

By Satish Jindel

CLARIFYING LABOR: RLA SHOULD BE TLA

THE ARGUMENT BETWEEN FedEx and UPS over national labor law has brought great attention to the questions surrounding the Railway Labor Act and the National Labor Relations Act, the United States' two main legal frameworks for collective bargaining.

But this dispute between the two companies over whether FedEx Express, now categorized in labor law under the RLA, should be covered by the NLRA, which could make the FedEx Express operations an easier target for unionization, really misses an important point: Current labor laws covering transportation are woefully out of date, having been designed decades ago, and no longer reflect the reality of today's modern transportation networks and operations.

The RLA was enacted in 1926 for transportation industries operating a network critical to movement of commerce. At that time, that meant only railroads.

If the RLA were to be enacted today with the original objective, it would be called the Transportation Labor Act to reflect the broad networks that virtually all significant transportation companies operate, regardless of mode.

Even though the NLRA was signed into law in 1935, Congress amended the RLA in 1936 to include airlines, which were then still developing. It is noteworthy that the first commercial airline flight transported mail (cargo) and not passengers, just as the first train transported cargo and not passengers. The original intent, and continued reason for the RLA, was to ensure that the many elements making up a network were not subject to separate labor actions that would disrupt the entire network and so harm the flow of commerce.

The type of freight handled by the railroads has changed dramatically. Today, the goods vital to the economy, such as medical instruments, electronics, technology, transportation equipment and components, and consumer packaged goods, are shipped in smaller shipments with faster transportation and moved by air cargo or trucking companies.

The importance of UPS and FedEx to the movement of commerce is much greater than the railroads, as reflected in the annual revenue of the two companies. At \$90 billion, the

combined revenue is greater than the combined revenue of the seven Class I railroads in North America and the combined revenue of the major domestic passenger airlines.

In fact, UPS and FedEx move about 30 percent of the goods related to GDP (excluding service sector GDP). By contrast, railroads move less than 10 percent of goods related to GDP. UPS and FedEx also handle more critical cargo such as pharmaceuticals, medical instruments, live organs and electronic components.

To understand the importance of UPS to the national economy, recall the summer of

the mode of transportation. Uninterrupted flow of commerce is not practical with different components of the network governed under different labor laws.

UPS supports an effort in Congress that would change the legal coverage for FedEx Express' pickup and delivery operations to have that covered under the RLA. But what Congress should do to level the playing field is replace the RLA with a broader Transportation Labor Act that would reflect the current dynamics of the transportation sector. That would include transportation companies such as railroads, airlines, truck-

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1997. During the first two weeks of August, while UPS was practically shut down by a Teamsters strike, the impact on the U.S. economy and companies was more serious than labor unrest at any passenger airline, railroad or other business since either the RLA or the NLRA were enacted. UPS customers who were shipping more than 12 million packages per day not only experienced higher costs but major service disruptions for days preceding, during and following the strike. Continuation of the strike by another two weeks would have crippled the economy.

If UPS and FedEx were operating today's multimodal networks in 1926 or 1936, the RLA would have included UPS and FedEx in addition to railroads.

UPS refers to the apparent uneven playing field created from having portions of the UPS operation governed under NLRA and RLA on its Web site, where an illustration shows two companies performing the same type of home delivery but with different labor laws governing the three major components of the network. It highlights the problem Congress has created by having different laws based on

ing and barge companies, which all have employees moving regularly between various operations and geographical locations.

To limit the RLA to railroads and airlines disregards the development of transportation in the United States, where shipping today inevitably is handled in highly engineered networks that often are multimodal. The NLRA works for companies in retail, manufacturing, assembly or office services that operate at an individual facility level, but that is not the reality in transportation.

Even UPS saw the need to be governed under the RLA and sought this change in 1996, but it did so through the courts and federal agencies. Maybe UPS should lobby Congress for legislative change in the RLA to the TLA to thereby cover all transportation companies.

By amending the RLA to the TLA that covers all transportation companies, Congress would be doing the proper thing for the nation. **joc**

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