

Genuine Parts Company d/b/a Napa Columbus Distribution and Automotive Parts Company and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, Petitioner. Case 9-RC-14306

17 April 1984

DECISION ON REVIEW, ORDER, AND DIRECTION OF ELECTION

BY MEMBERS ZIMMERMAN, HUNTER, AND DENNIS

On 25 August 1983 the Regional Director for Region 9 issued a Decision and Direction of Election in the above-entitled proceeding in which he found appropriate a unit consisting of all warehouse employees at the Employer's Columbus, Ohio distribution center facility.¹

In so finding, the Regional Director rejected the Employer's contention that the appropriate unit must also encompass all local department store employees and jobber delivery drivers. Thereafter, in accordance with Section 102.67 of the Board's Rules and Regulations, the Employer filed a timely request for review of the Regional Director's decision. The Employer alleged that there were erroneous findings of fact and a departure from official precedent in the Regional Director's decision.

By telegraphic order on 22 September 1983 the request for review was granted. Pursuant to the Board's procedures² the election was held 22 September 1983 and the ballots were impounded pending decision on review. The Employer filed a brief on review.

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

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

The Employer is engaged in the warehousing and distribution of automotive replacement parts at its Columbus, Ohio distribution center and 19 local sales outlets in the Columbus area.³ Sales are to

¹ The specific unit found appropriate by the RD is as follows: All warehouse employees employed at the Employer's Columbus, Ohio distribution center facility including stock clerks, shipping clerks, the invoice control clerk, customer pick-up/will call clerks, perpetual inventory clerks, receiving clerks, returned goods notice (RGN) clerks, jobber service clerks, special order clerk, inventory clerks, RGN factory billing clerk, back order clerk, catalog clerks, stock clerk/relief driver, shipping clerk/relief driver, and jobber service delivery driver, but excluding all jobber delivery drivers, all local department store employees, office clerical employees, professional employees, guards and supervisors as defined in the Act.

² Sec. 102.67(b) of the Board's Rules and Regulations.

³ The largest of these local outlets, known as the main counter, is located within the distribution center itself.

both wholesale and retail customers. All local stores are located within 16 miles of the distribution center and carry the same product line. The stores are in constant communication with the distribution center in order to keep the line supplied, and deliveries from the center to the stores occur daily. There is no history of collective bargaining.

The Petitioner initially filed an election petition seeking a unit of all warehouse employees at the distribution center, *including* those employees at the main counter sales store located within the distribution center. During the hearing in this case, however, the Petitioner requested, and was granted, permission to amend its petition to exclude the employees at the main counter store from the petitioned-for warehouse employee unit.⁴ At the hearing the Petitioner also indicated its willingness to proceed to an election in any unit found appropriate by the Board.

The Employer contends that a separate unit of only warehouse employees is inappropriate due to the high degree of functional integration throughout the Employer's entire Columbus operation, the centralized administration and supervision of business and labor relations policies, the corresponding lack of significant authority possessed by immediate supervisors either within the distribution center or at the individual stores, and extensive employee interchange throughout all areas of the Employer's operation. Due to these factors the Employer contends that the only appropriate unit must consist of warehouse employees, jobber delivery drivers,⁵ and all local store employees.⁶ We find merit in these contentions.

1. For a separate warehouse unit to be appropriate, the petitioned-for employees must form a distinct and identifiable administrative segment of an employer's operation that is devoted essentially to warehousing functions. Further, the employees in such a petitioned-for unit should be under separate supervision, should 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 should not be integrated, to any substantial degree, with employ-

⁴ There are approximately 95 employees in the petitioned-for warehouse unit.

⁵ There are approximately 10 jobber delivery drivers. Their primary function entails delivering goods overnight from the distribution center to the Employer's unaffiliated jobber customers, who in turn sell the products independently on a retail basis. These deliveries are made throughout Ohio and West Virginia.

⁶ There are approximately 185 employees in the overall, multifacility unit which the Employer claims is appropriate: 95 in the warehouse facility at the distribution center; 14 at the main counter retail store at the distribution center; 10 jobber delivery drivers; and approximately 3 or 4 employees at each of the other 18 geographically separate local stores.

ees in other divisions in the performance of their ordinary duties.⁷

In concluding that a separate warehouse unit was warranted, the Regional Director relied on his findings that the warehouse employees are the only employees engaged in traditional warehousing functions, are under separate immediate supervision from the Employer's other workers, and perform their duties in a facility separate and apart from those of the Employer's retail store outlets. In addition, the Regional Director found that there is little face-to-face contact between local store personnel and the warehouse employees, that the local store employees are engaged in different work functions—primarily customer service and sales—and that the jobber delivery drivers, whom the Employer also seeks to include, do not work at the distribution center with warehouse employees.

Unlike the Regional Director, we find that the record establishes that employees of the Employer other than the warehouse employees perform warehouse work. While the record reveals that the warehouse employees do the large majority of warehousing functions at the Employer's distribution center, the record also establishes that other employees frequently assist in this work, and further, that the duties of the local store employees primarily involve these same warehouse-type activities. Both the distribution center and the local stores, which are arranged and stocked as smaller versions of the distribution center, service predominantly wholesale customers. Both the petitioned-for warehouse employees and the local store employees are responsible for receiving orders, pulling the desired items from the stockroom shelves, packing the items, and checking that the order is filled correctly.⁸ Additionally, when local store driver stock clerks⁹ deliver larger or more specialized items to a store's customer, the driver often assists warehouse employees at the distribution center, where such items are housed, in pulling and loading these items onto the delivery truck. The record also establishes that main counter employees, who work in the same building as the warehouse employees, are frequently required to enter the warehouse area and pull stock to help fill orders for both main

counter and local store customers.¹⁰ Occasionally, jobber delivery drivers, whose work emanates from the distribution center, also perform warehouse-type work in that they assist warehouse employees in loading delivery trucks.

With regard to supervision of the warehouse employees, the record reveals a highly centralized control of personnel and business decisions by General Manager Garvin and Operations Manager Pederson. Although the nature of the operation requires each local store (including the main counter) and the warehouse to have separate line supervisors,¹¹ the autonomy of these supervisors is limited to routine daily matters. Although they can recommend discipline of employees, all final decisions with regard to these and other personnel matters are made by Garvin or Pederson. In addition, Garvin and Pederson are in constant contact with the warehouse supervisors, as is Local Store Operations Manager DeGroot with the local store supervisors. Finally, the Employer is committed to a policy of companywide bidding for promotions. Thus, Garvin and Personnel Manager Auman determine which, if any, employees will be added to the stores or warehouse departments. In these circumstances, where the supervisory authority of warehouse and local store supervisors is limited to routine matters, and all significant personnel practices and corresponding personnel policies are implemented and controlled by higher management, we find that the existence of separate immediate supervision for the warehouse employees is not a controlling factor in our determination of the appropriate unit.¹²

Finally, contrary to the conclusion reached by the Regional Director, the workplace of the warehouse employees is not separate and distinct from that of other employees. Both the main counter employees and jobber delivery drivers share a common breakroom, access to vending machines, employees' entrance, and parking area with the warehouse employees. More importantly, both frequently work with the warehouse employees or in the latter's workplace. Thus, the 13 main counter employees spend approximately half of their work time in the warehouse itself. There, among other duties, they pull their own orders or assist warehouse employees in filling orders. In turn, warehouse employees, on occasion, have assisted main

⁷ *A. Harris & Co.*, 116 NLRB 1628, 1632 (1956); see also *Gustave Fischer*, 256 NLRB 1069, 1072-73 (1981).

⁸ At the distribution center, which is a much larger operation, different employees perform each of the receiving, pulling, packing, and checking functions, while at the local store one employee may complete a single order. However, the record demonstrates that they are performing the same tasks as the distribution center employees.

⁹ This is a category of local store employees who delivers items from either local stores or the distribution center to the Employer's local customers.

¹⁰ At the hearing, two main counter employees, Power and Carrell, testified that they regularly spend at least half of each day in the stock room, pulling orders.

¹¹ In this regard, the warehouse is divided into four distinct departments each with its own manager.

¹² We note also that the jobber delivery drivers whom Petitioner seeks to exclude from the petitioned-for warehouse unit are actually grouped with the warehouse employees for purposes of supervision.

counter employees in taking orders and answering telephones at the main counter.

Similarly, jobber delivery drivers spend part of their workday with the warehouse employees. These drivers report to work at the shipping area where warehouse workers are loading the jobber trucks. They often assist the warehouse employees in loading the trucks, and occasionally enter the warehouse to help the latter move larger, heavier items.

In light of the foregoing, especially the high degree of contact between warehouse and distribution center employees and jobber delivery drivers, the extensive integration of warehousing functions among warehouse employees and local store employees, the lack of significant separate administrative control and supervision of warehouse employees, and the location of the warehouse in the same building as the main counter employees, we find that the warehouse employees do not have a community of interest sufficiently distinct and separate from other employees to warrant the placement of these warehouse employees in a separate unit.¹³

2. The Employer contends that the appropriate unit should include, inter alia, all warehouse and local store employees employed in the Columbus area. We find merit in this contention. When considering a multifacility operation such as in the instant case, the well-established Board policy is to find a single-facility unit presumptively appropriate. This presumption can only be overcome by a showing of functional integration so substantial as to negate the separate identity of the single-facility unit. In making findings on this issue, the Board looks to such factors as central control over daily operations and labor relations, skills and functions of the employees, general working conditions, bargaining history, employee interchange, and geographic location of the facilities in relation to each other.¹⁴

Based on the facts discussed below, we find that the presumption favoring a single-facility unit has been rebutted by the high degree of functional integration, centralized control and uniform application of all labor relations policies, procedures, and practices of the Employer's operation, frequent temporary interchange and permanent transfer of employees, and the similarity of employee skills and working conditions at the distribution center and in all the local stores. We further find that these factors establish that a multifacility unit including at

least the warehouse and all local store employees (including the main counter employees) would be appropriate.¹⁵

Control over the Employer's daily operations and labor relations/personnel matters throughout its 19-location Columbus facility is highly centralized, due largely to the extensive functional integration of the Employer's operation. The local stores are totally dependent on the distribution center. All the local stores are linked by the computerized Total Automotive Management Systems (TAMS), which automatically replenishes local store inventory with distribution center stock on a daily basis, and which assists in filling orders for goods that a particular store may not have by locating the goods at the distribution center or another local outlet and by processing all orders so that each customer receives its order at its designated price.¹⁶ The TAMS system enables the Employer to meet any order at any local store on a daily basis, whether or not that store has the requested goods in stock. The system allows central management to monitor the sales and turnover of inventory at each local store from the distribution center. Credit and customer billing functions, sales promotions and pricing, advertising, product line decisions, payment of all expenses including bills and taxes, and the handling of correspondence for all the local stores are done at the distribution center. In addition, Local Store Operations Manager DeGroot is in constant personal contact with the local stores, spending approximately half of each workday visiting these locations.

Furthermore, as noted previously, supervisors at the local stores and the warehouse lack authority to deal with labor relations matters. All decisions regarding the hiring, firing, disciplining, or promotion of warehouse or local store employees are made by central management. Local store supervisors may recommend discipline, but General Manager Garvin and Local Store Operations Manager DeGroot make all final decisions regarding discipline based on their own independent investigation. With regard to hiring, local stores may not even take employment applications; instead, applicants are referred to the distribution center.

The evidence also establishes that uniform personnel policies and procedures exist for the Columbus area employees. All local store and warehouse

¹³ Cf. *Wickes Furniture*, 255 NLRB 545 (1981), and cases cited therein (separate warehouse units found appropriate on materially distinct facts).

¹⁴ *Orkin Exterminating Co.*, 258 NLRB 773 (1981); see also *Second Federal Savings & Loan*, 266 NLRB 204 (1983); *Petrie Stores Corp.*, 266 NLRB 204 (1983).

¹⁵ We note that the Regional Director reached a similar conclusion with regard to the instant Employer in *Napa Distribution Center - Nitro*, Case 9-RC-13181 (1980), involving six geographically separate local stores which functioned identically to those in the instant case. There the Regional Director found that only a multistore unit was appropriate.

¹⁶ The Employer has a coded pricing system based on volume of sales to its wholesale customers. The TAMS system produces the invoice for each individual order.

employees appear to have basically the same skills and functions. No position requires any special training or background. The record neither establishes nor implies any significant disparity in the general working conditions between the distribution center and any of the 19 local facilities. All employee records are kept in the personnel manager's office at the distribution center and all payroll functions are administered there as well. All new employees participate in the same orientation program regardless of the department to which they are assigned. All employees are entitled to the same holiday and vacation benefits, overtime policy, insurance, employee merchandise discounts, pension plan coverage, stock options, holiday hams and turkeys, and participation in the Employer's credit union. All employees have received the same across-the-board pay increases for the past several years, and are hourly paid; and the wages of warehouse and local store employees are similar.¹⁷

Temporary interchange of employees within the Employer's Columbus operation is frequent. Employees were temporarily assigned between the local stores and the distribution center a total of 1967.2 hours in the year prior to the hearing and 1845 hours in the preceding year.¹⁸ Additionally, driver/stock clerks (local store employees) make an average of five trips per day to the distribution center, where they spend an approximate total of 1 to 1-1/2 hours. These trips to the distribution center result in daily personal contact between these driver/stock clerks and the distribution center employees both at the main counter and in the warehouse. Occasionally, the driver/stock clerks will assist at the main counter while waiting for stock.

There also is a significant amount of permanent job transfer between locations. Of the current distribution center employees, 16 have previously worked in a local store, while 57 of the approximately 85 local store employees have previously worked in the distribution center. This high degree of job transfer is ongoing, due to the Employer's companywide job-bidding policy. That policy requires that a job opening anywhere in the Columbus operation must first be offered to the current employees, with a uniform seniority-based formula used to determine how the open position is to be filled.

As noted, the 19 local stores are within 16 miles of the distribution center. Some of the local stores

are within 1 mile of the distribution center and/or each other. There is no bargaining history for any of these stores or the warehouse.

3. In excluding the 10 jobber delivery drivers, the Regional Director found that they lacked a sufficient community of interest with warehouse employees to be included in the unit he found appropriate. The Employer contends that the Regional Director failed to give proper weight to other substantial evidence, made certain erroneous factual findings, and departed from precedent in excluding the jobber delivery drivers. For the reasons discussed below, we find, contrary to the Regional Director, that the jobber delivery drivers must be included in the unit found appropriate.

Where warehouse employees and truck drivers share a sufficient community of interest they may be included in the same appropriate unit.¹⁹ Further, such employee groups may be so united in interest as to make separate units inappropriate.²⁰

The record establishes that the jobber delivery drivers are paid hourly, receive their paychecks on the same companywide payday as all other employees, and receive a wage rate which is not substantially higher than that of other employees.²¹ The drivers are immediately supervised by the stockroom manager who also supervises approximately 70 percent of the warehouse employees. The drivers share the same workplace with warehouse employees, to the extent that the drivers report to work at the same platform where the warehousemen are loading the drivers' trucks for delivery. Drivers spend 1 to 1-1/2 hours daily at the loading platform. They also share breakroom, parking, and other facilities with distribution center employees. The record reveals that the drivers work with the warehouse employees on a daily basis, sharing the duties of loading the trucks. While drivers are, naturally, primarily involved in driving trucks and spend much of their work time away from the warehouse distribution center, they

¹⁹ See, generally, *Ives Business Forms*, 263 NLRB 286 (1982); *Institutional Food Services*, 258 NLRB 650 (1981); and *Big Buck Lumber*, 241 NLRB 639 (1979) (separate units combining warehousemen and truckdrivers found appropriate, but overall units of all employees found not appropriate; compare these cases to the instant case in regard to appropriateness of overall unit).

²⁰ See *Los Angeles Herald-Examiner*, 200 NLRB 475 (1972) (separate unit of only local truckdrivers inappropriate; long history of bargaining in overall unit and community of interest with other employees in broader unit). Cf. *Memphis Furniture Mfg. Co.*, 259 NLRB 401 (1981) (separate unit of over-the-road truckdrivers found appropriate). The delivery drivers in *Memphis Furniture*, for whom a separate unit was found, had no contact at all with warehouse employees, performed no warehousing functions, were supervised separately, were paid on a mileage basis, worked different hours, and spent 95 percent of their hours away from the jobsite.

²¹ The rate for driver is \$9.15 per hour, whereas the rate for other employees is approximately \$7 per hour.

¹⁷ The wage rate for warehouse and local store employees ranges from \$6.72 to \$7.19 hourly, dependent on the department to which the employee is assigned.

¹⁸ As seen, there are approximately 185 employees in the multifacility unit which we find appropriate in this case.

do perform similar warehousing functions in the course of making their deliveries. Jobber delivery drivers personally unload the ordered goods at each stop and pick up customer order forms for the next day's deliveries. The drivers have further face-to-face contact with warehousemen at the close of their shifts, while relaxing in the breakroom.

The drivers receive the identical benefit package shared by all other employees, as detailed above, including participation in the job change bidding system. It is through this system that the drivers generally attain their positions, as 9 of the 10 jobber delivery drivers were formerly warehouse or local store employees. In addition to this extensive evidence of permanent transfer there is a high degree of temporary interchange between warehouse employees and the delivery drivers. Two warehouse employees, the stock clerk/relief driver and the shipping clerk/relief driver, are frequently required to substitute for the regular jobber delivery drivers. Indeed, the record establishes that these warehouse employees spend 50 percent and 30 percent of their worktime, respectively, substituting as jobber delivery drivers.

Based on the above considerations—particularly the substantial daily contact, frequency of both temporary and permanent interchange, equality of benefits, and commonality of certain job functions—we find that it would be inappropriate to exclude the jobber delivery drivers from the overall plantwide multilocation unit found appropriate in this case.²²

Because the plantwide, multifacility unit found appropriate is substantially larger than the warehouse unit found appropriate by the Regional Di-

²² In a decision involving the same parties at the Employer's Cincinnati facility, where the jobber delivery drivers performed tasks identical to those performed by the jobber delivery drivers in the instant case, the Regional Director found the jobber delivery drivers to be appropriately included in an overall plantwide distribution center unit. *Napa Cincinnati Distribution Center*, Case 9-RC-11352 (1976).

rector,²³ the election conducted on 22 September 1983 must be vacated.²⁴ But because the Petitioner has indicated its willingness to proceed to an election in any unit found appropriate, we shall direct that an election be held in the following unit which we have found appropriate:²⁵

All warehouse employees employed at the Employer's Columbus, Ohio, distribution center facility including stock clerks, shipping clerks, the invoice control clerk, customer pick-up/will call clerks, perpetual inventory clerks, receiving clerks, returned goods notice (RGN) clerks, jobber service clerks, special order clerk, inventory clerks, RGN factory billing clerk, back order clerk, catalog clerks, stock clerk/relief driver, shipping clerk/relief driver, and jobber service delivery driver; all local department store employees in the Columbus operation including stock clerks, driver/stock clerks and shop persons, and all jobber delivery drivers, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

ORDER

The election conducted on 22 September 1983 is vacated.

[Direction of Election omitted from publication.]

²³ The unit found appropriate here is approximately twice as large as the unit found by the Regional Director.

²⁴ See *Avon Products*, 262 NLRB 46 (1982).

²⁵ As the unit found 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 does not wish to proceed with an election, it may withdraw its petition without prejudice by notice to the Regional Director within 7 days from the date of this Decision.

We note that no party requested review of the Regional Director's determination that the shipping supervisor, the stock supervisor, and the receiving supervisor should be permitted to vote subject to challenge. Accordingly, they shall vote subject to challenge in this election.