

TRANSCRIPT

INTEREST ARBITRATION PROCEEDINGS

Pursuant to Charter Sections A8.409 & 8A.104(N)

Transport Workers Union, Local 200

And

Municipal Transportation Agency

Saturday, May 7, 2005

Vol. 1, Part 3 (Testimony of Geoff Rothman, MTA Expert Witness on Compensation)

(A recess was taken from 5:18 p.m. to 5:28 p.m.)

(Whereupon, the witness was sworn.)

ARBITRATOR HOH: State your name.

MR. ANDERSON: Geoff is going to confirm our exhibits, right?

THE WITNESS: That's what I'm here for. My name is Geoffrey Rothman. My business card...

ARBITRATOR HOH: Thank you.

THE WITNESS: The address and the phone numbers are wrong, but the spelling of my name is correct. It's all right.

ARBITRATOR HOH: Keep it down the line. Go ahead, Mr. Sloan, whenever you're ready.

MR. SLOAN: Off the record, please.

ARBITRATOR HOH: Off the record?

MR. SLOAN: Yes.

ARBITRATOR HOH: Okay.

(Discussion off the record)

ARBITRATOR HOH: Back on the record. Go ahead. Say something positive.

MR. ANDERSON: Yeah. I stipulate that Mr. Rothman is an expert of many years' standing in this area, an eminent person in his field.

ARBITRATOR HOH: Go ahead, Mr. Sloan. I'll accept that stipulation. I assume Mr. Sloan will as well.

MR. SLOAN: We will consider it.

ARBITRATOR HOH: Let's go.

DIRECT EXAMINATION BY MR. SLOAN

MR. SLOAN: Q. Okay. MTA Exhibit No. 39 is your resume, correct?

A. Correct.

Q. Since leaving San Francisco, you've been working as a principal consultant to Renee, Sloan, Holtzman, Sakai, correct?

A. That's correct.

MR. ANDERSON: I have to take away my stipulation.

MR. SLOAN: Too bad you said that.

ARBITRATOR HOH: Let's move forward.

MR. SLOAN: Q. Exhibit No. 40 is what?

A. Exhibit No. 40 is a narrative which describes the comparability study, the results of which are attached as the subsequent set of exhibits. It's a comparability study that I conducted or was conducted under my direction of the classifications and the unit represented by TWU Local 200.

Q. Good. We'll get into that in more detail, but let's get to the lay of the land. What is Exhibit 41?

A. Exhibit 41 are the official class descriptions of the classification train operator at the San Francisco Bay Area Rapid Transit District.

Q. Okay. And I see that 42 through 45 look kind of similar. Are these four different sorts?

A. This is -- yes, they are four different sorts of the survey that we conducted.

Q. Okay. Why don't we start, then, by telling me what your assignment was for MTA and what steps you followed in completing that assignment.

A. Our assignment was to conduct a comparability survey of the several classifications represented by TWU Local 200 at MTA. There are a variety of steps in conducting a comparability survey, first and foremost identifying the universe of employers that will be included in the survey.

So the very first thing we went about doing is determining what an appropriate universe of employers might be. The universe of employers is -- is at -- at the start defined by two factors. One is where most employees and applicants reside, the -- and in that case, of course, that would be the San Francisco-Bay Area. Actually, it has the federal description called the San Jose, San Francisco, Oakland comprehensive statistical or consolidated statistical area, CSA, and that was the first and primary source that we used for data.

The number of agencies -- or the -- the second issue to consider is organizations that provide similar services and are to some extent organized in a similar manner. When we looked at the San Francisco-Bay Area, we found that at best there were fewer than a half a dozen organizations which could yield the kind of information that we were interested in, so we extended our search first to other major public transit agencies in the state of California, and we added to the five agencies that we found in California three more agencies located in the state from Sacramento, Los Angeles and San Diego.

And then because of the rather -- well, again, because of the fact that that still yielded a relatively small sample for survey purposes, we utilized a principle that still exists in the City's

charter, and that is surveys of national transit properties. The City charter for the class of transit operator requires, in fact, a survey, which was the basis for setting wages, and that survey looks to large transit properties throughout the United States, and so we did the same thing. We identified eight additional properties -- transit properties throughout the United States, many of which have been included in prior MTA surveys for establishing the transit operator surveys. In effect, we -- we ended up with three different sorts of employers, those located within the Bay Area, those located in the state of California, including the Bay Area, and those located throughout the nation or at least throughout the Bay -- beyond the Bay Area, and then, of course, the fourth sort, which is every employer that we included in our survey. So that's what we selected in terms of the survey universe.

Q. All right. So that kind of addresses the question of who was surveyed. Can you tell me what you surveyed?

A. Yes. First of all, we elected, as I mentioned earlier, to survey not just the classifications that are represented by TWU Local 200 -- and I think this is a very important point. I happened to work for the City a couple of decades ago when Dick Sklar was the Public Utilities General Manager and Muni was --

Q. Spell --

A. Sklar, S-k-l-a-r. Mr. -- Mr. Sklar, in conjunction with a number of other folks looking at the classification plan that was utilized by what was then the Municipal Railway, Muni, introduced a innovative and, I think, ultimately very controversial consolidation of classifications. They resulted basically in really three major classes represented by Local 200 Transit Supervisor, Transit Manager 1 and Transit Manager 2. But to achieve that, what Mr. Sklar did was take a whole number of more specialized assignments, including central control assignments, dispatch assignments, scheduling assignments at -- just as an example, and classifications that went with them and consolidated them.

In order to operate, MTA continues to make these specialized assignments. They continue to use, as an example, their transit supervisors, not only out on the street handling street-level supervision, but also assigned to central control, also assigned to dispatch

functions, also assigned to scheduling functions and also assigned to training functions.

So we decided that rather than simply surveying for three classes the major classes in the unit, we would survey for the specialty assignments within each class as well as for the general class. So instead of getting a small number of -- of classes surveyed, you end up with -- or we ended up with nine surveys surveyed by class and by major assignment within classification.

Q. So the key class, that being the most populace class, 9139, rather than simply surveying class 9139, you surveyed different job functions within that class?

A. Correct. We actually surveyed 9139 in five different forms, 9139 Transit Supervisor as a single class, 9139 supervisor as assigned to Central Control, 9139 Transit Supervisor as assigned to dispatch functions, 9139 as assigned to scheduling functions, and 9139 as assigned to trained functions. We believed that that would give us a more accurate picture of employment practices amongst the various employers that were included in our survey.

Q. All right. So that gives us the lay of the land about the scope of the project. Talk to us a little bit about the method.

A. The method was fairly simple. I oversaw and directed Mr. Andrew Conley, who is sitting to your right, who is my associate at the firm. We started out by laying out basic survey methods and procedures, collection approaches, identification of employers and contacts within the various employment organizations that we wanted to survey. Once we laid out a basic work plan, Mr. Conley proceeded to contact each one of the 16 agencies included in our survey, made them aware of the objectives, the purposes of our survey, our schedule and the type of information that we sought to collect.

I will mention that Mr. Conley and myself several months ago conducted a survey somewhat along these same lines for BART and, consequently, we had relatively fresh contacts in virtually all of the agencies that were included here. I think only Miami Dade was new to -- to our survey process. So we had talked to most of these folks fairly recently and had a lot of information.

Mr. Conley then made -- after making initial contacts by email and/or by phone,

awaited the receipt of information from the various employers that were surveyed.

Generally speaking, they provided, either by email or by phone interview, the information that we sought. And based on a review of the information that we received, we either went back to the employer to further clarify or obtain more information about the information that they transmitted to us or we imported the information received into the various spreadsheet formats that we have here.

I want to mention a couple of things. One is we asked in every case that the employers provide the formal job description for any class that they reported as a match to our class. And several of the documents we have with us this afternoon are for each and every class that we reported here for which the employers had a job description available, formal job description. And, of course, we're happy to share that with the parties this afternoon.

Q. Why did you collect those other job descriptions?

A. We collected them in order that we could confirm, first of all, to our own satisfaction that the information reported to us satisfied our standards; in other words, it is possible to speak with someone on the other end of the line who says, "Yeah, based on what you're telling me, I think this is a good match." Mr. Conley and I are not satisfied with that. We like documentary proof, which confirms for us and can confirm to parties in a dispute proceeding such as this that, in fact, that match is an accurate match.

In numerous cases, Mr. Conley and I rejected matches that were proposed because, based on the review of those descriptions, we concluded that those were not accurate. We went back and attempted to obtain more information from the employer or we concluded that the surveyed employer simply did not have an accurate match to be made. Again, we required not only oral confirmation to the extent that's available, but in every case we could obtain documentary confirmation of our matches.

Q. And that was to help you verify the accuracy of the data and the appropriateness of the match?

A. Correct. The major thing here is the appropriateness of the match. If the match is wrong, all subsequent data is going to be incorrect.

Q. Okay. To what extent did you review the collected data that Mr. Conley collected?

A. Mr. Conley imported -- upon confirmation that a match was correct, Mr. Conley was instructed to import or enter into a spreadsheet each piece of data that he obtained from the surveyed employers. On a fairly regular basis, generally speaking every three or four days, as he produced another version of his data, I reviewed that data, identified any questions that I had, asked him to go back and speak again with the employers regarding the question or identified any discrepancies that I recognized in the data or any questionable outcome.

Example, if you have an extraordinarily high number, extraordinarily low number of a particular sort, your first question is, Where did that come from? Sometimes the individual enters the data, misses that, having -- you know, becoming very, very familiar with the data. So it's useful to have a second set of eyes, and that -- that was one of the functions I performed in this process.

Q. Okay. Are you ready to tell us what were the results of your survey work?

A. Yes. I wanted to mention one -- one issue in terms of the survey universe, and I think it needs to be mentioned, and I know it was alluded to earlier in the proceeding, and that is the usual situation with regard to the inclusion of BART.

I think what -- one of the things you're going to see as you look over this data is BART is at the top of most of the survey work that we did. BART is the lead employer, certainly in the Bay Area, if not across the United States. There are at least a couple of reasons for that, and the reason for including the job description for the BART train operator hopefully explains that.

One of the reasons is BART has been a -- has been an employer who has been very, very generous in its labor negotiations certainly over the last couple of decades and has been recognized as a real leader in terms of those practices. The second is BART operates heavy rail equipment. It's not a bus operator. It's not a light rail vehicle operator, and there's quite a distinction on -- often a distinction on pay provided to a heavy rail system compared to a bus system.

One of the ways that we recognize the distinction in terms of the complexity of the work that's done is in the job description that we

provided here this afternoon in employer's Exhibit No. 41, as an example. And that's -- that's noted here under minimum qualifications. BART requires four years of full-time verifiable experience in order to apply for a train operator position. That's three more years of experience than --

Q. Experience at what?

A. Experience -- well, in this particular case, and as noted on the -- the class description, verifiable operational maintenance or technical experience in a transportation agency, and the description provides examples of that -- of the kinds of agencies involved, military, commercial, public transportation. Very high level of experience when compared to agencies that employ largely bus drivers. Bus driving experience requirements are considerably lower, often requiring nothing more than public contact experience or some limited experience operating heavier vehicles. You can see that here.

Second issue, and it's not demonstrated, but anecdotally -- and I'm aware from having worked at

BART -- is BART's training program for their train operators is approximately 13 weeks, I believe, in length. My -- my understanding is that the Muni or the MTA bus operator training is about 35 days in length, so it's only about a third of the length that is required by BART. BART's training is three month.

Another example is the greater complexity of job assignments in a heavy rail transit agency like BART and, I believe, contributing in some way to the higher wage differentials that are paid by BART. Notwithstanding that, BART has been included because they are a public transit agency, one of the major agencies in the Bay Area, and we ought to have a look at what their compensation practices are as we go forward with this proceeding, so...

Q. Okay. Shall we turn to one of your charts?

A. Yeah. If you turn to the first chart -- let me suggest that you go to the second page. The first page is really a review of certain assignments, lead pay and scheduling practices. The first --

ARBITRATOR HOH: You're talking about your Exhibit 42; is that correct?

THE WITNESS: Correct.

MR. SLOAN: 42 is all agencies.

ARBITRATOR HOH: All agencies. All right.

THE WITNESS: Let's --

MR. SLOAN: Q. We're skipping over the first page for now.

A. Correct.

Q. Okay. Go ahead.

A. Here's -- first of all, let me tell you what is on the chart and then the conclusions.

ARBITRATOR HOH: This is page 2?

THE WITNESS: Correct.

ARBITRATOR HOH: Okay.

MR. SLOAN: Q. Although it's -- although the second page is also numbered 1.

A. Yeah, they're all numbered 1. They were not printed in a --

Q. I see.

A. -- in a sequence that gave them numbers. This is the chart -- the first one is the chart for the generic 9139 transit supervisor class. Here's the information as it's reported. The far left side of the chart provides the name of each agency that was surveyed. Next to the name of the agency is the classification which that agency determined and, of course, following our review as well, was an appropriate match to the MTA transit supervisor class. Again, I mention that we brought copies of all of the descriptions of all of these jobs to the extent that they're informative in this process.

Q. Okay. So it looks like the three-hole punch has thwarted us a little bit because it has punched out some of the title. So this page you're referring to now, the second page of the series, surveys the 9139 class?

A. The generic class itself without the specialty.

Q. Okay. Go ahead.

A. Going further, the next column provides -- actually, it's titled monthly salary, "MO salary." This is the maximum monthly salary, and there's two pieces of information. On the left you see the effective date of that salary according to the agency that we surveyed and to the right the maximum monthly rate of pay for each classification that were included in the survey. So now you have the employer, the matching job classification title, the effective rate, rather than the effective date of the pay rate and the monthly salary. Next to that you see two columns which deal with any payment by the employer of the employee's retirement contribution. And as you can see, for example, starting with BART, it contributes 7 percent of what is the mandatory employee contribution to retirement. We have valued that -- in the case of BART, we valued that at \$455. That's simply 7 percent of \$6499. That's what that is. And we've --

ARBITRATOR HOH: You're talking about a monthly amount?

THE WITNESS: Correct. That is monthly. And the column to the right provides a total cash figure.

25 The total cash figure is the maximum monthly salary plus the dollar value of any employer payment of the mandatory employee retirement contribution.

Additionally, to the extent information was available, it would show what class supervises the -- the matching class. So in the case of senior operations foreworker, which is the first-line supervisor at BART, it's supervised by a class called operations supervisor. The operations supervisor has a salary of some \$8,795 a month. That's -- they're fairly well paid.

And then also we have a relationship to subordinate, what is -- what's the nature of the relationship. So you not only have the name of the employer. You have the matching class. You have the effective date. You have the salary. You have the retirement contribution both in percentages and dollars. You have the total value. You also see organizationally where the particular survey class fits within the organization that they worked at.

This particular document shows all agencies surveyed. This one does not differentiate. The subsequent reports differentiate between Bay Area, California only and all agencies outside of California.

MR. SLOAN: Q. And what about the fine print down at the bottom?

A. The fine print -- well, let me start with the statistical information, if I may, Mr. Sloan. For the -- for the dollar numbers, we provide, first of all, an average, so we have an average of the monthly salary. In this case the average was \$5,687, and then we have an average of the total, \$5,846. It's a very simple, straightforward average. It's a simple average formula. We then considered the MTA salary. The MTA salary, which is included in this report -- by the way, this is a ranked report. In other words, this goes in descending order from the highest employer in the total column to the lowest employer. BART was the highest.

Q. The sort order is the total column?

A. Correct. The sort order is the total column. When we compare San Francisco MTA to the averages in this case, average maximum salary, it was 2.87 percent above the average. Average total, 7.58 percent. In the next row below we considered median, and you can see the median for maximum -- for the maximum salary was \$5,763 a month. The median for total was \$5,965 a month. Again, comparing to San Francisco, San Francisco was 1.52 percent above median maximum salary and 5.42 percent above total salary in this case.

There are a variety of other notes. Notes on the bottom are just notes of clarification. As an example, we did not pick up Social Security, but this -- had we picked up Social Security, this is information regarding the rate of Social Security. In fact, San Francisco is a full Social Security participant. The employer and the employee pay equal amounts towards Social Security. There's no effort to add that in as a total comp factor, although when we did a BART survey, they did wish to have it included. So for those who have seen that survey, this is just an informational reference to the -- those components.

There are other -- other pieces of information. CTA, which is the Chicago Transit Authority has some unusual salary practices, and we're qualifying the information. It would -- again, we're providing some additional special information regarding LA MTA, PATH, Sacramento Transit and San Diego. We also have some additional information regarding BART just simply to note that BART, in

addition to the salary that we've provided, also has extra supplements only to show, again, that we're cognizant of compensation practices, although they were not necessarily included in this particular report as an operation.

That's -- that's -- each -- each of these pages, and if you would like, we can go page by page. Each one demonstrates these varying practices. Fortunately, all of this information is summarized, and it's summarized on page 7 of the narrative report.

Q. All right. So let's turn to page 7 of the narrative report, which is Exhibit 40.

ARBITRATOR HOH: 40, yeah.

MR. SLOAN: Q. And please succinctly state what you mean by that.

A. Okay. Here's what we've done with the table to make -- rather -- the table, first of all, is a -- is the same information as is provided -- simply provided in a summary form versus in a detailed form, and here's what's provided. As I mentioned, we surveyed a number of the general classes represented by Local 200 as well as specialty assignments, and you can see on the far left-hand side of the table something called class, and under that you see the 9139 and the 9139 central control, see control standing for central control and on down. We then show each of the four sorts and report both the median and the mean for each of the classifications and assignments that we survey.

Beginning with the Bay Area information for class 9139, when compared to MTA -- or rather, MTA in comparison to the survey was 1.2 percent below the median and 2.45 percent below the mean.

I want to -- incidentally, I want to emphasize from a statistical point of view that I'm reporting both medians and means. These are the two most common types of statistical pieces of information. I would caution, in terms of the use of this information, the fact that in many cases we're looking at very small samples, five to eight employers, eight employers, relatively small, it is my practice to suggest that with very small samples, medians tend to be a little bit more reliable than means. The reason is basically means are very susceptible to outlier data, meaning if you get one employer who is very high or very low in a small sample, they will distort an average or a mean. Medians tend to give you a little bit better average. As the

sample grows larger, means become a little bit better statistic. So I provided both -- both pieces of information. This is ideal to see these numbers both very close. In other words, where medians and means are both very close, you have a very high level of reliability. Where they're not very close, you really have to look at how large the sample is, how reliable which of these two measures might be.

I -- going back to the table I mentioned that -- with the 9139, you can see that MTA is below on both the median scale and the mean scale. You can also see, though, as you -- you get into many of the specialty assignments -- and I think these are noteworthy -- 9139 dispatch, as an example, MTA is at the median almost 13 percent above the market, and that, of course, includes agencies like BART, if they had matches, and it's almost -- it's better than 14 percent above the mean. When you look at scheduling, you're talking about better than 22 percent above the median and about 31 percent above the mean.

Now, we've got a couple of cases that I want to point out, one of those being -- I believe, it's the 9141 training, and the other is the 9151 central control and particularly the 9150. An initial look at BART is -- rather, MTA is more than 31 percent below the median and the mean. The first thing is your -- just the first thing is it's the exact same number for the median and the mean. And the second thing that is scariest, it's a pretty large number. The reason for this number is there was only one match, and it's not surprising because that match was BART. I would conclude, and I think most of my colleagues in this industry would conclude, that single comparator does not make a very reliable match. It just tells you or reconfirms that BART is rather high in the market.

Q. And do you state that conclusion in your -- in your summary on the Bay Area on page 7?

A. Yes, I do.

Q. Anything further?

A. I believe that what you can see here is that, as you go out from the Bay Area -- and, again, probably in some -- to some extent because the effect of BART is mitigated -- MTA's compensation program is highly competitive in the marketplace. When we look at all -- as an example, both the median and the mean under all, you can see that MTA is above in every

median when you look at all data. And with regard to means, it's only below the mean -- 1.7 percent below the mean in one case. When we look at all employers outside of the Bay Area, MTA is above the midpoint of the median and the mean in every case. When you look just at California employers, obviously there is -- there is a greater mixing. So in effect, the farther -- the farther we cast the net, the more competitive MTA looks within the public transit industry or at least amongst the employers that we included.

Q. Okay. Now, apart from the issue of surveying how well MTA fares relative to other jurisdictions, are there other indicators that are most pertinent in assessing the adequacy of their pay practice?

A. Generally speaking, compensation programs have two central objectives. One objective is recruitment. In other words, you want to -- an employer needs to ensure that their compensation programs allow them to recruit sufficient qualified candidates to fill their jobs, particularly so in the public sector, which is a labor intensive type of an enterprise.

The second issue is the issue of retention, which is to say in addition to being able to recruit and hire individuals who are competent and able to perform jobs, an employer wants to ensure that their compensation program is sufficient so that those who -- that they have recruited and are employed within their work force remain and are able to perform over a period of time --

Q. So --

A. -- so recruitment and retention are the two central pieces.

MR. SLOAN: Mr. Arbitrator and members of the panel, I'd like to submit two documents for identification, first 46 titled "MTA Transit Supervisor Application Statistics." It's a one-page document. And second --

ARBITRATOR HOH: Did you provide this to the Union? I have one more for my panel member. You've got it. Okay. This is --

MR. SLOAN: 46.

ARBITRATOR HOH: -- 46.

MR. SLOAN: And the second is a three-page document entitled "Separations from Local 200 for the Last Five Years." I ask that that be marked as 47.

Q. So, Mr. Rothman, how do these two documents bear on -- on your analysis relating to the adequacy of MTA's practices?

ARBITRATOR HOH: Actually, if you don't mind, let me just catch up and put them in the book.

THE WITNESS: Actually, Mr. Sloan, if I could have the other page --

MR. SLOAN: It's floating around.

ARBITRATOR HOH: Okay. Employer 46.

MR. SLOAN: Q. Yes, Employer 46, "Application Statistics."

A. Well, yeah, what's evidenced here is a -- a very high level of applications given the level of turnover. Having had the pleasure of working for the City for many, many years, I recognize that most of the positions in these classes are filled internally from the transit operator rank, and there are -- there are somewhere in the vicinity of 2,000 operators. It would appear that the interest amongst transportation operators is pretty substantial. It looks like almost half of transit operators apply with regard to promotion to transit supervisor.

Q. And do you have knowledge or an opinion as to why over the past six years there would have been three recruitments?

A. It may be that -- I don't know specifically. I'd be speculating as to why there are three recruitments. They certainly had plenty of candidates.

Q. Okay. Now, if you look at the turnover statistics on Exhibit 47, does it appear to you that MTA has any difficulty in retaining --

A. No.

Q. -- members of this bargaining unit?

A. It appears, based on the statistics, that the principal reason for turnover is retirement, suggesting that employees within these classes

are career employees and remain to serve out their employment careers with MTA.

Q. I see 11 resignations since the year 2000. Does that confirm your opinion?

A. When I look at resignations compared to retirements, yes, the -- again, the overwhelming majority of separations reported here in each of the years they're reporting are due to retirements and not for other reasons.

Q. Finally, did you have an opportunity to review Mr. Lunch's data?

A. Very briefly, yes, I did.

Q. And what conclusions, if any, did you reach about that data?

A. My conclusions are basically that I'm unable to verify much about the data other than the information concerning the size of various transit properties, the number of employments. The information that's provided from the National Transit Database, I thought, was extremely informative in terms of identifying the largest organizations within the state of California. However, with regard to the survey of transit supervisor, which I assume was a principal purpose, there was no identification of the class to -- which was matched in the various survey properties. In other words, I have no way of verifying exactly which class was deemed to be the appropriate comparison to transit supervisor.

There's a general lack of information. There's little or no documentation. It's not sufficient. There's no statistical information provided. There's no calculation of means, medians or other information that would give me the basis to say from that data I would conclude MTA is up at about the average of the market, below, above, whatever. It's -- there -- it's -- it seems rather raw information that, quite frankly, requires considerable additional attention before it -- before it moves to the point where it can be analyzed.

Q. Were there substantial inconsistencies between his data and yours?

A. There were inconsistencies in terms of the rate of pay. I think we found only one case where the rate of pay was the same. We surveyed all but two of the employers that Mr. Lunch surveyed. He concluded in

his survey, I believe, Orange County, and there's one other employer --

MR. ANDERSON: Long Beach.

THE WITNESS: Oh, Long Beach. Thank you, Mr. Anderson -- Long Beach, that MTA did not include in its survey. So the surveys are pretty similar. Of those that are the same, I believe San Diego was the only one case where we -- where we arrived at the same salary calculation that Mr. Lunch did. Again, because I don't know the title of the jobs that he matched, I have no way of going back to confirming or determining whether or not the matches made were correct or incorrect.

MR. SLOAN: No further questions.

ARBITRATOR HOH: Cross-examine?

MR. ANDERSON: Yeah, I've just got a couple of questions.

***CROSS-EXAMINATION BY MR.
ANDERSON***

MR. ANDERSON: Q. In taking a look at survey data and listening to your testimony, you have on your data percentage of employee contribution that is picked up --

ARBITRATOR HOH: You're referring to 41; is that correct?

MR. ANDERSON: In any one of them.

ARBITRATOR HOH: Oh, all right.

MR. ANDERSON: Q. I'm looking right now at the -- at 42.

ARBITRATOR HOH: All right. Thank you.

MR. ANDERSON: Q. If you look at the second page, now, I believe your testimony was that this was the pickup of mandatory employee contributions?

A. Correct. That's correct.

Q. In a number of circumstances there are no mandatory employee contributions; are you aware of that?

A. Outside of California --

Q. No.

A. -- or in California?

Q. Sacramento, for example, and Alameda, Contra Costa.

A. The -- in terms of pickup or simply the lack of mandatory employee contributions?

Q. The lack of any employee contributions by virtue of the fact that it's fully paid for by the employer.

A. Okay. The information that was reported to us both by Sacramento and by AC Transit I'll --

Q. There was no pickup?

A. -- was that there was no pickup.

Q. Right. They didn't -- you didn't ask the question, "Well, is there any mandatory employee contribution?"

A. That's -- well, we asked specifically the question that's answered here, which is, "Do you contribute on behalf of the employee?"

Q. You're -- since I'm very familiar with both of those pension plans, I can represent there are no employee contributions because those are trust funds that are paid for fully by the employer. All right. The next question --

MR. SLOAN: I'm sorry. Was there a question in there?

MR. ANDERSON: As I said, I made a representation.

MR. SLOAN: Oh, okay.

MR. ANDERSON: You know, I can verify that if you want me to.

Q. The next question is -- and I don't -- I don't know why we have a variation with respect to the salaries.

ARBITRATOR HOH: I'm sorry. With respect to what?

MR. ANDERSON: With respect to the salaries.

ARBITRATOR HOH: Salaries.

MR. ANDERSON: But we'll double-check that because I think it's important that we be on the same page with respect to what that data is.

Q. The other thing is, is that --

MR. SLOAN: That's a fair statement.

MR. ANDERSON: Q. -- that we've always played around with these averages, medians, means, but what you don't have in there is a weighted average.

A. That's correct. It is not a weighted average.

Q. That's correct.

A. It's a simple average.

Q. That's correct. And a weighted average would give a prevailing rate?

A. It would -- Mr. Anderson, given both of our familiarity with the prevailing wage formulas in San Francisco, indeed weighted averages were the -- were an element of the formula.

Q. Right. So for example, when you have data and when you have a mean and you have a small sample, it is skewed by one or two, but when you have a median and you only have two or three supervisors in one area and you've got a thousand supervisors in another area, the median is also skewed; isn't that correct?

A. Yes. And I would like to say, however, in response to that, that similar to the selection that the Union made in terms of the employers that were included in your survey, I thought it was interesting that -- with only one or two exceptions, that MTA has selected the same group of California employers. So it -- it would appear that we were -- were at least drawing on the same database.

Q. I think that what we need to do, you know, for the purposes of -- you know, I don't think we need to have dueling surveys, and what I would like to do is to go back, double-check your materials and materials that we put together and resolve any conflicts in those, because I think it would be important for the Arbitrator -- I mean, we're going to disagree about means and medians and whether we ought to have --

A. Sure.

Q. -- a weighted average or stuff like that. To me, that's not important. What is important is that we're talking on the same page about the same classifications. I believe that we are. I think some of your data is stale. But on the other hand, we need to resolve that.

ARBITRATOR HOH: Is this a roundabout way of asking Mr. Rothman if he is available on future days?

MR. ANDERSON: Yes.

ARBITRATOR HOH: Fair enough. Are you available on future days?

THE WITNESS: Absolutely. And I want to acknowledge that I always support a collaborative approach on these. It makes good sense. These are issues which can be verified objectively. I'm delighted to share my material with Mr. Anderson, and I'm sure his folks can share their material with me and that we can resolve any outstanding problems.

ARBITRATOR HOH: The chairperson appreciates that.

MR. ANDERSON: Despite your affiliation, it appears that we're still going to be able to work.

ARBITRATOR HOH: Are we done, Mr. Anderson?

(A recess was taken from 6:13 p.m. to 6:18 p.m.)

ARBITRATOR HOH: Back on the record. Go ahead, Mr. Anderson.

MR. ANDERSON: Q. Okay. Just -- just for information, all of these particular classifications around the -- at least around the state have rate ranges, and I note that you're using a single rate. And what rate are you using? Are you -- are you averaging the rate -- range or are you taking the max on the range, the top of the range or what?

A. First of all, you're correct; I'm using only one rate. And the rate, as indicated in the narrative report, is the maximum monthly salary, so the rate that we're quoting is simply the highest rate that the employers that we surveyed represented that --

Q. So it would be the top rate?

A. Correct. It's the top rate.

Q. The -- the MTA -- the MTA rate that you used was -- was what?

A. The MTA rate for the 9139 --

Q. Yes.

A. -- class? We used a maximum rate of \$5850 per month.

Q. 5850 per month. Which is the annual salary of \$70,200 or whatever it is?

A. It's -- it's -- yeah, it would be just under that or approximately that.

Q. So does that include in that rate the -- the pickup for retirement?

A. No, the underlying rate does not. The -- the column titled "Total" would include the value of that retirement pickup, which is another \$439 a month.

MR. ANDERSON: Okay. Based upon your representation that we're going to get and try to resolve differences on those, I have no further questions.

ARBITRATOR HOH: Okay.

MR. DE NARDO: Can I have one question --

ARBITRATOR HOH: Yes.

MR. DE NARDO: -- or two rather than pull everybody out and tell them what to ask him?

CROSS-EXAMINATION BY MR. DE NARDO

MR. DE NARDO: Q. Exhibit 47 --

ARBITRATOR HOH: 47.

MR. DE NARDO: Q. -- the very last one --

A. Right.

Q. -- which is the separations for Local 200 over the past five years. Okay. My first

question is -- is, Did you or do you know who prepared this document?

A. No, this was prepared by MTA. I don't know who in MTA prepared it, Mr. De Nardo.

Q. Okay. Do you --

MR. SLOAN: We can get you that information.

MR. DE NARDO: Q. Okay. The other piece of information that I would like, then, is the number of years of service that folks in Local 200 had -- you have this great chart showing that everybody wants to be in Local 200, nobody ever leaves Local 200 until they retire. Well, how many years of service do they have in Local 200? My -- I think people get promoted into it and probably have about 10, 15 years of service and stick around for another 5 or 10 and retire, so I'd like to know that.

ARBITRATOR HOH: And Mr. Rothman is nodding his head. I -- I assume that he is going to give it to you by the end of the case.

THE WITNESS: I'd be happy to do that for you, Mr. De Nardo. I guess a question on clarification would be, Are you interested in that information only as it accompanies the separation report or -- or some other variation?

MR. DE NARDO: Q. Well, if it can be -- if it can go along with the separation report as well as a total for the whole unit --

A. Oh, okay.

Q. -- that would be wonderful.

A. Okay.

ARBITRATOR HOH: Anything further on the Union side?

MR. ANDERSON: No, except good night.

ARBITRATOR HOH: Any redirect?

MR. SLOAN: Yes.

ARBITRATOR HOH: Go ahead.

REDIRECT EXAMINATION BY MR. SLOAN

MR. SLOAN: Q. Mr. Rothman, what was charter section 8-407?

A. Charter section 8.407 was a provision which required a survey of -- generally of local employers to establish wage rates for most job classifications in the City and County of San Francisco. It was a formulaic survey in the sense that, first of all, it was weighted, as Mr. Anderson referred to previously. It also used a midpoint calculation rather than a minimum or a maximum calculation. It was -- because it was a formula, the City was afforded very little discretion with regard to its use. It was a benchmark system. The City defined, at various times, roughly between 50 and 80 different benchmarks. All classes in the system were assigned to one of those benchmarks, and based on the outcome of the survey for benchmarks, all classes received wage adjustments on an annual basis.

Q. Okay. So it did call for weighted averaging?

A. Yes, it did.

MR. ANDERSON: What has that got to do with wages?

ARBITRATOR HOH: Let him finish, and you can ask a question.

MR. SLOAN: Q. And the electorate voted in full-scale collective bargaining in interest arbitration. Did it continue forward the previously mandated process of weighted averaging?

A. No.

MR. SLOAN: No further questions.

MR. ANDERSON: Well, I just want to ask one question, Geoff.

***RECROSS-EXAMINATION BY MR.
ANDERSON***

MR. ANDERSON: Q. What the devil has that got to do with the methodology of using weighted averages for the purpose of finding prevailing rates?

MR. SLOAN: Well, I think that's a legal question.

MR. ANDERSON: No, it's not. It's a method of statistical analysis which is used on -- quite frequently with respect to determining what a weighted wage is.

ARBITRATOR HOH: Well, his data is his data. You can argue there's something missing from that. Okay. Anything further of this witness?

MR. SLOAN: No, sir.

ARBITRATOR HOH: All right. We're finished, right, of this witness?

MR. SLOAN: Yes.

ARBITRATOR HOH: Thank you. Before we leave -- we're off the record.

(Whereupon, the proceedings adjourned at the hour of 6:24 p.m.)