
Representation and PEBS

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The Office of Legal Affairs manages representation issues; conducts elections for the purpose of determining collective-bargaining representatives in the airline and railroad industries; and oversees post-mediation activities that lead or may lead to the establishment of Emergency Boards by the President of the United States (PEBs). The General Counsel also serves as legal counsel for the NMB.

Representation Overview

Under the Railway Labor Act (RLA), employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining.

Employees may also decline representation. An RLA representational unit is “craft or class,” which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States. [An application for a representation investigation may be obtained from the Agency’s web site at www.nmb.gov.]

If a showing-of-interest requirement is met, the NMB continues the investigation, usually with a secret Telephone/Internet election. Only such employees that are found to be eligible to vote by the NMB are permitted to participate in such election. The NMB is responsible for determining RLA jurisdiction, carrier status in mergers, and for ensuring that the requirements for a fair election process have been maintained without “interference, influence or coercion” by the carrier. If the employees vote to be represented,

the NMB issues a certification of that result which commences the carrier’s statutory duty to bargain with the certified representative.

The NMB’s Office of Legal Affairs (OLA) continues to operate at a high level of quality and efficiency. As a review of customer service and performance standards will attest, the Agency’s Representation program consistently achieves its performance goals, delivering outstanding services to the parties and the public.

The OLA staff closed 48 cases and docketed 41 cases during the year. With the Agency resources requested for 2012 and 2013, it is estimated that 52-54 representation cases will be investigated and resolved in each year.

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Representation Highlights

Under the RLA, the selection of employee representatives for collective bargaining is accomplished on a system-wide basis. Due to this requirement and the employment patterns in the airline and railroad industries, the Agency's representation cases frequently involve numerous operating stations across the nation. In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters which require careful investigations and ruling by the NMB.

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Agency. The NMB ensures that the employees' choices regarding representation are made without interference, influence or coercion. The case summaries that follow are examples of the varied representation matters which were investigated by the NMB during FY 2011.

United Air Lines and Continental Airlines/ AFA-CWA/IAM On January 18, 2011, the Association of Flight Attendants-CWA (AFA) filed an application alleging a representation dispute involving the craft or class of Flight Attendants and requested the Board investigate whether United Air Lines (United) and Continental Airlines (Continental) were operating as a single transportation system.

At the time the application was filed, AFA represented the Flight Attendant craft or class at United and the International Association of Machinists (IAM) represented the Flight Attendant craft or class at Continental. AFA asserted that United, Continental, and Continental Micronesia (CMI) constituted a single transportation system.

The Carriers stated that United, Continental and CMI comprised a single transportation system for the craft or class of Flight Attendants.

The IAM asserted that AFA's application was defective because it failed to include CMI as

part of the single transportation system. The IAM also asserted that the AFA application was premature because the integration of flight attendant operations at the Carriers had barely begun. Additionally, the IAM alleged that the AFA application was timed to interfere with a contract ratification vote by pre-merger Continental flight attendants on a tentative agreement to cover the transition period during which flight attendant operations would be combined.

The Board found that the Carriers were wholly-owned subsidiaries of United Continental Holdings, Inc. (UCH) and UCH had a single board of directors and a common senior management group. The Board also found: there was a single group of officers responsible for labor relations at the Carriers; personnel policies and practices were in the process of being integrated; and the Carriers had obtained approval from the FAA for a transition plan moving forward. Additionally, the Board stated that the Carriers: had been aligning schedules in markets where there were overlapping flights; had maintained a code-sharing and alliance agreement for years and had plans for further integration of flight routes and schedules through 2012; had begun the process of merging frequent flyer programs and members of both Carriers' programs were able to receive benefits while flying at either Carrier; had relocated operations to the same terminal in the two largest hubs; had adopted a new logo and the first aircraft with new livery was in operation; and had begun the process of transitioning to common uniforms.

The Board stated that its criteria for substantial integration of operations did not require total integration of operations but that plans were underway for further integration in every area where it had not yet occurred, such as reservations systems and customer service. Additionally, the Board stated that the Carriers had informed their customers of the merger through preflight announcements, both Carriers' websites, magazines, and other media outlets. Based on these steps, the Board found that there was little doubt that integration of operations would continue.

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In 1993 the Board identified "Air Micronesia" as a subsidiary of Continental in its determination that Continental and Continental Express were a single transportation system. *Continental/Continental Express*, 20 NMB 326 (1993). Air Micronesia was identified as one of the debtor corporations that merged into Continental in the bankruptcy proceedings of Continental Airline Holdings, Inc. Air Micronesia was renamed Continental Micronesia in 1993 after being acquired by Continental. Subsequently, in two cases involving the Flight Attendant craft or class, the Board treated CMI as a separate carrier without specifically analyzing whether CMI was part of a single transportation system with Continental. *Continental Airlines/Continental Micronesia*, 27 NMB 76 (1999); *Continental Micronesia*, 22 NMB 189 (1995). The Board noted that these cases pre-dated the recent combination of the CMI and Continental operating certificates.

The Board found that CMI: was managed entirely by Continental; its aircraft bore the Continental livery; its ground operations used only the Continental name and logo; and its flights were marketed through the Continental reservations office and website. As a result of the merger between United and Continental, Continental decided to seek to combine the CMI and Continental operating certificates. On December 22, 2010, the FAA granted Continental's request and issued a new operating certificate covering both Continental and CMI. Based on these factors, the Board found that CMI was part of this single transportation finding.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were approximately 15,147 Flight Attendants on the pre-merger United part of the system and approximately 9,458 on the pre-merger Continental and CMI part of the system. Since these numbers were comparable, the Board authorized an election among the craft or class of Flight Attendants.

Based on the election results, on June 30, 2011, the Board certified AFA-CWA as the representative of the Flight Attendants of United Air Lines/Continental Airlines.

On July 12, 2011, the IAM filed interference allegations.

United Air Lines and Continental Airlines/IAM On January 21, 2011, the IAM filed an application alleging a representation dispute involving the craft or class of *Stock Clerks* and requested the Board investigate whether United and Continental were operating as a single transportation system.

At the time the application was filed, the IAM represented the *Stock Clerks* craft or class at United and the CMI employees who perform stock clerks/stores functions were covered by CMI's *Mechanics and Related Employees* collective bargaining agreement with the International Brotherhood of Teamsters (IBT).

The IAM asserted that United and Continental merged to become a single transportation system. Although the IAM's application did not specifically mention CMI, the IAM supported the Carriers' position that CMI was a subsidiary of Continental and also part of the single transportation system arising from the United/Continental merger.

Using the same rationale addressed in *United Air Lines and Continental Airlines*, 38 NMB 124 (2011), the Board found that United and Continental were operating as a single transportation system for representation purposes. Similarly, the Board found that CMI was part of this single transportation finding.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were 1,035 *Stock Clerks* at United – 786 at pre-merger United and 249 at pre-merger Continental (including CMI).

On May 3, 2011, the IAM submitted evidence of representation of the combined craft or class and requested that the Board extend its certification in R-4844 to cover all *Stock Clerk* employees at the combined Carrier, consistent with Board precedent.

The Carrier responded on May 10, 2011, and requested that the Board conduct a representation election due to the unusual circumstances of the case. The IAM responded and argued that the Board should reject the Carrier's request.

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On July 1, 2011, the Board extended the IAM's certification in R-4844 to include all Stock Clerks in United's single transportation system. The Board stated that it consistently extends an organization's certification to cover employees in the craft or class on the entire system when the numbers of employees on each part of the system are not comparable. The Board examined the record and found the numbers of IAM represented Stock Clerks on United were not comparable to the unrepresented Stock Clerks on Continental. Additionally the Board stated that United failed to provide any legal basis for ignoring the Board's well established comparability practice.

United Air Lines and Continental Airlines/ IAM On January 21, 2011, the IAM filed an application alleging a representation dispute involving the craft or class of Fleet Service Employees and requested the Board investigate whether United, Continental, and CMI were operating as a single transportation system.

At the time the application was filed, the IAM represented the Fleet Service Employees craft or class at United and the Fleet Service Employees at Continental and CMI were represented by the IBT. The IAM asserted that United, Continental, and CMI constituted a single transportation system. The IBT acknowledged that United and Continental would eventually become a single transportation system for labor relations purposes, but provided a list of actions the carriers needed to take before they were completely integrated according to the Board's criteria. The IBT asked the Board not to declare a single carrier until it found substantial steps towards integrations had taken place. The Carriers stated that United, Continental and CMI comprised a single transportation system for the craft or class of Fleet Service Employees.

The Board noted that it's criteria for substantial integration of operations does not require a total integration of operations. Using the same rationale addressed in *United Air Lines and Continental Airlines*, 38 NMB 124 (2011) and *United Air Lines and Continental Airlines*, 38 NMB 161 (2011), the Board found that United, Continental, and CMI were operating as a single transportation system for representation purposes.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were approximately 6862 Fleet Service Employees on the pre-merger United part of the system and approximately 7443 on the pre-merger Continental and CMI part of the system. Since these numbers were comparable, the Board authorized an election among the craft or class of Fleet Service Employees.

Based on the election results, on August 12, 2011, the Board certified the IAM as the representative of the Fleet Service Employees of United Air Lines/Continental Airlines.

Republic Airlines/ Shuttle America/Chautauqua Airlines/ Frontier Airlines/ Lynx Aviation and the Former Midwest Airlines/ IBT On October 4, 2010, the IBT filed an application alleging a representation dispute involving the craft or class of Pilots and requested the Board investigate whether Republic Airlines (RA), Shuttle America (Shuttle), Chautauqua Airlines (Chautauqua), Frontier Airlines (Frontier), and Lynx Aviation (Lynx) (collectively the Carriers) were operating as a single transportation system for the craft or class of Pilots. At the time the application was filed, the IBT represented the Pilots at Chautauqua (R-6199). The IBT also represented the Pilots at Republic and Shuttle through a voluntary recognition agreement. The Air Line Pilots Association (ALPA) represented the Pilots at Lynx (R-7212) and the United Transportation Union (UTU) represented the Pilots at Lynx (R-7212). The Frontier Airline Pilots Association (FAPA) represented the Pilots at Frontier (R-6630).

According to the Carriers, Republic Airways Holdings (RAH) was the holding company that owned RA, Chautauqua, Shuttle, Frontier, Lynx, and the former Midwest and operated both "fixed fee" and "branded" operations. The Carriers stated that each subsidiary carrier had its own operating certificate; however, RAH was in the process of transferring Lynx's remaining fleet to the RA operating certificate. The Carriers anticipated to be completed by early 2011, at which time RAH would surrender Lynx's operating certificate and shut down Lynx.

The Carriers stated that management was integrated, and all labor relations and personnel

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functions for the Carriers were administered by RAH. RAH stated that the single carrier comprised of Chautauqua, Shuttle, and RA would continue to exist in its current form and would be held out to the public and marketed under the brand of the applicable flying partners or the Frontier brand. Frontier (and Lynx until its closing) would continue to be held out to the public and marketed under the Frontier brand.

IBT urged the Board to find that the Carriers were operating as a single transportation system. The IBT argued that all subsidiaries were wholly owned by RAH, including Frontier and Lynx whose acquisition was finalized October 1, 2009. According to IBT, the entities were operating as a single transportation system as evidenced by substantial operational integration, common control and ownership, and combined management and labor relations.

IBT contended that Midwest ceased operations and was not a part of the single transportation system. Additionally, IBT stated that pilot recruiting for each of its subsidiaries was handled by RAH and all Pilots had been integrated into a single seniority list according to Arbitrator Dana E. Eischen's final award on February 19, 2011. IBT argued that while each of RAH's subsidiaries was a separate corporate entity with its own FAA operating certificate, their operations were all consolidated and commonly-scheduled under the Frontier brand, and they were held out as a single company of affiliates on RAH's website. Further, IBT noted that the subsidiaries were presented on a consolidated basis for both financial reporting and operating performance.

IBT noted that both ALPA and UTU agreed that Frontier was appropriately included in the single transportation system. IBT rejected FAPA's main contention that the diverse operations of Chautauqua/RA/Shuttle (fixed-fee and Frontier (branded) made a single finding inappropriate. Finally, the IBT contended that there had been significant steps towards integration of Frontier into the single transportation system since the Board's March 2010 decision regarding Flight Attendants. *Chautauqua Airlines*, 37 NMB 148 (2010).

The UTU argued that based on the integration of operations and labor relations since March 2010, the Board should find all carriers were a single carrier.

ALPA contended that all of RAH's subsidiaries were a single transportation system for the craft or class of Pilots, but argued that the Midwest Pilots were also part of the single transportation system. While ALPA acknowledged that RAH recently stopped selling services under the Midwest brand, it contended that RAH would continue to fly aircraft with Midwest livery through early 2011.

ALPA stated that since the Board's findings in *Chautauqua Airlines*, 37 NMB 148 (2010), RAH had begun to integrate Midwest and Frontier brands operationally, and was using both MWA (Republic d/b/a Midwest Airlines) and Frontier mainline planes, equipment only used in branded operations, to provide that integrated service. As Midwest's operations were integrated with and into the Frontier brand, ALPA contended that the Midwest Pilots had an interest that the Board's merger policies protect. ALPA argued that the ongoing integrations of operations had now integrated Frontier/Lynx into the single transportation system, so that the system included the Carriers "plus Midwest." ALPA believed that the intertwined nature of RAH's two types of operations made a finding of a single transportation system the only result consistent with the RLA's representation structure.

FAPA contended that Frontier was not part of the single transportation system and, therefore, the IBT's application should have been dismissed. FAPA argued that Frontier and Lynx were a separate system as they provided service exclusively for the "branded" business, while Chautauqua and RA provide both "branded" and "fixed fee" service, and Shuttle only provided "fixed fee" service.

Additionally, FAPA asserted that Frontier was a single system, and separate from RAH's other subsidiaries as it offered scheduled service only under its own brand, with its distinct livery on aircraft; had its own FAA operating certificate, and its own website, and; maintained separate day-to-day management below senior management at the holding company level. FAPA noted the Board's decision finding that Frontier was not part of the single transportation system for the craft or class of Flight Attendants. *Chautauqua Airlines*, 37 NMB 148 (2010).

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The Board found that RAH exercised sufficient common control over its subsidiaries, Chautauqua, Shuttle, RA, Frontier, and Lynx to form a single transportation system for representation purposes. The Board stated that following the multi-step transaction that integrated the former Midwest into Frontier and RA, the Carriers operated with individual operating certificates; however the other factors supported a single system finding. The Board noted that upon the effective date under the arbitrator's award, all Pilots would be working under one seniority list. The Board also found: management and Boards of Directors were overlapping; RAH had total operational control over its subsidiaries' operations; Chautauqua, Shuttle, RA, Frontier, and Lynx were held out as single carrier of affiliates on RAH's website and presented on a consolidated basis for both financial reporting and operational performance. Therefore, the Board found that the Carriers were operating as a single transportation system (Republic Airlines et al./Frontier) for the craft or class of Pilots.

On April 11, 2011, FAPA filed a Motion for Reconsideration requesting the Board reconsider its April 7, 2011 decision finding that RA, Shuttle, Chautauqua, Frontier and Lynx were operating as a single transportation system. The UTU and the IBT filed submissions in opposition to the Motion for Reconsideration. RAH did not take a position on whether the Motion should be granted or denied and ALPA did not submit a position statement.

FAPA contended that the Board's conclusion was in error primarily because it failed to address certain arguments advanced by FAPA, namely: 1) other crafts or classes at Frontier, like the Flight Attendants, remained separate, and no rationale was articulated for why the Board found the Frontier Pilots part of the Republic system; 2) RAH took no formal position on the single transportation system issue here in contrast to the Flight Attendant decision, *See, Chautauqua Airlines*, 37 NMB 148 (2010), where it urged a single transportation system finding; 3) the Board overlooked relevant cases cited by FAPA; 4) the decision failed to indicate that Chautauqua and RA operating on the Frontier brand had markings noting they were operating on a code-share basis; and finally, 5) the Board improperly relied on Arbitrator Eischen's integrated seniority list.

The IBT asserted that FAPA's Motion for Reconsideration merely reasserted arguments previously asserted to the Board and failed to show a material error of law or fact in the Board's conclusion.

The UTU stated that the Board properly relied upon existing precedent in determining that RA, Shuttle, Chautauqua, Frontier and Lynx were operating as a single transportation system for the craft or class of Pilots, and that Midwest Pilots were included in this system. The UTU asserted that FAPA's Motion should be denied.

The Board found that FAPA failed to demonstrate a material error of law or fact or circumstances in which the Board's exercise of discretion to modify the decision was important to the public interest. Furthermore, the Board found that FAPA failed to show that the prior decision was fundamentally inconsistent with the proper execution of the Board's responsibilities under the Railway Labor Act, 45 U.S.C. § 151, *et seq.*

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were approximately 1986 Pilots on the pre-merger RA, Shuttle, Chautauqua part of the system, and 1139 Pilots on the other parts of the pre-merger system. Since these numbers were comparable, the Board authorized an election among the craft or class of Pilots, employees of Republic Airlines et al./Frontier.

On June 22, 2011, RAH requested the Board postpone the tally scheduled for June 27, 2011, while it considered whether a corporate restructuring and planned divestiture of majority ownership of Frontier affected the Board's determination that Frontier was part of the single transportation system with the RAH operating subsidiaries. According to RAH, it entered into a Letter of Agreement with FAPA, effective date 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 agreed to: maintain separate Frontier websites for all sales,

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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 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.

The IBT contended that RAH's request should be denied as it was unsupported by any citation to authority, contrary to well-established Board principle that representation elections should be conducted on the present system, not a future system; and, completely without merit. The IBT also stated that it might later pursue allegations of election interference in this matter.

The Board noted that 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 also noted that it only considers granting such requests in extraordinary circumstances. The Board found that postponing the ongoing election would be at odds with its statutory mandate to resolve representation disputes as expeditiously as possible and that RAH failed to cite any Board precedent in support of its request. Therefore, the Board denied RAH's request to postpone the Tally and ordered that the Tally proceed as scheduled.

Based on the election results, on June 28, 2011, the Board certified the IBT as the representative of the Pilots of Republic Airlines et al./Frontier.

Delta Air Lines, Inc./AFA On July 1, 2010, the AFA filed an application requesting the Board to investigate whether Delta Air Lines, Inc. (Delta) and Northwest Airlines (Northwest) were operating as a single transportation system for the craft or class of Flight Attendants. The Board found Delta and Northwest were a single transportation system known as Delta for the craft or class of Flight Attendants. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 323 (2010). On September 1, 2010, the Board authorized an election among the 20,000 Flight Attendants. The Board scheduled the tally for November 3, 2010.

In October, AFA filed allegations of election interference, stating that Delta interfered with employee free choice through the use of "pop-up" messages related to the election on its internal password-protected network, DeltaNet, and the inclusion of a hyperlink to the NMB's website in those pop-up messages.

The Board did not find extraordinary circumstances requiring action during the election period and stated that it would address any allegations regarding conduct during the election period at the end of the voting period.

Based on the results of the election, the Board dismissed AFA's application. *Delta Air Lines, Inc.*, 38 NMB 20 (2010).

On November 23, 2010, AFA filed allegations of election interference. Delta responded. Delta responded on December 21, 2010. AFA filed an additional response on January 14, 2011 and Delta replied on February 10, 2011. In its filings, Delta raised allegations about AFA's conduct during the election.

After reviewing the submissions provided by AFA and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

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Delta Air Lines, Inc./IAM In September, the Board found that Delta and Northwest were operating as a single transportation system and ordered an investigation to address the representation consequences for the craft or class of Stock and Stores Employees. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 397 (2010). On September 27, 2010, the Board authorized an election among the 673 Stock and Stores Employees. The Board scheduled the tally for November 22, 2010.

The November 22, 2010 Report of Election results reflected that a majority of votes cast was for no representation. Therefore, the Board issued a Dismissal. *Delta Air Lines, Inc.*, 38 NMB 33 (2010).

On December 9, 2010, IAM filed allegations of election interference. Delta responded on January 25, 2011. In its response, Delta raised questions about IAM's conduct during the election. IAM filed an additional response on March 8, 2011 and Delta replied on March 21, 2011.

After reviewing the submissions provided by IAM and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

Delta Air Lines, Inc./IAM In September, the Board found that Delta and Northwest were operating as a single transportation system and ordered an investigation to address the representation consequences for the craft or class of Passenger Service Employees. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 382 (2010). On October 7, 2010, the Board authorized an election among the 15,436 Passenger Service Employees. The Board scheduled the tally for December 7, 2010.

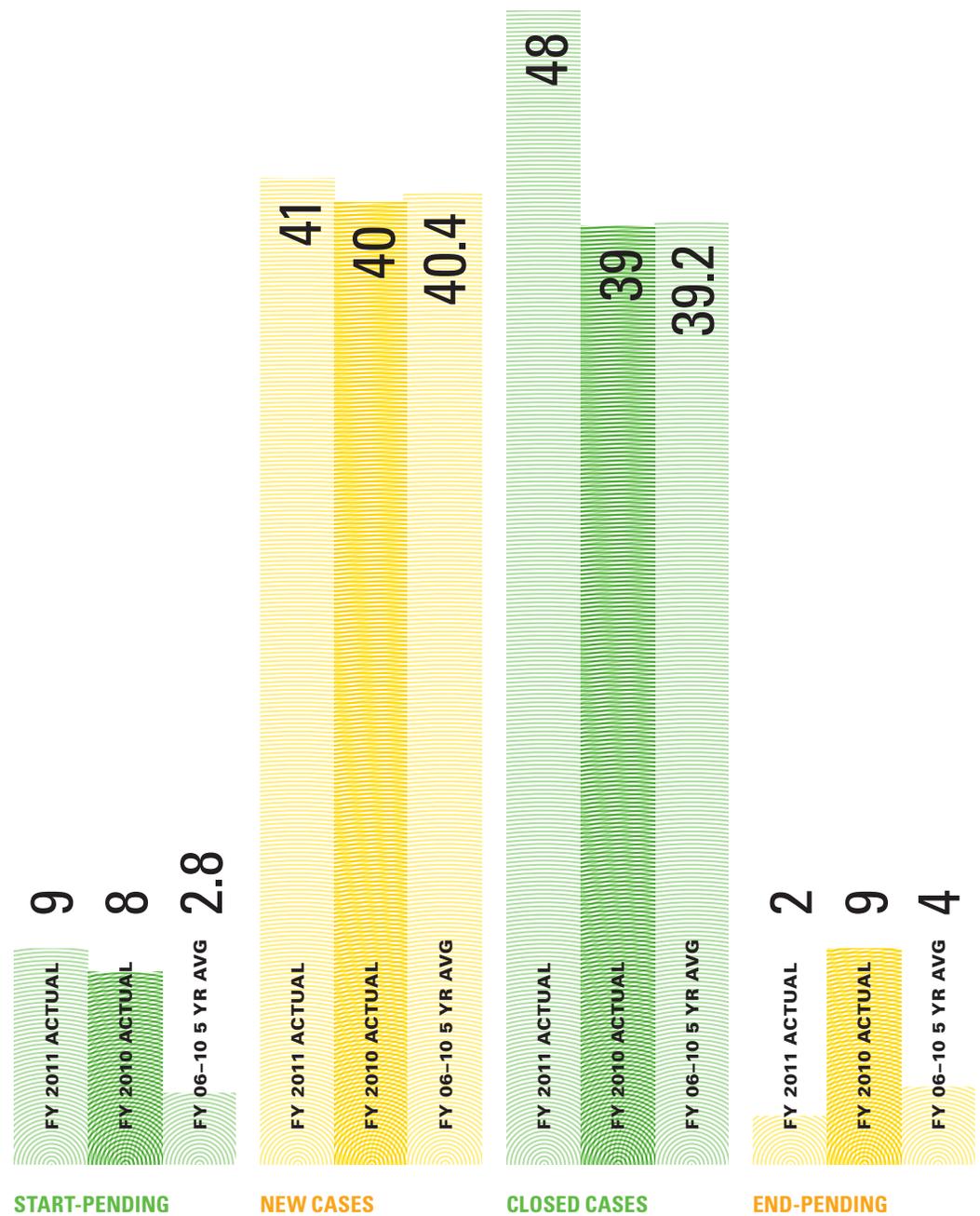
The December 7, 2010 Report of Election results reflected that a majority of votes cast was for no representation. Therefore, the Board issued a Dismissal. *Delta Air Lines, Inc.*, 38 NMB 35 (2010).

On December 16, 2010, IAM filed allegations of election interference. Delta responded on January 25, 2011. In its response, Delta raised questions about IAM's conduct during the election. IAM filed an additional response on March 15, 2011 and Delta replied on April 15, 2011.

After reviewing the submissions provided by IAM and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

Representation Cases

The following chart reflects the actual case numbers for FY 2011 and FY 2010 and a five-year average.



Presidential Emergency Boards (PEBs) Overview

Section 159A (Section 9a) of the Railway Labor Act (RLA) provides special, multi-step emergency procedures for unresolved collective-bargaining disputes affecting publicly funded and operated commuter railroads and its employees. Section 160 (Section 10) of the RLA covers all other railroads and airlines.

When the National Mediation Board (NMB) determines that a collective-bargaining dispute cannot be resolved in mediation, the NMB proffers Interest Arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms, or engage in other types of economic Self Help, unless a Presidential Emergency Board is established.

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt interstate commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a PEB to investigate and report respecting such dispute.

Status-quo conditions must be maintained throughout the period that the PEB is impaneled and for 30 days following the PEB report to the President. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self-help 30 days after the PEB report to the President.

Apart from the emergency board procedures provided by Section 160 of the RLA, Section 159A (Section 9a) provides special, multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and its employees. If the Mediation procedures are exhausted, the parties to the dispute or the Governor of any state where the railroad operates may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second, final-offer PEB. No Self-Help is permitted pending the exhaustion of these emergency procedures.

PEB Highlights

During fiscal year 2011, there were no Presidential Emergency Boards.