



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

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In the Matter of the
Application of the

AIR LINE PILOTS ASSOCIATION

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. 24

CASE NO. R-7039
(FILE NO. CR-6872)

FINDINGS UPON
INVESTIGATION-
DISMISSAL

February 23, 2005

This determination addresses the application filed by the Air Line Pilots Association (ALPA). ALPA 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 Pilots craft or class.

PROCEDURAL BACKGROUND

On January 27, 2005, ALPA filed an application alleging a representation dispute involving the consolidated craft or class of Pilots formed by the merger of Allegheny into Piedmont. ALPA asserted that Allegheny and Piedmont constitute a single transportation system. The Board's records indicate that Pilots on Allegheny are represented by ALPA and that the Pilots on

Piedmont are also represented by ALPA. The application was assigned NMB File No. CR-6872.

The Board assigned Eileen M. Hennessey to investigate.

On February 1, 2005, 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 February 7, 2005.

ISSUES

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

CONTENTIONS

ALPA

ALPA contends that a single transportation system has been formed by the merger of Allegheny into Piedmont. ALPA states that in *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 31 NMB 528 (2004), the Board applied the governing standards in *Trans World Airlines/Ozark Airlines*, 14 NMB 218, 236 (1987) to find that the Carriers operate as a single transportation system for the craft or class of Fleet and Passenger Service Employees. ALPA cites the following points made by the Board in *Allegheny Airlines, above*: the corporate merger of the carriers was complete; substantial steps had been taken towards the completion of the Carriers' operational merger; Allegheny had surrendered its Federal Aviation Administration (FAA) certificate; integration of management teams, labor relations and personnel functions had already occurred; the new surviving carrier was being held out to the

* As part of this request, the Board requested that the Carriers include "any changes regarding Allegheny and/or Piedmont that have occurred since the Board's rulings in *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 32 NMB 21 (2004); and *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 31 NMB 528 (2004)."

public as Piedmont and US Airways Express; and Allegheny flights are now being marketed and held out as Piedmont flights.

ALPA also states that the Board reached similar conclusions in its single carrier determination regarding the Mechanics and Related Employees, Stock Clerks, and Dispatchers crafts and classes in *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 32 NMB 21 (2004).

ALPA argues that the same finding of a single transportation system is equally applicable here, “as the integration and wind-up of Allegheny into the surviving Piedmont operation has progressed significantly since the time of those determinations, as described above, and there is now one surviving operation under the Piedmont-US Airways Express banner.”

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.

ALPA is a labor organization 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 FACTS

Corporate Transactions

On July 1, 2004, the corporate merger of Allegheny and Piedmont became effective. The former Allegheny has been operated as a division of Piedmont since that date. The Carriers state 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 former Allegheny aircraft are being transitioned to Piedmont. By the beginning of April 2005, the Carriers anticipate that there will be no aircraft at the Allegheny division.

The Carriers also state that on or about January 17, 2005, the first transition training class for pilots commenced. Each transition class is approximately one week in duration, and the class size is approximately eight pilots per class. The Carriers anticipate that transition classes will continue until such time that all of the approximately 105 active Allegheny pilots receive transition training, through approximately April 2005.

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

Prior to the merger, Allegheny employed 312 pilots and Piedmont employed 350 pilots. Both groups were represented by ALPA.

In 1969, the Union of Professional Airman (UPA) was certified to represent the Pilots of Suburban Airlines in NMB Case No. R-4092. The Board transferred UPA's certification in R-4092 to ALPA in 1982. *Suburban Airlines*, 9 NMB 177 (1982). The corporate name of Suburban Airlines was changed to Allegheny Commuter in 1989.

ALPA was certified to represent the Flight Deck Crew Members of Pennsylvania Airlines, Inc. in NMB Case No. R-5727. *Pennsylvania Airlines, Inc.*, 14 NMB 337 (1987). The NMB found that a single transportation system existed as a result of an operational merger between Pennsylvania Commuter Airlines, Inc., and Allegheny Commuter. The Board, therefore, extinguished the certification in R-4092 and extended ALPA's certification in R-5727 to cover the entire system. *Pennsylvania Airlines, Inc. and Allegheny Commuter Airlines, Inc.*, 19 NMB 362 (1992).

In 1984, ALPA became the certified collective bargaining representative of the Flight Deck Crew Members at Henson Airlines in NMB Case No. R-5507. *Henson Airlines*, 12 NMB 15 (1984). According to Piedmont's website, Henson was renamed Piedmont Airlines in 1993.

Section 19.602 of the Board's Representation Manual (Manual) provides that "[e]xisting certifications remain in effect until the NMB issues a new certification or dismissal."

Management and Labor Relations

Labor relations and personnel functions are administered by Piedmont. On March 17, 2004, the Carriers and ALPA reached an agreement in which the parties agreed, in pertinent part, to offer Allegheny pilots employment with Piedmont under

the terms stated in the ALPA-Piedmont Collective Bargaining Agreement (CBA), and to cooperate with the merger process. This agreement further states that “[u]pon certification of [ALPA] as the system-wide representative of the Pilots craft or class, the Piedmont–ALPA CBA, including its duration clause, will govern the merged operation.”

On July 30, 2004, the Carriers and ALPA reached an agreement regarding the consolidation of Allegheny into Piedmont in which ALPA committed to engage in an integration of the two pilot seniority lists into a single list, and to cooperate in the transition of Allegheny into the surviving Piedmont operation. This agreement led to the application of ALPA’s Merger Policy and creation of a merged seniority list for both pilot groups which will be used in the operation of Piedmont going forward. The integrated pilot seniority list includes approximately 438 pilots.

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 redirects the viewer to the US Airways website for information about reservations, fares, timetables, and flight status. Allegheny’s web page redirects the viewer to Piedmont’s web page for more information about Piedmont and about careers.

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); *General 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 and 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., TWA Airlines, LLC.*, 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 crafts or classes of Fleet and Passenger Service Employees, Mechanics and Related Employees, Dispatchers, and Stock Clerks. *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 32 NMB 21 (2004); *Allegheny Airlines, Inc. and 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 the Pilots craft or class. 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, 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. Allegheny aircraft are being transitioned to Piedmont, and Allegheny pilots are receiving transition training, which will be completed in April 2005.

III.

Representation Consequences

Once the Board determines that a single transportation system exists, it examines the potential representation issues. ALPA is the certified representative of Pilots at both Allegheny (NMB Case No. R-5727) and Piedmont (NMB Case No. R-5507). The Board extends ALPA's certification in R-5507 to include Pilots of the former Allegheny Airlines, Inc. and extinguishes ALPA's certification in R-5727.

CONCLUSION

The Board finds that Allegheny and Piedmont are operating as a single transportation system for representation purposes under the RLA for the Pilots craft or class. Accordingly, ALPA's application for Pilots in NMB File No. CR-6872 is converted to NMB Case No. R-7039. The Board extends ALPA's certification in R-5507 to include Pilots in the

single transportation system. The Board extinguishes ALPA's certification in R-5727 and closes its file in R-7039.

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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