



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the  
Application of the

INTERNATIONAL ASSOCIATION  
OF SHEET METAL, AIR, RAIL AND  
TRANSPORTATION WORKERS  
(SMART)

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

involving employees of

CONNECTICUT SOUTHERN  
RAILROAD, INC.

44 NMB No.11

CASE NO. R-7479  
(File No. CR-7159)

FINDINGS UPON  
INVESTIGATION-  
AUTHORIZATION OF  
ELECTION

March 13, 2017

This determination addresses the application of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART or Organization) alleging a representation dispute pursuant to the Railway Labor Act (RLA)<sup>1</sup> among "Locomotive Mechanic Employees" of Connecticut Southern Railroad, Inc. (Connecticut 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 is the appropriate craft or class for these employees at Connecticut Southern.

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<sup>1</sup> 45 U.S.C. § 151, et seq.

PROCEDURAL BACKGROUND

On November 28, 2016, SMART filed an application alleging a representation dispute involving the “Locomotive Mechanic Employees” at Connecticut Southern. The application was given NMB File No. CR-7159 and Angela I. Heverling was assigned as the Investigator.

After Connecticut Southern provided a List of Eligible Employees (List), SMART provided a position statement related to the craft or class issue on December 22, 2016. Upon request by the Investigator, the Carrier provided additional information on January 18, 2017.

ISSUE

What is the appropriate craft or class for the employees at issue at Connecticut Southern?

CONTENTIONS

SMART

SMART asserts that the two employees should be part of a combined craft or class of “Locomotive Mechanics and Car Repairmen.”

Connecticut Southern

Connecticut Southern does not object to a combined craft or class of “Locomotive Mechanics and Car Repairmen.”

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.

Connecticut Southern is a common carrier as defined in 45 U.S.C. § 151.

II.

SMART is a labor organization and/or representative 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

In response to SMART’s application seeking to represent Locomotive Mechanic Employees, the Carrier initially provided a List of only one employee with that job title. SMART provided evidence that there are two employees at Connecticut Southern who performed similar job duties. The Carrier responded that the second employee is actually appropriately classified as a Car Repairman but provided a signature sample for the additional employee.

The Carrier provided job descriptions for the two employees. The Carman’s job description states that he “[b]uilds, rebuilds, repairs, and inspects railway cars according to FRA and company regulations.” The Mechanic’s job description states that he “[i]nspects, services and maintains diesel locomotives in accordance with federal and company regulations, diagnoses diesel engine malfunctions and makes indicated repairs using hand tools, measuring instruments, and sometimes machine tools.” Declarations provided by the two employees indicate that they perform overlapping job duties and both perform several of the duties listed on the other’s job description. There are no other employees who perform these duties.

There are only two other employees who perform non-operating duties at the Carrier; a Track Laborer and a Maintenance of Way Foreman. These maintenance of way employees are also unrepresented.

## 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. *Indiana Southern Railroad*, 37 NMB 226 (2010); *Florida Northern Railroad*, 34 NMB 142 (2007); *Frontier Airlines, Inc.*, 29 NMB 28 (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 the two employees at issue here perform overlapping duties at this small railroad and share a community of interest. They are, therefore, appropriately part of a single craft or class. The issue is how to appropriately define the craft or class for these employees, acknowledging the reality on this small railroad.

While the Carrier and the Organization have agreed to combine the employees into a craft or class of "Locomotive Mechanics and Car Repairmen," craft or class determinations are made by the Board, which is not bound by the application or any agreement between participants. *See, e.g. Northern Indiana Commuter Transp. Dist.*, 27 NMB 512, 518 (2000). In addition, "Locomotive Mechanics and Car Repairmen" does not constitute a historically recognized craft or class on railroads. 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). Machinists and Mechanics are not proper crafts or classes in the railroad industry.

Rather than create new crafts or classes in the industry, the Board has in recent years considered whether railroad employees can be grouped as Operating and/or Non-Operating Employees. In these cases, the Board has not based craft or class determination solely on historical representation patterns, but has looked to evidence of cross-utilization of employees. *Florida Northern*, 34 NMB 142, 153 (2007) (recognizing that at smaller carriers, employees may work in more than one traditional craft or class over a period of time). 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, combining historically separate crafts or classes. *See Indiana Southern R.R., Inc.*, 37 NMB 226 (2010); *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).

In *Talleyrand Terminal*, the Board found that Non-Operating Employees was the appropriate craft or class for employees who did not fit into a traditional railroad craft or class and where, like in this case, there were other employees who did fit into those traditional crafts or classes. At Connecticut Southern, there is a recognized craft or class of Train and Engine Service Employees and the evidence indicates that the only other non-operating employees would appropriately be part of a Maintenance of Way Employees craft or class.

This case is also analogous to *Indiana Southern*, where the Board determined that cross-utilized mechanics who worked on both rail cars and locomotives made up a Non-Operating Employees craft or class. In that case, the Board also maintained a separate Maintenance of Way Employees craft or class because there was no evidence of cross-utilization or shared community of interest between the Mechanics and the Maintenance of Way Employees.

Accordingly, Non-Operating Employees is the appropriate craft or class for the cross-utilized employees at issue here who would not be appropriately part of the Maintenance of Way Employees or other historical craft or class.

#### CONCLUSION AND AUTHORIZATION OF ELECTION

The Board finds that the proper craft or class of the employees at Connecticut Southern is Non-Operating Employees.

The Board finds a dispute to exist among this craft or class. Therefore, the Board converts File No. CR-7159 to Case No. R-7479 and authorizes a Telephone Electronic Voting (TEV) election using a cut-off date of November 26, 2016.

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 also provide to the Board the name and sequence number of those potential eligible voters on military leave who are serving in foreign countries or who reside outside of the United States. 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.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson  
General Counsel