old Customer Complaint MOA (1999) was primarily created to address the issue of how customer complaints would be handled in arbitration hearings. It dealt more with procedure than substance. The MOA that was TA’d back in December changed that to provide a standard by which Metro could discipline employees for an accumulation of customer complaints. Although the Union officers always believed that under the right circumstances Metro could always try to discipline employees with excessive numbers of customer complaints, and they believed the December MOA would affect, if anyone at all, only a tiny portion of members—less than one tenth of one percent—they clearly heard the memberships’ concerns about the December MOA. We have now come back with a new MOA that we believe addresses those concerns.

The new MOA is, like the 1999 MOA, one of procedure—how these complaints are handled in arbitration proceedings. We have added safeguards that will, as did the last MOA, make it extremely difficult for Metro to enter any complaints into evidence if the complainant is unwilling to testify. Here’s what we’ve done:

1. Added language that states specifically and affirmatively that Metro will not discipline employees based on anonymous complaints or complaints that are unsubstantiated.
2. Added language that affirmatively states that Metro agrees that employees who are facing discipline have a fundamental right to confront their accusers and to have due process rights to challenge unwarranted discipline.
3. Added language that provides that the MOA itself can be admitted into evidence to show to the Arbitrator just how important the above notions are to our membership and to the process.
4. Added language that states that if the complainant does not agree to testify, and does not agree to allow the Union to interview them, then the question of whether the complaint can be admitted into evidence will be decided by each arbitrator based upon the Federal Rules of Evidence, which is the highest evidentiary standard, and that which is applied in the federal courtrooms. Arbitrators typically base admissibility of documents on what is called a “relaxed rules of evidence” standard, which basically allows almost everything into evidence. We wanted to change that, and did. We believe that if arbitrators apply the new rule fairly, most
Executive Board Report

March 25, 2008

All officers were present except Financial Secretary Paul Neil who was on vacation, Executive Board Officer Michael Shea who was working First Line pick and Executive Board Officer Mike Whitehead who was on jury duty.

The following business was conducted:

• Motion by Joe Mangiameli to allocate $300.00 for a full page ad in the Black Caucus program.

• Motion by Ray Campbell to donate $250.00 to the Black Caucus Bruce Pittman Foster Scholarship fund.

• Motion by Chris Daniels to donate $1000.00 to the King County Labor Agency as matching funds.

• Motion by Dee Wakenight to donate $100.00 to People for Transit in support of a proposed three tenths of one percent (.3%) tax increase to fund transit in Spokane County.

• Motion by Lisa Thompson to authorize the purchase of pocket calendars at a total cost not to exceed $11,000.00. This expenditure is in the budget.

• Motion by Linda Anderson to renew our annual membership in the Transportation Choices Coalition at a cost of $500.00.

• Motion by Alan Huston to send the full-time officers and one executive board officer to the Northwest Conference in June paying travel, registration lodging and per diem.

• Motion by Neal Safrin to renew Local 587’s membership in the A. Phillip Randolph Institute at cost of $100.00.

Unginned Business: None

The Month at a Glance

Business of the Membership

At the March 2008 cycle of membership meetings the following business was addressed:

• The membership voted to pursue the grievance of Fred Witham to arbitration.

The following members were February pot draw winners: Lisa Carter at the Charter meeting, Ken Price at the Morning meeting, Lloyd Eisenman at the JTA meeting, Frank Carpenter at the CTS meeting, CTS rolling pot draw of $75.00 was lost by Bob Kohrn. Next month’s rolling pot will be $100.00.

In Loving Memory...

When the oak is felled the whole forest echoes with its fall, but a hundred acorns are sown in silence by an unnoticed breeze.

— Thomas Carlyle historian and essayist (1795-1881)


Please notify the union office of any member’s passing so that this information may be shared with the rest of our union family.

Tentative Agenda

Membership Meetings:

CHARTER MEETING
Thursday, April 3, 2008
8:00 p.m.
The Labor Temple, Hall #8
2800 1st Ave., Seattle, WA

JEFFERSON TRANSIT
Tuesday, April 8, 2008
7:00 p.m.
Port Townsend Rec Center
Port Townsend, WA

JEFFERSON TRANSIT
Monday, April 7, 2008
10:30 a.m.
The Labor Temple, Hall #8
2800 1st Ave., Seattle, WA

CLALLAM TRANSIT
Tuesday, April 8, 208
7:00 p.m.
Vern Burton Memorial Building
Port Angeles, WA

Among Topics to be Discussed:

• Grievance and arbitration update
• King County Metro tentative agreement
• SGT/SPT contract negotiations

Unfinished Business: None

The Month at a Glance

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OFFICERS OF THE AMALGAMATED TRANSIT UNION, LOCAL 587:

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Letters to the editor
Letter/contributions must include printed names, signatures, work ID numbers, addresses and phone numbers that can be verified during working hours. Letters that cannot be validated will not be published. All articles/letters are subject to editing and should be limited to 1000 words or less. Not all letters can be published due to space limitations. Cut off is the 15th of each month. Any submission from a member of Local 587 to the News Review is unprintable by the Recording Secretary shall be forwarded to the Executive Board for final decision to publish. Send letters to:

Paul J. Rachtel, Editor
315 Second Avenue, Suite 230
Seattle, WA 98121

Researching Secretary/Editor SPT News Review
email – rachtel@msn.com

WEINGARTEN RIGHTS STATEMENT

I request to have a union representative present on my behalf during this meeting because I believe it may lead to disciplinary action taken against me. If I am denied my right to have a union representative present, I will refuse to answer accusational questions and any I believe may lead to discipline.
Rushed to Judge

On 3/3/07 a Metro operator was arrested for alleged voyeurism, he was embarrassed in front of passengers and later convicted in the court of public opinion. The operator said he was only walking around at his terminal to get exercise, because he is a diabetic. This is a plausible reason for being in the area of where a crime may have been committed near his layover. There were also at least four other people in this same area at the time of the act of voyeurism but he was the only one working at the time.

Metro chose to terminate this operator after their alleged investigation. I say alleged because, it does not appear even today that there was a complete investigation of the facts but rather a desire to terminate this individual for embarrassing King County Metro! This was a rush to judgment.

Let me give you a little more information and see where you wind up. There were two individuals in the area that supposedly witnessed this operator peeping in the window of an apartment building near the terminal. These same witnesses reported seeing this operator from the route 17 bus shelter peeping in a window on the Westside of the building of the alleged victims that would be impossible. One of the less than credible witnesses is a convicted sex offender and his partner was a transient but Metro chose to believe them over an employee they know, two against one.

There were two other individuals in this area. They ran from between the same buildings the operator was accused of peering into a window at and caught the route 17 bus. Again you would think that your employer would try to find the operator of the route 17 to get his side in an attempt to clear the matter up. Instead Metro chose to ignore this information. The operator reported this information to the police and Metro and it was also discounted. It was not until after the first hearing in which Local 587 reiterated these facts before it was investigated. When Metro decided to investigate and speak to the operator, he was able to substantiate that there were two males that did run out from between the buildings and catch his bus. Ironically, Metro and the police spoke to the operator but for some reason failed to request that he fill out an incident report. The operator of the route 17 on 3/3/07 stopped me during my workes visit and informed me that he had talked to a chief and a detective. Now with this information the operator version is more believable, two against two.

Metro went out to the crime scene during the day time and took pictures, but the alleged crime took place near midnight. We all know that it is harder to see in the dark, and if you were trying to get to the truth you would want to recreate the circumstances as near to the actual time of the event as possible.

Looking at the information I was presented the question is, why did Metro fire and attempt to uphold the unjust termination? Anyone of us could find ourselves in a predicament like this and be out of a job for a number of reasons. First, we are employed by the government of King County and they are concerned about public opinion. I can understand the members’ distrust of the language in the previous tentative agreement about customer complaints, because these are the same people we have to negotiate with, can they be trusted?

Some members may think race played a role in the decision to terminate. Maybe. Others will say it was absolute power corrupting after being embarrassed in the news. King County has many divisions init, one of which is the Prosecutors office. The question that comes to mind is, does Metro talk to the prosecutor office when some one is fired for an alleged criminal act while on duty? Yes! When someone is unemployed it is almost impossible to get justice, because you can not afford to pay for an attorney. It is harder to get another job when you have to put terminated on your application.

The Union attempted to resolve this case during the first and second step of the grievance process before it went to arbitration, and Metro was unwilling. The membership voted to take this case to arbitration. All I can say is that if employers treated their employees fairly there would be no need for unions.

During the arbitration process, which lasted two days, the Arbitrator scheduled a site visit to the crime scene and the visit was late afternoon and we stayed until it got dark. We were able to see what may have happened the night of 3/3/07. After Metro finished its presentation of their case, Union attorney Jon Rosen moved to dismiss as Metro had not proven LaMarcus Ford guilty. Local 587 never had to present our case and the Arbitrator made the decision to return the member to work with back pay.

We are taxpayers and union members and watching our tax dollars being wasted in this manner is becoming harder to stomach. The grievance process is broken and we are being forced to arbitrate more and more. Arbitrary decisions are being made daily and the Union is left with no other alternative but to challenge, this creates an environment of mistrust. We must stay the course in order to change the course. In solidarity, one victory at a time!

Arbitration Update

1. Edgardo Reyes: Grieved one-day suspension for alleged inappropriate use of sick leave. King County Metro forfeited grievance by failing to schedule a grievance hearing within the contractual time limits. The issue before the arbitrator will be management’s failure to implement the remedy sought following management’s forfeiture of the grievance. Arbitration held October 16, 2007. Arbitrator issued a split decision sending the grievance back to Step Three of the grievance process. Settlement pending.


6. Vince Lee: Grieved King County Metro Maintenance Chief performing Local 587 bargaining unit work. Union withdrew grievance prior to arbitration.

7. Nancy Lambert: Grieved King County Metro hiring a retired member for a temporary assignment in violation of contract language requiring Metro to give bargaining unit employees first consideration. Schedule Pending.

8. Derek Harris: Grieved cross classification work in King County Metro Vehicle Maintenance. Schedule Pending.

9. Fred Witham: Grieved cross classification work in King County Metro Vehicle Maintenance. Schedule Pending.

Keep Your Address Current!

(A request from our Local 8 Union office staff)

Throughout the year Local 587 mails letters to our membership. The most recent mailing contained the King County Metro contract survey. With each mailing sent, the union receives a small percentage of letters returned due to improper address.

Local 587 maintains a database that in part includes the names and addresses of our King County Metro members. The King County Metro section of the database is updated monthly from data provided by King County Metro.

If you are a King County Metro employee and your name and address is not current with King County Metro, you may not receive union mailings. Please keep your name and address current with King County Metro.

By Kenny McCormick

The Vice President’s Report

By Kenny McCormick

April 2008

News Review

ATU Local 587

3
Improvements Bargained Following the January 10, 2008 rejection of the Proposed Labor Agreement

By Paul J. Bachtel, Recording Secretary

The System Extra Board

The proposed System Extra Board ("SEB") has received a lot of negative press. Many Full-time Operators, Report Operators in particular, have expressed concern that the SEB will reduce operator availability throughout the base and thus result in less available overtime. Imbalances in Operator availability have plagued Metro for years. The imbalances are primarily the result of an annual vacation pick coupled with the system pick per year. In past and the present contract negotiations Metro has been proposing an annual base pick with the possibility of additional picks within the picked operating base. The motivation for Metro is in balancing picked vacation and Operator availability within each base. The Union has steadfastly denied Metro’s proposals for annual base picks to preserve seniority rights in picking overtime. The consequence is packing a base three times per year.

For many years Metro attempted to solve imbalances by inter-base transferring extra-board operators. Unfortunately for Metro, many extra-board operators didn’t like the idea of being inter-base transferred and would avoid being inter-base transferred through a number of strategies. In an attempt to resolve Metro’s operator imbalances and reward our members with premium pay we need to change the current pick and assignment language in 2001 commonly referred to as “Bicycle Positions”. Bicycle positions removed the inter-base transfer requirement for all extra-board operators except those extra-board operators picking a bicycle position. An operator picking a bicycle position specifically agrees to be inter-base transferred and is rewarded with one-hour of straight time pay as compensation for time and travel expenses. Unfortunately for Metro the administration of bicycle position into the base transfer system resulted in gross inconsistencies among what bicycle operators were hired. Metro also simplifies the overtime process for the system-board will create a regular assignment, an improvement over the current system creates an imbalance where the overtime among bases and make it more predictable. It’s important to note that overtime is not only expected to occur in normal business operations but encouraged.

Currently we have 32 intra-base transfer or “bicycle” board positions. If these operators are assigned to another base, it already potentially reduces overtime at that base. The intra-base system, however, has problems that the system-board will cure. The most important is that assignments will be made in seniority order at the base of assignment, an improvement over the intra-base system which assigns work based on the operator’s home base rather than the base they are transferred to, and the source of many complaints. It also simplifies the overtime process for the system-board operators. In addition the system-board will create a regular and dependable premium for the operator rather than the hit or miss of the current inter-base system. There are a maximum of 25 positions, less than our current “bicycles.”

It should also allow the bases to be more predictable in the schedule of surplus operators to other bases with shortages have less overtime but more time-off for operators and those with shortages have more overtime but little time-off.

Changing work assignment rules is complicated and certainly can be seen as threatening to Operators who base their income on overtime. The reduction of overtime levels at individual bases, even though the amount of overtime system-wide remains relatively constant. The bases with surplus operators can only reduce their board size through attrition or through offering inter-base transfers to other bases. The bases with shortages can be cured through new PT to FT. An important point is that these clauses at this reorganization will not be based on individual base needs or shortages but on projected attrition and planned service increases system-wide. The system-board will also simplify the overtime process for the operator rather than the hit or miss of the current inter-base system. There are a maximum of 25 positions, less than our current “bicycles.”

Why were additions being proposed in the MOA? Because the Union was aware Metro is in the process of redesigning its customer complaint system with the intention of holding Transit Operators accountable for misconduct. A new computer system is being installed, the Customer Assistance Office is being reorganized and a new policy has been written to address customer complaints. Regardless of the outcome of contract negotiations Metro is on a mission to clean up its customer complaint system. Recent reports in the local news papers and news paper reporters making information requests for operator records have put Metro in the hot seat.

Exit polls following the rejected January 10, 2008 vote revealed most Transit Operators didn’t realize that the new contract language transferred Metro to issue discipline based on customer complaints (Art. 4, Sec. 4, Par. A, page 23) states, “The following are examples of specific categories of minor infractions: passenger relations...” (emphasis added). The following are examples of specific categories of minor infractions: passenger relations... It is complicated and certainly can be seen as threatening to Operators who base their income on overtime. The reduction of overtime levels at individual bases, even though the amount of overtime system-wide remains relatively constant.
the requirements of "Just Cause." Why is "Just Cause?" Just Cause is an extremely important right guaran-
teed by labor law and our union contract. A person may not be disciplined or terminated for "Just Cause. Just Cause means the employer cannot exercise the power to discipline or terminate employees arbitrarily, or discriminatorily or reasons.

Specifically, just cause requires the following:

1. The employer must have made an investigation to determine whether the employee did in fact violate the rule or policy cited.

2. FAIR INVESTIGATION: The investigation must be conducted fairly and objectively.

3. EVIDENCE: The agency must have evidence of violation of the rule or policy. You are entitled to receive copies of this evidence.

4. EQUAL TREATMENT: The rules or policies must be applied equally and fairly. They cannot be applied in a dispara-
tionate, discriminatory or arbitrary manner.

5. APPROPRIATE: The discipline must be appropriate and reasonably related to (a) the seriousness of the employee's proven offense and (b) the record of the employee.

An important corollary is that discipline must be progressive. It is intended to correct a problem, not to be punitive. Management must give the employee a reasonable op-
portunity to correct the problem for which discipline was imposed. More severe discipline, including termi-
nation, can only follow after lesser discipline has been imposed.

The newly rewritten customer complaints MOA specifically guaran-
tee the employee's right to confront their accusers, to be disciplined only for just cause, and to have due

process rights to challenge an unwar-
anted discipline (see paragraph 2 under background). Does this mean we are back to where started from? Absolutely not!…as stated above Metro is on a mission to address what it perceives to be outrageous conduct by a few of our members and not just to fix its bad image.

The new MOA was drafted with the participation of our union attor-
ney and once again only addresses evidentiary rules. Believe the mem-
bership will find it acceptable. For more information attend one of the scheduled informational meetings, monthly meetings or contact a mem-
ber of your bargaining team.

Medical Arbitration

Of all the complaints about the rejected January 10, 2008 proposed labor agreement the complaints about the removal of the medical arbitration language were the least credible. Although we have had medical arbitration language in our labor agreement for years and pur-
sued approximately 6 grievances to arbitration in twenty years, we have yet to have a case go to arbitration. Arbitra-
tors have proven themselves to be very reluctant to put an employee back to work if safety is at issue. The old 
rule was "if and only if" there were several members who lost in arbitration sued Metro and were subsequently min-
istered to the arbitrator state in his decision that the issue belonged in a court of law, not arbitration.

Our medical arbitration was also in violation of the American with Disabilities Act ("ADA"). Our con-
tract language required a member to have a doctor's note before release from their doctor to return to work. ADA re-
quires employers to provide reason-
able accommodation to employees to facilitate their return to work, not a complete release.

Due to member concerns your Union Officers negotiated for our medical arbitration language com-
pliant with the ADA in requiring Empresa medical documentation for an accom-
modation. If/when medical arbitration cases are again brought

before our membership I will ask for legal review prior to any arbitra-
tion vote in hopes of not pursuing

cases. Most importantly, the loyal opposition hand-

d out flyers that tied the Medical Arbitration language to the MOA the Union office recently negotiated with the company including Non Disciplinary T

Terminations. They are separate issues. Medical arbitration occurs when the employer refuses to allow an employee to return to work for some perceived physical or mental disability. Non-Disciplinary Medi-

cal Termination occurs when an employee can no longer work due to a medical condition.

Part-time Work Related Issues

From what I’ve been hearing at union meetings and reading in the fliers being distributed by disinterested

groups, some Part-time Transit Operators are convinced our union isn’t interested in representing their

interests at the bargaining table. Nothing could be further from the truth. The bargaining team proposed a reasonable minimum guarantee that if a trip is cancelled, straight-through trippers, a greater number of tripper’s four-hours or longer in length, a greater assign-
ment guarantee, instead of an assignment guarantee, all holidays, full vacation credit regardless of whether they worked or not, a promotion to Full-time Transit Operator and the list goes on. Metro

answered the union proposals with its own demand for erosion in the Full-time Transit Operator work guarantees. The end result was a stalemate.

The union spent many hours de-
scribing the plight of long-term Part-
time Transit Operators whose have faced cuts in assignment length and dramatic increases in the number of dual trippers. The union described the unfair promotional process where Metro continues to tighten its grip on Full-time Transit Operator promotion guarantees. All of our arguments were an-
swered with denials. Metro’s response was a refusal to utilize the part-time work-
force which translates into erosion of Full-time Transit Operator work guarantees. Metro added insult to injury by describing a plan to create far more dual trippers in an attempt to fill the Part-time Transit Operator job to the public as a dual tripper job with a four-hour forty-
minute (4:40) minute guarantee. This in hopes prospective part-time operators will see the assignment guarantee as sufficient to survive on while waiting for an opportunity to promote to a full-time job. If Metro puts this plan into action long-term Part-time Transit Operators will see continued erosion in the length of longer trippers.

Metro is stuck between a rock and a hard spot by a court decision requiring, it to fulfill benefits to part-time employees working four-
hours or longer, healthcare costs growing three times faster than the overall rate of inflation and a service profile making it very difficult to cut work assignments within current contractual requirements. No easy answer is at hand.

The union is stuck between a rock and a hard spot in its respon-
sibility to advocate for its members to get a fair rate of pay, the responsibility to advocate for an increase the number of full-time family wage jobs and a part-time work guarantee (comprising 25% of its active membership) suffering from a cut in the length of assignments and a huge increase in the number of dual tripper assignments.

In the end I believe Metro real-
ized a good many "No" votes in the rejected January 10, 2008 contract ratification vote came from dissatis-
fied Part-time Transit Operators. I believe this is the primary reason Metro’s contract with our union is so unfriendly the number of Part-time Transit Oper-
ator Holidays. If the membership ratifies the tentative agreement on April 17, 2008 Part-time Operators’ will gain two additional holidays, Independence Day and Labor Day. The problems surrounding Part-
time Operator work guarantees will remain unresolved.

State Accident Report Required

Scott Beasley — Central Base Safety Officer

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here has been an erroneous report going around about the State Accident Report being required of you when you check the box on the State Accident Report Required during the annual required t

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time Operator work guarantees will remain unresolved.
**Letters to the Editor…**

**Supporting Brother Christensen**

**Dear Editor,**

It is easy to get absorbed in our individual worlds and become disconnected with the larger society around us. Fortunately there are conscientious people like Brother Christensen who exemplifies selflessness and a commitment to action.

His March News Review article on the plight of the education system in Tanzania and his plan for redress highlights how comparably privileged life is here in the United States. Erik not only speaks on behalf of students and teachers abroad he acts locally by volunteering for a Seattle public elementary school. In fact, a friend of mine who taught at this school spoke glowingly of Erik’s dedication to these young people.

For a mere ten dollars we can collectively make a difference for students and educators in Tanzania while at the same time showing our appreciation for an inspiring union brother.

Sincerely,  
Joe Kadaushin  
Ryerson Base

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**OWLS Leafleting**

Lance Norton, President  
Amalgamated Transit Union  
Local 587  
2815 Second Ave, Suite 230  
Seattle, WA 98121

**Dear Brother Norton,**

We understand that you brought a resolution to the M. L. King County Labor Council to continue OWLS for leafleting at 5th and Jackson on February 14. Apparently someone jumped to the conclusion that we were there to picket Metro management at King Street Station. The truth is that we were calling on the public to tell the County to negotiate fair contracts. Our efforts were directed to the public and we were clearly acting in our own name, not in the name of ATU.

As union activists, we know it’s hard to get a fair contract and that public and labor support is vital in this endeavor. Our leafleting was an act of solidarity with the ATU 587 membership, who rejected a bad contract. In our view, we have every right to speak up as unionists, taxpayers, and workers, against the County using public monies on endless meetings and anti-labor negotiators. Every labor battle impacts all workers, especially one that will set a standard for other county workers and public transit workers throughout the region.

Appreciation for OWLS’s solidarity was evidenced in the smiles, waves, and honks from bus drivers. It’s also worth noting the public overwhelmingly supports transit workers and their calls for safe working conditions, better schedules, and fair compensation.

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**Resolution To The Martin Luther King County Labor Council**

Submitted by Amalgamated Transit Union Local 587

**Whereas,** on February 14th, 2008, Organized Workers for Labor Solidarity (OWLS) picketed the King County Metro management offices at the King Street Center, and handed out fliers to the public in Seattle’s International District, in what they described as a “Valentine’s Day Solidarity Action” with ATU 587 and other County workers, and

**Whereas,** while ATU Local 587 and the Martin Luther King Labor Council (MLKCLC) recognize the rights of citizens to free speech and protest, OWLS has neither been appointed by the officers nor elected by the members of Local 587 to speak on their behalf, and

**Whereas,** the action of OWLS did not have the sanction, support and even foreknowledge of the demo-
Letters to the Editor…

could at some future date attend one of your meetings, I would love to thank your membership in person for their generosity.

Again, you are a special union and the Labor Agency thanks you.

In Solidarity,
Nancy Holland Young
Executive Director

One Member’s Opinion

Fellow Union Brothers and Sisters, and hopefully that is what we are. Let me start out this letter stating that this is JUST my opinion. Unlike some members of our local who when you do not agree with their opinion resort to name calling, backstabbing and other divisive tactics, I am NOT going to stoop to their level.

The current contract negotiations are achieving Metro managements #1 goal which is to destroy our local. While I do NOT agree with some of the items that were supposedly negotiated, it is what our duly elected leadership chose to negotiate for us. We all had an opportunity to let our leadership know what we wanted through the survey that was distributed to us, and every month there are 2 meetings held in the Seattle area for you to attend to let your opinion be known. I do wonder why our leadership will NOT reveal to us the results of the survey. (Maybe because what WE wanted was NOT what THEY wanted??????) I also wonder why they will NOT reveal to us the items that really were negotiated. If you do not agree with the tentative agreement it is your right to vote NO. Also, Union leadership elections are next year, you have the right to run for any position that you want or to vote for anybody that thinks like you think.

Just opinion people, if this thing goes to arbitration we can kiss our 3% minimum COLA goodbye. Yes I would love to earn more money, but I am also a realist. If anybody knows of any other PART-TIME job where you walk in the door making over $17.00 an hour ($18.27 if tentative agreement is ratified) please let me know because I am looking to earn some extra money, and I am a Full-Time Operator at top rate.

W.W.Reid
#20342
East Base Operations

[Editors note] survey results constitute the basis for our bargaining position and is not information we wish to lay before management. Therefore, survey results are not published in the News Review or posted on our website. If any member would like to review our survey results or our protected bargaining positions they are welcome to stop by my office to review the documents.]

Attention 587 Members

Are you a delegate?

Are you an elected delegate to the Legislative District Caucus? If so, please fill in this form and send it to the union office. The Martin Luther King County Labor Council, in partnership with the Washington State Labor Council has committed to building labor’s voice in the party platform and advancing labor activists to the highest level of the party’s nomination process. Did you know that you can still become a delegate for your presidential candidate? If you are interested in this, contact:

Neal Saffrin,
Executive Board Officer Local 587
Email: nsaffrin@comcast.net
Cell phone: (206) 604-7059

Name: ________________________________
Address: ________________________________
Email: ________________________________
Phone: ________________________________
Legislative District: ________________________________

Please send to:
A.T.U. Local 587
2815 Second Avenue, Suite 230
Seattle, WA 98121

CONGRATULATIONS!!!

Mary Bower
Clallam Transit System
2007 Employee of the Year!

Upcoming at Local 587

APRIL 03 Charter meeting
APRIL 04 Morning meeting
APRIL 07 Jefferson Transit Authority meeting
APRIL 08 Clallam County meeting
APRIL 17 KC Metro contract ratification vote
APRIL 18 6:00 PM Deadline for Part-time and Tripper Option Group D Restriction forms
APRIL 22 Executive Board meeting
APRIL 26 KC Metro first day of pick for Part-time/Transit Operators

DO NOT PATRONIZE

Martin Luther King, Jr. County Labor Council, AFL-CIO
Unfair to Workers/Do Not Patronize List
March 2008

Boycotts initiated by UNITE-HERE Local 8:

Seattle Sheraton Hotel
13 Coins Restaurants (both locations)
Sea-Tac DoubleTree
Sea-Tac Hilton

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Martin Luther King, Jr. County Labor Council, AFL-CIO

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2815 Second Avenue, Suite 230
Seattle, WA 98121

CONGRATULATIONS!!!

Mary Bower
Clallam Transit System
2007 Employee of the Year!
April Showers Bring... Summer Pick
By former Recording Secretary Jennie Gil, current Recording Secretary Paul J. Bachtel and all spirits of recording secretaries past

I t’s a good thing this term is coming to an end, because I am running out of catchy titles for this article. Veteran KCM Operators please scan this article for important dates and potential changes. KCM Operators new to pick, please read in its entirety. It may make the difference between a pleasant summer and the Pick From Hell.

TRANSIT OPERATOR PICK IS WHEN?
Part-time pick – April 26 and 27, and May 3 and 4.
Full-time pick – April 28 through May 08.
Part-time preview – April 21 through 25.
Full-time preview – April 19 through 25.
Make sure your Operations Bulletin board for the exact times. I never seem to get them right.

IMPORTANT DATES TO PAY ATTENTION TO
The Seattle Mariners will have home games that may impact traffic during pick on April 26 & 27. Part-time Operators picking April 26 late in the day (game starts at 6:10 pm), and after lunch on April 27 (game starts at 1:10 pm), please factor in additional travel time.

VACATION PICK
There is no vacation pick occurring for Full-time Operators during this pick. Part-time Operators can pick vacation periods in Summer shakeup. Please bring your vacation dates with you. Not only does it make the process easier on everyone involved, but if you are Part-time and you pick a couple vacation periods with the intent to cancel one because you are unsure of your dates, it denies people below you a guaranteed slot they might have picked had you known your dates.

ABSENTEE FORMS (both Part- and Full-time)
There are many reasons one cannot make it to pick. For that we have absentee pick forms. Some members fill out an absentee form as backup insurance, just in case. If you choose to do so, you will not be bound by your absentee pick form if you do show up. Absentee pick forms may be turned in at your base either by 7 a.m. on your pick day, or in the pick room during business hours (after preview starts), all the way up until two minutes prior to your pick time. Two forms are required for a Full-time absentee. Review the forms carefully before you submit them. Do not send them to the union office! We are not responsible for late or lost absentee or restriction forms!

NO SHOW AND NO ABSENTEE FORM?
Operators who do not make it to pick and have not submitted an absentee form have their work picked for them by the following process: Ten minutes prior to your scheduled pick time, your pick sheet is handed off to the Union representative, who will look up your current assignment. If your current assignment is open, at your designated pick time it will be picked for you. If not, and you are Part-time, the Union representative will look for a tripper who reports on or after your current report time and quits on or before your current quit time. You will be placed at your current base as long as it is still open, and if not, at the base geographically closest, if at all possible. If you are Full-time, we try our best to match as close as we can to what you currently are working.

Occasionally, there is no current pick information available and often there are no similar assignments left, especially further on down the seniority list. If there is time and an open phone line, the Union representative may attempt to call you. If we do not have your current address/phone number, and no current assignment for you, the Union representative has little recourse other than to pick an assignment completely at random.

For Part-time Operators, the tripper picked for you by the Union is sometimes substantially shorter than the tripper you could have picked yourself. It is in your best interest to show up and pick for yourself, or submit an absentee pick form.

April 18th.
ABSOLUTELY NO RESTRICTION FORMS WILL BE ACCEPTED PAST THIS DATE.

I CAN’T BELIEVE YOU PICKED THIS FOR ME, MY LIFE IS OVER!
Once the Union representative picks your assignment it might not be changed if you arrive late. If you arrive immediately after the Union has picked for you, AND, if the people who picked below you are still in the room, the pick may be stopped and your piece offered to those who picked behind you if you are so very opposed to working it. If this should occur, the pick still goes on around you and those with lesser seniority who did arrive on time will continue to pick. If, however, even one person below you that has already picked has left the room, your pick will not be altered for any reason. A second recourse for those who did not arrive in time to pick and find their union-picked work heinous is to hang tight till the next move up.

DON’T CALL US...
Many members are electing to phone the pick room at their designated pick time, which works fine if pick is running on schedule and the ONE phone line in the pick room is not busy. But pick can be delayed for any number of reasons. If a delay occurs or the phone line is busy, picking by phone can be a nightmare.

PLEASE!! Don’t try to pick by phone unless you absolutely have to. Come to the pick on time and in person, or submit an absentee pick form as mentioned above. We will not be responsible for the outcome if it is not favorable to you.

IMPORTANT!
The contract states: “Selections made by the UNION will not be subject to the grievance/arbitration procedure.” Your Union representatives are only human. In your absence they did the best they could given the circumstances they had to work with, and the Union will not be held liable for any picks made for someone who could not or did not show up to do their own pick.

FLEX GROUP D
The contract allows for a Flex-Group D option for Full-time Operators to select a Part-time tripper in lieu of full-time work, but falling under the provisions and conditions of Part-time. Flex-Group D allows a Full-time Operator to select one of the following two options:

a) A Saturday combo at a base they designate (but had the seniority to pick in the last two shakeups) and a minimum of two peak time weekday periods to be assigned via the Extra Board, or,

b) A minimum of five peak time weekday periods to be assigned via the Extra Board.

The deadline to sign up and obtain your chief’s approval for the Flex-Group D option is fourteen days prior to the beginning of full-time pick, Friday, April 18th.

RESTRICTION FORMS (Part Time Operators)
Restriction forms went to the bases last week of March. The deadline for turning in restriction forms is April 18th. ABSOLUTELY NO RESTRICTION FORMS WILL BE ACCEPTED PAST THIS DATE.

Restrictions amount to usurping the seniority of those ahead of you who did not have the need to restrict, the Union takes the deadline very seriously. Also know that if you submitted a restriction form and we reach lockout, you will be required to honor that restriction.

Lockout is when the number of restriction forms equals the number of available slots for either a.m. or p.m. system-wide. For example, 100 a.m. slots are available system-wide, 100 restriction forms on file, equals a.m. lockout. At that point, unless you had a restriction form submitted for that shakeup, you may not pick a.m. work, regardless of your seniority.

If something comes up after you submit your form that frees you from the need to be restricted, please contact the pick coordinator or call the Recording Secretary at the Union office and rescind your restriction form. You may rescind a form all the way up to that point where we go into lockout.
of the complaints should not be al-
lowed into evidence because they are not timely.
5. Added language that makes clear that we can ask the arbitrator to issue a subpoena compelling a complainant to appear to testify.
6. Added language that states that in an arbitration proceeding, if the complainant does not want to appear, and is unwilling to speak to the Union, the Arbitrator is to be informed of the fact.

We were able to negotiate two additional paid holidays for Part-time operators.

We try to reason with our employees, and offer them the chance to resolve their issues before things escalate. However, if a complaint is brought to our attention and is found to be valid, we will take action to ensure that it does not happen again.

Additionally, all the offending language in the December MOA about establishing a standard of discipline is removed. As previ-
ously, customer complaints remain a minor infraction, and progressive discharge is not an acceptable term. As far back as we can tell, we do not be-
lieve that in the history of this Union, that a single employee has ever been terminated as a result of a complaint from customer complaints. We do not expect that number to change.

Medical Arbitration MOA
Contract Language

The Medical Arbitration language has been in our contract for sometime. It was previously seriously flawed, however, because the premise for initiating the process was that an employee had to present to Metro a medical release from his or her phy-
sician that authorized the employee to “perform, without restriction, all duties of his or her position.” This provision was added to the Wash-
ington Law against Discrimination and the Americans with Disabilities Act, which state that an employer must allow a disabled employee to work with a “rea-
sonable accommoda-
tion.” Both Metro and Local 587 agreed that this divergence from the law needed to be corrected. Ul-
timately, we deter-
mined to do away with the provision all together, because the Union officers (and their lawyers) felt that there was sufficient protection for our members under both the “just cause” language of the contract, as well as all disabilities discrimination language in Article 2, Section 2. In other words, we believed that termi-
nations for medical purposes would just go through the regular arbitration proceedings under Article 5, and that a specific policy addressing medical arbitrations was simply unnecessary to protect our members’ rights.

Apparentely, however, there was sufficient concern among our mem-
bbers that we decided to revert to the old language, with some changes. First, we eliminated the language about presenting medi-
cal releases without restrictions as a preliminary step to proceeding. Next, we defined the task of the Medical Arbitration Board as being to “determine whether the Em-
ployee can perform his/her duties, as delineated in the job analysis and other relevant evidence, with or without reasonable accommo-
dation.” This makes it clear that the job description is not the only evidence of what are the essential functions of an employee’s job, as we have found over the years that it will tend to distort these job descrip-
tions in a way that distorts an employ-
ee’s everyday day-to-day activities. And, obvi-
ously, it is now clear that a release without any restrictions is not necessary—a rec-
nition that Metro must try to reason-
ably accommodate any employee before terminating them because they can’t perform their job.

We’ve also added language mak-
ing it clear that the parties have the right in these proceedings to present medical testimony, and that both parties must participate in the “interactive process.” This, too, is consistent with disability law, and ensures that there must be a real dialogue between Metro, the employee, and medical professionals; about what exactly it is that an employee can do or cannot do. Metro must not make a rash deci-
sion without being fully informed, but the employee must provide reliable medical information in a timely manner, thus allowing Metro the means by which to make a fair and reasonable decision.

I’ll leave the System Extra Board explanation to Paul’s article for he’s done an outstanding job of clarifying just what the above Board did. It was not be expanded beyond 25 operators over the duration of this contract.

We were able to negotiate two ad-
titional paid holidays for Part-time operators. Those two holidays are July 4th and Labor Day. The Labor Agency has been in our contract for a long time, but was dropped by us in the 1997 negotiations. The new agreement will expand the holiday to Labor Day, with the change at any given time to accom-
mmodate time sensitive issues.

Executive Board Members, Section 6

Submitted by Executive Board Officers Mike Whitehead and Jeff Stambaugh

In accordance with Article VI, Section 6, the following bylaw proposal will be published in the News Review, and will be voted upon at the May cycle of meetings.

ARTICLE VI. Duties of Officers, Section 6

Current Language

Section 6. The Executive Board shall create an annual budget in the month of February. The budget shall include, but shall not be limited to, projected income, projected expenses, projected variable expenses, and projected savings. The budget shall be presented to the membership at the March meetings for comment and proposal.

Proposal and Section 6. Executive Board

(a) It shall be the duty of the Executive Board to supervise and direct the management of the local.

(b) Results of all negotiations, Mem-
grandum of Agreements (MOA’s), Memorandum of Understan-
ings (MOU’s), or other matters of importance that will affect more than one individual and/or changes the Labor Agreement or intent of and/or have a lasting effect on the local as a whole will be brought before the Executive Board for review and discussion prior to entering into any agree-
ment, understanding or matter with the company.

(c) The Executive Board shall have the authority to submit the results of negotiations on agreements or other matters of importance to the entire membership for a referendum vote of the members to be conducted under conditions and at times to be determined by the Executive Board.

(d) The Executive Board shall create an annual budget in the month of February. The budget shall include, but shall not be limited to, projected income, projected fixed expenses, projected variable expenses, and projected savings. The budget shall be presented to the membership at the March meetings for comment and review.

Proposal to Change Bylaws

To: All Members of Local 587
From: Recording Secretary Paul J. Bachtel
At: ATU Local 587

Proposed: Change to Bylaws Article VI, Section 6

We propose to change Articles VI, Section 6 to include the following: (d) The Executive Board shall have the authority to submit the results of negotiations on agreements or other matters of importance to the entire membership for a referendum vote of the members to be conducted under conditions and at times to be determined by the Executive Board.

We also propose to change Articles VI, Section 6 to include the following: (d) The Executive Board shall create an annual budget in the month of February. The budget shall include, but shall not be limited to, projected income, projected fixed expenses, projected variable expenses, and projected savings. The budget shall be presented to the membership at the March meetings for comment and review.

The Executive Board will discuss these changes at the next meeting of the Executive Board, and will present a final proposal to the membership at the March meetings for comment and review.

Thank you for your consideration.
T
he chart below is an illustration of approximately how much retroactive pay members should receive if the Tentative Agreement is approved on April 17th.

- The figures are based on a full-time employee working 80 hours of straight time per pay period.
- They do not include overtime, spread pay, etc.
- The number of pay periods is an approximation starting with October 20, 2007 and ending on June 13, 2008 for a total of 17 pay periods. Hopefully King County can go faster than that.
- All the trades are lumped together because of space constraints and they also all make the same rate. All the leads for the trades are lumped together also for the same reason.
- How much you will receive as an individual will depend on how many hours you were paid for and at what rate. Step increases or being on L&I will of course affect how much you get.
- These figures are for GROSS pay not NET. Uncle Sam will take his cut first.

### RETROACTIVE PAY

<table>
<thead>
<tr>
<th>Bus</th>
<th>11/01/06 TOP HOURLY WAGE</th>
<th>11/01/07 NEW TOP HOURLY WAGE</th>
<th>Wage Increase</th>
<th>Gross Retro pay for 17 pay periods 17 x 80= 1360 Hours</th>
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<tr>
<td>OPERATORS</td>
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<tr>
<td>Transit Operators</td>
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<td>Assistant Utility Service Worker</td>
<td>$53.38</td>
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<tr>
<td>All VM Trades (Mechanic, ET, Painter, etc.)</td>
<td>$28.98</td>
<td>$29.85</td>
<td>$0.87</td>
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<td>Equipment Dispatcher</td>
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<td>$24.24</td>
<td>$0.71</td>
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<tr>
<td>*Leads for the trades</td>
<td>$31.88</td>
<td>$32.84</td>
<td>$0.96</td>
<td>$1,305.60</td>
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<td>*Leads Equipment Service Worker</td>
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<td>$26.66</td>
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<td>$1,096.00</td>
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<td>*Lead Transit Parts Specialist</td>
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<td>Mechanic Apprentice (95% of Mechanic)</td>
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<td>$25.37</td>
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<tr>
<td>(85% of Equipment Painter)</td>
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<td>Purchasing Specialist</td>
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<td>$26.03</td>
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<td>Senior Stores Clerk</td>
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<td>**USW / Driver CDL ($1.00 above USW)</td>
<td>$19.98</td>
<td>$20.55</td>
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<td>$775.20</td>
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<tr>
<td>Vehicle Damage Estimator</td>
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<td>$32.84</td>
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<td>$1,305.60</td>
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<tr>
<td>(10% above Sheet Metal Worker)</td>
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<td>VM Technical Information Processes Specialist</td>
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<td>$23.90</td>
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<td>$992.00</td>
</tr>
<tr>
<td>*10% above non-lead positions</td>
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<td></td>
</tr>
<tr>
<td>FACILITIES MAINTENANCE</td>
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</tr>
<tr>
<td>All Facilities Trades</td>
<td>$28.98</td>
<td>$29.85</td>
<td>$0.87</td>
<td>$1,183.20</td>
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<td>(Carpenter, BOE, Constructor, etc)</td>
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<tr>
<td>Equipment Operator</td>
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<td>*Leads for all trades</td>
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<td>$1,305.60</td>
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<td>*Lead Ground Specialist</td>
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<td>*Lead Transit Custodian</td>
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<td>Utility Laborer</td>
<td>$22.65</td>
<td>$23.36</td>
<td>$0.71</td>
<td>$1,060.80</td>
</tr>
<tr>
<td>*10% above non-lead positions</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>REVENUE COORDINATORS</td>
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<tr>
<td>Revenue Coordinator</td>
<td>$26.01</td>
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<td>$0.78</td>
<td>$1,060.80</td>
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### SPECIAL CLASSIFICATIONS

<table>
<thead>
<tr>
<th>Bus, continued</th>
<th>11/01/06 TOP HOURLY WAGE</th>
<th>11/01/07 NEW TOP HOURLY WAGE</th>
<th>Wage Increase</th>
<th>Gross Retro pay for 17 pay periods 17 x 80= 1360 Hours</th>
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<tbody>
<tr>
<td>SPECIAL CLASSIFICATIONS</td>
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<tr>
<td>Accounting Technician I</td>
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<td>$720.80</td>
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<td>$18.20</td>
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<td>$32.07</td>
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<td>Transfer Room / Warehouse Worker</td>
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<td>Fireline positions</td>
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<tr>
<td>except Comm. Coordinator</td>
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<td>$1,305.60</td>
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<td>*Communications Coordinator</td>
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<tr>
<td>(90% of Supervisor)</td>
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</tr>
<tr>
<td>*5% above Service Supervisor</td>
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<tr>
<td>SCHEDULE SECTION</td>
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<td>RIDER INFORMATION SPECIALISTS</td>
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<tr>
<td>*Assigned Rider Information Specialist</td>
<td>$21.09</td>
<td>$21.72</td>
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<tr>
<td>*Rider Information Specialist</td>
<td>$21.09</td>
<td>$21.72</td>
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<td>$23.16</td>
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<td>CUSTOMER SERVICE OFFICE EMPLOYEES</td>
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<td>*Customer Assistance Representative (CAR)</td>
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<td>*On-Call Customer Assistance Representative</td>
<td>$21.09</td>
<td>$21.72</td>
<td>$0.63</td>
<td>$856.80</td>
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<tr>
<td>*Senior Customer Assistance Representative</td>
<td>$23.16</td>
<td>$23.85</td>
<td>$0.69</td>
<td>$938.40</td>
</tr>
</tbody>
</table>

### RAIL

| Rail | | | | |
| Structor Operator | $25.34 | $26.10 | $0.76 | $1,060.80 |
| Structor O&M Supervisor | $33.51 | $34.51 | $1.00 | $1,360.00 |
| Structor Maintainer | $28.98 | $29.58 | $0.73 | $1,169.60 |
On April 17 we will again be voting on a tentative labor agreement. The difference between this proposed agreement and the last proposed agreement is not just in the improvements bargained since the last offer, it is also in the fact we have, at Metro’s insistence, met with a Public Employees Relation Commission “PERC” mediator for the purpose of finding mutually protected positions for interest arbitration. If you have been following President Norton’s recent articles you are aware the first step to interest arbitration is PERC mediation.

What are protected positions? Protected positions are those positions the Union and Metro took early on in negotiations and have presented to the PERC mediator for potential certification by PERC for interest arbitration (should a negotiated settlement not be possible). Although the PERC mediator has heard the Union and Metro protected positions, the PERC mediator has yet to forward those positions to the Director of PERC for certification for interest arbitration.

What is interest arbitration? Interest arbitration is similar to a court room trial where an interest arbitrator hears arguments from both Union and Metro and awards a contract. The membership does not vote on the contract. The decision is final.

If we reject this second proposed tentative agreement will Metro request the PERC mediator forward the unresolved protected positions for certification for interest arbitration? I believe so. So the question, in my opinion, now becomes whether to accept this new tentative labor agreement or take our chances in interest arbitration with hopes of gaining a better decision from an interest arbitrator than what is currently being proposed as a negotiated settlement.

What might we expect from an interest arbitrator? Quoting from President Norton’s March 19th News Review article, “Interest arbitrators do not “reward” one side or the other. They do not view it as their responsibility to “make up for lost time“, or punish one side or the other for bad faith bargaining. Arbitrators see their job as putting the parties in the same position they would have been in had they negotiated a contract in good faith. It is extremely rare when a union or an employer achieves a result in arbitration that significantly exceeds the results they could have achieved had they bargained in good faith from the beginning.” This is not just the opinion of President Norton, it is the opinion of each and every mediator I have worked with during my years in union office.

This does not suggest that should the membership reject this second proposed agreement an arbitrator will award an agreement similar to one or both of the rejected proposals. In fact, both the proposal rejected in January and the proposal that remains to be voted upon are “What If” proposals. “What If” proposals are off the table if rejected. Off the table means future negotiations and any interest arbitration will revert back to protected positions.

If we vote no will the arbitrator’s award be similar to the two proposals? Given an interest arbitrator would not be made aware of the contents of rejected “What If” proposals the final award will be based upon what the interest arbitrator accepts or rejects from the Union and Metro’s presentation of their respective protected positions. The result could be something dramatically different from the “What If” proposals.

Alright, I stop beating a dead horse and get on with a few examples of our protected positions. Please take them with a grain of salt (or better yet, the whole bottle). These are only examples of the Union and Metro’s protected positions. A complete listing of the Union positions was reviewed at a recent Charter meeting and is available for review in the office of the Recording Secretary.

Management Rights
• Metro is proposing removing the language guaranteeing the Union’s right to file grievances regarding past practice, removing the historical and traditional guarantee language from the Vehicle Maintenance article and removing similar language from the First-Line Supervisor article.
• Union is proposing current language.

Wages
• Metro is proposing lowering the COLA floor from 3% to 2% with a 6% ceiling (90% CPIW). No across the board wage increase. This would presumably result in a 2.49% wage increase retroactive to the pay period that includes November 01, 2007. • Union is proposing shortening the wage step progression from six years part-time and three years full-time to two years for all employees subject to step progressions. Metro is proposing a 4% wages increase retroactive to November 01, 2008. Union is proposing a three year agreement with four COLA wage increases 3% floor and 6% ceiling (90% CPIW) (which includes a COLA increase of $2.15/hour- the last COLA of the agreement). Union is proposing a shift differential of 10% and 15%. Union is proposing longevity pay of approximately 20% (does not include compounding).

Holidays
• Metro is proposing current language.
• Union is proposing all 11 current holidays and personal holiday and an additional two personal holidays and in addition the employee’s birthday off.

Vacation
• Metro is proposing current language.
• Union is proposing full credit for all years of service (including part-time). Union is proposing “earn it and burn it” vacation (only one accrual bank that can be accessed immediately).

Full-time Transit Operators
• Metro is proposing full utilization of the Part-time Transit Operator workforce 24 hours a day, seven days a week. • Union is proposing a significant reduction in the ratio of Part to Full-time Operators, no combos on Saturdays and doubling almost all special allowance guarantees, etc.

Part-time Transit Operators
• Metro is proposing no additional guarantees just total utilization.
• Union is proposing 330 daily guarantee, a guarantee of 400 trip-pers’ 4-hours or longer with 350 of the 400 paid straight through.

These are only a few examples of approximately 70 Union and Metro proposals that may be certified for interest arbitration. Although I don’t believe Metro or the Union would be successful in attaining all of their respective goals in interest arbitration I do believe an interest arbitrator might be tempted to provide at least minimal relief on a number of issues to both sides.

I voted “Yes” on both the executive board recommendation to approve the last tentative agreement and “Yes” at the polls on January 10, 2008. I will again vote “Yes” to recommit this proposed settlement and “Yes” at the polls on April 17, 2008. I much prefer a negotiated settlement over the uncertainty of an arbitrator’s decision.

The Recording Secretary’s Report

By Paul J. Bachtel

Risk vs. Reward

By Paul J. Bachtel, Recording Secretary
Are Stress Claims Covered Under Workers Compensation?

by Meade Brown

December 20, 2007

O f the job stress can disable a worker in a variety of ways. For example, stress can produce disabling depression and anxiety, or cause physical disability from muscle spasm heart disease, and stroke. Further, stress can disable by aggravating existing physical disorders, such as multiple sclerosis. However, even when the medical evidence proves that the worker’s stress is job related, Washington’s Industrial Insurance Act will exclude workers compensation coverage in many, but not all circumstances.

Job related stress claims are frequently contested by employers, as demonstrated by the numerous decisions the Board of Industrial Insurance Appeals has made on these types of claims. Whether a worker’s job related stress should be covered by workers compensation will always depend on the specific facts of the claim, but certain broad principles apply. How the stress arose on the job, and what health conditions resulted, will affect whether workers compensation coverage applies. For the sake of brevity, this article will only address how the job related stress arose.

How job related stress arose will determine whether the stress is deemed an “injury,” or an “occupational disease.” Generally, job related stress determined to be an “injury,” is covered by workers and compensation, while job related stress determined to be an “occupational disease” is not. What is considered an “injury,” and what is considered an “occupational disease,” will always depend on the specific circumstances.

Washington’s Industrial Insurance Act defines an “injury” as “a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.” There are many legal nuances in this definition, which I will not address in this article. However, I will give you two examples of stress claims which should be covered under workers compensation as “injuries.”

First, a transit operator who is threatened (but not physically harmed) on the job by a passenger with a gun, and as a result, suffers stress several days later causing sleeplessness and loss of appetite, should be covered by workers compensation. The stress arose within a brief period of time, and was caused by a specific traumatic event occurring during the course of the transit operator’s employment.

Second, a transit operator who experiences disabling anxiety after witnessing a passenger severely beat another passenger, should also be covered by workers compensation. Note that the traumatic event wasn’t directed at the transit operator. Nevertheless, medical evidence may establish that witnessing the traumatic event was the cause of the transit operator’s anxiety. Also note that the operator’s anxiety didn’t result in any physical symptoms, such as sleeplessness or loss of appetite. Nevertheless, the definition of “injury” has been extended under workers compensation to include purely “mental” conditions.

However, job related stress determined to be an “occupational disease,” is not subject to workers compensation coverage, because Washington excluded occupational disease stress claims with a 1988 amendment to the Industrial Insurance Act. What is an “occupational disease”? The simplest definition is any job related health condition that isn’t an “injury.” These health conditions gradually, as opposed to suddenly, arise out of work, and are caused by the distinctive conditions of the worker’s employment, as opposed to a traumatic event. Thus, if a worker’s employment, as opposed to a traumatic event. Thus, if a worker’s stress gradually develops on the job over an extended period of time, the stress is deemed an “occupational disease,” and excluded from workers compensation coverage. For example, an excessive workload, ongoing criticism from a supervisor, or a job demotion can gradually produce disabling stress. This type of stress should be deemed an “occupational disease,” and excluded from workers compensation coverage.

To further complicate matters, job related stress might sometimes be both an “injury,” and an “occupational disease.” For example, suppose a transit operator suffers stress from ongoing fear, because the operator drives at night on a route where other drivers have been assaulted. While driving this route, a passenger with a knife threatens the operator, and shortly thereafter, the operator seeks psychiatric treatment for stress. If the transit operator reports on her workers compensation claim that the stress “arose from the constant fear I experienced driving my dangerous route,” the claim will be rejected as an “occupational disease.” As reported, the stress gradually arose from the distinctive conditions of the operator’s employment. However, if the operator describes the stress as “caused by a passenger wielding a knife at me,” the workers compensation claim will be accepted as an “injury.” Under this report, the stress suddenly arose from a specific traumatic event.

There is no doubt that this is a complicated subject. The key points to remember are that some, but not all, job related stress claims are excluded from workers compensation coverage, and coverage is more likely if a single traumatic event caused the stress. If you file a workers compensation stress claim that is later rejected as an “occupational disease,” you should consider consulting an attorney before the rejection order becomes final within 60 days. The attorney may determine that your workers compensation claim should be accepted as an “injury,” and recommend that you appeal the claim rejection. In light of the legal complexities of stress claims, you should not assume that King County Safety and Claims and the Department of Labor and Industries will always be correct in rejecting a claim.