

Birdsall, Inc.¹ and International Longshoremen's Association, AFL-CIO, Petitioner. Case 12-RC-6269

27 October 1983

DECISION ON REVIEW, ORDER, AND DIRECTION OF ELECTION

BY CHAIRMAN DOTSON AND MEMBERS HUNTER AND DENNIS

On 20 August 1982 the Regional Director for Region 12 issued a Decision and Direction of Election in the above-entitled proceeding, in which he directed an election to be held in a unit of the Employer's regular full-time and part-time warehouse employees, including receiving and handling (outbound) and receiving and handling (inbound) (BI Consolidated), laborers, checkers, operator/checkers, operators, lead loaders, documentation clerks/forwarders, receiving clerks, special handling clerks, and overage/shortage/damage clerks employed at its 821 Avenue E and 1489 West Eighth Street, Riviera Beach, Florida, facilities. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Employer filed a timely request for review of the Regional Director's decision, contending that a unit of all the Employer's employees is the only appropriate unit.

The National Labor Relations Board, by telegraphic order dated 20 September 1982, granted the Employer's request for review.² Thereafter, the Employer filed a supplement to its request for review, and the Petitioner filed a brief in opposition to the Employer's request for review.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case and hereby makes the following findings.

The Employer, a Florida corporation with its principal office and place of business at Riviera Beach, in Palm Beach County, Florida, is engaged in the transportation of freight. The Petitioner seeks to represent the unit found appropriate by the Regional Director. There is no evidence of any history of collective bargaining with respect to the Employer's employees.³

¹ As noted by the Regional Director, the record reflects that Birdsall, Inc. has recently merged with Nicor, Incorporated. The Employer's representatives at the hearing, however, had little knowledge of the details of the merger. Neither party has contended that the merger has any bearing on these proceedings, or on the name of the Employer.

² We take administrative notice of the fact that an election was conducted on 17 September 1982, and that the ballots have been impounded pending our Decision on Review.

³ Although we take administrative notice of an earlier Decision and Direction of Election of the Regional Director involving the Employer

In addition to the employee classifications included in the unit found appropriate by the Regional Director, the Employer seeks to include the following employees in a "wall-to-wall" unit: jockey drivers, stevedoring employees, Shop I employees, Shop II employees, equipment control employees, container repair employees, marine employees, maintenance employees, and traffic, insurance, and data processing employees.

The unit the Regional Director found appropriate numbers approximately 32 employees, and the all-employee unit the Employer seeks numbers approximately 177 employees.

For the reasons set out below, and based on the record as a whole, we find merit in the Employer's contention that the unit in which the Regional Director has directed an election is not appropriate. Contrary to the Employer, however, who, as noted above, seeks a unit of all its employees, we shall exclude traffic, insurance, data processing, administration, and other office clerical employees from the unit found appropriate herein.⁴

1. The Employer's facilities

The Employer's facilities are located at four different sites, three of which are within some proximity to one another. The 821 Avenue E Street facility, also known as the Terminal, houses the Employer's receiving and handling (outbound) operations. It sits on 10 acres of land bounded by Avenue E on the east and by Eighth Street on its north side, and includes the following functions and facilities: yard, rail dock, rail warehouse, LTL⁵ warehouse, TL⁶ dock, Shop II, and reefer control. One mile west of the 821 Avenue E facility is the 15-acre site at which the Employer's receiving and handling (inbound) operation is located. This facility, also known as BI Consolidated, is located at 1489 Eighth Street, and shall be referred to hereinafter as receiving and handling (inbound).

One block east of the 821 Avenue E Terminal is the port area, an 11-acre site, on which the Employer's marine, container repair, equipment control, and stevedoring operations are located. Finally, the Employer's Shop I facility is located approximately 5 miles south of the Employer's receiving and handling (inbound) facility. The evi-

herein, we do not rely thereon inasmuch as the issues addressed therein are not coextensive with those we now consider. *Birdsall Construction Co.*, Case 12-RC-3774 (Feb. 16, 1971).

⁴ The unit in which we shall direct an election numbers approximately 134 employees.

⁵ "LTL" refers to "less-than-trailer load" and designates those shipments of freight which are not sufficient to fill an entire trailer (container).

⁶ "TL" refers to "trailer load," and designates a shipment of freight which fills an entire trailer (container).

dence shows that the Employer's operations have expanded gradually over the years, and that the separation between the various sites is the result of what has been a piecemeal expansion process, and does not reflect any particular operational or functional segmentation.

2. The Employer's operations

The Employer is involved in the transshipment and transportation of freight. Thus, in addition to transporting goods to their final destination via its own ships, the Employer acts as a transfer point for freight which is moved from one conveyance to another.

There are several areas of the Employer's facilities that receive and handle freight. In the Terminal area, freight is received at the LTL warehouse, the TL dock, rail dock, and yard. These areas are collectively referred to as receiving and handling (outbound). Freight is also received at receiving and handling (inbound), and, in the port area, freight is received at stevedoring and equipment control. When a consignment of freight arrives, it is generally processed in the following manner: The freight is checked by a receiving clerk who verifies the paperwork traveling with that particular consignment and prepares a checker's tally, or interchange, which reflects the amount of freight coming in, as well as its condition. The freight is then unloaded by a checker or operator/checker, who "cubes" the consignment, thereby determining the volume or weight which is used as the basis for freight charges. There may be further contact between the receiving clerk and the checker or operator/checker if there is a question relating to the validity of the paperwork, or if some of the freight is missing. The operator/checker then passes the paperwork to a documentation clerk, also referred to as a documentation forwarder, who matches the paperwork received from the checker with the shipper's paperwork, and enters a complete inventory of that consignment into the computer. The documentation clerk thereafter completes the preparatory stages for assigning a rate, or cost, for the shipping. During this process, if the documentation clerk discovers any discrepancy between what the shipper says his "cubes" are and the Employer's measurements, the documentation clerk will ask the checkers to recube the consignment, and will oversee the recubing process. The above-described operation applies to both TL and LTL shipments.

With respect to TL shipments, a jockey driver will bring a trailer, into which the TL load is placed; the jockey driver thereafter brings the loaded trailer to the appropriate area for shipping.

The documentation clerk then sends the paperwork to the office, from which it is sent to the correct ship. Inasmuch as a TL shipment will fill an entire container, such shipment can be loaded directly onto a trailer (container) as it is received, thus obviating the need for warehousing.

If the consignment is less-than-trailer-load (LTL), it is necessary to gather together more than one shipment to fill a container (trailer). In this situation, when sufficient freight has been received, the documentation clerks will determine, based on weight and cube, which consignments will be assigned to a common container, and will then notify the checker or operator/checker, who will retrieve the particular consignments and load the freight into a waiting trailer. The jockey driver has responsibility for bringing up empty containers and removing loaded ones from the area. The checker and operator/checker will have prepared a trailer manifest, which is then brought to the documentation clerk, who compiles all the paperwork and sends it to the main office to eventually be placed on the ship.

The jockey drivers are primarily responsible for moving both empty and loaded containers from one area to another, and from one facility to another, as well as for washing containers. In addition, a jockey driver will assist in loading containers on an as-needed basis. There are employees at the port facility who perform jockey driver work, but are classified as equipment operators because they operate both jockey trucks and forklifts. The evidence also shows that the Employer abandoned its "pool" arrangement and now assigns its jockey drivers to receiving and handling (inbound and outbound), and reefer control, although it does move jockey drivers to different areas and jobs on an as-needed basis.

Also located at the LTL warehouse are the overage/shortage/damage clerk and the special handling clerk. The overage/shortage/damage clerk, who also serves as hazardous materials clerk, is in constant contact with the other receiving and handling (outbound) employees, advising them concerning the shipping of certain hazardous materials and checking on discrepancies and damage of consignments of freight. The special handling clerk is a contact person for the Employer's large customers who need special service. Thus, the special handling clerk maintains five or six accounts and personally follows the freight through the Employer's transshipment process. Receiving and handling (outbound) also employs a lead loader and two laborers, who generally work throughout the area and are involved, like the other classifications, in maintaining the flow of freight.

In addition to receiving and handling (outbound), the Terminal area at 821 Avenue E houses reefer control and Shop II. Reefer control is responsible for moving and maintaining the Employer's refrigeration containers and equipment, and employs two employees, a jockey driver and a washer/operator. Shop II is responsible for the repair of containers, forklifts, trucks, and chassis. Shop II is in constant contact with receiving and handling. Thus operator/checkers will carry equipment to the shop to have it repaired, and the Shop II employees will often go onsite to repair equipment. On these onsite occasions, the employee in that particular area whose equipment is down will often assist the shop employee in making repairs. Such assistance is mandatory with respect to the larger equipment. Several Shop II employees are located in the stevedoring area at the Employer's port facility, and while they administratively report to the shop II superintendent, they are directed on a day-to-day basis by the stevedoring foreman.

Like receiving and handling, the Employer's stevedoring section receives and handles freight and employs operators/checkers and operators who utilize forklifts. The stevedoring employees also load and unload the Employer's ships and receive incoming containers. On many occasions receiving and handling employees will be sent to stevedoring if help is needed unloading ships.

Equipment control is located at the Employer's port facility, and its primary function is keeping track of the Employer's equipment. This function often requires that these employees travel to the other operational areas to complete the tracing, locating, and moving of equipment. Equipment control is the check-in point for outside deliveries of cargo to the port. The equipment control employees thus perform a receiving and handling function, and several of these employees operate forklifts.

The container repair section, which is also located in the port area and shares space with the marine employees, performs maintenance work on the Employer's containers. Although container repair shares tools and facilities with the marine section, the container repair employees report to stevedoring. These employees, who often utilize forklifts, also spend time in stevedoring and equipment control, repairing containers onsite.

The marine employees are responsible for the maintenance of the Employer's ships while in port. Like Shops I and II, the marine section primarily utilizes mechanics and welders, and the maintenance and repair work performed by marine section employees parallels that done by the shop employees.

Shop I employees repair containers and container chassis. The Shop I employees often perform onsite repairs on heavy equipment and thus spend time in Shop II, equipment control, receiving and handling, and stevedoring.

The Employer also employs maintenance employees who care for the buildings and grounds, and who also use forklifts in performing their duties.

The Employer's 821 Avenue E facility houses its traffic, data processing, insurance, and administrative sections. The traffic section is responsible for booking cargo, sales, marketing, assignment of freight to a particular ship, rating of freight, and making sure that the paperwork follows the appropriate consignment of freight onto the ship. The data processing section oversees the Employer's computer operations. The insurance section is responsible for insuring cargo, vessels, vehicles, and other equipment. The Employer's administrative section includes its personnel office, as well as its management personnel and attendant office clerical staff. There is little or no interchange or contact between these groups of employees and the Employer's other employees. Between March 1980 and July 1982, the hearing date, two traffic employees received permanent transfers to receiving and handling (outbound), and one data processing employee permanently transferred to equipment control. There were no temporary interchanges involving any of the above groups, nor is there any evidence of their utilization on an as-needed basis.

The Employer's operations manager, Alan Campbell, reports directly to the Employer's president, Birdsall. Campbell's peers, who also report directly to Birdsall, are as follows: Rick Murrell, sales and marketing manager, with authority over the traffic section; James McIntire, insurance; Bill Whitesill, personnel director; B. D. Sory, Shop I superintendent; Tony Sanchez, Shop II superintendent; Ernie Phillips, marine superintendent; and John Spillane, treasurer, who has authority over data processing. Campbell, as operations manager, oversees the remainder of the Employer's operations. Some of these managers look to Campbell for administrative guidance. The evidence also shows that Hud Warren, assistant operations manager, assists Campbell in the areas of stevedoring, equipment control, and container repair. Jim Soles has similar responsibility with respect to receiving and handling (outbound). With respect to line supervision, four foremen rotate jobs on a 3- to 6-month basis in receiving and handling (outbound). At receiving and handling (inbound), a foreman reports to a supervisor who, in turn, reports to Campbell; the foremen in stevedoring, equipment

control, and container repair report to Hud Warren. There is also a foreman in the Employer's marine section.

The Employer maintains a system of wage levels that are applied companywide, and its fringe benefits are the same for all hourly employees. When an individual is hired, he or she receives training for the particular job to be performed. The new employee also goes through an orientation process so as to develop a familiarity with all areas of the Employer's operation, the duration of the orientation depending on the position for which the employee was hired.⁷ Consistent with this employerwide orientation process, there is a policy of allowing employees to bid on available jobs on a companywide basis, so that job advancement is not restricted to the section in which the employee is hired, or to which he or she is currently assigned.

During the period between March 1980 and July 1982, 32 employees were permanently transferred from one section to another; only 7 of these transfers involved data processing and traffic employees, operational divisions which we shall exclude from the unit found appropriate. The remaining 25 permanent transfers involved operational divisions which shall be included in the appropriate unit.⁸ The Employer also utilizes two methods of temporary transfers. The first type, and the one most frequently resorted to, occurs when employees are used on an as-needed basis, as, for instance, when a large consignment of freight needs to be quickly unloaded or processed. In such instances, employees from many operational areas are mobilized on an ad hoc basis to satisfy a short-term need.

During the busy season, September through February, receiving and handling (outbound) employees work in stevedoring on a frequent basis helping

to load and unload vessels. Throughout the year, employees are regularly shifted to various operational divisions, depending on the amount of freight passing through a particular area. Likewise, it is not unusual for a stevedoring employee, for example, having been sent to receiving and handling to pick up a container to be brought to the port area, and finding that the loading has not yet been completed, to assist in the loading process in order to expedite getting the container to the ship. The other type of temporary transfer, or area interchange, occurs when an employee is needed in a particular job on a 1- to 3-week basis. The record reflects that, between March 1980 and July 1982, 21 such area interchanges took place.⁹

3. The Regional Director's determination

Citing *A. Harris & Co.*, 116 NLRB 1628 (1956), the Regional Director found the "warehouse employees for both receiving and handling (outbound) and (inbound) . . . [to have] a community of interest separate and apart from the employees of the other sections."¹⁰ The Regional Director stated that "[u]nlike other employee groups, these employees are engaged almost exclusively in traditional warehousing duties."¹¹ The Regional Director, in making the unit determination, also relied on his findings that the receiving and handling (inbound) and (outbound) employees are geographically separated from other employees; that they are subject to separate supervision; that transfers of the receiving and handling employees to other employee groups are not significant; that on-the-job contact among the groups of employees does not establish regular and substantial integration or interaction sufficient to preclude a separate unit; that employees in many sections have mechanical or craft skills not possessed by the receiving and handling employees; and that stevedoring and equipment control operators are paid at a higher rate than receiving and handling operators.

⁷ Alan Campbell, the Employer's operations manager, testified concerning the orientation process:

[I]t's impossible for any one employee, assigned to work in any one area, to go in and effectively do his job without knowing what's taking place at all of the other areas.

So when a new employee is hired . . . he will physically work in various areas and become familiar with them, and then finally end up locating and doing his permanent work in a specific area.

Campbell testified further concerning the need for the orientation process:

[T]he skills that most people need . . . are not skills that are isolated into any one area.

[I]f you are an operator, your skills in operating . . . transcend being able to drive a forklift.

You would have to go and learn about what operating that piece of equipment means in all areas because you could just as easily be called on to go operate that piece of equipment in any area.

⁸ Thus, receiving and handling (outbound) sent employees to Shop I, Shop II, reefer control, receiving and handling (inbound), equipment control, and stevedoring. Shop I sent an employee to container repair. Shop II sent employees to container repair and marine. Marine sent two employees to stevedoring. Reefer control sent one employee to receiving and handling (inbound). Stevedoring sent employees to equipment control and receiving and handling (outbound). Equipment control sent employees to stevedoring and receiving and handling (outbound), and receiving and handling (inbound) sent an employee to equipment control.

⁹ Thus, Shop I sent employees to stevedoring. Reefer control sent employees to stevedoring and receiving and handling (outbound). Receiving and handling (outbound) sent employees to receiving and handling (inbound), equipment control, and stevedoring. Shop II sent employees to stevedoring and marine, and marine sent an employee to Shop II.

¹⁰ The Regional Director specifically excluded jockey drivers from the unit, citing *H.P. Wasson & Co.*, 153 NLRB 1499, 1501 (1965), and *Cal-Maine Farms*, 249 NLRB 944 (1980). The Regional Director also directed that the reefer control washer/operator vote subject to challenge, concluding that he was unable to determine if the latter classification shares a community of interest with the included classifications.

¹¹ In support of this finding, the Regional Director cited *Wickes Furniture*, 255 NLRB 545 (1981); *Sears, Roebuck & Co.*, 250 NLRB 658 (1980); *Big Buck Lumber*, 241 NLRB 639 (1979); and *H.P. Wasson & Co.*, 153 NLRB 1499 (1965).

Analysis and Conclusions

Based on a consideration of all the facts, and contrary to the Regional Director, we find a unit limited to the Employer's receiving and handling (inbound) and (outbound) employees to be inappropriate.

Before engaging in a factual analysis, we think it instructive to restate the concept underlying the congressional mandate, set forth in Section 9(b) of the Act, that we determine "the unit appropriate for the purposes of collective bargaining." In *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962), the Board stated:

In determining the appropriate unit, the Board delineates the grouping of employees within which freedom of choice may be given collective expression. At the same time it creates the context within which the process of collective bargaining must function. Because the scope of the unit is basic to and permeates the whole of the collective-bargaining relationship, each unit determination, in order to further effective expression of the statutory purposes, must have a direct relevancy to the circumstances within which collective bargaining is to take place. For, if the unit determination fails to relate to the factual situation with which the parties must deal, efficient and stable collective bargaining is undermined rather than fostered.

Thus, in determining the unit appropriate for collective bargaining herein, a consideration of the various employee classifications or functions is incomplete without an analysis of how they interact within the Employer's operational scheme so as to carry out its business purpose.

As a first step, and central to our analysis, we note that the Employer herein is engaged in the transportation and transshipment of consignments of freight, and its operations are therefore geared toward the movement and temporary storage of those consignments. Simply put, and as is clear from the above recitation of facts, the Employer's operation is highly integrated and adaptive, and, contrary to the Regional Director, cannot be artificially characterized as, or divided into, warehousing and nonwarehousing functions. The Regional Director's reliance on *A. Harris & Co.*, as well as more recent cases involving combined retail and warehouse establishments, is, therefore, misplaced.¹²

¹² The employer in *A. Harris & Co.* was engaged in a retail operation which maintained separate warehouse facilities. Finding a separate warehouse unit appropriate therein, the Board noted that the petitioner in *Harris* sought to

... represent the employees forming a distinct and identifiable administrative segment of the Employer's operations devoted essential-

ly to warehousing functions, in circumstances disclosing that such employees: (a) are under supervision separate from other store employees; (b) perform substantially all their work tasks in buildings geographically separated from those in which the bulk of the remaining employees of the Employer work; and (c) are not integrated, to any substantial degree, with employees in other divisions in the performance of their ordinary duties. [116 NLRB at 1632.]

Indeed, the factual reality of the Employer's operation¹³ compels a determination that a broader unit is appropriate. Thus, although the Employer's business is carried on at four facilities,¹⁴ it operates with a high degree of functional integration, including substantial interchangeability and contact among employees. As described above, the Employer's business purpose and operations require that employees be frequently shifted from one area to another on an ad hoc basis, and the promptness of the response to the Employer's quickly varying requirements is essential if the freight is to be moved in an expeditious and orderly fashion. Thus, while the Employer utilizes a more administratively formal system of temporary inter-area 1- to 3-week transfers whereby employees fill in for vacationing or ill coworkers, it is the "as-needed" flexibility of the work force which is far more operationally crucial, and gives the Employer's business its distinctive character.

In the same vein and with respect to job bidding, all jobs are posted on an employerwide basis, and all employees are permitted to bid on any job, regardless of their current assignment. It also should be noted that the Employer's orientation procedure familiarizes new employees with all aspects of the Employer's operation. Finally, as is fully described above, movement of freight from one operational area to another results in much contact among employees in different departments. It is thus clear that the Employer's operation requires and promotes a substantial degree of employee contact and functional integration.

Likewise, the Employer maintains uniform working conditions for all its employees. The Employer has a single personnel office located in the administration area at 821 Avenue E, and its personnel policies, practices, wage scale, and fringe benefits are applied to all hourly employees. Given all these

¹³ The Board has long held that "the manner in which a particular employer has organized his plant and utilizes the skills of his labor force has a direct bearing on the community of interest among various groups of employees in the plant and is thus an important consideration in any unit determination." *International Paper Co. (Southern Kraft Division)*, 96 NLRB 295, 298 fn. 7 (1951).

¹⁴ We note that the Employer's physical layout was not preplanned, nor does it reflect any particular operational organization which might require separate facilities. To the contrary, the record reflects that, as the Employer's business grew, it attempted to acquire property as near its existing facilities as possible. In addition, the Board has held that a difference in the situs of employment does not necessarily require separate bargaining units, particularly where there is evidence of a community of interest among the employer's employees. See, e.g., *Peerless Products*, 114 NLRB 1586 (1955).

factors supporting a finding that the employees in the broader unit share a community of interest, the fact that various departments are separately supervised does not require a different result. *Pierce-Williams Co.*, 76 NLRB 1002 (1948).

Based on all of the above, and the record as a whole, we shall, contrary to the Regional Director, include the employees in the following additional operational divisions in the unit found appropriate herein: stevedoring, equipment control, container repair, Shop I, Shop II, marine, maintenance, and reefer control. We shall also include jockey drivers, but, in accordance with the Employer's operational scheme, they shall be included as part of the respective operational divisions to which they are assigned.

Like receiving and handling (inbound and outbound), stevedoring and equipment control utilize forklifts and receive and handle freight. Thus, stevedoring loads and unloads cargo from the Employer's vessels, and its employees frequently receive assistance from receiving and handling, and other employees, on an as-needed basis. Equipment control, in addition to tracing the Employer's equipment, also serves as the check-in point for cargo deliveries at the port area. With respect to its tracing function, the equipment control employees have frequent contact with other employees, including receiving and handling. Thus, the equipment control employees must locate, inventory, and move equipment, including forklifts and containers, and during this process, travel to, and interact with, the Employer's other operational divisions. In addition, the stevedoring and equipment control employees share the same working conditions as all other employees included in the broader unit.

The Employer's maintenance functions are performed by container repair, Shop I, Shop II, marine, and maintenance. Thus, container repair (which uses forklifts), Shop I, and Shop II are involved in repairing and maintaining the Employer's containers. Shops I and II also repair the Employer's moving equipment, such as trucks, forklifts, and chassis; employees at both shops frequently make onsite repairs at other operational areas, including receiving and handling, and are assisted by the employees in those areas. In addition, several Shop II employees are located at stevedoring, and while they administratively report to the Shop II superintendent, they are directed, on a day-to-day basis, by the stevedoring foreman. Marine, which shares space and tools with container repair, performs repair and maintenance work on the Employer's vessels. The marine employees board the ships with the stevedoring employees and perform

their duties while the ships are being loaded and unloaded. The Employer's maintenance section, which like other operational divisions utilizes forklifts, is responsible for the care and upkeep of the Employer's buildings and grounds. The container repair, Shops I and II, marine, and maintenance employees share the same working conditions as employees included in the broader unit. Finally, these employees serve a function analogous to maintenance employees in a production and maintenance unit. Thus, insofar as these employees maintain and repair the equipment and facilities which are directly involved in the moving of freight, they form an integral part of the Employer's operations, and we include them in the unit we find appropriate.

Contrary to the Regional Director, and based on the record evidence, we shall also include jockey drivers, and the washer/operator in reefer control, in the unit found appropriate herein. As noted above, jockey drivers do not constitute a separate operational department, but are assigned, on an individual basis, to receiving and handling (inbound and outbound) and reefer control, respectively, and, in the course of performing their duties, have contact with employees in most of the Employer's operational departments. In addition, the jockey drivers share the same working conditions as all other employees included in the broader unit. With respect to the reefer control washer/operator, the record clearly reflects that the reefer control department employs one jockey driver and one washer/operator. The evidence further shows that these employees specialize in refrigerated equipment: its movement and placement, and maintaining the cleanliness of the equipment. As such, the washer/operator performs duties similar to operators in other operational divisions. Finally, the washer/operator shares the same working conditions as all other employees included in the broader unit.

We also find, based on the record evidence, that the Employer's employees in the traffic, data processing, insurance, and administration departments do not share a community of interest with the other employees. As discussed above, while these employees are located at the 821 Avenue E facility, they are primarily concerned with paperwork, recordkeeping, administration, and with respect to traffic, the sales and marketing requirements of the Employer's business. Unlike, for example, the checkers or documentation clerks, the traffic, data processing, insurance, and administrative employees do not physically follow the freight, nor are they located in the areas where freight is handled. Further, they have little or no contact, or inter-

change, with the included employees, and their skills—typing, filing, computer, and administrative—are more accurately described as office clerical. We therefore find them to be office clerical employees, and we shall exclude them from the unit we find appropriate. See, e.g., *Victory Grocery Co.*, 129 NLRB 1415, 1417 (1961).

Based on a consideration of all of the evidence, we conclude that the facts of this case do not support a finding that a separate warehouse unit is appropriate. We therefore find the broader unit, described below, is appropriate.

In view of the foregoing, and as the Petitioner has not indicated that it will not proceed to an election in the broader unit found appropriate, we order that the election conducted 17 September 1982 be vacated and direct an election in the unit we find appropriate, as described below:¹⁵

¹⁵ As the unit we find appropriate is larger than that requested, the Petitioner is accorded a period of 10 days in which to submit the requisite showing of interest to support an election. In the event the Petitioner

All full-time and regular part-time employees of the Employer in the following operational divisions: receiving and handling (outbound), receiving and handling (inbound), stevedoring, equipment control, reefer control, container repair, Shop I, Shop II, marine, and maintenance at its Riviera Beach, Florida, facilities, excluding all traffic employees, data processing employees, insurance employees, administrative office employees, office clerical employees, guards, and supervisors as defined in the Act.

ORDER

It is hereby ordered that the election conducted on 17 September 1982 is vacated.

[Direction of Election and *Excelsior* footnote omitted from publication.]

does not wish to proceed to an election, it may withdraw its petition without prejudice by notice to the Regional Director within 7 days from the date of this Decision on Review, Order, and Direction of Election.