

TESTIMONY OF  
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ASSOCIATION OF FLIGHT ATTENDANTS –  
CWA, AFL-CIO  
BEFORE  
THE SUBCOMMITTEE ON HEALTH,  
EMPLOYMENT, LABOR AND PENSIONS  
OF THE  
HOUSE EDUCATION AND LABOR  
COMMITTEE  
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Thank you, Chairman Andrews for holding this vital hearing on the proposed merger of Northwest and Delta Airlines and the merger's impact on employees. My name is Patricia Friend and I am the International President of the Association of Flight Attendants – CWA, AFL-CIO. AFA represents over 55,000 flight attendants at 20 U.S airlines and is the largest union in the world representing flight attendants. We especially want to thank the Committee for inviting us to testify today and giving voice to the concerns of the flight attendants of these two great airlines. Flight attendants and other employees have kept these airlines flying during the good times . . . and through some very *difficult* times. We appreciate having a seat at this table to testify and to share our views and our concerns about what this merger could mean to them.

This merger between Northwest and Delta has drawn significant attention from the media, communities served by both carriers and here on Capitol Hill. The attention being paid to what will create the largest airline in the world is appropriate . . . and *necessary*. This announced merger has led to continued speculation about which airlines will be next to merge and airline management efforts to accomplish further consolidation. And, although the merger drumbeat started much earlier as airline executives sought greater profits following the recent epidemic of bankruptcies, airline CEOs continue now to call for greater consolidation in light of the exploding cost of fuel.

I'm especially pleased of the focus of today's hearing – the impact of this merger on the employees at what could become the world's largest non-union airline. As you well know, and which various other hearings have highlighted, consumers are frightened that

this airline merger in particular, and further consolidation of the industry in general, will lead to much higher fares and reduced service. Hundreds of communities are rightfully concerned that this merger and others could lead to the loss of valuable air service as the evolving mega-carriers shed routes in hopes of consolidating their profits. Delta has already announced significant cutbacks in flights at their Cincinnati hub. But no hearing to date has focused exclusively on the impact to the tens of thousands of Northwest and Delta flight attendants and I applaud you for making that the sole focus of this hearing.

Before going into the specifics of the direct impact of this merger on the Delta and Northwest flight attendants, I'd like to first raise a broader issue that confronts airline employees in a merger situation. While some protections are in place through the regulatory approval of airline mergers from the Department of Justice and Department of Transportation for consumers and communities, there are virtually no protections for airline workers in this merger other than those that have been negotiated in any union contracts. There has been little attention paid to the extreme upheaval that mergers create for the thousands of airline employees who find themselves unemployed or whose lives are disrupted.

This has not always been the plight of airline workers. There were many important protections in place for airline workers prior to the Airline Deregulation Act of 1978; the Allegheny-Mohawk Labor Protective Provisions (commonly known as the LPPs) were made a condition of government approval of virtually every airline merger. The LPPs contained extensive and specific protections – like displacement and relocation

allowances, wage protections, transfer and seniority protections, layoff protection, and others – as part of a standardized set of provisions designed to shield workers from an unfair share of the burden resulting from airline mergers.

But no substantial protections from our federal government exist today to cushion airline workers involved in mergers. After the deregulation of the airline industry, airline executives successfully lobbied for an end to the LPPs because, as they argued at the time, these matters are ‘better left to the collective bargaining process.’ Union contracts provide a level of protection for those employees covered by the agreement, but there is little to no protection for non-union airline employees – like the flight attendants at Delta airlines.

Those same employers who wanted to leave these protections to the bargaining process now spend millions of dollars on union busting, trying to prevent their employees from attaining the right to bargain, or to strip that right from those who have had it for decades. And today, many of those same employers who hold press conferences to trumpet the fact that their mergers will not cause any layoffs often refuse to agree in writing to such guarantees.

Of all the well-developed rules referred to prior to deregulation as Allegheny-Mohawk LPPs, only one exists today – the provision establishing basic seniority protections in the event of a merger. And, that provision was only recently resurrected and included in last

December's Omnibus Appropriations bill after the advocacy of AFA and the strong support of Representative Russ Carnahan, Senator Claire McCaskill and this Congress.

Earlier attempts by Congress to provide protections for airline employees during mergers, provides an instructive history in the current context. Congress included the Airline Employee Protection Program (EPP) in the Deregulation Act to assist adversely affected employees. At least 40,000 employees lost their jobs in the wake of deregulation. The EPP was supposed to provide for both monthly compensation and first-hire rights at other airlines. However, displaced employees never received the benefits Congress promised and funding was never authorized for the benefits, turning the whole program into a cruel joke for airline employees in desperate need of a life-line.

As we look at the impact of this merger on the workers at Northwest and Delta, perhaps it is time to revisit the concept of employee protection from the Deregulation Act. No, we are not proposing to re-regulate the industry today; that's a worthy discussion for a different hearing that we welcome and we would encourage Congress to hold. But we do think that – at a minimum – something needs to be done to shield workers from the harshest effects of this merger and any future mergers.

We all know that the minute this merger is approved, executives will be looking for cost saving 'synergies' that will make the new airline ever more profitable. Many of the synergies that the executives will likely turn to first are precisely the steps that will harm

the interests of the workers, such as furloughs, base closures, fleet reductions and, perhaps worst of all, outsourcing.

In order to achieve those cost savings, Delta management has already made it clear that they will do everything in their power to first make sure there is no union in place to protect the hard earned benefits of the currently unionized Northwest flight attendants, which as a whole are much better than the non-union Delta flight attendants. This merger seriously jeopardizes the collective bargaining rights of all the Northwest employees who have fought for and won the legal right to have union representation. Virtually all employees at Northwest have chosen to join a union. Delta, on the other hand, has only one major workgroup that is unionized – its pilots.

For several years, Delta flight attendants have been working diligently to secure a better future through joining AFA and eventually securing a legally binding contract. Their hard work paid off earlier this year when they filed cards from over 50% of all the Delta flight attendants requesting an election to join AFA. This spring, the National Mediation Board (NMB) mailed voting instructions to Delta flight attendants and after a four week window the voting ended on May 28<sup>th</sup>.

I am testifying for AFA here today to also express our outrage over Delta Air Lines' ubiquitous and coercive campaign to interfere with its flight attendants' right to freely select a bargaining representative under the Railway Labor Act (RLA). In my 40 years in the airline industry, I have never witnessed a more intense and heavy-handed anti-union

campaign. Since the NMB mailed voting instructions to the Delta flight attendants on April 23, Delta management flooded the flight attendant crew lounges with supervisors, and wallpapered its facilities with anti-union posters urging flight attendants to not vote. Or as Delta puts it: “GIVE A RIP - DON’T CLICK, DON’T DIAL.”

Delta’s intense and overwhelming anti-union campaign was simply a voter suppression campaign that was tailored to take advantage of the onerous organizing rules that are applied by the NMB for representational elections governed by the RLA. Although the RLA makes no mention of such an extraordinary requirement, the NMB rules state that in order for a representation election to even be considered valid, a majority of all eligible voters must turn out to vote in the election. If 95% of flight attendants who cast a vote want to join AFA but only 49.9% of all the eligible flight attendants cast a vote, then the election is invalid.

In effect, a person who chooses not to cast a vote in an NMB election is counted as a “no” vote, encouraging management to focus their efforts on voter suppression in every election. Anyone appearing on the voter eligibility list, for whatever reason whether it through illness, apathy or forgetfulness, who does not cast their ballot in the allotted time frame, is counted as having voted against the union. In a sense, the voting starts with all 100% of eligible voters casting a “no” vote for union representation and the union must get enough people to “switch” their votes to yes, by participating in the election. I ask the members of the Committee to consider if they, or most of their colleagues, would be

sitting here today if our Congressional elections were governed under the same onerous rules, where turnout is more important than the actual votes cast.

During the election period, Congressional oversight and harsh questioning by your colleagues of Delta CEO Richard Anderson at other hearings, had little deterrent effect on Delta's management when it came to their anti-union campaign. Delta CEO Richard Anderson's promise to Congresswomen Betty Sutton at a hearing before the Antitrust Task Force of the House Judiciary Committee on April 24 that the Company would "follow the NMB's election rules" during this election was clearly an empty one. To the contrary, over the four-week voting period in the representational election, Delta effectively overwhelmed the flight attendants' ability to choose a representative freely.

Delta used every method available to them to pressure the Delta flight attendants, when receiving their NMB ballots in the mail, to "Give it a rip" and destroy the ballot.

Through supervisor intimidation, massive pressure at the workplace, a message delivered through every imaginable communication including the computers used to sign in for flights and sowing confusion about voter eligibility, Delta was successful in suppressing the turnout of Delta flight attendants. In the end, 99% of the Delta flight attendants voting in the election cast ballots for AFA as their collective bargaining agent.

However, because Delta was successful in suppressing the vote, only 40% of Delta flight attendants cast ballots in the election, thereby making the election invalid.



In light of Delta management's glaring violations of the rights of their employees, AFA has filed interference charges with the National Mediation Board and to order a re-run of the election, using a process that will more accurately reflect the wishes of the Delta flight attendants. I have provided a copy of the filing with my testimony, which goes into greater detail in regards to the anti-union campaign waged by Delta management.

We remain skeptical however that the NMB will rule against the harsh anti-union campaign. This NMB has repeatedly ruled on the side of the employer in such cases. We have repeatedly witnessed first hand the efforts of this NMB to ignore the intent of the RLA to level the playing field so that employees could be allowed to choose union representation free from employer intimidation. Again, we have outlined in great detail in our NMB filing (accompanying this testimony) the actions by this NMB in the Delta flight attendant union election that are troubling, including arbitrarily changing the time frame for the election after the initial voting period was announced and AFA had produced all relevant voting material information.

The most troubling action was recently taken when the NMB announced proposed changes to their rules governing union certification in an airline merger. Their proposed rules now require a "substantial" majority for union recognition. This "substantial" majority would be left to the board's discretion and they would not be allowed to consider signed authorization cards by employees when determining if there is a "substantial" majority. This would potentially open the door for the NMB to disallow a voluntary recognition of union representation based on a majority of employees signing

authorization cards – even if it was agreed to by the union and the employer. But these last minute efforts to change the rules in the middle of the game should not be shocking considering that the current Chair of the NMB is the former Vice President of Government Affairs for Northwest Airlines.

In the context of this merger, the company's anti-union tactics take on added urgency; the merger should not be permitted to become a vehicle for union busting. Airline executives have realized the opportunity that this merger presents: not just a chance to prevent thousands of non-union employees from gaining a union, but also a chance to eliminate the unions that already provide protection for their members at Northwest Airlines.

Northwest flight attendants joined AFA two years ago, but have been union members for 60 years. Their proud tradition of union representation is threatened by management's use of this merger process to attempt to eliminate the Northwest flight attendants collective bargaining agreement, which, in turn, poses a real threat to the job security for thousands of flight attendants, and the superior benefits, work rules and protections that they have gained through years of collective bargaining.

We viewed the recently concluded Delta flight attendant representational election as the first line of defense for the collective bargaining rights of the Northwest flight attendants. If the Delta flight attendants had been successful in their efforts to gain a voice in their workplace then we could have focused on negotiating a contract that would have

provided the best work rules and benefits for the two groups. A second election will be necessary to determine the future of the collective bargaining rights of the newly combined and merged Delta Airlines. Based on the number of Delta flight attendants who have signed AFA authorization cards, and the number of Northwest flight attendants who are already AFA members, AFA has the support of a solid majority of the combined workforce. Based on Delta's past union busting efforts and stated goal to become the world's largest non-union airline, we have no doubt that they will use every tool at their disposal to make sure that the flight attendants of the new airline have no collective bargaining rights and are stripped of their contractual protections.

Delta executives have not been shy about their efforts to prevent the employees from forming unions. In fact, in a meeting with AFA Northwest leadership, Northwest management stated flatly that there would not be a seat at the table for the flight attendants in the merger discussions. He went on to state that the current Delta was a non-union company and that the "New Delta" had every intention of remaining a non-union company; Delta planned to defeat the union and prevent the flight attendants from having, or keeping, the bargaining rights that are essential in the face of this merger. Delta has already demonstrated that they will spread disinformation and make every effort to prevent Delta flight attendants from casting ballots. They've even gone so far as to state that they supported and were instrumental in having the seniority integration protections passed by Congress in the Omnibus Appropriations late last year, even though they spent months opposing inclusion of the language. I would ask this

Committee: what is wrong with our system when the majority of these flight attendants want union representation and yet face such great barriers to achieve that goal?

Bargaining rights are paramount if the flight attendants are to have an opportunity to negotiate over the impact this merger will have on their work lives. Our primary concern is that Delta executives will use the merger to eliminate the rights of employees to have a seat at the table when the airline is fully merged with Northwest.

Using this merger as an opportunity to destroy unions provides these airlines, and all who would follow, with an opportunity to drive down wages, work rules and benefits for all airline employees. It can create a domino effect that will force even unionized carriers to match those drastic cuts in order to compete. They will set industry standards back to levels we have not seen in decades. If Delta is a non-union carrier, as well as the largest carrier, they will be poised to set in motion an unprecedented remaking of the entire airline industry that will destroy airline jobs as a stable and secure middle class career once and for all.

Collective bargaining agreements provide a level of legally binding protections negotiated and enforced by a flight attendant union, company officials and with oversight from federal agencies. Employees form the union and negotiate a contract based on their priorities. Absent a union and a legally binding contract, management is given extraordinary rights, particularly during a merger in the airline industry with limited federal regulation protections.

The unique operations of an airline expose employees to a series of market driven and regulatory changes. For instance, union contracts provide clear and fair procedures that protect airline employees when a company opens or closes a base or domicile, which is commonplace in this industry. What happens when that contract goes away? Without a contract and negotiations, company policy can then change with the issuance of a memo. Management can arbitrarily select which employees must move to a new location and which stay.

Furloughs occur in our industry in large part due to economic downturns and most recently because of spiking jet fuel costs. AFA contracts have long provided protections in this area, ensuring that the company first offer voluntary leaves of absence or voluntary furloughs and then enforces a fair process when management forces involuntary furloughs. The Northwest AFA contract protects – in writing – Northwest flight attendants when this process occurs. Delta's policy manual can be changed by management at will and at any time. Delta flight attendants deserve better.

Scheduling work rules, health care benefits, retirement security and retiree health care, vacation, seniority protections and furlough protections are provided and governed by the AFA contract at Northwest Airlines. Absent a union contract, these vital components of a flight attendant career will be left in the hands of someone in a Delta Air Lines corporate department, a distant party who does not represent the interests of flight attendants.

Northwest flight attendants benefit from superior protections in their legally binding contract, particularly in the areas mentioned above. Delta flight attendants operate under a policy manual which has no enforcement provisions and is not legally binding on the company. Delta management has changed the policy manual for flight attendants, can change the flight attendant policy manual at will, and will change the flight attendant policy manual in the future should their plan to become the largest non-union carrier prevail.

Northwest Airlines and Delta Air Lines management froze contributions to their flight attendant pension plans when both carriers entered bankruptcy. In the Northwest AFA contract however, the remaining plan is protected in writing along with applicable federal law protections. The AFA contract establishes a Northwest Airlines Flight Attendant Retirement Board, providing AFA members there a legally binding voice in their retirement security. Importantly, a defined contribution plan was negotiated to replace the pension plan and is secured in writing. Delta's flight attendant policy manual gives no guidance in this vital area, effectively defaulting to a plan controlled by third parties.

The Delta flight attendant pension plan contains a social security offset deduction. The Northwest pension plan contains no social security offset deduction.

The Northwest flight attendant medical benefits plan, prescription drug plan and retiree health care plans are spelled out in detail in the AFA contract. The level of coverage and

cost containment language are secured in writing. These medical plans are maintained and protected through the duration of the Northwest AFA contract. Delta flight attendants do not enjoy the same protections as their colleagues at Northwest and default to whatever plan management wants. If Delta flight attendants remain non-union in the merged airline, what happens to these protections?

Delta flight attendants deserve better and Northwest flight attendants deserve to keep their protections.

Flight attendants face one other devastating threat in this merger, one that no other work group is likely to encounter. This merger will most likely resurrect past efforts by Northwest executives to outsource our best jobs to flight attendants based outside the U.S. Such outsourcing of flight attendant jobs on international routes to foreign nationals will resurface if the new Delta achieves their goal and become a industry standard practice. When Northwest first proposed flight attendant outsourcing during bankruptcy, a bipartisan group of House and Senate members rose up to decry such a move as jeopardizing aviation safety and security. With a union fighting to protect the Northwest flight attendants jobs, and support from members of Congress, Northwest management backed off such a proposal and thousands of good paying jobs remained for Northwest flight attendants. Only if the union retains its legally binding bargaining rights following the merger will the flight attendants have the legal standing to continue the fight against such outrageous ideas as outsourcing flight attendant jobs. What other ideas will an unchallenged Delta management team attempt to impose on its non-union flight

attendants? Many of the current Delta executives were involved in earlier outsourcing attempts when they were at Northwest Airlines.

I urge the members of this Committee to send a strong and clear signal to Northwest, and especially to Delta executives, that they must not use this merger as a means to destroy the collective bargaining rights of flight attendants. I would urge this Committee to use its good offices to monitor Delta management as this merger progresses so that they do not engage in election activities similar to those of the past elections – actions that violated the spirit of the Railway Labor Act, even if the NMB ruled they did not violate the letter of the law. And finally, I hope that you will use your influence to persuade Delta management to remain neutral in the upcoming representation election. If they are successful in their goal to keep the “new Delta” non-union, we could see this merger as the beginning of the end for the airline industry as a source of decent and respectable jobs.

I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose; and we have the least protection. Most importantly, don't let them destroy the one thing we have protecting us – our unions.