

**Statement of Claude Sullivan to the National Mediation Board**  
**December 7-8, 2009, Docket C-6964**

My name is Claude Sullivan. I have practiced before the National Mediation Board since 1968. I have known and worked with all of the 24 Board members who have served on the Board since that date.

I am opposed to the proposal to change the Board's 75 year old majority union voting rule because I believe to do so is unlawful and unwise. I will file written comments by the end of the sixty-day comment period fully addressing my reasons for opposing the proposed change.

Today I only want to address what I strongly feel is wrong about the process you have chosen to use.

Never in my career has the Board followed a process like the one you are now using when the issue is to fundamentally change one of the Railway Labor Act's voting rules. As you know, this is not the first time the Board has dealt with a suggestion for change in its longstanding voting rule. I believe there have been four other occasions. On each of those occasions, all members of the Board have declined to change the rule. One of the most respected Boards in the history of the RLA - George Ives, David Stowe and Bob Harris - stated that the Board did not have authority to change the rule and only Congress could do so. Other Boards have simply refused to make the change.

In the past when the Board has determined that comments on suggested changes in voting rule would be helpful, it has authorized a full blown evidentiary hearing with a hearing officer. The participants were allowed to call and cross-examine sworn witnesses, make arguments and file briefs. We now call that type of hearing a "Chamber of Commerce" hearing. In 1985, the identical issues were before the Board - a union proposal for a minority union voting rule and a decertification procedure proposed by the Chamber of Commerce. The contrast between what the Board did then and what you are now doing is striking and inexplicable. Rather than use the process the Board used in the past, this Board has ignored the Chamber of Commerce request for the adoption of a decertification rule and has published a proposal that almost copies verbatim the TTD application.

By adopting this new process, you have clearly antagonized and alienated one side, the carriers, and rewarded the other side, the labor organizations who propose the rule change. This flawed process coupled with other recent events at the Board lead to only one sad conclusion - that this Board has pre-determined the outcome of the proposed rule. This conclusion is at odds with any notion that the Board is being open-minded and neutral, something it has worked diligently over many decades to ensure.

The other recent events I refer to include:

- 1) the intentional and unjustified delay in the IAM and AFA elections at Delta;
- 2) the Board's role in the withdrawal of the IAM and AFA applications for elections at Delta;
- 3) the Board's role in leading the IAM and AFA to believe that the voting rule will be changed and that the unions should re-file their applications for elections at Delta under the new rule;
- 4) the manner in which the NPRM was prepared without the input or knowledge of the Chairman of the Board; and
- 5) the blatant attempt to prevent the Chairman from publishing a well reasoned dissent to the NPRM.

This is not what the Board is supposed to do and it is shocking and sad to see what is going on. The Board is widening the gulf between carriers and labor organizations which is directly contrary to what the Board members have sought to do in the past. It is also directly contrary to what the Board members have promised the Congress and the public they would do. Without exception, all members of the Board today have said at various times that before any major change would be considered in the Railway Labor Act voting procedures, the Board would seek a consensus among the carriers and labor organizations. It is obvious from what you will hear today and read in the comments that will be filed before the end of the sixty-day comment period that consensus can never be reached on this vital issue if you continue to follow the process you have selected and if the result is predetermined.

Hopefully, it is not too late to cure the problem that the Board has created. As a first step, I would suggest that the Board withdraw the NPRM.

I urge you to reconsider before you completely and irrevocably undermine the public trust in the Board to fulfill its mission. Thank you for allowing me to speak.