

P.E.R.C. NO. 90-54

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

N.J. TRANSIT BUS OPERATIONS, INC.  
Petitioner,

-and-

AMALGAMATED TRANSIT UNION  
NEW JERSEY COUNCIL,

Docket Nos. SN-87-88, SN-87-92,  
SN-87-93

Respondent,

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

-----  
N.J. TRANSIT MERCER, INC.,  
Petitioner,

-and-

AMALGAMATED TRANSIT UNION  
DIVISION 540,

Docket No. SN-87-89

Respondent,

-and-

N.J. TRANSIT CORPORATION  
Intervenor.

-----  
N.J. TRANSIT BUS OPERATIONS, INC.,  
Petitioner,

-and-

UNITED TRANSPORTATION UNION LOCAL NO. 33 (PATERSON & WARWICK DIVISIONS),

Docket Nos. SN-87-91, SN-88-8

Respondent,

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

-----  
N.J. TRANSIT BUS OPERATIONS, INC.,  
Petitioner,

-and-

TRANSPORT WORKERS UNION OF  
AMERICA LOCAL No. 225,  
Respondent,

Docket No. SN-87-90

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

## SYNOPSIS

The Public Employment Relations Commission denies a motion to stay proceedings filed by Amalgamated Transit Union, Division 540; Amalgamated Transit Union, New Jersey Council; and Amalgamated Transit Union, AFL-CIO. The case is before the Commission pursuant to an Appellate Division order of remand. Given the order of remand, two earlier stay denials and relevant court rules, the Commission believes it is compelled to deny this motion.

P.E.R.C. NO. 90-54

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

N.J. TRANSIT BUS OPERATIONS, INC.  
Petitioner,

-and-

AMALGAMATED TRANSIT UNION  
NEW JERSEY COUNCIL,

Docket Nos. SN-87-88, SN-87-92,  
SN-87-93

Respondent,

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

-----  
N.J. TRANSIT MERCER, INC.,  
Petitioner,

-and-

AMALGAMATED TRANSIT UNION  
DIVISION 540,

Docket No. SN-87-89

Respondent,

-and-

N.J. TRANSIT CORPORATION  
Intervenor.

-----  
N.J. TRANSIT BUS OPERATIONS, INC.,  
Petitioner,

-and-

UNITED TRANSPORTATION UNION LOCAL NO. 33 (PATERSON & WARWICK DIVISIONS),

Docket Nos. SN-87-91, SN-88-8

Respondent,

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

-----  
N.J. TRANSIT BUS OPERATIONS, INC.,  
Petitioner,

-and-

TRANSPORT WORKERS UNION OF  
AMERICA LOCAL No. 225,  
Respondent,

Docket No. SN-87-90

-and-

N.J. TRANSIT CORPORATION,  
Intervenor.

-----

Appearances on the motion:

For NJ Transit Bus Operations, Inc., NJ Transit Corporation, and NJ Transit Mercer, Inc.,  
Hon. Peter N. Perretti, Attorney General  
(Jeffrey C. Burstein, Deputy Attorney General)

For the Amalgamated Transit Union,  
Bredhoff & Kaiser, Esqs. (Jeffrey Freund, Esq.)  
Earle Putnam, General Counsel  
Weitzman & Rich, P.A. (Richard P. Weitzman, Esq.)  
Reitman, Parsonnet, Maisel & Duggan, Esqs.  
(Bennett D. Zurofsky, Jesse H. Strauss, and Tara Levy, Esqs.)

DECISION AND ORDER

On November 20, 1989, Amalgamated Transit Union, Division 540; Amalgamated Transit Union, New Jersey Council; and Amalgamated Transit Union, AFL-CIO moved to stay consideration of these petitions until the New Jersey Supreme Court has issued its decision in In re N.J. Transit Bus Operation, Inc., Dkt. Nos. C-263, 264, 265. The petitions are before us pursuant to an Appellate Division order of remand. In re N.J. Transit Bus Operation, Inc., 233 N.J. Super. 173 (App. Div. 1989). The Supreme Court has granted certification to review that order and to determine the scope of mandatory negotiations for employees covered by the New Jersey Public Transportation Act of 1979, N.J.S.A. 27:25-1 et seq.

The unions argue that these proceedings should be stayed to avoid confusion in the public transit industry and to avoid irreparable injury to the unions and the employees they represent. They claim that if we find some subjects in dispute not mandatorily

negotiable, N.J. Transit may attempt to disclaim certain sections of the parties' collective negotiations agreements. It further claims that it will be difficult or impossible to make whole employees whose contractual rights are impaired. Finally, the unions claim a stay will conserve administrative resources.

On November 29, 1989, N.J. Transit filed a reply opposing a stay. It claims we lack jurisdiction to issue a stay because this proceeding is a direct result of an Appellate Division order of remand. It notes that the Appellate Division and the Supreme Court denied motions to stay remand proceedings before the Supreme Court granted certification. It further claims that a stay contravenes the legislative intent to avoid protracted litigation; there should be little additional expenditure of administrative resources to complete the proceeding; a stay would irreparably injure N.J. Transit by preventing it from freely exercising inherent managerial prerogatives, and the unions are not likely to succeed on the merits.

R. 2:9-5(b) provides:

Following disposition in the Appellate Division and pending proceedings in the Supreme Court, a stay shall be sought in the first instance from the Appellate Division. Further relief from its order may be sought in the Supreme Court.

R. 2:12-11 provides:

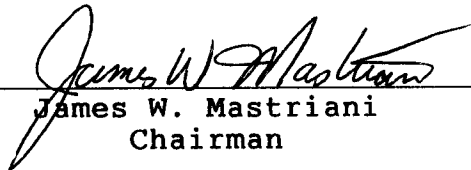
If certification is granted, the matter shall be deemed pending on appeal in the Supreme Court and the petitioner's entire case shall be before the Supreme Court for review....

After the Appellate Division issued its order but before certification was granted, the unions' stay applications were denied by the Appellate Division and the Supreme Court. Given the order of remand, the earlier stay denials and the court rules, we believe we are compelled to deny this motion.

ORDER

The motion for a stay is denied.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Johnson, Reid, Ruggiero, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey  
December 14, 1989  
ISSUED: December 15, 1989