



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

(202) 692-5000

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.

31 NMB No. 110

FILE NO. CR-6842

FINDINGS UPON
INVESTIGATION

September 16, 2004

This determination addresses the applications filed by the International Brotherhood of Teamsters, AFL-CIO (IBT) and the Communications Workers of America (CWA). IBT requests the National Mediation Board (Board or NMB) 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 craft or class of Fleet and Passenger Service Employees.

PROCEDURAL BACKGROUND

On February 13, 2004, IBT filed an application alleging a representation dispute involving the consolidated Fleet and Passenger Service Employees craft or class formed by the

merger of Allegheny into Piedmont. IBT asserted that Allegheny and Piedmont constitute a single transportation system. The application was assigned NMB File No. CR-6842.

The Board assigned Maria-Kate Dowling to investigate.

On March 2, 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 March 23, 2004. On March 26, 2004, CWA filed an application alleging a representation dispute involving the combined Allegheny/Piedmont Fleet and Passenger Service Employees craft or class. On March 31, 2004, the Carriers supplemented their response to the Board's request for information. On April 12, 2004, IBT and the Carriers each filed a position statement regarding CWA's application. In response to the Investigator's request for additional information, the Carriers filed supplemental responses on June 21, 2004, July 12, 2004, and August 2, 2004. The Board also takes administrative notice of the Carriers' August 18, 2004, response to the Board's request for information in NMB File No. 6861 involving an application filed by the IBT alleging a representation dispute among the Mechanics and Related Employees, Stock Clerks and Dispatchers of Allegheny and Piedmont.

On July 8, 2004, in response to the Carriers' June 21, 2004 supplemental information submission, IBT and CWA stated that they have allied and intend to proceed as the IBT-CWA Piedmont Customer Service Employees Alliance (Alliance) in the single carrier investigation and in any subsequent representation election among the consolidated, post-merger Fleet and Passenger Service Employees craft or class. In a response dated July 22, 2004, the Carriers stated that they had no objection to the Alliance seeking to be certified as the representative of the post-merger craft or class, in the event that a determination is made that a single carrier exists.

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. A copy of the January 29, 2004, joint announcement by the presidents of the two carriers submitted by IBT states that Allegheny and Piedmont would consolidate their operations into a single entity in a three-phase merger over the following three months. IBT further states that, at the end of this process, the Carriers' customer service operations will be fully integrated and operated on a single carrier basis. IBT notes that it currently represents the Fleet and Passenger Service employees at Allegheny while their counterparts at Piedmont are not represented.

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 CWA 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

A statement to employees of Allegheny and Piedmont dated January 29, 2004, announces that the US Airways group is proceeding with the merger of Allegheny’s operations into Piedmont’s. The statement provides an overview of the merger and its timing as follows:

Phase I will be dedicated to continuing the discussions with various labor groups to work out the details of the transition. During this phase we will present our integration plan to the FAA [Federal Aviation Administration] and determine the “fenced operation” which will define how and when the Allegheny employees will flow into Piedmont. We estimate that this will be accomplished in 4-6 weeks.

Phase II will be the legal consolidation of the corporate entities. The target date for this remains March 31, 2004.

Phase III will be the operational transition of flight crews and aircraft into Piedmont. We estimate this phase to begin April 1 and conclude when training is completed.

The Carriers state that Piedmont will assume operations previously performed by the two separate Carriers. According to the declarations of Michelle Foose, formerly Allegheny's Director of Human Resources and currently Piedmont's Director of Human Resources, and Eric Morgan, Piedmont's Vice President of Customer Services, all employee groups will be combined subject to applicable seniority integration procedures. Aircraft, other assets, and employees will be transferred from Allegheny to Piedmont.

A June 10, 2004 memorandum to employees states that, although the operational merger will require "several months" to complete, the "[c]orporate merger of Allegheny and Piedmont will be effective on July 1, 2004."

Operations

The Carriers state that, as of their August 2, 2004, submission to the Board, Allegheny had surrendered its FAA certificate and aircraft were transitioned from Allegheny's maintenance program to Piedmont's maintenance program. The Carriers further state that, as of August 2, 2004, 15 Allegheny flight attendants were transitioned to Piedmont and completed the required transition training and another group of Allegheny flight attendants were awarded a Piedmont domicile and assigned to Piedmont flight attendant transition training.

The June 10, 2004 memorandum to Allegheny employees also states that effective July 1, 2004, "all the flights previously sold and displayed under Allegheny Flight numbers will now be sold and displayed as Piedmont flights." The memo notes, however, that crewmembers and the maintenance, dispatch and other operational departments will continue to operate internally as two separate airlines under the merger plan until total operational integration occurs. The memo further states that as of July 1, 2004, all Allegheny employees will become Piedmont employees. After June 30, 2004, these employees will begin receiving new US Airways Express Identification cards showing Piedmont as the employer. The Carriers state that the distribution of new cards will occur in late June and

early July. The June memo also states that effective on the first pay date following July 1, 2004, the Piedmont name will appear on employees' paychecks.

Representation

IBT represents Allegheny's 954 employees in the Fleet and Passenger Service Employees craft or class, 148 employees in the Mechanics and Related Employees craft or class, 7 employees in the Dispatchers craft or class, and 11 employees in the Stock Clerks craft or class. Allegheny also employs 312 pilots who are represented by the Airline Pilots Association (ALPA) and 170 flight attendants who are represented by the Association of Flight Attendants (AFA).

Piedmont employs 1,142 Customer Service employees. These employees are currently unrepresented. The International Association of Machinists (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. Piedmont also employs 350 pilots who are represented by ALPA and 196 flight attendants who are represented by AFA.

Management and Labor Relations

According to a March 26, 2004 press release from US Airways submitted by the Carriers, "Allegheny Airlines is being merged with Piedmont Airlines and will operate under the name Piedmont Airlines. . . . US Airways will continue to consolidate the management teams of both carriers." The press release further states that US Airways is "consolidating top responsibilities at Allegheny-Piedmont" effective March 31, 2004, with the appointment of Keith D. Houck, who had been Allegheny's President and Chief Executive Officer to the position of President and Chief Executive Officer of the combined Allegheny-Piedmont Airlines, following the retirement of Piedmont President and Chief Executive Officer John F. Leonard. In their declarations, Foose and Morgan each state that the labor relations and personnel functions will be administered by Piedmont. Effective July 1, 2004, Foose

transferred from her position as Allegheny's Director of Human Resources to a position as Piedmont's Director of Human Resources with responsibility for all of Piedmont's human resource operations.

The Carriers state that they anticipate that Allegheny and Piedmont pilot and flight attendant seniority lists will be integrated by the Organizations representing those employee groups. The Carriers further state that the collective bargaining agreement between Piedmont and ALPA will govern all pilots of the combined entity. Similarly, the Carriers state that the collective bargaining agreement between Piedmont and AFA will govern all flight attendants of the combined entity. According to the declarations of Foose and Morgan, during the transition period, there will be "fencing" agreements to permit pilots and flight attendants to integrate. The details of these agreements are still being developed. As of August 2, 2004, the Carriers state that a merger/fence agreement had been reached with ALPA.

With regard to Stock Clerks and Dispatchers, the Carriers anticipate 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 of class, the Carriers state that they 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.

The June 2004 memo to Allegheny employees states that non-contract employees will transfer to Piedmont's policies, procedures, and benefit plans on July 1, 2004.

Marketing and Advertising

The Carriers state that the new entity created from Allegheny and Piedmont will be Piedmont and will be 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. The Allegheny logo, used primarily for operational correspondence, has been discontinued.

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. 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. National Mediation Board*, 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 Regional Airlines*, 20 NMB 619, 655 (1993). The Board's substantial integration of operations criteria does not, however, require total integration of operations.

Based upon the application of the principles cited above to the facts established by the investigation, the Board finds that Allegheny and Piedmont operate as a single transportation system for representation purposes for the craft or class of Fleet and Passenger Service Employees. The corporate merger of Allegheny into Piedmont is complete and substantial steps have been taken toward completion of the organizational 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 craft or class of Fleet and

Passenger Service Employees. The Alliance 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.



Mary L. Johnson
General Counsel

Copies to:

Ellen Ham, Esq.

Ronald C. Henson, Esq.

Michelle Foose

Eric H. Morgan

Robert Roach

David Neigus, Esq.

S. Randy Canale

Don Treichler

Roland P. Wilder, Jr., Esq.

John J. Schmitt

Nicolas M. Manicone

Jimmy Tarlau