

Board file: 590-02-44771

IN THE MATTER OF A PUBLIC INTEREST COMMISSION  
UNDER THE *FEDERAL PUBLIC SERVICE LABOUR RELATIONS ACT*

BETWEEN:

PUBLIC SERVICE ALLIANCE OF CANADA

(the "Alliance")

-and-

TREASURY BOARD

("TB")

**For the Operational Services (SV) Group**

**Before:** - M. Brian Keller, Chairperson, Bob Kingston, Union Nominee and  
Stephen Bird, Employer Nominee

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Hearings held by videoconference November 28 to 30, and December 8, 2022.  
Mediation on December 20 and 21, 2022.

## Report

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[1] The Commission was established pursuant to the relevant provisions of the Federal Public Sector Labour Relations Act with respect to employees in the Operational Services Group [SV]. The mandate of the Commission is found at section 175 of the Act. It provides the factors that the Commission must take into account in fashioning its report.

[2]

*“175 In the conduct of its proceedings and in making a report to the Chairperson, the public interest commission must take into account the following factors, in addition to any other factors that it considers relevant:*

- (a) the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;*
- (b) the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the public interest commission considers relevant;*
- (c) the need to maintain appropriate relationship with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation, and as between occupations in the public service;*
- (d) the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed in the nature of the services rendered; and*
- (e) the state of the Canadian economy and the Government of Canada’s fiscal circumstances.*

[3] There are approximately 10,402 employees in the group. They are broken down into the following subgroups:

Firefighters [FR] - 516  
General Labour and Trades [GL]-4,261  
General Service [GS] - 3,343  
Heating, Power and Stationary Plant [HP] - 384  
Hospital Services [HS] - 302  
Lightkeepers [LI] - 110  
Ships’ Crews [SC]- 1483  
Printing Operations [Supervisory] [PR] - 3

[4] The aforementioned employees work in a number of federal departments. They include National Defence, Fisheries and Oceans, as well as Public Services and Procurement. The subgroups themselves are not necessarily homogeneous, and many of them contain a number of classifications.

[5] It goes without saying that the diversity of the work performed, and the skills required by the various subgroups and classifications makes bargaining difficult, given that each subgroup has its own concerns, priorities and needs.

[6] At the outset of negotiations between the PSAC and Treasury Board, it was agreed that there would be both a Common Issues Table as well as separate tables to deal with what could be called local issues for the various distinct groups. This report does not deal with common issues.

[7] To fully understand the brevity of this Report and paucity of recommendations, the history of negotiations and the costings of the various proposals is relevant.

[8] The first bargaining session took place on June 17, 2021. The parties met face-to-face for approximately two hours. The bargaining agent tabled 47 proposals. The employer tabled 82 proposals.

[9] The parties then met from September 21-23, 2021. Over that time, they spent approximately four hours in face-to-face discussions. The bargaining agent tabled two additional proposals. Three of the employer proposals were resolved as they were only editorial changes.

[10] The next session took place between October 26-28, 2021. The parties met for approximately 2.5 hours in face-to-face discussions. The bargaining agent tabled five additional proposals, withdrew one, and amended one. Two employer proposals were transferred to the common table.

[11] The fourth bargaining session took place from January 18-20, 2022. The parties spent approximately 2.5 hours in face-to-face negotiations. The

bargaining agent tabled an additional 57 proposals and the employer tabled an additional eight proposals.

[12] The next bargaining session took place on March 2 and 3, 2022 with a total of approximately three hours of face-to-face negotiations. The bargaining agent tabled eight new proposals, amended one, and withdrew six. The employer tabled two new proposals, amended one, and withdrew one.

[13] The sixth bargaining session took place on May 4 and 5, 2022. The bargaining agent withdrew two proposals. The employer tabled an initial comprehensive proposal that included 10 counterproposals. It withdrew six proposals and amended an additional six.

[14] Over the course of the six bargaining sessions, the parties met face-to-face for just under 16 hours. The bargaining agent tabled a total of 119 proposals, withdrew nine and amended two. For its part, the employer tabled 100 proposals, [including 10 counterproposals to PSAC proposals], withdrew seven, amended seven and the three editorial changes referenced above were agreed.

[15] The parties met in mediation from October 11-14, 2022. Including plenary and sidebars, they met for approximately six hours. The bargaining agent withdrew three proposals and three of its proposals were resolved. The employer withdrew two of its proposals and the parties agreed to an editorial change to one of its proposals.

[16] In sum, after many days of bargaining, and then mediation, the parties were pretty much where they were when they started.

[17] The employer informed the Commission that, as indicated above, during bargaining it had provided the bargaining agent with a comprehensive proposal that it hoped would result in a significant movement toward settlement, but that the bargaining agent never responded to its comprehensive proposal. For its part, the bargaining agent responded that it could not respond to the employer's comprehensive proposal as, in its view, it did not address the priorities of its members.

[18] Following the formal submissions before the Commission, the parties met in without prejudice mediation. Comprehensive proposals were exchanged and rejected by both parties. The Commission urged the parties to make comprehensive counter-proposals. The employer agreed to do so. The union negotiators informed the Commission that the negotiating team chose not to make a counter-proposal as it felt that the employer's proposals still did not address their concerns. At that point, mediation ended.

[19] The employer costed the proposals tabled by the bargaining agent. For the purposes of this Report, we are prepared to accept that costing as generally accurate. According to the information provided by the employer, the various proposals tabled by the bargaining agent would result in increased costs of approximately \$371 million, representing a 47% wage increase for the SV group.

[20] An additional impediment to settlement is that the parties have not been able to agree on the duration of the collective agreement, [which presumably is a common table issue].

[21] In reading the next part of this Report, the Commission wishes to make it clear that what follows is not, nor should it be construed, as a criticism of the negotiators. Rather, it is a comment on the overall approach to these negotiations by both parties.

[22] Collective bargaining does not start at the bargaining table. To a very significant extent, the success or failure of negotiations is preordained by the instructions given to the negotiators by their principals. It goes without saying that the more reasonable the instructions, the greater the chance of resolving issues in dispute at the bargaining table. Conversely, unreasonable proposals rarely result in successful negotiations. With respect to the numerous proposals tabled in this round of negotiations by both parties, it should have been reasonably obvious, in our opinion, that what the negotiators were instructed to try to achieve would be ultimately unattainable and would lead to no other result than failure. Both parties have too many outstanding issues and proposals remaining at table.

[23] The members of the Commission are familiar with how mandates are set. We understand the dynamics on the bargaining agent side, particularly with a diverse group such as this, with its many different occupations, subgroups and classifications. We equally understand the perceived need of an employer to streamline its operations and/or to make it easier to manage. Somehow, those competing interests have to be reconciled if negotiations are to be successful.

[24] Given the aggregate costing put forward by the employer, which was generally uncontested, the bargaining agent proposals do not appear realistic for what should be a fairly advanced stage of negotiations. The numerous proposals are not focused and they would result in an increase to compensation far beyond what is reasonable. The Commission is not saying that there is no merit to some of what is being sought, but we are saying that, without focus, it is not possible to even begin to address them on an individual basis.

[25] Similarly, while there may be merit to some of the employer proposals, we do not fully understand the rationale that gave birth to at least some of them. Our issue is not how they were articulated but, rather, the lack of a cogent rationale identifying what flexibility or increased managerial authority being sought is not already available to the employer, either legislatively or through existing provisions in the collective agreement, even if the exercise of that authority or flexibility comes with an increased operating cost.

[26] The Commission has read, with interest, the Report of Commissioner Slotnick in the last round of negotiations. We note that Mr. Slotnick dealt with many of the same issues that the parties have put before this Commission. We agree with and endorse the contents of his Report. It would behoove the parties to reread the Report.

[27] The role of the Commission is not to stand in the place of the parties and bargain for them. Article 172 of the Act defines our function to:

*“...assist the parties to the dispute in entering into or revising a collective agreement.”*

[28] Accordingly, the Commission declines to deal with individual issues in dispute. We do not see any meaningful path forward where our recommendations on individual issues in dispute would, at this point, realistically assist the parties. There are too many issues. There has not, in our opinion, been any true negotiations. With respect to at least some of the issues in dispute, the rationale advanced is not convincing or indeed has not been demonstrated. Overall, the issues in dispute are too unfocused to allow us to assist the parties with a meaningful path forward to settlement.

[29] We do, however, make the following recommendation: while we are not optimistic that a settlement is possible with what appears to be the current mandates of the parties, we recommend that the parties returned to the bargaining table with fewer and more focused proposals that would allow them to enter into meaningful bargaining with a view to renewing or revising the existing collective agreement as required by section 105 [1] of the Act.

[30] This Report is unanimous.

Ottawa, this 26<sup>th</sup> day of January, 2023



M. Brian Keller, Chairperson, for the Commission