

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C.

AND

NATIONAL TREASURY EMPLOYEES UNION

Case No. 92 FSIP 232

DECISION AND ORDER

The Federal Service Impasses Panel (Panel) issued a Panel Report and Recommendations for Settlement in this case on May 21, 1993. We recommended the following with respect to the issue in dispute:

The parties should adopt the following wording:

(1) The Employer agrees to take all necessary actions within its authority to participate in state and local government programs designed to encourage the use of public transportation by offering public transportation subsidies, to the extent permissible by law, in those cities designated as severe areas by Public Law 101-549, the Clean Air Act of 1990, as amended; and (2) that the parties shall return to the bargaining table to explore alternative methods for reducing, to the maximum extent possible, the expense of such subsidies to the Employer.

The Panel was subsequently advised that a settlement had not been reached. Essentially, the Union accepted the Panel's recommendation; the Employer rejected it, and, among other things, repeated its earlier arguments as to the nonnegotiability of the Union's proposal (the first part of our recommendation), and that its adoption would significantly increase the Employer's expenses. At a minimum, it urged the Panel to wait to see whether legislation authorizing the subsidies will be renewed, since the law is scheduled to sunset on December 31, 1993. Further, it requested that it be given an opportunity to present evidence and testimony as to why it is unable to fund the subsidies. Because of the Employer's unwillingness to return to the bargaining table, as recommended by the Panel, the Union has submitted additional proposals which it contends are alternative means of limiting, to

the maximum extent possible, the expense of such subsidies to the Employer. In this regard, it proposes that: (1) public transportation subsidies be available to employees at the GS-14 and below salary level; (2) the payment of such subsidies begin October 1, 1993; and (3) employees currently parking in Government-provided, Government-subsidized, or private parking facilities turn in their parking permits to become eligible for the subsidies. In support of its additional proposals, it argues that excluding employees who hold higher than GS-14 positions from receiving transit subsidies would "serve to limit the pool of eligible employees," further limiting the cost of the program to the Employer. Moreover, an October 1, 1993, starting date would provide the Employer time to implement payment of the subsidies, and eliminate its cost concerns for the current fiscal year. Its third proposal would assist the Employer in "maintaining the integrity of the program."

Having carefully considered the entire record in this case, including the responses of the parties to our recommendations for settlement, we conclude that the continuation of this dispute requires us to take final action. In this regard, we continue to be unpersuaded by the Employer's nonnegotiability allegations, for the reasons stated in our Panel Report and Recommendations for Settlement. As to the Employer's cost concerns, the record shows that it has already been provided with a number of opportunities to limit the expense of the subsidies through further negotiations, but has flatly refused to join the Union in such efforts. The Union, on the other hand, has made additional proposals that would help alleviate the Employer's cost concerns. For these reasons, we shall order the adoption of the first part of our recommendation, and the Union's additional proposals.*/ In doing so, we reject the Employer's suggestion that the dispute be held in abeyance until Congress decides whether to renew the legislation authorizing the subsidies. In this regard, resolution of the dispute has been delayed long enough. We also reject the Employer's request that it be permitted to present additional evidence and testimony, because, in our view, the parties have been given ample opportunity to present their cases. Accordingly, in conformity with the Panel's regulations, 5 C.F.R. § 2471.11(a), we hereby issue the following Order.

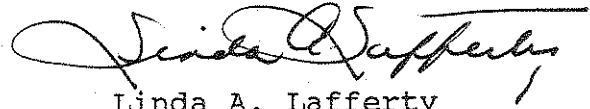
ORDER

Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and in accordance with the findings set forth above, the Federal Service Impasses Panel hereby orders that:

*/ The second part of the Panel's recommendation now appears moot and shall be deleted.

The Employer take all necessary actions within its authority to participate in state and local government programs designed to encourage the use of public transportation by offering public transportation subsidies, to the extent permissible by law, in those cities designated as severe areas by Public Law 101-549, the Clean Air Act of 1990, as amended. In addition, in consonance with the above, (1) public transportation subsidies shall be available to employees at the GS-14 and below salary level; (2) the payment of public transportation subsidies shall begin October 1, 1993; and (3) employees currently parking in Government-provided, Government-subsidized, or private parking facilities shall turn in their parking permits in order to become eligible for public transportation subsidies.

By direction of the Panel.



Linda A. Lafferty
Executive Director

August 13, 1993
Washington, D.C.