

Bankruptcy - Common Questions and Answers July 19, 2012

Earlier in the year we provided answers to certain questions on the bankruptcy procedure. These answers have not changed, but for the convenience of the membership we think it is helpful to reiterate the answers to the most common questions. We have also added a question and answer regarding recently negotiated arrangements for the payment of equity to TWU members along with a question and answer regarding the ratification vote timeline.

What will happen if our contract is abrogated by the Bankruptcy Court?

If the Court abrogates our contract it will be in the context of a ruling that we unreasonably rejected the final Company proposal for relief made before the proceedings on the rejection of our contract began. That proposal was the so called "Ask" made in late March of this year. A ruling to reject our contract will enable the Company to impose the terms of the "Ask".

Will we have a contract?

The Company takes the position that imposition of the "Ask" creates a six year agreement. Our view is that imposed rates, rules, and working conditions are not an agreement. However, because these imposed terms are not an agreement, we have serious concerns that we are not protected by the Railway Labor Act's status quo requirements and are vulnerable to imposition of further concessions without our agreement. There are, regrettably, several cases which have held that there are no status quo requirements absent an underlying contract.

If our contract is rejected by the Bankruptcy Court will the Company still be compelled to negotiate?

Our view is that it will still be required to negotiate with us per the RLA. However, because we are in mediation there is generally no obligation to bargain in the absence of the National Mediation Board and unless they convene negotiations. We do not know how aggressively the NMB will pursue mediation in our case – or the case of any of the other AA unions—but, history strongly suggests that the NMB does not assign significant mediation resources in dealing with bankrupt companies. Moreover, even if the NMB becomes involved, it cannot compel the Company to agree to anything, and those who believe a release will be forthcoming quickly in the event negotiations stagnate have not accounted for how rarely such releases are granted.

Does the Company need a consensual agreement with all of its unions in order to exit bankruptcy?

There is no legal requirement that a Company which successfully moves to abrogate an agreement with a union under Section 1113 must reach agreement with that union before exiting bankruptcy.

We recognize that certain members and officers have argued that contract rejection and Company imposed terms and conditions are an acceptable outcome because the Company will be compelled down the road to provide a far better agreement in order to exit bankruptcy. Please consider why, if this is such an effective strategy, it has never been adopted by any union in any airline bankruptcy. The simple fact is that no union membership has ever ended up better after having its contract rejected in bankruptcy.

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Are there provisions for equity?

Yes. However, such equity is contingent upon court approval and membership ratification of a consensual agreement. The equity is designed to recognize some of our concessions. AA has agreed to extend to the TWU the basic terms and formulae of the APA equity arrangement agreement.

How was the timing of the ratification vote determined?

The Bankruptcy Court specifically requested that those unions's with tentative agreements inform the court of the results of ratification votes by August 8, 2012, a week before its scheduled decision on contract rejection. Should anything regarding the ratification timeline change we will notify you.