

**Disneyland/Div. of Walt Disney Co. and Merchandise Service Union, Petitioner.** Case 21-RC-19057

September 25, 1992

ORDER AFFIRMING DISMISSAL

BY MEMBERS DEVANEY, OVIATT, AND  
RAUDABAUGH

The Board has delegated its authority in this proceeding to a three-member panel, which has considered the Petitioner's request for review of the Regional Director's administrative dismissal of the instant petition.<sup>1</sup> The request for review is denied as it raises no substantial issues warranting reversal of the Regional Director's action. Accordingly, the Regional Director's dismissal of the petition is affirmed.

<sup>1</sup> Relevant portions of the Regional Director's dismissal letter are attached.

APPENDIX

As a result of the investigation, it does not appear that further proceedings on the petition are warranted inasmuch as there is an insufficient basis to sever the proposed unit of merchandise employees and merchandise marker employees from the existing facility-wide unit presently covered by the

current collective-bargaining agreement, which unit has been recognized for over 35 years. In this regard, the Board is reluctant to alter bargaining units where they are supported by a long established bargaining history. *Supermercados Pueblo*, 203 NLRB 629, 630 (1973), and *Motor Wheel Corp.*, 234 NLRB 358 (1978).

The investigation further discloses that, pursuant to the current collective-bargaining agreement, all the employees covered by the agreement share the same benefits, including paid holidays, vacation accrual, pension, health and welfare, uniforms, shift differential, and sick leave. Further, the wages of the merchandise employees and merchandise marker employees are similar to those of the other classifications encompassed by the contract. The investigation also disclosed that the operation of the Employer's theme park is functionally integrated, and that merchandise that is offered for sale at its retail locations is received and unloaded by shipping and receiving employees at the warehouse, priced by the merchandise marker employees, and the merchandise is then delivered by shipping and receiving employees to the merchandise employees at various retail sales locations throughout the theme park. Thus, the petitioned-for unit employees do not constitute a separate and distinct organizational department or a distinct or homogeneous group of employees. *Motor Wheel Corp.*, supra at 361. Inasmuch as the longstanding bargaining history supports the parkwide unit and the community of interest shared by the unit employees mitigates against carving out a portion of the unit, I am dismissing the petition in this matter.