

## ARBITRATION

ROLAND WATKINS, DIRECTOR

The Office of Arbitration Services manages arbitration of grievance disputes over existing collective bargaining agreements per statutory authority under “Section 3” of the Railway Labor Act (RLA). The RLA provides for both Grievance Arbitration and Interest Arbitration in the airline and railroad industries.

## ARBITRATION OVERVIEW

### Grievance Arbitration

Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as "minor disputes" under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties' expense.

The NMB furnishes panels of prospective arbitrators for the parties' selection in both the airline and railroad industries. The NMB's Roster of Arbitrators is used for such panels. A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board's web site at [www.nmb.gov](http://www.nmb.gov). The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the fees and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

### Interest Arbitration

Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration. When requested, the NMB will provide the parties with panels of potential arbitrators from which they select an individual to resolve their dispute. However, in most instances, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.

## ARBITRATION HIGHLIGHTS

The Office of Arbitration Services directed its attention to promoting a more efficient Section III process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2014 by targeting the backlog of grievance arbitration cases for resolution, increasing the number of arbitrators available to hear and decide cases and introducing more technology to the administrative processing of cases with its arbitrators.

The NMB Arbitration program continued its efforts to modernize the processing of minor disputes. The agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties with the introduction of the new NMB website.

During FY 2014, the NMB revised the Arbitrators Workspace, which has been in operation for several years. The Arbitrators Workspace is a web based information system which gives arbitrators online access to their case information. This system is used by the arbitrators to request work and submit requests for compensation for work. The Arbitrators Workspace replaced numerous hard-copy forms. The revised Arbitrators' Workspace now closes cases quicker and shortens the time for the adding of cases.

The level of grievance activity handled through the NMB Arbitration program increased as compared to the activity in FY 2013. During FY 2014, the parties brought 4,313 cases to arbitration compared to 5,230 cases in FY 2013. In FY 2014, 2,946 cases were closed compared to 3,737 in FY 2013, leaving 5,170 cases pending at the end of FY 2014.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad, Burlington Northern Santa Fe, Kansas City Southern Railway and CSX Transportation. The NMB also met with carriers engaged in the transportation of passengers such as Amtrak, Metro North Railroad, SEPTA, New Jersey Transit and Metra. The Office of Arbitration Services met with all of the labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section III process under the RLA, thereby reducing the backlog and furthering the RLA objective of prompt resolution of minor disputes.

The NMB continued its efforts designed to improve the arbitration of grievances under Section III of the Railway Labor Act. The Board had five ambitious goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) to ensure that the Board uses e-business capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

## Annual Case Audit / Backlog

In June 2014, the NMB conducted an intensive audit of all cases pending cases before Public Law boards and Special Boards of Adjustment. The Agency provided the Class-I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The feedback from the audit enhanced the accuracy of the NMB case management system.

The National Mediation Board continued its efforts to further reduce the backlog of cases. The NMB now defines the administrative backlog as all cases over two years.

## **Alternative Dispute Resolution in the Railroad Industry**

The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class-I freight carriers and the labor organizations. During FY 2014, Arbitration Services made presentations at a meeting of Class-I freight railroads and the labor organizations. The NMB had several grievance mediation cases with carriers in the railroad industry during 2014.

The NMB anticipates continuing its efforts during FY 2015.

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## **Arbitrator Productivity**

The NMB continued its efforts to increase arbitrator productivity as a result of changing the six-month rule to a three month rule. Arbitrators who have not issued a decision within three months of a hearing are contacted monthly and encouraged to issue those decisions.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section III activities. Arbitrators, parties, and the public use the website to obtain information and forms instantaneously. In FY 2014, the agency posted an improved Arbitrators Caseload Report on the NMB website. The report shows by arbitrator, grievance cases of railroad employees the parties have chosen to pursue. It also indicates whether a case is late (i.e., a decision has not been rendered within 3 months of when a case was heard by the arbitrator). The Arbitrator Caseload Report is real-time in that it has a direct link to an NMB database reflecting updates as they are made by Arbitration Services staff. The availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests. The NMB has also placed an NMB NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators Caseload Report, the NMB's entire Section III caseload is on the NMB website ([www.nmb.gov](http://www.nmb.gov)).

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## **Pay Per-Case Project**

The NMB commenced a project in which six arbitrators were paid on a per-case basis, instead of the normal per-day compensation. This pilot project has been extended into FY 2015. The NMB will evaluate this project during FY 2015.

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## **Knowledge Store**

The NMB further expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are distributed to the parties. Parties have been trained to and now enter awards into the Knowledge Store. In some instances, valid awards are entered within 24 hours of completion.

## ARBITRATION CASES

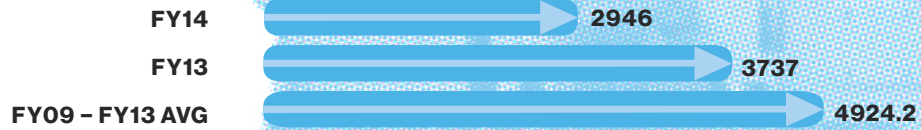
### START PENDING



### CASES DOCKETED



### CASES CLOSED



### END-PENDING

