May 30, 2012

Linda Puchala, Chairman
National Mediation Board
1301 K Street, NW, Suite 205E
Washington, DC 20005-7011

Re: NMB Case Nos. A-13589 and A-135890
United Airlines and Air Line Pilots Association

Dear Ms. Puchala:

I write in response to the letter of May 28, 2012 from P. Douglas McKeen, Senior Vice President for Labor Relations of United Airlines. In the letter, United takes the position that “relevant factors” “counsel against” the May 11, 2012 request of the Air Line Pilots Association that the NMB terminate mediation services and proffer arbitration, and, if that is not accepted by both parties, a release.

ALPA made its request to the Board, as stated in my letter of May 11, because after an unacceptably long period of negotiation and mediation for a JCBA, “it is necessary to bring new factors to bear” in order to bring about an agreement. As I noted,

> For all the reasons that Congress long ago placed these powers in the Board, the possibility of a successful agreement at this time will be increased by the Board’s taking the actions described in Section 5, First.

At the same time, in making this request, ALPA emphasized “our commitment to a negotiated outcome by mid-June” and our position that the Board should “continue to use its powers under the Act in order to improve the chances of success.”

United, in contrast, argues that the Board cannot improve the chances of an agreement by proffering arbitration, noting that JCBA negotiations are “complex.” I am personally no stranger to such negotiations. While complex, they can be started and finished in a matter of months - not the years that have passed since the start of the United negotiating process. But United knew that negotiating a new agreement for both pre-merger pilot groups would be complex when it signed an agreement with ALPA in July, 2010, stating that it intended to “negotiate a JCBA so that, taking into account the period for completing full contract language in plain clear terms and for necessary management and ALPA approvals, ratification and signatures, it will take effect on the Merger Closing Date.” (Transition and Process Agreement, Section 2-A.) That agreed deadline went by nearly 20 months ago.

United’s letter notes that the parties have made considerable progress and have narrowed the open issues. I agree. But, at the current rate of progress, without a clear deadline, the mediation could drag on and on for months to come. In contrast, given the reduced number of open items, a deadline set now by the Board can be used to bring to an end the unacceptable drift that has plagued these negotiations.
United again disagrees, arguing in its May 28 letter that it even the thirty days of the statutory cooling-off period is not likely to be enough time to resolve the remaining issues. Worse, however, the letter goes on to state that while the new Delta TA is “highly relevant” to the United JCBA negotiations, so too are both the bankruptcy rejection motion of American Airlines and US Airways’ efforts to acquire American. Indeed, United even argues that these bankruptcy “matters are likely to result in changes to both ALPA’s and the Company’s bargaining positions” -- although the outcome of those development won’t be known for months, and although the pre-merger United pilots made their bankruptcy concessions and the pre-merger Continental pilots made their pre-bankruptcy concessions. Despite the argument in United’s May 28 letter, it is obvious that the twelve thousand pilots of United Airlines have worked under bankruptcy-era agreements for much more than long enough. Those days need to be over, now.

But the most disturbing aspect of United’s May 28 letter, from the standpoint of the standards and schedule for completing the negotiations, is that it varies significantly from the views of United’s own CEO, Mr. Jeff Smisek, who, only eight days ago, argued for rapid progress, while acknowledging that “[t]he new Delta TA raises the market pay for commercial airline pilots, and effectively sets a new competitive standard for pilot pay.” Appropriately, and in contrast to the May 28 letter, Mr. Smisek never said a word about American, its bankruptcy, or US Airways, or about delaying negotiations to wait for developments in the American case.

As the Board knows, ALPA does not lightly seek a release. But only the NMB has the power under the RLA to set a real deadline. That power is carefully but necessarily used in circumstances like this one. Therefore, ALPA repeats its request that the Board use its powers and issue a proffer “to improve the chances of success.”

Mr. Smisek concluded last week’s letter to the United pilots last week by asserting,

Now is the time for all parties to put aside political differences and posturing, and focus on the remaining open contract items. What I ask of you is that we work together to complete our negotiations promptly. We’ve been negotiating long enough. Let’s get this done.

Like Mr. Smisek, ALPA believes it’s time to “get this done.”

Respectfully submitted,

Captain Donald L. Moak, President

cc:
Harry Hoglander, NMB Board Member
Elizabeth Dougherty, NMB Board Member
Larry Gibbons, Director of Mediation Services, NMB
Pat Sims, Senior Mediator, NMB
Jay Heppner, United MEC Chairman
Jay Pierce, Continental MEC Chairman
Bruce York, Director, ALPA Representation Dept.
Jeffrey Smisek, President and CEO, United Airlines
P. Douglas McKeen, Senior VP, Labor Relations
Mike Bonds, EVP Human Resources and Labor Relations