



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the  
Application of the

**OFFICE AND PROFESSIONAL  
EMPLOYEES INTERNATIONAL  
UNION**

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

involving employees of

**AIR METHODS/CJ SYSTEMS**

35 NMB No. 19

CASE NO. R-7146  
(File No. CR-6925)

FINDINGS UPON  
INVESTIGATION

January 23, 2008

This determination addresses the application filed by the Office and Professional Employees International Union (OPEIU or Organization). OPEIU seeks to represent the Flight Deck Crew Members employed by Air Methods Corporation (Air Methods or Carrier). Previously, on August 1, 2007, Air Methods entered into an agreement to acquire all the stock of CJ Systems Aviation Group (CJ Systems), and this transaction closed and became effective October 1, 2007. At the time this application was filed, the Flight Deck Crew Member employees at Air Methods were represented by OPEIU and the Flight Deck Crew Member employees at CJ Systems were unrepresented.

For the reasons set forth below, the National Mediation Board (NMB or Board) concludes that Air Methods and CJ Systems operate as a single transportation system for the purposes of the craft or class of Flight Deck Crew Members.

PROCEDURAL HISTORY

On November 1, 2007, OPEIU filed an application alleging a representation dispute involving the Flight Deck Crew Member employees of Air Methods. This application was assigned NMB File No. CR-6925, and Maria-Kate Dowling was assigned to investigate. Also on November 1, 2007, the Board requested that the Carrier provide information on whether Air Methods and CJ Systems were operating as a single transportation system. The Carrier filed its response on November 14, 2007, and supplemented its response on December 7, 2007. OPEIU does not dispute that Air Methods and CJ Systems are a single transportation system.

ISSUE

Are Air Methods and CJ Systems a single transportation system?

FINDINGS OF LAW

Determination of the issues in this case is governed by the Railway Labor Act (RLA or Act), as amended, 45 U.S.C § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Air Methods and CJ Systems are common carriers as defined in 45 U.S.C. § 181, First.

II.

OPEIU is a labor organization 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 purposes of this chapter.”

## IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and to designate who may participate as eligible voters in the event an election is required. In determining the choice of the majority of employees, the Board is “authorized to take a secret ballot of the employees involved, or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representative . . . by the employees without interference, influence or coercion exercised by the carrier.”

STATEMENT OF FACTS

By letter dated August 7, 2007, Air Methods notified the Board pursuant to Section 19.3 of the Board’s Representational Manual (Manual)\* that on August 1, 2007, it entered into an agreement to acquire all of the stock of CJ Systems. Air Methods further stated that it anticipated that this transaction would become effective on or about October 1, 2007. A press release dated October 1, 2007, and posted on the Carrier’s website stated that Air Methods “the largest air medical transportation company in the world, announced today that the Company has completed its acquisition of 100% of the outstanding stock of FSS Airholdings, Inc. (parent company of CJ Systems Aviation Group, Inc, . . . ) based in Pittsburgh, PA. The transfer of ownership was effective today at 12:01a.m.” As of November 1, 2007, Air Methods employed 720 pilots, who are currently represented by OPEIU, and CJ Systems employed 326 pilots, who are currently unrepresented.

In response to the Board’s request for information, Air Methods states that it intends that Air Methods and CJ Systems “will operate as a single transportation system.” In support of its position, Air Methods states that it will use a “graded approach” to integrate its management team with CJ Systems starting October 1, 2007, with a completion date of January 1, 2008.

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\* Section 19 of the Manual sets forth the Board’s Merger Procedures. Section 19.1 provides that a “Merger is a consolidation, merger, purchase, lease, operating contract, acquisition of control, or similar transaction of two or more business entities.” Section 19.3 provides that a Carrier should notify the Board “in writing when any of the transactions described in Section 19.1 occur, or of: 1) an intent to merge at the same time it files with the Surface Transportation Board (STB) or the Department of Transportation (DOT); and 2) a completed merger including the date of the merger and the Carriers (or business entities) involved.”

The labor relations and personnel functions will be administered from Air Methods corporate headquarters in Denver, CO. The new entity created from Air Methods and CJ Systems will be held out to the public and marketed as Air Methods. Uniforms will be standardized under the Air Methods' uniform policy. Further, aircraft and other equipment will have conformed markings and the corporate insignia and logos will be standardized as Air Methods when the transfer of CJ Systems' certificates to Air Methods is complete. Further, as of December 26, 2007, the CJ Systems' website ([www.cjsystemsaviation.com](http://www.cjsystemsaviation.com)) consists of a single page stating that, "As of October 1<sup>st</sup>, 2007, CJ Systems Aviation Group has been purchased by Air Methods Corporation" and a link to "Click here to continue to the Air Methods web site."

## DISCUSSION

### I.

#### The Board's Authority

45 U.S.C. § 152, Ninth, authorizes the Board to investigate disputes arising among a carrier's employees over representation and to certify the duly authorized representative of such employees. The Board has exclusive jurisdiction over representation questions under the RLA. *General Comm. Of Adjustment v. M.K.T. R.R.*, 320 U.S. 323 (1943); *Switchmen's Union of N. Am. v. Nat'l Mediation Bd.*, 320 U.S. 297 (1943). In *Airline Pilots Ass'n Int'l v. Texas Int'l Airlines*, 656 F.2d 16, 22 (2<sup>nd</sup> Cir. 1981), the court stated, "the NMB is empowered to . . . decide representation disputes arising out of corporate restructurings."

### II.

#### Single Transportation System

Section 19.4 of the Manual provides that: "Any organization or individual may file an application, supported by evidence of representation or a showing of interest . . . seeking a NMB determination that a single transportation system exists." The instant application together with the Section 19.3 notice by the Carrier to the Board raise the issue of the scope of the Carrier's system and whether a single transportation system exists. Manual Section 19.501 provides the factors for making a determination whether a single system of transportation exists.

In *Trans World Airlines/Ozark Airlines*, the Board cited the following indicia of a single transportation system:

[W]hether a combined schedule is published; how the carrier advertises its services; whether reservation systems are combined; whether tickets are issued on one carrier's stock; if signs, logos and other publicly visible indicia have been changed to indicate only one carrier's existence; whether personnel with public contact were held out as employees of one carrier; and whether the process of repainting planes and other equipment, to eliminate indications of a separate existence, has been progressed.

Other factors investigated by the Board seek to determine if the carriers have combined their operations from a managerial and labor relations perspective. Here the Board investigates whether labor relations and personnel functions are handled by one carrier; whether there are a common management, common corporate officers and interlocking Boards of Directors; whether there is a combined workforce; and whether separate identities are maintained for corporate and other purposes.

14 NMB 218, 236 (1987)

The Board finds a single transportation system only when there is a substantial integration of operations, financial control and labor and personnel functions. *US Airways/America West Airlines*, 33 NMB 49 (2006); *Burlington N. Santa Fe Ry. Co.*, 32 NMB 163 (2005); *Allegheny Airlines, Inc. and Piedmont Airlines, Inc.*, 32 NMB 21 (2004); *Huron and Eastern Ry. Co. Inc.*, 31 NMB 450 (2004). Further, the Board has noted that a substantial degree of overlapping ownership, senior management and boards of Directors is critical to finding a single transportation system. *Precision Valley Aviation, Inc., d/b/a Precision Airlines and Valley Flying Serv. Inc., d/b/a Northeast Express Reg'l Airlines*, 20 NMB 619 (1993). The Board's substantial integration of operations criteria does not, however, require total integration of operations.

Based on the application of the principles cited above to the facts established by this investigation, the Board finds that Air Methods and CJ Systems operate as a single transportation system for representation purposes for the Flight Deck Crew Members craft or class. The corporate merger of Air Methods and CJ Systems is complete, and substantial steps have been taken toward the completion of the operational merger. The integration of the management team is nearing completion, and labor relations and personnel

functions will be administered from Air Methods' corporate headquarters. The new entity is being held out to the public as Air Methods.

CONCLUSION

The Board finds that Air Methods and CJ Systems are operating as a single transportation system for representation purposes under the RLA. Accordingly, OPEIU's application in File No. CR-6925 is converted to NMB Case No. R-7146. Pursuant to Manual Section 19.6, the investigation will proceed to address the representation of the proper craft or class. OPEIU and any other interested organizations have 14 days from the date of this determination to file an application supported by a showing of interest of at least 35 percent of the single transportation system or to supplement the showing of interest in accordance with Manual Sections 19.601-19.603. The participants are reminded that existing certifications remain in effect until the Board issues a new certification or dismissal. See Manual Section 19.7.

By direction of the NATIONAL MEDIATION BOARD.



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