



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

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In the Matter of the
Application of the

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of

ALLEGHENY AIRLINES, INC. AND
PIEDMONT AIRLINES, INC.

32 NMB No. 6

FILE NO. CR-6861

FINDINGS UPON
INVESTIGATION

October 25, 2004

This determination addresses the application filed by the International Brotherhood of Teamsters, AFL-CIO (IBT). IBT requests the National Mediation Board (NMB or Board) to investigate whether Allegheny Airlines, Inc. (Allegheny) and Piedmont Airlines, Inc. (Piedmont or collectively with Allegheny as Carriers) operate as a single transportation system.

The investigation establishes that Allegheny and Piedmont operate as a single transportation system for purposes of the crafts or classes of Mechanics and Related Employees, Stock Clerks, and Dispatchers.

PROCEDURAL BACKGROUND

On August 3, 2004, IBT filed an application alleging a representation dispute involving the following consolidated crafts or classes formed by the merger of Allegheny into Piedmont: Mechanics and Related Employees; Stock Clerks;

and Dispatchers. IBT asserted that Allegheny and Piedmont constitute a single transportation system. The Board's records indicate that Mechanics and Related Employees, Stock Clerks, and Dispatchers on Allegheny are represented by IBT and that Stock Clerks and Dispatchers on Piedmont are represented by the International Association of Machinists & Aerospace Workers, AFL-CIO (IAM). The application was assigned NMB File No. CR-6861.

The Board assigned Maria-Kate Dowling to investigate.

On August 4, 2004, the Board requested that the Carriers provide information on whether Allegheny and Piedmont were operating as a single transportation system. The Carriers jointly responded on August 18, 2004. On August 26, 2004, IBT filed a response to the Carriers' August 18, 2004 submission. On September 2, 2004, IAM filed a response to the Carriers' August 18, 2004 submission and IBT's August 26, 2004 submission. In response to the Board's request, the Carriers filed a response to IAM's September 2, 2004 submission and to IBT's August 26, 2004 submission.

ISSUES

Are Allegheny and Piedmont a single transportation system? If so, what are the representation consequences?

CONTENTIONS

IBT

IBT contends that a single transportation system has been formed by the merger of Allegheny into Piedmont. IBT asserts that the Carriers' submission demonstrates the substantial integration of operations, financial control, and labor and personnel functions that are among the core factors required by the Board in *Trans World Airlines/Ozark Airlines*, 14 NMB 218 (1987), for finding the existence of a single transportation system.

IAM

IAM asserts that while the Carriers' submission touches on "some of the relevant factors" in a single transportation determination, a number of important issues remain ambiguous or unresolved. IAM notes that the documents submitted by the Carriers state that "the operational integration of Allegheny Division into Piedmont has been delayed," and does not contain specific information regarding the transitioning of the Carriers' maintenance program.

FINDINGS OF LAW

Determination of the issues in this case is governed by the Railway Labor Act (RLA or Act), as amended, 45 U.S.C. §§ 151-188. Accordingly, the Board finds as follows:

I.

Allegheny and Piedmont are common carriers as defined in 45 U.S.C. § 181.

II.

IBT and IAM are labor organizations as provided by 45 U.S.C. § 151, Sixth.

III.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and to designate who may participate as eligible voters in the event an election is required. In determining the choice of the majority of employees, the Board is "authorized to take a secret ballot of the employees involved, or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives . . . by the employees without interference, influence, or coercion exercised by the carrier."

STATEMENT OF FACT

Corporate Transactions

On July 1, 2004, the corporate merger of Allegheny and Piedmont became effective. Although the operational merger is ongoing, according to the declaration of Michelle Foose, former Director of Human Resources at Allegheny and current Director of Human Resources at Piedmont, Piedmont has assumed operations previously performed by Allegheny and Piedmont.

Foose also states that all employee groups will be combined subject to applicable seniority integration procedures. Finally, according to Foose, aircraft, other assets, and employees will be transferred from Allegheny to Piedmont.

An August 6, 2004 memorandum to employees from Keith D. Houck, formerly Allegheny's President and Chief Executive Officer (CEO) and since March 31, 2004, President and CEO of the combined Allegheny-Piedmont operation, estimates that the "operational merger will not be completed until the end of the first quarter in 2005."

Operations

Allegheny has surrendered its FAA certificate. The Carriers state that several aircraft were transitioned from Allegheny's maintenance program to Piedmont's maintenance program and that the remaining Allegheny aircraft will be transitioned by the end of the year. The Carriers further state that 15 Allegheny flight attendants were transitioned to Piedmont and completed the required transition training while another group of Allegheny flight attendants were awarded a Piedmont domicile and assigned to Piedmont flight attendant transition training.

The Carriers state that effective July 1, 2004, "all the flights previously sold and displayed under Allegheny Flight numbers began to be sold and displayed as Piedmont flights." Further, as of July 1, 2004, all Allegheny employees became Piedmont employees.

Representation

IBT represents 148 employees in the Mechanics and Related Employees craft or class, seven employees in the Dispatchers craft or class, and 11 employees in the Stock Clerks craft or class.

IAM represents Piedmont's 189 employees in the Mechanics and Related Employees craft or class, 11 employees in the Dispatchers craft or class, and 20 employees in the Stock Clerks craft or class.

Management and Labor Relations

According to the Carriers' submission and the Foose declaration, labor relations and personnel functions are administered by Piedmont. In her declaration, Foose states that she transferred from her position as Allegheny's Director of Human Resources to the position as Piedmont's Director of Human Resources effective July 1, 2004 to handle all of Piedmont's human resources operations. As previously noted, effective March 31, 2004, Keith D. Houck, who had been Allegheny's President and CEO, was appointed to the position of President and CEO of the combined Allegheny-Piedmont Airlines, following the retirement of Piedmont President and CEO John F. Leonard.

The Carriers state that a merger/fence agreement along with a combined seniority list for the merged operations was reached with respective merger committees of the Organization representing the Allegheny and Piedmont pilots.

With regard to Stock Clerks and Dispatchers, Foose states in her declaration that the existing collective bargaining agreement between Piedmont and IAM would continue to apply since Allegheny employees in these groups are not covered by a collective bargaining agreement. Finally, with regard to employees in the Mechanics and Related Employees craft or class, Foose states that the Carriers intend that the existing contract between Piedmont and IAM would apply but because

Allegheny employees in that craft or class are currently represented by IBT, representation conflicts must be resolved.

Marketing and Advertising

The Carriers state that the new entity created from Allegheny and Piedmont is Piedmont and is held out to the public and marketed as Piedmont and US Airways Express. The Allegheny Airlines website displays only the names and logos of Piedmont and US Airways.

Routes and Schedules

The Carriers state that once integration is complete, routes and schedules will be flown by Piedmont as assigned by US Airways. The web page for Allegheny states that “[a]ll flights previously displayed as Allegheny Airlines flight numbers are now shown in computer reservations displays and ticketed as Piedmont Airlines flights.”

Signs, Logos, and Uniforms

Post-transaction, the Allegheny corporate insignia and logo will not be used at the new Piedmont entity. The Allegheny logo, used primarily for operational correspondence, has been discontinued. Piedmont will continue to use its corporate insignia and logo and will continue to operate as US Airways Express. All aircraft and certain other equipment have conformed markings. Aircraft markings have been changed to reflect operation by Piedmont. Employee uniforms for the new Piedmont entity will not change and will continue to bear the logo of US Airways Express.

DISCUSSION

I.

The Board’s Authority

45 U.S.C. § 152, Ninth, authorizes the Board to investigate disputes arising among a carrier’s employees over

representation and to certify the duly authorized representative of such employees. The Board has exclusive jurisdiction over representation questions under the RLA. *Switchmen's Union v. Nat'l Mediation Brd*, 320 U.S. 297 (1943); *Gen. Comm. of Adjustment v. M.K.T R.R.*, 320 U.S. 323 (1943). In *Air Line Pilots Ass'n, Int'l v. Texas Int'l Airlines, Inc.*, 656 F.2d 16, 22 (2nd Cir. 1981), the court stated, "the NMB is empowered to . . . decide representation disputes arising out of corporate restructurings."

II.

Single Transportation System

In *Trans World Airlines/Ozark Airlines*, the Board cited the following indicia of a single transportation system:

[W]hether a combined schedule is published; how the carrier advertises its services; whether reservation systems are combined; whether tickets are issued on one carrier's stock; if signs, logos and other publicly visible indicia have been changed to indicate only one carrier's existence; whether personnel with public contact were held out as employees of one carrier; and whether the process of repainting planes and other equipment, to eliminate indications of separate existence, has been progressed.

Other factors investigated by the Board seek to determine if the carriers have combined their operations from a managerial and labor relations perspective. Here the Board investigates whether labor relations and personnel functions are handled by one carrier; whether there are a common management, common corporate officers and interlocking Boards of Directors; whether there is a combined workforce; and whether separate identities are maintained for corporate or other purposes.

14 NMB 218, 236 (1987).

The Board finds a single transportation system only when there is substantial integration of operations, financial control, and labor and personnel functions. *American Airlines, Inc.*, 29 NMB 201, 211 (2002); *American Airlines and Reno Air*, 26 NMB 467, 478 (1999); *AirTran Airways and AirTran Airlines*, 25 NMB 429, 434-35 (1998). Further, the Board has noted that a substantial degree of overlapping ownership, senior management, and board of directors is critical to finding a single transportation system. *Precision Valley Aviation, Inc., d/b/a Precision Airlines/Valley Flying Serv., Inc., d/b/a Northeast Express Reg'l Airlines*, 20 NMB 619, 655 (1993). The Board's substantial integration of operations criteria does not, however, require total integration of operations.

The Board recently found that Allegheny and Piedmont operate as a single transportation system for the craft or class of Fleet and Passenger Service Employees. *Allegheny Airlines, Inc./Piedmont Airlines, Inc.*, 31 NMB 528 (2004). Based upon the application of the principles cited above to the facts established by this investigation, the Board finds that Allegheny and Piedmont operate as a single transportation system for representation purposes for following crafts or classes: Mechanics and Related Employees, Stock Clerks, and Dispatchers. The corporate merger of Allegheny into Piedmont is complete and substantial steps have been taken toward completion of the operational merger. Allegheny has surrendered its FAA certificate. There has been integration of management teams and labor relations and personnel functions. The new entity is being held out to the public as Piedmont and US Airways Express. Allegheny flights are now shown as Piedmont flights.

CONCLUSION

The Board finds that Allegheny and Piedmont are operating as a single transportation system for representation purposes under the RLA for the crafts or classes of Mechanics and Related, Stock Clerks, and Dispatchers. The IAM has 30 days from the date of this determination to file an application

in accordance with Section 19.601 of the Board's Representation Manual (Manual). The participants are reminded that under Manual Section 19.602 existing certifications remain in effect until the Board issues a new certification or dismissal.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel

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