



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
**UNITED PARCEL SERVICE
COMPANY**

33 NMB No. 55

CASE NO. R-7099
(File No. CR-6894)

FINDINGS UPON
INVESTIGATION-
DISMISSAL

August 8, 2006

This decision addresses the application of the International Brotherhood of Teamsters, Airline Division (IBT or Organization) alleging a representation dispute pursuant to the Railway Labor Act* (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth), among Engine Condition Monitoring Analysts (ECMAs) at United Parcel Service Company (UPS or Carrier). The IBT is the certified representative of the Mechanics and Related Employees craft or class at UPS (NMB Case No. R-5952). *United Parcel Serv. Co.*, 17 NMB 172 (1990). The IBT asserts that the ECMAs are part of the Mechanics and Related Employees craft or class.

For the reasons set forth below, the National Mediation Board (NMB or Board) finds that the ECMAs are already covered by the IBT's certification. Therefore, the Board dismisses the application.

* 45 U.S.C. § 151, *et seq.*

PROCEDURAL BACKGROUND

On February 28, 2006, the IBT filed an application alleging a representation dispute among the Carrier's ECMAs. The Organization requested that the Board accrete the ECMAs into the Mechanics and Related Employees craft or class. This application was assigned NMB File No. CR-6894. Maria-Kate Dowling was assigned as the Investigator. The Organization and the Carrier each filed an initial position statement on March 20, 2006. The Carrier filed a response to the Organization on March 27, 2006. The Organization filed a response to the Carrier on April 5, 2006. On April 13, 2006, the Board requested additional information, and that information was filed on April 21, 2006.

ISSUE

Are the ECMAs part of the Mechanics and Related Employees craft or class?

CONTENTIONS

IBT

The IBT contends that its certification as the representative of the Mechanics and Related Employees craft or class covers the ECMAs at UPS, and therefore, an accretion election is unnecessary. According to the IBT, the primary responsibility of ECMAs is monitoring the status and performance of aircraft in the UPS fleet. ECMAs identify engine system failures and/or trends, and provide guidance for corrective actions taken by Aircraft Maintenance Technicians (AMTs) to ensure that engines are properly maintained and efficiently and safely operated. Using data transmitted to ECMA computers and specialized software, ECMAs preempt or troubleshoot maintenance-related issues with jet engines. The IBT states that ECMAs write and issue maintenance alerts that are used to initiate maintenance actions on engines and aircraft and provide technical instruction to AMTs and other line maintenance employees. The IBT also asserts that the ECMAs work closely with other Mechanics and Related

Employees craft or class members, including Line Maintenance Planners, Aircraft Maintenance Controllers (AMCs), Maintenance Supervisors, Liaison Engineers, Heavy Maintenance Planners, Lead Service Technicians (LSTs), Shop Engineers, and Gateway Work Load Coordinators. The ECMAs, according to the IBT, provide engine condition monitoring, training, and familiarization to line maintenance personnel in monthly and periodic engine and aircraft familiarization classes.

Citing *United Airlines, Inc.*, 6 NMB 134 (1977), the IBT argues that the Board has long held that employees with different skill levels than mechanics are properly included in the Mechanics and Related Employees craft or class where they are engaged in a common maintenance function and share a strong work-related community of interest. The IBT further asserts that the ECMAs in the instant case perform duties that are nearly indistinguishable from the Controller-Engine Maintenance position found by the Board to be part of the craft or class of Mechanics and Related Employees craft or class in *United Airlines, Inc.*, 28 NMB 533, 564-68 (2001).

The IBT contends that, since the ECMAs perform an essential support function for employees who are engaged in actual maintenance and servicing of aircraft and equipment, they possess a work-related community of interest with the Mechanics and Related Employees craft or class.

UPS

The Carrier argues that the ECMAs are not a proper accretion to the Mechanics and Related Employees craft or class because the ECMAs do not share a work-related community of interest with employees in that craft or class.

Initially, UPS notes that it has had employees in the ECMA classification since the beginning of the airline and these employees were neither covered by the 1988 voluntary recognition of the IBT as bargaining representative of its aircraft mechanics, nor included as eligible voters in the Board conducted representation election in 1990. Further, UPS notes

that the ECMAs have never been included or covered by any of the contracts covering the Mechanics and Related Employees craft or class.

UPS contends that the primary function of its employees in the Mechanics and Related Employees craft or class is the performance of hands-on maintenance of UPS aircraft. These employees perform this work with tools and mechanical equipment. In contrast, UPS contends that the ECMAs perform no hands-on aircraft work and sit in offices, working on computers. UPS also states that the ECMAs' office environment is located in a building with no union represented employees in a building 10 miles from the location of the Mechanics and Related employees. UPS further states that the ECMAs' benefits, including health insurance, disability coverage, 401(k), vacation, sick leave, and holidays are completely different from those of the Mechanics and Related Employees craft or class. According to UPS, the ECMAs share the same benefits and employee handbook as the Carrier's administrative and technical employees. UPS asserts that there is no common supervision and no regular direct contact with the Mechanics. The Carrier further asserts that unlike the Mechanics and Related Employees craft or class, the ECMAs do not receive specialized mechanical training and do not wear UPS issued uniforms.

Additionally, the Carrier argues that, if the authorization cards submitted by the IBT in support of the instant application contain a request for an election, those cards are deficient for accretion purposes and the application should be dismissed under Section 3.1 of the Board's Representation Manual (Manual).

FINDINGS OF LAW

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

UPS is a common carrier by air as defined in 45 U.S.C. § 181.

II.

The IBT is a labor organization and/or representative as provided by 45 U.S.C. § 151, Sixth, and § 152, Ninth.

III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions “the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter.”

IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and shall designate who may participate as eligible employees in the event an election is required.

STATEMENT OF FACTS

I. ECMA Job Description

The Carrier provided an ECMA job description and a “functional description” of its Engine Condition Monitoring (ECM) Program. The job description and functional description are included in the Carrier’s ECM Procedures Manual (ECM Manual).

The job description lists the following duties:

1. Download and process engine data
2. Review morning reports for follow up actions
3. Print [&] review alert reports for required action(s)

4. Print & review OCM [Oil Consumption] alerts for required action(s)
5. Prepare engine watch list(s) & distribute as required
6. Prepare troubleshooting alerts per engineers [sic] direction
7. Follow up on corrective actions
8. Address aircraft with no data issues
9. Work projects on data acquisition systems
10. Update and implement fuel consumption guarantee requirements

According to the functional description, the ECMA “has the responsibility of ensuring that engine performance trending data is received in [a] timely and accurate manner.” The ECMA must also “ensure that appropriate corrective actions occur when adverse engine trends are identified.”

The ECM Manual also lists the tasks that are part of an ECMA’s daily routine:

- A. Check voice mail on a daily basis.
- B. Check e-mail messages.
- C. Download ECM Data for all engine models.
- D. Review Morning Reports and note engine write ups that may require performance review.
- E. Review ECM Data for any adverse engine conditions, post alerts and update Engine History Database.
- F. Speak with appropriate Engineer regarding various powerplant related items.
- G. Review Oil Consumption Alert Reports to determine if any adverse trends exist. Give a copy of alert to the respective engineer who’s [sic] engine model is listed on the OCM Alert
- I. Provide feedback on corrective action results to both internal/external customers – Aircraft Engineering, Fleet Organizations, Line Maintenance, AMC, Maintenance, Training and Vendors (on as needed basis).

According to the Manual, UPS also maintains an Engineering Alert Program to issue work to the UPS Aircraft Maintenance Department through the IMPACTS computer system. The ECM Procedures Manual sets forth the steps to be followed to generate an Alert.

II. Duties and Responsibilities of ECMAs

In a declaration submitted by the IBT, one of the ECMAs described his normal work day, beginning with his review of “Out of Service” and “Exceptions” reports. The ECMA gave an example of what happened when through this review, he identified an aircraft with a problem due to an oil leak. According to the ECMA, after briefing the Powerplant Line Support Engineering Manager, the ECMA proceeded to verify the oil consumption in the ECM/OCM oil consumption database. He then placed a call to the gateway and the AMT working on the aircraft that was the source of the oil leak. The ECMA then placed a call to the LSTs to delay initiating a maintenance action while the ECMA researched the parts and tooling required to replace the defective part. This research provided the basis for the subsequent Alert which specified the correct maintenance procedure for the AMT to follow. The ECMA then called the planner to schedule the repair. The ECMA communicated the number of hours required, the priority of the work and the gateway at which the work would be performed. Finally, the ECMA stated that he submitted the necessary parts and tooling requisitions to ensure the AMT would have everything to complete the repair.

In another ECMA declaration submitted by the IBT, the ECMA states that ECMAs provide engine condition monitoring training and familiarization to line maintenance personnel in monthly and periodic engine and aircraft familiarization classes at the UPS training center. He further states that ECMAs have instructed mechanics on “dos and don’ts” that have caused engine issues in the past. The IBT submitted copies of e-mails from a UPS ACMX Training Supervisor commending an ECMA for leading an AMT class on “things to look for (impending failures) and understanding the alert system.” ECMAs also attend aviation maintenance technician classes at the UPS

Training Center. The IBT submitted copies of Federal Aviation Administration (FAA) issued "Aviation Maintenance Technician Gold Awards" for ECMAs' completion of B757RB211 On-Wing Training and Pratt & Whitney Advanced Engine Health Monitoring Training awards.

UPS submitted a declaration from its Powerplant Engineering Manager, Jim Roberts. According to Roberts, the bulk of the ECMA job requires review of ECM for data trends or data values that indicate potential damage, deterioration, or excessive wear. If this review results in the issuance of an Alert, the ECMA forwards the Alert to the Planning Department. Roberts states that the Planning Department directs the Alert to the "aircraft line maintenance function, where it is eventually performed." Roberts also states that the process of reviewing oil consumption data, discussing it with the appropriate engineer and creating and issuing an OCM Alert is essentially the same procedure as for other maintenance Alerts.

UPS also submitted a declaration from its Director of Quality Assurance, Ian Watson. According to Watson, UPS has had ECMAs since the airline began its operations in 1988. ECMAs were not included on the list of eligible voters in the 1990 NMB-conducted representation election in the craft or class of Mechanics and Related Employees. Watson further states that the three ECMAs work side-by-side in the same office with powerplant engineers in a building 10 miles from the airport locations. Unlike the Carrier's aircraft mechanics, the ECMAs are not required to be A&P certified. ECMAs currently share the same benefits and employee handbook as the Carrier's Administrative and Technical employees. Organization charts attached to Watson's declaration show that ECMAs and Mechanics and Related Employees are part of UPS' Aircraft Maintenance and Engineering Division. ECMAs work in the Powerplant Engineering Division, which is part of Quality Assurance and supervised by Watson. According to the Organizational Charts, ECMAs and Mechanics and Related Employees share common supervision only at the level of the District Manager.

DISCUSSION

I. Work-Related Community of Interest

In determining the appropriate craft or class on a particular carrier, the Board examines a number of factors including functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *AirTran Airways, Inc.*, 31 NMB 45 (2003); *United Parcel Serv. Co.*, 30 NMB 84 (2002); *Frontier Airlines, Inc.*, 29 NMB 28 (2001). The factor of work-related community of interest is particularly important. *US Airways, Inc.*, 31 NMB 324, 334 (2004). To evaluate this factor, the Board examines the actual duties and responsibilities of the employees, the environment in which the employees work, and the interaction among the employees involved. *American Airlines, Inc.*, 10 NMB 26, 39 (1982). The purpose of the community of interest test is to ensure that a particular grouping of employees “possess a sufficiently distinct community of interest and commonality of functional characteristics to ensure a mutuality of interest in the objective of collective bargaining.” *Continental Airlines, Inc./Continental Express, Inc.*, 27 NMB 99, 109 (1999).

The Board makes craft or class determinations on a case by case basis, relying upon NMB policy and precedent. *US Airways, Inc.*, 28 NMB 104 (2000); *US Air*, 15 NMB 369 (1988).

The Board has examined the scope of the craft or class of Mechanics and Related Employees in numerous decisions. *AirTran Airways, above*; *United Parcel Serv. Co., above*; *US Airways, Inc., above*; *United Parcel Serv. Co.*, 27 NMB 3 (1999). In *United Airlines*, 6 NMB 134, 135 (1977), the Board, quoting *National Airlines, Inc.*, 1 NMB 423, 428-29 (1947), explained the functions of Mechanics and Related Employees, as follows:

A. Mechanics who perform maintenance work on aircraft, engine, radio, or accessory equipment.

B. Ground service personnel who perform work generally described as follows: Washing and cleaning airplane, engine, and accessory parts in overhaul shops; fueling of aircraft and ground equipment; maintenance of ground and ramp equipment; maintenance of buildings, hangars, and related equipment; cleaning and maintaining the interior and exterior of aircraft; servicing and control of cabin service equipment; air conditioning of aircraft; cleaning of airport hangars, buildings, hangar and ramp equipment.

C. Plant maintenance personnel including employees who perform work consisting of repairs, alterations, additions to and maintenance of buildings, hangars, and the repair, maintenance and operation of related equipment including automatic equipment.

“The related employees . . . while of different skill levels from the mechanics, nonetheless are closely related to them in that they are engaged in a common function – *the maintenance function . . .*” *Eastern Air Lines, Inc.*, 4 NMB 54, 63 (1965) (emphasis added). This “functional” connection between mechanic classifications and those employees who perform related maintenance operation has historically formed the basis for their identity as a single craft or class. *Id.*; see also *Federal Express Corp.*, 20 NMB 360 (1993).

It is equally well-settled that the Board includes classifications other than mechanics in the Mechanics and Related Employees craft or class. The Board’s inclusion of “related” employees is based on the regular direct contact with the Mechanics and a strong tie to the maintenance function. The Board has traditionally found employees who forecast and schedule maintenance for aircraft to properly be part of the Mechanics and Related Employees craft or class. In *AirTran Airways, above*, the Board accreted Technical Support

Specialists to the Mechanics and Related Employees craft or class since their main duties were to troubleshoot maintenance programs on aircraft and to provide technical advice and direction to mechanics. Similarly, in *United Parcel Serv. Co.*, 30 NMB 84 (2002), the Board found accretion of Editors and ATA Specialists to the Mechanics and Related Employees craft or class appropriate because the employees revised and maintained technical publications in response to requests from Mechanics and assisted Mechanics with technical questions. The Board found a work-related community of interest even though the Editors and ATA Specialists worked with Engineers every day but not with Mechanics and they worked in a location 10 miles from the airport. As the Board noted in denying UPS' request for reconsideration, "work location is not a determinant of craft or class." *United Parcel Serv. Co.*, 30 NMB 157, 161 (2002) (quoting *Aloha Islandair, Inc.*, 21 NMB 314 (1994) and *Aerototal Airlines*, 10 NMB 226 (1983)). The Board has also found quality control employees who are responsible for inspecting and overseeing the maintenance operations and equipment to be included in the Mechanics and Related Employees craft or class. See *USA Jet Airlines, Inc.*, 31 NMB 287 (2004); *US Airways*, 28 NMB 50 (2000); *Ross Aviation, Inc.*, 22 NMB 89 (1994).

In another case involving UPS, *United Parcel Serv. Co.*, 27 NMB 3 (1999), the Board determined that Controllers, who were responsible for monitoring aircraft maintenance, were properly included in the Mechanics and Related Employees craft or class. Although the Controllers were salaried employees, did not share any benefits with Mechanics, did not share any common supervision with Mechanics until the District Manager Level, did not receive the same training or wear uniforms, the Board concluded that Controllers performed functions traditionally performed by members of the craft or class of Mechanics and Related Employees. The Board noted that the Controllers' duties were to monitor aircraft maintenance operations and provide technical assistance and that in performing these duties they communicated with Mechanics by telephone.

Based upon the evidence presented, the ECMAs perform maintenance-related work. The ECMAs monitor aircraft engine performance and provide technical assistance and information to mechanics. Accordingly, the Board finds that ECMAs share a work-related community of interest with the Mechanics and Related Employees craft or class.

II. Accretion

The Board's broad discretion to determine the manner in which it conducts investigations in representation disputes was upheld conclusively in *Brotherhood of Ry. & S.S. Clerks v. Ass'n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965). The Court held that in determining choice of employee representative, the RLA "leaves the details to the broad discretion of the Board with only the caveat that it 'insure' freedom from carrier interference." *Id.* at 668-69.

In *Ross Aviation, Inc., above*, the Board dismissed the Organization's application stating that an election was unnecessary because the employees at issue were already covered by Board certification. Since then, the Board has consistently followed this policy when it finds that particular job functions are traditionally performed by members of a certified craft or class. *United Air Lines, Inc.*, 32 NMB 75 (2004); *AirTran Airways, Inc.*, 31 NMB 45 (2003); *Frontier Airlines, Inc.*, 29 NMB 28 (2001).

The Carrier argues that accretion is inappropriate because the ECMA position has existed since the beginning of the airline and was in existence at the time of the certification. Thus, UPS suggests that the IBT should have included the ECMAs in the previous representation proceeding. In *Northwest Airlines, Inc.*, 27 NMB 307 (2000), the Board rejected a similar argument, noting that it is the Board and not the parties that determines when accretion is appropriate and "prior conduct of the Organization or the Carrier" is not relevant to the determination. *Id.* at 314 (quoting *US Airways, Inc.*, 27 NMB 138 (1999)).

The Board bases its accretion determinations upon work-related community of interest. However, the Board requires all applications in representation matters to be supported by an adequate showing of interest. In *Frontier Airlines, Inc.*, 31 NMB 247 (2004), the Board stated that it would no longer accept authorization cards “requesting a representation election for accretion applications or certification by card check.” In that case, the cards authorized the organization to represent the signer in collective bargaining but also requested that the Board conduct an investigation and a representation election.

The authorization cards submitted by the IBT in the present case are sufficient under the Board’s *Frontier* requirements since they clearly indicate the signer’s intent to not only be represented by the IBT in collective bargaining but also to have the IBT petition the Board for accretion without an election. At the top, each card states in heavy black print, “REPRESENTATION AUTHORIZATION AND REQUEST FOR ACCRETION UNDER THE RAILWAY LABOR ACT.” Below this is a space for the name, employee number, classification, shift, and address. This is followed by the language:

I authorize the Airline Division of the International Brotherhood of Teamsters to petition the National Mediation Board for an accretion without election and represent me for all purposes under the Railway Labor Act with regard to: (1) collective bargaining over rules, rates of pay and working conditions; (2) grievance handling; and (3) protection of my rights under Section 2, Third and Fourth of the Act.

In this case, the Board has determined that the showing of interest is adequate, that the IBT is not forcing representation on individuals without their consent, and that accretion is appropriate.

CONCLUSION

The Board finds that UPS’ ECMAs are covered by the certification in NMB Case No. R-5952. As there is no basis for

further investigation, NMB File No. CR-6894 is converted to NMB Case No. R-7099 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
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Member Read Van de Water dissents.

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