

Eric M. Schmitz
7306 Sutherland Ave.
St. Louis, Missouri 63119

IN THE MATTER OF ARBITRATION BETWEEN

KANSAS CITY AREA)	
TRANSPORTATION AUTHORITY)	
)	
Employer,)	
)	Call Center - Pay Upgrade
and)	Grievance No. 2005-CS-04
)	FMCS No. 060111-01564-7
AMALGAMATED TRANSIT UNION,)	
LOCAL 1287)	
)	
Union.)	
)	
)	
)	

Appearances:

For the Authority:

Michael F. Delaney, Esq.
Spencer Fane Britt & Browne LLP
9401 Indian Creek Parkway, Suite 700
Overland Park, KS 66210

For the Union:

Scott A. Raisher, Esq.
Jolley, Walsh, Hurley & Raisher, P.C.
204 West Linwood Boulevard
Kansas City, Missouri 64111

OPINION AND AWARD

The parties stipulated that the matter is properly before the arbitrator, that all steps of the grievance procedure have been satisfied or waived and that there are no issues of procedural or substantive arbitrability. A hearing was held on April 27, 2006, at the offices of the Kansas City Area Transportation Authority in Kansas City, Missouri, at which time the parties were given the

opportunity to present evidence including relevant exhibits and to examine and cross examine witnesses. The parties stipulated that the arbitrator shall retain jurisdiction for the purpose of remedy. Subsequent to the hearing the parties submitted briefs to the arbitrator, at which time the hearing was declared closed.

ISSUE

The Union has submitted the following proposed statement of the issue:

Whether the Authority violates the Agreement in requiring Regional Call Center Agents to perform certain Dispatcher job duties - that is, accessing Transit Master for the purpose of "tracking" buses in "real time" - without paying the upgrade in pay for the time spent performing those duties? If so, what is the appropriate remedy?

The Authority has submitted the following proposed statement of the issue:

Whether the Authority violated the work agreement when it assigned Information Agent/PBX Operators to use information available in the "Transit Master" computer software to respond to inquiries from the public, without paying such employees an upgrade in pay, and, if so, what should be the remedy?

In that the parties were unable to agree upon a statement of the issue, they stipulated that the arbitrator shall frame the issue. The arbitrator frames the issue as follows:

Whether the Authority violated the Collective Bargaining Agreement when it refused to provide a pay upgrade for Call Center Agents to the Dispatcher pay rate after the Authority assigned such Agents to work on the Transit Master software system to ascertain the current, real time, location of buses. If so, what is the appropriate remedy?

COLLECTIVE BARGAINING AGREEMENT

The Kansas City Area Transportation Authority (herein sometimes referred to as the "Authority") and Amalgamated Transit Union, Local 1287 (herein sometimes referred to as the "Union") are parties to a Collective Bargaining Agreement for the period from August 26, 2005 through December 31, 2007. (Joint Ex. 1) Relevant portions of the Collective Bargaining Agreement include the following:

Section 1.12. Management - Discipline

(a) The Union recognizes that the management of the business, including the right to direct the working forces, to prescribe, effectuate and change service and work schedules consistent with and not contrary to any specific provisions contained in this Agreement, to plan and control corporate operations, to introduce new or improved facilities or operating methods, to relieve employees from duty because of lack of available work or for other legitimate reasons, to transfer them, to determine the minimum qualifications of experience, health and physical and mental fitness for any job covered hereby and to appraise the qualifications of any individual therefor, is vested exclusively in the Authority; subject, however, to the seniority rules and grievance procedure hereinafter set forth as concerns any employee to whom this Agreement is applicable and who may be relieved from duty or transferred or whose qualifications may be questioned.

Section 1.15. Seniority - Transfers - Assignments

(e) Any employee who by requirement of the Authority is temporarily assigned from his regular position to another position shall receive the rate of pay for the latter position for the full time he occupies same, unless the rate of pay for the latter is lower than his regular rate of pay, in which case he shall receive his regular rate of pay while occupying the latter position....

(f) Whenever the Authority decides to temporarily promote an employee to supervisory status, the duties will be generally those prescribed for the aforesaid job classification to which temporarily promoted, except that no authority to hire or fire, decide grievance cases or discipline employees will be given, (except that an employee may be laid off for the balance of the day because of insubordination or incapacity to perform his duties).

It is understood that this temporary promotion will not affect seniority rating under the Amalgamated Authority contract; that the Authority consents to retaining membership in the Amalgamated while holding supervisory status pursuant hereto; and that activities in such supervisory status will be solely under the jurisdiction of the Authority and not subject to the

Amalgamated-Authority contract, except that in the event of discharge or discipline adversely affecting seniority status under said contract (but not demotion from temporary supervisory status), recourse to the grievance procedure of said contract may be had if so desired.

The employee so temporarily promoted shall work the days and hours prescribed in the "Salaried Personnel Policies" for the job classification to which he is temporarily promoted, with overtime for the days and after the hours likewise prescribed in said "Salaried Personnel Policies"; and

Such employee shall receive for all time engaged in such job classification, an hourly rate equivalent to the higher of the following two separate computations: (a) the minimum of the rate range of the job classification to which temporarily promoted (reduced to an hourly basis if on a monthly basis in the "Salaried Personnel Policies"), or (b) fifteen cents (\$.15) per hour above his straight hourly rate (including Leadman rate) or fifteen cents (\$.15) per hour above the rate of the top-rated employee supervised, whichever is greater; provided that, as concerns temporary promotions to the position of Office Dispatcher, Radio Dispatcher, Road Supervisor and Instructor (Transportation Seniority Unit), the aforesaid computations shall not be applied, and, in lieu thereof, the minimum of the rate range of the job classification to which temporarily promoted shall be applied; and, provided further, that (a) if the hourly rate thus payable is less than the hourly rate of his regular job classification, the promoted employee shall receive the latter, or (b) if a replacement is involved and the hourly rate thus payable is more than the replaced employee was receiving, the replacing employee shall receive the replaced employee's rate.

Section 1.31. Change in Job Titles.

Established jobs will not be discontinued and new ones calling for substantially the same class of work created under different titles to take their place for the purpose of, or with the effect of, reducing the rate of pay.

Section 4.1. Seniority - Transfers.

Any employee who by requirement of the Authority is temporarily assigned from his regular position to another full-time position, shall receive the rate of pay for the latter position for the full time he occupies same, unless the rate of pay for the latter is lower than his regular rate of pay, in which case he shall receive his regular rate of pay while occupying the latter position (reference Section 8.5); provided, however, that an employee so assigned shall work the hours established for the position to which assigned and shall receive the regular rate of pay applicable thereto, but in no event less than the regular daily pay which he would have received for working the same number of hours in the position from which assigned, and shall be provided additional work, or made whole in pay, for any shortage in the regular daily or weekly earnings which he would have received in the position from which assigned; and, provided further, that any employee so transferred to and from such temporary assignment shall take as his days off

those days off scheduled for the position to which assigned; and, provided further, that this Section shall not apply to employees who have become incapacitated to the extent that they are no longer able to carry on their former duties; and, provided further, that when an employee is transferred or assigned, either temporarily or permanently, at his voluntary request, from his regular position to another position he shall in such instance be thereafter paid the wage rate applicable to the new position.

Section 8.7. New Job Classifications or Positions.

New job classifications or positions may be established by the Authority from time to time when necessary to provide needed public service unforeseen at the time this Agreement was made, and when that necessity is so immediate that it cannot be delayed for negotiation, subject, however, to the following two conditions: (1) that the description of the new job classification or position and the wages, hours or working conditions pertaining thereto shall be promptly filed by the Authority with the Union, and, if any objection is made to the wages, hours or working conditions thereof and such objections are not promptly cleared by negotiation between the parties, the Union may present those issues to arbitration pursuant to Section 1.14; and (2) that the establishment of such new job classification or position shall not be for a purpose or in a manner contrary to Section 1.31 of Article I of this Agreement, nor shall such new job classification or position affect the wages, overtime payments, established hours or working conditions of any present job classification or position as provided in this Agreement.

A set of job descriptions, which are mutually agreed upon between the Authority and the Union, describing all job classifications in the Office-Clerical Seniority Unit specified in this Article shall be printed separate from this Agreement and kept up to date. These will be used as the basis for describing jobs in posting notices of positions open for bids and shall be considered a part of this Agreement. A copy of these job descriptions shall be furnished to the Union.

EVIDENCE

The Kansas City Area Transportation Authority (KCATA) operates public transportation services, primarily buses and vans, in the metropolitan Kansas City area. The bargaining unit represented by Amalgamated Transit Union, Local 1287 consists primarily of bus drivers, mechanics and office and clerical personnel. Part of the Authority's operation consists of a Regional Call Center, which currently is staffed by nine Call Center Agents.¹ The primary

¹ These Call Center Agents also are referred to as Information Agents/PBX Operators. (See Joint Ex. 3, a sample Notice of Job Opening for the position.)

responsibility of Call Center Agents is to receive calls from the Authority's customers who are inquiring about scheduled bus service, routes and timetables. The Regional Call Center typically receives 35,000 to 55,000 calls per month, and actually handles some 75-85 percent of those calls, the remainder being abandoned by the callers before they can be responded to by a Call Center Agents. (Joint Exhibits 6 and 10) According to the job description in a Notice of Job Opening (Joint Ex. 3), the qualifications and duties of the Call Center Agents consist of the following:

Provide KCATA route, schedule and special program information to both Spanish and English-speaking customers via telephone, mail and in person. Distribute and/or recycle Authority's pocket schedules to pocket schedule racks throughout the KCATA metropolitan area and other duties as assigned. Relieve on PBX and Lost and Found Desk. Assist in making presentations and facility tours. Perform other similar and related duties both in and outside the office as assigned. Respond to customers via Internet.

The above description of duties and occasional duties of an Information Agent does not necessarily include all the duties of the position. Assignments are to be determined by, and must be performed to the satisfaction of the Supervisor.

Many of the calls that are made to the Regional Call Center are from members of the public inquiring about the location of a bus which the caller believes is not at the scheduled stop when it is supposed to be there. Until 2003, if the Call Center Agent, after checking the bus schedule, determines that the bus is not where it is scheduled to be, the Agent would contact a Dispatcher² in another part of the Authority's offices. The Dispatcher could then make radio contact with the bus driver and ascertain its exact location. The Dispatcher would then notify the Call Center Agent, who could inform the caller about when the bus should be at the scheduled stop.

² Dispatchers are exempt, managerial, non-bargaining unit positions.

In January 2003, a new global positioning system (GPS) software program, known as Transit Master, was installed in the Dispatchers' offices.³ That program was linked to each bus and the Dispatchers could determine the location of the bus by looking at a computer screen, rather than having to be in voice radio contact with the bus driver. In October 2005, Transit Master was also installed in the Regional Call Center, and Call Center Agents were instructed to use the software to ascertain the location of buses, rather than contacting the Dispatchers for that information. (Joint Ex. 8) One Transit Master terminal was placed in the Regional Call Center to be used when needed by all of the Call Center Agents (see Joint Ex. 5, a map of the Regional Call Center), although the Authority indicated that in the future, each Agent would be able to access the software directly from his or her workstation. According to an interoffice memorandum from Sharon Bryant, the Authority's Director of ADA⁴ Compliance and Customer Relations, announcing the installation of the Transit Master in the Regional Call Center, the Transit Master was to allow Call Center Agents to follow buses in "real time" on the street "in order to answer customers' questions regarding the time of arrival of that bus." (Joint Ex. 8) According to Bryant's memorandum:

Transit Master should reduce or even eliminate the number of calls placed by agents to the Dispatch office, regarding the location of a bus along the route during the service day and will empower agents to provide professional, timely responses to our customers.

All call center agents are expected to become proficient in this software technology and to use it as a tool for providing more valuable and meaningful customer information.

Call Center Agents were provided training on the Transit Master Software in mid-

³ The Transit Master software performed several other functions as well, which will be addressed below in this Opinion.

⁴ Americans with Disabilities Act.

October, 2005. (Joint Exhibits 11 and 12)

The gist of this dispute is that the Union believes that, although the Authority may assign Call Center Agents to use the Transit Master Software to obtain the location of the buses, that is a duty historically performed by Dispatchers, who are paid at a higher rate than Call Center Agents. As a result, according to the Union, Call Center Agents are entitled to be paid at the higher Dispatcher rate of pay for the Agent's time spent accessing the Transit Master Software to determine the real time location of the buses. A grievance protesting the Authority's refusal to compensate Call Center Agents at the Dispatcher's pay rate for time spent using the Transit Master Software was filed by the Union on November 17, 2005. (Joint Ex. 2)

The grievance was denied at Step 2 of the grievance procedure by Demus Holmes, manager of ADA Compliance and Customer Relations and the Regional Call Center Agents' direct supervisor. (Joint Ex. 9) Holmes stated that the Transit Master Software "only aided the agents in determining the location of buses in the system as well as their adherence to their schedules." Holmes further noted that "the Dispatcher's job would be to facilitate the movements of vehicles and drivers, which the call center agents cannot do." The grievance was again denied at the Third Step of the grievance procedure on the grounds that the Transit Master "is an extension of the job duties of the (Call Center) agent," and therefore no pay upgrade is warranted. The Authority further stated:

Clearly, providing real-time schedule information to the customer falls within the job description and expectations of an Information Agent and under no circumstances can this activity be identified as work that belongs to the Transportation Dispatcher position. Technology enhancements have changed and improved job functions throughout the Authority - without a subsequent increase in pay. By providing a new tool in which Information Agents can provide more useful, valuable information to customers does not warrant automatic wage increases.

(Joint Ex. 2, p. 2; response by Sharon Bryant, Director of ADA Compliance and Customer Relations.)

According to Call Center Agent Jennifer C. Moore Foster, until late 2005, Call Center Agents always worked with paper schedules or a computerized schedule, known as HASTUS, to respond to customer inquiries about bus schedules. Often, according to Foster, if a bus was running behind schedule or if it had broken down, a Dispatcher would contact the Regional Call Center to advise the Agents of the fact, even before the Call Center would begin receiving inquiries from customers.⁵ In that way, when calls came in, the Call Center Agents would already be armed with the necessary information to advise the customer. If the Call Center Agents had not received information about a bus that was not running according to its schedule from the Dispatcher, an Agent would contact the Dispatchers to find the location of the bus when the Agent received a customer inquiry. That is, according to Foster, Call Center Agents always worked on scheduled bus times; they were not required to determine the locations of buses in real time. Determining the real time locations of buses was the responsibility of the Dispatchers.

The job description for a Radio Dispatcher (Joint Ex. 4) includes the following:

GENERAL SUMMARY

The Radio Dispatcher shall be responsible for the overall coordination and communication between and among all Authority operating entities and shall be responsible for the maintenance of effective and efficient service.

ESSENTIAL JOB FUNCTIONS

1. Respond to all incoming radio and telephone calls received at the central radio control station in order to coordinate information regarding on-street operations.

....

⁵ In 2004, the Authority installed a red light on the Call Center Agents' phones that would light up when a Dispatcher was attempting to call the Regional Call Center regarding bus accidents, re-routes due to construction, or other causes of buses not running according to their prescribed schedules. (Joint Ex. 7)

3. Follow through on each occurrence to its conclusion by contacting the necessary personnel or departments.....

According to Foster, those duties were never performed by Call Center Agents before October 2005. She testified that until the Transit Master system was installed in the Regional Call Center, it had always been the responsibility of the Dispatchers to ascertain the location of the bus, and that information would then be relayed to the customer by the Call Center Agent. Even after the Transit Master was placed in service in the Regional Call Center, Call Center Agents sometimes need to contact a Dispatcher to determine the location of a bus if the GPS sensor on the bus is not working properly, according to Foster.

In addition, if a customer calls the Regional Call Center for reasons such as a lost article that had been left on a bus, or a lost child or other person, the Call Center Agent first tries to ascertain which bus the individual had been on, and then contact the Dispatcher who would get in radio contact with the bus driver to look for the article or obtain the necessary information about the lost person. According to Foster, the process of responding to inquiries regarding lost articles or people has not changed; the Call Center Agents continue to try to ascertain which bus the article or person may have been on, and then contact the Dispatcher who communicates to the bus driver by radio. Call Center Agents have no means to contact bus drivers directly and have no authority to direct the operations of bus drivers.

Sharon Bradford, who has been in bus operator and office-clerical positions with the Authority since 1976, is the Union representative for the Office Clerical seniority unit who filed the Union's grievance. Bradford testified that she was told by management that, in order to be entitled to a pay upgrade under Section 4.1 of the Collective Bargaining Agreement, the

upgraded employee must be performing all of the job functions of the higher-paid position.

Bradford testified that, contrary to management's position, whenever an employee has performed any of the duties of a higher-paid position, the employee received the higher pay rate. For example, according to Bradford, when she ran the payroll computer tape for the lead payroll clerk, she would receive the lead payroll clerk's rate of pay, even though Bradford was not performing all of the other duties of the payroll clerk. As another example, according to Bradford, service workers are responsible for moving buses at the Authority's facility, and for assisting mechanics, who are paid a higher rate. Bradford testified that if a service worker adjusts a bus mirror or starts a bus, both of which are typically part of a mechanic's job, the service worker is paid the mechanic's rate, even though the service worker is not performing all of the mechanic's duties.

Bradford testified that before the HASTUS computer system was installed, Call Center Agents had to rely exclusively on hard copy bus schedules to respond to customer's inquiries. At that time, the position of Computer Operator used computers. When HASTUS was implemented, Call Center Agents did not seek to be paid at the higher Computer Operator's rate of pay because, according to Bradford, the positions of Computer Operators and Call Center Agents are "two completely different jobs." Bradford testified that, in her view, Call Center Agents since the implementation of Transit Master are being required to perform the Dispatcher's Essential Job Function No. 1. (See above, Joint Ex. 4)

Sharon Bryant, who is in overall charge of the Regional Call Center, testified that the installation of the Transit Master has not increased or decreased the workload or the staffing of the Call Center Agents.

Bryant said the Authority plans to install Transit Master terminals at each of the Call Center Agents' desks, rather than maintaining just one terminal in the Call Center for the use of all agents.

Bryant testified that, in the past, Call Center Agents complained that it took too long to obtain information from Dispatchers related to customer inquiries because the Dispatchers' first priority is to respond to radio calls which may create delays in responding to Call Center inquiries, and that as a result customers would either hang up or become angry. After installation of the Transit Master, agents have quicker access to most of the information they need regarding the locations of buses, according to Bryant.

Demus Holmes, the Authority's manager of ADA Compliance and Customer Relations, reports to Bryant. Holmes is the direct supervisor over the Regional Call Center. Holmes testified that Transit Master was installed in the Call Center on his recommendation in order to reduce the need for agents to contact Dispatchers, and the result has been a decrease in the number of calls to the Dispatch office.

Mike Kingrey, a Radio Dispatcher for 25 years who trained the Call Center Agents on the Transit Master Software, testified that the number of calls per day from Call Center Agents to Dispatchers regarding the locations of buses has decreased from 20-30 on average to about 5-7. Kingrey testified that Dispatchers now have to track fewer buses than in the past because Call Center Agents can now track buses in real time themselves.

Kingrey testified that the Transit Master Software is used by Dispatchers for several purposes beyond those used by Call Center Agents, including recording an entire day's activities by a bus, listening to recordings of phone and radio calls, controlling communications between

drivers and supervisors, disabling communications and monitoring whether a bus pulls out of the facility on schedule and whether the bus operator logs onto the bus on schedule. Kingrey testified that the Transit Master is used by Dispatchers to decide whether to instruct a bus operator to speed up or slow down in order to return to its prescribed schedule, which Call Center Agents cannot do because they are not in direct contact with operators.

UNION POSITION

The position of the Union may be summarized as follows:

The evidence confirms that the specific work in question that the Agent's are now being required to perform, tracking the locations of buses in real time using the Transit Master Software, is understood to be and should be classified as Dispatcher work; it is a task that historically has been within the duties and responsibilities of the Dispatcher to perform.

Once classified as a Dispatcher job duty, the undisputed evidence confirms that the Call Center Agents are contractually entitled to an upgrade in pay for their time spent performing that work. The evidence demonstrated that any time an employee performs a task that is part of a higher paying job, the employee is entitled to the higher rate of pay. The Authority did not present evidence to dispute the historical record of such payments. It is irrelevant that Call Center Agents do not interact with bus operators, as do the Dispatchers. The question is not whether the Agents do all or the primary job duties of the Dispatcher, it is whether the Agents do any of the Dispatcher's job duties. If they do, they are entitled to a pay upgrade.

The real question is whose job it is to have the knowledge or information that the Agent is to pass on to the customer. If the caller's question involves scheduled time, it is the Agent's job to have that knowledge and to pass it on. If the caller's question involves real time, the

knowledge of that subject is within the job duties of the Dispatcher. The Dispatcher is to obtain that real time information, communicate it to the Agent, whose job is to merely pass it on to the caller. If, for example, a caller inquires of an Agent about job openings within the Authority, the Authority would not suggest that it is the obligation of the Agent to know that information. Rather, the Agent would pass that call on to Human Resources. The fact that an Agent may be required as part of his or her job to pass on information to a caller provided by a Dispatcher or someone in Human Resources does not mean that it is within the Agent's job description to perform the Dispatching, or Human Resources, duties of the person who provided that information to the Agent.

As to the Authority's contention that Transit Master is a new "tool" available to Agents, it is available to Agents only because the Authority has decided to place the software on the Agents' computers and require them to use it. The fact that this tool may now be available to Agents does not prove that it is part of the Agents' job to access vehicle tracking information. Transit Master is a new tool to assist Dispatchers in performing their jobs. The new tool to assist Agents with scheduled bus times was HASTUS.

Although the Union recognizes that use of the Transit Master may, in some respects, be more convenient in that it alleviates some of the Dispatchers' work and provides a smoother flow of information, those effects are being accomplished by requiring Agents to perform a task that has historically been part of a Dispatcher's job. By analogy, even though it may be more convenient to have a serviceworker perform some mechanic's duties, if the serviceworker does so, he is entitled to the mechanic's pay upgrade.

Although under the management rights clause the Authority has the right to change

services and introduce improved operating methods, doing so must be consistent with and not contrary to specific provisions contained in the Agreement. Thus, the Authority has a superior and overriding obligation to comply with the mutually agreed upon provisions of the Agreement.

Section 8.8 of the labor agreement provides that job descriptions “shall be considered part of this Agreement.” Thus, the Union could have requested a “cease and desist” order as an appropriate remedy, in that unilateral changes to Agents’ job duties - whether transferring from or adding to agreed job duties - are prohibited. Changes could only be implemented if negotiated and mutually agreed upon. Instead of requesting a cease and desist order, the Union has chosen to allow the change implemented by the Authority but to demand the contractually mandated pay upgrade. Thus, although the Authority may implement new technology and require the Agents to use Transit Master to access real time information, its doing so must be consistent with the specific provisions in the labor agreement requiring a pay upgrade.

AUTHORITY POSITION

The position of the Authority may be summarized as follows:

There has been no change in the Call Center Agents’ duties. These employees’ principal duty has been and remains responding to questions from the public with whatever information is reasonably available to the Agents. Thus, it has always been the Agents’ duty to tell customers where their bus is or when it can be expected to arrive, provided that the Agent could obtain the information from a Dispatcher (through a radio call by the Dispatcher to the driver) and then relay the information to the caller.

Making direct access to some of this vehicle location information available to the Call Center does not change the Agents’ duties; it streamlines and simplifies their task. Having to

rely on the Dispatcher for information about bus status was often frustrating for Agents, because their inquiries would often be assigned a lower priority than other responsibilities of the Dispatcher. The new procedure makes some Transit Master information available to the Agents to respond to customer inquiries without having to involve the Dispatcher at all.

Transit Master is not even a completely new tool to assist the Agents. Call Center Agents have long used computer work stations to assist in responding to customer questions, including computerized schedule information and trip planning programs. Transit Master merely tweaks the capabilities of the existing computer systems they already use.

The Authority's Transportation Manager also presumably uses Transit Master on his computer. For some reason, the Union has not sought to receive the Manager's pay; the reason is that the Agent's are not doing the Manager's job, just as they are not performing the job of a Dispatcher.

The Union does not contest the Authority's right to assign use of the Transit Master to the Agents. Instead, the Union seeks only a higher rate of pay. Even a cursory reading of Sections 4.1 and 8.7 of the labor agreement makes it clear there has been no violation of the agreement by the Authority. Section 4.1 addresses temporary assignments to a full-time position with a higher rate of pay. No Call Center Agent has been temporarily assigned from his or her regular position to another full-time position. Rather, Agents remain assigned to precisely the same principal duties and have the same work schedules and locations. They are not performing any of the key duties of the Dispatcher - manning the Communications Center or communicating directly with the operators, Road Supervisors, maintenance staff or law enforcement personnel, nor are they performing any of the key oversight and coordination responsibilities prescribed in the

Dispatcher's job description. Thus, they are not performing another "full-time position." Further, the assignment of the Transit Master Software to Call Center Agents is not temporary. The Call Center staff will be expected to use the Transit Master indefinitely.

Section 8.7 addresses the establishment of new job classifications or positions. No new job classification has been created. The mutually agreed upon job description for the Call Center Agent remains in effect and unchanged and it already fully encompassed the use of the new Transit Master tool to help respond to customer inquiries.

Arbitrators who are asked to interpret and apply provisions such as Section 8.7 invariably require that there be substantial or material changes in the duties or workload of a position before any change will justify an adjustment in wages; a job is not substantially changed by the addition of a few new duties. Arbitrators called on to evaluate the impact of the implementation of computer systems on jobs previously done without computer assistance have consistently found such changes to be minimal and insignificant and not to justify a change in pay rates. Arbitrators have likened these changes to learning to use a new tool.

Assigning to Call Center Agents the use of a few features of the Transit Master Software did not require them to undergo extensive training or to develop sophisticated new skills. It did not make their jobs more complex and has had no adverse impact on their workload. It has simply permitted them to obtain from a compute screen information they formerly had to get through a telephone call.

ANALYSIS

This case presents one of those rare but welcome instances in which the parties represented that there were no material disputes regarding the facts, and then lived up to those

representations.

The material facts may be summarized as follows: Among the thousands of calls received every month by Call Center Agents are a significant number in which a customer's inquiry requires the Agent to ascertain the current location of a bus. Often, this is occasioned by the fact that a bus is not where the customer believes it should be, when it should be there. Before October 2005, either the Call Center Agent already would have this information, having been alerted previously by a Dispatcher that a bus was not operating according to schedule, or the Agent would be required to contact a Dispatcher to ascertain the current location of a bus, in order to respond to the caller's inquiry by informing the caller either that the bus already had passed the customer's location or when the bus could be expected to arrive there. Until 2003, the Dispatcher would obtain the information requested regarding the current location of the bus which was the subject of the Agent's inquiry by making radio contact with the bus operator. In late 2003, the Authority installed the Transit Master software system in the Dispatcher's office. Although Transit Master served numerous functions, one of them was to be able to provide the exact current location of a bus through the use of a Global Positioning System sensor on each bus. Thereafter, Dispatchers could ascertain the exact current location of a bus by looking at the GPS locator on a screen, and so advise the Call Center Agent.

In October 2005, the Authority installed a Transit Master computer terminal in the Regional Call Center and trained the Agents on its use. Thereafter, in most instances, if a Call Center Agent needed to know the current location of a bus, he or she could ascertain that location by accessing the Transit Master software and its GPS system, just as was and is still done by the Dispatchers, and then relay that information to the customer who called the Regional Call Center.

The question presented in this case is whether the assignment to the Call Center Agents of the work of ascertaining the current, real time, location of buses using the GPS system in the Transit Master software constitutes the assignment to Agents of Dispatcher work for which Agents are entitled to receive a pay upgrade to the Dispatcher rate for the time they spend on the Transit Master system.⁶

The position of the Union is that tracking the locations of buses has historically been the work of Dispatchers. That is, Dispatchers operate based on the actual locations of buses in current, or real, time. Call Center Agents, on the other hand, are responsible for scheduled bus time, not real time. Giving Call Center Agents responsibility for ascertaining the real time locations of buses, therefore, is tantamount to giving them a responsibility which heretofore had been that of Dispatchers, and therefore entitles Agents to Dispatcher pay. The Transit Master system is a tool to assist Dispatchers in the performance of their jobs. By contrast, HASTUS was a tool to assist Call Center Agents in the performance of their responsibilities for dealing with scheduled time, not real time.

The Union also contends that under Section 8.8 of the labor agreement, job descriptions are to be considered part of the agreement, and the Authority is thus without authority to unilaterally change job descriptions. Such changes must be negotiated with the Union. This argument, however, begs the ultimate question of whether the assignment to work with the Transit Master system reasonably falls within the job description of Call Center Agents. If it

⁶ Subsumed within this question is another issue, and that is whether the assignment of one task of the job responsibilities of a higher-paying position requires the payment of the higher rate. It is, of course, the Union's position that the performance of any part of the job responsibilities of a higher paying position warrants a pay upgrade, and the Union presented evidence to support that position including pay upgrades to the rate of a lead payroll clerk and a mechanic. This subsumed question will be addressed later in this Analysis.

does, then there has not been a unilateral change by the Authority to the Agents' job description and therefore no violation of Section 8.8.

The primary responsibility of Call Center Agents is to communicate with the public regarding the Authority's bus service. According to the evidence, a majority of the thousands of calls which the Call Center fields each month concern scheduled bus times. For example, a customer may simply want to know the best way to get from point A to point B. The Agent receiving the call will consult a computerized trip planner, HASTUS or a hard copy schedule and advise the customer on the best route to take, including suggested times and transfers, if necessary. A significant number of calls from customers, however, require the Call Center Agent to ascertain the current location of a bus, often because a bus is not operating in accordance with its published schedule. That is, the customer may be at the bus stop when the bus is supposed to arrive, but the bus is not there. The customer will then contact the Call Center to determine when the bus will arrive, and the Call Center Agent must find out that information and relay it to the customer.

The position of the Authority is that the Transit Master system is just a computerized tool which allows the Call Center Agents to perform their job of notifying customers of the location of buses and when the customer may expect the bus to arrive at its appointed location. The Union's position, however, is not that it is the use of the computer as a tool that has changed the job responsibility of the Call Center Agents, but rather it is the requirement that Agents now must themselves obtain the information, by whatever means⁷, regarding the current location of buses, when obtaining that information has historically been the job of the Dispatcher.

⁷ Whether by using Transit Master or any other method.

The legitimate differences between the Authority and the Union in this dispute turn on the respective focus each party takes. The Union suggests the focus should be on the tracking of the current location of buses in real time. The Authority suggests the focus should be on the ultimate responsibility of Call Center Agents to obtain information regarding both scheduled and real time bus locations and relaying that information to the public. These different perspectives are reflected in each party's proposed statement of the issue. The Union proposed that the issue involves the assignment of tracking buses in real time, when Agents have historically dealt only with scheduled bus times. The Authority proposes that the issue involves the Agents' responsibility to provide information to the public. If the Union's focus on the narrow question of tracking the location of buses in real time is adopted, then the Union must prevail because Call Center Agents have not historically personally obtained such real time information; that was the responsibility of the Dispatcher. The written and historical job duties of the Call Center Agents, however, suggests that the focus of this dispute must be broader than that argued by the Union.

There is no dispute that the essential function of a Call Center Agent is to communicate information to the public regarding the operation of the buses. The Union suggests that a core element of the job responsibilities of a Call Center Agent is to deal with scheduled time. The evidence, however, discloses that it has always been part of the Call Center Agent's job to obtain information regarding the current location of a bus, when it is different from the scheduled location, and to communicate that information to the public. Thus, Call Center Agents have routinely dealt with real time, not just scheduled time.

The only difference now lies in the method by which Call Center Agents obtain the necessary information regarding the real time location of buses. Previously, the Agent would

place an interoffice telephone call to a Dispatcher to ascertain the exact current location of a bus in order to advise the inquiring customer as to when he or she could expect the bus to arrive at its appointed location, if at all. Now, after installation of the Transit Master system, the Call Center Agent presses keys on a computer rather than pressing buttons on a telephone. The same information is being obtained by the Call Center Agents as they obtained prior to the installation of the Transit Master system, just from a different source. And, ultimately, the same information is being relayed to the customer. There is no material difference in the work being performed by the Call Center Agents. They are still doing what they always have done: obtaining information regarding both scheduled and real time locations of buses, and responding to inquiries with that information.

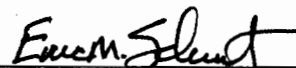
Assume, hypothetically, that instead of installing the computerized Transit Master system, the Authority had installed a large electronic map on the wall of the Regional Call Center which showed the current location of every bus then operating. When a call came in to the Call Center about the location of a bus which the customer believed was not where it was supposed to be, all the Call Center Agent would have to do would be to look up at the wall to ascertain the current location of the bus in question. Even if such a map also existed in the Dispatcher's office, the act of looking up at the map by a Call Center Agent could not be said to constitute the performance of Dispatcher's work. There is no meaningful difference between the function of the hypothetical map and the Transit Master system. Whereas Call Center Agents previously obtained the information necessary to perform part of their job, namely the current location of buses, from a Dispatcher, now they simply obtain that information from a computerized GPS system.

Call Center Agents are performing exactly the same job they have always performed. They are obtaining information when necessary about the current, real time, location of buses and relaying that information to the public. The fact that they are obtaining the information regarding the location of buses from a computerized GPS system, rather than by way of a telephone call to the Dispatcher's office, does not constitute the performance of Dispatcher's work.

Given the conclusion that the assignment to Call Center Agents to work with the Transit Master system did not constitute the assignment of Dispatcher work, it is unnecessary to decide whether, as suggested by the Union, the assignment of any single portion of the responsibilities of a higher paying job requires the payment of the higher pay grade. That issue, if it is disputed by the Authority, should be left to an appropriate future case.

AWARD

The Authority did not violate the Collective Bargaining Agreement when it refused to award a pay upgrade to Call Center Agents for the time they spent working on the Transit Master software system to ascertain the current location of buses, in that obtaining information regarding the real time location of buses and relaying that information to the public has always been an integral part of the job responsibilities of Call Center Agents. Therefore, the grievance is denied.



Eric M. Schmitz
Arbitrator

September 28, 2006
St. Louis, Missouri