

## CHAPTER III

### INCENTIVE PROBLEMS

#### *Workshop No. 2*

*Summary by*

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The problems encountered in the arbitration of incentive disputes are many and varied. Least troublesome to arbitrators are controversies that are associated with incentives but which essentially involve questions of general interpretation of contract terms. In such cases no technical matters are posed for determination. Rather, the issues facing the arbitrator are conventional and the approaches employed for decision-making are typical. What did the parties intend when they formulated the contract terms cited and how have they themselves interpreted the agreed-upon wording in establishing past practice?

The really difficult incentive arbitration cases are those that raise questions of methods and standards engineering. Both theoretical and application issues may be presented. Types of complicated technical cases, described in the course of the workshop discussion, include:

Changes in methods and consequent changes in standards.

When is a change of method a change within the meaning of the contract?

If there has been a verified change of method, how appraise the adequacy of altered standards?

How handle situations involving cumulation of "creeping" changes in methods?

Work assignment variations.

The role of allowances in standards computations.

Under the combined heading of General Observations and Hints that Might be Helpful, the workshop discussion brought out the following points:

1. There appears to be some reason to believe that there is a trend toward more frequent contract provision for arbitration of methods and standards disputes. If this is so, we can expect that a greater number of technical cases will come before a widening circle of arbitrators. There remain, however, wide differences in the attitudes of parties, especially companies, as to the propriety of arbitration of methods and standards disputes.

2. There is considerable unevenness in the skill and ability of parties in the presentation of technical cases. This is sometimes particularly true of union representatives but not exclusively so. However, it is well established that the level of competence and effectiveness of incentive case presentation is rising. Many unions are today developing trained specialists in this field and are using them in arbitration cases.

3. Skilled presentation of technical cases by the parties can do much to minimize their difficulty and to facilitate the issuance of accurate, equitable, and acceptable awards. At the very least, skilled presentation can effectively sharpen and narrow the range of decision for the arbitrator.

4. In most, if not all, methods and standards cases arbitrators find it desirable to inspect jobs and operations. Though only an extremely small number of arbitrators make time studies of their own, rough estimates of time requirements by the arbitrator may sometimes prove useful as guide-lines. At the present time, however, this is seldom done.

5. One of the most frequent problems confronting the arbitrator of methods and standards cases concerns production pace of the workers. Are the operators producing at a normal pace? Are they withholding effort and, if so, to what extent?

Here it was suggested that it may be helpful for the arbitrator to learn something of the history of pace tradition under similar circumstances in the plant and even, if possible, in the industry. Any information obtained may furnish a basis for estimating whether less than normal pace should be anticipated and, if so, how long inferior effort levels may be expected to last.

Information on such past practice and tradition will ordinarily be more easily obtainable by an arbitrator serving as permanent umpire than by one in an ad hoc capacity .

Pace, of course, is of major significance when past and present earnings levels are offered as evidence in a case.

6. Workshop discussion indicated that many arbitrators feel that, as a general rule, the use of an independent industrial engineer as a consultant to the arbitrator has disadvantages. Some disadvantages are:

(a) Companies may object to outsiders in their plants. At least a few current contracts forbid their use by the arbitrator.

(b) The expense involved is often substantial, sometimes great.

(c) Qualified personnel may be difficult to obtain as needed.

(d) Unless the issue is rather simple and clear-cut, an outsider may not have sufficient time in the plant to obtain an adequate familiarity with job operations.

If an outside expert is to be used, he should be engaged *only* if the parties readily consent and if the cost is moderate. The outside specialist should always be held within the jurisdiction and control of the arbitrator.

7. Tripartite arbitration boards can be most useful in methods and standards disputes and are highly recommended in cases of this sort. Impartial chairmen often can profitably employ the detailed technical knowledge of board colleagues in the decision-making process. Further, they can serve to protect the public arbitrator from inadvertent errors in the wording of

opinions and awards. It is obvious, however, that tripartite boards can serve successfully in methods and standards cases only if parties nominate qualified company and union board members.

8. In some regional areas, technical arbitration cases are complicated by the fact that companies sometimes refuse to reveal to union representatives data concerning methods and standards systems. Under these circumstances, the union frequently relies primarily upon direct testimony by a long series of operator witnesses. Ordinarily the results of general testimony of this type are of little assistance to the arbitrator.

Faced by circumstances of this sort, an arbitrator can only make the best of an inadequate presentation. For the future he can hope that increasing maturity in the labor-management relationship will furnish a more certain basis for incentive case decisions.

9. Where past and present earnings data are introduced as criteria for decisions in incentive cases, the arbitrator should proceed with caution. The problem of normal versus actual production pace is here ever-present. Certainly, earnings data should be employed for decision-making purposes only in concert with all other available criteria.