June 19, 2009

Please Support Inclusion of "Express Carrier" Provision in FAA Reauthorization

Dear Senator:

As the Senate considers the FAA Reauthorization Act of 2009, I want to reiterate our strong support for inclusion of language that will ensure the ground workers at FedEx Express and other entities deemed express carriers are covered by the same labor law and that workers are given a fair chance to choose union representation. FedEx has been allowed to manipulate labor law for too long, denying its ground workers a voice in the workplace. The FAA bill must finally correct this injustice and restore balance in the package delivery business.

Under current law, FedEx has managed to argue that virtually its entire workforce, including its truck drivers, mechanics and other ground employees, are covered by the Railway Labor Act (RLA) for purposes of labor-management relations. The RLA is designed to cover workers and employers in the aviation and rail industries. Despite this limitation, FedEx has convinced labor boards and courts that its ground personnel are in fact aviation workers. FedEx even used the 1996 FAA Reauthorization Conference Report to re-insert the term express carrier into the RLA for the sole purpose of making sure its entire ground operations are covered under a labor law for aviation and rail workers. The legal fiction that truck drivers are actually aviation workers not only defies credibility, but creates an uneven playing field in this highly competitive industry.

Other package delivery companies including FedEx's chief competitor, UPS, are covered by the National Labor Relations Act (NLRA) for their ground employees (i.e. truck operations). This distinction is significant. The RLA requires a coordinated organizing drive company-wide and denies workers in particular locations the right to choose union representation. Under the NLRA, these workers would be permitted to organize at each site individually. FedEx has spent millions of dollars in lobbying and legal fees to preserve this questionable classification as a means of shielding itself from efforts by trucking unit employees to form and join a union for purposes of collective bargaining.

There is simply no public policy reason why truck unit personnel should be classified as aviation workers and thus covered by the RLA; the only rationale is one based on a company's desire to unfairly deny its workers the right to organize a union. This double standard is grossly unfair to the employees of FedEx and creates a competitive disadvantage for FedEx's competitors.

FedEx has recently argued that the express carrier provision is a bailout for UPS. Nothing could be further from the truth. No funds are going to UPS pursuant to this provision and no favor is being bestowed to the company. If anyone has been "bailed out" it is FedEx with its 1996 special interest exemption and its insistence that because it was launched as an airline company in 1973 its truck drivers today are actually aviation workers.

We share your view that Congress must quickly pass an FAA Reauthorization bill and that further extensions do not serve the interests of the aviation sector and its employees. Given the importance of FAA reauthorization, it is outrageous that some in the Senate are threatening to derail this bill simply to maintain the special designation for FedEx that has helped the company's ground operations remain union-free.

Again, on behalf of transportation labor, I urge you to support inclusion of "Express Carrier" language in the FAA authorization legislation. If you have any questions, please contact me directly or Larry Willis at 202/628-9262.

Sincerely,

Edward Wytkind
President