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IN ARBITRATION PROCEEDINGS PURSUANT TO THE  
COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES

In the Matter of

**OHIO STATE TROOPERS  
ASSOCIATION**

and

**OHIO DEPARTMENT OF PUBLIC  
SAFETY, DIVISION OF THE OHIO  
STATE HIGHWAY PATROL**

**Grievance No. 15-03-20110525-0067-  
04-01**

**Grievant: Sara J. Kwiecien**

**ARBITRATOR'S  
OPINION AND AWARD**

This Arbitration arises pursuant to the collective bargaining agreement (“the Agreement”) between the Parties, the OHIO STATE TROOPERS ASSOCIATION (“the Union”) and the OHIO DEPARTMENT OF PUBLIC SAFETY, DIVISION OF THE OHIO STATE HIGHWAY PATROL (“the Division”) under which SUSAN GRODY RUBEN was appointed to serve as sole, impartial Arbitrator.

Her decision shall be final and binding pursuant to the Agreement. The Parties stipulated there are no procedural impediments to a final and binding Award.

Hearing was held May 15, 2013. Both Parties were represented by advocates who had full opportunity to introduce oral testimony and documentary evidence, cross-examine witnesses, and make argument. Post-hearing briefs were timely filed June 24, 2013.

#### APPEARANCES:

On behalf of the Union:

HERSCHEL M. SIGALL, Esq. ELAINE N. SILVEIRA, Esq., Ohio State Troopers Association, 6161 Busch Boulevard, Suite 130, Columbus, OH 43229.

On behalf of the Division:

S/Lt. CHARLES J. LINEK, Ohio Department of Public Safety, Division of the Ohio State Highway Patrol, 1970 W. Broad Street, Columbus, OH 43223.

#### ISSUE

Did the Division violate Article 22.07 of the Agreement when it denied payment of the “Dispatch Premium” when Grievant dispatched for units working the Cleveland Metro initiative? If so, what shall the remedy be?

## RELEVANT PORTIONS OF THE AGREEMENT

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### ARTICLE 22 – HIGHWAY PATROL DISPATCHERS

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#### 22.07 Bridged Dispatchers

1. Whenever MARCS or CAD operations of one Highway Patrol Facility are bridged to another Highway Patrol Facility for operational considerations, the Dispatcher performing the dispatching duties shall receive a “Dispatch Premium” of four dollars (\$4.00) per hour for all hours that the bridging occurs. No premium will be paid for bridging that is less than thirty (30) minutes in duration. Any bridging that is more than thirty (30) minutes will be rounded to the nearest hour.
2. No premium shall be paid to bridge facilities for the purpose of facilitating dispatcher meal and/or desk breaks.
3. No premium shall be paid to dispatchers working at the Communication Center unless more than two (2) posts are bridged to one (1) CAD for a duration longer than thirty (30) minutes.
4. The most senior dispatcher on duty will be offered the opportunity to work the bridged CAD. If the most senior dispatcher declines, the least senior dispatcher on duty will be required to work the bridged CAD.

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## THE GRIEVANCE

The May 17, 2011 Grievance provides in pertinent part:

On May 6, 2011 from 6 p.m. to 10 p.m. I worked bridged with Post 47 and Post 18. Subsequently, I submitted for dispatcher premium and was approved by Lt. Swindell on May 9, 2011....On May 10, 2011 from 2:00 p.m. to 3:30 p.m. I again worked bridged with Post 47 and Post 18. Subsequently, I submitted for dispatcher premium and was disapproved by Lt. Swindell on May 12, 2011 stating "not considered a post just special detail at this time. 1092 no further DP for this detail." ...As covered in the contract the "special detail" should be considered the same thing as "operational considerations" and dispatch premium should be granted.

An HP-22 was issued by Dispatcher Supervisor C. Freund on May 17, 2011 with regards to Dispatcher Premium. In this Communication it is stated "when you are working the Cleveland CAD you are not eligible for DP. This is considered a special assignment." It should be noted that Dispatcher Supervisor C. Freund acknowledges that Post 18 is the "Cleveland CAD." As such, as stated in the contract, if bridging occurs between MARCS or CAD operations of one Highway Patrol Facility to another Highway Patrol Facility then it shall result in Dispatcher Premium. This Communication addresses the issue of working Post 18 or Cleveland CAD solely, not the bridging of this CAD to any of the Medina Dispatch Center CADs, i.e., Post 52 or Post 47.

## POSITIONS OF THE PARTIES

### Union Position

The troopers assigned to Canton and dispatched from the Canton facility (as well as troopers assigned to the Milan post and dispatched from the Berea Dispatch Center) were temporarily transferred to the Medina Dispatch Facility.

During such transfer periods, the Grievant was wholly responsible for the dispatch responsibility for these troopers.

The Division's Dispatcher Manager testified troopers dispatched by the Canton Dispatch Center on May 5, 2011 were on May 6, 2011 dispatched by the Medina Dispatch Center. As of May 6, 2011, Medina monitored the Cleveland Metro talk group.

The Dispatcher Manager also testified Dispatcher Premium pay is paid when "bridging" occurs for one trooper or many troopers. She testified Post 18 could not have been bridged because it was not a Post at the time in question and did not have a CAD. However, the transfer/bridging was from the Canton Dispatch Center, not from Post 18.

Following consolidation of dispatching operations a few years ago, a grievance arose regarding the Dispatch Premium. The Union's position was that the temporary transfer from one "work station/CAD" to another work station constituted bridging pursuant to Article 22.07. Arbitrator Virginia Wallace-Curry denied the grievance, noting that "work station" was not language found in the Agreement. Arbitrator Curry held:

Whatever the intent of either party in negotiating the premium pay, [the language of Article 22.07] is the language on which the parties settled. The language is not vague and does not require interpretation. The only role the Arbitrator can play in this instance is to apply the language to the facts. Premium pay applies only when CAD operations are transferred from one facility to another.

When the dispatch operations of several posts are combined into one facility, no premium applies when a Dispatcher at that facility must accept the CAD operations from another Dispatcher at the same facility.

Case No. 15-03-071221-0188-04-01, (2010) at p. 12.

Arbitrator Curry's decision required the Dispatch Premium to be paid only when there is a transfer of dispatch responsibility from one brick and mortar facility to another brick and mortar facility. In the instant case, that is what occurred.

The Division asserts bridging cannot take place unless all of the dispatching is transferred from one Dispatch facility to another one. This is not what the Agreement provides.

Article 22.07 relates to increased duties imposed upon Dispatchers. The Division elects to temporarily transfer the responsibility for dispatching troopers unknown to the receiving Dispatcher. Canton and Milan troopers were temporarily transferred to the responsibility of the Grievant.

Bridging occurs when the "CAD operations of one Highway Patrol Facility are bridged to another Highway Patrol Facility for operational considerations." In this case, the CAD operations related to troopers assigned to the Canton Dispatch Center and the Berea Dispatch Center were temporarily transferred to the Medina Dispatch Center. For the period of such transfer, the Grievant is entitled to the Dispatch Premium.

## Division Position

Bridging did not take place. Article 22.07 requires the Dispatch Premium only when bridging takes place. Post 18, the Cleveland Operations, did not have a single CAD in the facility, nor did it have dispatchers assigned there. Consequently, there was no CAD at Post 18 to bridge with the Medina facility where the Grievant was working dispatch. Additionally, the record evidence shows Canton and Berea did not bridge their CAD or MARCS operations to the Medina facility.

On May 6, 2011, two of the troopers working the Metro Initiative detail were already assigned to the Medina Post, where the Grievant was assigned. Bridging for these units is not possible because the CADS are located in the same facility. Additionally on May 6, one trooper from the Canton Post was working the Metro Initiative detail. No bridging was required for the Medina and Canton troopers working the Metro Initiative detail; rather, they just accessed the talk group established for the Metro Initiative detail.

The Canton CAD and MARCS operations were not bridged to the Medina Post because the Canton dispatcher was still responsible for dispatching the Canton troopers who were not assigned to the Metro Initiative.

The fourth trooper working the Metro Initiative on May 6 was assigned to the Milan Post. The Berea Dispatch Center is responsible for the Milan Post.

Berea was not bridged to Medina because Berea had to maintain CAD and MARCS operations for the remaining troopers working out of the Milan Post.

On May 10, 2011, the Milan trooper was the only unit assigned to the Metro Initiative not assigned to the Medina Post. Accordingly, on May 10, Berea CAD and MARCS operations were not bridged to Medina because Berea had to maintain CAD and MARCS operations in order to dispatch the other troopers working out of Milan. The Milan trooper assigned to the Metro Initiative that day simply switched talk groups on his in-car radio.

The record shows the Division is not skirting its contractual obligation to pay the Dispatch Premium when appropriate. During periods of time when the Metro Initiative was being dispatched by Medina, Sandusky was used to dispatch for Elyria. The Dispatch Premium was paid in those instances because the Elyria CAD and MARCS operations were bridged from Medina to Sandusky. Overall, during 2011, the Division paid 16,026 hours of the Dispatch Premium.

Much like the situation in Arbitrator Curry's Award, the Union is again attempting to argue that a single trooper selecting a talk group from a post other than where he was assigned invokes the Dispatch Premium for the affected dispatcher. Troopers have statewide responsibility and jurisdiction.



No bridging occurs when a trooper, traveling to a different post area, changes the channel of the cruiser's radio to the local dispatch center.

The Union's attempt at interpreting the plain and unambiguous language of the Agreement is nowhere close to the negotiated language. First, a trooper's vehicle is not a facility. Second, changing the radio channel does not require the bridging of MARCS or CAD operations from one facility to another facility. The biggest flaw in the Union's argument is that MARCS and CAD operations bridged from one facility to another facility is what drives the premium pay, not a trooper's operations.

As Arbitrator Curry held:

The final language on which the parties agree is the best evidence of the parties' intent. The Union was unable to negotiate language into the 2006-2009 or the 2009-2012 Agreement that would award Dispatchers premium pay when they receive the work from another Dispatcher's CAD, regardless of location, and the Arbitrator cannot award that language in arbitration.

Case No. 15-03-071221-0188-04-01, (2010) at p. 12.

According to Elkouri & Elkouri:

If the words are plain and clear, convey a distinct idea, there is no occasion to resort to interpretation, and their meaning is to be derived entirely from the nature of the language used.

How Arbitration Works, 6<sup>th</sup> ed., (2003) at p. 434.

## OPINION

The Union has the burden of proving the Division violated Article 22.07 when it denied the Dispatch Premium to the Grievant when she dispatched for troopers working the Cleveland Metro Initiative in 2011. Article 22.07 provides in pertinent part:

### 22.07 Bridged Dispatchers

1. Whenever MARCS or CAD operations of one Highway Patrol Facility are bridged to another Highway Patrol Facility for operational considerations, the Dispatcher performing the dispatching duties shall receive a "Dispatch Premium" of four dollars (\$4.00) per hour for all hours that the bridging occurs. No premium will be paid for bridging that is less than thirty (30) minutes in duration. Any bridging that is more than thirty (30) minutes will be rounded to the nearest hour.

In OSTA and DPS/DHP, Case No. 15-03-071221-0188-04-01 (2010), Arbitrator Virginia Wallace-Curry affirmed that for bridging to occur, the CADS operations bridged must be from one "facility" to another "facility," not from one workstation within a facility to another workstation within that same facility. As Arbitrator Curry explained, "The final language on which the parties agree is the best evidence of the parties' intent." Id., at p. 12. Accordingly, dispatching for the Cleveland Metro Initiative, which had no physical facility in May 2011 that had CADS operations, cannot contractually be the basis for an award of the Dispatch Premium.

Aware of Arbitrator Curry's Award, the Union in the instant matter stakes its claim for the Dispatch Premium on the fact the Grievant dispatched for troopers assigned to the Cleveland Metro Initiative from their regular posts of Canton and Milan. The record establishes the Grievant dispatched for Canton and Milan troopers detailed to the Cleveland Metro Initiative. The question, however, is not whether this occurred, but whether this establishes "bridging" occurred.

It is clear from the record "bridging" is a term of art with a specific meaning in the Agreement. Testimony from multiple witnesses established that bridging occurs only when all CAD and/or MARCS operations are sent from one facility to another facility.

In the instant case, the Grievant was not dispatching all the troopers from Canton and Milan. Rather, she was dispatching the troopers from Canton and Milan who were detailed to the Cleveland Metro Initiative. Dispatchers in Canton and Milan kept their CAD operations on the days in question to dispatch the Canton and Milan troopers who were not detailed to the Cleveland Metro Initiative, but rather were performing their regular Canton and Milan duties.

There is no question the Grievant was assigned on the days in question to dispatch for a geographical area she was unfamiliar with. But Article 22.07

does not provide the Dispatch Premium for dispatching in unfamiliar geographical areas. Rather, Article 22.07 is quite specific that the Dispatch Premium is required only when the CAD and/or MARCS operations from one facility are bridged to another facility. As stated above, there is no dispute in the record that bridging is a term of art that applies only when an entire CAD is bridged, or transferred, from one facility to another facility. Article 22.07, by its own language, does not apply to situations such as the instant one, where individual troopers from one post were dispatched by another post, but the CADS operations remained with the troopers' home posts.

As Arbitrator Curry held:

Whatever the intent of either party in negotiating the premium pay, this is the language on which the parties settled. The language is not vague and does not require interpretation. The only role the Arbitrator can play in this instance is to apply the language to the facts.

Id.

#### AWARD

For the reasons stated above, the grievance is denied. The Division did not violate Article 22.07 of the Agreement when it denied the Dispatch Premium to the Grievant.

August 9, 2013

Susan Grody Ruben  
Arbitrator