

IN THE MATTER OF THE)
ARBITRATION BETWEEN)

THE BOEING COMPANY)

and)

THE SOCIETY OF PROFESSIONAL)
ENGINEERING EMPLOYEES IN)
AEROSPACE, IFTPE, LOCAL 2001,)
AFL-CIO (SPEEA))

**Grievance: Application of CBAs
to Edwards/Palmdale**

Date: January 21, 2014

AWARD OF THE ARBITRATOR

BACKGROUND AND PROCEDURAL MATTERS

On November 1, 2012 I issued my Opinion and Award in the above referenced matter. My Award provided in relevant part as follows:

AWARD OF THE ARBITRATOR

It is the Award of your Arbitrator that:

- I. The Employer, The Boeing Company, violated the 1999, 2002, 2005 and 2008 Professional and Technical Collective Bargaining Agreements between The Boeing Company and the Union, the Society of Professional Engineering Employees in Aerospace, IFPTE Local 2001, AFL-CIO (SPEEA), hereinafter referred to as the Agreements, by failing and refusing to recognize SPEEA as the exclusive representative of employees assigned to Edwards AFB, California and Palmdale, California (Edwards/Palmdale) and working in job classifications covered by the Agreements with the exception of heritage Rockwell and heritage McDonnell Douglas employees who remain in their original positions.
- II. Therefore, it is ordered that:
 - a. The Employer cease and desist from conduct described in Paragraph I above and
 - b. Recognize SPEEA as the exclusive representative of employees assigned to Edwards/Palmdale and working in job classifications covered by the Agreements with the exception of heritage Rockwell and heritage McDonnell Douglas employees who remain in their original positions.

- III. The Employer shall “make whole” all employees injured as a result of the violation set forth in Paragraph I above.
- IV. The Employer shall “make whole” the Union for lost dues and fees resulting from the violation set forth in Paragraph I above.
- V. The remedies ordered in Paragraphs III and IV above shall be retroactive to March 5, 2001.
- VI. The Employer shall pay to each employee described in Paragraph III above and to the Union as described in Paragraph IV above interest at the California Statutory Rate of 10% per annum pursuant to California Civil Code Section 3289(b) and such Employer interest payments shall be retroactive to March 5, 2001.

* * *

- VIII. Your Arbitrator shall retain jurisdiction for the sole purpose of resolving any Disputes which may arise between the parties regarding compliance with this Award.

A dispute has arisen between the parties regarding compliance with the Award. A hearing was scheduled for November 11 and 12, 2013 so these matters could be litigated before your Arbitrator. However, no hearing was held and, instead, the parties both separately, and at times with your Arbitrator, discussed the various matters relating to my November 1, 2012 Award.

During these discussions Boeing was represented by Richard B. Hankins of the law firm McKenna Long & Aldridge LLP. SPEEA was represented by Joseph L. Paller, Jr. of Gilbert & Sackman, a Law Corporation. Also in attendance on behalf of Boeing was: Linda S. Kayajanian, Senior Counsel, Labor & Employment Law, The Boeing Company; Deborah M. Larkin, Senior Manager-Human Resources, and Susan A. Hamilton, Human Resources Generalist, Southwest/Midwest/Field Operations Sites, Flight Test Operations, Boeing Test & Evaluation, The Boeing Company; and Drew E. Lunt, Associate, McKenna Long & Aldridge LLP. Also in attendance on behalf of SPEEA was: Rich Plunkett, Director of Strategic Development, and Matthew Kempf, Benefits Director, SPEEA; and Michael D. Weiner, Principal, Gilbert & Sackman, a Law Corporation.

ISSUE

The parties have presented to me for resolution the following stipulated issue:

What specific remedies are appropriate to effectuate the findings and conclusions in the Opinion and Award of the Arbitrator dated November 1, 2012?

AWARD OF THE ARBITRATOR

Based on the evidence, factual stipulations, and oral and written arguments presented by the Parties, the following are my findings and conclusions:

As a remedy for the contract violations found in my November 1, 2012 Opinion and Award ("2012 Award"), Boeing shall make whole the employees listed on Exhibit A to this Award for the time periods set forth by their names.

In section II of my 2012 Award, I ordered Boeing to "recognize SPEEA as the exclusive representative of employees assigned to Edwards/Palmdale and working in job classifications covered by the Agreements with the exception of heritage Rockwell and heritage McDonnell Douglas employees who remain in their original positions."

In compiling Exhibit A and in issuing this Award, I took into consideration, among other factors, whether at any time on or after January 1, 2000, an employee changed job classification, major program or location (other than between Palmdale and Edwards with no change to major program, manager or base salary), or was on loan, but not changes that were made exclusively due to enterprise-wide job classification conversions.

With regard to the elements of the make-whole remedy that are addressed below, I find and award the following:

1. Wage Increases. With regard to wage differences for individuals covered by this Award, such differences shall be calculated as set forth in the table below. Backpay shall compound from year to year as if each current or former employee covered by this Award received the increase he or she should have received for each period of coverage established in Exhibit A, resulting in both a lump sum amount of money and a concomitant adjustment to current base salary. Resulting year over year changes to base salary shall be implemented by Boeing as if made on the date originally owed. For current employees, the Human Resources Management System shall be updated to reflect such wage increases, and such adjusted wages shall be used for all purposes under this Award.

(continued next page)

Year	SPEEA Puget Sound Prof & Tech Actual	Palmdale/EAFB, non-mgt, working in SPEEA job classes Actual	Difference
2002	4.78%	3.80%	0.98%
2003	4.76%	3.90%	0.86%
2004	4.54%	4.84%	-0.31%
2005	4.79%	4.14%	0.65%
2006	7.00%	5.61%	1.39%
2007	5.03%	3.59%	1.44%
2008	5.35%	3.81%	1.54%
2009	6.30%	4.94%	1.36%
2010	5.96%	3.95%	2.01%
2011	5.86%	2.68%	3.18%
2012	5.91%	2.79%	3.13%
2013	5.89%	2.74%	3.15%

2. **Premium Pay Adjustments.** Boeing shall pay each professional Boeing employee covered by this Award an amount that is the product of 100 hours per calendar year (pro-rated for partial years) times such employee's applicable rates of pay (as adjusted pursuant to this Award) plus \$6.50 per hour.
3. **Pension Credits for Current Employees.** Boeing shall forthwith cause all current Boeing employees covered by this Award to participate retroactively in the Boeing Company Employee Retirement Plan ("BCERP") for all periods in which they should have been eligible to participate in BCERP pursuant to the SPEEA Agreements. Such current employees shall be entitled to all BCERP benefits and to the benefit of all plan provisions for such periods as if they had participated in BCERP from their earliest eligibility date.

For time periods employees are eligible to participate in BCERP, such employees' service and benefits accrued in other Boeing pension plans will be forfeited retroactively. If the application of this provision of this Award would result in any decrease in BCERP's current funding ratio, Boeing shall contribute such amounts as will restore BCERP to its current funded status. Such retroactive coverage in BCERP for current Boeing employees may require retroactive plan amendments and may be contingent on approval of a corrective filing under the Internal Revenue Service Voluntary Correction Program, to ensure continued tax qualification of BCERP and any other applicable Boeing pension plans. Pending any IRS decision on the filing, which may take at least six to twelve months, any current employee who retires shall receive BCERP equivalent monthly payments outside of BCERP from Boeing's general assets until such IRS approval is received, and upon commencement of benefits under BCERP, such equivalent payments shall be offset, subject to IRS approval.

4. Payments in Lieu of Pension Credits for Former Employees. All former Boeing employees covered by this Award shall remain participants in the non-union pension plans in which they were participating at the time of their terminations of employment or retirements and will not be transferred to the BCERP retroactively or prospectively as a result of this Award.

If retroactive plan amendments are required, this shall be contingent on approval of a corrective filing under the Internal Revenue Service Voluntary Correction Program to ensure the continued tax qualification of applicable Boeing pension plans. Pending the IRS's decision on the filing, former employees shall continue to receive benefits under such plans.

Boeing shall pay all former Boeing employees covered by this Award lump sum payments in accordance with the following formula below. The parties have agreed that such payments will not be subject to approval of an IRS corrective VCP filing.

- a. Determine how many years (plus additional months) such former employee should have been in the bargaining unit pursuant to this Award from March 5, 2001 until such former employee's termination date;
- b. Add the following two amounts: (i) the former employee's final annual base wage, before adjustment by this Award, multiplied by .2%, and (ii) the former employee's increase in final base wages pursuant to this Award multiplied by 1.2%. Multiply this sum (of (i) and (ii) above) by the number of years (plus additional months) in step (a).; and
- c. Multiply the sum in step (b) by an annuity factor to determine lump sum present value. The annuity factor will be determined using the IRC section 417(e) interest rate and mortality assumptions under the BCERP as of the date of this Award.

If a former employee is rehired by Boeing after the date of this Award, prior service and benefit accruals will be treated consistently with this Award and any new service and benefits will accrue under the applicable pension plan upon such employee's classification upon rehire.

5. Payments in Lieu of 401(k) Matching Contributions. Each individual covered by this Award who made contributions to the Voluntary Investment Program ("VIP") shall receive an additional lump sum equal to 6% of the base salary differential for each Award year in which such contributions were made as if such individual had received the base salary increases described in Section 1 for each period of coverage established in Exhibit A. Such payments shall be made outside of the VIP from Boeing's general assets.
6. Early Retiree Medical Coverage. All early retirees who under this Award should have been eligible to receive SPEEA early retiree medical benefits shall be entitled to enroll in the early retiree medical benefit program established under the SPEEA Agreements

beginning 120 days after the date of this Award, if eligibility requirements are otherwise met.

Boeing shall pay each early retiree who would have been eligible for, but did not receive, early retiree medical benefits under the SPEEA Agreements or the Boeing non-union salaried early retiree medical plan a sum equal to the monthly equivalent of SPEEA Tier 2 coverage (employee + spouse) for each such year (plus applicable months) for the time period they would have been eligible to receive benefits under the SPEEA early retiree medical plan, less \$40 (the retiree premium contribution), as follows:

	Tier 2	Premium	Net
2001	\$830.98	40.00	\$790.98
2002	967.30	40.00	927.30
2003	1,050.70	40.00	1,010.70
2004	1,052.77	40.00	1,012.77
2005	1,075.97	40.00	1,035.97
2006	1,046.90	40.00	1,006.90
2007	1,094.02	40.00	1,054.02
2008	1,228.15	40.00	1,188.15
2009	1,391.23	40.00	1,351.23
2010	1,498.18	40.00	1,458.18
2011	1,574.08	40.00	1,534.08
2012	1,649.66	40.00	1,609.66
2013	1,604.92	40.00	1,564.92
2014	1,475.88	40.00	1,435.88

Early retirees shall not be entitled to receive the payments set forth above for any period in which they were covered by SPEEA Agreements or Boeing's non-union salaried early retiree medical plan.

7. Medicare Eligible Retirees. All Medicare-eligible retirees who under this Award should have been eligible to receive SPEEA retiree medical benefits shall be entitled to enroll in the Boeing Sponsored Medicare Supplement Plan ("BSMSP) at the rates under the SPEEA Agreements beginning 120 days after the date of this Award, if eligibility requirements are otherwise met.

Medicare-eligible retirees shall not be entitled to payments described below during any periods in which they were not enrolled in the BSMSP paying non-union rates. Boeing shall pay Medicare eligible retirees covered by this Award for each such year (plus applicable months) for the time period they would have been eligible to receive benefits under the SPEEA Medicare eligible retiree medical plan the difference between the monthly premiums they paid as non-union employees and what they would have paid as former SPEEA represented employees for coverage under the BSMSP as follows:

Retiree Contribution Tier 2 Monthly Rates

	SPEEA	Nonunion	Difference
2001	\$ 344.80	\$ 344.80	\$ 0
2002	\$ 367.20	\$ 367.20	\$ 0
2003	\$ 396.90	\$ 396.90	\$ 0
2004	\$ 445.70	\$ 458.37	\$ 12.67
2005	\$ 496.23	\$ 497.72	\$ 1.49
2006	\$ 462.60	\$ 497.72	\$ 35.12
2007	\$ 464.36	\$ 525.64	\$ 61.28
2008	\$ 513.35	\$ 571.73	\$ 58.38
2009	\$ 522.22	\$ 599.78	\$ 77.56
2010	\$ 506.65	\$ 565.11	\$ 58.46
2011	\$ 524.41	\$ 590.92	\$ 66.51
2012	\$ 494.22	\$ 535.64	\$ 41.42
2013	\$ 495.46	\$ 542.20	\$ 46.74
2014	\$ 509.52	\$540.88	\$ 31.36

8. Other Group Benefits. The parties have agreed that there are differences in the group benefits (medical, dental, basic and supplemental accidental death and dismemberment, long and short term disability, sick leave, PERBUS, 401(k) plans (except as described above), the Ed Wells Partnership, basic and supplemental life insurance and business travel accident benefits) provided to current and former union and non-union employees. Nonetheless, it is apparent that the union and non-union plans generally provide largely similar benefits. It is also clear that in some instances the non-union plans of benefits may provide greater benefits than would be available under the union plans, while in other instances, involving dissimilar claims, the union plans would be more generous. I find that the union and non-union plans, individually and collectively, are sufficiently similar that the differences in benefits are immaterial and de minimis, and that no monetary relief should be granted the participants in the non-union plans.
9. EIP and Ratification Bonuses. If an employee or former employee received payments under the Employee Incentive Plan (“EIP”) that he or she would not have been entitled to receive under the applicable SPEEA Agreement, the amount of such payments shall be subtracted from the gross amount owed such employee or former employee under this Award for the year such payments were owed. If for any year the amount of such EIP payment is in excess of the gross amount owed under this Award for that year, the excess shall be deducted from gross amounts owed under this Award for prior years, and, if any excess remains after such deduction(s), the remaining excess EIP payment shall be deducted from the following year’s or years’ gross amounts owed under this Award. The amounts of such EIP payments shall not be used to determine adjusted salary.

For years that employees covered by the SPEEA Agreements were eligible to receive payments under the EIP, each employee’s award shall be recalculated using the

adjusted salary for that year, and any difference from the amount actually received shall be added to or subtracted from the gross amount owed the employee under this Award for that year. The amounts of such EIP payments will not be used to determine adjusted salary.

If an employee would have been entitled to a ratification bonus under the applicable SPEEA Agreement, the amount of the ratification bonus shall be added to the gross amount owed the employee under this Award for that year. The bonus will not be used to determine adjusted salary.


10. Laid-Off Employees. Boeing shall pay each employee or former employee who was laid off at any time during the period he or she was covered by this Award an amount equal to the layoff benefits he or she should have received under article 21 of the SPEEA Agreements (as adjusted pursuant to this Award) less the amount of layoff benefits he or she actually received at the time. No payment shall be owed for layoffs before March 5, 2001.

In addition, Boeing shall pay each employee who was laid off at any time during the period covered by the Award an amount equal to the layoff benefits he or she should have received under article 21 of the SPEEA Agreements (as adjusted pursuant to this Award).

11. Tax Consequences. A “gross-up” of the backpay remedy is not appropriate and has not been ordered by the Arbitrator.
12. Agency Fees. Boeing shall “make whole” the Union for lost dues and fees. In doing so, Boeing shall not deduct these amounts from employees.
13. Interest. Boeing shall pay interest on all sums owed under this Award at the rate of 10% per annum pursuant to California Civil Code Section 3289(b) and such interest shall accrue for each period of coverage established in Exhibit A for which such sums are owed. Interest accrual shall begin on the date of each breach under this Award, but in no event shall interest begin accruing until March 5, 2001. Interest shall accrue until payment in full has been made pursuant to this Award.
14. Tax Reporting. Any lump sum amounts payable pursuant to this Award shall be payable as cash compensation reportable on Form W-2, and subject to withholding, and shall be reported differently by Boeing only if required by applicable federal or state law.
15. Date for Payments. Boeing shall pay all sums owing employees and former employees hereunder within 120 days of the date of this Award. The commencement of BCERP pension benefits for current employees shall be subject to the provisions of Section 3 above.

16. Retention of Jurisdiction. Arbitral jurisdiction shall be retained by your Arbitrator or by another arbitrator mutually-agreed upon by the Parties for the sole purpose of resolving any disputes which may arise between the parties regarding compliance with this Award or the 2012 Award.

Dated: January 21, 2014
Seattle, Washington


Michael H. Beck, Arbitrator