



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the Application of the	39 NMB No. 61
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS	CASE NO. R-7334 (File No. CR-7021)
alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended	FINDINGS UPON INVESTIGATION
involving employees of	August 22, 2012
UNITED AIR LINES AND CONTINENTAL AIRLINES	

This determination addresses the application filed by the International Association of Machinists and Aerospace Workers (IAM). IAM requests the National Mediation Board (NMB or Board) to investigate whether United Air Lines (United) and Continental Airlines (Continental) (collectively the Carriers) are operating as a single transportation system.

The investigation establishes that United and Continental constitute a single transportation system. The single transportation system also includes Continental Micronesia (CMI).

PROCEDURAL BACKGROUND

On October 1, 2010, United notified the Board that it “implemented an Agreement and Plan of Merger dated May 2, 2010, resulting in the merger of United Air Lines, Inc. and Continental.” On July 26, 2011, the IAM filed an application alleging a representation dispute among the craft or class of “Fleet Technical Instructors (Ground Instructors)” at the Carriers.

IAM is the certified representative of the Ground Instructors craft or class at United. *United Airlines, Inc.*, 24 NMB 113 (1996). The position of Training Program Maintenance Coordinator was accreted to the craft or class in *United Airlines, Inc.*, 25 NMB 90 (1998). Emergency Procedure Instructors were accreted in *United Airlines, Inc.*, 27 NMB 165 (1999) and Staff Coordinator – Flight Training Development and Senior Staff Coordinator – Flight Training Development were accreted in *United Airlines, Inc.*, 28 NMB 275 (2001). IAM is also the certified representative of Ground Instructors at pre-merger Continental. *Continental Airlines, Inc.*, 38 NMB 18 (2010). CMI does not employ Ground Instructors.

IAM asserts that United and Continental constitute a single transportation system for representation purposes under the Railway Labor Act (RLA or Act). The Board assigned NMB File No. CR-7021. The Board assigned Norman L. Graber to investigate and requested the Carriers to provide information regarding their operations. The Carriers submitted a position statement on August 19, 2011 and a supplemental position statement to address “the proper craft or class configurations on the United/Continental/CMI single transportation system” on February 8, 2012. The IAM filed a response on the craft or class issue on March 26, 2012. The Carriers replied on April 11, 2012 and the IAM filed an additional response on April 25, 2012. Subsequently, the Board reassigned the case to Maria-Kate Dowling.

ISSUE

Are United and Continental operating as a single transportation system? If so, what are the representation consequences?

CONTENTIONS

United and Continental

The Carriers state that United and Continental comprise a single transportation system. The Carriers disagree, however, with the composition of the Ground Instructors craft or class at United which currently includes both pilot and flight attendant ground instructors. The Carrier contends that, post-merger, the Board should reexamine the craft or class and limit the Ground Instructor craft or class to pilot ground instructors, find that flight attendant ground instructors constitute a separate craft or class, and find that employees whose jobs relate to the development and maintenance of training materials are part of the Office Clerical Employees craft or class.

IAM

IAM agrees with the Carriers that United and Continental comprise a single transportation system. IAM asserts that the Carriers are asking the Board to ignore its own prior craft or class determinations and fragment the existing craft or class. IAM asserts that the proper craft or class for the employees at issue remains the established, historical configuration.

FINDINGS OF LAW

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

I.

United, Continental, and CMI are common carriers as defined in 45 U.S.C. § 181, First.

II.

The IAM is a labor organization and/or representative as defined in 45 USC § 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 representatives . . . by the employees without interference, influence, or coercion exercised by the carrier.”

STATEMENT OF FACTS

Background

In addition to the documents submitted by the participants in this case, the Board also relied on the position statement submitted by the Carriers in NMB case CR-7043 (Flight Simulator Technicians).

Prior to the merger, United was a wholly-owned subsidiary of UAL Corporation (UAL), headquartered in Chicago, Illinois, and operating approximately 3,400 flights a day on United and United Express. Continental was a publically-held company headquartered in Houston, Texas, operating 2,200 daily departures, including regional flights operated on Continental's behalf. CMI is a subsidiary of Continental that operates from a hub in the U.S. territory of Guam. CMI was managed entirely by Continental; it utilized Continental's name, livery, and logo; and its flights were marketed through the Continental reservations office and website.

On October 1, 2010, United notified the Board that on that date it "implemented an Agreement and Plan of Merger dated May 2, 2010, resulting in the merger of United Air Lines, Inc. and Continental." After October 1, 2010, the Carriers informed their customers of the merger. The message was communicated through emails from new Chief Executive Officer Jeffrey A. Smisek to members of both frequent flier programs; through advertisements in national media outlets; through information posted on the Carriers' websites; through a video by Smisek shown as part of pre-flight announcements on both Carriers; through articles in the Carriers' inflight magazines; and through other media outlets.

IAM is the certified representative of the Ground Instructors craft or class at pre-merger United. *United Airlines, Inc.*, 24 NMB 113 (1996). The position of Training Program Maintenance Coordinator was accreted to the craft or class in *United Airlines, Inc.*, 25 NMB 90 (1998). Emergency Procedure Instructors were accreted in *United Airlines, Inc.*, 27 NMB 165 (1999) and Staff Coordinator – Flight Training Development and Senior Staff Coordinator – Flight Training Development were accreted in *United Airlines, Inc.*, 28 NMB 275 (2001). United and IAM are parties to a collective bargaining agreement (CBA), the Fleet Technical Instructors and Related Agreement, which covers approximately 106 Ground Instructors on active or authorized leave status and approximately 61 who are furloughed. This includes approximately 118 employees involved in the on-ground training of pilots and approximately 49 employees involved in the on-ground training of flight attendants and pilots.

IAM is also the certified representative of Ground Instructors at pre-merger Continental. *Continental Airlines, Inc.*, 38 NMB 18 (2010). This certification covers approximately 18 Ground Instructors who are responsible for all on-ground pilot instruction. At Continental, special assignment flight attendants perform the on-ground training of flight attendants. There are no employees in the Ground Instructors craft or class at CMI. Classroom training for CMI pilots is performed by the Continental ground school instructors.

Common Corporate Ownership

On May 2, 2010, UAL and Continental entered into an Agreement and Plan of Merger (Merger Agreement). Under the Merger Plan, UAL would acquire all of the outstanding stock of Continental. The Merger Agreement became effective on October 1, 2010. UAL has been renamed United Continental Holdings, Inc. (UCH), and United and Continental are currently wholly-owned subsidiaries of UCH. UCH has a single board of directors, elected by former UAL and Continental shareholders. Glenn Tilton, former Chief Executive Officer at UAL and United, now serves as non-executive chairman of the UCH Board of Directors. Jeffrey A. Smisek, former Chief Executive Officer of Continental, now serves as President and Chief Executive Officer of UCH, United, and Continental.

Management and Labor Relations

According to the declaration of P. Douglas McKeen, Senior Vice President-Labor Relations for United and Continental, on October 1, 2010, the Boards of UCH, United, and Continental approved the appointment of approximately 60 officers for the combined companies. The executive offices of the Carriers have been combined and all senior executives have been relocated in Chicago. Nearly all of the managing director and director positions for the combined company have been filled, and combined senior management positions overseeing Ground Instructors have been filled.

United and Continental have appointed a single group of officers responsible for labor relations. Michael Bonds, formerly the chief labor and human resources officer for Continental, is now Executive Vice President-Human Resources and Labor Relations for both Carriers. McKeen was formerly Senior Vice President-Labor Relations at United and is now responsible for labor relations at both Carriers. Jeffrey Wall is now Vice President-Labor Relations for both Carriers.

Labor Protection Provisions and Interim Agreements

According to McKeen, all of the affected employees are covered by labor protective provisions. They are entitled, under the McCaskill-Bond Amendment, to the benefits of Sections 3 and 13 of the Allegheny-Mohawk Labor Protective Provisions formerly issued by the Civil Aeronautics Board. Most of the existing CBAs include a contractual obligation to the same effect.

At the time of the Merger Agreement, almost all of the CBAs at both Carriers had become amendable and both Carriers were involved in Section 6 negotiations with the unions. The Carriers offered to enter into joint CBAs with any union. Only the Air Line Pilots Association (ALPA) accepted the offer.

Personnel Policies and Employee Benefits

The personnel functions of United and Continental have been combined under the leadership of Michael Bonds. R. Douglas Rose, who was formerly Vice President-Total Rewards at United, is now Vice President-Human Resources for the combined Carrier. He has responsibility for strategic planning of human resources, compensation, and benefits for all 87,000 employees. Donna Towle, who was formerly Director of Human Resources for Continental, is Vice President-Employee Relations and manages a large team of employee relations representatives for the Carriers.

On October 1, 2010, the combined Carriers issued uniform personnel policies in a number of areas. These included the "Working Together Guidelines," the primary personnel policy governing all employees. The guidelines include a policy known as the "Working Together Expectations," which is a set of employee personnel guidelines that replaced the previous guidelines at United and Continental. On October 1, 2010, the combined Carriers also issued a common Equal Employment Opportunity policy, a common dress code for non-uniformed employees, and travel policies that provided reciprocal benefits for employees of both Carriers. According to McKeen, the combined Carriers have adopted a new compensation structure for management employees, replacing the compensation structures at United and Continental.

According to McKeen, since October 1, 2010, the combined Carriers issued additional personnel policies, including a common perfect attendance reward policy, a common on-time bonus program, a common profit sharing program, a common solicitation policy, a common smoke-free workplace policy, common holiday schedules for management and unrepresented employees, a

common policy on office closings under adverse conditions, and a common vacation policy for management and unrepresented employees, a common policy on seniority and service credit, and a common performance management statement. The combined Carriers will continue to harmonize remaining personnel policies and procedures through 2012. The Carriers also announced a common benefits package for all non-union employees of the company that was implemented on January 1, 2012.

According to McKeen, the Carriers implemented “Flying Together,” a common homepage for the existing intranet systems used by United and Continental for communication with and among employees. “United Daily” is a daily newspaper that serves all employees of the combined company; “United World” is a monthly newspaper-style communication distributed to the combined employee group; and “United Connections” is a quarterly magazine-style publication.

FAA Operating Certificate

McKeen states that in October of 2010, the Carriers obtained approval from the Federal Aviation Administration (FAA) for a transition plan for moving to a single operating certificate. The FAA issued the single operating certificate in November of 2011. The FAA has already granted Continental’s request for a single operating certificate to combine it and CMI.

Routes and Schedules

For two years prior to the merger, United and Continental had maintained a code-sharing and alliance agreement under which a large number of flights were already operated under both airlines’ codes. According to McKeen, United and Continental had highly complementary route structures. The Carriers have integrated routes and schedules by redeploing certain aircraft and crews from pre-existing United routes to pre-existing Continental routes, and vice versa, to meet the needs of markets and seasonal traffic fluctuations.

Frequent Flyer Programs, Clubs, and Credit Cards

In October of 2010, the Carriers integrated frequent flyer and airport club benefits so that members of both Carriers’ programs receive benefits and club access while flying on either Carrier. The Carriers have since completely merged the United MileagePlus and Continental OnePass programs into a single frequent flyer program. The Carriers’ airport lounges, the Red Carpet

Club and the Presidents' Club, have been consolidated into UnitedClub.

Customer Service Policies and Fees

As of August 12, 2011, the Carriers had relocated operations to the same terminal at 48 airports worldwide, including all hubs. According to McKeen, the schedule for combining ticket counters and gates at other airports at which both Carriers operate is being developed based on lease agreements and approval requirements from local airport authorities. The Carriers are also in the process of consolidating other airport real estate, such as offices, break rooms, and storage rooms, and have already consolidated facilities in Cleveland, Salt Lake City, Las Vegas, Omaha, Myrtle Beach, Raleigh/Durham, Indianapolis, and Tampa.

Corporate Name, Livery, and Logos

In the Merger Agreement, the Carriers agreed that the combined Carrier would be known as United, but that it would adopt livery and a marketing identity consisting of the United name and the Continental colors and logo. Aircraft are being repainted with the new livery as they are taken out of service for regularly-scheduled maintenance. Approximately 600 aircraft have already been repainted in the new livery. Additional aircraft with the new livery are entering service on a regular basis. Aircraft operated by the Carrier's regional partners will be repainted in the new livery with the name United Express with repainting of those aircraft on a schedule similar to the mainline aircraft.

Beginning at Chicago O'Hare, the Carriers completely transformed airport check-in and boarding areas with new signage reflecting United's branding. This rebranding is now completed.

The Carriers undertook an advertising campaign under the United name and connect with followers via a unified Twitter handle and Facebook page.

Reservations

Since March 3, 2012, the Carriers have used a combined passenger service and reservations system and all flights are marketed under the same "UA" code.

Common Uniforms and Insignia

The Carriers have begun to adopt designs and select manufacturers for common uniforms for all uniformed employees. The Carriers do not expect to implement common uniforms for all of these employees until late 2012. Until that time, the Carriers are issuing common accessories, such as branding pins, to give the appearance of common uniforms.

Representation of Ground Instructors

As noted above, the employees in the Ground Instructor craft or class at both pre-merger carriers are currently represented by IAM. At pre-merger United, these employees are covered by the Fleet Technical Instructors and Related CBA. At pre-merger Continental, the employees do not yet have a CBA.

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 Brd.*, 320 U.S. 297 (1943). In *Air Line Pilots Ass'n, Int'l v. Texas Int'l Airlines*, 656 F.2d 16, 22 (2d Cir. 1981), the court stated, "the NMB is empowered to . . . decide representation disputes arising out of corporate restructurings."

II.

Single Transportation System

Manual Section 19.4 provides that: "Any organization or individual may file an application, supported by evidence of representation or a showing of interest . . . seeking 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 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 substantial integration of operations, financial control, and labor and personnel functions. *Delta Air Lines/Northwest Airlines*, 36 NMB 36 (2009); *Burlington N. Santa Fe Ry. Co.*, 32 NMB 163 (2005); *Huron and Eastern Ry. Co., Inc.*, 31 NMB 450 (2004); *Portland & Western R. R., Inc.*, 31 NMB 71 (2003). 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).

In the instant case, the Carriers are wholly-owned subsidiaries of UCH. UCH has a single board of directors and a common senior management group in place. There is a single group of officers responsible for labor relations at the Carriers. Personnel policies and practices are in the process of being integrated. The Carriers have received a single operating certificate from the FAA.

The Carriers have integrated flight routes and schedules. They merged their frequent flyer programs and airport lounges. They have relocated operations to the same terminal at all hubs. Six hundred aircraft have been repainted with the new livery and logo. Since March of 2012, the Carriers have used a combined reservations system and all flights are marketed under the same “UA” code. The Carriers have begun the process of transitioning to common uniforms. The Carriers hold themselves out to the public as a single carrier in all ways, including through social media.

The Board has found a single transportation system at United for several other crafts or classes. See *e.g. United Air Lines/Continental Airlines*, 38 NMB 319 (2011)(Engineers and Related Employees); *United Air Lines/Continental Airlines*, 39 NMB 229 (2011) (Passenger Service Employees); *United Air Lines/Continental Airlines*, 38 NMB 161 (2011) (Stock Clerks); *United Air Lines/Continental Airlines*, 38 NMB 124 (2011) (Flight Attendants). Since the Board issued these decisions, the Carriers have continued to further integrate and there is little doubt that integration of operations will continue.

Based upon the application of the principles to the facts established by the investigation, the Board finds that United and Continental operate as a single transportation system for representation purposes. Although there are no employees in the Ground Instructors craft or class at CMI, as in previous cases finding a single transportation system at United, the evidence also establishes that CMI is part of this single transportation system.

III.

Craft or Class Determination

IAM’s application requested that the Board investigate the representation status of the “Fleet Technical Instructors (Ground Instructors)” at the merged carrier. The IAM is the certified collective bargaining representative of Ground Instructors at the pre-merger United pursuant to NMB Certification R-6474, *United Airlines*, 24 NMB 113 (1996) and at the pre-merger Continental pursuant to NMB Certification R-7260. *Continental Airlines*, 38 NMB 18 (2010). The Carriers argue that the craft or class of Ground Instructors at United, which includes employees who conduct on-ground classroom training of pilots, employees who conduct on-ground emergency procedure training for both flight attendants and pilots, and employees who are engaged in creating, maintaining and modifying flight attendant and pilot training and course materials, is no longer appropriate following the creation of the single transportation system. Accordingly, the Carriers assert that the Board should limit the Ground

Instructor craft or class to pilot ground instructors, find that flight attendant ground instructors constitute a separate craft or class, and find that employees whose jobs relate to the development and maintenance of training materials are part of the Office Clerical Employees craft or class.

In his declaration, Dave Lynn, the Carriers' Managing Director of Flight Standards, states that the Ground Instructors craft or class at United is covered by the Fleet Technical Instructors and Related CBA. According to the declaration of Wendy Ganse, the Carriers' Managing Director of Safety and Training, Inflight Services, the Ground Instructors craft or class at the pre-merger United includes "approximately 49 employees who are directly responsible for conducting on-ground, or classroom, emergency procedures training for flight attendants and pilots." Ganse states that these employees hold the position of Emergency Procedures Instructor (EPI) and Emergency Procedures Specialist (EPS) and work at the Carriers' training facilities in Chicago, Denver and San Francisco. According to Ganse, the EPS is a "lead position" for the EPI. Lynn states that the training for pilots performed by the EPIs and EPSs "does not relate to the actual operation of the aircraft." Ganse also states that the EPSs and EPIs are not involved in the training of flight attendants on procedures for in-flight customer service. Instead, this in-flight training at pre-merger United is conducted by line flight attendants on special assignment.

The Ground Instructor craft or class at United also includes employees with the position of Fleet Technical Instructor (FTI) whose primary responsibility is the classroom training of pilots. In addition, Lynn states that there are approximately four employees in the Fleet Technical Specialists (FTS) position who do not conduct actual training but act as the lead position for FTIs. The FTIs and FTSs are assigned to United's training center in Denver. Ganse states that no FTIs are located in Chicago or San Francisco. Ganse further states that in Denver the FTIs, EPIs, and EPSs "work in separate sets of offices apart from each other." The approximately 15 EPIs and EPSs in Denver train both pilots and flight attendants on emergency procedures and Ganse concedes that these employees "have some work-related interaction with FTIs." According to Ganse, the approximately 34 remaining EPIs and EPSs in Chicago and San Francisco "are exclusively engaged in training flight attendants on emergency procedures and have no involvement in the training of pilots." Ganse also states that EPIs and EPSs "have experience as flight attendants and some United FTIs have experience as pilots," but no EPIs or EPSs have pilot experience. Ganse notes that FTIs and FTSs use flight training devices while EPIs and EPSs use door trainers and cabin equipment. Finally, Ganse states that, with regard to the United EPIs and EPSs, the reporting structure changed

in January 2008. According to Ganse, prior to that date, EPIs and EPSs were “placed within United’s Flight Operations.” Since then, “the reporting structure is through the Inflight Service function.”

Lynn states that the employees in the Ground Instructors craft or class at pre-merger Continental are also represented by the IAM but “do not yet have a collective-bargaining agreement.” There are approximately 18 employees directly responsible for classroom training of pilots and four lead employees. Their respective job titles are Ground School Instructor and Lead Ground School Instructor. According to Lynn, these employees perform essentially the same work as the FTIs and FTSs at pre-merger United, but they also conduct the emergency procedures training for pre-merger Continental pilots that EPIs and EPSs perform for pre-merger United pilots. Lynn states that at pre-merger Continental, the Ground Instructors craft or class does not include any employees involved in flight attendant training. According to Ganse, both the emergency procedure training and service training for flight attendants is conducted by Continental flight attendants on special assignment. Ganse states that most Continental flight attendants on special assignment rotate back to the line regularly while some stay in the special assignment for an extended period of time. Ganse also states that these Continental Flight Attendants on special assignment are “exclusively engaged in training flight attendants on emergency and in-flight service procedures and have no involvement in the training of pilots.” The classroom training for CMI pilots is performed by the Continental Ground School Instructors. Flight attendant training at pre-merger CMI is handled in the same manner as for pre-merger Continental flight attendants.

In her declaration, Ganse also notes that following the merger there have been changes to the duties of the EPIs at United. EPIs are now required to complete an instructor training program called Advanced Qualification Instructor/Evaluator Differences Training. This is the same program that premerger Continental flight attendant instructors are required to complete. After completing this training, EPIs are now assigned instructor numbers to track and calibrate their performance. Previously EPIs were not subject to this kind of performance tracking. Ganse also states that EPIs now teach the same program content that SAFAs use. EPIs are also now required to perform flight attendant line checks along with Continental’s flight attendant instructors.

At pre-merger United, the development, maintenance and modification of training programs and course materials for both flight attendant and pilot training is performed by a variety of employees, including individuals in the job classifications of Program Support Coordinator, Program Support Specialist,

Flight Training Program Specialist, Flight Simulator Draftsman, Flight Training Audio Technician, Flight Training Media Producer, Flight Training Senior Media Producer, Flight Training Electronic Media Designer, and Flight Training Graphic Designer. These employees all work at the training facility in Denver. According to Ganse, only the two Flight Training Program Specialists and the Flight Training Media Producer provide support for flight attendant training. The remaining employees work in support of pilot training programs. In his declaration, Lynn states that based “on information provided from other members of Company management,” the production, updating and modification of classroom training materials at pre-merger Continental is performed “by a variety of employees, including line pilots (typically, captains on special assignment), Ground School Instructors and Lead Ground School Instructors and Advance Qualification Program (AQP) specialists who are lower-level management/salaried employees.”

In *United Air Lines*, 10 NMB 458 (1983), the Board determined that Ground Instructors constituted a proper craft or class for purposes of representation. In reaching its conclusion that the Ground Instructors did not share a community of interest with the Flight Instructors, the Board examined the duties of the employees at issue. One of the positions considered by the Board and included in the Ground Instructor craft or class was “Flight Operations Training Instructor D – Emergency Procedures Instructor.” The duties of this position as described by United included “[i]nstructs flight crews during ground school and/or instructs flight crews and flight attendants on evacuation procedures.” *Id.* at 465. With regard to the experience required, the position description stated, “Two years in the field of one or more subjects to be taught, with at least one year of instructional experience preferred. Must have passed FAA turbojet flight engineer certificate written exam and hold a commercial license with instrument rating (*does not apply to emergency procedures training, although preferred*).” *Id.* at 465-466. (emphasis added). In a subsequent case involving the Ground Instructors at United, the Board again examined the duties of the “Flight Operations Training Instructor.” *United Air Lines*, 12 NMB 218 (1985). The Board noted that while many Flight Operations Training Instructors are “retired military pilots . . . [p]ilot licensing is preferred, but not required.” *Id.* at 222.

In 1996, IAM was certified as the representative of the Ground Instructor craft or class at United. *United Air Lines*, 24 NMB 113 (1996). The Board accreted EPIs to the Ground Instructor craft or class in 1999. *United Air Lines*, 27 NMB 165 (1999). At that time, the EPI job description included the following duties:

Conducts initial, recurrent and requalification training of air crew members in aircraft emergency procedures programs (evaluation, ditching, passenger handling, emergency equipment). Evaluates training progress and counsels crew members as appropriate to ensure their proficiency meets company and FAA standards. Provides input in the development of emergency procedures training policies and procedures. Assists in the development of training programs, materials and training project development work as assigned. Monitors the quality and technical accuracy of flight manuals and materials used in training and in time operations.

Id. at 168. While both United and the IAM agreed that EPIs shared a community of interest with Ground Instructors, the Board cited its decision in *United Air Lines*, 12 NMB 118 (1985), and specifically found that the EPIs' duties and responsibilities in United's job description placed them within the Ground Instructors craft or class. *United Air Lines*, 27 NMB at 168. Thus, the Board has long held that employees who provide emergency procedure training to both pilots and flight attendants share a sufficient community of interest to be placed in the Ground Instructor craft or class at United. Further, the Board has included these positions in the Ground Instructor craft or class despite the absence of pilot training or license. The Board has also included the duties of developing training programs and material within the Ground Instructor craft or class at United.

The Carriers concede that the Board's previous craft or class determinations with regard to United carry precedential weight, but argue that the creation of a single transportation system as a result of the United, Continental, and CMI merger constitutes a material change in circumstances. This material change in turn warrants a reevaluation of the Board's craft or class determination with respect to Ground Instructors at United. As discussed below, the Board finds the changes since the merger too insufficient to overcome its previous craft or class determination with regard to Ground Instructors.

The Carriers point to the fact that the "functions, duties and responsibilities of the employees in the currently configured Ground Instructors unit at United vary significantly." United asserts that currently EPIs and EPSs "are directly responsible for conducting on-ground or classroom, emergency procedures training for flight attendants and pilots." As discussed above, these are the same positions that the Board previously determined shared a sufficient community of interest with the Ground

Instructors craft or class to be accreted. The Board had also found in an earlier decision that the same duties under a different position description and title were properly part of the Ground Instructor craft or class. *United Air Lines* 10 NMB 458, 466 (1983).

The Carriers also point to the fact that EPIs and EPSs may have flight attendant experience but no pilot experience. In contrast, the FTIs and FTSs have experience as pilots. The Carriers state that these employees have little occasion to interact at meetings or work directly together and that only limited interaction occurs when they train pilots on emergency procedures. The Carriers also note that the employees use different training equipment since the FTIs and FTSs use flight training devices while the EPIs and EPSs use door trainers and cabin equipment. The Carriers also rely on the geographic separation between EPIs and EPSs, and the FTIs and FTSs. There is no contention, however, that these differences have resulted from the merger.¹ The Board's earlier decisions clearly recognize that that not all the ground instructors are pilots or have pilot experience and that some employees trained both flight attendants and pilots. Further, since some employees train pilots, some train flight attendants, and some train both pilots and flight attendants, it is reasonable that they might use different equipment depending on which employees they are training. Despite the differences in background and geographic separation, there remains, post-merger, an interrelationship between the duties and skills of the EPIs/EPSs, FTIs/FTSs, and the Training Department Development Personnel.

The Board's earlier *United* decisions recognized the functional integration as well as a work related community of interest among the employees involved in the development, coordination and implementation of the training policies and procedures. See, e.g., *United Air Lines* 28 NMB 275 (2001)(accreting to Ground Instructors craft or class employees whose duties include the developing and administration of training systems and programs). The Training Program Development Personnel create, maintain, and modify the flight attendant and pilot training programs and course materials that are used by the EPIs/EPSs and FTIs/FTSs in the classroom. The Carriers cite *USAir*, 30 NMB 54 (2002), where the Board found that flight attendant ground instructors constituted a separate craft or class and *Delta Air Lines*, 26 NMB 391 (1999), in which the Board found that pilot ground training instructors were a distinct grouping of employees apart from other training department employees. In

¹ Similarly, the January 2008 change in the reporting structure of the EPIs and EPSs can hardly be found to be a material change that resulted from the merger agreement between United and Continental that was entered into on May 2, 2010.

those cases, however, there was no prior Board finding regarding the craft or class. Further, in *Delta Air Lines*, the Board specifically found a lack of functional integration. Here, the Board finds that there have been no material post-merger changes to alter the Board's prior conclusion that employees at issue are engaged in a common training function and functional integration.

CONCLUSION

The Board finds that United and Continental (including CMI) are operating as a single transportation system for representation purposes under the RLA. The Board further finds that the established historical craft or class configuration at pre-merger United remains the proper craft or class at the merged carrier. Accordingly, IAM's application in File No. CR-7021 is converted to NMB Case No. R-7334. The investigation will proceed to address the representation of this craft or class. Any Intervenor has 14 days from the date of this determination to file an application supported by a requisite showing of interest of the single transportation system. The Participants are reminded that under Manual Section 19.7, existing certifications remain in effect until the Board issues a new certification or dismissal.

By direction of the NATIONAL MEDIATION BOARD



Mary L. Johnson
General Counsel

Copies to:
P. Douglas McKeen, Sr.
Capt. Keith Jay Rimer
Robert A. Siegel, Esq.
Sito Pantoja
Jay Cronk
David Neigus, Esq.