



FedEx Responds to UPS Lobbying

June 10, 2009

While the tough economy has been one of the biggest challenges we face at FedEx, it's certainly not the only one. Another huge issue we must tackle is an effort by UPS to have Congress reclassify the status of FedEx Express under the Railway Labor Act (RLA). Let me explain in more detail what this means to FedEx and the role you can play in helping us defeat this UPS campaign. It's a bit of a history lesson, but one you must clearly understand to appreciate what's at stake for FedEx. It all begins with the RLA.

The Railway Labor Act

The Railway Labor Act was originally passed by Congress in 1926 to govern railroad labor negotiations and limit economically crippling strikes. The law was a direct response to damaging local strikes that had bottle-necked railroads, the national transportation system of that time. As transportation systems evolved, the law expanded to cover airlines and express carriers. FedEx Express, as an air express carrier with a combined air/ground network, has been correctly covered under the RLA since its founding.

The purpose of the RLA, then and now, is to offer employees a way to unionize if they choose and engage in collective bargaining while, at the same time, protecting national (now global) commerce from crippling work stoppages. Removing FedEx Express from RLA jurisdiction could expose our customers to local work stoppages that interrupt the flow of time-sensitive, high-value shipments through our global network. Keeping our RLA classification means our customers can count on the reliability of our FedEx Express service.

FedEx Express and the RLA

All employees at U.S. airlines have always been covered by the RLA, and FedEx Express remains an airline-centered operation. The RLA status of FedEx Express has been continually reaffirmed by courts and federal agencies. The Ninth Circuit Court of Appeals decided in 1991 that FedEx is exactly the kind of integrated system covered by the Railway Labor Act. The Supreme Court declined to even hear the case because of the soundness of the ruling. In 1996, Congress also reaffirmed that FedEx Express employees were classified properly under the RLA. Every court or agency that has looked at the issue has ruled that FedEx Express belongs under the RLA.

Differences in the RLA and the NLRA

The RLA was specifically designed to govern the unique circumstances of national transportation systems to minimize strikes that would shut down large portions of the economy. Under the RLA, groups that wish to unionize must do so across nationwide classes of employees. The RLA also requires mandatory government-led mediation of contract disputes supervised by the National Mediation Board before a union can strike or an employer can replace employees or impose contract terms.

The National Labor Relations Act (NLRA) is another law that governs union organizing and collective bargaining. It is a more general piece of legislation geared to general and local labor situations. The NLRA covers the vast majority of American workers since only a small percentage of people work in national transportation systems. Under the NLRA, employees can unionize in small localized groups, and government-led mediation is not a required step in the negotiation process.

UPS and the NLRA

UPS has been under the NLRA since that law was passed in 1935 because it has always been a ground company. When UPS began its airline segment in the early 1980s, the employees in that segment were classified under the RLA – like all other airlines, including FedEx Express. But UPS does not handle their air shipments in a separate and distinct network that ties directly into their air operation, as FedEx Express does. That's why their pickup and delivery employees have remained covered by the NLRA.

Throughout the 1990s, UPS tried to have their drivers reclassified from the NLRA to the RLA. Only after a decade of failure at that effort did UPS join the Teamsters in trying to reclassify FedEx Express. That is why UPS and the Teamsters are now putting so much time, money and effort into changing the RLA itself.

The UPS Campaign

For the past few months, FedEx Express has been the target of an extensive lobbying campaign by UPS and the Teamsters to have Congress pass legislation to change our status under the RLA.

This campaign resulted in language being inserted into the House version of the FAA Reauthorization Bill that would alter the status of most FedEx Express employees. That provision is not in the Senate version of the bill at this time. The Senate will likely complete a second version of the bill, and the two versions would then be reconciled into a final bill to be voted upon by both houses of Congress in the coming months.

We firmly believe the RLA is the proper classification for our company. Unlike our competition, we operate an integrated air/ground network and handle air shipments separately in that network. RLA jurisdiction gives us the best opportunity to deliver reliable, uninterrupted service to customers. It is that superior service that has allowed us to grow despite the best efforts of a larger competitor -- UPS. Their current lobbying campaign, working hand-in-hand with the Teamsters, seeks to gain a competitive advantage they have been unable to achieve through their service performance.

The Teamsters apparently think removing many FedEx Express employees from RLA jurisdiction would allow them to unionize FedEx Express employees more easily. That would allow the Teamsters to get new dues-paying members.

FedEx Express has always acknowledged that employees have the right to unionize if they so choose, and respects the laws and regulations that ensure that right. And the RLA does not prevent employees from unionizing—as evidenced by the fact that more than 70 percent of employees covered by the RLA are represented by unions. Of course, FedEx Express does prefer to deal directly with employees, without a third party in between. Our 38-year track record as one of America's best places to work and best service providers shows that formula works very well for our employees and our customers.

What You Can Do

With Congressional deliberations underway, you will hear and read much more about the issue. We are doing everything in our power to communicate our position to legislators and to educate the investment community, our customers and team members on the issues surrounding our RLA status.

For more information on the FedEx campaign against the UPS effort, go to brownbailout.com. There you'll see frequently asked questions and a link for contacting members of Congress in support of our fight against reclassifying FedEx Express under the RLA.

I urge all team members to educate themselves about how a legislative change in the RLA could dramatically affect our ability to compete in the marketplace. We will marshal all our resources behind this fight and your support is our biggest resource. With it, I am confident we can prevail.