

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL
98TH REGULAR EXECUTIVE COUNCIL MEETING
July 17-19, 2007

SUBJECT

AAA/AWA Seniority Integration Award

SOURCE

President John Prater (06/07 EXCL, AI #1)

BACKGROUND INFORMATION

An ALPA Arbitration Board under Part I, Section H of ALPA Merger and Fragmentation Policy has rendered an Opinion and Award in the Matter of the Seniority Integration of the Pilots of US Airways, Inc. and the Pilots of America West Airlines, Inc. (the "Award"). The Arbitration Board was chaired by a neutral selected by the Merger Representatives of the two MECs and having considerable experience as a labor arbitrator and as a neutral chair in seniority integration procedures. The Award has nonetheless generated considerable negative reaction among many US Airways pilots.

The AAA MEC, on behalf of the AAA pilots, requested that the Executive Council set aside the "Award" on the ground that the it is not fair and equitable and therefore fails to satisfy ALPA Merger and Fragmentation Policy, and resubmit the matter to a new Arbitration Board sitting with a different arbitrator.

The AWA MEC, on behalf of the AWA pilots, opposed that request on the grounds that the Executive Council lacks jurisdiction to set aside an arbitration award rendered under ALPA Merger and Fragmentation Policy and that, if the Council possessed such jurisdiction, no sufficient ground for exercising it was offered.

The Executive Council, acutely aware of the importance of these issues to the pilots of both airlines as well as to the entire Association, desires to fully consider the views of each group and fully deliberate all issues raised in order to effectively discharge its responsibilities. The Executive Council is also acutely aware of the negative consequences that may result if the MECs fail to come together to explore consensual approaches that promote career protection and mutual success, and

achieve an acceptable single collective bargaining agreement that improves pay, benefits, work rules and job security for both pilot groups.

At the May 2007 meeting, the Executive Council directed that the President continue to employ all the resources of the Association to assist the MECs in achieving these goals.

At a special meeting held on June 26, 2007, the Executive Council further considered the issues related to the differences between the AAA MEC and AWA MEC over the Award. President John Prater reported that additional work remains to be done to carry out the May 2007 Executive Council resolution.

The Council directed the President to establish a committee, chaired by First Vice President Paul Rice and including Executive Board members, to work with both MECs and the JNC to assist them in developing consensual approaches that promote mutual career protection and mutual success. The committee was directed to assist with a communications program established to provide AAA and AWA members with accurate information on issues concerning the Award.

The committee will report to the Council at its July meeting, where continued consideration of issues as to the Award will take place.

PROPOSED RESOLUTION

- 1 To be developed.

- 2 FINAL RESOLUTION

WHEREAS the AAA MEC, on behalf of the AAA pilots, has requested that the Executive Council set aside the Opinion and Award in the Matter of the Seniority Integration of the Pilots of US Airways, Inc. and the Pilots of America West Airlines, Inc. (the "Award") and resubmit the matter to a new Arbitration Board sitting with a different arbitrator, and

WHEREAS the AWA MEC, on behalf of the AWA pilots, has urged that the Executive Council lacks jurisdiction to review or set aside the Award and that, in any event, there is no basis for doing so, and

WHEREAS the Executive Council, acutely aware of the importance of these issues to the pilots of both airlines as well as to every member of the Association, has continued to fully consider the views of each group, and

WHEREAS the premise of ALPA Merger and Fragmentation Policy, ("Merger Policy"), as stated in its Preamble, is that "[t]he role of ALPA in seniority integration is solely to provide the process by which the affected pilot groups on ALPA airlines arrive at the merged seniority list for presentation to management, through their respective merger representatives, using arbitration if necessary," and

WHEREAS the Preamble to Merger Policy plainly states that "[r]esponsibility for the merged seniority list falls upon the respective merger representatives with ALPA National in a neutral position on the merits," and

WHEREAS Part 1, Section G.5. of Merger Policy also places upon the respective MEC merger representatives, and not upon ALPA National, the responsibility to "carefully weigh all the equities inherent in their merger situation" and to "attempt to match equities to various methods of integration until a fair and equitable agreement is reached," but does not obligate the merger representatives to do more than "keep in mind" a series of "goals," with "no particular order" of preference for these goals, and

WHEREAS the Executive Board in 1991 removed all mention of "date of hire" from Merger Policy, and

WHEREAS MECs and their merger representatives who submit their dispute to an arbitrator of their selection understand that the "purpose of arbitration shall be to reach a fair and equitable resolution consistent with ALPA policy," but that the Preamble to Merger Policy, as adopted by the Executive Board in 1991, provides that ["i]t must be understood that what appears to be truly 'fair and equitable' often differs depending upon the eyes of the beholder and that there may be no consensus of what is 'fair and equitable,'" and

WHEREAS when MECs and their merger representatives submit a dispute to arbitration, they are charged with knowledge that Merger Policy provides that "the Award of the Arbitration Board shall be final

and binding on all parties to the arbitration,” that the Award “shall be defended by ALPA” and that the “merged seniority list will be presented to management and ALPA will use all reasonable means at its disposal to compel the company to accept and implement the merged seniority list,” and

WHEREAS Part 1, Section N., paragraph 1. of ALPA Merger Policy (Merging of Employment Agreements) provides, “In no event, except by mutual agreement of all parties, will the company be given the right to use the merged seniority list prior to the successful conclusion of the merged working agreement,” and

WHEREAS Section IV. of the Letter of Agreement dated September 23, 2005, between the Association, America West Holding Corporation, America West Airlines, Inc., US Airways Group, Inc., and US Airways, Inc. (the “Transition Agreement”), as approved by the America West and US Airways MECs and ratified by the respective AWA and AAA memberships provides that management may not use an integrated pilot seniority list prior to Operational Pilot Integration as defined in Section VI.A. of the Transition Agreement (i.e. negotiation of the Single Agreement and issuance of a single FAA operating certificate), and

WHEREAS no schedule has been specified in Merger Policy or the Transition Agreement for presentation of a merged seniority list to US Airways management, and

WHEREAS no merged collective bargaining agreement will take effect without separate membership ratification votes by the AAA and AWA membership, and

WHEREAS the Executive Council has resolved that the AAA and AWA MECs explore consensual approaches that promote mutual career protection and mutual success, as part of achieving acceptable collective bargaining outcomes that improve pay, benefits, work rules and job security for both pilot groups, and

WHEREAS the President, pursuant to direction of the Executive Council, established a committee (the “Committee”) chaired by First Vice President Paul Rice and including Executive Board member David Webb and Executive Council member Ray Miller, to work (with other designees and advisors) with both MECs and the Joint Negotiating

Committee and to assist them in achieving the goals set forth above, with the expectation that the MECs and JNC will cooperate and participate in this process, and

WHEREAS the Committee has met with the JNC in accordance with the direction of the Executive Council, and

WHEREAS the President, the entire Executive Council, and the Committee met at length with both MECs at the headquarters of the AFL-CIO on July 17, 2007, where the Committee explored with the MECs strategies as to possible collective bargaining outcomes including a merged agreement, umbrella agreement, and multiple agreements, and

WHEREAS, on the basis of the Executive Council's July 17 meeting with the MECs and the reports of the Committee, the Executive Council recognizes that there are serious issues as to the potential for negotiation, ratification, and implementation of a merged collective bargaining agreement at this time, and therefore that serious issues exist as to the possibility of implementing the Award at this time,

THEREFORE BE IT RESOLVED that the Executive Council finds and determines as follows:

1. The Opinion and Award in the Matter of the Seniority Integration of the Pilots of US Airways, Inc. and the Pilots of America West Airlines, Inc. (the "Award") has generated considerable controversy, including strong condemnations and strong defense. These contrasting responses present issues of great importance just at the time when our profession, led in part by the AAA and AWA pilots, is poised to make significant strides toward recovery from the concessionary contracts of the past several years. An important task of union leadership is to take all such concerns into account and to attempt to maintain bonds of trust and solidarity -- the foundation of our great trade union. An equally important task of union leadership is to function within the boundaries laid down by the members' elected representatives. The Executive Council takes both of these responsibilities seriously in discharging its duties.

2. The Executive Council is a body of limited jurisdiction and authority with regard to seniority integration under Merger Policy. Although Part 1, Section B.3. of Merger Policy provides that “[i]ssues as to application or interpretation of Merger Policy shall be determined by the Executive Council,” this authority is subject to other provisions in Merger Policy. In particular, Merger Policy provides that ALPA’s role in seniority integration “is solely to provide the process,” and that “ALPA National” is confined to “a neutral position on the merits.”
3. The Executive Council’s authority as to seniority integration is also subject to several provisions of Merger Policy setting forth the role of the MECs, their merger representatives, and the Arbitration Board in resolving the issues. Under Merger Policy, when the parties submit their dispute to arbitration, it is up to the Arbitration Board, not ALPA National, to decide how best to express the Board’s view of the equities.
4. Given that ALPA National’s role is solely to provide the process for seniority integration, the appropriate question for the Executive Council is whether it has done so in this case. No evidence has been presented of any impropriety in any aspect of the process which would support a finding that ALPA has not provided the exact process that it was obligated to provide, including negotiations, mediation, and arbitration.
5. After meeting with and hearing from the AAA MEC and the AWA MEC, and receiving reports on recent contract negotiations, in the judgment of the Executive Council serious issues exist affecting the ability of both pilot groups to complete and ratify a merged collective bargaining agreement which would provide the basis for implementation of the Award at this time. Merger Policy calls for a contract negotiation and agreement process as well as seniority integration, making it evident Merger Policy must at all times be interpreted and applied in the most practicable manner so as to achieve actual results in the interests of the flight deck crewmembers involved rather than stalemate and deadlock that lead nowhere.
6. It is the judgment of the Executive Council that the Association’s resources should at this time be devoted to pursuing practical

results by continuing the efforts of the Executive Council and the Committee to bring about solutions that can benefit our membership. Further, for the reasons stated above, the Executive Council is of the opinion that taking other action on this agenda item could divert attention from this endeavor and is neither called for nor appropriate at this time. Rather, the Executive Council directs that the work of the Committee be continued, that reports be made by the Committee and the MECs to the Executive Council at its next meeting, and that consideration then be given as to whether further action on this agenda item is warranted, and

BE IT FURTHER RESOLVED that the Committee continue to assist the MECs and JNC in achieving the goal of developing consensual approaches that promote mutual career protection and mutual success, as part of achieving acceptable collective bargaining outcomes that improve pay, benefits, work rules and job security for both pilot groups, and

BE IT FURTHER RESOLVED that, in the absence of full cooperation with the process for achieving consensual solutions, the President, in consultation with the Committee, develop other procedures for solutions that will best fulfill our union's representation responsibilities, and

BE IT FURTHER RESOLVED that the Committee continue to report to the Executive Council and to the members of the Executive Board in a timely and ongoing manner so that the Executive Council and members of the Executive Board will have the benefit of being kept up to date on a matter of great importance to our union, and

BE IT FURTHER RESOLVED that the President, with the advice and assistance of the Committee, continue to deploy and strengthen the communications program previously directed by the Executive Council to provide information to the AAA and AWA membership and all other members of the Association on the issues concerning the Award and collective bargaining solutions.