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NATIONAL MEDIATION BOARD
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NMB Case No. R-7551

VIA EMAIL

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Re: NMB Case R-7551 Republic Airways & IAM

Participants:

This letter constitutes my ruling on eligibility issues raised in the above-referenced case. Any appeal of this ruling must be filed with the National Mediation Board (NMB or Board) by **12 noon ET on Friday, February 5, 2021**, in accordance with the Board's Representation Manual (Manual) Section 10.2. Responses must be filed with the Board by **12 noon ET on Friday, February 12, 2021**.

On October 22, 2020, the International Association of Machinists and Aerospace Workers (Organization or IAM) filed challenges to the List of Potential Eligible Voters (List) provided by Republic Airways (Republic or Carrier) in the above-referenced case. The List, containing 703 names, was provided by the Carrier on September 1, 2020, in

response to an Application for Investigation of Representation Dispute for the craft or class of Mechanics and Related Employees. The IAM argues that the Carrier has submitted a List “padded by numerous classifications of employees who do not belong in the Mechanics and Related craft or class”

At issue are 166 employees in 11 different job titles on the List. The IAM challenges the eligibility of the following positions: Supervisors ¹(69); Engineers (10); Instructor/Trainers (6); Heavy Maintenance Quality Specialists (14); Production Controllers (17); Records Auditors (23); Inspector Parts Receiving (8); Repair Order Administrators (4); Reliability Analyst (3); Maintenance Control Coordinators (10); and Maintenance Program Specialists (2).

The IAM argues that Mechanics and Senior Mechanics (also called Lead Mechanics) and Inspectors work together at one of 12 bases the Carrier operates and are properly within the Mechanics and Related craft or class. Republic’s Maintenance Administration Manual states that these positions are properly within the Mechanics and Related craft or class because they share a community of interest. These positions require an Airframe and/or Powerplant Certificate or Repairman’s Certificate (A&P License) and work together in the same physical location and share the similar compensation, benefits and working conditions. The IAM challenges the positions on the List that are not Mechanic, Lead Mechanic or Inspector jobs, arguing that the other, approximately 11, positions do not share a community of interest with Mechanics and Related Employees.

The Carrier responded to the IAM’s challenges November 24, 2020 arguing that all 11 positions are properly within the Mechanics and Related Employees craft or class, none of the positions challenged are management officials. In support of its position, Republic submitted a declaration from Thomas Duffy, Republic’s Vice President of Maintenance and Engineering, as well as Carrier documents.

The IAM supplemented its challenges on December 14, 2020, and provided declarations from employees, as well as relevant sections of Carrier documents and citations to NMB case law to support its position.

Challenged Positions

1. Supervisors

The Railway Labor Act (RLA or Act) provides for representation of employees and subordinate officials but not management officials. 45 U.S.C. §151, Fifth.

¹ The IAM includes the following job titles in the challenge captioned “Supervisor”: Mechanic Supervisor; Aircraft Records Auditor Supervisor; and Production Control Supervisor. However, specific evidence regarding the eligibility of Aircraft Records Auditor Supervisors and/or Production Control Supervisors was not provided to the Investigator.

Section 9.211 of the Manual provides the following

9.211 Management Officials

Management officials are ineligible to vote. Management officials include individuals with:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and,
- (6) the authority to commit carrier funds.

The Investigator also considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and,
- (3) any other relevant factors regarding the individual's duties and responsibilities. Individuals will not be deemed management officials merely because they appear to possess the authority listed above. They must also be demonstrated to exercise that authority, unless circumstances exist which have prevented the opportunity to exercise the authority they possess.

The Board considers these factors cumulatively. While classification as a management official does not depend on having authority in all of the areas listed above, an individual who has management level authority in some areas might not be considered a management official if they lack management level authority in other areas.

The RLA, unlike the National Labor Relations Act (NLRA), includes individuals classified as "subordinate officials". 45 U.S.C. §151, Fifth. Therefore, individuals with supervisory authority can have collective bargaining rights under the RLA. Challenging an individual as a "management official" is a challenge not only to the individual's status as a member of the applied for craft or class, but also to their collective bargaining rights under the RLA. Since the RLA clearly provides for individuals with some level of supervisory authority to fall within its coverage, it is not enough to challenge eligibility by asserting the individual's supervisory title. The challenge must be supported with sufficient evidence that the challenged individuals actually exercise managerial level authority in multiple areas. Absent that showing of evidence, the individuals will be considered to be subordinate officials within the coverage of the RLA. In some cases the Board has certified craft or classes comprised of supervisory employees. In other cases, subordinate officials are placed in the same craft or class as employees. See e.g., *Aerovias de Mexico*, 20 NMB 584 (1993).

The IAM states that Republic's Supervisors are management officials with the authority to hire, fire, discipline and effectively recommend the same and are therefore outside of the Act's coverage. In support of this argument, the IAM states that Supervisors "rarely if ever work on an airplane. Instead, they are responsible for directing and assigning the work to the Mechanics and Senior Mechanics". Supervisors are usually the highest level of management on the night shift. The IAM also states that Supervisors authorize overtime, approve vacation, and effectively make recommendations for major expenditures to Managers. To support these contentions the, IAM relies heavily on Declarations from five employees—four Mechanics and one Inspector.

The Carrier responds to the IAM's contention by stating that Mechanic Supervisors do not possess the authority to discipline employees, authorize overtime, create Carrier policy or commit Carrier funds. Instead, the Carrier asserts, Supervisors perform limited supervisory duties that are consistent with the performance of a lead position. The Carrier supported its contention with a declaration from the Vice President of Maintenance and Engineering as well as a position description, organization charts, Carrier policy provisions and personnel.

Mechanic Supervisors are required to have an A&P license and are paid on an hourly basis. According to the Organization Chart provided by the Carrier, Mechanic Supervisors report to the Manager of Maintenance who reports to the Director of Maintenance who reports to the Vice President of Maintenance and Engineering.

The IAM provided declarations from employees asserting that Supervisors have the authority to hire, fire, discipline, or effectively recommend the same. These declarations recounted instances where supervisors had disciplined employees, participated in the hiring or promotion process, evaluated employees, authorized overtime or approved time off. However, The Organization provided only one record to corroborate these assertions-- a Performance Counseling Record (PCR) it argued, "demonstrates that there is a place on the form for the Supervisor to sign off on the discipline." This lone record was signed by the Assistant Base Manager, an employee who is not a Supervisor and is not on the List. It, therefore, does not demonstrate that Supervisors actually exercise disciplinary authority.

There is not enough evidence demonstrating that Supervisors actually exercise sufficient authority in the hiring, or discipline, process; evaluate employee performance; authorize overtime, commit carrier funds; authorize and grant overtime or create carrier policy to render them management officials outside the coverage of the RLA. Moreover, these positions' pay, qualifications, working conditions and placement in the Carrier's hierarchy share a community of interest with the Mechanic and Senior Mechanic positions. **Accordingly, Mechanic Supervisors; Aircraft Records Auditor Supervisors; and Production Control Supervisors remain eligible.**

2. Engineers

According to the position description provided, Engineers assist other departments with repair development and research of engineering issues and ensure engineering documentation is issued in a timely manner for compliance to meet aircraft repair time frames. Engineers report to the Director of Engineering, who reports to the Vice President of Maintenance and Engineering. Engineers are required to have an A&P License and at least 3 years of Line or Heavy Aircraft Maintenance experience. According to the Carrier, the majority of currently employed Engineers have moved from Mechanic positions to Engineer positions. When this happens, the employee's seniority as a Mechanic is frozen, and the seniority can be reinstated if the employee returns to a mechanic position. The Carrier states that Engineers share a work-related community of interest with Mechanics and Related employees and are engaged in the maintenance function. Republic asserts that Engineers not only develop engineering data to be used by Mechanics, they provide support, including on-site support, for Mechanics.

The IAM argues that Engineers do not share a work-related community of interest. Engineers work at headquarters in Indianapolis, Indiana and, the Organization argues, virtually never see the maintenance employees at any of the bases. Nor, do Engineers interact with Maintenance employees; the IAM contends that "their job is to write the job cards or the explanation of the steps that need to be taken on various repair assignments in the abstract." One IAM declarant stated, "Engineers at Republic are different from Engineers at some carriers because they do not write procedure, they do not work on planes". According to multiple IAM declarants most of what Engineers do is preparing job cards which are step by step instructions for the repair of the airplane. IAM argues it is the Supervisor who determines what repair needs to be made and pulls the relevant job card.

It is well settled that when determining the eligibility within the Mechanics and Related Employees craft or class "[t]he related employees . . . while of different skill levels from the mechanics, nonetheless are closely related to them in that they are engaged in a common function -*the maintenance function*. . . ." *Eastern Air Lines, Inc.*, 4 NMB 54, 63 (1965) (emphasis added). This "functional" connection between mechanic classifications and those employees who perform related maintenance operation has historically formed the basis for their identity as a single craft or class. *Id.*; see also; *Federal Express Corp.*, 20 NMB 360 (1993).

Engineers at Republic are engaged in the Maintenance function. They do not need to work in the same location or have daily interaction with Mechanics or perform hands on aircraft work in order to share a work related community of interest with Mechanics and Related Employees. *United Parcel Service*, 33 NMB 307 (2006). The job cards they prepare are an integral part of the maintenance function. The Engineer job description states that, like Mechanics, an A&P license is required as well as at least 3 years of Line or Heavy Aircraft Maintenance experience. In addition, according to the Carrier, the majority of currently employed Engineers have moved from Mechanic positions to

Engineer positions.

Engineers are eligible members of the Mechanics and Related craft or class at Republic.

3. Instructors / Trainers

Maintenance Instructors and Maintenance Training Specialists develop and administer training programs for Mechanics and Inspectors. According to Duffy's Declaration, Instructors and Trainers "perform on-site training at the hangar, including training for taxiing aircraft, and on-site training for heavy check vendors. In total, maintenance instructors spend approximately 75 percent of their instruction time in the classroom and 25 percent in the hangar."

The IAM argues that the Maintenance Instructors and Maintenance Training Specialists should be excluded from the Mechanics and Related craft or class because they "never come to the hangar or touch an airplane." The IAM states that these employees only conduct the initial training that Mechanics receive; they do not conduct the Mechanics' recurrent training; they do not provide technical assistance and troubleshooting in the repair of aircraft and components, nor do they conduct the majority of the training mechanics receive.

While the Board has found, in some cases, that Instructors/Trainers constitute a separate craft or class, in recent determinations, the Board has found that employees performing maintenance instruction are properly included in the Mechanics and Related Employees craft or class because of their direct contact with Mechanics and a strong tie to the maintenance function. See *American Airlines*, 42 NMB 35 (2015); *Southwest Airlines*, 39 NMB 246 (2011); *Spirit Airlines*, 33 NMB 363 (2006). **Accordingly, Maintenance Instructors and Maintenance Training Specialists remain eligible.**

4. Heavy Maintenance Vendor Quality Specialists

Heavy Maintenance Vendor Quality Specialist are also known as "Vendors" at Republic. Vendors provide oversight of outsourced Essential Maintenance Providers (EMP) in completing heavy maintenance /C-Check and structural maintenance on company owned aircraft.

The IAM argues that this job title should not be eligible because these employees do not interact at all with Mechanics, Senior Mechanics, or Inspectors and they do not work at Republic bases; rather they work at the locations of the vendors to whom Republic has outsourced Heavy Maintenance Check work. Vendors are not included in the Mechanic Seniority Roster and Vendors work a 10 days on and 10 days off schedule. The IAM contends that these employees are treated as management and are salaried.

According to the Carrier's Corporate Organization Manual Section 4.12.5, this position "oversees operations and makes company decisions for outsourced work. ... ensures contact facility is adhering to all company and contract maintenance policies and procedures ... coordinates contract facility departments with appropriate company departments... [and serves as a] Liaison with FAA."

Thomas Duffy, Republic's Vice President of Maintenance and Engineering, states in his Declaration that Heavy Maintenance Vendor Quality Specialists are essentially Inspectors who inspect work performed by vendors rather than work performed by Republic Mechanics. When staffing of Heavy Maintenance Vendor Quality Specialists has been low, the Carrier has assigned Inspectors to perform this work. In his declaration, Duffy states that Heavy Maintenance Vendor Quality Specialists have no authority to cancel a vendor contract or select a new vendor to perform the work. Nor does this position have the authority to discipline employees, supervise employees, authorize overtime, or transfer assignments

There is no evidence in the record that Heavy Maintenance Vendor Quality Specialists are management officials. In addition, it is longstanding NMB precedent that Inspectors are properly within the Mechanics and Related craft or class. See e.g. *Ross Aviation*, 22 NMB 89 (1994). This is no less the case when this inspection work is performed at vendor facilities instead of carrier facilities. *American Airlines*, 42 NMB 35, 54-55 (2015); *USA Jet Airlines*, 31 NMB 287, 293, 297 (2004). **Heavy Maintenance Vendor Quality Specialists are eligible.**

5. Production Controllers and Records Auditors

According to the job description provided by the Carrier, Production Controllers enter and document all repair work completed by the Maintenance department. The position "[c]oordinates with Mechanics and Inspection to correct any paperwork returned from Quality Assurance. Coordinates all material and tooling requirements with appropriate areas. Tracks all job cards and/or non-routines requiring materials." This Position works exclusively with aircraft records and primarily maintenance records. According to the position description provided and Duffy's Declaration, Records Auditors maintain and retain maintenance, repair, overhaul and inspection records in accordance with the Federal Aviation Regulations (FARs).

In support of its contention that Production Controllers and Records Auditors should be excluded from the Mechanics and Related craft or class, the IAM relies on *Southwest Airlines*, 43 NMN 132 (2016). In *Southwest*, the Board rejected the Organization's argument that Crew Schedulers constituted a separate craft or class, finding, instead that they are part of the Office Clerical Employees craft or class. The Board in *Southwest*, reiterated its finding that "the hallmark of the Office Clerical craft or class is a 'basic concern [for] the internal functioning of the carrier[.]' *China Airlines*, 6 NMB 434, 440 (1978)." The Board found that "[b]ecause the Crew Schedulers in this case perform work that is necessary to the internal functioning of Southwest, their jobs

fall within the traditional bounds of the Office Clerical Employees craft or class. *Southwest Airlines*, 43 NMN 132, 138 (2016).”

The IAM’s reliance on Southwest is misplaced for several reasons. Production Controllers and Records Auditors do not perform duties similar to Crew Schedulers. Nor is the IAM, in the instant case, seeking to create a separate craft or class of Production Controllers. Instead, the IAM is using *Southwest* to argue that Production Controllers are part of the Office Clerical Employees craft or class. However, this overlooks more relevant precedent where the Board has held that records clerks who handle maintenance records and who ensure that these records are maintained properly pursuant to FARs are properly included in the Mechanics and Related Employees craft or class. *Spirit Airlines*, 33 NMB 363 (2006); *USA Jet Airlines*, 31 NMB 293 (2004). **Therefore, Production Controllers and Records Auditors remain in the Mechanics and Related Employees craft or class.**

6. Inspector, Parts Receiving

The position description provided by Republic states that Inspector, Parts Receiving “provides oversight and control of aircraft parts and components as received, ensuring their authenticity, serviceability, and airworthiness.” The IAM argues that these duties place this position within the Stock and Stores craft or class and not the Mechanics and Related craft or class.

The Carrier argues that this position shares a work-related community of interest with Mechanics and Related craft or class because they “work with Inspectors to repair damaged aircraft parts and with maintenance employees in the hangar back shops on in-house work.”

In its earliest determinations on the subject, the Board defined Stock and Stores employees as follows: “[t]he function of such employees is to receive, store, issue, and maintain written records pertaining to equipment, supplies, materials, merchandise, and parts in a stockroom or storeroom. Generally the job titles associated with this function are stores or stock clerks, storekeepers, and helpers.” *In the Matter of Representation of Employees of the Nat’l Airlines, et al.*, 1 NMB 423, 427 (1947). The Board generally considers Stock and Stores employees to be a separate craft or class. *US Airways*, 42 NMB 35, 67 (2015).

According to the Declarations provided to the Investigator by the IAM, these employees wear the same uniform as Stock and Stores employees and they work the same schedule as Stock and Stores employees and are physically located in the Stores Department. The Declarations provided by the IAM state that Inspector, Parts Receiving has no interaction with Mechanics or Senior Mechanics and virtually no interaction with Inspectors.

Based upon review of the relevant Board precedent, the position description, and the IAM's declarations, **Inspector, Parts Receiving (8 employees) is more properly included in the Stock and Stores craft or class and will be removed from the List.**

7. Repair Order Administrator

Repair Order Administrators create and supply Repair Orders for all repairable/rotatable parts removed from aircraft; verify warranties and ensure all applicable parts are sent to the correct vendors for repair. The Carrier asserts that the Repair Order Administrators interact with Mechanics through Republic's enterprise resource planning system, RAMCO. Mechanics denote the status of removed components in RAMCO, and the Repair Order Administrators review the status of the removed parts in RAMCO and write the repair orders for the components as required by that status.

The IAM argues that this position is ineligible and is more properly classified as Office and Clerical. The IAM states that "processing a repair order by sending the order to a vendor from the RAMCO system" is insufficient interaction with Mechanics to justify including this position with the Mechanics and Related craft or class. I agree. There is insufficient evidence in the record to demonstrate that Repair Order Administrators share a community of interest with Mechanics and Related Employees. **Therefore, the four Repair Order Administrators will be removed from the List.**

8. Reliability Analysts

Reliability Analysts analyze and evaluate data used to measure component, system and aircraft performance for safety and economic impact. According to the Carrier, Reliability Analysts interact with the Mechanics Related group when they have questions from the paperwork they review that requires interfacing with the Mechanic to gather research. Reliability Analysts report to the Manager, Reliability Programs, who reports to the Director of Engineering, who reports to the Vice President of Maintenance and Engineering.

The IAM argues that Reliability Analysts are part of the Engineer and Related craft or class. One IAM declarant stated "their work drives the engineers to write job cards accordingly." The IAM further argues that Reliability Analysts do not share a community of interest with Mechanics and Related Employees because "it is unrefuted that they have no interaction with [Mechanics]. Reliability Analysts may not have significant daily interaction with Mechanics, but they do have interaction with Engineers who, as stated above, are eligible. **Therefore, Reliability Analysts remain eligible.**

9. Maintenance Control Coordinator

Maintenance Control Coordinators lead Maintenance Controller in overseeing the quality and quantity of line maintenance work performed by the Company and its vendors. Maintenance Control Coordinators report to the Manager of Maintenance Control, who reports to the Director of Maintenance. This position is required to hold an A&P license and have two years related experience with a preference for experience as an A&P mechanic.

The IAM argues that this position is ineligible because these employees are “managerial employees”. IAM contends that the position description for this job states that these employees have the ability to establish and oversee the completion of

assignments by maintenance associates, to redirect work assignments and assume the responsibilities of the Senior Manager of Maintenance Control in his/her absence.

Maintenance Control Coordinators at Republic perform similar functions as the Maintenance Control Supervisors at Mesaba Airlines, *Mesaba Airlines*, 26 NMB 227, (1999) and Maintenance Operation Control Supervisor at US Airways, *US Airways*, 26 NMB 359 (1999). The Board concluded that both of these positions are not management officials and are eligible members of the Mechanics and Related craft or class. Based upon this precedent, **Republic’s Maintenance Control Coordinators are not management officials and are eligible.**

10. Maintenance Program Specialist

Maintenance Program Specialists develop and implement Republic’s maintenance programs; implement the Carrier’s maintenance programs into its maintenance software; create, review and implement routine maintenance documents used to perform scheduled and unscheduled maintenance; ensure the accuracy and timely update of Republic’s maintenance program; research to ensure that new acquisition aircraft meet FAA and Republic’s maintenance standards and create bridging documents for aircraft acquisition. This position reports to the Manager of Maintenance Programs who reports to the Director of Engineering. Qualifications are an Associate’s degree in aviation/management/technical writing or a related field; FAA Mechanic Certificate with a Rating for Airframe and/or Powerplant and/or have at least three years’ experience in Maintenance Programs department; two years’ experience in a job card specialist position within and FAA Part 121 Air carrier.

The IAM states that individuals working in this position, are ineligible because they develop and implement the Carrier’s maintenance programs and create Republic’s maintenance documents. These responsibilities, the IAM argues, render Maintenance Program Specialists management officials. In the alternative, the IAM argues that Maintenance Programs Specialists do not share a community of interest with Mechanics and Related employees and should be declared ineligible on that basis.

The Board rejected similar arguments in *Allegheny Airlines*, 6 NMB 359 (1977) and *US Airways*, 28 NMB 104 (2000). **Based upon this precedent, Maintenance Program Specialists remain eligible.**

The Number of Eligible Voters

Based upon these rulings, the total number of Potential Eligible voters is now 691.

Sincerely,

A handwritten signature in black ink that reads "Eileen M. Hennessey". The signature is written in a cursive style with a large, stylized "E" and "H".

Eileen M. Hennessey
Counsel

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