



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the
Application of the

**BROTHERHOOD OF
LOCOMOTIVE ENGINEERS AND
TRAINMEN**

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

involving employees of

**ST. LAWRENCE AND ATLANTIC
RAILROAD COMPANY**

31 NMB No. 109

CASE NO. R-7025
(File No. CR-6855)

FINDINGS UPON
INVESTIGATION-
AUTHORIZATION OF
ELECTION

September 3, 2004

This determination addresses the application of the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail-Conference-International Brotherhood of Teamsters (BLET or Organization), alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth), among "Locomotive Maintenance Employees," employees of St. Lawrence and Atlantic Railroad Company (St. Lawrence and Atlantic or Carrier). At the time this application was received, these employees were represented by the United Transportation Union (UTU) pursuant to a voluntary agreement between the Carrier and the UTU.

For reasons set forth below, the National Mediation Board (Board) concludes that Locomotive Maintenance

Employees constitute an appropriate craft or class and authorizes an election.

PROCEDURAL HISTORY

On June 28, 2004, the BLET filed an application alleging a representation dispute among St. Lawrence and Atlantic's Locomotive Maintenance Employees. The Board assigned Maria-Kate Dowling as the Investigator. On August 11, 2004, the Board reassigned Susanna C. Fisher as the Investigator.

The Carrier submitted a List of Potential Eligible Voters and signature samples on July 12, 2004. On July 13, 2004, the BLET submitted an initial position statement. The UTU requested and received an extension of time to file an initial position statement until July 27, 2004. Neither the Carrier nor the UTU submitted initial position statements.

ISSUE

Do Locomotive Maintenance Employees constitute an appropriate craft or class?

CONTENTIONS

BLET

The Organization asserts that the classifications of employees in the Locomotive Maintenance Employees craft or class are Locomotive Foremen, Locomotive Equipment Maintainers, and Engine House Laborers. The BLET states that these employees are responsible for the locomotive maintenance function at the Carrier and collectively perform all of the duties of the traditional shop crafts. The BLET argues that "a composite craft or class of Locomotive Maintenance Employees has been recognized as an appropriate craft or class by the Board in the past and is appropriate on the instant Carrier." *See Louisiana and Delta RR.*, 16 NMB 39 (1988).

The BLET states that the Locomotive Foremen, Locomotive Equipment Maintainers, and Engine House

Laborers share common functions, duties, responsibilities, working conditions, and benefits. The Organization also asserts that these employees share the same basic day, hours, and work week as well as the same health, welfare, and profit sharing benefits. Furthermore, the BLET states that Locomotive Maintenance Employees share the same seniority system and the same vacation time, holidays, jury duty, bereavement leave, meal periods, call-ins, promotions, and away-from-home expense policies.

The BLET submitted a collective bargaining agreement (CBA) for Locomotive Foremen, Locomotive Equipment Maintainers, and Engine House Laborers between the Carrier and the UTU in support of its position.

UTU

The UTU did not submit any information.

Carrier

St. Lawrence and Atlantic submitted a List of Potential Eligible Voters, signature samples and a Notice of Appearance on July 12, 2004. The Carrier did not file a position statement.

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.

St. Lawrence and Atlantic is a common carrier by rail as defined in 45 U.S.C. § 151.

II.

The BLET and the UTU are labor organizations and/or representatives as provided by 45 U.S.C. § 151, Sixth.

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 voters in the event an election is required.

STATEMENT OF FACTS

According to the CBA between the Carrier and the UTU submitted by the BLET, Locomotive Foremen, Locomotive Equipment Maintainers, and Engine House Laborers share the same wages, rates of pay, profit sharing, seniority, assignment to positions, vacations, holidays, time allowances, meal periods, away from home expenses, basic day, hours, work week, promotion potential, discipline, and health and welfare benefits.

The job duties for each of these employees as outlined in the CBA are as follows:

Locomotive Foreman – a working foreman in charge of the locomotive fleet and responsible for record keeping, such as daily engineer reports and Federal Railroad Administration reports.

Locomotive Equipment Maintainers – responsible for the maintenance of locomotives and assist the Locomotive Maintainers as directed by the Locomotive Foreman.

Laborers – assist in the maintenance of locomotives and assist the Locomotive Maintainers as directed by the Locomotive Foreman.

In addition, the CBA states that, “employees in the foregoing positions may perform all work directly or indirectly related to the service performed. Employees may also be assigned on a temporary basis to any work they have the capacity to perform.”

DISCUSSION

The Board makes craft or class determinations based on a work-related community of interest. *National Airlines, Inc.*, 27 NMB 550, 555 (2000); *Continental Airlines, Inc./Continental Express, Inc.*, 26 NMB 143, 151 (1999); *LSG Lufthansa Servs., Inc.*, 25 NMB 96, 108 (1997). The Board makes its craft or class determinations on a carrier-by-carrier basis, in view of Board policy and precedent. *US Airways, Inc.*, 28 NMB 104 (2000); *USAir*, 15 NMB 369, 392 (1988); *Simmons Airlines*, 15 NMB 124, 127 (1988). In determining the proper craft or class for employees, the Board is guided by the Representation Manual (Manual) Section 9.1 which states:

In craft or class determinations, the Board 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.

The Board examines the actual duties and responsibilities of employees, not merely job titles, when determining whether there is a work-related community of interest. *National Airlines, above* at 555; *American Airlines, Inc.*, 26 NMB 106, 117 (1998).

The BLET cites *Louisiana and Delta R.R.*, 16 NMB 39 (1998), stating that the Board has recognized Locomotive Maintenance Employees as an appropriate craft or class. In *Louisiana and Delta R.R.*, above, the UTU filed applications to represent “Machinists” and “Mechanical-Electrician.” These applications were docketed as R-5821 and R-5822. The Board determined that the appropriate craft or class for these employees is Locomotive Repair and Maintenance Workers. The Board’s investigation established that the UTU failed to support its application with the required number of authorization cards and dismissed the application.

Locomotive Foremen, Locomotive Equipment Maintainers, and Engine House Laborers have common functions, duties and responsibilities with respect to the maintenance of the locomotives. In addition, these employees share the same wages, rates of pay, profit sharing, seniority, assignment to positions, vacations, holidays, time allowances, meal periods, away-from-home expenses, basic day, hours, work week, promotion potential, discipline, and health and welfare benefits.

In applying the factors listed above, the Board finds that Locomotive Maintenance Employees share a community of interest and, therefore, constitute an appropriate craft or class.

CONCLUSION AND AUTHORIZATION OF ELECTION

The Board finds that the proper craft or class is Locomotive Maintenance Employees and a dispute exists among these employees. Therefore, the Board converts NMB File No. CR-6855 to NMB Case No. R-7025 and authorizes a telephone electronic voting election using a cut-off date of June 26, 2004. Pursuant to Manual Section 12.1, the Carrier is required to furnish, within five calendar days, alphabetized 1” x 2 5/8” peel-off labels bearing the names and current addresses of those employees on the List of Potential Eligible Voters. The Carrier must print the same sequence number from the List of Potential Eligible Voters beside each voter’s name on the address label. The Carrier must use the most expeditious method possible, such as overnight mail, to ensure that the

Board receives the labels within five calendar days. UTU and BLET will appear on the Instructions. The tally will take place in Washington, DC.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel

Copies to:
Raymond Goss
George King
Jeff Eichel
Kevin C. Brodar, Esq.
E.W. Rodzwick
T.C. Brennan, Esq.
Roland P. Wilder, Esq.