



NATIONAL MEDIATION BOARD

1301 K St NW, Suite 250E
Washington, DC, 20005

In the Matter of the
Application of the

TRANSPORT WORKERS UNION
OF AMERICA

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of
PSA AIRLINES, INC.

52 NMB No. 10

CASE NO. R-7644
(File No. CR-7256)

FINDINGS UPON INVESTIGATION

November 21, 2024

FINDINGS UPON INVESTIGATION

This determination addresses the application of the Transport Workers Union of America (TWU) alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth),¹ among “Simulator Instructors” at PSA Airlines, Inc. (PSA or Carrier).

TWU asserts that the appropriate craft or class for the employees covered by the application is Simulator Instructors. For the reasons set forth below, the National Mediation Board (Board or NMB) concludes that the appropriate craft or class is Instructors.

PROCEDURAL BACKGROUND

On October 2, 2024, TWU filed an application alleging a representation dispute involving a proposed craft or class of Simulator Instructors at PSA, to be composed of individuals with the job title of “Pilot Instructor (PI-1),” but who are

¹ 45 U.S.C. § 151, *et seq.*

often called “Simulator Instructors.” At the time of the application, none of the Simulator Instructors were represented by any organization or individual. The application was given NMB File No. CR-7256 and Andres Yoder was assigned as the Investigator.

On October 15, 2024, TWU submitted a position statement; a copy of a Simulator Instructor job posting; a copy of a job posting for a PSA position called “Ground Instructor”; and a printout from PSA’s website. On October 21, 2024, at the invitation of the Investigator, TWU submitted an additional position statement.

On October 16, 2024, PSA submitted a List of Potential Eligible Voters (List) and signature samples. On October 24, 2024, following a request from the Investigator, PSA submitted a position statement; a position description for the Ground Instructor job; and a position description for the Simulator Instructor job.

ISSUE

What is the appropriate craft or class for the Simulator Instructors covered by TWU’s application?

CONTENTIONS

TWU argues that the appropriate craft or class in this case is Simulator Instructors. According to TWU, PSA’s Simulator Instructors and Ground Instructors do not belong in the same craft or class.

PSA does not dispute TWU’s view that the appropriate craft or class is Simulator Instructors.

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.

PSA is a common carrier as defined in 45 U.S.C. § 181.

II.

TWU 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 the purposes of this chapter.”

IV.

45 U.S.C. §151, Fifth, defines employee as “[E]very person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee or subordinate official in the orders of the Surface Transportation Board now in effect”

V.

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 voters in the event an election is required.

STATEMENT OF FACTS

PSA is a wholly owned subsidiary of American Airlines that is headquartered in Dayton, Ohio. As of September 20, 2024, it employed 29 Simulator Instructors and approximately 12 Ground Instructors.

Both Simulator Instructors and Ground Instructors are primarily based in Charlotte, North Carolina and Cincinnati, Ohio. Both currently report to the Manager of SIM Training and Standards, who in turn reports to the Director of Flight Training. Both are part of PSA’s Flight Training Department.

Simulator Instructors’ job duties include providing pilots with flight instruction in a flight simulator, and occasionally providing them with ground instruction. Requirements for the Simulator Instructor position include having a pilot’s license and being eligible for a CL-65 PIC Type Rating. Simulator Instructors are not line qualified and are not on the PSA Pilot Seniority List.

Ground Instructors provide pilots with ground instruction—including ground school modules, recurrent ground school, and basic indoctrination. They are responsible for courseware development and course content. Ground Instructors also recommend and evaluate students for completion of ground school, which must be completed before they enter the simulator phase of training. Requirements for the Ground Instructor position include having a pilot’s license; having one-to-two years of experience as a “flight instructor-simulator and/or airplane”; and having one-to-two years of experience as a Dispatcher. There is no evidence that Ground Instructors are line qualified or on the PSA Pilot Seniority List.

DISCUSSION

In determining the appropriate craft or class for employees, the Board is guided by NMB Representation Manual (Manual) Section 9.1, which states:

In craft or class determinations, the NMB considers many factors, including the composition and relative permanency of employee groupings along craft or class lines; the functions, duties, and responsibilities of the employees; the general nature of their work; and the extent of community of interest existing between job classifications. Previous decisions of the NMB are also taken into account.

See, e.g., JetBlue Airways, 51 NMB 7, 11 (2023). The factor of work-related community of interest is particularly important. *See, e.g., Southwest Airlines*, 51 NMB 64, 69 (2024). 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. *See, e.g., United Airlines*, 51 NMB 39, 46 (2024). The purpose of the community of interest test is to ensure that a particular grouping of employees “possess[es] a sufficiently distinct community of interest and commonality of functional characteristics to ensure a mutuality of interest in the objective of collective bargaining.” *Delta Air Lines*, 26 NMB 391, 406 (1999). The Board makes craft or class determinations case by case, based upon Board policy and precedent. *See, e.g., Air Methods Corp.*, 49 NMB 143, 146 (2022).

In the past, in making community-of-interest findings with respect to instructors, the Board has considered a number of factors. For example, in *ExpressJet Airlines*, 44 NMB 180 (2017), in finding that Flight Instructors and Ground Instructors shared a community of interest, the Board noted that both flew the line; both were on a pilot seniority list; and both were part of the same department. *See id.* at 185-86. And in *American Airlines*, 30 NMB 30 (2002), in finding that Pilot Simulator Instructors and Ground School Instructors shared a community of interest, the Board noted that both worked in the same location, and that there was significant functional interaction between the two jobs. *See id.* at 38. Additionally, in *JetBlue Airways*, *above*, in finding that Flight Instructors and Pilot Instructors did not share a community of interest, the Board noted that only Pilot Instructors flew the line and were on a pilot seniority list. *See id.* at 11-12. And in *Continental Airlines/Continental Express*, 27 NMB 99 (1999), in finding that Flight Instructors and Ground School Instructors did not share a community of interest, the Board noted that only Flight Instructors held a pilot’s license; only a subset of Flight Instructors flew revenue flights; and the two positions fell into separate organizational units. *See id.* at 110-11.

In this case, PSA’s Simulator Instructors and Ground Instructors belong in

a single craft or class of Instructors because the record shows that they share a community of interest. The main purpose of both jobs is to instruct pilots, and both jobs require a pilot's license. Simulator Instructors are not line qualified and are not on the PSA Pilot Seniority List, and there is no evidence that Ground Instructors are line qualified or on the PSA Pilot Seniority List. Additionally, the jobs are functionally integrated: the jobs are based in the same locations; the jobs are in the same department; the individuals who perform the jobs report to the same manager; and Simulator Instructors occasionally provide pilots with ground instruction—which is a task that Ground Instructors perform. Although there are some differences between the jobs, those differences do not affect the jobs' overall community of interest.

TWU points out that in *Envoy Air*, 46 NMB 55 (2019), the Board certified a representative for a craft or class of Pilot Simulator Instructors. *See id.* at 55-56. The Board, however, makes craft or class determinations on a case-by-case basis. *See, e.g., Air Methods Corp., above* at 146. The Board also regularly groups instructors together in a single craft or class. *See, e.g., ExpressJet Airlines, above* at 185-86; *American Airlines, above* at 37-38. TWU also points out that PSA does not dispute its argument that the appropriate craft or class in this case is Simulator Instructors. However, the Board alone makes craft or class determinations. *See Connecticut Southern R.R.*, 44 NMB 43, 46 (2017).

CONCLUSION

The Board finds that the appropriate craft or class for the Simulator Instructors covered by TWU's application is Instructors—a group that includes Ground Instructors. Accordingly, the Board converts NMB File No. CR-7256 to NMB Case No. R-7644.

By **10 a.m., ET** on **November 27, 2024**, the Carrier must submit an Amended List of Potential Eligible Voters (Amended List) as a Microsoft-Excel file, and must send a separate Amended List in PDF format to each of the Participants. The Amended List should be alphabetized, and should identify the Instructors who were employed by PSA as of September 20, 2024.² The Carrier must also submit an attestation by a carrier officer (e.g., vice president of labor relations or equivalent) of the accuracy of the Amended List to the best of their knowledge.

By **10 a.m., ET** on **November 27, 2024**, the Carrier must also submit signature samples for the individuals on the Amended List who do not appear on the List.

Any challenges to the Amended List or objections with regard to any other matter must be filed with the Investigator by **4 p.m., ET** on **December 4, 2024**.

² The October 2, 2024 Pre-Docket Letter in this case contains information about creating a List of Potential Eligible Voters. That information guides the creation of the Amended List as well.

Responses to challenges or objections, if any, must be filed by **4 p.m., ET** on **December 11, 2024**. All submissions must comply with the simultaneous service requirements of Manual Section 1.4. Absent extraordinary circumstances, the Investigator will deny all submissions not filed by deadline or not simultaneously served on all participants. *See id.* at Section 8.1. All challenges and objections must be supported by substantive evidence and argument. *See id.* at Section 8.2. Unsupported allegations will be insufficient to overcome presumptions of eligibility or ineligibility as reflected by the Amended List. The Investigator will deny all challenges and objections not supported by substantive evidence. *See id.*

The Investigator will rule on any properly filed challenges or objections. *See id.* at Section 10.1. Absent extraordinary circumstances, the Board will not consider evidence on appeal unless it has been initially filed with the Investigator. *See id.* at Section 10.2.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in black ink that reads "Maria-Kate Dowling". The signature is written in a cursive, flowing style.

Maria-Kate Dowling
General Counsel