HEARING BEFORE NATIONAL MEDIATION BOARD
DOCKET NO. C-6964

Statement of John Prater, President,
Air Line Pilots Association, International
in Support of Proposed Changes
to the National Mediation Board's
Representational Balloting Procedures

Chairman Dougherty and Members Hoglander and Puchala:

I am John Prater, President of the Air Line Pilots Association, International, and on behalf of ALPA and the 53,000 pilots it represents, I thank the Board for the opportunity to speak firmly in support of the Board's proposal to change the representational ballot to restore basic fairness to the union representation election process. ALPA strongly speaks in support of the Board's efforts to remove the current significant bias against union representation in the balloting rules. ALPA also believes that the Board's proposal is a long overdue step to level the playing field in union elections by counting the wishes of the majority of voters participating rather than presuming, as the rule does today, that every worker who does not participate is voting against union representation. The current rule gives those who fail to participate -- for whatever reason -- what amounts to a veto power over those who do.

This fundamental bias in the current balloting system against union representation is unique to railroad and airline employees. No other group of private sector employees in the United States selects their representatives with similar anti-representational presumptions. Nor does the public, when it chooses its elected representatives and other leaders, vote under such a system. If it did, very few public elections would produce an

outright majority for candidates and few public elections would succeed in filling the offices for which the election is held.

In addition to the current tilted ballot rules, management spends countless amounts of money and uses multiple means and technologies not even dreamt of in the 1930's to dissuade employees from voting. This conduct exaggerates the unfairness of the current balloting system. These tactics buttress the need to implement a system under which employees can clearly and easily express a position for or against union representation. This is especially so in light of the many forms of instantaneous communication and the ease of voting that will permit employers to communicate their point of view and for employees to express their sentiments.

The current NMB balloting system is not required by the statute and is the antithesis of democratic free choice. The Board's proposed rule change is a realistic but important update that ensures basic fairness and recognizes that conditions for voting have changed since the 1930's, when employees in remote locations could not quickly or easily get information, communicate their sentiments, or cast ballots. Today's modern world obviates these concerns and constraints and makes the proposed new rule appropriate.

Some argue unpersuasively for the continuation of a 70 year Board tradition without providing compelling reasons to support such a system. But our great country has a tradition of righting balloting injustices even when they persist over long periods of time. Civil Rights laws that provided minorities the right to vote were not passed for more than 100 years after the end of the Civil War. Women were not given the right to vote for more than 130 years after the founding of this country. The century-long

continuation of these unjust voting rules did not justify their retention. Nor should the existing NMB balloting system, that presumes to know how non-voters would vote, continue even though it has been used for more than 70 years. The Board has good reasons to make a change now and it has the authority to do so.

As the NMB noted in its NPRM, almost 45 years ago the Supreme Court ruled that the Board has very broad discretion to establish appropriate balloting procedures. The Court also noted that the Railway Labor Act does not require the Board to use a ballot at all to determine an employee's choice of union representation.

The NMB proposes a modest change that it has the discretion to determine is appropriate. In Canada, employees at the federal level are normally not required to vote in union elections if a majority submit authorization cards stating that they desire union representation. Although the Board has the power to adopt that kind of system, it is not proposing such a dramatic change from the current procedures. The Board is proposing simply to apply a widely accepted and fundamentally fair election process that recognizes that the majority rules. If the majority of participants in an election votes for a union, it wins. If a union is not supported by the majority of voters, it loses. These modest changes to the Board's balloting processes are justified and should be implemented as soon as possible.

Contrary to the view of parties who oppose this change, the proposed ballot modification would not undermine the RLA's goals of reducing strikes and preventing disruptions to commerce. The Board's proposal would not change any of the Board's mediation procedures nor would it impact the RLA's status quo rules. These are the

relevant procedures and rules that determine when strikes can begin, and they do not have anything to do with determining whether workers want to join a union.

The Board's representational function is purposely separate from its mediation function and its representational duties are simply to determine whether workers want to obtain union representation. The current ballot system impairs the accuracy of the Board's representational determinations when all non-voters are treated as voting no. The revised proposed ballot rules, on the other hand, will not impact the Board's mediation function at all.

The unstated premise of this corporate argument is there will be more strikes if we have more unions. They follow by arguing that there should be no change that makes it easier for a union to organize. Not only is that argument speculative, it also undermines the RLA's foundation. Labor and management together designed the RLA and jointly presented it to Congress. The statute purposely sought to avoid disruptions to commerce but also fostered the use of collective bargaining as a problem-solving device that would stabilize the transportation system. This foundation, and the statute's clear recognition that employees could choose their representative without coercion or interference by management, make clear that management's argument is unsound and contravenes the Act's purpose. The Board's proposed rule change more fully carries out all of the central purposes of the Act to foster peaceful, collectively-bargained solutions to labor disputes in the rail and airline industries.

ALPA stands united with the Transportation Trades Department of the AFL-CIO and our fellow unions in the rail and airline industries, who unanimously support this rule change. On behalf of ALPA and its members, I appreciate the opportunity to speak in

favor of the Board's proposal, which ALPA believes is long overdue and which we strongly endorse. Thank you.