

May 24, 2005

Mr. John Turoski  
Legislative Staff, State Senator Spano  
Room 509 Legislative Office Building  
Albany, New York 12247

Dear Mr. Turoski:

As per the conversation you had yesterday with Local Division 1 General Chairman, Anthony Bottalico, please find the attached counter proposal that was made to Metro-North Commuter Railroad (MNCR) and the National Mediation Board (NMB) by the so-called Metro-North AFL-CIO Labor Coalition concerning the recent round of collective bargaining. In it you will find an acknowledgment that the four year package negotiated by the Association of Commuter Rail Employees (ACRE) has been valued by them at 23.7% plus the first year \$1,000 signing bonus (14.7% for the conversion into the Defined Benefit Pension System and 9% in wage increases over the four year life of the contract). Our organization has no doubt that many of Senator Spano's constituents who have seen their real wages dwindle and their health costs soar will be interested to know that a four year 23.7% wage package with an early retirement benefit is considered by Senator Spano to be a "substandard" agreement. The state workers, teachers, police, firemen, county workers, prison guards, and the host of other workers struggling to make ends meet could well wonder what the Senator intends to do to champion their cause especially those who ride Metro-North trains.

While we are in the process of preparing a more formalized and more prodigiously documented presentation for general release, ACRE wanted to allow Senator Spano the opportunity to rescind his rather scathing attack on our organization before more damage is done to Senator Spano's credibility and reputation. ACRE appreciates that Senator Spano's letter was presented as a favor to a segment of the labor community that, ironically, has never supported him (unlike ACRE, check with your campaign committee) but he apparently had no appreciation for how badly he had been misled by the very people he tried to help. In the interest of fairness ACRE wanted to offer an opportunity for the Senator to hear the other side of the issue so he could reconsider the letter he signed. If this same sense of fairness had been extended by you to our organization none of us would be in the situation we now find ourselves.

ACRE is the largest union on Metro-North and represents about 1,500 transportation employees including Conductors, Engineers, Rail Traffic Controllers, Power Supervisors, Signalmen, Yardmasters and Hostlers on MNCR. ACRE has been certified in democratically conducted elections administered by the National Mediation Board to collectively bargain for these crafts with MNCR. ACRE won this right through elections conducted by the National Mediation Board against the United Transportation Union (UTU), the Brotherhood of Locomotive Engineers (now the BLE&T), and the Brotherhood of Railroad Signalmen (BRS) by a combined total of 1,085 to 179. In the recent round of collective bargaining, the contract your office refers to as

"substandard" was voted on through secret ballots and passed by margins that would make any politician green with envy. Our members and their families are already experiencing the benefits this agreement has provide to them, most notably the enhanced retirement and disability protections

Even without any understanding of the historical climate in which this agreement was negotiated it stands on its own as an excellent deal negotiated in a less than favorable economic environment. But when one considers the historical context in which ACRE had to operate, the agreement is a monumental achievement. When the Long Island Rail Road moved into the public sector, a pension was secured for its agreement employees that has been referred to as the Rockefeller Pension. This pension has continued to provide early and enhanced retirement benefits to LIRR employees who hired out before 1988. When Metro-North moved into the public sector in 1983 no such pension was secured for its employees nor was wage parity achieved with their respective crafts on the LIRR. Bear in mind that the same unions who came whining to Senator Spano for help in this round of bargaining are the same unions that created the disparity in wages, disability, and pension benefits twenty-two years ago. Furthermore, they have negotiated agreements on both the LIRR and MNCR for their crafts in every round of bargaining since that time without addressing the parity issue they now so disingenuously deplore. Because of this historical disparity in our respective pension systems, the recent pension conversion that was the hallmark of this round of collective bargaining only covers employees on the LIRR who hired out after 1988 roughly 50% of the LIRR work force. On the other hand, the pension conversion on Metro-North will cover all agreement employees representing 100% of the work force.

This simple fact creates an economic reality that is inescapable. The new Defined Pension Benefit costs considerably more on Metro-North than it does on the LIRR. Virtually no employee will retire under the new pension plan on the LIRR for at least thirteen years because the pension only covers employees who hired out after 1988 (those employees who hired out before 1988 are covered by the original Rockefeller Pension and those who hired out after 1988 need to get to 2018 to have 30 years of service under the Railroad Retirement System). On the other hand, Metro-North employees who did not have the benefit provided by the Rockefeller Pension all come under the new Metro-North Pension. Members of the crafts that have signed on to the agreement have been eligible for retirement under the new pension since its ratification last year (these employees all have in excess of 30 years under the Railroad Retirement System and have retired with credit under the new Metro-North Pension for years going back to 1983). Unlike the LIRR, MNCR has already had numerous employees retire under the new pension program who are now and will continue to draw money out of the system. Furthermore, the pension on Metro-North provides pension credits back to 1983 not 1988 as is the case on the LIRR. That's five more years of pension credits for employees on MNCR than were secured on the LIRR which obviously presents a greater economic liability. To secure this agreement on Metro-North, ACRE had to face the economic realities that were actually created by the same unions that recently came to your office with their less than honest assessment of the negotiating bind they put themselves in. In essence, the other unions created the problem, ACRE solved it, and now the other unions are complaining about the 23.7% solution (their own submission to Metro-North and the NMB). Again, this entire subject will be dealt with in much greater detail later.

These undeniable facts beg the question why the other unions have not embraced the ACRE

agreement. The answer is politics pure and simple. The opposition to the agreement does not stem from any shortcomings with the agreement itself but from the mere fact that ACRE negotiated it. When ACRE was created five years ago its creation sent shock waves throughout the entire railroad labor community. We had suffered from what can most charitably be described as the inattentive and incompetent representation provided by our former Internationals (UTU, BLE, BRS). All you need do is research the war that has been waged between the UTU and BLE for the past eight years to see how derelict they have been in their responsibilities to their members. As a consequence of this dereliction of union responsibilities, Conductors, Engineers, Rail Traffic Controllers, Power Supervisors, Signalmen, Yardmasters and Hostlers on MNCR exercised their rights under the law and formed a member friendly independent democratic organization. As we become increasingly more successful and provide increasingly better service to our members we become an increasingly greater threat to the status quo of the other unions whose members have suffered from their own inattentive representation. Hence the need for a letter from someone like Senator Spano they can wave around Metro-North property in an effort to make ACRE look bad. It doesn't matter to the other unions that the letter is full of disinformation or outright lies it only matters that it is in writing and is from someone important.

You see, ACRE represents a previously unavailable option the other unions simply cannot abide. Their concern is not so much the quality of representation they provide to their members but instead discrediting us so they don't lose their members to ACRE. That's the ultimate irony: if they spent as much time and energy representing their members as they do attacking ACRE they would not have to worry about losing their members to us. And they surely would have no need to drag elected representatives like Senator Spano into purely political fights to protect themselves against their own representational failures.

As I previously stated, this entire subject will be handled in much more detail in a future presentation but I would be remiss if I didn't address one last point. Senator Spano states in his letter, "ACRE is a union whose officers are on the Metro North payroll. Many believe that ACRE was created with the support of Metro North management." I urge you to go to the National Mediation Board's website and look up 29 NMB No. 85 Case NO. R-6893 (you might as well because it will be part of our presentation). This absurdity as it relates to the creation of ACRE and the widespread practice of "release time" for union officers was investigated and dismissed by the NMB during the representational dispute that ACRE won against the BRS. In actual fact, even the people who ramble around our property spouting this lie know it's not true. Not one shred of evidence has ever been presented that would lend credibility to this absurd notion. For the other unions on Metro-North to get Senator Spano to echo this preposterous lie is the height of disrespect for both Senator Spano and the office he holds.

If you have any further questions, don't hesitate to contact our office. We know that Senator Spano was misled and when he examines all the real facts in this matter we are confident he will take the opportunity presented to set the record straight. If he doesn't, rest assured ACRE will. We look forward to hearing from you very soon.

Yours truly,

John Gaines  
ACRE Executive Legislative Director

P.S. One last piece of information; ARSA one of the unions under negotiations signed on to the ACRE agreement three days after the Senator mailed his letter. You can check with the MNB but it seems very unlikely that they would ever allow the unsigned unions on MNCR to disrupt our commuter service while an agreement as lucrative as the one ACRE negotiated sits on the table. They apparently have a better understanding of the politics involved than the Senator whose constituents live and work in the Metro-North service area.