



**NATIONAL MEDIATION BOARD**  
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38 NMB No. 55

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Re: NMB Case No. R-7284  
Republic Airlines et al./Frontier

Participants:

This determination addresses the submissions dated June 22, 2011 from Republic Airways Holdings, Inc. (RAH) and June 23, 2011 from the International Brotherhood of Teamsters, Airline Division (IBT) to the National Mediation Board (NMB or Board) regarding the representation election involving the IBT and the Pilots at Republic Airlines et al./Frontier.

In its June 22, 2011 submission, RAH requests that the Board postpone the tally scheduled for June 27, 2011 while it considers whether a corporate restructuring and planned divestiture of majority ownership of Frontier Airlines, Inc. (Frontier) affects the Board's determination that Frontier is part of the single transportation system with the RAH operating subsidiaries. See

*Republic Airlines et al./Frontier*, 38 NMB 175 (2011) (Board found Frontier part of the Republic system for the craft or class of Pilots). The IBT contends that RAH's request should be denied as it is unsupported by any citation to authority, contrary to well-established Board principles, and completely without merit. The IBT additionally states that it may later pursue allegations of election interference in this matter.

RAH states that it entered into a Letter of Agreement with the Frontier Airline Pilots Association (FAPA), effective June 17, 2011 and fully ratified by the Frontier Pilots, "detailing the Frontier restructuring effort and reflecting the Company's changed business strategy to have Frontier ultimately operate as a separate corporate entity." In exchange for FAPA's agreement to modify its collective bargaining agreement and agree to significant labor cuts, RAH has agreed to: maintain separate Frontier websites for all sales, operational and recruitment purposes; further separate the Frontier management structure to include appointing a separate Frontier Chief Operating Officer and an independent Director of Labor Relations for Frontier; create separate Frontier Human Resources and Payroll functions; maintain a separate and unique Frontier Employee Handbook; and document arms-length agreements with any RAH subsidiary that operates on behalf of Frontier. RAH has further agreed to divest itself of its majority equity stake in Frontier no later than December 31, 2014, after which a separate Frontier Board of Directors would be established. RAH believes the election should be postponed so the Board can reconsider the proper system as a result of the planned corporate restructuring.

The IBT argues that RAH's request should be denied as it is contrary to the Board's longstanding principle that representation elections should be conducted on the present system, not a future system. *Chicago & North Western Ry. Co.*, 4 NMB 240, 249 (1965) ("In representation disputes the Act deals with the present status and the present interests of the employees involved and not with potential future status and potential future interests of the employee."). According to the IBT, not only does the Letter of Agreement involve a labor organization which is not a party to this proceeding, but RAH's submission "does not identify any present change in the operational structure or condition of employees involved in this proceeding." The IBT contends that "this is not the first time the Carriers subject to this proceeding have used the tactic of changed operations to avoid a representation election," and cites to a number of other Board decisions supporting the principle echoed in *Chicago & North Western Ry. Co.*, *above*. See *Raytheon Travel Air*, 29 NMB 181 (2002) (denying request to postpone ballot count due to a future corporate restructuring); *Chautauqua Airlines*, 21 NMB 226 (1994) (denying request to delay the election because of certain future changes in its operations that "would have a dramatic effect on the craft or class in question"). In sum, the IBT urges the Board to deny RAH's request as nothing in its submission "identifies any change in the *present* state of the Carriers from the conditions

that led the Board to determine that a single transportation system for representation purposes existed among its pilots.”

Section 13.302 of the Board’s Representation Manual allows participants to request a postponement of the tally by filing a request supported by substantive evidence. The Board will consider granting such requests only in extraordinary circumstances. *See Notice to Stock and Stores Employees of Continental Airlines Halting of Ongoing Election*, 38 NMB 58 (2010) (election cancelled due to joint request of organization and carrier due to widespread voter confusion).

It is the NMB's longstanding policy consistent with Section 2, Ninth to resolve representation disputes as expeditiously as possible. *See Brotherhood of Ry. & S.S. Clerks*, 380 U.S. 650, 668 (1968) (speed is an RLA “objective of the first order”); *In re Continental Airlines Corp.*, 50 B.R. 342, 358 (S.D. Tex. 1985), *aff’d, per curiam*, 790 F.2d 35 (5th Cir. 1986) (“The RLA furthers Congress' strong policy of guaranteeing employees the right to organize and collectively bargain free from any carrier interference or influence ... delays in NMB precertification proceedings seriously hamper such organizational efforts...”). In this case, the Board finds that postponing the ongoing election involving the Pilots at Republic Airlines et al./Frontier would be at odds with this statutory mandate. It is well established that in representation disputes, the Act deals with the present status and interests of employees involved and not with potential future status and interests of employees. *Chicago & North Western Ry. Co., above*. RAH does not cite any Board precedent to support its request and the Board, when faced with similar facts in past cases, has denied requests to delay representation investigations pending the completion of business transactions. *See AirTran Airways*, 38 NMB 80 (2011); *Timber Rock R.R.*, 34 NMB 15 (2006); *United Airlines, Inc.*, 30 NMB 278 (2003); *Chautauqua Airlines, Inc., above*; *SAPADO I*, 19 NMB 279 (1992).

Therefore, RAH’s request that the Board postpone the tally involving the Pilots at Republic Airlines, et al./Frontier is denied, and the tally in this matter will proceed on Monday, June 27, 2011 at 2 pm, ET, as scheduled.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson  
General Counsel