

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Interest *
Arbitration between *
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* DECISION *
* AND AWARD *
NEW JERSEY TRANSIT CORPORATION *
*
*
-and- *
* Docket No. *
* IA-2007-029 *
POLICE BENEVOLENT ASSOCIATION, *
LOCAL 304 *
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Before: Joel M. Weisblatt, Arbitrator

Appearances:

For the Employer

Genova, Burns & Vernoia

By: Brian W. Kronick, Esquire

On the Brief: Carolyn Buccerone, Esquire

Shannon A. Morales, Esquire

For the Union

Loccke, Correia, Schlager, Linsky & Bukosky

By: Richard D. Loccke, Esquire

D E C I S I O N

The New Jersey Transit Corporation (the "Employer" or "NJ Transit") and the Police Benevolent Association, Local 304 (the "Union" or the "PBA") are parties to a collective bargaining agreement which had a duration through June 30, 2006. Negotiations for a successor agreement reached an impasse and a Petition to Initiate Compulsory Interest Arbitration was filed. Pursuant to the Rules and Regulations of the Public Employment Relations Commission, the undersigned Arbitrator was duly appointed to serve in this matter.

The Arbitrator met with the parties on June 29, 2007 in an effort to assist them in achieving a voluntary resolution to their dispute. The impasse persisted. Evidentiary hearings were scheduled and held on December 12, 2007.

The parties were provided with the opportunity to argue orally, present documentary evidence and examine and cross-examine witnesses. An extensive record was

created at the hearing. The documentary evidence presented is extraordinary in breadth, literally filling two dozen volumes of binders. The record was then supplemented in February of 2008, by the mutual agreement of the parties, with further certifications as to certain elements of the facts. Both parties submitted extensive briefs, received in June of 2008, delineating their positions and arguments in depth and specifically addressing the statutory criteria with respect to the facts and issues in dispute.

The entire record has been carefully considered. The evidence has been evaluated in light of the nine statutory criteria set forth in *N.J.S.A. 34:13A-16(g)*.

The parties failed to mutually agree to a terminal procedure. Therefore, under *N.J.S.A. 34:13A-(d)(2)* the dispute shall be resolved through a determination by conventional arbitration. This resolution shall be reached through application of all of the relevant statutory criteria, giving due weight as appropriate, to the issues presented by the unsettled elements in dispute.

Statutory Criteria

N.J.S.A. 34:13A-16(g) provides as follows:

g. The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why others are not relevant, and provide an analysis of the evidence on each relevant factor:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c. 68(C.40A:4-45.1 et seq.).

(2) Comparison of wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425

(C:34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c. 68(C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and other such factors not confined to the foregoing which are ordinarily or traditionally considered in the determinations of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c.62 (C.40A:4-45.45).

Final Offers of the Parties

Final Offer of the PBA

Economic Issues

1. Wage Increase: The PBA proposes a four (4) year contract to succeed the most recent contract term. It is proposed that there be a five percent (5%) across-the-board increase at each rank, step and position on the Salary Guide.

2. Court Compensation: The PBA proposes a three (3) hour minimum on all court appearances which are required and which arise out of the Officer's status as a Police Officer.

3. Holidays: The PBA proposes three (3) additional holidays. The PBA proposes that all of the holidays be rolled-in to base compensation and paid along with payroll and as such are intended to be used for all calculation purposes.

4. PBA Rights: The PBA proposes a new provision which would provide sixty (60) calendar days per year for PBA Association use. Said days shall be arranged through the office of the PBA President for control purposes although they may be used by any person designated by the President. Use of such time can only be denied if unforeseeable Department mobilization circumstances so long as at least twenty-four (24) hours notice is provided to the Employer.

Non-Economic Issues

A. Paycheck Error Procedure: The PBA proposes a modification of Article IX by adding a new Section 5 which would provide as follows:

An Employee whose paycheck is shorted by One Hundred Dollars (\$100.00) or more, shall be made whole in a twenty-four (24) hour period following the submittal of a pay shortage form. Employees will not be required to attach or submit their pay stub with the pay shortage form. In the event that the pay shortage form is submitted on a weekend or holiday, the Employer shall make the Employee whole on the day following the next business day.

B. Article IX, Legal Aid: The PBA proposes that the contract specifically reference and include protections as set forth at N.J.S.A. 40A:14-155.

C. PBA Fund Raising Activities: The PBA proposes the addition of a new Article providing as follows:

The PBA, its Officers, members, agents, or principals shall have the right to conduct fund raising activities on or near NJ Transit properties. Such activities shall be conducted twice a year. Such activities will not interfere with or impede the commuting public.

D. PBA Representation in Emergency Circumstances (Example - Shootings): The PBA proposal is for Union representative access so as to provide counsel in the form of "*Weingarten*" representation.

E. Maternity/Paternity Leave: The PBA proposes the following language:

(A) Female Police Officers shall advise the Employer of a pregnancy. The rights of female Police Officer shall include but not be limited to the following provisions:

(1) The female Police Officer shall be permitted to work her normal duties so long as such work is permitted by a doctor's note. The doctor shall be

a physician of the female Police Officer's own choosing.

(2) In addition to the other provisions of this Article, the female Police Officer shall be permitted to use accumulated sick time, compensatory time off and any other accumulated time benefits which she may have during the period of her pregnancy and the period following childbirth.

(3) Upon return from maternity leave the Officer shall be returned to work without loss of seniority or benefits and shall be returned to the same position as worked prior to utilizing leave.

(4) The female Police Officer shall at all times be kept at full benefits and shall be considered as on active duty for all computation purposes.

(5) Upon return to active duty status, the female Police Officer shall be placed in the same position which she held before departing for maternity status.

(B) Both male and female Police Officers shall be permitted such time and such terms and conditions as are provided under the Federal Family Leave Act and the New Jersey Temporary Disability Benefits Law.

Final Offer of the Employer

Economic Issues

1. Term of the Agreement: Four (4) years, commencing July 1, 2006 through June 30, 2010.

2. Wages: Effective July 1, 2006: Three (3.0%) percent increase to base pay to eligible employees who are on the payroll as of July 1, 2006. Effective July 1, 2007: Three (3.0%) percent increase to base pay to eligible employees who are on the payroll as of July 1, 2007. Effective July 1, 2008: Three and one-half (3.5%) increase to base pay to eligible employees who are on the payroll as of July 1, 2008. Effective July 1, 2009: Three (3.0%) percent increase to base pay to eligible employees who are on the payroll as of July 1, 2009.

3. Medical and Dental Insurance: Effective July 1, 2008, and continuing for the term of the Agreement, implement a medical and dental insurance contribution equivalent to 15% of the medical and dental insurance rates to be used for the purpose of sharing the cost of

medical and dental benefits provided by NJ Transit. Said contribution shall initially be as follows for the PPO Plan: Single \$65.83/month; Husband/Wife \$140.58/month; Parent/Child \$93.19/month; Family \$155.05/month. Said contribution shall initially be as follows for the HMO Plan: Single \$45.61/month; Husband/Wife \$110.72/month; Parent/Child \$79.32/month; Family \$127.04/month. Effective July 1, 2008, increase co-pays for office visits for the PPO and HMO Plans from \$5.00 to \$15.00.

4. Article XIX, Sick Leave, Section 7: Reduce full salary period from one and one-half (1 1/2) years to one (1) year.

5. Article XXX, Training Programs, Schools, Seminars: Add language that if Training Program is five. eight-hour days, schedules will be adjusted for straight time pay only.

Non-Economic Issues

1. Article IV, Promotions, Section 1(d): Increase eligibility from three (3) years to five (5) years.

2. Article IV, Promotions, Section 5: Add the following language: "The Chief of Police has the right to disqualify any applicant for a promotion exam, in writing, within fifteen days of receipt of application. In addition, the Chief may disqualify any applicant for promotion for additional conduct, occurring up to and including the date of promotion...". Delete the last sentence.

3. Article XIX, Sick Leave, Section 9: Eliminate section as it was a one time conversion.

4. Article XX, Grievance Procedure, Section B: The following shall replace Section B paragraphs 1, 2, 3, and 4(a):

(1) An aggrieved and his/her Union representative shall first verbally discuss the matter with the aggrieved employee's Commanding Officer within fifteen (15) working days of the event or reasonable knowledge thereof for the purpose of resolving the matter immediately and informally. At the meeting, the aggrieved employee shall provide the Commanding Officer with a written description of the alleged disagreement or dispute, the contract provision(s) allegedly violated, the individual(s) involved, the relevant dates, and the remedy sought. The Commanding Officer shall render his/her decision within fifteen (15) days of the informal meeting.

(2) Grievances not resolved at step 1 shall be presented to the Chief of Police in writing within fifteen working days (15) working days after step one has been completed. The writing shall specifically and completely identify the alleged disagreement or dispute, the contract provision(s) allegedly violated, the individual(s) involved, the relevant dates, and the remedy sought. A grievance meeting may be held between the Chief of Police, the authorized representative of the Union and the aggrieved party. The parties present at step 1 may be present at step 2. The Chief shall render his/her decision in writing within fifteen (15) working days.

(3) Grievances not resolved after the first two steps may be appealed to the Director of Labor Relations, or designated Company Official in writing within fifteen (15) working days of the decision at step 2. The Director of Labor Relations or designated Company Official shall respond, in writing, within fifteen (15) working days.

(4) Arbitration

(a) If the grievance is not settled through steps 1, 2 or 3, either party may refer the matter to the Public Employment Relations Commission (PERC) within fifteen (15) working days after the determination by New Jersey Transit Labor Relations or the designated Company Official. An Arbitrator shall be selected pursuant to the rules of the Public Employment Relations Commission.

The following shall amend Section D(a):

(a) The PBA, through its president, may make a written request to the Director of Labor Relations for expedited handling of a grievance. The writing shall specifically and completely identify the alleged disagreement or dispute, the contract provision(s) allegedly violated, the individual(s) involved, the relevant dates, and the remedy sought. The request must be submitted within seven (7) calendar days on which the act or event which the subject of the

grievance occurred, or seven (7) calendar days from the date on which the grievant became informed of the occurrence.

5. Article XXII, Equipment, Section 1: Change "full body bulletproof vests" to "full upper torso bulletproof vests".

6. Article XXIII, Advertisement and Selection of Positions, Section 1(b): Amend to provide Management with the right to adjust hours and/or reporting locations five (5) times per year.

7. Article XXIII, Advertisement and Selection of Positions, Section 3(b): Add "except on five occasions in Section 1(b) or emergency situations.

8. Article XXIII, Advertisement and Selection of Positions, Section 6(e): Add the following language: "An Officer assigned, directed and approved by the Commanding Officer to and who works and assumes the duties and responsibilities of a Supervisor's position other than his/her regular position..."

9. Article XXIII, Advertisement and Selection of Positions, Section 10: Delete existing language and replace with the following:

Officers out on suspension, or occupational or non-occupational illness or injury greater than ninety (90) days will be able to return to his/her last position held, if available, or be assigned to a position within the region of his/her last position held as per section 2 of this Article and all other applicable Articles and Rules and Regulations related to employment and return to employment. Delete parenthetical language.

10. Article XXIII, Advertisement and Selection of Positions, Section 12: Add language specifying that one (1) tour swap counts as a swap for both Officers.

11. Article XXIII, Advertisement and Selection of Positions, Section 12(c): Amend as follows: "Requests must be made in writing and submitted five (5) days prior to the first day to be swapped and the swap must be approved by the Chief of Police or his/her designee."

12. Article XIV, Overtime, Section 1: Delete reference to Sergeants and Lieutenants.

13. Article XIV, Overtime, Section 2: Amend the language as follows: "Police personnel working at North Region 1 (including HQ) and North Region 2 will be combined...". "Police personnel working the South Region (Atlantic City, Camden, Trenton) will be combined..."

14. Article XIV, Overtime, Section 5: Modify to reflect North Region and South Region overtime lists and first choice to cover overtime at location goes by Region.

15. Article XXXIII, Ridership Passes: Delete - this pass shall be issued annually and shall be valid only during the year in which issued.

Positions of the Parties

Position of the PBA

The PBA contends that its final offer proposals are more reasonable when the evidence is considered in light of the statutory criteria. It maintains that there is insufficient evidence to support the Employer's "extended list of proposals and requests for forfeiture of PBA benefits." It asserts that the "PBA's position is completely and totally supported by evidence in the record.

With respect to the Interest and Welfare of the Public criterion, the Union points out that the public, in this instance, is like no other group. It characterizes the challenges facing the force as "unparalleled in law enforcement", noting an average daily ridership in excess of 864,900 people. The PBA describes the need for police protection and assistance as "constant" and notes that there are more than 20,000 bus stops and 217 rail and light rail stations. Emphasis is placed on the fact that the system links major points

throughout the State and also links the State with New York and Pennsylvania.

The Union explains that the NJ Transit Police work closely with the State Police and with many municipal law enforcement agencies in their efforts to protect the public. It identifies numerous areas of special training and skills and the use of "a unique level of technology."

The events of recent years have, as pointed out by the PBA, established an essential role for the force with respect to Homeland Security concerns. Specific areas have been identified which represent improvements in capabilities to protect against or respond to threats of terrorism. The Union stresses the importance of these improvements, noting examples of tragic events taking place in the transit systems elsewhere in the world. The PBA expresses the presence of a "proud tradition of public service" and an excellence of performance that it believes to be "recognized by the entire law enforcement field."

When considering the Comparability criterion, the PBA argues that the "exceptional performance and professionalism" of the NJ Transit Police is not matched by corresponding compensation levels. It asserts that the Police Officers of this bargaining unit are "the poorest paid of all comparable agencies in evidence."

The Union provided evidence relating to a comparison group drawn from municipalities "which lie along Bus or Transit Systems." It describes this universe as "a most relevant system for empirical data collection and comparison generally as to terms and conditions of employment." The PBA focuses on the fact that the pay rate is lower than the entire universe compared and it calculates that the base rate for an NJ Transit Officer is more than \$10,000.00 below the average base pay rate for a patrolman among the comparison group. It claims that to be a 15.32% shortfall from average. Noting that it does not seek a 15% increase in 2006 to reach average, the Union does insist that its final offer is clearly justified.

The PBA further insists that the salary shortfall is not offset by higher benefit levels. To the contrary, it assails the benefit package as unduly low and takes special aim at the lack of standard longevity benefits and the inordinately poor level of the holiday benefit, at only 10 days, in a universe that averages nearly 14 holidays per year. It notes that the evidence supports both its proposal to increase the number of holidays and to then fold them into base pay, an element of more than seventy-five percent of the police contracts examined.

The Union also argues that comparability supports its salary increase proposals, citing an examination of the rate increases for the many contracts placed in evidence. It contends that the average increases for the group are in excess of four percent annually for the years 2006 through 2009. Application of its proposed 5% increases would be above average but still leave the salary rates well below average for the entire comparison group.

The PBA assails the private sector comparisons raised by the Employer. It stresses the unique nature of

police work and numerous specific examples of statutory differentiation related to that unique nature of the job. The Union points out that the "greatest differentiation between Police Officers and private employees generally is the obligation to act as a law enforcement officer at all times of the day without regard to whether one is on duty status within the state or not."

The Union notes that the only stipulations between the parties have been procedural. It does suggest that the common proposal for a four year term of the agreement is, in essence, a stipulation.

The PBA has addressed the several "financial criteria" in an inter-related fashion, including specific discussion of the Lawful Authority criterion, the Financial Impact on the Taxpayer criterion and the Revenue Side Cap Law criterion. The Union notes that the Employer "does not raise funds through direct taxation."

The Union argues that the financial picture for NJ Transit is positive. It notes that ridership is up, fare revenue is up, Federal State and local reimbursements are.

up, assets are up, and debt service is down. The PBA claims that a clear trend of positive economic factors is in evidence. It states that "this is not an agency in distress." The PBA insists that funding is available for the bargaining unit employees "to receive a competitive wage and compensation package."

With respect to the Cost of Living criterion, the Union cites facts set forth in the documentation issued annually by the Public Employment Relations Commission. It submits that these figures fully support the final offer of the PBA in this case.

The PBA addresses the Continuity and Stability of Employment criterion by noting that that factor has always encompassed the concepts of "area standards" and the "prevailing rate". It argues that both of these "private sector measures weigh heavily in favor of the PBA." The Union notes the existence of high turnover rates and claims that the low compensation levels have been responsible for the instability caused by high turnover.

The PBA argues that its minimum court time proposal is supported by the evidence. It notes the prominence of such conditions in a majority of police unit collective bargaining agreements, many at a four hour level. It further stresses the importance of this provision for officers required to cover an enormous geographic jurisdiction where court appearances could involve extensive travel from home.

The Union notes that its PBA Rights proposal has little cost but is extremely important to the proper administration of the collective bargaining agreement. Once again, the size and diversity of the location of officers is a basis for the PBA's proposal for a meaningful amount of time for the elected representatives to address the needs of the membership.

The PBA also addresses its proposals with respect to paycheck error, legal aid, fund raising, Union representation, and maternity/paternity leave as important, warranted and reasonable. It contends that these proposals are supported by the record and should be awarded in accordance with the statutory criteria.

The PBA attacks the proposals of the Employer as seeking to reverse prior rulings by other arbitrators in grievances and even by the Public Employment Relations Commission. It specifically addresses issues of the arbitrability of minor discipline, sick leave utilization, minimum on overtime and acting duty pay, bid pool, assignment in temporary positions, tour swaps, and overtime access. The Union contends that the Employer is seeking to revise "longstanding relationships and essential terms and conditions of the workplace." This effort is characterized as an attempt at "forfeiture".

The PBA also assails the Employer's heavy reliance on "certain rail settlements" in its comparability analysis. It suggests these elements are "randomly placed on the record." It further stresses that the comparison of the jobs involved reveal a lack of persuasive value.

In conclusion, the PBA urges a finding that its proposals are consistent with the evidence introduced at hearing. It seeks a ruling in favor of its final offer

and a denial of the efforts of the Employer to "reduce the quality and content of the contract."

Position of the Employer

The Employer contends that the application of the evidence to the factors in the interest arbitration statute must result in the awarding of its final offer in the matter at hand. It characterizes its own position as "compelling", leaving the Arbitrator "no other choice than to award New Jersey Transit's final offer."

The underpinning of the Employer's arguments relate to revenue sources and operating costs. The fact that fares have been increased twice since 2005 and fears that the Transportation Trust Fund will be depleted in the foreseeable future present substantial issues with respect to revenue sources. Further, the fiscal difficulties faced by the State government are noted as an indication that other means for funding the operations may be limited.

NJ Transit asserts that the "fiscal responsibility" requires that the costs of employee salaries and health care benefits be addressed. It describes salary levels as "above-average" and benefits as "generous". The Employer suggests that it, like the State of New Jersey, "is confronted daily by a taxpaying and fare paying public which legitimately expects its leaders to maintain services at current levels while at the same time hold the line on costs or cut personnel and other costs."

The Employer contends that its final offer is consistent with the object of the Public Interest criterion. It points out that keeping costs within "the narrow parameters budgeted by NJ Transit" will protect the ability to continue to provide services at current levels. Noting recent fare increases, the Employer raises fears of a loss of ridership and the resulting impact of lost revenue. NJ Transit argues that its proposals are "fair and affordable" and in excess of a pattern of settlement with other bargaining units of its employees.

NJ Transit defines the public interest as "having safe, efficient public transportation that is affordable." It maintains that this element of the statutory criteria supports selection of the Employer's final offer.

The Employer, in addressing the Comparability criterion, placed substantial emphasis on comparisons with those police officers working for mass transit police units across the northeastern United States. It claims that NJ Transit police officers have higher starting and top salaries than those with similar units in Washington DC, Pennsylvania, and Massachusetts. It computes the top pay levels to be well above average even when the Port Authority (NY/NJ) police are included in the calculations.

NJ Transit also draws comparisons with what it calls the "hub cities" in New Jersey. These are: Atlantic City; Camden; Newark; Hoboken; and Trenton. Here again, the Employer maintains that top salary rates are favorable for its police officers.

The Employer argues that the municipal comparisons drawn by the Union are not representative and therefore not relevant. It suggests that the contracts submitted were generally from wealthier communities that were not representative of the central scheme to the NJ Transit system. It seeks to have "little or no weight" attributed to the contracts placed in evidence by the PBA.

The Employer provides extensive evidence as to contracts with its other units of employees. It asserts that the police unit employees earn significantly higher wages than any other NJ Transit bargaining unit employees. It stresses that each of the other employee units is contributing to health care coverage costs, as sought in the proceeding at hand. It insists that the offer in this interest arbitration is most reasonable in light of the pattern of settlement with other units and any element of an internal comparison.

NJ Transit also focuses on comparisons with the public sector generally and with the private sector. In both cases it emphasizes that its final offer is

consistent and reasonable under the evidentiary record. It concludes that "NJ Transit Police Officers are not automatically entitled to the benefits received by other units at interest arbitration, nor are they entitled to higher percentage increases than other NJ Transit bargaining units."

The Employer, in addressing the Financial Impact criterion, asserts that its financial situation is not strong. It maintains that the Fiscal Year 2007 budget reveals the operation to be "barely breaking even" and it raises concerns over reduced New Jersey Department of Transportation budgets in the upcoming years. NJ Transit also fears the lack of a long term funding source for the Transportation Trust Fund. The Employer identifies its expenses to exceed its revenues by \$60 million in 2008, establishing a major operating deficit. It emphasizes the need to improve its financial health.

NJ Transit points out that its ability to raise fares has limitations. It discusses the demographics of its ridership and the resistance to increased fares. It

also poses the question of the equity of raising fares, especially bus fares, to support certain expenses.

With respect to the cost side of the fiscal situation, the Employer stresses the need to control increasing costs. It identifies debt service and employment costs as areas of concern. In the employment area, the Employer takes specific note of salary, health insurance and pension costs as items of great financial impact. It argues that its final offer is driven by these financial impact concerns and that the PBA's final offer should be rejected as "excessive" under this criterion.

NJ Transit maintains that the Cost of Living criterion weighs in favor of the selection of its final offer in the matter at hand. The Employer maps the cost of living data, using the Consumer Price Index, to emphasize that recent police unit salary increases have outpaced the increases in this common measure of inflation in the cost of living. It claims that the offer in place for this contract will continue that trend.

Under the Lawful Authority of the Employer criterion, the Employer provides a further analysis of its budgetary constraints. It describes the budgetary situation as "precarious" and labels fare increases as only "temporary relief." Debt obligations and the burden of pension costs are also addressed in this context. NJ Transit seeks to have the Arbitrator consider the "legislative policy" of the Cap Law, in applying this criterion.

The Employer insists that the Overall Compensation received by NJ Transit Police Officers is "extremely favorable" in comparison to the residents of the State, in general. It delineates a "wide array of economic benefits" including: personal leave, bereavement leave, medical insurance, uniform allowance, vacations, sick leave and pension rights. It argues that this criterion supports the Employer's final offer.

With respect to the Stability and Continuity of Employment criterion, NJ Transit asserts that it has achieved a low turnover rate, 4.1% in 2007. It claims

that this is a reduction from the prior year. The Employer attributes better continuity of employment to efforts in a prior interest arbitration to solve the turnover problem. It maintains that the proposed economic improvements found in its own final offer will serve to "attract and retain a quality police force." The Employer contests the Union's assertion that the turnover is a result of poor salaries. It notes that only one-half of the officers that left last year went to municipal police departments and it argues that there is no direct evidence that they did so for the money.

The Employer provides argument in support of the proposition that each of its non-economic proposals is reasonable. The items addressed are: Promotions; Sick Leave; Grievance Procedure; Equipment; Advertisement and Selection of Positions; Overtime; and Ridership Passes.

NJ Transit concludes that its final offer is "more reasonable, in line with an established pattern of settlement and should be awarded in its entirety by the Arbitrator." In contrast, it asserts that the PBA's final offer is unreasonable and should be denied.

Discussion and Analysis

New Jersey Transit operates the largest statewide public transportation system in the United States. It provides 242 bus routes, 11 rail lines and 3 light rail lines for the public. The bus routes operate in 398 municipalities in New Jersey; the rail lines service 114 municipalities and the light rail service operates in 28 communities. [see Exhibit T-14] The NJ Transit Police provide law enforcement services throughout this enormous system. The issues in dispute in this proceeding have been considered in light of the unique circumstances shared by the Employer and the Union. The parties have a relationship and are part of a public service system distinct from any other in the State. However, there are common factors to other public service and law enforcement entities that are to be recognized and weighed as well. Among these are: a common labor market, similar fiscal issues, and prevalent cost pressures.

The economic issues presented in this dispute are well-defined and can be summarized as follows:

1. Duration - both parties agree to a contract having a term from July 1, 2006 through June 30, 2010.

2. Wage Increase - <u>Effective Date</u>	<u>PBA</u>	<u>NJ Transit</u>
7/1/06	5.0%	3.0%
7/1/07	5.0%	3.0%
7/1/08	5.0%	3.5%
7/1/09	5.0%	3.0%

3. Medical and Dental Insurance - The Employer has proposed the implementation of a 15% employee contribution to all premium costs and an increase in the office visit co-pays from \$5.00 to \$15.00 under both the PPO and HMO plans. The Union opposes any reduction in the existing health benefits.

4. Holidays - The Union seeks an addition of three holidays to the existing ten provided in the contract. It further seeks to have holiday pay rolled into base pay. The Employer opposes both proposed changes.

5. PBA Rights - The PBA proposes the establishment of a provision for 60 calendar days per year for PBA Association use. NJ Transit opposes this new benefit.

6. Article XIX, Sick Leave, Section 7 - The Employer proposes a reduction in this benefit period from one and one-half year to one year. The Union opposes any benefit reduction.

7. Article XXX, Training Programs, Schools, Seminars, - The Employer seeks to add language adjusting to straight time pay only for training programs of five, eight-hour days. The PBA opposes the change sought.

Although the issues in dispute are identified as separate items above, it is important to understand that each does not exist in a vacuum. The issues are determined herein, as components of an overall package that best represents the application of the statutory criteria to the evidence presented. There is an inherent inter-relationship between and among the issues.

The **Interest and Welfare of the Public** is always a relevant criterion in resolving an interest arbitration dispute. There are numerous elements to the public interest factor but the Arbitrator believes that this initial criterion is always worthy of substantial weight in determining the most reasonable resolution of the parties' dispute. Consider that the services rendered by the employees at issue are a particularly critical aspect of providing for the public safety. The Employer's ability to attract, retain and promote highly qualified police officers has a direct impact on the quality of life of its riders and the public in general. Fiscal responsibility is another component of the public interest that is directly relevant to the considerations in this interest arbitration. The public interest elements of NJ Transit's ability to provide its services to the public are obvious and dramatic. The need to provide public transportation is increasingly important as is the need to protect the riding public in times of previously unthinkable threats to the safety of those riding public transit systems. Finally, the recognition of the quality of service and the benefits to the public

of increased productivity and professionalism are within the relevant elements of the public interest criterion.

Some aspects of the public interest discussed above may appear as competing interests. For example, the cost of providing a safe and effective transportation system may put pressures upon the budget and the need to be fiscally prudent. The existence of competing interests requires that the varied elements of the public interest each be addressed in order to reach a reasonable balance. With respect to the issues at hand, at what levels can the Employer be able to attract and retain qualified law enforcement officers within a fiscally responsible budget? The Award herein seeks to reach the appropriate balance. The findings with respect to the economic issues are all geared toward a view of maintaining services and safety within a fiscally responsible structure.

The Employer's ability to retain its Police Officers has been an issue of concern for some time. NJ Transit acknowledges that there had been a problem and asserts the belief that the problem has been addressed. An

examination of Exhibit J-2 (the 1999 Interest Arbitration Award covering the contract period of 1996 to 2001) and Exhibit J-3 (the 2001 Memorandum of Agreement covering the contract period of 2001 to 2006) reveals that both parties have been involved in the effort to solve the problem of high turnover.

The Arbitrator in the 1999 Decision and Award [Exhibit J-2] found that the Employer did not have difficulty in attracting new officers because the "the compensation system has a reasonable starting salary" but that the turnover rate was high and it was further found that there was "a low maximum salary and no additional longevity." That Award further stated that:

This structure has led new police officers to join the Transit Police force, be trained at employer expense, and leave as seasoned officers for other law enforcement employment.

NJ Transit's own final offer in that dispute recognized the need to enhance the maximum salary rate, offering tiered increases beyond 60 months of service. This concept eventually led to the revision of the salary structure. The Arbitrator in 1999 ruled, referring to the systematic turnover problem:

In order to break this pattern and to entice experienced officers to remain at Transit, the creation of a more equitable and meaningful wage progression is necessary. Transit and PBA have both recognized and addressed this issue in their proposals.

The result was a structure that emphasized an enhancement of the maximum rate and provided some reasonable cost containment at salary levels for new and then advancing employees. The key was retaining a compensation structure that provided an incentive to remain on the force over time.

The 2001 Memorandum of Agreement between the parties [Exhibit J-3] reaching agreement for the collective bargaining agreement, with a duration of July 1, 2001 through June 30, 2006, is further evidence of the mutual recognition of the need to keep compensation competitive in order to combat turnover problems. An examination of the parties' efforts in reaching that voluntary agreement reveals the clear intent to dramatically improve the competitive status of salary rates, evidenced by an "equity adjustment" increase over and above the across-the-board percentage increases. This mutual agreement to address the competitiveness of compensation

for unit employees was effective and significantly improved the relative status of the compensation plan.

Exhibit P-6 is a list of Police Officer Resignations for the period of September 2004 through October of 2007. This list reveals 29 employees having left the force and identifies 12 Police Officers as having switched to employment with a different law enforcement agency. Nine of those twelve were re-employed by a municipal police department in New Jersey and two were hired by County Prosecutor's offices in New Jersey.

Exhibit T-58, an analysis of turnover rate throughout NJ Transit employment, reports a turnover rate of 4.1% for the Police Department, but this is only for the six month period of January through June of 2007. It reports eleven separations of service among 267 employees. This report is obviously not limited to the PBA bargaining unit.

Exhibit T-6, the NJ Transit Police Seniority Roster, reports an average seniority level of just over nine years for Police Officers, suggesting an improvement in

retention. However, that data is computed on 197 Officers and must include some number of sworn personnel in higher ranks than Patrol or Detective. Rather than looking at the average figure, which may be skewed by some very long-term employees, the Arbitrator focuses on the median figure which can be determined from Exhibit T-7, a scattergram for the rank and file bargaining unit. This document tracks 139 bargaining unit employees according to salary rate, revealing that only 37 of the 139 have completed more than 72 months of service. The median service of an NJ Transit rank and file Police Officer, as of September 4, 2007, is between 48 and 60 months of service, less than five years service. There is also testimonial evidence in the record that of the 146 Police Officers in the bargaining unit at the time of hearing, 101 had 6 or less years of service.

The NJ Transit Police remains a remarkably young force. The last two contracts have served to correct a good measure of the compensation shortfall that likely fostered problematic turnover rates in the past. The data suggests that improvements in the compensation structure appear to have made some positive impact on the

retention of Police Officers, however, drastic reductions in benefits and below-market salary increases could serve to undue the joint efforts of the parties to address the turnover issue. Such a result would clearly be in conflict with the same public interest factors that led the parties to focus on turnover as an issue in the first place. This particular element, relating to the disputed issues must be viewed as warranting substantial weight under the public interest criterion; the compensation structure should remain competitive in the relevant labor market.

Exhibit T-19 established that NJ Transit raised fares by an average of 9.6% in July of 2007. This was the second fare rise since 2005, yet ridership has steadily continued to grow from fiscal years 2005, 2006 and into the first half of FY 2007 (the last year for which data was available to be placed in evidence for this record). The total ridership increase for the second quarter of FY 2007 (October through December 2006) was 5.9% above the same quarter a year before. The ridership increases in fiscal years 2005 and 2006 were to record levels.

The Arbitrator has carefully considered the implications of regular fare increases on the financial picture of the Employer. While they, and the steady increase in ridership, provide the basis for increased revenue, there is certainly a reasonable limit to NJ Transit's ability to increase fares. At some point higher fares may inhibit ridership growth and have a negative effective on revenues. Although that level of fares has clearly not been reached there is another element of consideration; can higher fares eventually conflict with the public interest of providing affordable transportation? This is an area where the delicate balance must be implemented. The potential impact this award will have on the Employer's budget has been given significant weight, especially with respect to its ability to continue to provide public services.

To place these considerations in some context, the total budget for NJ Transit for fiscal year 2008 is \$1.64 billion and the Police Department operations for that same fiscal year are budgeted for \$34 million. The

Police Department accounts for only 2.07% of the total NJ Transit budget for fiscal year 2008 [Exhibit T-23].

The Arbitrator has given consideration to the Employer's presentation about uncertainty with respect to the future funding, beyond 2011, of the New Jersey Transportation Trust Fund (the "TTF"), a revenue source for various transportation projects throughout the State, including those of NJ Transit. Further, the federal matching fund implications are a substantive concern related to that future funding issue. It is noted that the TTF does have a funding source more than a year beyond the expiration date of this collective bargaining agreement, meaning the implications will only have an indirect impact on the fiscal circumstances within the contract term.

NJ Transit has raised the issue of pattern bargaining in context of both the public interest and comparability criteria. Specifically, it has asserted the existence of a "pattern of salary increases at (or below) 3% per year." Further, the Employer contends that

"the pattern also includes employee contributions to medical insurance."

The Arbitrator finds that the concept of pattern bargaining is generally an important and significant one in collective bargaining. It promotes consistency and predictability for all parties to the collective bargaining process. These are factors in the public interest as well as traditional elements, under the eighth criterion. Patterns in bargaining are also, obviously, components under the comparability criterion.

The record herein includes a series of memoranda of agreement, memoranda of understanding, or contracts between NJ Transit and other unions [Exhibit T-45 through T-57]. These documents provide evidence of a narrow range of internal settlements with unions including: the ATU (bus operators); the UTU (conductors and trainmen); the Brotherhood of Railway Signalmen; the Brotherhood of Locomotive Engineers; the IAM (machinists); the American Railway and Airway Supervisors; American Train Dispatchers; the IBEW (electricians); Sheetmetal Workers International Association; the Brotherhood of Maintenance

of Way Employees; the IBEW (engineers, supervisors); National Conference of Firemen and Oilers; and the TWU (carmen and maintainers). The contracts between the Employer and these unions present a tightly knit array of wage increases involving various percentage and hourly rate increases on differing dates throughout a staggered period of contract terms. Nonetheless, they represent a remarkably similar economic approach throughout this group of civilian employees. Further, they all include the common component of contribution to health insurance premiums. The health insurance components also vary and include flat dollar contributions and some introduction of percentage contributions. This evidence establishes a narrow structure of internal comparisons with unions representing employees in the transportation business but it does not present a true "pattern" where little or no variation exists. It is an element of meaningful consideration but its weight must be considered in light of the entire record.

There are compelling reasons to find that the relevant labor market for Police Officers requires some deviation from the "not quite a pattern" evidence with

respect to the non-police unions. Of most significant importance is the aforementioned prior turnover problem. As evidenced in this record, more than just a few Police Officers have left this force to work in municipal and county law enforcement jobs. This was true in 1999 [Exhibit J-2], predictably in 2001 [Exhibit J-3] and clearly in 2005, 2006 and 2007 [Exhibit P-6]. The need to protect against the return of high turnover, after having trained new Police Officers, is a compelling basis to limit (not eliminate) the impact of the claimed "pattern" of settlement. Certain aspects must be given limited weight and these will be discussed more thoroughly under the comparability criterion analysis. The most relevant labor market is obviously that of law enforcement employment in the geographic jurisdiction and that fact drives the distribution of weight of some of the evidence under the public interest criterion.

Note that the Interest Arbitration Award issued in 1999 [Exhibit J-2] found that there was no history of a pattern of settlement controlling on the PBA compensation issue. It further found that although weight was appropriate it did "not preclude greater emphasis to be

placed upon police agreements at other transit agencies and among county and municipal police agreements within New Jersey."

The 5% annual salary increases sought by the PBA are not supported under the public interest criterion. The Arbitrator agrees with the Employer that salary increases at that level are unreasonable in light of the evidence. However, the increases in salary, should be designed to keep compensation competitive in the labor market and not erode the mutual efforts of the parties to address the problem of retaining the Police Officers it hires and trains. Similarly, a balance must be found with respect to the other economic items. There is adequate evidence to suggest that some contribution to health insurance premiums might be warranted but little support for the percentage proposal by the Employer. The moderated, flat dollar contributions awarded herein are designed to provide some cost containment without unduly reducing the benefit package. Further, the cost of the additional holidays sought by the PBA cannot be justified under the fiscal constraints presented but the concept of rolling the holiday pay into base pay is a reasonable alternative

despite the fact that there are costs associated with that change.

The public interest criterion has been given very substantial weight in the formation of the Award herein. It has dictated a balanced and moderate approach to the resolution of the economic issues in dispute, addressing the competing interests present under the criterion.

The **Comparability** criterion involves comparisons of terms and conditions of employment on numerous levels. Each must be considered and due weight must be attributed in accordance with the issues and the record. In the case at hand, the parties have provided evidence of comparisons with public and private employees, in general, and with other employees in the employ of NJ Transit. Further, they have placed significant emphasis on comparisons with employees performing the same or similar functions in comparable jurisdictions. These comparisons with other police officers have involved a broad spectrum of municipalities throughout the State of New Jersey and in a selection of other entities involved

in elements of public transportation across the Middle Atlantic region.

The comparisons with other employees performing the same or similar functions are particularly important in the matter at hand because there is an established history of problems involving the ability to retain trained and experienced Police Officers. While the turnover rate has been reduced from the 18% level found in the record of the 1999 interest arbitration [Exhibit J-2] there is still a need to protect against the erosion of the competitive compensation that the parties have mutually constructed in the past. The labor market for Police Officers is well-defined and established. The job has no true counterpart in private employment.

With respect to comparisons with employees performing the same or similar functions with comparable jurisdictions, the record includes comparisons on a number of different levels. The Employer has urged comparisons be made among the municipal forces in the "hub cities" of Atlantic City, Camden, Newark, Hoboken, and Trenton. It has also urged a comparison with Police

Officers employed by regional transportation systems such as: Delaware River Port Authority; Southeastern Pennsylvania Transportation Authority ("SEPTA"); Massachusetts Bay Transportation Authority; Washington Metropolitan Area Transit Authority; and the Port Authority of New York and New Jersey.

The PBA has drawn a comparison group among 48 municipalities which lie along bus routes or train lines across the State. Within this comparison universe, the Union has focused on evidence relating to salary rates, longevity pay, holidays, and percentage salary increases over the relevant time frame.

The Employer questions the validity of the comparison universe drawn by the PBA as being "cherry picked" without a proper basis for application. There are some worthy elements to NJ Transit's criticism that requires the Arbitrator to apply the data from the PBA's group with "a grain of salt." However, the group is broad enough to reflect a variety of communities throughout the State and it does have value. The

Arbitrator must weigh the evidence of these comparisons with some tempered impact.

It is, at the same time, worth noting that the Employer engaged in a somewhat similar selection process in establishing the regional transportation comparison. In 1999 the Employer provided a comparison group for the interest arbitration that included police officers employed by the Long Island Railroad and also the Metro-North Railroad. Those two were found to be the most relevant of the regional comparisons in that proceeding [Exhibit J-2] and they were also the basis to find a comparable shortfall in the Employer's offer. The absence of the inclusion of those comparisons in this record suggests that the Employer's data be viewed with a somewhat tempered application, as with that of the PBA.

The standard for comparisons when comparing police compensation schedules is top patrol rate. Recognition of the implications of other direct compensation factors, such as longevity and certain differentials or stipends can then be handled in conjunction with the initial salary-only comparison to present the full view of

compensation, including other economic benefits in the overall package. The top base salary rate for Police Officers in the bargaining unit [the 100% rate in Exhibit J-3 and Exhibit T-3] is \$67,859, effective July 1, 2005. The salary schedule provides certain enhancements beyond that rate for further service as established in Exhibit J-2 for the 1996-2001 contract period. The parties mutually agreed application of salary increases to the same salary schedule structure left the following in place, effective July 1, 2005, subject to resolution of the current negotiations dispute:

75%	-	50,894.25
85%	-	57,680.15
90%	-	61,073.10
95%	-	64,466.05
100%	-	67,859.00
101%	-	68,537.59
102%	-	69,216.18
103%	-	69,894.77
104%	-	70,573.36
105%	-	71,251.95

The origin of the 101% step through the 105% step clearly reveals that they are more similar to the longevity

benefit found in many other police contracts but not in this one. Therefore, the appropriate salary figure for comparison, essentially the "journeyman" rate, is the 100% figure of \$67,859 [see Exhibit J-3, paragraph 1].

Exhibits T-179 through T-192 present evidence offered by the Employer relating to its comparison of municipal contracts. The jurisdictions involved are described as "hub cities" and for the most part they do represent law enforcement groups in major centers for the public transportation system. The jurisdictions for which evidence has been supplied include: Atlantic City; Camden; Newark; Trenton; Hoboken; Essex County (Sheriff's Officers); and Union Township. The data is inconsistent with respect to a direct correlation to the duration at issue in this interest arbitration. In certain instances, there may not be any up-to-date data available. Consider the following chart, in which there is data for the year 2005 for Atlantic City, Camden, Trenton, Essex County Sheriff and Union Township. Note that the contract for the City of Newark and the FOP [Exhibit T-186] includes salary evidence only through

2002 and the contract between the City of Hoboken and the PBA provides salary information only through 2004.

Exhibit #	Jurisdiction	2005	2006	2007	2008
T-179	Atlantic City	66,960	69,638	72,424	na
T-185	Camden	67,662	70,396*	74,320*	77,293
T-186	Newark	na	na	na	na
T-189	Trenton	66,136*	na	na	na
T-190	Hoboken	na	na	na	na
T-191	Essex Co Shf	68,637	71,382	74,238	na
T-191	Union Twp	77,749	80,276	82,965	85,869

* July 1st rates

The 2005 (100%) rate for NJ Transit was \$67,859. The most recent rate for Hoboken was the 2004 patrol rate of \$68,854 which compares to the NJ Transit rate that year of \$65,564. The most recent Newark rate of \$62,166 for 2002 compares to the NJ Transit rate that year of \$61,800. It is significant to recognize that the NJ Transit Police Officer 2005 rate is clearly within a competitive range with this comparison group of urban transportation centers.

Additionally, valuable comparisons are available from data of the percentage salary rate increases for this same local jurisdiction group drawn by the Employer:

Exhibit #	Jurisdiction	2005	2006	2007	2008
T-179	Atlantic City	4.0%	4.0%	4.0%	na
T-185	Camden	na	4.0%*	5.5%*	4
T-186	Newark	na	na	na	na
T-189	Trenton	4.0%*	na	na	na
T-190	Hoboken	na	na	na	na
T-191	Essex Co Shf	na	4.0%	4.0%	na
T-191	Union Twp	3.25%	3.25%	3.35%	3.5%

* split increases, 1/1 and 7/1

With the exception of Union Township, where the salary rates are considerably higher than the others, the percentage increases are all at 4.0% or above.

The PBA produced a broad range of municipal contracts on the record, all of which had salary rates in excess of those enjoyed by this unit. The salary amounts themselves have been given some measure of consideration but the rates of increase are of more significance to the case at hand. Consider the data in PBA Chart No 4, taken from the individual contracts in evidence:

Municipality	2006	2007	2008	2009
Highland Park	4			
Holmdel	4.5	4.5	4.5	4.5
Lakewood	4	4	4	
Lyndhurst	3.95	3.95	3.9	
Mahwah		4	4	4
Manasquan		4	4.25	4.25
Manchester	4.5			
Middle Twp		5* (2/3)	6.8* (3/3.8)	6.8 (3/3.8)
Monroe	4	4		
Neptune City		4	4	4
No Caldwell		3.9	3.9	
No Plainfield	4	4		
Paramus	4	4		
Passaic		4	4	4
Pt Pleasant Bo	4	4	4	4
Ridgewood	4.2* (2/2.2)	4.2* (2/2.2)	4.2* (2/2.2)	4.2* (2/2.2)
Rutherford	4.25* (2/2.25)	4.25* (2/2.25)		
Saddlebrook	4.2	4.5		
Somerville	4	4	4	4
So Orange	4.13	4.13		
Teaneck	4	4		
Tenafly	4	4	4	
Union City	4	4		
W Caldwell	4	4		
Woodbridge	4	4	4	
Asbury Pk	4	4		
Belleville		4* (2/2)	4.5* (2/2.5)	4.5* (2/2.5)
Belmar	4	4		
Bernards Twp	4	4		

Bradley Beach		4.5	4.5	4.5
Cedar Grove	4.5			
E Rutherford	4	5* (2/3)	5* (2/3)	5* (2/3)
Essex Fells		4.9	4	3.9
Fairfield				
Freehold				
Garfield				
Glen Ridge	4	4	4	4
Glen Rock		4	4	4
Hackensack	4	4	4	4
Hawthorne	4			
Edison	3.9	4	4	
Camden	4* (2/2)	5.5* (2.5/3)	4	
Middletown	3.95	3.95		
Montclair		4	3.75	
Averages	4.204%	4.162%	4.212%	4.353%

*split increases, 1/1 and 7/1

The weight attributed to the above data is tempered by the lack of clear definition to the group itself. It is a broad, general, cross-section but neither carefully delineated nor truly random. However, the data is remarkably consistent with that for the local jurisdictions provided by the Employer, which supports its value as evidence. In both comparison groups the modal number (that most commonly occurring) is 4.0%, by a large margin. The prevalence of this common rate increase cannot be ignored as a meaningful factor.

Comparisons with other employees performing the same or similar functions in comparable jurisdictions are quite meaningful with respect to the holiday pay issue. Of particular impact is data relating to the number of contracts in which holiday pay has been rolled into base pay. Of the five "hub cities" comparison drawn by the Employer, Atlantic City [Exhibit T-179], Newark [Exhibit T-186], Trenton [Exhibit T-189], and Hoboken [Exhibit T-190] all provide holiday pay rolled into base pay. This weighs heavily in favor of the PBA proposal to roll holiday pay into base pay.

The comparison group drawn by the PBA provides data of holiday benefits for 39 jurisdictions, 30 of which have contracts in which the holiday pay is folded into base pay. That is 77% of the contracts cited by the PBA. Once again the evidence is very similar in the comparison groups drawn by both parties.

The comparison evidence produced by the Union establishes that other jurisdictions consistently provide a greater number of holidays than received by the Police

Officers herein. The average number of holidays for the 39 contracts computes to nearly 14, annually. The contract at issue provides 10 holidays for unit members each year. However, the Arbitrator does not find it appropriate to increase the number of holidays in light of the finding that rolling holiday pay into base salary is warranted under the record. The fold-in has a substantive cost impact involving Employer cost factors related to computing holiday pay in base salary (e.g. overtime and pension costs). The balanced approach discussed previously dictates that there be no increase in the number of holidays as it would produce an undue measure of cost increase within this package.

The comparisons with Police Officers with the regional transportation comparison group drawn by the Employer provide some relevant evidence but it is severely limited by the lack of recent contract data. For example, the most recent salary information for the Washington DC Metro Area Transit Authority [Exhibit T-176] provides the 2005 rate; similarly, the 2005 rates are the most recent for the Massachusetts Bay Transportation Authority (MBTA) [Exhibit T-174] and the

Southeastern Pennsylvania Transportation Authority (SEPTA) [Exhibit T-173]. The Delaware River Port Authority [Exhibit T-172] salary evidence runs only through 2004. The contract evidence for the New York/New Jersey Port Authority [Exhibit T-178] runs to an expiration date in 2010.

Consider the following chart of available salary rate information which, although limited in direct current application, has value with respect to perspective and background. It is to be compared to the NJ Transit rates of \$65,564 for 2004 and \$67,859 (3.5%) for 2005 [Exhibit J-3]:

	2004	2005	2006	2007	2008	2009
NY/NJ Port Auth	75,719	78,369 (3.5)	80,720 (3.0)	83,142 (3.0)	86,467 (4.0)	90,000 (4.0)
Wash DC Metro TA	62,807	65,384 (4.1)	(see below)			
Mass Bay Tran Auth	50,294	52,312 (4.0)				
Southeast. Penn TA	45,032	46,820 (4.0)				
Del River Port Auth	50,814					

The 2006 salary for the Washington Metro Police contract provided for the rate to increase by the average of the five highest percentage increases implemented among the following jurisdictions: District of Columbia; Montgomery County (Md); Prince Georges County (Md); Arlington County (Va); Fairfax County (Va); and Alexandria (Va).

Comparisons with the contracts in evidence relating to the regional transportation agencies reveal that two, Washington DC Metro TA [Exhibit T-176] and Massachusetts Bay TA [Exhibit T-174], have negotiated 15% employee contributions to health insurance premiums. The SEPTA contract [Exhibit T-173] provides for the employee payment of the differential between traditional and PPO premium amounts for those employees allowed to retain traditional indemnity benefits. The NY/NJ Port Authority [Exhibit T-178] and the Delaware River Port Authority [Exhibit T-172] provide health insurance without employee contributions to premium costs.

It is interesting to point out that, among the "hub" cities comparison, the contracts provide no evidence of any health insurance premium contributions in Atlantic

City, Hoboken, Newark or Trenton (Exhibits T-179, T-190, TT-187, T-188]. There are some limited contribution provisions in the Camden contract for certain coverages with a monthly cap of \$50.00, effective December 1, 2007 [Exhibit T-185].

The comparison between the Police Officers and other NJ Transit employee bargaining units reveals that there are a number of meaningful comparisons. Of greatest impact is that the Employer has negotiated contracts with eleven bargaining units that include employee contributions to health insurance premiums [Exhibit T-44, and Exhibit T-45 through T-57A]. Ten of the eleven contracts provide for flat dollar amounts for the employee premium contribution and one (the ATU Bus Operators) sets forth a 15% of premium contribution factor. The bulk of these contracts include a \$75.00 per month contribution figure but there are some variations on a unit-by-unit basis. The comparison of salaries establishes that the police salary rates are the highest among the organized employees and that the negotiated wage increases among the non-police bargaining units are

all somewhat below the increases currently common within the law enforcement labor market.

The record includes evidence of comparisons with public sector employees generally and with private sector employees, generally. There are no private sector employees performing the same or similar functions as police officers, noting the unique nature of the police officer job. Exhibit P-32, the most recent report of wage data compiled by the New Jersey Department of Labor, reveals that the average public sector wage increased by 3.4% in 2006 and the average private sector wage for the same period increased by 4.6%. The total average wage increase for the State was computed as 4.4% for 2006.

The Employer provides anecdotal evidence of selected private sector wage negotiations resulting in contracts generally providing wage increases between 3.0% and 3.5% annually [Exhibits T-80 through T-86]. While these documents do not warrant substantial weight, they do provide a context worthy of some basic consideration. The evidence is reflective of general economic trends but, it is only tangential to the specific labor market

relevant to NJ Transit's ability to retain the experienced Police Officers to whom it has provided training and development.

The Employer has placed some emphasis on certain state-wide bargaining units [Exhibits T-165 through T-171]. This evidence indicates that there are recent developments involving salary increases more similar to those proposed by the Employer than those by the Union and further evidence of health insurance cost containment involving employee contributions to the premium costs. These contracts provide relevant evidence with respect to some important public sector trends in the State of New Jersey. However, there is nothing in the record to indicate, or even suggest, that there is any history of direct correlation between the patterns of bargaining at the State of New Jersey with the unions representing its employees and the bargaining at NJ Transit. The weight to be attributed to this evidence is significant for context but not directly dispositive of the issues herein, as the result herein would not be directly dispositive of any impasse between the State and the unions representing State employees.

The most meaningful elements of the comparability criterion, warranting the most substantial weight in deciding the issues at hand, involve comparisons with municipal police officers. The Employer is persuasive that its "hub cities" comparisons are especially relevant. These comparisons involve other officers in settings where public transportation is significant. They are also cities in which NJ Transit has a significant presence because its services intersect in these jurisdictions.

Exhibit #	Jurisdiction	2005	2006	2007	2008
T-179	Atlantic City	66,960	69,638	72,424	na
T-185	Camden	67,662	70,396*	74,320*	77,293
T-186	Newark	na	na	na	na
T-189	Trenton	66,136*	na	na	na
T-190	Hoboken	na	na	na	na
J-3	NJ Transit	67,859	na	na	na

* July 1st rates

The common experience of a narrow range of salary rates within these "hub city" jurisdictions is extraordinary. Further, within this particularly relevant comparison group the trend for increases cannot go without impact.

The incidence of wage increases at or near 4.0% is remarkable and must be given substantial weight under this criterion. Further, although there are some flaws with the broader municipal comparison group presented in the PBA exhibits, the consistency of the range of percentage increases is quite telling. The evidence delineates an established market place among law enforcement bargaining units. While there is some variation as to existing salaries, reflecting various economic factors, those salaries have been changing in proportion, maintaining the relative standing of employers and employees throughout the labor market.

The comparisons with the NY/NJ Port Authority PBA bargaining unit are also especially relevant. There are issues of interstate transportation in both bus and rail travel that intersect between the two agencies. Current concerns for safety in a world struck by terrorism, threatening public transportation in particular, are common for both police forces. The salary levels in the Port Authority Police contract are significantly above those for NJ Transit Police as, historically, they have been. It is unrealistic, in financial terms, to attempt

to address those difference at this time. However, it is worth noting that the Port Authority Police contract provides increases of 4.0% in 2008 and 2009, following 3.0% increases in 2006 and 2007. The wage increases awarded herein fall solidly within this range.

The record at hand, as previously noted but worthy of repetition, provides evidence of a history of problems in retaining officers at NJ Transit. The parties have taken steps to address that problem and the comparison evidence provided by both parties presents a basis to determine a result herein which will not undermine the positive efforts of the parties in the last two contracts to make Police Officer compensation at NJ Transit competitive.

Weight has been attributed to all the various levels and components of comparisons of terms and conditions of employment, including public and private sector employees, generally; other employees of NJ Transit; statewide units of employees; and employees performing the same or similar job functions for "hub city" municipalities, for other transportation agencies in the

region, and across a broad selection of municipalities throughout New Jersey. The attribution of the weight has been in accord with the value and importance of the comparisons as reflected in the forgoing discussion.

The Arbitrator has evaluated the evidence under the **Overall Compensation** criterion which is meaningful in the dispute at hand. The parties have clearly taken substantive measures in the last two contracts to enhance the overall compensation of NJ Transit Police Officers. There is evidence that this was intended to stem a problem with respect to turnover, the inability to retain officers that had been trained and provided with initial job experience. The focus of this effort to enhance overall compensation was clearly centered upon salary rates which have been transformed from woefully inadequate to reasonably competitive over the duration of two contracts.

Unit employees receive competitive health insurance coverage, currently, with no employee contributions to premium costs. The overall compensation package lacks a typical longevity plan, enjoyed by most law enforcement

officers, however, the salary schedule structure was adjusted in 1999 to reflect five annual steps above top pay providing a maximum service benefit of an additional 5% to salary. This provides some offset, for the absence of a more standard longevity program. The number of holidays, ten (10), provided in the collective bargaining agreement [Exhibit J-3] is fewer than typically found in law enforcement [Exhibit T-40 & Union chart #3] and it is also fewer than that found in the other collective bargaining agreements among NJ Transit non-police contracts [Exhibit T-42]. The contractual leave benefits are competitive and the pension benefits provided by the Police and Firefighters Retirement System are consistent with all others having that statutory protection.

The record includes no **Stipulation of the Parties**. That criterion receives no weight in the determination herein.

There is no evidence in the record to suggest that there is any element of the issues in dispute where the **Lawful Authority of the Employer** is called into question. Typically, in an interest arbitration, this criterion

relates to the application of the Cap Law, P.L.1976, c. 68(C.40A:4-45.1 et seq.), to municipal or county governments. NJ Transit is not required to comply with the Cap Law calculations and is outside the purview of this local government statutory provision. The evidence does not establish any other issue with respect to the lawful authority of the employer and the record supports the conclusion that the Award herein is fully within the parameters of the Employer's lawful authority.

The **Financial Impact** criterion is a very important component of the interest arbitration process even when the Employer is not a government entity with the power to assess and collect taxes. Certain aspects of this criterion apply only to municipal and county governments but there is a substantial importance to understanding the other financial implications of the resolution of the collective bargaining impasse for any public employer and, in particular, for NJ Transit. While NJ Transit is not a governing unit, it does receive considerable taxpayer financing and it provides important services to the residents of the entire State. Further, those

residents who use the services provided by NJ Transit are a major source of revenue through the payment of fares.

The total operating revenues for NJ Transit for fiscal year 2007 were \$737.9 million, a 5.7% increase over fiscal year 2006 [NJ Transit 2007 Annual Report, Exhibits T-15 & P-33]. This total revenue increase of \$39.9 million included a passenger revenue increase of \$33.8 million, or 5.3%. This passenger revenue increase reflects a 4.2% increase in ridership and only one month of the effects of a 9.6% increase in fares. Other operating revenues increased by an 11.2% rate. Total operating expenses increased by 6.4% to \$1,607.2 million in fiscal year 2007. Employment costs increased by 4.9% or \$43.8 million.

The NJ Transit Annual Report further establishes that ridership increased in fiscal year 2007 by an overall rate of 4.1% to a record of 259.7 million trips in the year. This increase can be broken down to reveal that rail ridership increased 6.1%, the bus ridership by 1.5% and the light rail ridership increased by 20.9% over fiscal year 2006. These figures represent an increase

over the ridership figures which had increased substantially in fiscal year 2006 over the prior year.

Exhibit T-7, sets forth a scattergram for 139 unit employees at 2005 base pay levels which generates a unit-wide salary base of \$8,358,433, not including overtime. The overtime figure can be calculated from that document as \$1,859,264. The total base and overtime payroll cost for the bargaining unit, using this data, is \$10,217,697. As a function of the entire operating budget for NJ Transit (\$1,607.2 million) this expense represents about 0.6% of the cost of operations.

The Employer's annual health care benefit costs are \$86 million [Exhibit T-21]. That exhibit calculates the 2007 cost of health insurance for the entire police force as \$1.76 million. Proportionally, that cost would amount to \$1.4 million for the 146 members of the bargaining unit. The NJ Transit proposal to have unit employees contribute 15% of the premium cost would average \$1,438 per year, per employee or about \$120.00 per month, per employee, plus the impact of increased premium costs over those rates. At the \$1,438 per year savings to the

employer, the unit-wide amount, for 146 employees, for total about \$210,000.

It is important to understand an employer's costs and the implications every element of an interest arbitration award has on the budget. The context of those implications must also be carefully weighed. In the case at hand, it is abundantly clear that the resolution of the differences between the parties via the Award herein will not have any negative impact upon the ability of NJ Transit to continue to provide its services to the taxpayers, public and residents of the State of New Jersey. Nor will it have any negative implications upon the fare-paying riding public. The costs of the elements of the Award herein are moderate, balanced and reasonable, especially in the context of the overall operating budget of NJ Transit.

The **Cost of Living** criterion weighs somewhat more favorably toward the Employer's position than that of the Union, especially with respect to the salary positions. The Consumer Price Index (CPI) for all urban wage earners as measured by the U.S. Department of Labor, Bureau of

Labor Statistics, increased by 2.4% from July 2006 to July 2007. This standard measure of changes in the cost of living experienced a somewhat greater increase from July 2005 to 2006, 4.1%, but had much more moderate increases for numerous years preceding that year. [see Exhibit T-118 through T-122]. The salary increases awarded herein are in keeping with the cost of living criterion.

The **Continuity and Stability of Employment** criterion is important in the case at hand for several reasons. Initially, it reinforces the earlier discussion of the issue of turnover of Police Officers and the need to continue to focus on retaining Officers after they have been trained and gained some experience. The record clearly establishes that historically there has been a problem with the Employer's ability to retain officers and that it and the Union addressed that problem in the last two contracts. They have succeeded in establishing a compensation structure which is competitive, where it had not been so in the not too distant past. There has been a reduction in the turnover rate but it is not yet

low and the prior efforts of the parties should be protected and not allowed to erode.

The PBA raises the concern that sub-standard wage increases and an erosion of benefits would undermine the past attempts to make the compensation plan competitive. It is particularly uncomfortable with dramatic changes in health insurance, reducing the contractual benefits and overall compensation. Specifically, the PBA assails efforts to establish a percentage contribution to health insurance premiums, as proposed by the Employer. The Arbitrator finds that certain elements of the Union's concerns are warranted and the implications under the continuity and stability of employment criterion are substantial. The salary structure must remain competitive and any cost containment provisions in health care must be within a balanced range which will promote the continued reduced rates of turnover in the bargaining unit.

Another aspect of the continuity and stability of employment criterion is that which deals with factors that ordinarily and traditionally affect the negotiations

of terms and conditions of employment. Much has already been said about the focus within the law enforcement labor market and need not be repeated beyond recognition that it is an element under this sub-criterion as well. Further, internal relationships among different bargaining units of the same employer fall directly under this sub-criterion. It is interesting to note that the facts of this record establish some fairly unusual characteristics to this normally standard concept. The record herein strongly suggests that there is remarkably little correlation between bargaining of police and non-police units of the Employer. The cross implications of internal patterns of bargaining are unusually thin and that historical perspective provides an important context for any comparisons. The Arbitrator does accord the internal comparative data some more substantial weight with respect to the nearly universal existence of some element of health benefit premium contribution by employees. While the particular levels of contribution may not be as persuasive, the fact that the concept is nearly universal is meaningful and gives rise to the finding that some level of contribution is warranted.

With respect to the 9th criterion, **Statutory Restrictions**, no determinative weight is attributed to this criterion in the resolution of the impasse at hand. There is no evidence in the record relating to statutory restrictions. In particular, Section 10 of P.L. 2007, c.62 (C.40A:4-45.45) is not applicable to the Employer.

The resolution of the economic issues in dispute herein shall include wage increases awarded as follows:

Effective 7/1/2006 - 3.75% across-the-board
Effective 7/1/2007 - 3.75% across-the-board
Effective 7/1/2008 - 4.00% across-the-board
Effective 7/1/2009 - 3.90% across-the-board

The key factors in reaching this determination involve the important implications relating to the public interest, comparisons with the "hub city" comparison group and the NY/NJ Post Authority, and elements affecting the continuity and stability of employment. Further, the fact that this wage increase will clearly have no meaningful negative financial impact on the Employer nor affect its ability to continue to provide

safe and effective transportation services to the public is of major importance in its development.

The resolution of the disputed economic items shall also include a contractual provision which, effective January 1, 2009, shall call for unit employees to contribute \$40.00 per month toward the cost of health insurance premiums. This determination is reasonably based upon evidence of high and increasing costs for health care benefit premiums, the public interest component, internal comparisons revealing a nearly universal element of contribution toward premiums by other NJ Transit bargaining units and some experience of law enforcement premium contributions among the regional comparison of transportation agency police forces.

The Employer's proposal for a percentage contribution factor was rejected as inappropriate under the record, based upon public interest considerations, comparisons with the most relevant municipal police contracts, and even internal comparisons at NJ Transit. The contribution rate awarded is done so with the belief that it was important to balance the need to maintain a

competitive compensation package with the cost pressures to implement employee contributions to health benefit premiums.

The PBA's proposal to roll the existing ten holidays into base compensation to be paid along with payroll and used for all compensation purposes is accepted as most reasonable and shall be awarded herein, effective January 1, 2009. This component of the economic resolution was significantly supported by public interest considerations, the continuity and stability of employment criterion, including ordinary and traditional factors, and, particularly, the comparison with the "hub city" group of contracts. Further, the cost of the implications of this change, without increasing the number of holidays, upon pension and overtime costs was found to be reasonable and manageable as a function of the financial impact criterion.

The PBA proposal to add three holidays to the existing compliment of ten is rejected. The addition of three more holidays to the compensation plan in this economic package would bring the new costs of the

resolution out of reasonable balance. It is the fact that the existing number of holidays is only ten in number that has led to the determination that the cost implications of rolling them into base pay are reasonable. Although there is some comparability evidence that suggests the reasonableness of more holidays, that is clearly outweighed by the need for balance among the economic components of the package. The record does not support the proposal to increase the number of holidays.

The principals behind the PBA's court time proposal are found to be reasonable. This is another important component in keeping the compensation plan at a competitive level, in the public interest. The PBA argument that, especially in a geographically spread jurisdiction, there is a meaningful importance to accounting for the time and effort required for appearing in court when otherwise off-duty is compelling. There is ample comparison evidence supporting a minimum appearance factor (for example: Camden and Newark provide 3 hours and Hoboken 4 hours), and a public interest in reasonable compensation for employees required to make such

appearances. Effective January 1, 2009, the Award shall provide for a three (3) hour minimum for all court appearances which are required on off-duty time and which arise out of the Officer's employment as a Police Officer with NJ Transit. The language awarded addresses the Employer's complaint that the PBA proposal is "ambiguous" and fails to require that the court appearance be work-related.

The PBA Rights proposal providing for time to attend to Association business sets forth a reasonable concept. There is a public interest in fostering an ability to address issues directly and swiftly in an effort to avert disputes. The need for time to attend to the administration of the contract is more significant due to the extent of the system and the diversity of the work places throughout the system. The Arbitrator finds that the appropriate provision of time for the inception of this organizational benefit is 20 days, annually. The cost of this time is minimal, as a function of the payroll and it may only be conceptual, given the fact that there is only an added cost if there is replacement.

Further, there may even be some economies of scale if the time provision leads to the early resolution of disputes or the communications benefits of greater dissemination of information to the members of the bargaining unit. Effective January 1, 2009, the contract shall provide for the new PBA Rights provision proposed by the PBA, modified to provide twenty (20) calendar days per year for PBA Association use.

The Employer's proposal with respect to Training Programs, Schools, Seminars, Article XXX, presents the reasonable position that the contract should reflect the provision for straight time pay in the event an Officer is to attend a week-long training program, school or seminar. This proposal would change the contract language to acknowledge the need to adjust the work schedule to five eight-hour days under such circumstances. The supporting evidence for this change is found in the certification of Captain Kelly that this language is consistent with "present practice" and the decisions set forth in recent grievance arbitration awards.

The record does not provide a factual basis to implement the change in Sick Leave, Article XIX, Section 7, seeking to reduce the period of leave for Officers injured in the line of duty. The certification of Captain Kelly suggests that Police Officers are using the full leave period despite being physically able to return to work before its expiration. There is no evidence to support this assertion of abuse and the Employer does have certain tools available to address the issue of employees who may abuse the leave provision. The Arbitrator has considered the comparison drawn with municipal police officers but, on balance, is not persuaded to reduce the existing benefit under the record at hand.

The PBA and NJ Transit both propose a duration for the collective bargaining agreement from July 1, 2006 through June 30, 2010. This is a reasonable term for the agreement and it shall be awarded herein.

The Arbitrator finds that the evidentiary record does not provide sufficient proof to support the non-economic changes sought by the PBA with respect to

the following proposals: Paycheck Error Procedures; Legal Aid; PBA Fund-Raising Activity; PBA Representation in Emergency Circumstances; and Maternity/Paternity Leave. The facts simply do not establish the need (for example, problems under current contract language or practice) or the rationale under the statutory criteria for the various changes sought. Absent persuasive evidence of a proper rationale for the changes sought, the Arbitrator determines that the proposals shall not be implemented.

The Arbitrator finds that the evidentiary record does not provide sufficient proof to support the non-economic changes sought by NJ Transit with respect to the following proposals: Article IV, Promotions Section 1(d); Article IV, Promotions, Section 5; Article XIX, Sick Leave, Section 9; Article XX, Grievance Procedure, Section B; Article XXII, Equipment, Section 1; Article XXIII, Advertisement and Selection of Positions, Section 1(b); Article XXIII, Advertisement and Selection of Positions, Section 3(b); Article XXIII, Advertisement and Selection of Positions, Section 6(e); Article XXIII, Advertisement and Selection of Positions, Section 10; Article XXIII, Advertisement and Selection of Positions,

Section 12; Article XXIII, Advertisement and Selection of Positions, Section 12(c); Article XXIV, Overtime, Section 1; Article XXIV, Overtime, Section 2; Article XXIV, Overtime, Section 5; Article XXXIII, Ridership Passes. The facts simply do not establish the need (for example, problems under current contract language or practice) or the rationale under the statutory criteria for the various changes sought. Absent persuasive evidence of a proper rationale for the changes sought, the Arbitrator determines that the proposals shall not be implemented.

The Arbitrator calculates the direct salary cost implications of the wage increases awarded herein, using the scattergram presented by NJ Transit in Exhibit T-7, as follows: fiscal year 2007 - \$313,441; fiscal year 2008 - \$324,196; fiscal year 2009 - \$359,882; and fiscal year 2010 - \$364,921. These calculations represent the increases in base salary only using the original total base figure of \$8,358,433 set forth in Exhibit T-7. Of course, the cost implications of the wage increases also impact upon overtime costs, initially an average of \$13,376 annually per Officer. This cost item would be increased proportionately to the wage rate increases,

assuming the same experience with respect to overtime assigned. Further the total package will affect indirect salary costs such pension contribution and similar costs. The implementation of employee contributions to the cost of health insurance premiums, at the rate of \$40 per month per employee, will provide the Employer's with cost containment of about \$70,000 annually. Of special note are the added cost implications of rolling holiday pay into the base pay for all payroll calculation purposes. This will have a cost impact upon overtime expenses and also upon indirect salary aspects of payroll which are based upon application of a percentage rate, such as pension contribution costs. All these elements of the economic package awarded will cause the Employer's costs to be only moderately above those of its own proposal and clearly well within the parameters of its operating budget.

In conclusion, the Award herein provides the resolution of all issues submitted for determination by the Arbitrator in this interest arbitration proceeding. The evidentiary record is extensive and has been carefully considered. The parties have supported their

respective positions with detailed written argument. The specific components of the Award have been achieved through the application of the statutory criteria to the evidence relating to each and every issue and sub-issue. The result is an entire package in which the elements have been balanced to achieve the most reasonable result.

A W A R D

For the foregoing reasons IT IS HEREBY ORDERED that the issues in dispute at interest arbitration shall be resolved as set forth below:

(1) The **duration** for the collective bargaining agreement shall be from July 1, 2006 through June 30, 2010.

(2) The **wage rates** at each rank and step of the salary guide shall be increased as follows:

Effective 7/1/2006 - 3.75% across-the-board
Effective 7/1/2007 - 3.75% across-the-board
Effective 7/1/2008 - 4.00% across-the-board
Effective 7/1/2009 - 3.90% across-the-board

(3) Effective January 1, 2009, all unit employees to contribute \$40.00 per month toward the cost of **health insurance premiums**. The Employer's proposal for a percentage contribution factor is rejected.

(4) The PBA's proposal to roll the existing ten **holidays** into base compensation to be paid along with payroll and used for all compensation purposes shall be implemented as part of the contract, effective January 1, 2009.

The PBA proposal to add three holidays to the existing compliment of ten is rejected.

(5) Effective January 1, 2009, the contract shall provide for a three (3) hour minimum **compensation for all court appearances** which are required on off-duty time and which arise out of the Officer's employment as a Police Officer with NJ Transit.

(6) Effective January 1, 2009, the contract shall provide for the new **PBA Rights** provision proposed by the PBA, modified to provide twenty (20) calendar days per year for PBA Association use.

(7) The Employer's proposal with respect to **Training Programs, Schools, Seminars, Article XXX**, shall be incorporated in the contract as proposed by NJ Transit.


(8) The change sought by the Employer in **Sick Leave, Article XIX, Section 7**, seeking to reduce the period of leave for Officers injured in the line of duty shall not be implemented.

(9) The Arbitrator finds that the evidentiary record does not provide sufficient proof to support the non-economic changes sought by the PBA with respect to the following proposals: Paycheck Error Procedures; Legal Aid; PBA Fund-Raising Activity; PBA Representation in Emergency Circumstances; and Maternity/Paternity Leave; these proposals shall not be implemented.

(10) The Arbitrator finds that the evidentiary record does not provide sufficient proof to support the non-economic changes sought by NJ Transit with respect to the following proposals: Article IV, Promotions Section 1(d); Article IV, Promotions, Section 5; Article XIX, Sick Leave, Section 9; Article XX, Grievance Procedure, Section B; Article XXII, Equipment, Section 1; Article XXIII, Advertisement and Selection of Positions, Section 1(b); Article XXIII, Advertisement and Selection of Positions, Section 3(b); Article XXIII, Advertisement and

Selection of Positions, Section 6(e); Article XXIII, Advertisement and Selection of Positions, Section 10; Article XXIII, Advertisement and Selection of Positions, Section 12; Article XXIII, Advertisement and Selection of Positions, Section 12(c); Article XXIV, Overtime, Section 1; Article XXIV, Overtime, Section 2; Article XXIV, Overtime, Section 5; Article XXXIII, Ridership Passes; these proposals shall not be implemented.

Dated: October 22, 2008
Skillman, N.J.


Joel M. Weisblatt
Arbitrator

On this 22nd day of October, 2008, before me personally came and appeared Joel M. Weisblatt, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.


Attorney-at-law