

INSTRUCTIONS: File the original and three copies of the complaint and all attachments and the \$250 filing fee with the Board at:

528 Cottage St NE, Suite 400
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**STATE OF OREGON
EMPLOYMENT RELATIONS BOARD**

**UNFAIR LABOR PRACTICE
COMPLAINT
Public Employment**

For Board Use Only

Case No. _____

Date Filed _____

COMPLAINANT

Amalgamated Transit Union Division 757

RESPONDENT

Tri-County Metropolitan Transportation
District of Oregon

Complainant alleges that Respondent has committed an unfair labor practice under ORS 243.672(1)(e) of the Public Employee Collective Bargaining Act. The following is a clear and concise statement of the facts involved in each alleged violation, followed by a specific reference to the section and subsection of the law allegedly violated.

1.

Complainant Amalgamated Transit Union Division 757 (“ATU”) is a labor organization as defined in ORS 243.650(13). ATU is the exclusive representative of certain employees of Respondent Tri-County Metropolitan District of Oregon. ATU is a strike-prohibited unit under ORS 243.738.

2.

Respondent Tri-County Metropolitan Transportation District of Oregon ("TriMet") is a public employer as defined in ORS 243.650(20).

3.

ATU and TriMet are parties to a collective bargaining agreement effective December 1, 2003 through November 30, 2009 (the "Agreement"). The Agreement is attached hereto as Exhibit A and incorporated herein.

4.

On or about October 22, 2009, the parties met to begin bargaining over a successor collective bargaining agreement. During this session, the parties agreed to ground rules, which among other things require "[a]ll proposals [to] be in writing, or promptly reduced to writing if initially made verbally at the bargaining table." The ground rules are attached hereto as Exhibit B and incorporated herein.

5.

On or about November 20, 2009, the parties met for a second bargaining session at which the parties exchanged written proposals. TriMet's proposal is attached hereto as Exhibit C and incorporated herein. ATU proposed to maintain the status quo as set forth in the existing Agreement. To that end, ATU submitted a copy of the Agreement as its written proposal, along with a letter to TriMet confirming ATU's proposal. ATU's letter is attached hereto as Exhibit D and incorporated herein. The parties did not submit written proposals to each other at any point after November 20, 2009.

6.

The parties bargained for over 150 days and, on June 7, 2010, commenced mediation under ORS 243.712. The parties participated in a number of mediation sessions during June and July 2010. Neither party submitted new written proposals during mediation.

7.

On or about July 14, 2010, TriMet filed a declaration of impasse with the mediator under ORS 243.712(2)(a).

8.

On or about July 21, 2010, the parties petitioned for interest arbitration and submitted their respective final offers and cost summaries to the mediator under ORS 243.712, ORS 243.724, and OAR 115-040-000. ATU's and TriMet's petitions initiating binding arbitration, final offers, and cost summaries are attached hereto as Exhibits E and F, and are incorporated herein.

9.

ATU's final offer is to maintain the status quo as set forth in the parties' existing agreement under a new three-year collective bargaining agreement. (Ex. E at p. 3). ATU's final offer contains no new issues; it is reasonably comprehended within and logically evolves from ATU's November 20, 2009 written proposal to maintain the status quo under the existing Agreement.

10.

In contrast, TriMet's final offer contains a number of new issues that are not reasonably comprehended within and do not logically evolve from TriMet's November 20, 2009 written proposal—which is the only written proposal that TriMet has submitted to ATU.

11.

Specifically, TriMet's final offer contains the following new issues:

(a) Article I, Section 1, Paragraph 6 – Frequency of Joint Labor Management Committee meetings (Ex. F at pp. 2, 4);

(b) Article I, Section 1, Paragraph 6 – Pay for ATU members to attend Joint Labor Relations Committee meetings (Ex. F at pp. 2, 4);

(c) Article I, Section 9, Paragraphs 1, 2, 3, and 5; Active Employee Health Benefits Summary (new); and Summary Plan Descriptions – Health and welfare benefits, benefit coordinator, employee assistance program, and sick pay (Ex. F at pp. 2, 7-12, 25-33);

(d) Article I, Section 19, Paragraph 4 – Contribution to Recreation Trust Fund (Ex. F at pp. 2, 14);

(e) Article VIII – Wages (Ex. F at pp. 2, 17);

(f) Pension Plan and Permanent Disability Agreement, Section 1, Paragraphs 2-17 – Retirement benefits (Ex. F at pp. 2, 18-22);

(g) Pension Plan and Permanent Disability Agreement, Section 2, Paragraphs 2-3 – Permanent disability benefits (Ex. F at pp. 2, 23-24); and

(h) Retiree Benefits Summary – Retirement benefits (Ex. F at pp. 2, 34).

12.

A party bargains in bad faith when it submits new issues in its final offer. *See Blue Mountain Faculty Ass'n v. Blue Mountain Cmty. Coll.*, Case No. UP-22-05, 21 PECBR 673 (2007); *Amalgamated Transit Union, Local 757 v. Rogue Valley Transp. Dist.*, Case No. UP-80-95, 16 PECBR 559, 581-83 (1996).

13.

TriMet bargained in bad faith, in violation of ORS 243.672(1)(e), when it submitted new issues in its final offer.

14.

TriMet maintains e-mail addresses for all ATU members, and routinely uses its e-mail system to communicate with ATU members about job-related matters. Communication

