

APFA - AMERICAN AIRLINES
SYSTEM BOARD OF ADJUSTMENT

In the Matter of the Arbitration

between

ASSOCIATION OF PROFESSIONAL FLIGHT
ATTENDANTS

and

AMERICAN AIRLINES, INC.

OPINION and AWARD

| Case No.:
SS-22-2000-APFA-1
(staffing 777AE)

BEFORE:

Bonnie Siber Weinstock, Neutral Chair
Cathy D. Scheu - Company designee
Emily Johnston - Company designee
Susan M. French - Union designee
Julie Moyer - Union designee

APPEARANCES:

For the Union: Phillips, Richard & Rind, P.A. by Mark
Richard, Esq., and Gibbs & French,
by Patt A. Gibbs, Esq. - Counsel
Jeff Bott - Vice-President
Dr. Diane Damos - Consultant
Dr. Barry Greenberg - Consultant
Flight Jeffrey Heisey - United Airlines,
Attendant
Mona Adams - AA Flight Attendant
Patrick Hancock - Flight Attendant

For the Employer: Morgan, Lewis & Bockius, LLP, by Harry
A. Rissetto, Esq. and Mary D.
Walsh, Esq. - Counsel
Gregg M. Formella, Esq. - Counsel, AA
Jane Allen - Vice-President, Flight
Service
Laura Burnett - Managing Director,
Flight Service Operations
Dr. Diana Haytko - Consultant
Patrick O'Keefe - Director, Food &
Beverage Services and Duty Free
Benjamin Williams - Manager, Labor
Relations
Stephen Ip - Purser Service Manager
Donna Snepp - Director of Flight
Service

Association of Professional Flight Attendants ("Union" or "APFA") and American Airlines, Inc. ("Employer", "Company" or "American") are parties to a collective bargaining agreement effective November 1, 1998 ("Agreement") which provides for the arbitration of unresolved grievances. Pursuant to the Agreement, the parties appeared before the undersigned System Board of Adjustment ("Board") on May 7, 8 and 9, 2002 for hearings on the Presidential grievance described below. The hearings were transcribed.¹ The parties had full and fair opportunity to present evidence and argument, to engage in the examination and cross-examination of sworn (or affirmed) witnesses, and otherwise to support their respective positions. The record was declared closed upon the Board's receipt of the parties' closing Briefs. Thereafter, the Board conferred in Executive Sessions. The Opinion herein is that of the Neutral Chair of the System Board of Adjustment and does not purport to state the views of the party-designated Members of the Board, whether or not they concur in the Award herein.

ISSUE

At the hearing on May 7, 2002, and as supplemented on May 9th, the parties agreed to submit the following issue

¹ References to the transcribed record of hearing appear herein as "TR at --."

for arbitration (TR at 958-59):

Did the Company violate the collective bargaining agreement and the interest arbitration award by implementing new staffing formulas for the Boeing 777 Atlantic-configured aircraft flown to or from Europe or Latin America which results in an unreasonable workload for International Flight Attendants under all the circumstances of this case? If so, what shall be the remedy?

The parties stipulated that the only issue before the Board in this proceeding is the Atlantic staffing as it was originally configured in May 2000 and as the staffing was changed effective April 1, 2002. (TR at 19-21).

BACKGROUND

On May 26, 2000, the Union filed a Presidential grievance alleging that the Company's new staffing formulas for the Boeing 777 Atlantic-configured aircraft² resulted in "an unreasonable workload for international flight attendants." When the matter was not resolved by the parties, the instant grievance was scheduled for arbitration before this System Board of Adjustment.

The Union contends that the 1995 interest arbitration award resulted in the language that now appears in Appendix I, Article 9.B.2 of the Agreement, which entitles the Union to raise a claim before the System Board of Adjustment

² For convenience, this aircraft is referred to herein as the "777AE." The 777AE flies to Europe and Latin America. It is expressly understood that there is a separate grievance before another System Board pertaining to the staffing for the 777 as it is configured to fly Pacific routes. (TR at 20).

if the Union believes that certain staffing has created an "unreasonable workload" for flight attendants on international flights. In the instant matter, the Union urges that the staffing initiated by the Company in May 2000 created an unreasonable workload and that the employees who worked in an understaffed situation should receive pay for working under adverse conditions. The Union further asserts that in April 2002 when the Company reduced the staffing on the 777AE from the May 2000 level, the workload became all the more onerous.

The Union argues that the Company failed to take into consideration the unique features of the 777AE, as well as the additional duties required of flight attendants in the post-September 11th world of heightened security. The Union offers that "flight attendant staffing must be at a minimum of thirteen to assure a proper workload." (Union Brief at p. 50). The Union believes that the thirteenth position could be the variably manned ("VM") position, and that staffing should be three flight attendants in first class, and five each in business and the main cabins. The Union contends that the 777AE was understaffed by one flight attendant commencing in May 2000 (i.e., it was staffed with 12 when it should have been staffed with 13), and that after April 2002 it was understaffed by two flight attendants (i.e., staffed with 11 rather than 13).³ The Union asks that the Employer be

³ There is no suggestion that the flights actually flown had fewer than 70 passengers in the main cabin. Therefore, the variably manned position was on the flights in question.

directed to cease and desist from violating the Agreement and that damages be paid to employees who worked flights that were understaffed. The Union asks that the provisions of Article 3.L be used to assess understaffing pay.

The Company, on the other hand, insists that it exercised its discretion reasonably and it considered all relevant information when it determined the staffing guidelines for the 777AE. The Employer urges that the staffing was appropriate and that such staffing did not create an unreasonable workload. The Company contends that it "has no incentive to compromise [its] service and put its name and reputation at risk by understaffing flights or overworking its flight attendants." (Company Brief at p. 1). The Company argues that "proving an 'unreasonable workload' does not satisfy the APFA's burden of proof--the Agreement makes clear that the standard is abuse of discretion." The Employer insists that "[A]bsent a finding that American acted in an arbitrary manner and without any rational basis for its decision, the Board cannot proceed de novo and substitute its judgment for that of the Company, even if it would conclude that flight attendants on the 777A have an unreasonable workload." (Company Brief at p. 7). The Company urges that the only inquiry for the System Board of Adjustment is whether

The parties believed that if the variably manned position was not on the flight when it should have been, the understaffing pay for the VM position should have been paid before this grievance was filed.

the Company acted arbitrarily when it set the staffing levels on the 777AE. The Employer asks that the grievance be denied.

RELEVANT PROVISIONS OF THE AGREEMENT⁴

APPENDIX I, ARTICLE 9.B.2

The current published staffing guidelines, effective August 1995, shall be used to determine the number of bid positions and the total number of flight attendants who will be assigned to flights with variable manning. Thereafter, the Company may establish, at its discretion and from time to time, new staffing formulas. These formulas shall be made available to flight attendants, and APFA shall be notified of a change 45 days prior to implementation of the new formula. Staffing formulas shall specify increments based on the type of equipment, level of service, flying time and passenger load, as determined by the Company.

While it is understood that the Company shall have discretion in changing staffing or service levels, APFA shall be afforded a safeguard against the Company abusing that discretion. Accordingly, APFA shall have the right to file a Presidential grievance if the Company abuses its discretion by assigning an unreasonable workload to flight attendants.

APFA shall have three months from the date of implementation of a change in staffing or service level to file a Presidential grievance which shall be processed in accordance with the Presidential grievance procedures set forth in the Collective Bargaining Agreement.

APPENDIX I, ARTICLE 3.L

Should a flight depart with less than the number of flight attendants required by the Company's applicable published staffing guidelines, as issued pursuant to Article 9.B.2 and Appendix I, Article 9.B.2. of the

⁴ The provisions quoted below from Appendix I of the Agreement pertain to international flights. The same language appears in the main body of the Agreement pertaining to domestic flights.

Agreement, each flight attendant working the flight will receive compensation at the rate of ten dollars (\$10.00) per hour, for each hour actually flown (block to block), or fraction thereof for each flight attendant missing. Such understaffing pay, which shall be automatic/automated and shall require no action on the part of the flight attendant for payment, shall be in addition to all other applicable compensation, including but not limited to Ground/Holding pay.

DISCUSSION

The background to this staffing question is relevant to place this matter in its proper perspective. The record is uncontroverted that the flight attendants went on strike against the Company in November 1993. Thereafter, at the suggestion of President Bill Clinton, the parties voluntarily entered into a procedure for interest arbitration over unresolved issues. The interest arbitration took place over 41 days of hearing from October 1994 to March 1995, with more than 1000 exhibits and 9000 pages of transcript. On October 10, 1995, the Interest Arbitration Panel issued a 144 page Opinion and Award (Joint Ex. 2). Clearly, the parties invested an extraordinary amount of time and effort in that proceeding, and the outcome produced contract language which is critical to the instant staffing question. The Interest Arbitration Panel wrote the following with respect to staffing

(Joint Ex. 2, pp. 61-62):

The Board therefore adopts in substance American's proposal, which gives it the right to use FAA minimums as contractual bid and staffing minimums. The Board's modifications to that proposal are intended to provide flight attendants with protection from abuse of the carrier's discretion. The Board awards the following:

The current published staffing guidelines, effective August 1995, shall be used to determine the number of bid positions and the total number of flight attendants who will be assigned to flights with variable manning. Thereafter, American may establish, at its discretion and from time to time, new staffing formulas. These formulas shall be made available to flight attendants, and the APFA shall be notified of a change 45 days prior to implementation of the new formula. Staffing formulas shall specify increments based on the type of equipment, level of service,

flying time and passenger load, as determined by American.

While it is understood that the Company shall have discretion in changing staffing or service levels, APFA shall be afforded a safeguard against the Company abusing that discretion. Accordingly, APFA shall have the right to file a Presidential grievance if American abuses its discretion by assigning an unreasonable workload to flight attendants.
(emphasis added)

The last paragraph quoted above from the interest arbitration award was incorporated into the collective bargaining agreement in Appendix I, Article 9.B.2, quoted supra at p. 6, which forms the basis for the Board's jurisdiction in the instant matter.

The Union argued that while it gave up in the interest arbitration award a guarantee of very high staffing, it was given the right to file a Presidential grievance to challenge any alleged unreasonable workload. Thus, there was an understanding after the interest arbitration award that the Employer had gained certain flexibility in staffing. This flexibility was exemplified in the staffing of the 777AE: of the 12 flight attendants assigned on that aircraft, 11 would be bid positions and the 12th would be a variably manned position, which would be staffed after the coach cabin reached 70 passengers.

Scope of Arbitration

A preliminary question arose in this proceeding

regarding the scope of the arbitration. First, it is clear that the matter before the Board involves only the staffing of the 777AE. (See footnote 2, supra.) The Union urges that the Board should consider the staffing on the 777AE at two different times: (a) from May 2000 when the initial staffing was established, and (b) after the staffing was reduced in April 2002. This question regarding the scope of the arbitration first was raised with the Neutral Chair of the Board in a telephonic conference held with Company and Union Counsel in advance of the arbitration hearing. (This conference call dealt with other procedural matters as well, in an effort to ensure that the hearings could be concluded in a timely manner.)

Evidence was presented regarding this issue. The record reveals that when the Company announced the staffing on the 777AE, on or about May 3, 2000⁵, it also announced that it would phase-in adjusted staffing at a later date, when aircraft with different cabin and seat configurations were delivered. Jeff Bott testified that at no time did anyone in the Company give him the impression that the two formulas (i.e, the interim and the final staffing) were not fixed. (TR at 89). A Presidential grievance was filed on May 26, 2000 to

⁵ This was sometimes referred to by the parties in their presentations as the "April 2000" staffing. It appears that documentation was prepared late in April, it was formally discussed with the Union at a meeting in early May 2000, and the staffing was implemented thereafter.

protest the staffing levels. (Union Ex. 1). The Agreement provides that a Presidential grievance over staffing must be filed within ninety days. (TR at 79; Appendix I, Article 9.B.2). The Company argued that the instant grievance was filed to protest the staffing on the 777AE even before the 777AE was put into service, and the arbitration over the April 2002 reduction in staffing commenced in May 2002, when there was scant experience with the staffing reduction. (TR at 65, 71).

The record reveals that at the time the Company described the initial staffing for the 777AE, it was clear that this was "interim" staffing, and that the staffing would be reduced as the configuration of the seats in the new fleet changed. The Company expected that when the new aircraft equipped with the "flagship suites" arrived, the staffing would be 10 bid positions and a variably manned 11th position.

In a letter dated January 29, 2002 (Union Ex. 2), the Company advised the Union that the staffing reduction it had previously predicted would become effective on April 1, 2002.

The Board has carefully considered the Company's argument and finds that the Union was timely in filing the Presidential grievance to protest the May 2000 staffing. A majority of the Board finds that since the Union had experience with the 777P, it could conclude that the staffing level for the 777AE was something that it wished to protest,

and if the May 2000 staffing level was problematic for the Union, it certainly could deduce that a further reduction would be a grievable event. A majority of the Board finds that the Union had no reason to believe that the Company would deviate from the staffing it intended to apply in April 2002.

Therefore, the Union did not have to wait until April 2002 to see if the Company actually implemented that staffing level before it filed a Presidential grievance. Based on Mr. Bott's testimony that the Company has held the Union to the time limits in the Agreement, the Union properly filed a Presidential grievance to ensure that its grievance was not untimely. For all of these reasons, a majority of the Board finds that the Union's grievance was timely filed and that both the May 2000 and the April 2002 staffing levels are before this System Board of Adjustment. Accordingly, this Opinion and Award will address the staffing levels in May 2000 and in April 2002.

The next threshold question raised by the Employer dealt with the standard of review the Board would apply to the staffing decision. The Company believes that its staffing decisions are subject to review using an "abuse of discretion" standard. (TR at 63-64). The gravamen of the Employer's position in this case is that the Company was not arbitrary when it set the staffing levels on the 777AE. The Company therefore urges that the Board should not evaluate whether the flight attendants had an unreasonable workload. According to

the Company, so long as it is not arbitrary, it has the managerial right to determine staffing. The Union argues that the Board should evaluate the evidence presented and determine whether the flight attendants on the 777AE were assigned an unreasonable workload.

A majority of the Board finds that the Employer errs when it so characterizes the extent of the Board's jurisdiction. A majority of the Board finds the 1995 interest arbitration award to be clear and unambiguous. Namely, the Union can file a Presidential grievance over staffing if American "abuses its discretion by assigning an unreasonable workload to flight attendants" (emphasis added). A majority of the Board finds that the Interest Arbitration Panel was defining the act of assigning an unreasonable workload to be an abuse of discretion.

It is the Union's burden to prove that the staffing level created an unreasonable workload. The Union bears the burden of production and persuasion on this question. That is, the Union must come forward with enough evidence to prove that the staffing created an unreasonable workload. After the Union makes a prima facie showing to this effect, the Employer can offer its evidence to rebut the Union's proof. The ultimate burden of persuasion rests with the Union.

A majority of the Board finds that the Employer does not rebut the Union's proof simply by demonstrating that it

considered something when deciding upon the staffing. However, the fact that the Employer was not arbitrary places a heavy burden on the Union in satisfying its ultimate burden of proving an unreasonable workload. As indicated below, the Union met this burden for the staffing level in April 2002, but did not meet its burden with respect to the May 2000 staffing level.

STAFFING LEVELS

The initial/interim staffing, effective May 2000, was for 11 flight attendant positions to be bid and for the 12th position to be "variable manned." The 12th flight attendant position would be added on a flight when the number of passengers in the main cabin reached 70. (TR at 84, 97). The maximum number of passengers on the aircraft under this configuration was 254. (The final staffing, in place as of April 2002, was for 10 flight attendant positions to be bid and for the 11th position to be variably manned, with a total maximum number of passengers of 245.) The chart below depicts this staffing on the 777AE. The gravamen of the Union's claim is that the 777AE was not appropriately staffed and the flight attendants had an unreasonable workload when 12 flight attendants worked, so there certainly was an unreasonable workload when 11 flight attendants staffed the 777AE.

INITIAL/INTERIM STAFFING: 12:254

FINAL STAFFING:11:245

<u>CABIN</u>	<u># OF F/A</u>	<u>F/A POSITIONS</u>	<u>MAX. PAX. COUNT</u>	<u># OF F/A</u>
FIRST CLASS	3	1 (Purser) 5 (Galley) 6 (Aisle)	18	16
BUSINESS CLASS	4	4 (Galley) 7 (Aisle) 8 (Aisle/Galley) 9 (Aisle)	42	35
MAIN/COACH	5	2 (Galley) 3 (Aisle) 10 (Aisle) 11 (Aisle) 12 (Aisle)	194**	194**

(** Included in the 194 coach seats are the 4 crew "rest seats" which the Company can sell.⁶)

Jeff Bott testified that in a meeting with the Company on May 4, 2000 regarding the planned delivery of the 777 Atlantic fleet, he was given information regarding the interim and ultimate staffing for the 777AE. He understood that the 777P was flying with the following configuration: 18 first class seats, staffed by 3 flight attendants; 56 business class seats, staffed by 5 flight attendants; and 163 coach seats, staffed by 4 flight attendants. (TR at 82; Union Ex. 1).

Mr. Bott was advised that the interim configuration and staffing for the 777AE would be the 18 "lie flat" seats in first class (which would be replaced with 16 "flagship suite"

⁶ Jeff Bott testified that the crew rest seats are available for flight attendants in flights over eight hours. For flights less than eight hours, the Company can sell those as revenue seats. (TR at 83, 131-32).

seats as they became available), staffed by 3 flight attendants; 42 business class seats, staffed by 4 flight attendants, and 190 coach seats, staffed by 5 flight attendants. (TR at 79, 82-83; Union Ex. 1). The Union was advised that on flights less than 8 hours, the 4 coach "crew rest" seats would be sold, so the main cabin would have 194 passenger seats. (TR at 82). The chart above depicts this passenger load of 254 with 12 flight attendants (the 12th being the variably manned position) as the "interim staffing."

Mr. Bott testified that the "final" staffing, as depicted on the chart above, went into effect in April 2002 after the aircraft were retro-fitted with the flagship suite seats. The cabin configuration and staffing at that point became: 16 first class seats staffed by 3 flight attendants; 35 business cabin seats, staffed by 3 flight attendants, and 194 seats in the main cabin, staffed by 5 flight attendants. This produces a staffing of 10 bid positions and one variably manned position. (TR at 96-98).

The Union argued that since the 777AE is the longest aircraft in the Company's fleet, those assigned to it must traverse a considerable distance for the many hours of flight and pre-flight preparation. (TR at 35-36, 90, 103). Because of its size, this aircraft also accommodates the greatest number of passengers in three classes of service.⁷ Since the

⁷ The Union acknowledged that an A300 may have more total passengers, but they are in two classes of service. (TR at 36, 104).

aircraft travels so quickly, the flight is quicker and service must be accomplished expeditiously. (TR at 36). The Union was advised by the Company that certain tasks were expected for this airplane (e.g., Express Breakfast, video Watchmans, Bose headsets). (TR at 90). According to the APFA, all of these factors, together with the complicated seats in first class and the various new computer systems (controlling climate, water and audio) which must be monitored by the flight attendants contribute to the unreasonable workload on the 777AE. (TR at 37-38).

Mr. Bott testified that from May 2000 until shortly before these arbitration proceedings began in May 2002, the Union did not receive any information from the Company other than flight attendant-to-passenger ratios to justify the staffing decision. (TR at 92-93). However, the Union was receiving complaints from flight attendants working the 777. According to Mr. Bott, when the Company did not produce evidence regarding the reasonableness of the staffing, the Union decided to do its own preliminary investigation. In furtherance of this investigation, certain flight attendants flew on other carriers to observe how their 777 service was delivered⁸, and some of these same flight attendants worked

⁸ Union Ex. 16 (effective May 1, 2000) shows that United Air Lines staffs its 777 (when "hot services" are provided) with 8 flight attendants in first and business class combined, and an additional 6 flight attendants for "economy class" when the passenger load is 191-231. In a document effective August 1, 2002 (Union Ex. 18), the staffing on United's 777 is as follows: when the passenger load is 8 to 10 in first class,

American's 777 flights to experience whether the workload was unreasonable. (TR at 110-13, 117-18). These factors convinced the Union that the workload on the 777AE was unreasonable, so the Union decided to go forward with three studies to document its concerns.

The first was a survey of flight attendants conducted through the APFA web page. (Union Ex. 28). The overwhelming majority of flight attendants (81.4%) who have flown the 777AE declared that the workload was unreasonable. A majority of the Board finds that since flight attendants chose to respond to the web page survey, there is a self-selection which makes this survey statistically suspect. (See also TR at 54). The Neutral Chair notes that in many industries and professions, people rarely believe that they are under-worked and overpaid. The Neutral Chair places no weight on the anecdotal web page survey in view of the presence of a carefully conducted human factor analysis.⁹ Curiously, many of the same factors which render the web page

then 3 flight attendants; when there are 49 in business class, the staffing is 5, and when there are 197 to 216 in economy, the staffing is 5 for a total of 13.

⁹ The Neutral Chair hastens to add that this should not be construed to mean that all anecdotal evidence is irrelevant to the staffing inquiry. To the contrary, information from flight attendants who have worked the 777AE is helpful in explaining the unique features of the aircraft and how that translates into benefits and burdens for the flight attendants. Additionally, the flight attendants who testified offered invaluable insight into the impact of heightened security on workload issues.

survey unreliable would also bear on the weight to be accorded the flight attendant reports ("AFARS"), or the number of calls to the Company's "1-800" telephone number. (Employer Brief at p. 26). Nevertheless, the Employer argued that the relatively few number of AFARS submitted which complain about staffing, when measured against the number of flights flown, indicates that staffing on the 777AE is not a big problem for the flight attendants. A majority of the Board finds that there are many possible reasons why the number of AFARS is not representative of the level or importance of the problem. In any event, the Board affords the AFARS no weight, as it afforded the web survey no weight.

The second survey commissioned by APFA was conducted by an outside expert, Dr. Barry Greenberg, and involved a telephone survey of flight attendants. (Union Ex. 28). The survey results indicate that 75.8% to 87% of flight attendants believed the workload on the 777AE was unreasonable. (Union Brief at p. 29; TR at 332; Union Ex. 28). Once again, it is not surprising to the Board that employees declare themselves to be overworked. This survey is most useful in this proceeding as an adjunct to the human factor analysis. That is, when presented with all three surveys in one case, the human factor analysis provides far more detail regarding the tasks performed on the 777AE than did the telephone survey. Accordingly, this Board gives greater weight to the human factor analysis. However, since the data presented in the

human factor analysis survey were derived from only four flights, the telephonic survey is useful in providing a broader based answer to a number of questions, especially involving crew rest.

As indicated above, the third collection of data offered by the Union is the result of a human factor analysis performed on the 777AE. This survey was coordinated by Dr. Diane Damos. (TR at 113-14). This survey is far more scientific and the Neutral Chair affords it considerable weight. The Union argued that it was the Employer's practice to use time/motion studies to justify staffing levels (Union Brief at p. 16). A majority of the Board finds that the Company's use of scientific experts to help evaluate proper staffing levels is an indication that these parties are highly professional and do not lightly make adjustments in the level of staffing on aircraft. For this reason, the Union's data must be given careful analysis, just as the Board would be expected to do for the Company's studies.

The methodology applied by Dr. Damos is described below in some detail, because the Company takes issue with the scope and validity of the study. By way of qualification, Dr. Damos has masters and doctorate degrees in aviation psychology. A majority of the Board is persuaded that Dr. Damos is an expert in human factor analysis, and the Company accepted her as an expert. (TR at 156-163)¹⁰.

¹⁰ The record reveals that Dr. Damos has performed studies

Dr. Damos described, and the documentation in Union Ex. 26 reveals, the steps taken to construct the time-task analysis that was used in this study. Dr. Damos explained that she began with a literature search which included Company provided material as well as information from the scientific literature. Dr. Damos described that while there are "massive amounts of data" dealing with time-task analyses for pilots, there is scant information pertaining to flight attendants. (TR at 165-68). A majority of the Board finds this to be significant because no other studies were offered by the Company to refute Dr. Damos' findings or to contradict her methodology.

Dr. Damos testified that it is necessary to construct a task list in order to develop a thorough understanding of all the elements of a job being studied. The task list used in this study went through multiple versions before it was deemed complete. (TR at 171-72). It was necessary to develop a list of observable behaviors that would constitute the start and stop times for each task. These elements were discussed among all the observers and consensus was reached. (TR at 175-76). The tasks were analyzed for each flight attendant position. (TR at 183). All of the tasks were grouped into clusters which either were related

for other airlines and various governmental entities, including the Air Force, the Navy and NASA, though she has not previously worked for a union. (TR at 158-59).

sequentially or "fit together in some sort of logical way." There were 47 clusters in this study.¹¹ (TR at 173, 183). Dr. Damos explained that the Personal Digital Assistant ("PDA") was loaded with scientific software to collect the data. Dr. Damos personally loaded each PDA, and then she trained the flight attendants who would be using the PDAs on how to operate them. After each flight, Dr. Damos downloaded the PDAs into her computer for analysis of the data. (TR at 173-74). Dr. Damos explained that she had training sessions on the use of the PDA, and each observer took some flights to try out the PDA and to become adept in using it. Then there were scheduled test flights for the observers to try out the PDAs. Ultimately, there was one test flight from JFK to Paris on which all of the observers and Dr. Damos flew. (TR at 174). Each observer on this flight also had a clipboard on which the observer could record any problems with the PDA and on which they could note the start and stop times for all activities. This was to operate as a manual back-up system. In addition, Dr. Damos carried spare PDAs if there were mechanical problems. (TR at 177).

Each observer was assigned to a specific flight

¹¹ Union Ex. 26 (at Bates 000140-000143) indicates that there are 43 clusters that directly relate to observable activities. Cluster number 44 is "not visible", for when the working flight attendant is not visible to the observer. Cluster number 45 is "absent", for when the observed flight attendant "leaves the cabin and [is] not within view." Cluster number 46 is "other" and cluster number 47 is for "unplanned" incidents.

attendant for data recording. (TR at 177-78). In addition to the tasks being recorded, there was a category to check if the flight attendant was not visible because he/she went behind the bulkhead or into the lavatory, and there was another category if the observer needed a lavatory break. (TR at 178). It was agreed that an observer could stand in his/her seat to observe a flight attendant, but the observer was not to move about the aircraft for fear that they might interfere with crew functions. (TR at 178-79). Dr. Damos testified that to prevent distortion in the data, the observers were not to talk to the crew they were observing, though the Purser was advised of the study on the flight and was to tell the crew "basically what they needed to know." (TR at 179).

Dr. Damos explained at the arbitration how the PDAs worked. This small example is offered to give a flavor of the data recorded and the software on the PDA:

When the person is ready to start timing, you hit the Start button. Within one-twentieth of a second, the system is up and activated and collecting data. You know that the system is activated because the main button switches from stop to start.

Let's take an example where the flight attendant has just -- we've had the first chime and she's jumped out of the seat, so we activated it. She's now walking. We have three columns, one which says the name of the cluster, OCCURRENCE -- which I'll explain in a second -- and then one called AVERAGE. We simply tap an average. It illuminates. It says, "You want to record walk, right?" "Yes." Okay. So we wait for her to finish walking as we defined it. We then hit the word TIME and we see automatically that it now says it has one instance of that cluster, and it records the time in minutes in this particular case that she spent doing that walking and then is now ready to go on to the other cluster. It's already timing, so there is no lost time. Let's assume

she's dealing with a passenger request. I would highlight PASSENGER REQUEST. She now finishes. I hit TIME. She's walking again. I go back to WALK. She finishes walk, I hit TIME, and now we have 2, the number changes to 2, telling me I've made two observations in that category and it now has accumulated the total time.

TR at 187-88).

Dr. Damos was asked how she could make sure that the data were not skewed by the observers. She answered: For every single file, I ran an analysis program that would determine if the PDA had been turned off or for some reason or other was not recording, and I examined every single line. Since this was scientific software, it recorded the beginning and the end of the measurement observation down to 50 milliseconds. I wrote another program to determine if at any point we were missing data, so if someone had turned it off and therefore there was data missing.

(TR at 189). She also testified that as an additional check on the observers, they were to begin timing the flight attendant when the first chime sounded. Since the PDAs would record data within 50 milliseconds, Dr. Damos was able to check on the observers' accuracy. She found that all eight observers had begun timing their flight attendant within 4 to 5 seconds of one another. Dr. Damos opined that this was "extremely accurate" and she found no evidence of anyone attempting to skew the data. (TR at 189-90).

Patt Gibbs testified that in consultation with Dr. Damos, they selected the flights on which data would be collected. They attempted to select flights of various durations, with different departure times and flights that would demonstrate different levels of service (e.g., brunch

followed by lunch; lunch followed by a full light snack; some breakfast service). (TR at 468).

Dr. Damos concluded from her study that the flight attendants' workload on the 777 was unreasonable when staffed at 12 and at 11. (TR at 205-06). Dr. Damos explained: One way to determine workload and its reasonableness or unreasonableness is to determine if the worker is making the company-established deadlines. Now, if the worker is making the deadlines, then the question becomes are they making the deadlines because they're omitting tasks that they should be performing or they're delaying nonessential tasks into other parts of their workday or they're taking shortcuts. Now, if the answer is that they are making the deadlines but they're making the deadlines because they're omitting tasks or because they're taking shortcuts, then the workload would be construed to be unreasonable.

(TR at 206). Dr. Damos testified that she did not study, and therefore could not opine, regarding how many flight attendants would be necessary to complete all tasks on time.

(TR at 208). As for the size of the 777AE, Dr. Damos explained that when the aircraft is very long, more time is spent in the "non-productive activity" of walking and it is tiring. (TR at 201).

The Company argued that there were inherent flaws in Dr. Damos' study because flight attendants were the trained observers collecting data with the use of the PDAs.¹² This

¹² Dr. Damos testified that the professional standards and the integrity of the study were excellent, even though flight attendants were used as observers on the flights. (TR at 198).

view was expressed by the Company's expert witness, Dr. Diana Haytko, who commended Dr. Damos on the design of the tasks and clusters, but concluded that Dr. Damos' study did not support the conclusion regarding the unreasonableness of the workload. Dr. Haytko reached this conclusion because the survey data were from only four flights, not all flight attendants on the flights were studied, and there was only one flight which had the reduced staffing. (TR at 615-18).

The Board has carefully considered the testimony of Dr. Haytko and finds that the points she raised to question the validity of Dr. Damos' study were essentially the same points that Dr. Damos responded to in her testimony. That is, in a perfect world, the observers watching the flight attendants and operating the PDAs would not have been flight attendants. However, it is also obvious to the Board that someone with flight attendant training would be best able to watch all the movements of a flight attendant and understand the nuances of the actions and the activities observed. (TR at 237). In any event, there has been no effort by the Company to quantify the extent, if any, of bias in the survey based on this factor or any of the other points raised by Dr. Haytko. A majority of the Board finds that the Company has failed to prove that this study was flawed in its design or execution so as to render the results invalid. This having been said, the Board does agree that, in a perfect world, it would have been preferable to have a larger sample of flights

from which data were collected. The Union offers a rational explanation that the expense of the data collection and analysis bore on the extent of the survey, but this explanation does not completely vitiate the Company's criticism. Nevertheless, the record evidence proves that the flights selected for observation were to be representative of various durations and levels of service. Accordingly, a majority of the Board finds that the Damos survey has utility in this proceeding, even if the survey could have been more comprehensive by surveying additional flights at both staffing levels.

By contrast to the Union's assertion that the staffing on the 777AE created an unreasonable workload, the Company contends that the staffing was proper. Jane Allen, the Vice-President for Flight Service, explained how the staffing decision for the 777 Atlantic was made:

The decision was made along the lines with all the other staffing decisions that we've taken since I've been in this job. We look at a number of factors. We start with some basic ratios that we deal with as sort of a baseline, particularly in terms of three-class services, but for all aircraft, three-class airplanes, and that is the number of flight attendants to customers. We then look at how the service will flow, any procedural changes that might need to be made in order to support the staffing change one way or another that looks like it's being made. Obviously, we're looking at what the competition is doing one way or another, although, obviously, competition makes decisions as well based on their unique set of facts. Obviously, like anything else we do in our business, the cost considerations one way or another are taken into account. All of those things were done in terms of 777-related staffing.

(TR at 984-85).

Laura Burnett testified similarly. She explained that when the Company is considering a new aircraft or a new configuration of an existing aircraft, there are a number of factors that are considered. First, the Company needs to know from the Fleet Planning and Cabin Design departments exactly what the interior configuration is going to be. The Company then determines the level of service that will be provided. Ms. Burnett testified that the Company will look to other aircraft within American's fleet to see if that level of service is offered on other equipment, and the Company also looks to other carriers for comparisons. The Company verifies the FAA minimum staffing and then the Company decides on the level of staffing for that new equipment. (TR at 666-67). Ms. Burnett testified that based on American's "comfort level" of staffing ratios, the following are the general ranges for staffing (TR at 670):

- for first class internationally: 1:5
- for business class: 1:10 to 1:12
- for main cabin: 1:38 to 1:41

Ms. Burnett summarized the process this way (TR at 673-74):

What we really need to do is look at what we are asking flight attendants to do, the type of service expectations our customers have and what level of service we're trying to achieve and find a balance for all of that and make it manageable. If it's not manageable or if it's not workable, then there is a lot of things that you can look at. You can look at changing the service; you can look at changing the equipment; you can look at changing the procedures; or in some cases add a flight attendant, which we have on

occasion.

Patrick O'Keefe testified that when the Company was deciding upon the staffing for the 777AE, it considered: American's experience on the 777P and on its other international aircraft, data from the Automated Flight Attendant Reporting System [AFARS], feedback from the flight attendants, and data from both the Quality Service Rides [QSR] and the Unannounced Observation Rides [UOR]. (TR at 786-87).

The Neutral Chair is constrained to conclude that despite the testimonial record indicating the relevance of these other factors, the Company predicated its determinations on the staffing ratios. Therefore, when the Company set the initial staffing on the 777AE in April 2000, it looked first to the 777s flying Pacific routes¹³ in its fleet since January 1999. According to the Company, it had discussions with the Union as far back as September 1998 regarding the staffing on the 777P. (TR at 66). When the 777AE was created, the Employer was influenced by a number of factors including: (a) the features of the 777AE (i.e., "an easier aircraft for flight attendants to work" [Employer Brief at p. 7]); (b) passenger/flight attendant ratios as evidenced in the industry and in the Company's experience; and (c) the staffing experience on the 777P.

¹³ The 777 flying the Pacific routes is referred to herein as the "777P."

Taking the last two items first, the Company's staffing of the 777P when compared with the 777AE is depicted in the chart below with the applicable staffing ratios:

	<u>777 ATLANTIC</u>	<u>777 PACIFIC</u>
config.	18/42/194 = 254 [May 00]	18/56/163 = 237
[Jan.99]		
staff:	3/4/5	3/5/4
ratio:	1:6/ 1:11/ 1:39	1:6/ 1:11/ 1:41
	16/42/194 = 252 [July 00]	18/49/163 = 230 [Mar.00]
	3/4/5	3/5/4
	1:5/ 1:11/ 1:39	1:6/ 1:10/ 1:41
	16/35/194 = 245 [Sept.01]**	18/42/163 = 223 [May 01]
	3/3/5	3/4/4
	1:5/ 1:12/ 1:39	1:6/ 1:11/ 1:41

[Company Ex. 3, 15; Employer Brief at 3; TR at 688].

Thus, when the staffing of flight attendants on the 777AE was considered for 254 passengers in May 2000, the Company chose the same total staffing of 12 as it had for 237 passengers on the 777P in January 1999 and as it had in March 2000 when the 777P had 230 passengers. As the Company was considering the staffing on the 777AE in September 2001 when the seat count dropped to 245, the Company selected the same staffing level of 11 that was on the 777P for 223 passengers.¹⁴ A majority of the Board finds that while the Company may have stated that it stayed within its general ratios, there clearly is a significant disparity in the total number of passengers served by the staffing selected.

Laura Burnett was asked how she determined the initial staffing for the 777AE. She answered (TR at 697): Essentially the same process [as for the Pacific

¹⁴ **Staffing changes were implemented effective April 1, 2002.

configuration]. This aircraft again was going to be flown in missions, delivering exactly the same service as we were delivering trans-atlantic in all other markets, so we're very familiar with the service pattern and the service elements and components. I looked at each cabin and the seating configuration, and again using that same model, I determined what the staffing allocation would be per cabin.

Ms. Burnett testified that she also considered that the Pacific flights have an extra food service that the Atlantic flights do not, and that there are fewer business class seats on the 777AE. (TR at 699). Ms. Burnett explained that the Company also looks to aircraft outside of American's fleet that are flying in the same market. (TR at 702). As indicated above, if the Company had looked to its competitors, it would have seen that United was staffing its 777s with at least 13 flight attendants for three classes of service.

The Neutral Chair has very carefully considered the evidence and argument offered by the parties. The Union, the Company, and the Members of the Board have painstakingly walked the Neutral Chair through the data offered in this proceeding, and the parties have debated the conclusions to be drawn therefrom. The Neutral Chair finds that there is no indication that the flight attendants were unable to provide the minimum level of service expected on the observed flights.

Put another way, the flight attendants were able to "get the job done." However, the data reveal that, too often: (a) tasks were not performed in the time frame the Company directed; (b)

the flight attendants did not receive the appropriate amount of crew rest; or (c) meals were taken, if at all, in a most hurried manner. This leads the Neutral Chair to conclude that the way the flight attendants were able to perform all essential tasks was to short-change their crew rest. The Neutral Chair finds this to be a critical finding from the Damos study and a key indicator that the workload is unreasonable. A majority of the Board finds that crew rest is an essential element in a flight attendant's ability to perform the job safely and effectively, especially on long flights. Both parties appreciate the importance of a flight attendant being sufficiently refreshed during a long flight to be able to handle any emergencies that might arise during the flight or on landing.

Clearly, crew rest is not a luxury, and these parties have negotiated the circumstances under which it must be provided. Appendix I, Article 30.L.2 of the Agreement provides that for flights over 7 hours but less than 8 hours of scheduled flying time, crew rest of not more than 30 minutes will be given if time permits.¹⁵ The Agreement (at

¹⁵ The Flight Service Manual (Company Ex.1), at Inflight/Pre-Landing, '1.9, does not qualify the crew rest for flights less than 7 hours or between 7 and 8 hours with the phrase "when time permits." (TR at 590-91). The Board finds that the Flight Service Manual cannot alter the terms of the collective bargaining agreement, but it certainly serves as an indication that the Company endorses the idea of giving crew rest.

Patt Gibbs testified that the flight attendants understood that rest was guaranteed in flights between 7 and 8

Appendix I, Article 30.L.3) provides that for flights of 8 to 12 hours of scheduled flying time, flight attendants will be given 45 minutes of crew rest.¹⁶ (For flights under seven hours of scheduled flying time, crew rest is to be given "when time permits," and such rest shall not exceed 15 minutes. None of the flights in the study were scheduled for less than 7 hours of flying time.)

The first of the four flights studied in the Damos analysis, the Paris-New York flight, was scheduled for 8:05 hours. On that flight, 7 of the 8 flight attendants in the study received more than 45 minutes rest. On a New York-London flight scheduled for 7 hours, 7 of the 8 flight attendants received NO rest whatsoever, while one flight attendant received 8 minutes. This was the most egregious of the crew rest statistics, but it also was the shortest flight.¹⁷ The London-New York flight was scheduled for 7 hours hours, though crew rest seats were not guaranteed. (TR at 521).

¹⁶ When this grievance was filed, the parties were operating under the collective bargaining agreement effective October 10, 1995 (Joint Ex. 1). That agreement provided not more than 15 minutes crew rest for flights under 8 hours, "when time permits." For flights over 8 hours, a flight attendant was entitled to 45 minutes of rest. (Appendix I, Article 30.L). The Union offered that the effective date for the crew rest provisions in the tentative agreement was October 1, 2001. (TR at 558). Therefore, all of the test flights in the Damos study would have operated under the new crew rest provisions in the Agreement.

¹⁷ The data in Union Ex. 27 reveal that the time from the first chime until the final PA announcement was 5 hours and 40 minutes.

and 40 minutes, and only one flight attendant received 30 minutes of rest. The Purser received no rest, and the other 6 flight attendants had between 7 and 28 minutes of rest. Finally, on a London-Chicago flight, which was scheduled for 8 hours and 25 minutes, 4 of 8 flight attendants had 45 minutes of rest or more. The remaining flight attendants had 33, 15, 27 or 43 minutes of rest, respectively. This London-Chicago flight was the only one in the study staffed with 11 flight attendants. (Union Ex. 26, Bates 000216).

In the telephonic survey, 33.5% of the 195 people answering the survey indicated that they had been able to complete contractual crew rest on a 777 Atlantic flight less than 50% of the time. This also means that 66.5% responded that they did complete contractual crew rest more than 50% of the time. (Union Ex.28, Bates 000014). A majority of the Board finds that this larger sample of flight attendants is useful to corroborate and flesh-out the data from the human factor analysis, and persuades the Board that the incidents in which crew rest is not provided are significant enough to demonstrate the unreason-ability of the workload after April 2002.

Another key element in assessing the reasonableness of the workload is whether flight attendants were able to meet the Company created deadlines for the delivery of service. The Company argued there were no "deadlines," but there are "guidelines." The Company suggested that no flight attendant

would be disciplined for failing to meet a service timetable.

Ms. Burnett testified that, in the past, there was a guideline that flight attendants should finish the first service within two and one-half hours. Ms. Burnett explained that this guideline has been removed from the In-flight Manual, but this did not constitute a substantive change that required notification to the flight attendants. (TR at 742).

The following testimony of Ms. Burnett is telling (TR at 743):

Q [by Union Counsel]: When you get in information about how long it's taking flight attendants, your QSRs [quality service rides], to finish the first service, what are you measuring that against?

A [by Ms. Burnett]: We're not measuring it against anything. I think what was suggested even in previous testimony is that you look at the range and see if there are any outliers and determine whether or not there are issues or problems. Generally how long is it taking us to deliver the service? Is that service being perceived as timely and comfortable? Is it being perceived by the customer as smooth and efficient? Is it reasonable to the flight attendants to deliver, and are you able to incorporate into the flight all of the other components of service that need to be done? Particularly, are flight attendants being able to rest for the prescribed rest periods? (emphasis added)

Thus, in addition to the question whether service was being accomplished in an appropriate manner, Ms. Burnett was using the crew rest data as an important indicator of a flight attendant's workload.

The Neutral Chair finds that the Flight Service Manual (at "International Food Service" '1.1) directs the

flight attendant to "Deliver first beverage/element of service 12 to 15 minutes after Captain sounds first chime (20-25 minutes M/C, LFS, IFS and AIFS)." The Neutral Chair finds that the Employer was abundantly clear in making this a time deadline. In the Damos study, this deadline was met only twice, and both were in business class with 31 and 34 passengers, respectively.

The data in the human factor analysis also reveal that on no flight did every flight attendant meet the expected timetable for performing all tasks. In fact, on no flight did any one flight attendant meet all the time guidelines. (TR at 50; Union Ex. 27). This is significant for a number of reasons. First, it demonstrates that even if on a given flight not every flight attendant worked with the gusto that the other flight attendants might prefer, no one flight attendant, however energetic, was able to meet the time guidelines. This is significant proof that the workload was unreasonable based on the service level expected and the staffing provided.¹⁸

Patrick O'Keeffe testified that when he looked at the Quality Service Rides (QSR) forms (as demonstrated on Company Ex. 6), he concluded that services were getting

¹⁸ To avoid burdening this already lengthy Opinion and Award, the Board does not reprint the tables which demonstrate these principles. They can be found at: Union Ex. 26, Bates 000216 [for crew rest]; Union Ex. 27 [for timeliness of tasks].

accomplished in an appropriate amount of time. From this, he determined that staffing was appropriate. (TR at 804). The Neutral Chair finds Mr. O'Keefe's testimony to be important for a number of reasons. First, his reliance on the QSR and UOR forms indicates that the Company did continue to use two and one-half hours as the benchmark for determining if first service was concluded in a reasonable time. Therefore, even if this standard was removed from the Flight Service Manual, it obviously played a part in the Company's analysis of the service provided. Second, a close examination of Company Exs. 6, 7, 8 and 10 indicates that for the period January 2000 through March 2002, the Company had data on 108 UOR or QSR rides. Of these 108 rides, the data for 20 rides were excluded because of: (a) obvious errors inputting the data; (b) the configuration of the aircraft was clearly the 777P, or (c) the flight was not an international segment or was not a 777. Of the 88 rides for which valid data were provided, 7 involved staffing at 11. Of the 7 observations with staffing of 11 flight attendants, 4 had first service times in excess of two and one-half hours.¹⁹ Thus, the Company had data on a total of 81 rides in which staffing was at least 12.²⁰

Putting the data from the QSRs and the UORs

¹⁹ Donna Snepp testified that one flight with a service time of 7 hours and 50 minutes probably included the follow-on service as well. (TR at 910).

²⁰ One ride in this group had staffing at 14. All others in this group had staffing at 12.

together, the Neutral Chair concludes that at a staffing level of twelve, 35 of 81 segments, or 43.2% of the rides, had first service that took two and one-half hours or longer to complete.²¹ Put another way, at a staffing level of 12, the Company met its own service standards 56.8% of the time, which the Neutral Chair finds not to be a ringing endorsement for the staffing level selected. However, since this two and one-half hour benchmark is met more than half of the time, the Neutral Chair is not able to conclude that the flight attendants have an unreasonable workload when the aircraft is staffed at 12.

This having been said, it is readily apparent to the Neutral Chair that 56.8% is such a marginal rate of success in meeting service standards (based on QSRs and UORs), that the Neutral Chair cannot comfortably conclude that the flight attendants would have a reasonable workload when the staffing is reduced by one to the level of 11. This conclusion is buttressed by the UORs described in Company Ex. 10, in which 7 of the rides were staffed by 11 flight attendants. Of those 7 rides, 3 had service times under two and one-half hours, and of those three, one had a cabin distribution of 5/12/91, and

²¹ If we include the flights staffed at 11, then 39 of 88 flights (44.3%) failed to meet the guideline.

Company witness Donna Snepp examined one flight with a service time of 6 hours and 46 minutes and concluded that the observer had included both the first service and the follow-on service, and one flight with a 3:35 elapsed time that included some follow-on service. (TR at 909).

another was 7/20/85. These can fairly be characterized as "light" flights. The Neutral Chair therefore concludes that these data demonstrate that on 57% of those flights (i.e., 4 of 7), the 11 flight attendants were unable to meet the service guidelines.²²

These UORs for flights with 11 flight attendants are important because they provide additional data to the one flight in the Damos study that was staffed at 11.²³ One of the Company's criticisms of the Damos study was the small number of flights studied. The Neutral Chair is persuaded that with the UOR and QSR data, the parties have a better view of the impact of the staffing reduction when 11 flight attendants worked a flight.

The Company correctly argues that the data presented by the Damos study do not reveal any flight with actual flying time over 8 hours, and there is only one flight that was staffed with 11 (rather than 12) flight attendants. The

²² The percentage of flights with 11 flight attendants on which the employees could not complete the meal service within the Company's time guidelines is potentially even higher than the 57%, because there is some evidence to suggest that certain flights on which employees did meet the time guidelines may have been a Pacific configured aircraft. (TR at 952-54). If these flights were removed from the calculations, the percentage of non-conforming flights would increase.

²³ The Union pointed out that in the four flights of useable data included in the Damos study, each flight had 8 flight attendants under observation. The Union suggests that this should be viewed as if they were 32 UOR or QSRs. (TR at 948).

Neutral Chair has weighed this factor very carefully, particularly in light of the arguments of the Company (and the dissenting Board Members) that there are not enough data in the study upon which to base a finding of an unreasonable workload. The Neutral Chair finds that when 8 out of 12 flight attendants were observed, the unobserved flight attendants were: the number 9 flight attendant (business class - aisle), and the numbers 10, 11 and 12, who are all assigned to the aisle in the main cabin. The data reveal that on only one flight did the galley flight attendant in the main cabin (the number 2) get the minimum required crew rest, and the flight attendant working the aisle in the main cabin (the number 3) never did, even though the main cabin had different levels of service than the premium cabins. There is no evidence in the record to indicate that the flight attendants not observed in this study were categorically different from those included in the study. One fact is clear: the main cabin had the fewest number of flight attendants studied and it services the greatest number of passengers. From this, the Neutral Chair concludes that if the data had been more expansive (i.e., for more flights and all flight attendants thereon), it is likely to have shown additional flight attendants who were unable to meet scheduled time deadlines or who did not receive adequate crew rest.

Weighing all of the evidence in the record, the Neutral Chair is persuaded that the Company looked to its

Pacific staffing and the number of passengers served, and determined that when the 777AE was configured for a smaller business class, the Company would not need the 12 level staffing it had on the Pacific routes. The record reveals that the Pacific routes had more service than the Atlantic routes, so it was not patently unreasonable for the Company to have decided in May 2000 that 12 flight attendants could handle the reduced level of service and the reduced passenger counts on the Atlantic routes. However, as the data in the Damos study revealed, the Company's prediction was not completely correct. Nevertheless, the Neutral Chair is persuaded that it is a close enough judgment call, and she cannot find that the workload was unreasonable at the 12 flight attendant staffing level. The fact that it was a "close call" to sustain the Employer's staffing at 12 makes it abundantly clear that the staffing at 11 created an unreasonable workload.

In further justification for its position that the staffing levels created an unreasonable workload, the Union asserts that American Airlines' competitors staff the 777 with more flight attendants. It offered the testimony of Jeff Heisey, a flight attendant working for United Air Lines. He testified that the 777 in United's fleet is staffed with 13 flight attendants, and some flights go out with 14 or 15 for three classes of service. (TR at 266-70)²⁴. In addition,

²⁴ Mr. Heisey testified that after September 11th, United

Patrick O'Keefe testified for the Company that when he was working to devise the staffing for the 777P, he looked to the data from other airlines who were already operating 777s. Mr. O'Keefe explained:

We are also in a highly competitive business. If I was to staff the aircraft very differently from another airline, I would need to answer questions within the company as to how I made that decision. In all decisions [we] make at American, we consider the competitive environment, and we did it in this case as well.

(TR at 768).

The Board has carefully considered the evidence presented and finds that the 1995 interest arbitration award, and the resulting terms of the collective bargaining agreement, did not guarantee to the flight attendants the staffing that might be adopted by either Delta Airlines, British Airways or United Air Lines, the airlines that were deemed to be the "comparables" in the interest arbitration proceeding. Therefore, the fact that Jeff Heisey described United Air Lines' staffing at the 13 level for the 777 (on an aircraft with a seat configuration of 10/49/197) does not obligate American Airlines to follow its competitors' lead.²⁵

will now use "deadheading" flight attendants who are "legal" to work to cover such areas as watching the cockpit if the Purser is called away. This would produce a staffing level on the 777 of up to 15 flight attendants. (TR at 277).

²⁵ Mr. Heisey testified that 90% of United Air Lines' 777 flights are staffed with 13 flight attendants, and some flights leave with 14 or 15 flight attendants. He testified that it would be rare for a 777 to leave with less than 13 flight attendants. (TR at 268-71).

(The Union discounted Delta Airlines for comparability because they do not offer three cabin service on their 777. [TR at 44].)

To the extent that greater staffing results in better service throughout the aircraft, certainly the Company may need to be cognizant of what its competitors are doing, but it has not agreed in the collective bargaining agreement or elsewhere to obligate itself to that same level of staffing. Therefore, a majority of the Board finds that the experience on United Air Lines does not, standing alone, prove that the workload is unreasonable in the staffing selected by American Airlines in May 2000 or in April 2002. Nevertheless, Mr. O'Keefe testified that the experience of American's competitors on the 777 was a meaningful factor which the Company considered when American first decided on the staffing for the 777P. (TR at 768, 778). A majority of the Board finds that when the staffing on the 777AE fell to two below the level to which United had reduced its staffing (i.e., American's 11 to United's 13), it became clear that the Company was out of step with its competitors. This is another indication to the Board that the staffing decision was unreasonable.

Further, the record reveals that the 777 has a number of unique features that bear on the flight attendants' responsibilities. Patt Gibbs testified to three such features: (a) the flagship suite seats; (b) the computer

system; and (c) the in-flight entertainment system. (TR at 451-52). A majority of the Board is persuaded that the Company's promotion of the flagship suite seats, including the ability to lie flat, to provide a work station that does not have to be removed in order to eat, and the ability to swivel the seat to face the person next to you or the grouping of seats in front of you, all contribute to the number of questions passengers ask in order to utilize each of these features. (Union Ex. 9 depicts 24 features on the seat. [TR at 458].) In addition, the computer system, which Ms. Gibbs described as "state of the art," controls the temperature, lighting and sound systems on the aircraft, as well as monitoring the water levels on the plane. The record reveals that these systems were previously monitored in the cockpit of the aircraft. Finally, the In-flight Entertainment System, which includes an individual screen in each coach seatback, clearly produces more questions for the flight attendants as the largest number of passengers now may operate their own entertainment systems. A majority of the Board is persuaded that these advanced systems may contain their own computer diagnostics, but they engender more work for the flight attendants who must answer questions from the passengers who seek to enjoy these amenities. A majority of the Board finds that the Company's attention to staffing ratios fails to account for the time it takes for the flight attendants to answer the increased volume of questions from the passengers.

Finally, everyone connected with this proceeding acknowledges that the Company's first priority is the safety and security of the passengers and crew aboard every flight. The record amply demonstrates that flight attendants always had an obligation to walk through the cabin at periodic intervals to monitor the cabin and to respond to the passengers' requests. Obviously, this requirement has a heightened priority since the tragic events of September 11th.

Flight attendants must be vigilant in observing the passengers for aberrant behavior and in monitoring access to the cockpit. These factors must be considered before crew rest can be given and the flight attendant complement temporarily reduced. The Neutral Chair is completely persuaded that the flight attendants' job did not become different after September 11th, it just became weightier. The service tasks and the security obligations cannot be met at a staffing level of 11 without shortchanging crew rest. In sum, there is an unreasonable workload when staffing is 11 flight attendants on the 777AE.

A majority of the Board finds that in establishing the staffing for the Atlantic routes, the Company simply applied the ratios from its past service to the new seat configuration. Though Ms. Burnett testified that it would be very important to her to determine if the crew was receiving the prescribed rest, there is no evidence that such a study was undertaken. Similarly, while Mr. O'Keefe placed

significance on the times for completion of service as indicated in the QSRs and UORs, these numbers support the conclusion that at a staffing level of 12, the flight attendants were marginally completing their service in the projected time. Concomitantly, at a staffing of 11, the flight attendants more often than not were unable to complete service in the time required.

In view of these findings, a majority of the Board is persuaded that the Company's decision to reduce flight attendant staffing from 12 to 11 on the 777AE in April 2002 created an unreasonable workload.

THE REMEDY

Having found that the workload was unreasonable when the 777AE was staffed with 11 flight attendants, the Board next must assess a remedy. The collective bargaining agreement answers this question with clear and unambiguous language. As quoted above, Appendix I, Article 3.L (Understaffing Pay) provides that each flight attendant working on a flight that was understaffed will be paid an additional \$10.00 per hour for each hour actually flown. Applying Appendix I, Article 3.L, as the Board must do, the remedy for the unreasonable workload is for each flight attendant who flew on the 777AE after April 2002, when the flight was variably manned at 11 flight attendants, to receive \$10.00 per hour for each hour actually flown on a 777AE when

it was understaffed. The Board expressly declines to award the remedy requested by the Union which sought understaffing pay up to the level of 13 flight attendants. The understaffing pay awarded herein shall apply on every flight from the time the Company decreased the staffing in or about April 2002, until the staffing is returned to the level of 12 on the 777AE flown to Europe and Latin America. In calculating the remedy due the flight attendants who worked in this understaffing situation, it is expressly understood that if any flight had fewer than 70 passengers in the main cabin, the variably manned position was not required on that flight, and the proper staffing would have been 11 flight attendants.

The Company argued that since the Damos study did not include flights with actual flying times in excess of 8.5 hours, there should be no remedy for any flight of 8.5 hours or longer. The Board has carefully considered this argument.

For the reasons set forth below, the Neutral Chair declines to recommend that limitation on the remedy.

As indicated above, the standard for service was that the first beverage should be served in first class within 12 to 15 minutes after the first chime, and in the main cabin within 20 to 25 minutes after the first chime. The first service was to be completed within 2.5 hours after the first chime. Though it is true that the Damos study did not include a flight longer than 8.5 hours of actual flying time, it seems clear to the Neutral Chair that if any flight attendants had

an incentive to adhere to the time guidelines, it was those working the shorter international flights (i.e., those in the study). The flight attendants knew that they had only 7 to 8 hours of flying time within which to accomplish all of their service. These flight attendants were only marginally successful with a staffing at 12. The UORs and the QSRs indicate that with staffing at 11, they were not able to meet the time guidelines most of the time. The Neutral Chair therefore finds that there is no reason to believe that when the flight gets longer the flight attendants will be more successful in meeting the same 2.5 hour first service deadline. In addition, the record reveals that the longer flights have more meal services. Therefore, if the time guidelines for service are stretched out or completely ignored, there is a substantial risk that the services will seem to run into one another. For all of these reasons, the Neutral Chair finds that the remedy should apply to all 777AE flights flown to or from Europe and Latin America after April 2002 that were staffed at 11.

In sum, a majority of the Board is persuaded that the Union has satisfied its burden of proving that when the 777AE is staffed with 10 bid positions and one variably manned position, for a total of 11 flight attendants, the workload is unreasonable. This conclusion is predicated primarily upon

the staffing and service levels studied in the human factor analysis, consideration of the unique features of the 777AE, the data from QSRs and UORs, and the safety and security issues which weigh heavily on the flight attendants' duties.

Dr. Damos said it best:

The data are only good insofar as the tasks remain or the jobs remain constant. Should the company modify the jobs by changing tasks, changing deadlines, et cetera, then these data would no longer be appropriate.

(TR at 210). Ms. Burnett was equally cogent in her conclusion: "It's in nobody's best interest for us to put something on an aircraft that is not going to be workable or manageable." (TR at 671).

On the facts in this record, the staffing of the 777AE when it was reduced to a variably manned 11 was unreasonable. The remedy of understaffing pay, consistent with Appendix I, Article 3.L shall apply.

AWARD

This Presidential grievance is sustained in part in accordance with the Opinion herein. The Company did not violate the Agreement when it staffed the 777AE with 12 flight attendants. However, the Company did violate the collective bargaining agreement and the interest arbitration award by implementing new staffing formulas for the Boeing 777 Atlantic-configured aircraft flown to or from Europe or Latin America which resulted in an unreasonable workload for International Flight Attendants when the aircraft was staffed with 11 flight attendants. The flight attendants who worked the flights with 11 flight attendants shall receive understaffing pay consistent with Appendix I, Article 3.L.

March 20, 2003

Bonnie Siber Weinstock, Neutral Chair

Cathy D. Scheu
Company designee
concur/dissent

Susan M. French
Union designee
concur/dissent

Emily Johnston

Julie Moyer

Company designee
concur/dissent

Union designee
concur/dissent

State of New York) ss.:
County of Suffolk)

I, BONNIE SIBER WEINSTOCK, do hereby affirm that I am the individual described in and who executed this instrument, which is my Opinion and Award.

March 20, 2003 _____

State of Texas) ss.:
County of Tarrant)

I, CATHY D. SCHEU, do hereby affirm that I am the individual described in and who executed this instrument, which is my Opinion and Award.

March 14, 2003 _____

State of New Jersey) ss.:
County of Hunderton)

I, EMILY JOHNSTON, do hereby affirm that I am the individual described in and who executed this instrument, which is my Opinion and Award.

March 10, 2003 _____

State of Texas) ss.:
County of Denton)

I, SUSAN M. FRENCH, do hereby affirm that I am the individual described in and who executed this instrument, which is my Opinion and Award.

March 4, 2003 _____

State of Florida) ss.:
County of Palm Beach)

I, JULIE MOYER, do hereby affirm that I am the individual described in and who executed this instrument, which is my Opinion and Award.

February 27, 2003 _____

777 Election Q&A
March 11, 2004

777 UNDERSTAFFING AWARD QUESTIONS AND ANSWERS

1.

Q. When will the payout happen?

A. The note matures on October 15, 2004, and the payout will be on that same date.

2.

Q. Why do we have to wait so long before we get paid?

A. As stated in the cover letter, we negotiated with the Company for a time certain for the damages to be paid, together with a security agreement. The Company was not financially able to pay the award at the time it was rendered and had indicated they would go to court to contest the award, thus delaying implementation of the award and monies for an indefinite period of time.

3.

Q. What is our assurance that we will be paid?

A. Our assurance is in the security interest (or "collateral") that we have in the two Super 80 aircraft. This is the same principal as buying a car on credit - the car is in your possession so long as you pay the note and subject to repossession if you do not. If the Company defaults on the October 15, 2004 payment, the APFA would have the right to take the collateral aircraft and sell them.

4.

Q.. Will there be interest on the money paid to us?

A. Yes, the notes bear a prime 4.25% annual interest rate, which is reflected in your individual damage award.

5.

Q. Will it appear in a separate check or in a paycheck?

A. The money will be included in the October 15, 2004 paycheck.

6.

Q.. Explain how will the money be taxed?

A. Because it will be in your paycheck, it will be taxed at a lower rate than if it were to be issued in a separate check.

7.

Q. How will I differentiate my regular pay from the award if it is all in one check?

A. It will be noted with a specific notation on the bottom of your paycheck.

8.

Q. What is the formula used to calculate the option of vacation days?

A. Understaffing pay to vacation days conversion formula is: $\text{Vacation Days} = (\text{Understaffing Pay} - \$251.76) / (\$47.76 * 3.33)$ Value of 2 D-1 any-class-of-service passes: \$251.76 Value of 1 vacation Day: 3.33 Pay Hours Value of 1 Pay Hour: \$47.76 (International Max Pay Rate \$45.62 plus 4.7% Pension) For example, if your understaffing pay is \$2,000, the corresponding vacation days would be: $(2,000 - 251.76) / (47.76 * 3.33) = 11$ Days If your understaffing pay is less than \$251.76 and if you choose vacation option, you will only get two D-1 any-class-of-service passes.

9.

Q. Q. Do I have to pay the service charge when I use the D-1 any-class-of-service passes?

A. No. The service charge is included in the calculation of vacation days. However, international taxes and fees will apply for international travel and will be paid at the time of ticket issuance.

10.

Q.. How will I receive the D-1 any-class-of-service passes?

A. You will receive paper certificates that will need to be exchanged with an agent for Form 426 tickets (same ones as used for Perfect Attendance passes).

11.

Q.. When can I use the D-1 any-class-of-service passes?

A. You can use the passes between May 1, 2004 and April 30, 2005.

12.

Q. Who is eligible to use the D-1 any-class-of-service passes besides myself?

A. All D1 eligible travelers currently listed in your Traveler Information. D1 eligible travelers include spouse or domestic partner or registered companion and dependent children.

13.

Q. Do I have to use the D1 passes for round trips or can I split each pass up as two one-way passes used for different trips?

A. The passes can only be used for round-trip routings. You can not use one pass for two one-way trips.

14.

Q.. When can I use the 777 vacation?

A. You can use your 777 vacation from June 2004 to April 2005.

15.

Q. Q. How are the 777 vacation bids awarded?

A. They are awarded by base seniority among the 777 award recipients who have elected the vacation option. If you have 19 or more 777 vacation days, you are allowed one split, which will also necessitate an additional bidding period for those who choose to split their vacation into two periods.

16.

Q.. Q. When should I expect the 777 vacation bidding?

A. Primary (selected) 777 vacation bidding will open on March 30 at 1800 CST and close on April 12 at 0700 CDT. The awards for primary 777 vacation will be posted on April 16 at 1600 CDT. For those who choose to split their 777 vacations, secondary (unselected) bidding will open on April 16 at 1800 CDT and close on April 28 at 0700 CDT. The awards for secondary 777 vacation will be posted on May 3 at 1600 CDT.

17.

Q. If I have less than (7) days of 777 vacation, how will it be awarded?

A. Just as in the regular vacation awarding process, you must bid in the primary round of bidding. However, your award will occur at the end of the secondary awarding process and will be posted with the unselected awards on May 3.

18.

Q. Do I get what is left over from the primary and secondary vacation bidding periods - the undesirable dates?

A. The primary and secondary awards will be processed without factoring in the 777 award option, and per contractual obligations outlined in article 6L. Then the company will allot additional vacation days spread throughout the year for the 777 award vacation run.

19.

Q. Do I have to take all the vacation days at one time?

A. If your allotment for the award is more than 19 days, you are allowed one split.

20.

Q. Can I defer my award into my 401K?

A. As always, you can defer all or part of your primary and secondary vacation to your 401K and then use your 777 award as your vacation for the fiscal year of 2004.

21.

Q. Will the vacation option pay on trips missed/ touched basis in the same manner as we are currently removed and paid for vacation?

A. Yes. You will be removed and paid for any trips encompassed or touching vacation days.

22.

Q. What if I want to retire before October 2004; will I be able to collect the money?

A. Under the terms of the settlement, you must be on payroll on October 15, 2004 to collect the monies due to tax issues. However, if you opt for vacation, you become entitled to the vacation in the fiscal year 2004, which begins on May 1, 2004. You will have the option to use the vacation or should you leave in May, 2004, or at any point after, any remaining days owed to you would be cashed out according to the standard formula that is used in any other circumstances (2.33 per vacation day).

23.

Q. If I have additional questions, who should I contact?

A. There will be an extension at APFA headquarters set up to answer all questions about the 777 award. Please call 1-800-395-2732, extension 8723.

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