



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the

**INTERNATIONAL ASSOCIATION
OF MACHINISTS AND
AEROSPACE WORKERS**

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

involving employees of
**INDIANA SOUTHERN RAILROAD,
INC.**

37 NMB No. 46

CASE NO. R-7250
CASE NO. R-7251
(File No. CR-6972)

**FINDINGS UPON
INVESTIGATION-
AUTHORIZATION OF
ELECTION**

July 8, 2010

FINDING UPON INVESTIGATION

This determination addresses the application filed by the International Association of Machinists and Aerospace Workers' (IAM or Organization) alleging a representative dispute pursuant to the Railway Labor Act¹ (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth), among "Car Repairmen, Machinists-Mechanics, and Maintenance of Way" employees of Indiana Southern Railroad, Inc. (Indiana Southern or Carrier). The employees are currently unrepresented.

For the reasons set forth below, the National Mediation Board (Board or NMB) concludes that Non-Operating Employees and Maintenance of Way Employees are appropriate crafts or classes for the employees at Indiana Southern.

¹ 45 U.S.C. § 151, *et seq.*

PROCEDURAL BACKGROUND

On January 11, 2010, the IAM filed an application alleging a representation dispute involving the “Car Repairmen, Machinists-Mechanics, and Maintenance of Way” employees on Indiana Southern. The application was given NMB File No. CR-6972 and Angela I. Heverling was assigned as the Investigator.

On February 18, 2010, Indiana Southern submitted a position statement regarding the craft or class issue and requested that Car Repairmen and Machinists-Mechanics be combined into one craft or class. The IAM filed a response on March 24, 2010. On May 7, 2010, Indiana Southern filed additional information in support of its position.

ISSUE

Do Car Repairmen, Machinists-Mechanics, and Maintenance of Way constitute appropriate crafts or classes at Indiana Southern?

CONTENTIONS

Indiana Southern

Indiana Southern asserts that the Car Repairmen and Machinist-Mechanics employees should be combined into the craft or class of Mechanics.² The Carrier asserts that all of these employees share the same supervisor and job description and, although two employees perform some car repair, the Carrier considers all these employees Mechanics.

² The participants did not submit position statements on the issue of whether Maintenance of Way was an appropriate craft or class. The only discussion of this issue was in a declaration submitted by the Carrier, which included the following: “We acknowledge that there are numerous differences between the jobs and skills of maintenance of way workers and mechanics. It is hard to understand how collective bargaining with a group as small as 6 or 7 can be meaningful, and we think a more appropriate craft or class would be all non-operating employees. We leave that issue to the Board . . .”

The Carrier further argues that its employees perform very little work on rail cars and there is not enough of such work to employ two car mechanics. Because it does not own any rail cars, "car repair is merely an incidental function at the shop and does not constitute the full time job of any (Indiana Southern) employee."

IAM

The IAM asserts that the employees should be divided into three separate crafts or classes: Carmen, Machinists-Mechanics, and Maintenance of Way Employees, arguing that the Carrier has not provided sufficient evidence to support its view that the Car Repairmen and Machinist-Mechanics are in the same craft or class.

The IAM provided evidence, in the form of employee declarations, that Carmen and Machinists perform different work on different equipment and do not share a work-related community of interest. The IAM argues that the fact that the employees share a supervisor is due to the small size of the Carrier and does not indicate a common craft or class.

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.

Indiana Southern is a common carrier by rail as defined in 45 U.S.C. § 151, First.

II.

The IAM 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 the 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

The Carrier, whose primary business is hauling coal, maintains 24 locomotives at its Petersburg, Indiana location, where the employees in question are located. Indiana Southern does not own any rail cars. According to the position description provided by Indiana Southern, all employees characterized as Carmen or Machinists by the IAM inspect, repair, and maintain locomotives, freight cars, and other equipment. Their position title is "Mechanic" and they perform the following duties:

- Coordinate vehicle and equipment functions with all departments.
- Comply with the guidelines set forth by the Federal Railroad Administration (FRA) on Personal Blue Signal Protection of Workers.
- Perform routine maintenance, inspection, trouble-shooting, and repair of locomotives, freight cars, company vehicles, and equipment according to manufacturers specifications.
- Become familiar with State and Federal regulations as it [sic] relates to the railroad industry.
- Perform emergency repairs and re-railing of railroad rolling stock.
- Become proficient and knowledgeable on the interchange rules as they pertain to locomotives and cars.

The position description also indicates that all of these employees are supervised by the Chief Mechanical Officer.

There are currently seven mechanics. Two of these mechanics perform work on cars. Only one of these two is certified to work on cars in addition to being certified to work on locomotives. According to the Carrier, when the certified mechanic is sick or on vacation that work does not get done. The other mechanic who works on cars is not certified and assists the certified mechanics on both locomotives and rail cars.

The Carrier provided evidence that the two mechanics who work on cars perform a significant amount of work on locomotives also. During the first four months of this year, one of these employees worked 332.5 hours on locomotives and 311 hours on cars. The other (who is the only employee certified to work on cars) worked 294.5 hours on locomotives and 345.5 hours on cars.

The IAM provided declarations from Indiana Southern employees stating that Carmen and Machinists perform different work in different locations and utilize different tools. Five declarations submitted by employees who described themselves as Machinists listed their primary job duties as relating to the repair of locomotives. These duties include performing pressure tests of locomotive cooling systems and air brakes, troubleshooting locomotive electrical systems, and horsepower testing. Two employees who refer to themselves as Carmen provided declarations describing their job duties as being performed on cars rather than locomotives. These duties include performing train inspections and freight car safety inspections. In addition, they state that the Carmen must have the ability to work outdoors in remote locations to perform re-railing of rail cars and make emergency repairs at night and on weekends.

The Maintenance of Way employees perform track maintenance and are supervised by the Maintenance of Way foreman.

DISCUSSION

In determining the proper craft or class for a group of employees, the Board considers a number of factors, including functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *Florida Northern R.R.*, 34 NMB 142 (2007); *Frontier Airlines, Inc.*, 29 NMB 28 (2001); *United Airlines, Inc.*, 28 NMB 533 (2001); *US Airways, Inc.*, 28 NMB 104 (2000). The Board makes craft or class determinations case by case, based upon Board policy and precedent. *US Airways, above*; *USAir*, 15 NMB 369 (1988); *Simmons Airlines*, 15 NMB 124 (1988).

There is no dispute that five of the Mechanics perform work primarily on locomotives. The disagreement is over whether the remaining two, who also perform work on rail cars, should be in the same craft or class as the locomotive mechanics or in a separate craft or class of Carmen.

Cross-utilization data is often used in class or craft determinations. *Florida Northern, above*. All of the Mechanics at Indiana Southern perform locomotive work while two also work on rail cars. The only Mechanic who is certified to work on rail cars spent almost half of his time during the first four months of this year working on locomotives. There is a significant amount of cross-utilization of the employees who have been characterized by IAM as Carmen. In addition, all of the mechanics share the same job description and common supervision by the Chief Mechanical Officer.

The Board has consistently held that “historical patterns of representation in the railroad industry provide the basis for craft or class determinations.” *Talleyrand Terminal R.R. Co.*, 35 NMB 28, 32 (2007); *Terminal R.R. Ass’n of St. Louis*, 28 NMB 187, 199 (2000); *Duluth, Missabe & Iron Range Ry. Co.*, 16 NMB 495, 500 (1989).

Maintenance of Way employees are a traditional craft or class in the railroad industry, made up of employees who are responsible for road, track, and structure maintenance. *See, e.g. Florida E. Coast Ry.*, 18 NMB 460 (1991). This is the appropriate craft or class for those employees at Indiana Southern who perform track maintenance. Because there is no evidence of a work-related community of interest between the Maintenance of Way employees and the mechanics at Indiana Southern, it is not appropriate to combine all of these employees into one craft or class.

In recent years, the Board has recognized that on small rail carriers, a small number of employees may be grouped together into a combined craft or class of Non-Operating Employees. *See Jefferson Warrior R.R. Co.*, 36 NMB 119 (2009); *Talleyrand Terminal R.R. Co., above*; *Florida Northern R.R., above*; *Brandywine Valley R.R. Co.*, 30 NMB 445 (2003). The Non-Operating craft or class is especially appropriate where the employees are not in a traditional railroad craft or class. *Talleyrand Terminal R.R. Co., above* (determining that crane operators were appropriately in the craft or class of Non-Operating Employees). The mechanics share a work-related community of interest at Indiana Southern and Non-Operating Employees is an appropriate craft or class.

CONCLUSION AND AUTHORIZATION OF ELECTION

The Board finds that the proper classes and crafts of the employees at Indiana Southern are Non-Operating Employees and Maintenance of Way Employees.

The Board finds disputes to exist among these two crafts and classes. Therefore, the Board converts File No. CR-6972 to Case No. R-7250 and Case No. R-7251 and authorizes Telephone Electronic Voting (TEV) elections using a cut-off date of January 2, 2010.

Pursuant to Manual Section 12.1, the Carrier is hereby required to furnish, within five calendar days, 1" X 2 5/8", peel-off labels, bearing the alphabetized 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. Tally in Washington, DC.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
General Counsel

Copies to: