

# Passenger Rail Labor Bargaining Coalition

421 North Seventh Street  
Suite 299  
Philadelphia, PA 19123

November 9, 2015

via overnight mail

National Railroad Passenger Corporation  
Windels Marx Lane Mittendorf, LLP  
Anthony Coscia, Chairman of the Board  
120 Albany Street Plaza  
New Brunswick, NJ 08901

Dear Amtrak Board Chairman Coscia,

Attached is a letter we have sent to Amtrak's spokesman Tom Bloom detailing the illegal and bad faith actions of Amtrak regarding this current round of collective bargaining. We have been forced to cancel the scheduled bargaining session with Amtrak because of Amtrak's refusal to produce the underlying data to support Amtrak's radical demands to substantially reduce the value of the employee's health benefits. That refusal makes it impossible for us to analyze it or bargain about it. This failure to disclose relevant information is especially egregious in light of the changes Amtrak obtained in healthcare benefits in the last round of bargaining. The ink is barely dry on that arbitrated agreement and yet, Amtrak now insists, without any credible supporting data, that even more drastic changes are necessary now. Clearly, this is not a serious nor well-thought out proposal. It is only interjected here in bad faith to drag out bargaining and forestall any meaningful discussions between the parties. Therefore, the proposal should be withdrawn.

Amtrak's representatives at the bargaining table have refused to engage the Union in good faith. Insisting on dramatic changes to the health plan for Amtrak maintenance of way employees and signalmen that would constitute substantial give-backs by Amtrak's employees while refusing to provide us with the information necessary for an independent assessment of Amtrak's proposal and the reasons offered for the proposal. This violates Amtrak's legal obligation under law to make every reasonable effort to make and maintain agreements. The Amtrak Board of Directors should insert themselves directly in the bargaining to ensure that Amtrak complies with the law, and to stop the stalling and bad faith that have characterized Amtrak's position to date.

Please do not underestimate our resolve to ensure that the rights of Amtrak employees are being respected at the bargaining table. Consider this fair warning that we will take any and all actions necessary to ensure that Amtrak bargains in good faith with its employees and complies with its obligation under law.

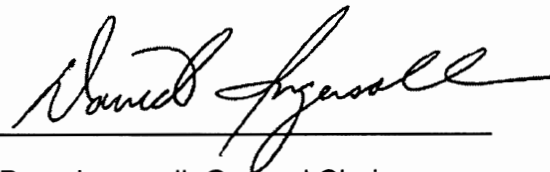
We are ready to meet with you immediately to discuss the current state of the bargaining emergency. Please contact us to start these discussions immediately. You will ignore this letter at Amtrak's peril.

Yours truly,



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Jed Dodd, General Chairman  
Pennsylvania Federation  
Brotherhood of Maintenance of Way Employees  
Division - International Brotherhood of  
Teamsters



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Dave Ingersoll, General Chairman  
Brotherhood of Railroad Signalmen

cc Charles Woodcock, Vice President Labor Relations Amtrak  
Sharon Jindall, Senior Director Labor Relations Amtrak  
Joeseph Boardman, President Amtrak  
Christopher Beall, Amtrak Board of Director  
Yvonne Braithwaite Burke, Amtrak Board of Director  
Thomas Carper, Amtrak Board of Director  
Albert DiClemente, Amtrak Board of Director  
Jeffrey Moreland, Amtrak Board of Director  
Anthony Fox, Secretary of Transportation  
Federal Railroad Administrator  
Fred Simpson, President BMWED  
Dan Picket, President BRS

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November 6, 2015

Thomas S. Bloom  
Senior Associate General Counsel  
Law Department  
National Railroad Passenger Corp.  
30<sup>th</sup> Street Station, 2<sup>nd</sup> Floor  
Philadelphia, PA 19104

Dear Tom,

The Passenger Rail Labor Bargaining Coalition (“PRLBC”) maintains its position that Amtrak must provide the information that the PRLBC and its health benefits consultant Cheiron have requested in order for the Unions to assess Amtrak’s proposal to dramatically change the health benefits for Amtrak employees, if Amtrak still intends to advance that proposal. The Unions have considered Amtrak’s contention that the Health Insurance Portability and Accountability Act (“HIPAA”) requires that Amtrak provide only heavily redacted data which Cheiron cannot use to effectively analyze Amtrak’s proposals and advise the PRLBC, and they reject that contention. Proposing substantial changes in the health care benefits for Amtrak’s Signalmen and Maintenance of Way Employees based on data, analysis and projections of its own health care consultant Aon Hewitt, while refusing to provide Cheiron with the data the PRLBC’s consultant needs to make an independent assessment of the data and verify the Aon Hewitt analysis and projections is contrary to Amtrak’s obligations under the Railway Labor Act. The Unions also reject the arguments Amtrak has offered in support of its position.

The information requested is necessary for Cheiron’s analysis and ability to advise the PRLBC on the Amtrak proposals so that PRLBC can respond to the Amtrak proposals. While Amtrak states that Aon Hewitt used only aggregated data and relied on even less information than has been provided to Cheiron in formulating Amtrak’s position, such limited information is totally inadequate for Cheiron to assess and verify the Aon Hewitt analysis and determine whether the proposed changes are justified. Amtrak may be content to offer proposals to change the health care plan (“Plan”) that are based on superficial and incomplete data, but the Unions are not content to accept superficial and incomplete data as a basis for bargaining over dramatic changes in the health benefits for their members. PRLBC cannot respond without better information and an independent certifiable actuarial analysis. In a separate letter Cheiron will explain why the information is necessary, and why the heavily redacted information that has been provided to date is inadequate.

Contrary to Amtrak's assertion, Cheiron reiterates that it indeed did receive from the freight railroads the information that has been requested from Amtrak, and advises that if Cheiron receives the same information from Aetna that they received from the freight railroads that would be adequate for their analysis.

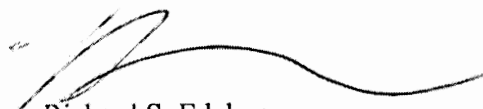
With respect to maintaining the confidentiality of protected health information, Cheiron has already signed a Non Disclosure Agreement and has offered to sign a Business Associate Agreement. (I forwarded to Amtrak a form BAA that Cheiron has used before). PRLBC has considered and rejects Amtrak position that Cheiron cannot sign a BAA. The parties are negotiating over substantial proposed changes to the design and structure of the Plan applicable to thousands of Amtrak employees represented by BMWED and BRS. Cheiron will be providing services to the Plan by advising the Unions on Amtrak's proposed changes in Plan design and structure, which requires consideration of the demographic and actuarial information requested, and a review of the Aon Hewitt analysis and projections regarding the Plan. In a situation where the nature of employee health benefits was not subject to collective bargaining, if a sponsoring employer was considering reduction in costs by changes in plan design, its consultant would be performing services for the plan in analyzing the data to support the desired changes. That Amtrak and PRLBC are engaged in the same process through statutorily mandated bilateral decision-making, rather than by unilateral employer action, does not change things; Cheiron is providing a service to the Plan in vetting and analyzing potential changes to the Plan and in assessing the future of the Plan. Additionally, Cheiron is advising PRLBC Co-Chairman Jed Dodd who is a member of the Joint Medical Administration Committee ("JMAC") and a fiduciary for the Plan who must be in a position to make informed decisions about Plan design and who relies on Cheiron's advice in doing so; Cheiron is providing services to the Plan in advising Mr. Dodd.

PRLBC also disputes Amtrak's assertion that disclosure to Cheiron of the information it has requested is inconsistent with the HIPAA "minimum necessary" requirement. The information is necessary to bargaining over the changes to the Plan proposed by Amtrak. The Unions cannot perform their collective bargaining function in response to these proposals, without ensuring that there is a factual basis for them and without verification of Aon Hewitt's analysis, which requires that Cheiron have the information and make an independent assessment. So long as Amtrak is advocating these proposals, provision of the information to Cheiron is indeed necessary.

Provision of the information to Cheiron is also permissible because it is required by law. Amtrak has a duty under Section 2 First of the Railway Labor Act to exert every reasonable effort to make agreements and settle disputes and to generally bargain in good faith. Here Amtrak is the party proposing fundamental alteration of the health benefits available to its employees represented by BMWED and BRS. Amtrak therefore has the burden of justifying the proposed changes. Having asserted that the proposal is necessary because of work force demographics, actuarial calculations and projections, data on use of the health benefits and projections as to future use and costs of the Plan in the absence of changes to the design and structure of the Plan, Amtrak's refusal to provide the information necessary for the Unions to assess the relevant information and respond to the proposal is not compliant with Section 2 First of the Railway Labor Act.

Given all of the above, and given that that the next scheduled bargaining session on health benefits is set for November 24, only 2 weeks away, PRLBC finds it necessary to cancel that session. At this point, even if Amtrak did provide the information requested long ago, Cheiron would not be able to complete its review and analysis in time for a productive session on November 24th. Upon satisfactory resolution of this issue we can reschedule the session on health benefits. Alternatively, if Amtrak persists in its position on production of the requested information, it can withdraw its proposal and we can focus on other issues.

Sincerely,



Richard S. Edelman

cc: Charlie Woodcock  
Sharon Jindal