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From: Liebman, Wilma B.
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By MELANIE TROTTMAN

The National Labor Relations Board Wednesday said aircraft maker Boeing Co. violated federal labor law by building a second production line for its 787 Dreamliner at a non-union factory in South Carolina, siding with union workers in Washington State who charged the decision was retaliation for their past strikes.

The Chicago company called the NLRB's complaint "legally frivolous" and a "radical departure" from precedents. It said it will fight the complaint, which was sought by the International Association of Machinists and Aerospace Workers union.

The NLRB's action comes amid a broad conflict over the role of unions in the economy. Unions have responded to setbacks in the 2010 elections, which put Republicans in charge of the U.S. House of Representatives and in state houses around the country, by pressing the Obama administration and the majority Democrat NLRB to favor union positions.

President Barack Obama also has been trying to cultivate business leaders by promising to review and possibly roll back regulation, and doing more to help U.S. companies boost exports. Boeing is a big U.S. exporter.

Boeing plans to build the 787 Dreamlinier, shown above in Washington state in March, at a non-union plant.

NLRB-FOIA-00004340

NLRB Acting General Counsel Lafe Solomon said that in repeated statements to employees and the media, Boeing executives cited the unionized employees' past strike activity and the possibility of future strikes as the overriding factors in deciding to locate the second production line at the nonunion facility. The comments were coercive and motivated by a desire to retaliate against workers for past strikes, while attempting to discourage future strike activity, the agency charged.

"A worker's right to strike is a fundamental right guaranteed by the National Labor Relations Act," Mr. Solomon said in a statement. "We also recognize the rights of employers to make business decisions based on their economic interests, but they must do so within the law."

Mr. Solomon proposed a board order that would require Boeing to operate the second production line in Washington State. Boeing said it is scheduled to begin assembling planes in July at the South Carolina facility, where more than 1,000 new workers have been hired.

John Raudabaugh, a former NLRB Republican member who represents companies for Washington, D.C., law firm Nixon Peabody LLP, said Boeing executives should have been more measured with their words. "I think it's unfortunate if they said it the way it has been reported," he said. "They should have offered up a cost-related explanation," Mr. Raudabaugh said.

Sen. Lindsey Graham (R., S.C.) attacked the NLRB in a statement, saying that if the board's action is upheld it would "allow unions to hold a virtual 'veto' over business decisions." Mr. Graham said the NLRB is trying to punish states such as South Carolina where unions are relatively weak, and he said he'd seek legislation to cut off funding for "this wild goose chase."

Joe Trauger, a vice president at the National Association of Manufacturers, said the NLRB's decision sends a message that companies with union representation can't expand in right-to-work states. If the complaint succeeds "no company will be safe from the NLRB stepping in to second-guess its business decisions on where to expand or whom to hire," he said.

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The board is reversing decades of its own precedent and Supreme Court rulings to "advance its agenda to expand unionization," Mr. Trauger said. "If the IAM and NLRB succeed in their complaint, no company will be safe from the NLRB stepping in to second-guess its business decisions on where to expand or whom to hire," Mr. Trauger said.IAM Vice President Rich Michalski, whose union represents more than 35,000 Boeing workers, praised the decision, saying Boeing "needs to rethink its strategy of repeatedly alienating its most valuable asset: the highly-skilled workers who build Boeing aircraft."

The NLRB said it plans to hold a hearing June 14 before an NLRB administrative judge in Seattle "absent a settlement between the two parties."

Boeing said it held "extensive" talks with the Machinists about potentially placing the additional production in Washington. But that failed amid demands "that would have hampered the company's competitiveness in the increasingly competitive global market for large commercial airplanes," the company said.

Boeing said the Machinists ultimately have suffered no job losses from the decision because the company has increased employment in the Puget Sound area by about 2,000 workers since deciding to expand in South Carolina in October 2009.

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