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1 BEFORE THE ALPA ARBITRATION BOARD
2 - - - - -X
3 THE CREW MEMBERS OF U. S. :
4 AIRWAYS :
5 Plaintiff, :
6 vs. :
7 THE CREW MEMBERS OF :
8 AMERICA WEST AIRLINES :
9 Defendant. :
10 - - - - -X

HEARING, VOLUME 18

13 GEORGE NICOLAU, Chairman
14 CAPTAIN STEVE GILLEN, Pilot Neutral
15 CAPTAIN JIM BRUCIA, Pilot Neutral

17 Washington, D. C.
18 Wednesday, February 21, 2007

19 REPORTED BY:
20 DONALD R. THACKER

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1 Hearing before the ALPA Arbitration Board, on
2 Wednesday, February 21, 2007, in Washington, D.C. at
3 the Marriott Wardman Park Hotel, 2660 Woodley Road,
4 Northwest, at 10:00 a.m. before DONALD R. THACKER, a
5 Notary Public within and for the District of
6 Columbia, when were present on behalf of the
7 respective parties:
8
9 DANIEL M. KATZ, ESQ.
10 JASON WHITEMAN, ESQ.
11 Katz & Ranzman
12 5028 Wisconsin Avenue, Northwest, Suite 250
13 Washington, D.C. 22036
14 On behalf of US Airways
15
16 JEFFREY R. FREUND, ESQ.
17 LISA POWELL, ESQ.
18 ROGER POLLAK, ESQ.
19 Bredhoff & Kaiser, PLLC
20 805 15th Street, Northwest, Suite 1000
21 Washington, D.C. 20005
22 On behalf of America West Airlines

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1 P R O C E E D I N G S
2 CHAIRMAN NICOLAU: Okay, let's go. Record
3 is open.
4 MR. FREUND: Good morning. Off the record
5 we were talking about some housekeeping matters, and
6 I reminded the panel that they had asked us, you had
7 asked us to provide some documents at the last
8 hearing which we had neglected to provide you, and
9 those were the preferential bidding system line
10 summary data on the west side that formed the basis
11 for the ratios, the staffing ratios that led to our
12 ratios in our proposal, and on the east side the bid
13 05-07, which was the bid that we said was the basis
14 for the calculation of the ratios on the staffing
15 formulas that led to the ratios on the east side.
16 So, I have those, with one modest

17 correction, and that modest correction is we
18 inadvertently called something that is called Crew
19 Management Bulletin 05-07, bid 05-07. So it is not
20 bid 05-07, it is Crew Management Bulletin 05-07.

21 CAPTAIN BRUCIA: Is that essentially the
22 same thing?

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1 MR. FREUND: It is the document we were
2 using. It covers --

3 CAPTAIN BRUCIA: But as far as in a
4 staffing standpoint, is that is the same thing?

5 MR. FREUND: Yes. So these are the -- I
6 think the storage place for those would be behind
7 our Tab 25.

8 CHAIRMAN NICOLAU: In volume what?

9 MR. FREUND: I think that is in Volume B.
10 Also off the record, Jim, you asked about
11 the aircraft operating.

12 CAPTAIN BRUCIA: Yes.

13 MR. FREUND: I think that my recollection
14 was I saw an e-mail pass back and forth that
15 included the panel, that started on the east side,
16 that we concurred with, and it got to the panel,
17 that set out the number of aircraft. So I don't
18 think there is any --

19 MR. BRUCIA: I could have quite possibly
20 lost it. When you sent the e-mails you sent it to
21 all of us or just to me?

22 MR. FREUND: It started on the east side.

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1 CAPTAIN BRUCIA: All I have at this point,
2 what I prefer is something coming from you guys or
3 at least that says this is our number of airplanes,
4 so there is absolutely no contention as far as those
5 numbers.

6 Bob, do you have something that actually
7 has those, one sheet of paper that has both of those
8 things or how ever many sheets it is?

9 CAPTAIN ROBERT KIRCH: We will check it.

10 MR. KATZ: We got an e-mail from the
11 company that had the data, the supporting data, in
12 great detail, and Bob sent that to the America West
13 side. They concur, so I guess if Bob sends --

14 CAPTAIN ROBERT KIRCH: You have it.

15 MR. KATZ: Why don't I give it out now
16 then.

17 CAPTAIN BRUCIA: There is timing for you.
18 Just so we are clear, this document is in essence a
19 joint exhibit, shall we say?

20 MR. FREUND: We haven't really seen this
21 piece of paper.

22 CAPTAIN BRUCIA: Confirm that on the

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1 record after we do that, that is fine, absolutely.

2 MR. KATZ: If we need an exhibit number
3 for this, we have a J volume we were working on,
4 this could be J-5.

5 MR. FREUND: I guess a couple of other
6 housekeeping matters.

7 CHAIRMAN NICOLAU: I just want to make
8 sure that --

9 CAPTAIN BRUCIA: Any consternation over
10 this exhibit? Take your time.

11 All set? Very good.
12 CHAIRMAN NICOLAU: Dan.
13 MR. KATZ: There are two other sets of
14 data that the panel has asked for that we have
15 e-mailed and we have summary sheets for the data
16 which we think will be helpful in terms of not
17 having to work with the bulk of numbers, and people
18 that you do with an entire list.
19 So I would like to offer as exhibits J-6
20 and J-7, the summary data for both groups for
21 January 1, 2007 as J-6, and the data for US Airways
22 only for July 1, 2007 as J-7.

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1 J-6 is the January 1, 2007 document, and
2 on that document we have a question, really, is the
3 best way to put it, in terms of the data from
4 America West pilots. You see an arrow by the
5 management 15 in the box indicating non-flying jobs,
6 towards the bottom right part of the page, and it
7 appears to us that the five pilots whose employee
8 numbers are listed below are counted both as
9 supervisors and management. They are in both stacks
10 at the same time. So we would like to know what.
11 Maybe there could be some clarification on that
12 subject.

13 MR. FREUND: We will take a look at that.
14 This is probably as good a point as any
15 then to actually raise the other kind of
16 list-related preliminary issues, and Russ Payne laid
17 them out in the e-mail to the three of you that
18 included our lists.
19 You know, we think, try as both sides may
20 have to get to an apples to apples comparison I just
21 don't think we are quite there yet. We know we are
22 not there yet in at least one and a half regards,

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1 and another one and a half regard it is unclear.
2 I am just making an observation about
3 this. I don't know how the resolution of this cuts
4 in one direction or another. It just seems to me
5 that it ought to be out there and we ought to flesh
6 it out for whatever it is worth.

7 The convention on the west side is that
8 pilots who are on ALPA, who are doing ALPA work are
9 not shown as pilots on LOA, leave of absence on the
10 seniority list. The convention on the east side, as
11 we understand it and on the seniority list, is that
12 they are shown, pilots on union business are shown
13 as LOA. And I don't think there is any dispute
14 about that. I mean you look at the east's list and
15 you see the merger committee, and the merger
16 committee is all shown as LOA, and you look on the
17 west list, and on the west list merger committee is
18 not shown as on LOA.

19 That is just because of the convention of
20 the east and west, but it does result in a different
21 slice of the seniority list when you are looking at
22 LOA. That is number one, where we are not -- I

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1 don't know how it cuts, it is just there as a fact.
2 CAPTAIN BRUCIA: Can I interrupt you for a
3 second? Do you guys know how many of your pilots on
4 LOA status are ALPA LOA.

5 CAPTAIN ROBERT KIRCH: Small number, the
6 MEC officers, probably the negotiating committee,
7 people that are full time ALPA.

8 CAPTAIN BRUCIA: Could you get us that
9 number?

10 CAPTAIN ROBERT KIRCH: Sure.

11 CAPTAIN BRUCIA: That should take care of
12 that disparity.

13 MR. KATZ: We don't have a problem with
14 the America West pilots treating people on
15 essentially the same arrangement as LOA, if it makes
16 sense, because at a big MEC's like US Airways,
17 especially when you have got these joint
18 negotiations going on, there are a certain number of
19 people who aren't flying because they are doing ALPA
20 work. The MEC officers are all basically full time.
21 And it makes sense to treat them as LOA's to us, and
22 we have no problem with treating them equally at

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1 America West.

2 MR. FREUND: I am not being critical. I
3 am saying we have different conventions, and we
4 will --

5 CAPTAIN GILLEN: If we get the names we
6 will figure it out.

7 MR. FREUND: As long as you have the
8 underlying data.

9 MR. KATZ: We can give you the names.

10 CHAIRMAN NICOLAU: On both sides let's
11 have the names and numbers and we will do it.

12 CAPTAIN BRUCIA: Neither one of your
13 contracts have any issues as far as increased
14 staffing for ALPA leaves, that is silent in both
15 contracts.

16 MR. FREUND: Right.

17 CAPTAIN BRUCIA: Fine; it is no harm, no
18 foul.

19 MR. KATZ: There are two people who are
20 doing ALPA National work, Chris Beebe is the
21 treasurer of the union, and there is a safety guy,
22 Terry McVenus, he is a full-time guy with the

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1 association; anyhow, he is a full time safety guy
2 with the Association.

3 MR. FREUND: So, just in terms of
4 mechanics, you want the east side to identify the
5 LOA's who are ALPA LOA's and you want us to identify
6 on our active list of those pilots who are merger
7 committee or --

8 CHAIRMAN NICOLAU: Who would have been
9 LOA's.

10 MR. FREUND: Who would have been LOA's on
11 their system.

12 CHAIRMAN NICOLAU: Uh-huh.

13 MR. KATZ: The merger committee, all three
14 of them are not off. Kevin Barry is not shown as an
15 LOA. They are not all off.

16 CAPTAIN BRUCIA: It is fine, as long as we
17 have the data well work it out, it is not a problem.
18 I mean obviously, we are just going to roll these
19 people back in at this point, because I want to get
20 an apples to apples comparison, and since neither
21 one of the contracts have any staffing modifications

22 for ALPA leave it is a non-event as far as I am

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1 concerned. It is just making sure that the data is
2 consistent on both sides, that is all.

3 MR. FREUND: That is number one.

4 CHAIRMAN NICOLAU: That is number one.

5 MR. FREUND: Now, we will go to the half.

6 This is not, there is not a difference in reporting
7 between the east and the west on this LOA issue, but
8 it is a different reality on the east than on the
9 west, and that is, it is our understanding that
10 there are some significant number, and that is all I
11 can say, of east pilots who are on extended
12 voluntary leaves of absence, and is shown as leave
13 of absence, which -- who, if they had not taken the
14 extended voluntary leave of absence would have, it
15 would have produced a larger furlough number.

16 That is, these were essentially furloughed
17 by that, so they were rescuing other pilots from
18 furlough. I have no idea what that number is, but
19 obviously since we have nobody on furlough we have
20 nobody who is in that category.

21 I repeat, I don't know how that fact cuts.

22 All I know is that it is different on the east than

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1 it is on the west. I don't know what the number is.

2 CAPTAIN BRUCIA: Yes, and the board is
3 completely aware of it, so you know.

4 MR. KATZ: My impression that is people
5 who are on leave of absence are on leave of absence
6 because they are doing something else that is
7 important to them that they wanted to do, instead of
8 flying as airline pilots with this company. And I
9 think to go in and try to pick out some of the
10 non-flying people because you have a question about
11 that category, this is one important fact which is
12 that there is about the same percentage of
13 non-flying pilots on each of these lists.

14 So if you take the total non-flying jobs,
15 add them up and divide by the number of people on
16 the list, you get almost an identical percentage
17 from each side.

18 So maybe some LOA's are people we would
19 count as medicals or vice versa, but when you put it
20 all together they are comparable.

21 MR. FREUND: I am not here to argue
22 anything, again. I am just observing what the

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1 factual situation is.

2 CAPTAIN BRUCIA: And I will say it again
3 as I said to you, we are aware of that.

4 MR. FREUND: Okay. Then the last was the
5 struggle that everybody has worked so hard at your
6 initiative, and that is the supervisory pilots, the
7 instructors, check airmen, line check airmen issue.
8 And while everybody has worked really hard at
9 identifying who those pilots are, it does still in,
10 my uneducated and muddled mind, seem to be a
11 difference in the way in which the two systems work
12 or the two systems are reporting people in that
13 category.

14 CAPTAIN BRUCIA: Again, just so you know,
15 we have already had a discussion. I have had the

16 discussion with both committee chairmen, and it has
17 been determined at some level, not at a final level
18 but at some level, that the check airmen are
19 basically mentioned comparably; the way that America
20 West uses their check airmen in rotation, it is a
21 monthly thing; every third month they go out fly the
22 line.

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1 And these guys are constant, but they do
2 have a commitment to the line for a period of time.
3 When you add up that amount of time, it ends up
4 being just about a dead push. So that is what it
5 seems at this point. Again, we are not being, not
6 making a final decision on that, but that is what it
7 appears to be at this point.

8 MR. FREUND: The piece that I couldn't
9 kind of parse was that the heading of the east list
10 said, it said including instructors and check airmen
11 but not line check airmen, and on the west side
12 everybody who is identified as a supervisor is all
13 of those things.

14 CAPTAIN BRUCIA: Yes, that was the
15 conversation I had with the gentlemen, and I think
16 we all worked it out, and I understand it, I think,
17 pretty well.

18 MR. FREUND: Okay. Again, I don't know
19 how it cuts.

20 CAPTAIN BRUCIA: And it also is not what
21 you do. I remember that from the old days, Jeff.

22 MR. FREUND: That is right.

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1 MR. KATZ: Let me, in response for the
2 benefit of the panel, Phil Carey has pulled some
3 pages of the US Air contract relating to check
4 pilots and similar subjects, and while you have the
5 contracts already as joint exhibits, I think it
6 would be helpful on this issue if you had this
7 compilation of provisions. We can call this exhibit
8 J-8, and I don't know, Philip, is there anything you
9 wanted to say about these page about these pages?

10 CAPTAIN CAREY: It just covers the
11 definition of what a check pilot is, what an
12 instructor pilot is, and those are what we call
13 SPB's, and it is just a short definition on what
14 their obligation is to the line, how they fly each
15 month.

16 MR. FREUND: So again, they don't include
17 line check; we do include line check.

18 CAPTAIN BRUCIA: I understand.

19 CHAIRMAN NICOLAU: Any other housekeeping
20 matters?

21 MR. FREUND: I think, Roger is showing me
22 some percentages of non-flying jobs compared of one

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1 side versus the other, I think Dan's are,
2 percentages are wrong. I would like to make sure
3 that I understand them. But I am seeing 9 percent
4 non-flying jobs on the west side, 17 percent
5 non-flying jobs on the east side. If you are
6 looking at the total active pilots and roughly
7 11 percent on the east side, if you are looking just
8 at the active pilots.

9 CHAIRMAN NICOLAU: I assume you were

10 looking at active to active. Weren't you?
11 MR. KATZ: No, was looking at the total
12 list. The total list includes people who are on LOA
13 or military leave or leave of absence.
14 MR. FREUND: So this is 17 percent of
15 actives and, I mean the numbers, I haven't done the
16 math. I trust Roger, he is better at math than me,
17 on J-6, 537 out of 3055, according to this little
18 note, is 17.5 percent.
19 MR. KATZ: Well, I wouldn't use the
20 retired or resigned as non-flying jobs.
21 MR. FREUND: Okay. All right, so your
22 calculations are then based on --

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1 MR. KATZ: So there are 400 some, and
2 there are 4693 total people on the list, so that is
3 less than 10 percent, that is about 9 percent.
4 Whereas, you have got 168 out of 1829 is about 9
5 percent.
6 MR. FREUND: Okay. So now I know what the
7 math is. It is out of the whole list, not of the
8 active list.
9 CHAIRMAN NICOLAU: Yes. The last time we
10 met, in a somewhat smaller room, where even if it
11 was smaller we were trying to figure out a way how
12 to negotiate a treaty in this room, and this room I
13 guess is perfect for it.
14 The board asked both sides to reflect and
15 to consider what we have said and to come back to
16 discuss any revised positions that they had, that
17 they intended to make, and to present. We already
18 have a document from the America West pilots.
19 We would like to hear first, this morning,
20 from the US Air pilots as to what their response is
21 and then anything that America West wants to add,
22 and then we are going to take it from there.

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1 So Dan, how do you want to proceed in that
2 regard?
3 MR. KATZ: Well, I guess the first thing I
4 would like to do is respond to the submission that
5 we received electronically last night from the
6 America West pilots, and just say a word or two
7 about that. Number one --
8 CHAIRMAN NICOLAU: That is a little
9 backward, but I mean if you want to proceed that
10 way.
11 MR. KATZ: I would prefer, unless there is
12 a problem with that. I can start out by saying that
13 we don't have a modification of our proposal in any
14 respect that we are prepared to make at this time.
15 And if it makes more sense logically to start from
16 that I am happy to do that.
17 We have considered fully the observations
18 of the panel with regard to both side's proposals.
19 We have given careful study to the issue. We have
20 consulted with MEC and the advisors and done quite a
21 bit of analysis, and we are comfortable with our
22 proposal as it is. So I think that is probably a

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1 good place to start.
2 In terms of the written submission, we had
3 not planned on submitting a written brief until

4 30 days from today, and we are glad to have the
5 other side's brief so that we can start studying it
6 now. We assume they don't get to file two briefs,
7 so that they have shot their wad on one at this
8 point.

9 CHAIRMAN NICOLAU: You probably saw that
10 they reserved the right to file a brief.

11 MR. KATZ: But we didn't know there were
12 going to be two rounds of briefing, so we will have
13 to work that through.

14 I do have one objection and I think it is
15 important to note, too, of the materials that they
16 have to the materials that they have submitted, and
17 that is that paragraph five of the ground rules
18 headed Confidentiality, says "The parties hereto
19 agree that no statements made by any merger
20 represent during negotiations, nor any documents
21 exchanged during negotiations, nor any seniority
22 integration proposals made by either party or any

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1 other person between May 19, 2005 and December 4,
2 2006, may be disclosed to the arbitrator or offered
3 as evidence in the arbitration. And yet we have
4 statements about what happened in the mediation.

5 Now, we are now in the dilemma of, if we
6 wanted to respond to what their statements were
7 about what happened in the mediation, we don't want
8 to violate this ground rule. On the other hand, we
9 don't want to let the statements about what happened
10 in the mediation stand there uncorrected, because we
11 think that they require a great deal of correction
12 to make the record accurate.

13 I know that George is familiar with what
14 happened in the mediation because under the current
15 provisions of the ALPA merger policy he was the
16 mediator. Though we did discuss the fact that he
17 would probably remember what was said and offered in
18 mediation, yet we have this ground rule.

19 And I guess that I should just put it in a
20 legal structure, simply object to the references in
21 the other side's submission that refer to anything
22 that happened in the mediation and ask that they be

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1 stricken from the record.

2 CHAIRMAN NICOLAU: Would you mind pointing
3 out where that is?

4 MR. KATZ: Paragraph 5, George, page 2 of
5 the ground rules.

6 CHAIRMAN NICOLAU: No, no, no, where --
7 where in their statement.

8 MR. KATZ: Oh, in their brief, oh, sure.
9 Page 2, starting in the section marked B,

10 the last full paragraph, something began as early as
11 mediation, blah, blah, blah.

12 CHAIRMAN NICOLAU: Are there any other
13 references?

14 MR. KATZ: We will continue go on, the
15 same area continuing over to the next page. And
16 then at the start of the next paragraph, says when
17 mediation failed to narrow the gap between the
18 parties.

19 I mean the fact is that we made an effort
20 and put a proposal on the table to narrow the gap

21 between the parties, and there was never anything
22 coming back from the other side, from the America

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1 West side, other than their initial proposal in
2 mediation.

3 CHAIRMAN NICOLAU: Well, I didn't consider
4 those statements as violating any confidentiality
5 agreement, they were just sort of a background, two
6 non-voting members here, it has not been broadcast
7 anywhere. I wouldn't concentrate on that.

8 MR. KATZ: All right. What we have in
9 their statement, a recapitulation of their arguments
10 about how America West was a thriving, growing,
11 prosperous airline in the period preceding the
12 announcement of the merger, and US Airways was on
13 the brink of liquidation.

14 We have one document I would like to call
15 Exhibit J-9, that I would like to put in the record
16 to respond to what America West pilots have offered.
17 As you will see, this is an excerpt from another
18 video of Doug Parker in which he addresses a pilot
19 meeting in Phoenix on February 6th of this year,
20 just a week or two ago, and --

21 MR. FREUND: I guess even before Dan gets
22 going I am going to object to this. I didn't think

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1 that is what we were here for.

2 CHAIRMAN NICOLAU: I didn't think so
3 either.

4 MR. KATZ: This is in response --

5 MR. FREUND: I didn't write anything in
6 here about it being thriving, growing. What we did
7 was what exactly the panel asked for, I thought, we
8 strived. Where we thought, what I recall the
9 equitable fire walls are, and how we think our
10 proposal is true to those equitable fire walls and,
11 where there is push with them, and we have done
12 that. And in an effort not to argue the case, we
13 are going to do that in our brief. But, to try to
14 do what the panel asked us to do, not to re-argue
15 anything. So I would object to putting that in the
16 record.

17 MR. KATZ: There is a whole series of
18 exhibits that came along with the brief.

19 CHAIRMAN NICOLAU: Well, you can put those
20 into the brief when the time comes, if you want.
21 What we did ask was whether, was for you to reflect
22 and see if there was any change in position. I

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1 think you have told us that there is not.

2 MR. KATZ: That is correct.

3 CHAIRMAN NICOLAU: Even after you saw the
4 America West document.

5 MR. KATZ: That is true, we took that into
6 consideration.

7 CHAIRMAN NICOLAU: Anything you want to
8 add at this point?

9 MR. FREUND: I don't think there is
10 anything I can add. I think we have, you know, I am
11 not a person who believes strongly in signals. That
12 said, I think we have done a road map about where we
13 think, as I said the equitable fire walls are, where
14 our present proposal sits when measured against

15 those equitable fire walls, where we think there
16 will be reasonable space for either consensual
17 agreement or absent consensual agreement for a panel
18 trying to resolve the disputes, and still be true to
19 the facts and tenets of merger policy.

20 Again, we haven't changed our proposal.
21 We will argue our proposal, and absent any dynamic
22 here today, we will argue our proposal to the panel,

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1 but again I think the panel can read our document
2 and understand where we think there is room in our
3 present position for a reasonable solution.

4 CHAIRMAN NICOLAU: Well, I think that both
5 sides ought to know, and I think in effect it has
6 been said before, that the board is of the opinion
7 at this moment that there should be a, what we have
8 dubbed a multifaceted approach to this integration,
9 which may include many factors, including ratios,
10 including length of service, including conditions
11 and restrictions, including perhaps other elements.

12 And with that in mind, we would like to
13 know from both groups whether they, after a bit more
14 of reflection this morning, have anything else that
15 they want to tell us about their respective
16 positions.

17 I don't know whether our great concierge
18 has got some other additional rooms for each side.
19 Phil, is there some place where each committee can
20 go?

21 CAPTAIN CAREY: Yes, they each have a
22 suite for it.

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1 MR. FREUND: We each have our working
2 suites.

3 CHAIRMAN NICOLAU: I think you ought to
4 take a half hour or an hour to reflect on what we
5 have said, and there may be something else other
6 board members want to say beforehand, but if so,
7 anything else, Steve?

8 CAPTAIN GILLEN: No, I thought also that
9 -- well, prior to coming back were we going to meet
10 with each group separately, the entire board?

11 CHAIRMAN NICOLAU: Probably. So after you
12 reflect I will probably ask for a meeting, separate
13 meetings with the board and each committee, but I
14 think that we ought to spend a little time before we
15 do that. I would suggest that each side report to
16 their respective appointed board members as to when
17 they will be ready to talk to us.

18 Okay.

19 (10:45 am -- recess -- 12:40 p.m.)

20 CHAIRMAN NICOLAU: The board has asked to
21 meet separately with each group to discuss with them
22 what their position and their major interests are.

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1 Dan, who is going to lead the discussion?

2 MR. KATZ: Why don't I start off for the
3 US Airways merger committee. And guys, feel free to
4 chime in, either as I am going along or when I give
5 the overview.

6 But we did listen carefully to what was
7 said this morning, both by the panel and by the
8 representatives of the America West merger

9 committee, and we have been caucusing about what is
10 the best thing to say in response to what we have
11 heard, and also in what is the best thing to say in
12 the spirit of trying to get the best list done for
13 both pilot groups, and to get as fair and equitable
14 a product as we can out of this.

15 And we think that having listened to what
16 the panel has said we understand that there has been
17 many statements by the panel. The proposals from
18 both sides are not acceptable, and we are getting
19 that message. And we listened from the America West
20 side and we hear them talking about their
21 flexibility. So we have gone over the paper again,
22 we only got it late yesterday.

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1 CHAIRMAN NICOLAU: Yes, I understand,
2 right.

3 MR. KATZ: And it may be on first reading
4 we were looking for certain things and we didn't see
5 anything that really constituted a formal proposal,
6 and we saw a certain amount of re-arguing of the
7 case that we have been sitting through in these
8 lengthy hearings, and maybe we should have looked a
9 little closer.

10 But now that we have heard Jeff say that
11 they have indicated signals, that is as to their
12 flexibility. We went back and took another look and
13 talked about what we saw, and we don't see much. I
14 mean what we see is a couple of things where I think
15 there is a signal that they are prepared to talk
16 about the extent of the cushion of active US Airways
17 pilots they would like to see on the combined list
18 junior to Dave O'Dell.

19 And, they point out that they are asking
20 in their proposal for that to be 750, and they are
21 prepared to talk about that number. And let me just
22 tie it in with the other thing, I think, that they

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1 have indicated flexibility about, which is the
2 number of America West co-pilots for whom they would
3 like to have fictional promotions to captain. And
4 they point out that their proposal was premised on
5 114, and that was the analysis they got from the
6 airplanes that they were on order, that they felt
7 were going to come in and enhance the promotional
8 prospects of co-pilots.

9 When you put these together they complain
10 about this in this chart, which they submitted last
11 night with their paper. And here they show Dave
12 O'Dell flat lining along the bottom of the chart,
13 staying at the bottom of the America West list,
14 throughout the period of time since the announcement
15 of the merger.

16 And they show Joe Monda, who was the
17 junior active US Airways pilot at the time of the
18 announcement of the merger, and they see Monda's
19 prospects improving because he has approximately 300
20 recalled US Airways pilots who have now come on to
21 the property and are junior to him. And in fact,
22 that is a conservative number because we know there

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1 are more pilots being recalled all the time, and
2 there will soon be even more than 300 junior to

3 Monda who are working.

4 But when you put these two together, we
5 don't see that they have suggested any kind of
6 movement that puts them in the same ballpark as the
7 US Air merger committee is in. Instead, we see them
8 as being not only in a different ballpark but on
9 another planet from us, because we are not here to
10 talk about the cushion of active US Airways pilots
11 junior to O'Dell or fictional promotions for America
12 West pilots.

13 We believe Doug Parker in this document
14 that I was trying to give you, February 6th, he said
15 again to the pilots in Phoenix, that he knew to a
16 moral certainty if it wasn't for this merger the
17 prospects of America West were at best going to be
18 bankruptcy, 15 percent reduction in pilot staffing,
19 cutbacks, and all those ugly things that he talked
20 about before that we put in earlier transcripts of.

21 But if you are talking about 15 percent of
22 their pilot work force, using 1800, that is 270

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1 pilots who would be on furlough. And while we are
2 not here to dwell on anything negative, we think
3 that what this chart shows is that the
4 attrition-based promotional opportunities for US Air
5 pilots are phenomenal, and in the short period of
6 time we have been dealing with this case there are
7 300 pilots who have gone out on attrition who have
8 made room for 300 more pilots under the junior
9 active pilot on May 19th, 2005.

10 And, as far out into the future as we can
11 see there are literally hundreds of pilots every
12 year from US Airways who are going to be going out
13 the door, and that attrition brings people like Jim
14 Hershey back. He has the opportunity to come back
15 if he wants to. I think he in fact declined, he
16 passed recall this time.

17 But there are pilots far junior to Hershey
18 who are back working actively at US Airways, and we
19 think people who are on furlough at the time of the
20 announcement of the merger should be senior to
21 O'Dell because of their attrition-based promotional
22 opportunities that are in their careers. And

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1 Hershey has not only the ability to come back and
2 have a life job, but to promote to captain, and even
3 wide body captain, because of his age, and so he
4 deserves to be ahead of O'Dell, who has very little
5 investment in the project in the project of America
6 West.

7 We think that they did show flexibility in
8 one other area, and that is the premium flying which
9 they basically suggested deserved to be protected,
10 but they want to limit it to the A330 captains, and
11 exclude the 767 international captains.

12 And they would like to provide the
13 protection through conditions and restrictions which
14 they had fairly clearly signaled they would be
15 willing to make stronger, either longer or ala the
16 Cagle award, career no displacement provisions, but
17 not through the list.

18 And to us, segueing from the issues that
19 they wanted to talk about to the issues that we want

20 to talk about, it seems to us that the protection of
21 this premium flying it is, well, that they view that
22 as an area that they are prepared to be responsive

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1 about, and flexible about, because it deserves more
2 credit than they have shown in their proposal.

3 We think that the top of the list should
4 be built to protect the wide body international
5 captains, and as of today, February, 2007, the
6 junior wide body international captain is D.C., what
7 is his last name, Phil? Anyhow, he is No. 1116, on
8 the current list, and he was hired a couple months
9 before Phil.

10 CAPTAIN CAREY: End of '84.

11 MR. KATZ: September of '84, I think it
12 was.

13 CAPTAIN CAREY: Right.

14 MR. KATZ: I have got a mental block on
15 his last name.

16 CHAIRMAN NICOLAU: I have got his number.

17 MR. KATZ: I think we have given that in
18 the record already. But, the point is that the way
19 the lists were constructed in the shuttle case --

20 CAPTAIN CAREY: Chambers.

21 MR. KATZ: Chambers, thank you very much.

22 CHAIRMAN NICOLAU: What is his name.

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1 CAPTAIN CAREY: Chambers.

2 MR. KATZ: In the Shuttle case the shuttle
3 pilots, as you pointed out in your opinion, brought
4 Group 2 captaincies to the merger, and despite the
5 fact that they were paid far less than Group 2
6 captains at US Airways, you said they should be
7 mixed with Group 2 captains and that is what you
8 did, is you put the Group 2 captains in from the
9 Shuttle and from the main line US Airways, but you
10 started them, the most senior Shuttle pilot was
11 junior to the most junior 767 captain, at US
12 Airways.

13 There is a similar thing in Fed-Ex-Flying
14 Tiger where the wide body captain, international
15 captains, there was DC-10's and MD-11's versus
16 747's, they were Group 1 on the Flying Tiger list.
17 Since there is nobody in that category from America
18 West we think that is an important starting point
19 for building a merged list, is to protect the wide
20 body international flying in that fashion.

21 Now, if you go down to D.C. Chambers,
22 because he was hired in September of '84 that is

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1 actually a better list from that part of it than
2 what we proposed, which is length of service,
3 because September '84, there were America West
4 pilots hired between June of '83 and September of
5 '84. And we think that the length of service of
6 these senior people from both airlines deserves
7 respect and credit and that was why we proposed
8 length of service.

9 And I realize I am being contradictory
10 here --

11 CHAIRMAN NICOLAU: Are you saying length
12 of service for those wide body international pilots
13 on the east side, together with anybody whose length

14 of service matches them?
15 MR. KATZ: Yes, our proposal is length of
16 service.
17 CHAIRMAN NICOLAU: Yes, but I am just
18 talking about that group at the moment. Am I right
19 that you are --
20 MR. KATZ: Yes.
21 CHAIRMAN NICOLAU: -- you are saying if it
22 is 1 to 1196 --

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1 MR. KATZ: 1116.
2 CHAIRMAN NICOLAU: -- 1116, there are some
3 on America West's side who would belong in there?
4 MR. KATZ: If you are doing that length of
5 service.
6 CHAIRMAN NICOLAU: Yes.
7 MR. KATZ: I think that our proposal is
8 premised on length of service. It is not as
9 aggressive a proposal as saying block off all of the
10 international wide body captain positions down to
11 D.C. Chambers, like you did in the Shuttle case.

12 CHAIRMAN NICOLAU: No, I just want to
13 get --
14 MR. KATZ: I think that what we are saying
15 is that there is an area where the confluence of
16 length of service and the premium flying come
17 together and they both justify a block of numbers at
18 the top reserved for US Airways pilots.

19 And, when I say a block of numbers, the
20 junior wide body international captain changes from
21 time to time. It is 1116 now, it was 844 back in
22 May of 2005, and so I am saying this is an area that

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1 we are prepared to talk about that we have some
2 flexibility about, because there are multiple
3 factors that justify the block at the top for the US
4 Airways pilots.

5 And we have proposed length of service,
6 and that only blocks off at this point 801 numbers.
7 Phil, is that May of this year --

8 CAPTAIN CAREY: July '07 it would be 801,
9 number 801.

10 MR. KATZ: So the number of the last US
11 Airways pilot hired before the America West pilot
12 hiring began in June of '83, is 801. And we think
13 at a minimum that our length of service proposal
14 ought to be accorded weight there, and the
15 protection for that group ought to be recognized.

16 And there are arguments for going farther.
17 If we were going to handle that, the top part of the
18 list as you did in the Shuttle case and the
19 Fed-Ex-Flying Tiger case.

20 So, I just thought those were, those
21 comments are a helpful starting point.

22 CHAIRMAN NICOLAU: They are all captains,
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1 right?

2 MR. KATZ: No, they wouldn't all be
3 captains.

4 CHAIRMAN NICOLAU: The America West folks
5 are all captains.

6 MR. KATZ: Yes, the people up there are
7 all captains.

8 CAPTAIN BRUCIA: So they would only not be
9 captains if they chose to down bid.

10 MR. KATZ: And there are no second
11 officers here, so there is no down bidding to work
12 past age 60 going on.

13 Similarly, I think we want to emphasize
14 that at the bottom of the list, and we can talk a
15 little bit about what that means, the bottom of the
16 list, but for the junior people who don't have much
17 length of service, who don't have the kind of time
18 invested in the airline, who on both properties have
19 not gone through the turmoil that both these pilot
20 groups have gone through with their airline from
21 time to time and made the sacrifices needed to keep
22 the airline going, the people at the bottom, there

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1 is not much reason to do it other than length of
2 service for the junior people, because they have so
3 little length of service.

4 And we can say, you know, should that be
5 five years or less or should that be three years or
6 less or where exactly on the list is it? And I have
7 brought some lists along that we can look at, but I
8 think just as a separate point to emphasize where
9 length of service makes an awful lot of sense, it is
10 for the junior people. I think there is no way to
11 blink at the fact that Dave O'Dell, whatever he has
12 got going for him, had only a month invested in
13 America West at the time of the announcement of the
14 merger, and the people at the bottom of the US
15 Airways list had shorter, much shorter periods of
16 time invested in US Airways than the people farther
17 up the list. And that, I think, places them in a
18 spot where there isn't any reason not to put them
19 together by length of service.

20 Now, the other factor that goes with both
21 of these is that for the people in the middle, the
22 one over arching component of the equities, to us,

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1 is that we have proposed seven years of conditions
2 and restrictions so that each group in the middle
3 can get the benefit of the attrition from their own
4 premerger list for seven years. And they will have
5 whatever jobs they had based on their position on
6 their own list, and they will have an equitable
7 share of any additional flying based on the
8 conditions and restrictions that we have proposed.
9 And if there are contractions, under our conditions
10 and restrictions, they will share those contractions
11 equitably as well.

12 And we think that while we could have gone
13 out longer in terms of the amount of attrition that
14 people can look forward to, that seven years was an
15 appropriate figure, based on what Rick explained
16 when he was going through the charts about what that
17 did to the expected promotional opportunities of the
18 people from both sides.

19 In terms of --

20 CHAIRMAN NICOLAU: Before you go on let me
21 just ask you, you were talking about conditions and
22 restrictions, I think your original proposal or your

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1 modified proposal had new flying to be shared.

2 MR. KATZ: Right.
3 CHAIRMAN NICOLAU: Now, is that both
4 domestic and international?
5 MR. KATZ: Yes.
6 CHAIRMAN NICOLAU: Okay.
7 MR. KATZ: It was based on, and I think we
8 have copies of the conditions and restrictions.
9 CHAIRMAN NICOLAU: Yes, I have them here
10 somewhere. I just wanted to make sure I understood.
11 MR. KATZ: We have them here handy. I
12 know you have got them already --
13 CHAIRMAN NICOLAU: Yes, I may have a
14 stapled --
15 MR. KATZ: A stapled version, they are
16 much easier to deal with this way.
17 Just if you look down at paragraph eight
18 on page 4, we bring in the concepts of replacement
19 aircraft and new aircraft, concepts I know you are
20 familiar with, George, from Pan Am-National and
21 other projects. And we divided them up according to
22 the aircraft item, and we said new aircraft or
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1 aircraft types other than those listed in the
2 preceding sentence that are not replacement
3 aircraft.
4 So, if there was a new route to China, for
5 instance, and US Airways got 747-400s or triple 7's
6 to make the flights, those would be new aircraft,
7 those are not doing a mission like anything that US
8 Airways currently operates, so we proposed that they
9 would be divided 2 to 1 on wide body aircraft.
10 Now, if you divide them according to the
11 populations of the active pilots it would come out
12 closer to 5/8 instead of 2/3 of the flying for the
13 US Airways pilots. But, this is an area where we
14 have some flexibility to talk about. And I think
15 that we have proposed 2 to 1. We think that is a
16 fair fraction, but we want to be equitable in how
17 the new jobs are allocated, and if that means going
18 to 5/8 instead of 2/3, so be it. So that is an area
19 we can talk about.
20 What I did in constructing these was go
21 back through starting from the North
22 Central-Southern case, which was very successful,
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1 develop a pattern of how to allocate the jobs during
2 the seven years, and after I had a draft I went
3 back, George, through all 23 of the supplemental
4 awards in the Roberts award thing, and I tried to
5 fix every single problem that came up there.
6 CHAIRMAN NICOLAU: You deserve a medal for
7 going through them.
8 MR. KATZ: Well, I can't guarantee that I
9 have caught every single one, but I think at least
10 the ones that were covered in those 23 cases cannot
11 come up because I have clearly defined how the jobs
12 are to be allocated.
13 And in all of these areas where there is a
14 quota, whether it is a quota from one side or a
15 quota from both sides, we then add on jobs in an
16 equitable fashion, and we tried to make it an
17 equitable fashion. But if there is another fraction
18 that is the appropriate way to allocate the

19 synergistic jobs, we are open to talking about that.
20 I would point out that in terms of the
21 base we were very conservative in what each group's
22 quota was, and we are not being sharp with respect

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1 to the jobs brought to the party. If you look at
2 No. 2, for instance, we talk about allocating the
3 767-757D positions, and both groups have jobs in
4 that category. So we went back to the July 1, 2006
5 staffing, and we came up with 159 76-75 domestic
6 captains at US Airways and 87 at America West.

7 And the staffing, it looks like they have
8 a little more than 50 percent of the number that US
9 Airways has. But if you look at the number of
10 airplanes, there were 31 airplanes in the 757
11 category, which is basically the domestic fleet at
12 US Airways, and there were 12 at America West. So
13 there is actually more than double, more like
14 260 percent the number of 757s.

15 If the staffing is assumed to ultimately
16 become the same because it is going to be operated
17 as one airline under one contract, you don't have to
18 figure out whether it is going to be at the US
19 Airways' level or the America West level. We could
20 have developed these ratios from the number of
21 airplanes, and said well, it should be, you know, 31
22 to 12, is the right ratio, but we have used 159 and

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1 87, because that is the jobs that were actually
2 there July 1, 2006.

3 And I think that building a quota and
4 ratio system like that, that operates for seven
5 years while each group enjoys the benefits of its
6 own attrition, is fair and equitable, and is a way
7 to permit the US Airways pilots and the America West
8 pilots to have whatever it was their lot in life in
9 terms of promotional opportunities, without trying
10 to do it through the list.

11 Because we have looked at a lot of
12 different lists, and, frankly, if you build the list
13 to do that for the first seven years it gets to be a
14 horrible list, clearly unfair, after that, because
15 of the same factor, the attrition.

16 So I guess having said all that -- and
17 then of course attached to these conditions and
18 restrictions were the charts that went with them.
19 So there is not going to be any argument over how
20 many jobs does each side get, there is a chart and
21 for each total number of jobs on each airplane. It
22 says how many each side gets.

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1 That was what they did in the North
2 Central-Southern case, and it saved a lot of
3 arguments. And we think that because we think you
4 are going to need to do some kind of conditions and
5 restrictions for some period of time in order to
6 build a list that will work into the future, we
7 think this is a decent starting point. We are
8 negotiable about exactly what the equitable share of
9 synergistic jobs should be; we are negotiable about
10 what is a fair starting place. But we have put
11 something out there that we think would effectively
12 do the job.

13 You know, I should remind you that in
14 paragraph seven we have made sure that the America
15 West pilots get extra protection for their
16 domiciles, so that not only do they have the number
17 of jobs in each aircraft type that they brought in,
18 plus an equitable share of the synergies, but in
19 their own domiciles they get extra protection. If
20 they are ever bumped they can go back into those
21 jobs ahead of everybody, and they get 869 captain
22 positions in Phoenix and Vegas on 737s, A320s, 757s,

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1 so that any of their pilots who want to stay in
2 those domiciles, if that is the most important thing
3 to them, they are protected for seven years by this
4 combination of ingredients.

5 CAPTAIN CAREY: It would be very easy of
6 course to update these numbers with July '07 numbers
7 you know, before any of this went into effect, and
8 then I would just like to point out that not only
9 did Dan look at all the "don'ts" from past mergers
10 but then we pulled in Kevin and Bob's expertise from
11 the Piedmont merger and the Shuttle merger on what
12 to do and what not to do, and we spent months
13 writing these. And then we also road-tested them,
14 armchair drove them. We tried to "what if" them to
15 death, what if 10 jobs get moved from Phoenix to
16 Charlotte, how do you handle that?

17 So we really tried to road test these to
18 every possible scenario. And there is always ones
19 that pop up, but we have done a pretty good job.
20 This isn't just something that we threw on paper and
21 said, well, nobody will read it. We really, you
22 know, put some thought into this.

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1 MR. KATZ: Having said that, too, I think
2 that if you feel that we have not been generous
3 enough to the America West pilots, this is an area
4 that we are happy to talk about. We think we have
5 been very conservative and not been sharp in how
6 these are drafted, or in the numbers that we have
7 chosen, but we are prepared to talk about anything
8 that is in there. And, they are going to be very
9 important for some period of time, because they are
10 going to be out allocating the jobs rather than the
11 list.

12 CHAIRMAN NICOLAU: There is no change in
13 these conditions and restrictions from the time you
14 first proposed them?

15 MR. KATZ: No. The only thing that I
16 thought about changing, and didn't, was you made
17 some comments about how to implement the Eischen
18 award, in paragraph five, and the America West
19 pilots wanted to just attach the award. And so if
20 that is what you are going to do, you can just
21 strike out paragraph five and attach the award and
22 say, we incorporate by reference the award of Dana

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1 Eischen with regard to 190s.

2 We also covered a couple of subjects that
3 would presumably be covered by the conditions and
4 restrictions, but we didn't put anything in on them.
5 For instance the dual list pilots, we talked about
6 at the end of the case I think on January 26, the

7 pilots who were on both lists and how the Executive
8 Council of ALPA has made a resolution that they
9 ought to be treated in a way that doesn't deprive
10 them of their legal rights under either contract.
11 So there could be a condition and restriction that
12 simply incorporated by reference the Executive
13 Council's resolution on that subject.

14 We do have, at the end of our proposed
15 conditions and restrictions, an item that says the
16 Cagle award conditions and restrictions will be
17 continued.

18 CHAIRMAN NICOLAU: Uh-huh.

19 MR. KATZ: I talked to Jeff about this,
20 exchanged e-mails with him. He said, is there
21 something in particular you are trying to protect
22 here, and I said no, we don't know if this would

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1 ever come into play, but we just don't feel like
2 they ought to be dropped, even though we don't know
3 anybody who would get anything out of it, but they
4 are there, they were continued by George in the
5 Shuttle case, and if somebody should come along and
6 say I am a grandfather 767 Piedmont pilot who got my
7 protection under the Cagle award, and I want to use
8 it, well, we think that if there is somebody like
9 that and we don't know that there is --

10 CHAIRMAN NICOLAU: I was going to say do
11 you think somebody is left?

12 MR. KATZ: I don't. I mean they are left,
13 some of those people are still on the list, but I
14 don't think they need the grandfather protection
15 anymore. But, why should we take it away from them
16 if it doesn't adversely affect the America West
17 pilots? I mean I think that you could include them
18 and say these will continue to control the relations
19 of all the former US Airways pilots, and then they
20 don't get into the way of anybody else.

21 A lot of the protections are for the F-28
22 which isn't around anymore.

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1 CHAIRMAN NICOLAU: Right.

2 MR. KATZ: So, why not keep it in place?
3 And I think there was one other Executive Council
4 resolution, but I am drawing a blank on that now.

5 Anyhow, if there is another Executive
6 Council resolution we would propose to do the same
7 thing as on the one about the dual list pilots, and
8 simply incorporate it into the conditions and
9 restrictions, so that it is clear for everybody that
10 we intend that to govern.

11 Oh, I know what it is. It was the CEL
12 pilots, and you know, we think that there is
13 certainly no reason to exclude them from the list,
14 and if the ALPA Executive Council had done something
15 to exclude them from the list that would be one
16 thing, but right now ALPA and the company and the US
17 Airways merger committee all say they are on the
18 list, and we have given the contract provisions that
19 say that. We think that should control that point.

20 That is not saying where they go. We
21 think they should go on, based on length of service,
22 their length of service with the Midatlantic

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1 Division of US Airways. It is not much length of
2 service, but whatever it is it ought to be measured
3 against the length of service of the America West
4 junior pilots and will determine their placement.

5 So, unless the merger committee has
6 something to add that kind of covers the points we
7 wanted to make in response to the America West and
8 comments and yours.

9 CHAIRMAN NICOLAU: Dan, do I understand
10 that the entire list is length of service?

11 MR. KATZ: On our proposal, yes.

12 CHAIRMAN NICOLAU: I mean that --

13 MR. KATZ: That is correct.

14 CHAIRMAN NICOLAU: Okay. I just wanted to
15 make sure. And so for seven years it does not have
16 any meaning in terms of jobs except for the
17 protections that are in the conditions and
18 restrictions.

19 MR. KATZ: It wouldn't be allocating the
20 jobs, the proposed conditions and restrictions would
21 allocate the jobs during that seven years.

22 CHAIRMAN NICOLAU: Anything, folks?

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1 CAPTAIN ROBERT KIRCH: I think, let me
2 just touch on one area. I think the concept that is
3 very important to us, and I think is critical to any
4 kind of equity in this thing, that for lack of a
5 better word, the list has to be front loaded in our
6 favor, and over time it shifts to the America West
7 pilots who will ultimately disappear.

8 And another way to look at it is that
9 compared to unmerged we will always advance slower
10 on the merged list, because some of our attrition is
11 going to the America West pilots any way you do it.
12 Unless we staple them all to the bottom, they are
13 going to you move up the list one number every time
14 somebody above you goes off the list, whether they
15 have a U or an A next to their name.

16 CHAIRMAN NICOLAU: I think the Board
17 understands your interest in top of the list and
18 speaking in terms of the international flying,
19 whatever aircraft it is, so that, you know, whether
20 the other side understands it or not, we certainly
21 understand your point.

22 Have you run this, Rikk, lately?

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1 RIKK SALAMAT: This latest version from
2 the --

3 CHAIRMAN NICOLAU: Yes. I mean I was
4 wondering where the blue dots and the red dots.

5 RIKK SALAMAT: You know, it doesn't seem
6 terribly different than their proposal. It hasn't
7 said anything substantially different. We have run
8 all kinds of lists over the last week, trying
9 variations of worst case scenarios and what types of
10 ratio lists might get us somewhere, but we have put
11 in date of hire length of service proposal, we have
12 defended to --

13 CHAIRMAN NICOLAU: So you haven't seen any
14 smoothing out of blue and red dots anywhere?

15 RIKK SALAMAT: Well, I have seen some list
16 that is smooth that out; you know, whether, you
17 know --

18 CHAIRMAN NICOLAU: Okay.
19 RIKK SALAMAT: If the panel would like to
20 see something they are certainly free to ask for
21 anything they would like. We will do everything we
22 can to provide it.

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1 CHAIRMAN NICOLAU: Any questions?
2 CAPTAIN BRUCIA: No, sir.
3 CAPTAIN GILLEN: No.
4 CHAIRMAN NICOLAU: Okay.
5 (1:47 p.m. -- recess -- 3:05 p.m.)
6 MR. FREUND: I don't want to repeat
7 everything that is under submission. Our submission
8 was, I don't know how to say this in stronger terms,
9 our submission and our entire approach to this was
10 not intended to try to bracket things.

11 We have been trying from the outset to
12 deal this case in a realistic approach, realistic
13 manner. And we could have started, you know, we
14 could have started way, way, way further down the
15 road, and we made a conscious decision not to do
16 that. We think we are right in the game where
17 things should be.

18 I heard what you said when we left which
19 was that the panel was thinking in terms of sort of
20 an amalgam of ratios with conditions and
21 restrictions, and length of service. I am not
22 entirely sure what that last point means, because I

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1 don't know how that works into whatever actually,
2 working into a ratio.
3 I can come back to it if you want to in a
4 minute, but I don't want anybody to forget the fact
5 that east pilots have already gotten a huge length
6 of service benefit out of this transaction, and will
7 continue to get a huge length of service benefit in
8 two respects.

9 Number one, this list isn't going to come
10 together until, I know you guys are looking at
11 July 1st of '07. You asked for those lists. I
12 would be very skeptical if the two airlines come
13 together by July 1st, '07. I think I win a \$50 bet
14 from Dan on that one, as I recall from our things
15 that went on during mediation.

16 So you know, they are getting all of the
17 length of service benefit associated with everything
18 that has happened in the airline from May 19th until
19 the lists ultimately come together, and then they
20 are going to get a second length of service, they
21 are going to continue to get a second length of
22 service benefit, and if you think about it in these

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1 terms, you know, we have always focused on O'Dell
2 and Monda as the two guys who are at the bottom of
3 the list, of the active lists. If you think about
4 O'Dell and Monda, O'Dell is, flip it around, Monda
5 is a top of the scale pilot. I mean his earning
6 power, his earning power is a 15-year pilot. He has
7 got the benefit of length of service and every pilot
8 below him, as they get recalled, you know, including
9 the 300 who have been recalled since this
10 transaction occurred have, you know, until they
11 start ratcheting down to pilots who have big chunks

12 of furlough time without having ever gotten to their
13 top of the scale, they are all going to come back at
14 top of scale, and they are going to have that
15 earning power, and they are going to have that
16 benefit.

17 So our way of thinking is, we know what we
18 said in our submission, this is a ratio case. It
19 has got to be a ratio case. It has got to be a
20 ratio case of active pilots to active pilots. If
21 length of service has any meaning at all, it has
22 meaning only in the earning power, earning capacity

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1 of the pilots, and the east pilots are going to get
2 all of that benefit.

3 I think we laid out to you where, you
4 know, the places in our proposal where we think
5 there is, would be room to move in the context of an
6 overall award that is focused and built along the
7 lines that we think it should be built. I don't
8 think I could have been any clearer in our
9 submission unless I just kind of lay it out to be
10 very precise detail what those moving parts are, and
11 how I think they should come out. But, I think they
12 are all out there for you.

13 So, I don't, you know, I say that kind of
14 preliminarily. I am not entirely sure why we are
15 here. I get the notion is we are trying to, in sort
16 of a mediator capacity, in trying to mediate a deal
17 with the other side. I am kind of skeptical if that
18 is achievable.

19 If the reason that we are here is to try
20 to give you some additional guidance as to how we
21 think the case ought to turn out, where we think,
22 again to use the term fire walls, I hope we have

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1 said it in a way that is pretty clear.

2 CHAIRMAN NICOLAU: Well, you are here
3 because we met with the other side and I have to
4 meet with you.

5 MR. FREUND: That is fair enough.

6 CHAIRMAN NICOLAU: They already put some
7 things on the record in terms of their proposal and
8 I think you have indicated clearly enough where you
9 think the points are. But I would suspect it is
10 fair to say that those proposals are, I guess at
11 square 2 rather than square 1, but we just, you
12 know, I wanted this meeting because I wanted both
13 sides to "rethink it" and, you know, both sides have
14 said they have rethought and --

15 MR. FREUND: In fairness, I don't know
16 what to say to you other than what I said on the
17 record. In fairness, I think we have "rethink," and
18 I would not say we are at square 2 by any stretch of
19 the imagination. We are, if the panel views us as
20 being at square 2, then we made a wildly incorrect
21 tactical judgment by not proposing a staple
22 integration.

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1 CHAIRMAN NICOLAU: Well, I was using that
2 metaphor to, I think, describe the length of
3 movement on both sides, you know. There has been
4 some, but both sides have heard what the panel has
5 had to say, and we would just simply have to take

6 what has been said and take the briefs and try to
7 figure out the best thing to do.

8 And my colleagues may have some questions
9 about the America West position in the statement.

10 CAPTAIN BRUCIA: Not a whole bunch. I am
11 willing for anything you are trying to tell us in
12 this that you are not telling us. I know --

13 MR. FREUND: I have known you a long time.

14 CAPTAIN BRUCIA: That is right.

15 MR. FREUND: I know you know what we said
16 in there.

17 CAPTAIN BRUCIA: Yes.

18 MR. FREUND: I know you know what we said
19 about the length of fences. I know that you know
20 what we said about the 767 international, you know.
21 I know that you know what we said about cushion that
22 needs to be under O'Dell, and I know you know what

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1 we said about the relative exposure to furlough that
2 O'Dell ought to have vis-a-vis Monda and other folks
3 above him. You know, I don't think we were
4 particularly subtle in what we said.

5 CAPTAIN BRUCIA: Subtlety doesn't do
6 anybody any good. In light of all of that, again
7 using your own words, it is a ratio case.

8 MR. FREUND: Yes.

9 CAPTAIN BRUCIA: How do you propose that
10 we deal with the substantially different staffing
11 ratios?

12 MR. FREUND: I mean there is --

13 CAPTAIN BRUCIA: You guys are high, no
14 doubt, and they are low, no doubt. The truth lies
15 in the middle in a healthy, maybe that's not a
16 word, but a properly staffed airline. Anything you
17 want to tell us in that regard?

18 MR. FREUND: Look, I think, I mean I could
19 say a bunch of things. One thing to say is, this is
20 the way it works and this is where the expectations
21 on the west side were on May 18th or 19th, and this
22 is how it worked and these are the expectations.

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1 Again I think those expectations were in
2 fact not existent, but playing the game that US
3 Airways could have continued to stay in existence,
4 that is how it worked on the east side.

5 Those were the ratios on the east side,
6 and one can take those. If we are looking at
7 expectations that is the way we ought to build the
8 ratios, based on the expectations that were inherent
9 in the way in which the two systems separately
10 operated.

11 We know that they are not -- well, we
12 don't know how they are going to operate, what the
13 staffing ratios are going to be, because we don't in
14 fact know where fleets are going to be positioned,
15 where they are going to be based. It may well be in
16 point of fact there is essentially an easterly and
17 westerly wing, and the staffing ratios may actually
18 wind up being at different bases, very similar to
19 the ratios we saw from the two airlines on a stand
20 alone basis. I don't know the answer to that
21 question, that is number 1.

22 Number 2, another way to answer that

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1 question is to say, well, there are two ratios, you
2 have got to come up with a ratio, God bless you, go
3 figure out how to come up with a with a ratio.

4 The third way to answer it, and I have to
5 say I think in my judgment this is certainly the
6 right way to start it, and that is you reverse
7 engineer the ratios from the fundamental points that
8 we are trying to make, namely take the active pilots
9 on one side as of May 19th, you take the active
10 pilots on the other side as of May 19th, you figure
11 out what the fair buffer is between O'Dell and
12 Monda, who is more exposed, we know who was more
13 exposed at that point, how many pilots ought to be
14 between O'Dell and Monda. That is going to leave
15 some number of pilots left, and you reverse engineer
16 the ratios after that, based on what you have, where
17 you have put that comfort zone, where you have put
18 that comfort line, that buffer zone.

19 You know, the biggest -- well, I mean that
20 is, I guess that is the third way to look at it.

21 CAPTAIN BRUCIA: Okay.

22 CAPTAIN GILLEN: Is there anything you

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1 want to add or modify with respect to new aircraft
2 type, new flying, internationally and domestic, and
3 how you propose those to be treated.

4 MR. FREUND: Well, you know, we have said
5 there ought to be fence protection for the A330s
6 that are on property at present, and we think there
7 ought to be.

8 What we said in our submission was, look,
9 they are going to get new aircraft that are not of
10 the type that are presently being flown and they are
11 going to fly international routes that are not
12 presently being flown, and that there is no
13 rationale for constructing a list which would award
14 exclusively to one side or exclusively to the other
15 side, to have that quote new flying.

16 You know, we wrote the footnote that we
17 wrote kind of in response to what the consequences
18 would be if there was a length of service date of
19 hire; to the extent that all of that flying to be
20 reserved to the east pilots, that is just not a
21 right way to do it.

22 A ratio integration system shares the

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1 flying on whatever the ratio is, and so while we
2 think conditions and restrictions for the A330-300s,
3 the nine A330-300s that are presently in place are
4 appropriate, and they ought not to go beyond the
5 nine A330-300s that are presently in place.

6 If there are A340s or if there is a new
7 A330, you know, more sophisticated type than was
8 previously flown or if there is a 10th A330, you
9 know, we think there that is fair game for the new
10 group.

11 We think, we are strongly of the view that
12 the list ought to do the work, as much work as
13 possible, in a seniority integration, an integrated
14 list, and that the conditions and restrictions ought
15 not to have to do a lot of work, you know.

16 We have all seen, we all as you know

17 better than probably most, where it requires the
18 conditions and restrictions to get the work done,
19 and that creates many more problems than it solves.
20 So you know, in answer to your question,
21 build in some fences for nine A330-300s, and let the
22 list work for growth flying that goes beyond that.

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1 And it will work.
2 CHAIRMAN NICOLAU: By growth flying you
3 mean not only new A330s but present A330s flying
4 different routes?
5 MR. FREUND: No, no --
6 CHAIRMAN NICOLAU: You are saying the nine
7 are protected, period?
8 MR. FREUND: The nine are protected.
9 CHAIRMAN NICOLAU: What, two years?
10 MR. FREUND: That is what we propose, and
11 again, you know, to repeat, two years is already
12 going to be four and a half years. I mean it is
13 going to be two and a half, it is going to be almost
14 two and a half years by July 1st, that we are not
15 going to have an integrated list by July 1st. Well,
16 we may have an integrated list, but we won't have an
17 operating integrated list by July 1st.

18 You know, when we did our analysis that
19 Dan Akins did and Joe Meier did, we kept January 1,
20 2008. I got to tell you I think that is likely to
21 be the case, that is likely to be when -- it is more
22 likely to be closer to January 1st, 2008 than it is

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1 to be to July 1, 2007, when these two airlines come
2 together.
3 I think it is perfectly fine to integrate
4 the list at whatever date you all choose to, but the
5 reality is the east pilots are going to get all of
6 that, all of the benefits of their present seniority
7 system for how ever long that is plus the fence
8 period. That is a long time. That is a long time.
9 I mean, you go back to the cases and there
10 are cases that go both ways but there are certainly
11 plenty of cases that integrate the list as of the
12 merger announcement date. And whatever the
13 attrition is, it is.

14 CHAIRMAN NICOLAU: Any committee member
15 want to --
16 CAPTAIN BRUCIA: Just refresh me on
17 something if you wouldn't mind, if it is all right.
18 CHAIRMAN NICOLAU: Oh, sure.
19 CAPTAIN BRUCIA: In your fourth statement
20 in your submittal, in your submission, I should say,
21 you talked about the first officers, again
22 reiterated I know, first should be 114 first

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1 officers that are considered as captains.
2 MR. FREUND: Correct.
3 CAPTAIN BRUCIA: Again how did we get to
4 that number, I don't have the book with me --
5 MR. FREUND: 19 more of the 22 A320s that
6 had been on order would have produced roughly 114
7 captain positions. That is actually kind of
8 conservative, but what did we use, six, and it is
9 actually a little higher.

10 CAPTAIN BRUCIA: On your 320s, yes, you

11 are right, six point and change.
12 MR. FREUND: Yes.
13 CAPTAIN BRUCIA: Okay.
14 MR. FREUND: Again, to repeat, we have
15 only been hurt since the, whatever, you know. What
16 everyone may think about the picture that the east
17 side has tried to paint of what the future of
18 America West was, the reality of life is that we
19 have only been hurt since the merger announcement
20 and they have only been helped since the merger
21 announcement. There is just no way to say anything
22 other than that.

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1 And whatever, you know, if somebody wanted
2 to indulge in the assumption, which we think is not
3 a correct assumption, but if somebody wanted to
4 indulge in the assumption that in point of fact
5 sometime in 2007 America West would have filed for
6 Chapter 11, and would have done a whole variety of
7 things, I don't think it is fair to indulge in that
8 assumption frankly. But you can't indulge in that
9 assumption and still indulge in the assumption that
10 US Airways would have continued to fly 270 aircraft
11 or 226 aircraft. Those two world views can't exist
12 in the same sentence, or in the same aircraft, they
13 just can't. There is no way to do in those two at
14 the same time.

15 So we haven't. We have continued to
16 pretend that US Airways would have continued to
17 exist and we have not pretended, we have argued
18 strongly that America West would have continued to
19 expand, and that being so, even if it weren't so,
20 again I am going to repeat, we have only been hurt
21 since the merger, and will continue to be hurt since
22 the merger announcement; whether we continue to be

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1 hurt until there is an integrated list, and they
2 will continue to be advantaged until there is an
3 integrated list.

4 That is wholly apart from the wage rates
5 that they are going to get and the like. All that
6 stuff that will happen when the list, when the
7 contracts finally come together.

8 CHAIRMAN NICOLAU: Anything else?

9 CAPTAIN BRUCIA: No, sir.

10 CHAIRMAN NICOLAU: I think we probably
11 ought to call the other group and work out the
12 briefing schedules and, there are two other things.
13 We still may be calling upon the groups for one
14 thing or another, as we proceed.

15 MR. FREUND: Sure.

16 CHAIRMAN NICOLAU: We talked about using
17 Akins for your own purposes, and my recollection was
18 that you had agreed to that.

19 MR. FREUND: Yes.

20 CHAIRMAN NICOLAU: And the other side has
21 agreed that we can ask Rikk to run various things we
22 are thinking about.

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1 MR. FREUND: The only thing I would add to
2 that, I think, and I may be wrong about this, but I
3 think Rikk runs both their financial modeling and
4 actually does their list construction, the mechanics

5 of their list construction.

6 CAPTAIN BRUCIA: I think it is the same
7 model.

8 MR. FREUND: Right. So he produces the
9 lists and then the lists also produce the, whatever
10 the economics are. We are sort of a bifurcated
11 team. So we have got Joe and Dan who do the
12 financial modeling, Bob is the one who has actually
13 been doing the list construction. So it seems to me
14 that if you want to talk to both sides about the
15 list construction issues you ought, also ought to
16 have Bob address that.

17 CHAIRMAN NICOLAU: That is all right with
18 you and with Bob, I hope.

19 MR. MANN: Fine.

20 CHAIRMAN NICOLAU: Anything else you want
21 to say, anything off the record?

22 MR. FREUND: No, I am content to say

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1 everything I said on the record. I wrote it in a
2 paper that I expected would be on the record. It is
3 my on-the-record position, it is my off-the-record
4 position, it is, you know --

5 CAPTAIN BRUCIA: We are just soliciting
6 information.

7 CHAIRMAN NICOLAU: We just asked.

8 MR. FREUND: Yes, I want to be clear. It
9 suggests, and I don't mean this in a bad way, it
10 suggests that maybe there is a hint of belief that
11 we are sort of posturing, you know. There is no
12 posturing in our position, our --

13 MR. GILLEN: Not everybody has the same
14 problems.

15 CHAIRMAN NICOLAU: That is what we are
16 saying are.

17 CAPTAIN BRUCIA: The whole purpose of
18 giving you the opportunity to give us any input you
19 want on or off the record, is that we need some
20 guidance and direction so we can move. This is
21 certainly not unlike a negotiating scenario, that
22 you sort of bob and weave and see if we can come up

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1 with solutions that are palatable to both sides. To
2 the degree that you would like to give us some
3 leaning, in one direction or another, that would be
4 helpful to us. Otherwise, it is totally randomized.

5 CAPTAIN GILLEN: If he leans any more he
6 is going to fall over.

7 MR. FREUND: Just to pick up on what you
8 are saying. We are not, I mean we are not here --
9 you are not here to negotiate, we are not here to
10 negotiate, so I guess we would take issue with
11 your --

12 CAPTAIN BRUCIA: I was using it as an
13 analogy.

14 MR. FREUND: I think it is a poor analogy,
15 with all due respect, because we did not start this
16 process to try to bracket so that we could winnow
17 our way down to something that would be more
18 suitable, be what we really wanted. We didn't do
19 that.

20 CHAIRMAN NICOLAU: We are not saying you
21 did.

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MR. FREUND: I am just picking up on Jim's observations.

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2 CHAIRMAN NICOLAU: We are just trying to
3 explore what the real interests are, of both sides.
4 So I think we have done that.

5 MR. FREUND: Yes.

6 CHAIRMAN NICOLAU: Shall we call the other
7 group in and just work our way through the briefing
8 schedule.

9 CAPTAIN BRUCIA: Sounds good to me.

10 CHAIRMAN NICOLAU: Okay.

11 (3:30 p.m. -- recess -- 3:39 p.m.)

12 CHAIRMAN NICOLAU: We have met with both
13 sides, the transcript is available for both sides;
14 assuming that at the moment there is nothing further
15 to be said, have counsel talked about the briefing
16 schedule?

17 MR. FREUND: Not really, but when we were
18 here on the last day of hearings I think you had
19 said something like 30 days from today, and that
20 would either make it roughly the 23rd of March which
21 is a Friday or certainly our preference is the 26th
22 of March, which is a Monday, so that we have the

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1 flexibility of that last weekend. So I guess I
2 would suggest March 26th.

3 MR. KATZ: We would prefer the 23rd, I
4 think, just to get it over and done with. I am not
5 going to be around that weekend.

6 MR. FREUND: Well, we prefer the 26th, so
7 Dan can finish the 23rd if he likes.

8 CHAIRMAN NICOLAU: No, we want them before
9 the 26th.

10 MR. FREUND: I am sorry?

11 CHAIRMAN NICOLAU: We want them before the
12 26th.

13 MR. FREUND: You tell us when you want
14 them.

15 CHAIRMAN NICOLAU: The 23rd would be fine,
16 but we ought to have them in our hands by the 23rd
17 of March, that way everyone is the same.

18 MR. FREUND: All right, electronic is
19 fine --

20 MR. KATZ: If electronic is fine -- well
21 what is your preference?

22 CHAIRMAN NICOLAU: Well, I would like hard
3098 copies as well.

1 MR. KATZ: Why don't we Fed-Ex them on the
2 22nd then.

3 CAPTAIN BRUCIA: When you have the hard
4 copies or excuse me, the electronic version
5 finished, send it, and then to the degree that
6 Fed-Ex catches up that afternoon or the next day,
7 that is fine, too.

8 CHAIRMAN NICOLAU: Yes, say electronic
9 sent beforehand, is finished beforehand, you can
10 send it to us that way, but at least I would like to
11 have the hard copy by 23rd.

12 MR. FREUND: That is fine, then we might
13 as well send, if we are going to have a hard copy we
14 will have an electronic as well.
15

16 CAPTAIN BRUCIA: I will take care of the
17 e-mail expense.
18 CAPTAIN GILLEN: You can send my hard copy
19 to Mr. Nicolau's office. I will be living there the
20 next three years.
21 MR. KATZ: We can actually hand it to --
22 CHAIRMAN NICOLAU: The parties have agreed

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1 that we can talk to the experts and ask them if we
2 need for some particular kind of analysis, and that
3 is understood.
4 Is there anything else that we have to
5 talk about at this time?
6 MR. FREUND: I guess I would just like,
7 maybe follow up on that for one second. Would it be
8 your expectation that if you were going to talk to
9 the experts for assistance that you would be making
10 sort of a combined request of both sets of experts
11 at the same time or do you mean one or the other?
12 And if that is the case, what are their
13 responsibilities vis-a-vis or their options or their
14 rights vis-a-vis, you know, all of us, talking to us
15 about what you have asked of them.
16 CHAIRMAN NICOLAU: I don't know that we
17 have worked that through yet.
18 CAPTAIN BRUCIA: We really haven't
19 discussed that yet, to tell you the truth.
20 MR. FREUND: In a sense that ought to be
21 more for their concern, but I think we all ought to
22 know what that rule is.

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1 CAPTAIN BRUCIA: Well, I think it is fair
2 to say that when and if we give them assignments we
3 will be very clear as to those issues. In other
4 words, we want you to run a scenario and we would
5 like to you keep it under wraps, or say feel free to
6 share it, we just want you to run the scenario.
7 Whatever it is, we will have to issue the
8 instruction simultaneously I think to be clear, and
9 we certainly would want to reiterate it.
10 MR. FREUND: I wonder if Rikk will give us
11 some guidance on what the ground rules were when he
12 served in that capacity.
13 RIKK SALAMAT: The ground rules were that
14 I couldn't talk to my committee after leaving the
15 area. At that point I talked directly to the
16 nominees, and other than for requesting specific
17 data from the committees, that is the only separate,
18 everything else in terms of communicating with the
19 committees and counsel is sent through the nominee.
20 MR. FREUND: Again I don't really care
21 how --

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1 CHAIRMAN NICOLAU: Well, you know, that
2 was my understanding, that if we were going to use
3 either one, they are in effect working for us at
4 that moment in time, unless we say to them what you
5 have done you can share with the group.
6 MR. FREUND: That is fine with me. Again,
7 I just thought that ought to be out there so that we
8 all know.
9 MR. KATZ: Sure, that is fine. I am
comfortable with your issuing the instructions for

10 how to proceed at the same time as you give them any
11 request for computer runs.

12 CHAIRMAN NICOLAU: Okay.
13 So I think for now, that is it, until we
14 meet again some day, right?

15 Both groups have been very helpful to us,
16 and we thank you for struggling through what is
17 what, been what, 18, 19 days of hearing plus all of
18 the preparation that went into it, and now you are
19 leaving it to the three of us, but we may be in
20 touch as we go along.

21 Anything else, Captain?

22 CAPTAIN GILLEN: No, sir.

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1 CAPTAIN BRUCIA: No, sir.

2 MR. KATZ: Thank you very much.

3 MR. FREUND: Thank you, all three of you,
4 for your patience with us.

5 CHAIRMAN NICOLAU: Very good.

6 March 22nd.

7 (Whereupon, at 3:46 p.m., the hearing was
8 concluded.)

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