



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the

TRANSPORTATION
COMMUNICATIONS
INTERNATIONAL UNION

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

involving employees of

INDIANA RAIL ROAD COMPANY

38 NMB No. 61

CASE NO. R-7295
(File No. CR-7001)

FINDINGS UPON
INVESTIGATION-
AUTHORIZATION OF
ELECTION

July 11, 2011

This determination addresses the application filed by the Transportation Communications International Union (TCU) alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth).^{*} TCU seeks to represent the craft or class of “Non-Operating Employees – Mechanical Department,” employees of Indiana Rail Road (IRR or Carrier).

For the reasons discussed below, the National Mediation Board (Board or NMB) finds that the employees in question are part of the Mechanical Department Employees craft or class, converts this case to NMB Case No. R-7295 and authorizes an election.

^{*} 45 U.S.C. §151, *et. seq.*

ISSUE

Is Mechanical Department Employees the appropriate craft or class, or are those employees part of the larger craft or class containing all of IRR's non-operating employees?

PROCEDURAL BACKGROUND

On January 13, 2011, the TCU filed an application alleging a representation dispute among the Carrier's "Non-Operating Employees – Mechanical Department". This application was assigned NMB File No. CR-7001. Maria-Kate Dowling was assigned as the Investigator. Pursuant to requests from the Investigator, IRR provided information on February 16, 2011 and March 15, 2011 regarding its non-operating employees.

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 Rail Road company is a common carrier by rail as defined in 45 U.S.C. § 151, First.

II.

TCU 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 shall designate who may participate as eligible employees in the event an election is required.

STATEMENT OF FACTS

The Carrier is a privately-held, 500-mile railroad with a full-time staff of approximately 200. The company hauls a variety of consumer, energy and industrial products, and serves central and southwest Indiana and central Illinois with nationwide connections at transportation hubs such as Chicago, Indianapolis, and Louisville, Ky. It is headquartered in Indianapolis, Indiana.

The Carrier employs sixty-four non-operating employees as follows: Nineteen Mechanical Department Employees working on locomotives in fleet mechanic, composite mechanic, electrician/composite mechanic, and leadman positions; Five Carmen inspecting, maintaining, and repairing rolling stock, non-locomotives; Twenty-seven Maintenance of Way Employees repairing and maintaining track and right of way; Four Agents performing customer service, tracking movement of cars, way billing, and building train lists; and Nine Buildings and Grounds Employees maintaining buildings and grounds and driving transport vehicles for train crews. The employees in question and the Carmen are currently not represented by any organization.

In comparing the mechanical and car departments, the Carrier reports that the car department has a separate salaried supervisor that reports directly to the Vice President – Transportation and Mechanical. Additionally, there is no overlap of duties between the two departments. Mechanical department employees work on locomotives. Carmen do not work on locomotives, although they use locomotives to test air on rail cars and move them within that capacity. Carmen, however, do not work on, service or move locomotives in the course of their normal workday. As of January 2011, Carmen earned \$18.25 per hour, Composite Mechanics earned \$18.35 per hour, Electrician/Composite mechanics earned \$18.57 per hour, the Fleet Mechanic earned \$19.10 per hour, and the Mechanical Department Leadmen earned \$19.10 per hour.

DISCUSSION

In determining the proper craft or class for groups 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. *Indiana Southern R. R.*, 37 NMB 226 (2010); *Florida Northern R.R.*, 34 NMB 147 (2007). The Board makes its craft or class determination on a case by case basis guided by Board policy and precedent. *US Airways, Inc.*, 28 NMB 104 (2000); *USAir*, 15 NMB 369 (1988).

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, 189 (2000). In recent years, however, 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 (2000); *Talleyrand Terminal R.R. Co.*, *above*, *Florida Northern R.R.*, *above*.

The evidence submitted by the Carrier shows that based on community of interest, the traditional crafts and classes in the railroad industry, and Board precedent and policy, the appropriate craft or class is Mechanical Department Employees. The five Carmen listed by IRR have a separate supervisor from the Mechanical Department employees. In addition there is insufficient evidence of significant cross-utilization to justify the broader craft or class of Non-Operating Employees. See, e.g., *Florida East Coast R.R. Co.*, 21 NMB 35, 44 (1993).

CONCLUSION

As discussed above, the Board finds that the appropriate craft or class at IRR is Mechanical Department employees. Based on the authorization cards submitted by TCU with its application, the Board finds a dispute to exist in NMB Case No. R-7295 among the Mechanical Department employees of IRR, sought to be represented by TCU and presently unrepresented. An Internet and TEV election is hereby authorized using the cut-off date of December 31, 2010.

Pursuant to Manual Section 12.1, the Carrier is hereby required to furnish, within five calendar days, a revised alphabetical List of Potential Eligible Voters in the Carmen craft or class, as well as 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.

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

Mary L. Johnson
General Counsel

Copies to:
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