



NATIONAL MEDIATION BOARD

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

In the Matter of the
Application of the

BROTHERHOOD OF LOCOMOTIVE
ENGINEERS & TRAINMEN

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

involving employees of

ALSTOM TRANSPORTATION INC.

52 NMB No. 24

CASE NO. R-7648
(File No. CR-7257)

FINDINGS UPON INVESTIGATION –
DISMISSAL

January 22, 2025

This determination addresses the application filed by the Brotherhood of Locomotive Engineers and Trainmen (BLET) alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth),¹ among Train and Engine Service Employees, employees of Alstom Transportation Inc. (Alstom). These employees are currently represented by the International Association of Sheet, Metal, Air, Rail and Transportation Workers-Transportation Division (SMART-TD) through a certification by the National Labor Relations Board (NLRB).

The BLET's application raises the question of RLA jurisdiction. For the reasons set forth below, the National Mediation Board (NMB or Board) finds that, with regard to its operation of SunRail, Alstom is not a carrier subject to the RLA.

¹ 45 U.S.C. § 151, *et seq.*

I. PROCEDURAL BACKGROUND

On October 21, 2024, BLET filed an application, along with authorization cards, alleging a representation dispute involving Train and Engine Service Employees at Alstom. The application was designated NMB File No. CR-7257 and assigned to Investigator Angela I. Heverling. On November 19, 2024, Alstom, BLET, and SMART-TD filed position statements.

II. ISSUE

Are Alstom's operations and employees on SunRail subject to the jurisdiction of the RLA?

III. CONTENTIONS

BLET and SMART-TD argue that Alstom is subject to RLA jurisdiction under the Fixing America's Surface Transportation (FAST) Act deeming recipients of Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants "rail carriers" under the RLA. They cite to the Board's recent determination in *Brightline Trains Florida*, 52 NMB 44 (2024) (*Brightline*) in support of this contention.

Alstom disputes that its operation of SunRail is subject to the RLA because SunRail is not a railroad subject to Surface Transportation Board (STB) jurisdiction. Additionally, it argues that as the operator of a commuter rail line, it is exempt from the grant conditions relied upon by the Board in *Brightline*.

IV. STATEMENT OF FACTS

Alstom, a division of the Alstom Group, operates SunRail, an intrastate commuter rail system that provides weekday service in the Orlando, Florida area. SunRail serves 17 stations and runs approximately 40 trips per day, Monday through Friday. As background, the Central Florida Commuter Rail Commission (CFCRC), a Florida public agency created pursuant to an Interlocal Agreement made by and among Volusia, Seminole, Orange, and Osceola Counties and the City of Orlando under Florida law, acts in an advisory capacity to the Florida Department of Transportation (FDOT), which administers, funds, and operates SunRail.²

In 2007, FDOT entered into an agreement to acquire the approximately 61.5-mile Orlando Line, between DeLand and Poinciana, Florida from CSX Transportation (CSXT). FDOT completed the acquisition in 2011 and CSXT has

² Alstom reports that CFCRC is expected to take over funding of SunRail from FDOT within the next year.

retained an exclusive, perpetual freight rail easement to continue operating its common carrier freight rail service on the Orlando Line. In 2010, the STB applied the *State of Maine* doctrine to determine that FDOT would not become a common carrier subject to its jurisdiction based on its acquisition of the Orlando Line from CSXT. *Florida Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc.* (STB Dec. 15, 2010) No. FD 35110, 2010 WL 5104870 at *7-8.

FDOT entered into a contract with Bombardier Mass Transit Corporation (BMTc) in 2013 to provide train operations for SunRail, which started revenue service the following year. The Alstom Group subsequently acquired Bombardier Transportation in 2021 and initially renamed BMTc Alstom Mass Transit Corporation, which became part of Alstom. Alstom continues to operate SunRail according to the terms of the 2013 contract. According to Alstom, under its contract with FDOT it is required to “(1) operate the SunRail commuter rail service, (2) perform all maintenance and servicing of cars and locomotives operated in the SunRail service, (3) staff and operate the SunRail Operations Control Center, and (4) perform certain maintenance responsibilities.” Alstom employs the Train and Engine Service employees covered by the BLET application.

Regarding the representation history of the employees at issue, in 2014, the American Train Dispatchers Association (ATDA) obtained a certification from the NLRB to represent all train conductors and locomotive engineers on SunRail. ATDA later disclaimed interest, and on July 7, 2017, the NLRB certified SMART-TD as the representative. As of the time the parties submitted their position statements, SMART-TD and Alstom were in negotiations over a new collective bargaining agreement after the last one expired on March 31, 2024.

V. DISCUSSION

A “carrier” subject to RLA jurisdiction includes, inter alia, a “railroad subject to the jurisdiction of the Surface Transportation Board.” 45 U.S.C. § 151, First.³ STB jurisdiction, in turn, is defined in the Interstate Commerce Commission Termination Act of 1995 (ICCTA), 49 U.S.C. § 10101, *et seq.*

SunRail, administered and funded by FDOT, is not a railroad subject to STB jurisdiction. In 2010, the STB determined that FDOT’s acquisition of the Orlando Line from CSXT did not require STB authorization because FDOT did not become a common carrier through that transaction. The STB relied on the *State of Maine* doctrine to make this determination. As noted above, CSXT retained a permanent easement on the line. The *State of Maine* doctrine holds

³ Section 1, First of the RLA also includes within the definition of rail carrier any “express company” and “any company which is directly or indirectly owned or controlled by or under common control with any carrier by railroad” 44 U.S.C. § 151. None of the parties have argued that either applies to Alstom.

that a public entity acquiring a freight rail line avoids becoming a common carrier when the freight carrier retains the rights and duties of a common carrier. According to the determination, “[b]y virtue of the rail carrier retaining the full right and necessary access to maintain, renew, and operate the line, the rail carrier retained its common carrier status on the line at issue” *Florida Department of Transportation, above* at 4. The NMB has also applied this doctrine to determine that it did not have jurisdiction over a public agency administering a commuter rail line. See *Southern California Regional Rail Auth.*, 43 NMB 71 (2016).

The NMB has asserted jurisdiction over Alstom (then Bombardier) in the past, determining, in the absence of an STB decision, that its operations and employees on the Brunswick and Camden Lines of the Maryland Area Regional Commuter Train Service (MARC) were subject to the RLA. See *Bombardier Transportation Serv.*, 46 NMB 58 (2019) (*Bombardier*). There, the Board held that the Brunswick and Camden Lines would fall under STB jurisdiction as defined in the ICCTA. Although SunRail and MARC are both commuter rail lines administered by public entities, SunRail’s operations differ in that they do not meet the ICCTA requirement that transportation must take place between certain places “as part of the interstate rail network.” 49 U.S.C. § 10501(a)(2)(A). Unlike the MARC lines at issue in *Bombardier*, SunRail’s operations are entirely within the state of Florida and are not otherwise part of the interstate rail network.

BLET and SMART-TD argue that the Board’s determination in *Brightline* is controlling here because SunRail conducts rail operations over rail infrastructure constructed or improved with funding provided by a federal CRISI grant. In *Brightline*, the Board determined that Brightline Trains Florida LLC was subject to RLA jurisdiction as the result of FAST Act language deeming recipients of CRISI grants carriers under the RLA.

In 2020, FDOT was awarded \$5.6 million through a CRISI grant to complete the second segment of a track in Kissimmee, Florida, eliminating a chokepoint and decreasing delays on SunRail. In 2022, FDOT received a grant of over \$6 million for safety enhancements at 110 grade crossings utilized by two freight railroads, Amtrak, and SunRail. Alstom argues that, even if SunRail was considered a recipient of a CRISI grant under the FAST Act, it would not be deemed a carrier under the RLA because commuter railroads are excluded from the relevant FAST Act language.

As background, the CRISI grant program of the U.S. Department of Transportation’s Federal Railroad Administration (FRA) was created in 2015 and codified in Section 11301 of the FAST Act, 49 U.S.C. § 22907. The following statutory language from the FAST Act at 49 U.S.C. § 22905 (Section 22905) regarding Rail Improvement Grants, including the CRISI grant program, is relevant to our determination:

Grant Conditions

. . . .

(b) Operators Deemed Rail Carriers and Employers for Certain Purposes.— A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

- (1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);
- (2) the Railway Labor Act (45 U.S.C. 151 et seq.); and
- (3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

The Grant Conditions language first provides that by receiving funding under a grant, a “person” shall be considered a “rail carrier” under Section 10102(5) of the ICCTA. The grant conditions also deem a recipient a rail carrier under “any other statute that adopts that definition or in which that definition applies” and explicitly include the RLA as one such statute. *See* 49 U.S.C. § 22905.

Section 22905(e) exempts commuter railroads from the grant conditions described above. It states the following:

Nothing in this section applies to— (1) commuter rail passenger transportation (as defined in section 24102) operations of a State or local governmental authority (as those terms are defined in section 5302) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined)

Within Section 24102 “commuter rail passenger transportation” is defined as “short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.” 49 U.S.C. § 24102.

SunRail is a commuter railroad owned and administered by FDOT, a state agency. It services the greater Orlando Metropolitan area only and, as noted

above, runs only Monday through Friday.⁴ Its services meet the definition of commuter rail passenger transportation in Section 24102. In contrast, Brightline is a privately-owned intercity passenger rail operator, extending from Orlando to Miami. In “The Florida Rail System Plan,” developed by FDOT to guide Florida’s rail transport projects, FDOT distinguishes intercity rail provided within the state by Amtrak and Brightline from commuter rail provided by entities like SunRail and Tri-Rail.⁵

It is the Board’s view that the plain language in Section 22905(e) excludes commuter rail lines from the grant conditions language relied upon by SMART-TD and BLET and that SunRail is a commuter rail line.⁶ Also notable is the fact that Section 22905(f) provides that “[n]o grants shall be provided under this chapter for commuter rail passenger transportation” 49 U.S.C. 22905(f). Although commuter rail lines such as SunRail may benefit from the infrastructure improvements brought about by CRISI grants, Congress intended to exclude them from the provisions of Section 22905 and did so though the plain language within that section.

CONCLUSION

For the above reasons, the NMB finds that Alstom’s operations and employees on SunRail are not subject to RLA jurisdiction. The Board hereby converts this matter to NMB Case No. R-7648 and dismisses the application.

By direction of the NATIONAL MEDIATION BOARD.



Maria-Kate Dowling
General Counsel

⁴ In its determination, the STB refers to SunRail as providing “commuter rail passenger service.” *Florida Department of Transportation, above* at 1.

⁵ Available at: <https://www.fdot.gov/rail/plans/railplan>

⁶ The Board does not need to decide whether SunRail would be considered a recipient of a CRISI grant by virtue of the money received by FDOT and used for projects that benefit SunRail along with other railroads.