

PECO Energy Company and Local Union 94, International Brotherhood of Electrical Workers, Petitioner and Utility Workers of America, AFL-CIO, Petitioner. Cases 4-RC-18572, 4-RC-18573, and 4-RC-18589

February 14, 1997

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN GOULD AND MEMBERS FOX AND HIGGINS

Upon petitions for elections filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held on various dates from March to September 1995 before a designated hearing officer of the National Labor Relations Board. On October 26, 1995, pursuant to Section 102.67(h) of the Board's Rules and Regulations, the cases were transferred to the Board for decision.

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

Having carefully reviewed the entire record in this proceeding, including the posthearing briefs filed by all the parties, the Board makes the following findings:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organizations involved claim to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

PECO Energy Company (PECO) is a Delaware corporation engaged in the generation, transmission, distribution, and sale of electricity, as well as the transmission, distribution, and sale of gas. Its principal office and place of business is located in the greater Philadelphia, Pennsylvania area. In Case 4-RC-18572, Local Union 94, International Brotherhood of Electrical Workers (IBEW) seeks to represent a unit of about 74 craft and technical employees at PECO's Cromby generating station. In Case 4-RC-18573, IBEW seeks to represent a unit of about 211 craft and technical employees at PECO's Eddystone generating station. Alternatively, IBEW would agree to a unit consisting of craft and technical employees in PECO's Power Generation Group. This unit includes Cromby, Eddystone, and PECO's other nonnuclear generating stations. In Case 4-RC-18589, Utility Workers Union of America, AFL-CIO (UWUA) seeks to represent a production and maintenance unit of about 978 employees in PECO's nuclear generation group. The nuclear

generation group includes employees at PECO's Peach Bottom and Limerick nuclear generating stations as well as various employees at its Chesterbrook facility, including its nuclear maintenance division employees, and corporate labs employees located at its Valley Forge facility. PECO contends that only a systemwide unit of about 4000 employees is appropriate.

All parties agree that all professional, supervisory, and managerial (PSM) employees should be excluded from any appropriate unit. The parties, however, disagree over the placement of numerous individuals and classifications such as technicals, operators, and clericals.

Appropriate Unit Issue

I. OVERALL DESCRIPTION OF THE EMPLOYER

PECO (known until January 1, 1994, as the Philadelphia Electric Company) is an investor-owned public utility. Its 1.5 million customers are located in Philadelphia and in the four surrounding Pennsylvania counties of Bucks, Chester, Delaware, and Montgomery. PECO is the sole provider of electric power in these areas, and is the sole provider of gas power in the four counties surrounding Philadelphia. It does not provide gas service in Philadelphia. PECO's headquarters are located at 2301 Market Street in Philadelphia. It also maintains office complexes at Chesterbrook and Berwyn.

The Company is managed at the corporate level by five governance committees, each of which consists of the Company's chairman, Joseph Paquette, its president, Corbin McNeil, and one of the five senior vice presidents. These five senior vice presidents, in different combinations depending on the committee's area of responsibility, are also members of the following committees: the long-range planning/financial policy committee, the regulatory/public policy committee, the strategic business unit performance committee, the human resource policy committee, and the management development committee.

PECO has about 6500 employees, of whom about 4000 are covered by the craft, technical, administrative, and clerical pay plan (CTAC) and about 2500 are PSM employees. CTAC employees are hourly employees. PSM employees are salaried. PECO operates and maintains 13 electric generating stations, 1 gas plant, about 40 service buildings, and 10 support buildings, in addition to 150 major substations and high voltage transmission lines (66,000 volts and above) and another 300 smaller substations and lower voltage lines (less than 66,000 volts). Of the 13 electric generating stations, 10 are staffed (Conowingo, Cromby, Croydon, Delaware, Eddystone, Limerick, Muddy Run, Peach Bottom, Richmond, and Schuylkill), and 3 are not (the Moser, Southwark, and Chester combustion turbine stations).

II. THE EMPLOYER'S REORGANIZATION INTO SEPARATE STRATEGIC BUSINESS UNITS

Beginning in 1993, PECO (then the Philadelphia Electric Company) undertook a reorganization which resulted in the creation of five strategic business units (SBUs): the consumer energy services group, the power generation group, the nuclear generation group, the bulk power enterprises group, and the gas services group. The consumer energy services group distributes energy products and services to retail customers. This group's gas and electric crews work out of PECO's service buildings maintaining distribution lines and responding to customer calls. The power generation group operates PECO's fossil, hydro, pumped storage, and combustion turbine generating units. The nuclear generation group operates PECO's two nuclear generating stations. The bulk power enterprises group markets and sells energy products to wholesale customers. The gas services group manages PECO's natural gas business. This group includes employees who operate PECO's West Conshohocken gas plant and the gas dispatch employees who work on installation projects and other assignments.

The power generation group (PGG) consists of three unstaffed generating stations and the following eight staffed generating stations. The Cromby station, in Phoenixville, Pennsylvania, with a 350 megawatt capacity, has one coal unit and one gas/oil unit. The Eddystone station, in Eddystone, Pennsylvania, with a capacity of 1400 megawatts, has two coal and two gas/oil units. The Delaware station, in Philadelphia, Pennsylvania, with a 330 megawatt capacity, has two oil units. The Schuylkill station, also in Philadelphia, with a 200 megawatt capacity, has one oil unit. The Richmond station, also in Philadelphia, with a 30 megawatt capacity, has two combustion turbines. The Croydon station, in Croydon, Pennsylvania, with a megawatt capacity of 150, has 10 combustion turbines. The Conowingo station, in Conowingo, Maryland, with a 560 megawatt capacity, has 11 hydro units. The Muddy Run station, in Muddy Run, Pennsylvania, with a 900 megawatt capacity, has eight pumped storage (hydro) units.

The nuclear generation group (NGG) consists essentially of two nuclear generating stations, the nuclear maintenance division, and the Valley Forge corporate labs. These two nuclear stations, Peach Bottom in Delta, Pennsylvania, and Limerick in Limerick, Pennsylvania, both have a megawatt capacity of 2100, and two enriched uranium units.

Each generating station produces power for transmission through PECO's grid to any customer no matter where located. No station or group of stations serves a particular market or geographic area.

Various work groups are responsible (in conjunction with personnel at the stations) for installing, monitor-

ing, testing, and repairing specific components of the system in and around some or all of PECO's 13 generating stations. Thus, the boiler group located at Eddystone is responsible for the boilers at all of the generating stations. The reactor services group, part of the Nuclear Maintenance Division based or "flagged" at Chesterbrook, is responsible for the generating unit reactors, and therefore spends most of its time at Peach Bottom or Limerick. The turbine generator services group, also part of the nuclear maintenance division at Chesterbrook, is responsible for turbines, generators, and associated systems at all of the generating stations. When they are not on an outage (planned or unplanned) assignment at a nonnuclear station, the members of this group also work at Peach Bottom and Limerick. The batteries, transformers, major transmission lines, and substations are the responsibility of the transmission and substations group (also known as the Hi Volt group). Its members work primarily out of the overhead transmission center in Berwyn. The combustion turbine group stationed at the Richmond generating station is responsible for combustion turbines; meters are handled by the consumer energy measurement services group from Berwyn. The nuclear maintenance division testing group located at Valley Forge tests relays, switches, and associated equipment at all of the generating stations. Analogous equipment on transmission lines and substations is tested by the power delivery testing group, which also works out of Valley Forge. Underground cable is the responsibility of a crew located at South Philadelphia, while Oregon Shops, also in South Philadelphia, handles specialized machinery and fabrication work. Corporate labs, at Valley Forge, is responsible for chemistry, metrology (weights and measures), and metallurgical testing. When employees from other locations perform work at a generating station, they do not usually work under local supervision.

PECO's entire system is regulated by system operations, a part of the bulk power enterprise group which occupies a control center on the second floor of PECO's main office building in Philadelphia. Systems operations determines how much power is to be produced at each station, which substations are to be in service or out for maintenance, which transmission lines are to be used and at what capacity, and which units or lines may be placed out of service for maintenance or modification. System operations controls the 5-year schedule for maintenance and refueling outages at each generating unit. It also monitors, at 3-second intervals, the generation of power and its flow through PECO's grid system.

III. SUPPORT SERVICES

In addition to the SBUs, the reorganization yielded seven support organizations which make up central

services and the corporate center. These organizations are corporate and public affairs, human resources, finance, the legal department, quality management, information systems, and support services. Support services, in turn, includes transportation, central stores, fire protection, the Oregon maintenance shops, purchasing, and resource recovery. Resource recovery is located at the Berwyn complex, and is responsible for identifying excess or obsolete material and either finding a use for it within PECO or selling it.

PECO has a number of human resource and labor relations policies that apply throughout the Company. There is one job classification and wage program (including a uniform annual increase) for the hourly employees. Job classifications are generally not based on work location. Several job classifications at the various stations are nearly identical: maintenance technician, plant operator, control room operator, instrument and control technician, and technical assistant. However, certain positions at Peach Bottom and Limerick receive a "nuclear premium," currently 5 percent, and those plants have some job classifications not found elsewhere at PECO. Sick leave policies, including the monitoring of treatment and time of return, are managed centrally. There is a corporatwide (permanent) transfer policy. Other centrally administered functions include corporate and public affairs, legal, information services, drug and alcohol testing, affirmative action, worker's compensation, and occupational health and safety. No employee can be discharged without the approval of PECO's senior vice president for human resources.

IV. POSITIONS OF THE PARTIES

The IBEW petitioned for an Eddystone unit of craft and technical employees, including operators, and excluding office clerical employees, management employees, professional employees, guards, and supervisors. It also petitioned for a Cromby unit with the same inclusions and exclusions. The IBEW has taken the position that other employees who are part of support groups or other PECO entities and who on occasion work at Eddystone or Cromby should be excluded because they do not share a community of interest with the unit employees. Although it petitioned for an Eddystone unit and a separate Cromby unit, the IBEW has taken the alternative position that it would accept a unit consisting of the same types of employees throughout the power generation group (that is, at all of PECO's nonnuclear electric generating stations). The UWUA seeks a unit of all production and maintenance employees in the nuclear generation group. PECO's position is that only a systemwide unit is appropriate, and that it should include employees from support groups who are sometimes assigned to work at the generating stations.

PECO argues that, because it is a public utility whose components form an integrated operation with common labor relations policies, only a systemwide unit is appropriate. In this regard, PECO relies on Board precedent, especially *Baltimore Gas & Electric Co.*, 206 NLRB 199 (1973).

PECO stresses that the power generated by each station goes directly into one service grid for all its customers. No station or group of stations serves a particular market or geographic area and no station decides the timing or amount of its power production (system operations makes these decisions) or to whom its power is distributed or sold. PECO also notes that it charges one rate, subject to approval by Pennsylvania's Public Utility Commission, for its service, regardless of the costs associated with the particular assets or resources used to produce the power. The generating stations produce power when called on to do so by system operations and much of the responsibility for installing, monitoring, testing, and repairing this equipment is borne by work groups on a systemwide basis.

As to labor relations, PECO emphasizes that there is one job classification and wage program for all hourly employees and that what it calls the "basic" job classifications (maintenance technician, plant operator, control room operator, instrument and control technicians, and technical assistant) in the various stations are virtually identical. PECO notes that all medical and retirement benefits, paid time off, and overtime policies are identical for hourly employees throughout the system. In general, managers at individual plants have little or no control over the terms and conditions of employment. PECO also contends that, in addition to the mobile work groups, such as the boiler repair group at Eddystone and the hi volt group at Berwyn, discussed supra, employees from other work locations are often assigned to work temporarily at a generating station (especially during outages). PECO also notes that there is regular and substantial permanent transfer of employees among different work locations.

PECO also argues that, just as individual units at Cromby and Eddystone would be inappropriate, so would a unit based on the power generation group, which, PECO states, is also under the control of system operations, does not serve a particular geographic area or market, and has much of its equipment maintained and tested by employees from outside the group. PECO further maintains that the power generation group is not a well-defined administrative unit segregated from the rest of the Company. Rather, like the other SBUs, the group is a collection of worksites grouped together largely for cost accounting and accountability reasons. PECO contends that the advent of SBUs has not changed its human resource and labor relations policies. Senior Vice President of Human Re-

sources William J. Kaschub testified that the reorganization went largely unnoticed by employees. PECO also argues that basing bargaining units on SBUs would yield some anomalous units because such units would contain some employees who have less contact with other unit employees than they have with nonunit employees such as Oregon Shops employees who would be excluded from the unit.

Finally, PECO argues that systemwide units in this industry are still optimal in light of governmental regulations which apply to the entire system of a utility employer. Further, even assuming arguendo that there is a future trend toward deregulation or decentralization of the industry, PECO argues that such changes are speculative, and that they do not contemplate any departure from the fundamental premise that utilities operate in an integrated manner in all respects, i.e., from the generation of power to the sale and transmission of power.

IBEW argues that, in light of the substantial amount of deregulation (and resulting increased competition) in the utility industry, the Board should abandon the view that systemwide units in that industry are optimal. IBEW further maintains that, even if the Board were to apply its traditional analysis to this case, a systemwide unit would not be required.

IBEW points out that Eddystone and Cromby each have broad authority to control working conditions, employee schedules, and methods of operation. It cites the testimony of Eddystone Plant Manager A. J. Elmy that he has little or no contact with management outside the power generation group. IBEW notes that when the boiler repair group, housed at Eddystone, travels to other stations to repair internal parts of furnaces or boilers, its supervisor accompanies the group and supervises their work. Moreover, Eddystone is paid by the other stations for the repairs the boiler repair group has performed. IBEW contends that, although the recent reorganization and downsizing of the Company's work force has caused employees to seek opportunities in different parts of the Company, such movement of personnel is not true interchange in an operational sense because it involves the permanent transfer of employees. As for employees temporarily working at another location, IBEW maintains that such interchange is unlikely in view of the record testimony that each boiler unit in operation at Eddystone and Cromby has separate qualification testing for its operating classifications. Moreover, IBEW argues that several PECO exhibits, intended to show substantial interchange among Cromby, Eddystone, and other locations, should be accorded little weight because, among other things, they include many PSM employees.

IBEW contrasts PECO's current structure with its structure before the reorganization. As an illustration, IBEW describes Oregon Shops, an entity which now

consists of one building with about 80 craftsmen. Its services are limited to specialized fabrication and repair, and it bids against outside vendors for work requisitions from PECO operating units. A unit that awards work to Oregon Shops has a charge entered against its budget, and Oregon Shops shows revenue from the sale. Previously, Oregon Shops had more than 1000 workers, including boiler repair mechanics, instrument and control technicians, machinists, pipefitters, electricians, riggers, and welders. These employees provided maintenance and craft services for all of the company's facilities, with no charges made to the receiving units.

IBEW put into evidence numerous issues of Perspectives, PECO's employee newsletter, reporting on the reorganization. The newsletter includes statements by high-ranking company officials to the effect that, owing to deregulation and increased competition, the Company must become a multibusiness organization and that each business unit must concentrate its efforts on achieving the maximum return for the Company. The change required is depicted as a "radical cultural change" in the business. Each strategic business unit is said to have been designed to operate as an individual profit center.

IBEW notes that the senior vice president for each SBU reports to PECO's chief operating officer, while the senior vice presidents for the legal department, human resources, corporate and public affairs, and finance report to the chief executive officer. This distinction, IBEW maintains, recognizes the difference between operational and nonoperational functions. IBEW argues that each SBU is largely independent in direction and operation. It notes that, as part of the reorganization, each SBU (unlike the central services and the corporate center functions) was required to develop a vision statement and a mission statement, highlighting the separate responsibilities and goals of each SBU.

IBEW cites the April 26, 1994 issue of Perspectives, which states that scope of work, job titles, skill levels required, and perhaps even working hours may differ in each SBU, and that each SBU has been charged with positioning itself to address better the needs of its customers and its regulatory focus. IBEW states that the reorganization has included the development of agreements governing the interaction between SBUs and the support groups which, like Oregon Shops, provide services to the SBUs. In this regard, IBEW contends that the support groups are akin to outside vendors familiar with their customers.

With respect to human resource functions, IBEW notes that PECO's nonnuclear electric generation station employees are rated in the IB and JA wage classifications and that the NGG employees are rated in different classifications, IN and JN, which receive a 5-

percent premium. IBEW also points out that the NGG employees receive performance bonuses based on their SBU's performance. IBEW acknowledges that the decision to reward the NGG employees was approved by PECO's president and chairman. It notes, however, that the idea originated with the senior vice president for the NGG and that the senior vice presidents for the other SBUs played no role in the decision. IBEW argues that the authority of David Miller, PECO's director of employee relations, is limited to advising and consulting with the human resources specialists and managers employed in the various SBUs. IBEW cites the example of Marie Dellavalle, human resource manager for the power generation group. She has her own staff of human resource personnel whose offices are located within the office complex of the senior vice president for the power generation group. IBEW maintains that, regarding hiring and disciplinary decisions, there is no horizontal sharing of authority among the SBUs or the corporate senior management until a decision reaches the senior vice president level.

In sum, IBEW argues that the SBUs operate like different companies in a conglomerate. The SBUs lack common management below the level of senior vice president and each SBU is free to enter into arm's-length service agreements with other components of PECO or with outside vendors. IBEW cites the following passage from the May 10, 1994 issue of *Perspectives* in describing the recent changes throughout the utility industry, including PECO, which it contends indicate that a systemwide unit would not be required:

Like every American business, utilities are preparing for a future quite different from that of the past.

For over a century, America's electric utilities operated under government regulation. This was done for several reasons.

Because of the high capital requirements, direct competition among utilities was not considered as being in the public interest. Utilities had an "obligation to serve" all customers at reasonable rates and government regulation provided a safeguard to the public interest normally obtained through direct competition.

This system gave utilities little incentive to change. Each company had a protected franchise and customers had no choice in selecting the company to provide them utility service.

Given this business environment, utilities concentrated on the supply side of their operations. Management's focus was on building facilities to generate, transmit and distribute electricity.

A shift in the utility business philosophy was brought about by the 1992 National Energy Policy Act. The Act altered both the structure of the utility industry and the underlying federal policies

governing the generation and sale of electric power.

As a result, the entire utility industry is moving through a challenging period of reorganization.

Today, utilities must focus on the demand side—improving customer satisfaction, measuring customers' needs and shaping demand for the Company's services.

UWUA, seeking representation rights for certain employees of the NGG, argues that the NGG's production and maintenance employees have a separate pay scale, citing the above-mentioned nuclear premium applicable to journeymen or first class maintenance technicians, lead maintenance technicians, and nuclear plant operators. UWUA also states that NGG reactor operators and control room operators who obtain a valid license issued by the Nuclear Regulatory Commission (NRC) receive, in addition to their regular hourly rate (which also includes the nuclear premium) a bonus of \$2.25 per hour and that these operators are also eligible for an annual \$2500 bonus for renewing these licenses.

UWUA contends that the working conditions of NGG's production and maintenance employees are unique. In this regard, UWUA notes that the nuclear plants contain some workareas that are locked and protected. Employees must not eat, drink, or chew tobacco or gum in those areas which also lack restroom facilities. NGG employees must sometimes wear three levels of clothing for protection from radiation. When they leave such areas, employees must go through a "clean room" where all vestiges of radiation are removed before they may enter other areas of the plant. UWUA cites other restrictions on entry into high radiation areas, as well as rules that employees must follow while working there. UWUA asserts that the overriding need for safety (and close regulation by the NRC) places special responsibilities on the NGG's employees, and that they need more knowledge, skill, and discipline than other production and maintenance employees.

UWUA argues that the NGG operates as a separate administrative unit. Thus NGG's management team is headed by a senior vice president, with a vice president directing the operations of the Peach Bottom plant, another vice president directing Limerick, and a fourth vice president directing the operations of the nuclear maintenance division. UWUA maintains that NGG hiring decisions are made internally, and notes that the NGG has its own human resources director, while Peach Bottom and Limerick each have a human resources manager. UWUA points out that while an employee's personnel records are maintained at PECO's main office building, NGG also maintains its own sets of records.

UWUA contends that, although no one can be fired without the approval of PECO's senior vice president

for human resources, discipline is primarily local and that job classifications and employee duties are unique to the NGG. In this connection, UWUA points out that the job titles limited to the NGG include: reactor operator, control room operator, health physics technician, nuclear chemistry technician, nuclear equipment operator, shift operations assistant, and dosimetry clerk. In addition, NGG employees have training and skills requirements that are not applicable to other PECO employees. For example, the reactor operators and control operators must train (classroom plus on-the-job) for 5 years and then pass an NRC test to be licensed to operate a reactor. Finally, the nuclear operators are on a 5-week rotating schedule, with training every fifth week.

PECO contends that the nuclear-nonuclear distinction does not justify a separate NGG unit. PECO notes that many of its policies that apply only to Peach Bottom and Limerick owe their existence to NRC requirements. These include rules governing unescorted access to certain parts of the plants, radiation safety producers, and licenses for control room operators and reactor operators. PECO states that its nonnuclear plants are also subject to strict regulation, and argues that the nuclear-nonuclear distinction does not establish a separate community of interest for NGG employees.

PECO maintains that the training and orientation period is no longer for nuclear operators than it is for their nonnuclear counterparts. On the maintenance side, the job classifications, duties, and training are identical. PECO asserts that the nuclear premium is not based on an assessment that the maintenance and operating jobs at Peach Bottom and Limerick are more demanding or require more skill and knowledge. Rather, PECO argues, the premium is paid because the Company always paid a differential (formerly higher) for positions at Peach Bottom and Limerick, because its job market research showed that certain positions in nuclear plants elsewhere received a premium. Also, after its reevaluation of all its jobs in 1992 resulted in a reduction of the premium from 7.5 percent to 5 percent and in its limitation to specific jobs (where previously it was paid for all jobs), it was felt that eliminating the premium entirely (which, PECO states, would have accorded with the results of the job evaluation project) would have created an employee relations problem.

PECO minimizes the significance of the fact that employees at Peach Bottom and Limerick must be "red-badged" (that is, have clearance for unescorted access to a nuclear facility). PECO contends that this requirement does not differ in principle from an employer's limiting access to a particular area or facility to those with the knowledge needed to operate the equipment located there. PECO maintains, moreover, that the Peach Bottom and Limerick employees are not

the only ones who have unescorted access to the plants inasmuch as some or all of the employees of other work groups (for example, the nuclear maintenance division, the hi-volt group, Oregon Shops, testing, and corporate labs) that perform work at Peach Bottom and Limerick are red-badged.

Analysis and Conclusion

In *Baltimore Gas & Electric Co.*, supra, the Board described the rationale for its view that, in general, systemwide units were optimal in the utility industry:

As the parties are aware, the line of Board precedents developed for the public utility industry contains frequent expression of the Board's view that a systemwide unit is the optimal appropriate unit in the public utility industry and of the strong considerations of policy which underlie that view. That judgment has plainly been impelled by the economic reality that the public utility industry is characterized by a high degree of interdependence of its various segments and that the public has an immediate and direct interest in the uninterrupted maintenance of the essential services that this industry alone can adequately provide. The Board has therefore been reluctant to fragmentize a utility's operations. It has done so only when there was compelling evidence that collective bargaining in a unit less than systemwide in scope was a "feasible undertaking" and there was no opposing bargaining history. As an examination of the cases in which narrower units have been found appropriate indicates, it was clear in each case that the boundaries of the requested unit conformed to a well-defined administrative segment of the utility company's organization and could be established without undue disturbance to the company's ability to perform its necessary functions. [Footnote omitted.]

206 NLRB at 201. See also, e.g., *New England Telephone Co.*, 280 NLRB 162, 164 (1986) (the Board has long held that in public utility industries a systemwide unit is optimal.) We are mindful of the *Baltimore Gas & Electric Co.* admonition against fragmentation, except where there is compelling evidence that bargaining in a unit less than systemwide in scope is a feasible undertaking and there is no opposing bargaining history.¹ We also note, however, that the general rule

¹ From 1942 to 1993, the Independent Group Association (IGA) represented nonsupervisory, nonmanagerial employees on a companywide basis (except for the Chester generating station). IGA was never certified by the Board as an exclusive representative. IGA presented its views to management regarding wages, hours, and working conditions, but management unilaterally implemented its policies, which applied to all employees regardless of their labor organization affiliation. In 1943 the Pennsylvania Labor Relations Board certified,

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in favor of systemwide units at public utilities has not operated as an absolute prohibition of smaller units.

In this case, we are persuaded that the separate Cromby and Eddystone units sought by IBEW are not appropriate. Such units would, in our view, unduly fragment PECO's operations. Neither Cromby nor Eddystone constitutes a well-defined administrative segment of PECO's organization. In that respect, this case differs from *Natural Gas Pipeline Co.*, 223 NLRB 1439 (1976), cited by IBEW. There, the Board approved a unit limited to hourly transmission division employees of one of the employer's two major pipeline systems. However, in *Natural Gas Pipeline Co.*, supra, the employer's operations were divided both geographically and administratively into two major pipeline systems, each consisting of three transmission areas. There were further subdivisions within this structure, some of which might be analogized to a single station, like Cromby or Eddystone, but the unit approved in *Natural Gas Pipeline Co.* was an entire division, not a single-location unit. Further, the district superintendents in charge of the transmission areas in *Natural Gas Pipeline Co.* had authority to fire employees, whereas here, no employee can be fired without the approval of PECO's senior vice president for human resources, and some lesser disciplinary actions must be cleared at the SBU level. The Board in *Natural Gas Pipeline Co.* characterized the approximately 25 to 30 permanent transfers from one pipeline to the other (the lines employed about 970 hourly transmission division employees) during the 5 years preceding the hearing as minimal. In contrast, in this case of about 225 hourly employees at Eddystone, about 85 transferred there from other PECO locations within the past 5 years, and of about 87 hourly employees at Cromby, about 20 transferred there from other PECO locations within the past 5 years.

In *Arizona Public Service Co.*, 310 NLRB 477 (1993), also cited by IBEW, the Board denied review of a Regional Director's decision finding appropriate a residual unit at one of the employer's plants. Although this case illustrates the point that less-than systemwide

under Pennsylvania law, IBEW as the representative of a unit of employees at the Chester generating station. That station stopped generating power in 1979. It was closed and the unit dissolved in 1985. In 1993, NLRB Region 4 conducted an election, based on petitions filed by IBEW and IGA, in a systemwide unit of hourly employees (IBEW had sought a unit of all production, maintenance, and plant clerical employees engaged in the production, transmission, and distribution of gas and electric power; IGA had sought a unit of all production, maintenance, plant clerical, and office clerical employees employed by the Company). The Unions lost the election. There is currently no exclusive bargaining agent at PECO. In view of the fact that no union was ever certified by the Board in a systemwide unit or executed a collective-bargaining agreement covering a company-wide unit, we do not regard the bargaining history set forth above as foreclosing an otherwise appropriate less than systemwide unit at PECO.

units can be appropriate in the utility industry, it does not support single-location units at Cromby and Eddystone. In *Arizona Public Service Co.*, supra, IBEW represented all production and maintenance employees except those at the plant at issue, whom UWUA sought to represent. IBEW, though notified of the petition and hearing, did not intervene. Under those circumstances, the unit sought was found to constitute an appropriate residual unit. Here, no union represents any of PECO's employees, and thus the units being sought are not residual units.

At the hearing, IBEW President Charles Wolfe testified that there are seven bargaining units at Public Service Electric and Gas, a New Jersey utility: (1) a unit of employees who generate, transmit, and distribute electricity; (2) a unit of research and lab employees; (3) a unit of employees of one division of the gas department; (4) a unit of the other gas department employees; (5) a unit of customer service and market employees; (6) a unit of office clerical employees and other administrative clerks; and (7) a unit of employees of a synthetic gas manufacturing plant. Wolfe testified that the existence of these seven units, which are represented by five different unions (including IBEW) has not resulted in any proliferation of labor disputes or strikes. We note, however, that this arrangement includes one unit encompassing all employees involved in the generation, transmission, and distribution of electricity. This is a far broader unit than the requested separate units at two of PECO's fossil fuel electric generating stations.

In sum, we do not believe that separate units at Cromby and Eddystone would fall within the bounds of the exceptions that have been made to the rule favoring systemwide units in public utility industries. Accordingly, we find that they are not appropriate.

However, we find that the PGG unit sought alternatively by IBEW, and the NGG unit sought by Utility Workers, are appropriate units. Concededly, there are some factors that militate in favor of PECO's position. Thus, PECO is an integrated utility in the sense that its stations produce power for transmission to any customer no matter where located; no station or group of stations serves a particular market or geographic area. And although the reorganization into SBUs has diluted the centralization of labor relations at PECO, this devolution has been less than total. Nevertheless, for the reasons stated below, we believe that collective bargaining in the PGG and NGG units is feasible. In this regard, we note that the term "systemwide" does not necessarily mean all employees of the Employer. In the instant case, the units found appropriate include the craft and technical employees of the PGG and the

production and maintenance employees of the NGG,² regardless of the facilities at which they work.

IBEW's alternative unit of craft and technical employees of the power generation group corresponds to an administrative segment of the Employer's operation. Thus, the power generation group (PGG), unlike Cromby or Eddystone, conforms to the concept embodied in the *Baltimore Gas & Electric* line of cases that a well-defined administrative segment of the organization can justify a smaller-than systemwide unit if the boundaries of such a unit conformed to the segment. Here, PECO itself, through its reorganization, has identified the PGG as one of its five strategic business units (SBUs). These SBUs became semi-autonomous under the reorganization.

We emphasize the significance of the regulatory changes and the reorganization as they were explained to PECO's employees through the newsletter *Perspectives*. The masthead of this newsletter states that it is "published biweekly for Philadelphia Electric Company employees and their families." The newsletter emphasizes to employees the importance of the changes. For example, in the October 12, 1993 issue, an article entitled *Managing Change*, by PECO Chairman and Chief Executive Officer Joseph F. Paquette Jr. was reprinted from *Business Philadelphia*. In this article, Paquette stated that the changed regulatory and business environment required "radical cultural change within our business, if we are to succeed."

In the same issue of the newsletter, Paquette stated that the enterprise had to evolve into a multibusiness organization with each business unit concentrating its efforts on achieving the maximum return for the Company. He noted that "it is not alarmist to say that we are at a critical juncture in the history of the Philadelphia Electric Company."

As noted above, various issues of the newsletter also reported that each SBU was designed to operate as an individual profit center, that scope of work, job titles, skill levels required, and perhaps working hours might vary by SBU, that each SBU had been charged with

²It appears that many of the employees who travel regularly among the various generating stations are affiliated with other SBUs or with non-SBU components of PECO. We shall exclude such employees even if they spend most of their time at PGG or NGG stations.

We also note that, although the PGG unit employees are described as craft and technical employees and the NGG unit employees are described as production and maintenance employees, the tasks performed by the two groups are broadly similar. In our view, both units can be considered as production and maintenance units, with some technical employees included by stipulation and other technical employees, *infra*, at issue. Production and maintenance units are presumptively appropriate. See, e.g., *Appliance Supply Co.*, 127 NLRB 319, 321 (1960). No party in this case questions that presumption. Nor does any party contend that a unit of craft and technical employees is inappropriate. PECO's opposition to the units sought is not based on their composition, but rather because they are less than "systemwide."

positioning itself to address better the needs of its customers and its regulatory focus, and that the entire utility industry was moving through a challenging period of reorganization that required utilities to improve customer satisfaction. The March 28, 1995 issue stated that each SBU and corporate center/central services department would be responsible for goals of safety and total expenditures, in addition to the overall 1995 corporate goals of earnings per share, customer satisfaction, and diversity. The safety and expenditure goals would be "tailored to each SBU CC/CS department. Evaluation and weighting for each SBU and CC/CS department goal also will be customized, allowing greater accountability." Paquette was quoted as saying that "[t]he Board has recognized that the success of our competitive strategy requires we hold individual SBUs and departments accountable for performance."

We note that the PGG, like the other SBUs, developed a "Vision" and a "Mission" as part of the reorganization. PGG's "Mission" is, through its strategic objectives, to profitably meet the needs of the customers, and to do so reliably and at competitive market prices by mid-1996. Its "Vision" includes a commitment to become the most valuable business unit of PECO Energy. Although PECO downplays the significance of the SBUs, it is clear from the record that each SBU was intended to operate as an individual profit center, and was therefore granted a considerable degree of autonomy as to its operations. Thus, SBUs enter into service agreements with support groups, specifying the quantity, timing, and cost of the services or products to be provided to the SBUs. An SBU, if it contracts for a product or service, receives a charge against its budget. Moreover, an SBU need not purchase from a PECO entity, but may instead contract with outside vendors. Consequently, although nonunit employees perform services at the various generating stations, the stations are not required to use such groups but may instead contract with outside vendors, and even if the station opts to have the work performed inhouse, it must "pay" for such services. Moreover, although there is some temporary interchange such as during emergency outages which does not come under the contract arrangement, we do not find such interchange sufficient to require a systemwide unit, especially in view of all of the factors discussed herein which support units that conform to PECO's administrative organization.

We also note that the PGG has its own human resources manager, who was hired by, and reports to, its senior vice president. Also, although no employee can be terminated without the approval of PECO's senior vice president for human resources, a request for termination cannot reach that level without first being endorsed by PGG's senior vice president.

In our view, PECO has chosen, through its reorganization, to treat the PGG as the sort of well-defined administrative segment that warrants a less-than systemwide unit. The alternative unit sought here thus conforms to organizational boundaries which PECO itself decided were suitable in light of its business objectives. We do not believe that such a unit exemplifies the kind of artificial fragmentation that the Board has traditionally sought to avoid in this industry. Accordingly, we conclude that the unit is appropriate.

Similarly, we find that the NGG, like the PGG, is a well-defined administrative segment of the Company that justifies a less-than systemwide unit. Thus, the NGG, like the PGG, is one of the SBU's created by PECO via the reorganization. Like the PGG, the NGG is headed by a senior vice president and has its own human resources function. As in the PGG, NGG supervisors, up to and including the senior vice president, have no authority over employees outside the SBU. As in the PGG, most disciplinary actions short of discharge are handled within the SBU. We note that, while personnel records are maintained at PECO's main office building, the NGG maintains an additional set of those records.

The "Vision" adopted by NGG pursuant to the reorganization is to be the best in the nuclear generation business. NGG's "Mission" is to safely operate its nuclear plants while at the same time maximizing its competitive position. Thus, as an SBU, the NGG must operate as a separate entity both profitably and competitively. And like the PGG, the NGG independently contracts with other PECO components, including the various support groups, or outside vendors to have services performed at its nuclear plants for which it must "pay" for the services or products received. Accordingly, we find that a unit of NGG employees is appropriate.

In sum, we find that the two strategic business units here—the power generation group and the nuclear generation group—are such well-defined administrative segments as to warrant a less than systemwide unit. Indeed, as noted above, the record makes clear that the Employer has emphasized to its officials and employees that "radical cultural change" is taking place in this industry and that PECO, as part of its effort to meet those changes and challenges, expected its SBUs to act as autonomous divisions in many important respects. In light of that autonomy, a systemwide unit would not be the only appropriate unit.

Unit Placement Issues

The parties have stipulated that certain classifications and/or individuals should be excluded from any appropriate unit. These exclusions are listed in an unpublished appendix. In addition to the specific exclusions, the parties have stipulated that all employees

in the PSM (professional, supervisory, and managerial) salary plan should be excluded.

Disputed Classifications

I. UNIT PLACEMENT ISSUES IN BOTH THE PGG AND THE NGG

A. Lead Maintenance Technicians

PECO contends that its lead maintenance technicians (LMTs) are supervisors and should therefore be excluded from any unit found to be appropriate. IBEW and UWUA contend that they are not supervisors, and should be included. For the reasons stated below, we find that the LMTs are not supervisors.

The term supervisor is defined in Section 2(11) of the Act as:

[A]ny individual having authority in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Each maintenance team at the generating stations is headed by one or two LMTs, depending on the team's size.³ LMTs cannot hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or adjust their grievances. Although the LMTs report to work an one-half hour before the maintenance technicians to review work packages and distribute them to the technicians after they arrive, and also sign the packages when they are returned, these actions are routine and clerical in nature, and do not rise to the level of assignment or responsible direction. In this regard, we note that Cromby Operations Manager Gervasi testified that repair maintenance projects are identified and listed in order of importance by managers at daily afternoon meetings, and that maintenance supervisors set priorities and select employees to do the jobs. In addition, although LMTs are responsible for checking the work of their team members and instructing them to redo it if necessary, these directions are merely a product of the LMT's greater skill and experience and do not establish supervisory status. *Providence Hospital*, 320 NLRB 717, 721 (1996).

In some instances, LMTs contribute information that may be used in evaluating the maintenance technicians

³The record indicates that Cromby does not have permanently designated LMTs. However, maintenance technicians, Alvin Eckelmyer and Bob Leavesley, have been temporarily assigned to that position. During 1994 Eckelmyer functioned as an LMT for 937 hours, Leavesley for 1396 hours. For purposes of determining their eligibility to vote in the PGG election, we shall treat them as LMTs. About 21 LMTs are "flagged" at Chesterbrook.

on their teams. However, the evaluations themselves are done by acknowledged supervisors who are not bound by any views or comments communicated to them by the LMTs.

Although LMTs can assign, on occasion, a technician from another area, this is done solely in order to complete the day's assigned work and consequently does not require the independent judgment of Section 2(11) but is merely routine. Although PECO claims that LMTs have the authority to allow employees to leave work early, the record contains conflicting evidence on this point.

LMTs have the authority to bring to the attention of management improper behavior and work rules violations such as safety infractions. These reports, however, are reviewed by management who ultimately decides what discipline to impose. Consequently, the LMTs' authority with respect to discipline is merely reportorial and thus does not constitute statutory supervisory authority. *Northcrest Nursing Home*, 313 NLRB 491, 497 (1993).

On those occasions when the maintenance supervisor is not present, the LMT assumes that position. However, the record does not establish that LMTs have specifically been given the supervisory authority possessed by the maintenance supervisor when so substituting. Moreover, such substitution does not appear to be regular or substantial but instead is limited to specific situations such as outages, vacations, emergencies, and meetings. In these circumstances, we do not find that the LMTs' occasional substitution for the maintenance supervisors makes them statutory supervisors. See *Hexacomb Corp.*, 313 NLRB 983 (1994).

Some LMTs may be required to record team members' hours and submit this information to the shift manager for his approval. Like the LMTs' responsibilities in connection with the work packages, these responsibilities are routine and clerical in nature, and therefore insufficient to establish supervisory status. We also note that LMTs are included in the Employer's CTAC pay plan, not the PSM pay plan, and that, unlike PSM employees, they are eligible for overtime pay and for the nuclear premium (at Peach Bottom and Limerick). Further, it appears from the record that most if not all of the maintenance teams have, in addition to LMTs, separate supervisors.

Accordingly, we find that the LMTs are not statutory supervisors and are properly included in the units.

B. Operators

PECO contends that the reactor operators (Peach Bottom), control room operators (Limerick), and lead operators (Cromby and Eddystone) are supervisors and should therefore be excluded from an appropriate unit.⁴

⁴There are approximately 32 reactor operators, 26 control room operators, and 38 lead operators.

UWUA and IBEW contend that these operators are not supervisors and should therefore be included.

These operators, subject to direction from system operations, are responsible for controlling the generating units at the stations. They work in the control room, which is located between the generating units. Like the LMTs, these operators are part of the CTAC pay plan and are eligible for overtime pay and (at Peach Bottom and Limerick) the nuclear premium.

PECO asserts that these operators are supervisors because they have the authority to assign work and responsibly direct employees, using independent judgment and discretion. The record shows that these operators direct plant operators and auxiliary operators to perform certain tasks, such as turning certain valves, etc. There is record testimony that these directions are routine, recurring, and largely dictated by written procedures. There is other testimony, however, that the procedures do not cover all situations and that the operators at issue often use independent judgment in directing other employees. In view of this conflicting record evidence, we will permit these individuals to vote subject to challenge.⁵

II. UNIT PLACEMENT ISSUES IN THE PGG

A. Cromby Employee Charles Filson

PECO contends that Filson is a janitor who, because of his medical condition, cannot perform full janitorial functions but does perform limited cleaning and maintenance work. It is PECO's position that Filson should be included in an appropriate unit. IBEW contends that Filson should be excluded as a guard.

Filson's formal classification is that of janitor. He has in the past performed janitorial duties full time. However, because he is now subject to epileptic seizures, he is prohibited from working in the plant. Instead, he is stationed at the main guard house during the day shift. During that time, he performs the duties formerly handled by a guard provided by an outside contractor, which still provides guards for the other shifts. From the main guard house, Filson monitors security cameras placed throughout the property. He operates the motorized security gates and entrances, and is responsible for checking people into the property and for reporting infractions. The investigations of any suspicious situations that he reports are handled by the shift manager. Filson issues visitors' passes to people entering the facility. At the start of his shift he relieves an employee of the guard service. At the end of his shift an employee of the guard service relieves him. In all these respects, Filson's duties are the same

⁵Although the Board found employees such as these to be supervisors in *Big River Electric Corp.*, 266 NLRB 380 (1983), other cases have found them to be employees. See *Northeast Utilities Service Corp.*, 35 F.3d 621 (1st Cir. 1994), cert. denied 115 S.Ct. 1356 (1995).

as those of the guards supplied by the contractor. Neither Filson nor any of the contractor guards wears a badge.

Filson differs from the contractor guards in that he has the additional responsibility of keeping the inside of the guard house clean. Also, Filson wears a PECO uniform. The contractor guards wear uniforms provided by the guard service.

In our view, neither of these minor differences changes the reality that Filson, despite his formal classification, functions as a guard. *Crossroads Community Correctional Center*, 308 NLRB 558, 561-562 (1992) (employees called "Correctional Residence Counselors" who kept unauthorized persons off the property and protected the premises found to be guards although they did not wear uniforms and did not take direct action against violators of company rules but instead were instructed to report suspicious activity to a third party); *A. W. Schlesinger Geriatric Center*, 267 NLRB 1363 (1983) (maintenance employees found to be guards although they spent 30 to 50 percent of their time performing functions other than security); and *Thunderbird Hotel*, 144 NLRB 84, 87-88 (1963) (timekeepers who protected the employer's property and kept out unauthorized persons found to be guards although they did not wear uniforms or badges). Accordingly, he shall be excluded from the unit.

B. Eddystone Employee Andrea Bellamy

PECO contends that Bellamy shares a community of interest with the employees in the unit and should therefore be included. IBEW contends that Bellamy does not share a community of interest and should therefore be excluded.

Bellamy's job title is "junior cost analyst." She is a CTAC employee. Eddystone Finance and Support Manager William J. Leonard testified that Bellamy obtains financial and scheduling information from the corporate computer and serves as a contact point for him, for Financial Supervisor Mary Rose Sheppard, and for the system engineers or the technical project engineers. Her duties include tracking and reporting on the costs of various projects. She generates the reports and gathers the data for Eddystone's performance-tracking goals and generates a monthly performance report for Plant Manager Elmy. Leonard testified that Bellamy began as a clerk and earned an associates degree in business by attending night school, at which point she was assigned the junior cost analyst position. Leonard testified that he did not know whether the degree was a prerequisite for the position.

Her work location is on the first floor of the Eddystone administration building, near Leonard, Sheppard, units 3 and 4 manager, Paul A. Sierer, and others who report directly to Elmy. Leonard testified that Bellamy has little, if any, contact with the plant

personnel, and that most of her contact is with project engineers or first-line supervisors. He testified that she does not go into the plant area in the performance of her duties. She wears corporate clothing about half the time. The remainder of the time she wears a dress or other "civilian" clothing. Her hours are from 8 a.m. to 4:30 p.m., and she receives the same benefits as the other CTAC employees. Bellamy's lunchbreak is 45 minutes. Leonard testified that, although he believed that Bellamy eats lunch at her desk, he does not keep track of where she has lunch. Bellamy has a locker in the women's locker room on the ground floor near the maintenance shop. Leonard testified that he had never seen Bellamy eating in the maintenance lunchroom. Leonard also testified that Bellamy works with the corporate computer, the fax, and the map system, and that she files records.

Since Bellamy appears to have little or no contact with production and maintenance employees, works among managers, prepares reports for management, and uses office (not plant) equipment, we find that her skills and duties are more akin to those of office clerical employees and thus she does not share a community of interest with the employees in the petitioned-for unit. See *Arthur F. Derse Sr.*, 173 NLRB 214, 219 (1968); and *Cook Composites & Polymers Co.*, 313 NLRB 1105, 1109 (1994). Accordingly, we shall exclude her from the unit.

C. Cromby Senior Designer David Zuczek

PECO contends that Cromby Senior Designer Zuczek should be included in the unit because he shares a community of interest with the employees in the unit. IBEW contends that he does not share a community of interest with the production and maintenance employees and should therefore be excluded.

The petitioned-for PGG unit which we have found appropriate includes "all craft and technical employees." It is clear from the record that Zuczek is a technical employee. As a senior designer, he must have a 2-year technology degree. He drafts schematics for the modification of equipment and systems at the station. A computer is assigned to Zuczek for his use in PECO's computer assisted design system. He also has a drafting board and desk at his work station, which is located in the administrative section of the station building.

Zuczek is part of the technical group headed by Stephen R. Roberts, Cromby's supervisor of technical services. The other seven employees supervised by Roberts are PSM employees, but Zuczek is a CTAC employee. The technical group's work area is a large open area with modular partitions about 5 or 6 feet high. The other members of the group include three engineers, three senior technical assistants, and one technical assistant. Cromby plant Manager Thomas M.

Cheykun testified that Zuczek is frequently in the Plant area taking measurements, making sketches, and working with maintenance technicians and other employees on projects, though he is not assigned work by the maintenance supervisor. He provides drawings when they are needed. Thus, when employees are trying to determine the cause of a problem in a piece of equipment, Zuczek will do research, provide the relevant drawings, and, when the equipment is opened up, provide technical support to the maintenance employees. He works about 8 hours a day, Monday through Friday.

Where, as here, a union seeks a unit that includes technical employees, an appropriate unit should include all technical employees who share a community of interest and carry out functionally related duties. See, e.g., *Westinghouse Electric Corp.*, 300 NLRB 834 (1990); and *Westinghouse Electric Corp.*, 137 NLRB 332, 336, 337 (1962). Zuczek, as a CTAC employee, shares a common wage structure and fringe benefits with those technical employees whom the parties have stipulated should be included. They are also subject to the same personnel policies and procedures. These are strong indications of community of interest. *Inland Steel Co.*, 308 NLRB 868, 869 (1992) (similarities in working conditions, and specifically the common salary and benefit structure, outweighed any lesser variances in supervision or specific work location).

As to performance of functionally related tasks, given Zuczek's work with the maintenance technicians, including his provision of drawings and technical assistance when efforts are made to diagnose equipment problems and to modify equipment, it appears that Zuczek's work and that of the maintenance technicians are part of an integrated operation. *Mack Trucks, Inc.*, 214 NLRB 382, 386 (1974) (although some employees performed dissimilar tasks, their work related to a common project). We therefore conclude that Zuczek should be included in the unit.⁶

D. Cromby Clericals

There are two Cromby clerical employees at issue, secretary III, Valerie Simon, and secretary III, Pamela Wright.⁷

PECO contends that Simon and Wright should be included as plant clericals. IBEW contends that they

⁶ While IBEW's brief does not raise the point, it appears from the record that IBEW also contends that the senior designer classification at Eddystone should be excluded. For unit placement purposes, there do not appear to be any significant differences between Zuczek and Eddystone's senior designers. Accordingly, we shall include Eddystone's senior designers in the unit.

⁷ The parties have stipulated that Nancy Horning, secretary to Plant Manager Chaykun, should be excluded as a confidential employee. Accordingly, we shall exclude her from the unit. We need not pass on IBEW's further contention that she should be excluded as an office clerical employee.

should be excluded as office clericals. Simon reports to Cromby Operations Manager Michael Gervasi. She works in the "front office" on the second level of the plant in the administrative area. This area includes the offices of Chaykun, Gervasi, and senior financial analyst Gail Goldberg. Simon's work station is directly outside the doorway of Gervasi's office. The area also has a lunchroom/kitchen, a conference room, and a lockerroom for PSM employees.

Simon enters payroll data for all of the operating teams and plant support teams, and collects employee timesheets from supervisors for entry into the time system. She performs typing and various clerical tasks for Gervasi and for the operating and plant support teams. Simon also produces the station's monthly newsletter, and she coordinates the station's safety program. This program, supplied by an outside vendor, involves tapes, written materials, and posters. Simon ensures that the teams receive these materials every month and that they conduct safety meetings.

Simon has typed disciplinary letters for Gervasi, as well as grievance answers and work rules letters. She has the option of wearing street clothes, as opposed to organizational clothing.

It appears that Simon spends most of her time on tasks, such as typing, filing, and data entry, typically carried out by office clerical employees. She works in an office area with managers, and appears to have little contact with production and maintenance employees other than supervisors. Her duties do not seem to be functionally integrated with those of the unit employees. Accordingly, we shall exclude Simon as an office clerical. *Dunham's Athleisure Corp.*, 311 NLRB 175, 176 (1993); and *Hygeia Coca-Cola Bottling Co.*, 192 NLRB 1127, 1128-1129 (1971).

Wright reports to Maintenance Supervisor Edward McCann. Like Simon, she performs typing, filing, and data entry tasks typically performed by office clerical employees. However, Wright appears to interact more with maintenance employees than does Simon because her duties also include ordering parts for broken equipment and coordinating the availability of maintenance employees for weekend work. Because it is not clear from the record how extensive or how frequent this interaction is, we shall vote Wright subject to challenge.

E. Eddystone Clericals

PECO contends that secretaries Louise Krulikowski, Laura Magness, Paula Micka, Cathie Ramos, and Shari Sprouse and clerks Clyde Caffie, Mark Hackney, Steven Malloy, and Gary Stapf should be included as plant clericals. IBEW contends that these employees should be excluded as office clericals, and that Sprouse should also be excluded as a confidential employee.

The parties have stipulated that secretary Susan Walker should be excluded as a confidential employee. Plant Manager Elmy, to whom both Walker and Sprouse report, testified that Sprouse's duties are essentially the same as Walker's. Accordingly, we find that Sprouse also shall be excluded from the unit. We therefore need not rule on IBEW's additional contention that Sprouse should be excluded as an office clerical.

Secretaries Magness (who reports to Unit Manager Sierer), Micka (who reports to Unit Manager Rooney), and Ramos (who reports to Finance and Support Manager Leonard) are responsible for typing letters, word processing, copying, filing, telephone work, and scheduling appointments. While they appear to have some contact with first-line supervisors and lead maintenance technicians regarding, for example, the development of overtime availability lists, they spend most of their time performing tasks typically carried out by office clerical employees. We shall exclude Magness, Micka, and Ramos as office clericals.

Secretary Krulikowski reports to Finance and Support Manager Leonard and performs many of the same duties as secretary Ramos. However, she also appears to have regular contact with maintenance technicians regarding completed work orders. Because it is not clear how much of her time is devoted to this activity versus her more typical office clerical duties, we shall permit her to vote subject to challenge.

Clerks Malloy and Stapf report to Financial Supervisor Mary Sheppard. Clerks Hackney and Caffie report to Unit Manager Sierer. At the time of the hearing, Caffie was absent on long-term disability. Were he present, he would assist secretary Magness with her duties.

Hackney's main duty is to enter the working time of all maintenance and technical employees into the computer system. Each group fills out a timesheet and gives it to Hackney, who then enters the data. He also maintains tracking records on performance measures, productivity reports, and absences. It appears that he receives the information required for his data entry duties primarily from supervisors rather than from unit employees. He also creates spreadsheets and computer graphics for first-line supervisors. He works in the support building at a desk outside the doorway of Technical Support Supervisor Yacyshyn and Maintenance Supervisor Donaldson.

Malloy keeps records on purchase orders and materials purchased. In assisting Sheppard, who is responsible for all financial systems and budgeting throughout the plant, Malloy uses computers, telephones, a fax machine, electronic typewriters, and copying machines.

Stapf processes contractors' invoices, which he also verifies. He tracks accounts payable and confirms authorization to pay the outside contractors by using var-

ious computer systems. Like Malloy, Stapf has his work station in the administration building, which houses Sheppard's office.

The clerks enter the production area only to pass through it on the way to an office. This occurs about once per week. Unlike the production and maintenance employees, the clerks have flextime and may leave the site for lunch.

Since it appears that their contact with Eddystone's production and maintenance employees is limited and their skills and responsibilities differ substantially from those of the production and maintenance employees, we shall exclude them as office clericals. *Avecor, Inc.*, 309 NLRB 73 (1992).

III. UNIT PLACEMENT ISSUES IN THE NGG

A. Technicals

The unit sought by UWUA includes some technical employees, such as instrument and control technicians, chemistry technicians, and technical assistants in the nuclear maintenance division and in the plant, outage management, and maintenance departments at Peach Bottom and Limerick. There is no dispute as to the inclusion of these employees.

UWUA, however, seeks to exclude other technical employees who are part of the NGG: designers at Peach Bottom, Limerick, and Chesterbrook; technical assistants at Chesterbrook who are not in the nuclear maintenance division (this includes technical assistants in corporate labs, information systems, support services, engineering, licensing, and fuels and services); technical assistants in the site support and site engineering divisions at Peach Bottom and Limerick; and various other positions (discussed infra) based at Chesterbrook or Valley Forge.

1. Designers⁸

Designers draft schematics used by production and maintenance employees in modifying equipment at the stations. Thus, for example, Limerick designer, Chris Adams, has designed hazard barrier penetration seals to compartmentalize the buildings at the plants. His drawings specified the appropriate seal details and repair methods to be used for modifications at the plants, and when craftsmen installing the seals had questions, they called Adams for clarification. During the drafting process itself, designers discuss the modifications with the production and maintenance employees who will install and use the modified equipment.

As noted in the discussion of Cromby employee David Zuczek, supra, where a union seeks a unit that includes technical employees, an appropriate unit should include all technical employees who share a

⁸ This classification includes detail drafters, an entry level position, designers, and senior designers.

community of interest and carry out functionally related duties. Like Zuczek, the NGG designers share a common wage structure and fringe benefits with the technical employees stipulated as included, and are subject to the same personnel policies and procedures. Their work, like Zuczek's, seems to be integrated with that of the plant as a whole, as their drawings are used to modify plant equipment. Accordingly, we shall include the NGG designers (and senior designers) in the unit.

2. Technical assistants

The technical assistants in the information systems division design and implement computer software that supports plant operations. Thus Scott Levering, at Limerick, designs software that runs on the plant monitoring system to keep track of, among other things, the temperature and pressure of steam and water used in the generating process. These technical assistants also design software for the plant security system. Although these technical assistants appear to have less contact with maintenance technicians than do the designers, their work is integrated with the plant's and they share the same wage structure, benefits, and personnel policies and procedures as the included technicals. Accordingly, we shall include them in the unit.

Howard Dobson is the technical assistant in corporate labs. He performs (on request) what Frank Cebular, acting manager of technical services, Valley Forge labs, called "one-of-a-kind" tests that are very specialized and may be performed only once in several years. Unlike the other NGG technicals at issue, Dobson is not red-badged. Cebular, when asked where Dobson performs his work, referred to him as "100 percent a bench man in the lab," meaning that Dobson does not work in the field at all. Dobson has telephone contact with Limerick and Peach Bottom employees, amounting to several hours per week, but it is not clear with whom he speaks. Although Dobson's testing appears to be related to PECO's overall operation, we are unable to tell from the record evidence the extent to which this testing is integrated into the plant's day-to-day operations or whether Dobson has any meaningful contact with unit employees. Accordingly, we shall vote Dobson under challenge.

James Jankauskas is the technical assistant in the support services division of the NGG. Scott MacAinish, manager of support services in the station support department of the NGG, testified that Jankauskas monitors, tests, and troubleshoots a wide variety of communications equipment, including radios, beepers, and transmitters used by employees at the various generating stations. Jankauskas has an office in the Chesterbrook complex, where he spends about 60 percent of his time. He spends about 20 percent of his time at NGG sites and about 20 percent at

PECO's emergency operating facility in Coatesville (nuclear power providers must have an offsite facility, for use in case of emergencies, from which they can communicate with the nuclear site and with the outside world). MacAinish estimated that Jankauskas, who communicates frequently with other employees, spends about the same amount of time communicating with CTAC employees as he does communicating with PSM employees. We find that Jankauskas shares a community of interest with other technicals that UWUA seeks to include and is part of a functionally integrated operation. Accordingly, we shall include him in the unit.

John Slack, the technical assistant in the engineering division, coordinates the drafting of the maintenance procedures used by the maintenance employees in the unit sought by UWUA. Drew B. Fetters, the director of the nuclear engineering division, testified that Slack, formerly an employee in the nuclear maintenance division, facilitates meetings between maintenance technicians and procedure writers to enable the technicians to comment on the procedures so as to make the procedures as accurate, complete, and helpful to employees in the field as possible. As an example of a maintenance procedure within Slack's purview, Fetters cited the procedure that describes how to disassemble and then reassemble a valve. Slack spends about half his time in contact with foremen, technical assistants, lead maintenance technicians, maintenance technicians, and instrument and control technicians. His pay rate is in the same range as that of the designers. Slack's position requires a 2-year degree, although it did not when he entered into it. Slack's duties are functionally integrated with plant maintenance, and he has extensive contact with unit maintenance employees, including some of the technical employees UWUA seeks to represent. We shall include him in the unit.

Kenneth R. Graff and Richard W. Gropp Jr. are the technical assistants in the licensing division. Both are "flagged" at Chesterbrook, but Graff spends about 20 percent of his time at Peach Bottom, while Gropp spends about 20 percent of his time at Limerick. Their main responsibility is the performance of safety analyses of the technical specifications used by the operating groups in the two nuclear plants. They have daily contact with technical assistants and engineers at the plants, and also have contact with technical assistants and engineers in site engineering with regard to the technical specifications. Graff and Gropp are also assisting in the conversion of the Peach Bottom and Limerick control rooms from analogue to digital equipment and recorders. Graff, who spent 12 years as a technical assistant at Cromby, is working with Cromby's technical and engineering group in connection with the digital conversion, which has already taken place at Cromby and Eddystone. When Graff

and Gropp are onsite, they have regular contact with technical assistants in the plant department and with technical assistants and engineers in the site engineering group. The specifications that Graff and Gropp draft, review, and analyze are used by the control room operators and reactor operators at the two plants. Graff and Gropp, who are red-badged, also draft changes to the specifications (while ensuring that the changes will not harm safety or performance) if, for example, a control room operator determines that the specifications are inaccurate or need to be changed in light of actual operating conditions. The duties performed by Graff and Gropp are functionally integrated with plant operations, and they have regular contact with other technical employees whom UWUA seeks to represent. Accordingly, we shall include them in the unit.

Charles L. Lapish Jr. is the technical assistant in the fuels and services division. He provides technical services primarily to the reactor services group. Lapish analyzes data from the computer models used to measure reactor performance. He also reviews film taken during refueling outages to ensure that the placement of the fuel bundles accords with specifications. Lapish, who is red-badged, spends about 95 percent of his time at Chesterbrook, and about 5 percent at Peach Bottom and Limerick, where he assists in certain types of reactor testing. He provides technical assistance to the reactor services group during refueling outages, at which times maintenance technicians and other reactor services employees are present. The reactor services group employees do the actual refueling. Lapish's analyses of reactor performance assist the reactor operators in determining whether the reactors are performing within normal parameters at any given time. Although Lapish's face-to-face contact with production and maintenance employees seems limited, his technical duties are functionally integrated with plant operations, and his work product is useful to some of the technical employees UWUA seeks to represent. Accordingly, we shall include him in the unit.

The technical assistants in the site support division at Peach Bottom and Limerick monitor the various systems in the plant for fire protection. Their duties include monitoring piping and valves, along with associated systems, and preparing procedures for the fire protection system. They spend about 50 percent of their time in and around the plant and about 50 percent in the office of the site support division. They are red-badged. As with the other technical assistants at issue, there appears to be no consistent practice among these employees with respect to the wearing of organizational clothing. There are about six site support technical assistants at Limerick and about five at Peach Bottom. Their duties are functionally integrated with plant operations and appear to bring them into fairly regular contact with production or maintenance em-

ployees. Accordingly, we shall include them in the unit.

The technical assistants in the site engineering division at Limerick and Peach Bottom are responsible for the preventive maintenance programs at those stations. They monitor and investigate instances of equipment failure. They spend about two-thirds of their time in offices and around the site engineering area. They spend about one-third of their time elsewhere in the plant, including the protected areas. They monitor preventive maintenance schedules to ensure that maintenance is performed on time, and they develop the procedures for the preventive maintenance program. They also monitor the reliability of equipment and machinery to ensure that they function according to design. They prepare reports for management assessing the reliability of particular pieces of equipment. The duties performed by these technical assistants are functionally integrated with plant maintenance. Like the other NGG technicals at issue, they are CTAC employees subject to the same pay and personnel policies as the employees UWUA seeks to represent. We shall include them in the unit.

3. Other classifications

As noted supra, UWUA also seeks to exclude a number of other technical employees who work primarily at Chesterbrook or Valley Forge: building mechanics; chemistry assistants; engineering and senior engineering technicians; lab assistants; MSDS coordinator; safety coordinator; senior computer operator; and senior photographer.

Building mechanics Scott C. Augustine (Chesterbrook), George O. Dolby Jr. (Valley Forge), and Joseph F. Wilczynski Jr. (Chesterbrook), like the building mechanics at Peach Bottom and Limerick whom UWUA seeks to include, perform general maintenance and repair work on company-owned and leased buildings and properties. They use hand and power tools and operate building equipment. They work on plumbing and electrical problems, replace piping and fixtures, and install lighting fixtures, hot water heaters, electric heaters, drywall, and windows. They replace floor and ceiling tiles, perform interior and exterior painting, and repair pavement. In light of the fact that these mechanics perform the same duties as those at Peach Bottom and Limerick, we do not regard their working at Valley Forge and Chesterbrook as a sufficient basis to exclude them. Accordingly, we shall include them in the unit.

Chemistry assistants Vincent M. Brown, Leif Christiansen, Thomas F. Killingsworth, Robert J. Miller, William K. Rees, and Mark S. Wheat work primarily at the Valley Forge labs. They perform coal, flash, and waste oil analyses for Eddystone and Cromby. They perform petroleum analyses, lubricating

oil analyses, and water testing for all of the fossil fuel stations and for the nuclear plants. They also perform asbestos fiber count analyses on air samples brought to the laboratory to determine how many asbestos fibers are in the air during the removal and after the removal, when the air is cleared. The two assistants who are licensed asbestos project inspectors spend 2 or 3 days each week in the field doing asbestos removal work. Gregory C. Sprissler, manager of the chemistry laboratory and of the photography units, testified that asbestos removal work has not taken place at Peach Bottom or Limerick. One of the assistants has a 2-year associate's degree. The others are high school graduates. Although these chemistry assistants do not appear to have much interaction with other NGG CTAC employees, their duties are essentially the same as those of the chemistry technicians at Peach Bottom and Limerick whom UWUA seeks to represent. Accordingly, we shall include them in the unit.

The engineering technicians and senior engineering technicians at Chesterbrook, like the Limerick engineering technicians the parties agree should be included, calibrate and measure portable test equipment used by instrument and control technicians throughout PECO. The position requires a 2-year associate's degree or equivalent training or experience. There is no difference in pay or duties between the engineering technicians and the senior engineering technicians. These technicians also make recommendations as to the purchase of equipment and as to the use of a particular type of equipment in a given application. Portable test equipment is equipment someone can carry to a remote location to test another instrument or measure a parameter or system. Examples include a pressure gauge, a portable temperature bath, dimensional equipment, dial indicators, micrometers, electronic test equipment, and multimeters. These technicians spend about 85 percent of their time in the laboratory and about 15 percent in the field helping other employees perform tests. Kenneth C. Ralston, a maintenance supervisor in Corporate labs, testified that engineering technicians from Chesterbrook work at Peach Bottom and Limerick for about 4 weeks at a time during planned outages and that about 75 percent of these technicians are red-badged. When these technicians are onsite at a station working with other employees, about 90 or 90 percent of their time is spent with CTAC, as opposed to PSM, employees. Typically, they work with instrument and control technicians and with maintenance technicians. The duties of the Chesterbrook engineering technicians and senior engineering technicians are functionally integrated with plant maintenance and essentially the same as those of other engineering technicians whom UWUA seeks to represent. Accordingly, we shall include them in the unit.

Lab assistants Desmond A. Jones and Julie A. Nickler perform what George C. Bell, director of corporate laboratories, called "unskilled work: cleanup, delivery of instruments, setting up work benches. . . ." They pick up instruments at the various generating stations and return them to the corporate laboratories for testing. After the testing is completed, they return the instruments to the stations. It does not appear that these lab assistants exercise independent judgment or perform work of a technical nature. We find that, contrary to PECO's contention, they are not technical employees. Nevertheless, the record reflects that their work is integrated with the operation of the generating stations. The evidence, however, does not establish the extent to which they interact with unit employees. Accordingly, we shall permit them to vote subject to challenge.

MSDS coordinator Lamar E. Weikel Jr. prepares materials safety data sheets, required by the Occupational Safety and Health Administration, which contain information about the reactivity, flammability, and other pertinent qualities of the various chemicals and products used daily by the maintenance employees at the generating stations. He works onsite at the stations during outages. The sheets also list the chemical constituents of each product and telephone numbers to call in case of problems. The sheets are also used to determine whether products can be used without damaging NGG systems and components. They are available for individual employees, such as maintenance technicians, to review before they handle hazardous chemicals. The employees call Weikel with questions and requests for documents. Peter R. Supplee, supervisor of protection services, testified that, excluding outages, Weikel spends about 10 or 15 percent of his time at nuclear or fossil fuel stations. During NGG outages, he works full time at the stations. This outage work consumes about 25 to 30 percent of Weikel's total time. When he is onsite, Weikel, who is red-badged, interacts primarily with maintenance technicians. Weikel's duties are functionally integrated with plant maintenance, and he apparently has substantial and regular contact with rank-and-file maintenance employees. Accordingly, we shall include him in the unit.

Safety coordinator Steven T. DiMauro reviews the sites where maintenance employees and other CTAC employees work to ensure compliance with various safety regulations. Like Weikel, he works at the stations during outages and is red-badged. He uses noise monitoring equipment to check for appropriate noise levels and to determine whether employees require hearing protection. Supplee testified that DiMauro also takes air samples to determine whether employees need protective respiratory equipment and that he monitors the required OSHA 200 log of workplace injuries and illnesses, in connection with which he discusses acci-

dent reports with the individual involved, supervisors, and sometimes the medical department. Exclusive of outages, DiMauro spends about 25 percent of his time at fossil or nuclear sites. DiMauro's duties are functionally integrated with plant maintenance and he has regular contact with other NGG CTAC employees. We shall include him in the unit.

Senior computer operator Kelvin T. Spruill mounts magnetic tapes on the computer and performs data archiving functions. He also designs software applications to run on the system. He responds to requests from engineers for data. We cannot, however, tell from the record evidence whether Spruill has a significant amount of contact with other CTAC employees (engineers are PSM). Moreover, although there is a link between his duties and plant operations, it is more tenuous than those involving other contested NGG technical employees. Accordingly, we shall vote Spruill under challenge.

Senior photographer Charles H. Peatross Jr. photographs modifications to plant equipment and systems, work in progress during outages, and any damage to generating stations. Peatross also photographs the control rooms at Peach Bottom and Limerick every 3 years, as required by NRC regulations. Gregory C. Sprissler, manager of the chemistry laboratory and the photography unit, testified that Peatross is the only person in that unit. He also processes his film, makes custom prints and enlargements, reproduces documents, and duplicates slides. During outages at the nuclear plants, Peatross is present almost full time. He has a high school diploma. Peatross spends about 40 percent of his time at Valley Forge and the rest in the field. When he is in the field, he deals about half the time with PSM employees and about half the time with CTAC employees, usually maintenance technical assistants. Peatross is red-badged. Peatross's duties are functionally integrated with plant maintenance, and he has substantial and regular contact with CTAC maintenance employees. We shall include him in the unit.

B. Clericals

PECO and UWUA agree that clerks, Thomas J. Nusspickel and Christine E. Dellavecchia, should be included in any appropriate unit and that about 53 NGG secretaries should be excluded as office clericals. PECO, however, contends that the remaining NGG clerks and secretaries (perhaps 120 employees) are plant clerical employees and therefore should be included in the unit. UWUA contends that they should be excluded as office clerical employees.

PECO contends that the NGG clericals at issue are intimately involved in the operations of the plants and in the production process of generating electricity, and have substantial interaction with production and maintenance employees. PECO also notes that the disputed

clericals, as CTAC employees, are in the same compensation system as the petitioned-for employees, have the same benefit program, and are covered by the same disciplinary and grievance policies.

UWUA notes that none of the disputed clericals receives the nuclear rate, and that they are not required to work the same hours as the production and maintenance employees and are not subject to the same working conditions. Instead, these clericals, work in a clean office environment and their occasional contact with production and maintenance employees does not change them from office clericals to plant clericals.

The disputed NGG clericals share some of the characteristics of both office and plant clericals. Thus, they typically perform typing, filing, and recordkeeping functions involving the use of office equipment, including computers and word processors. At the same time, they also perform timekeeping and scheduling duties as well as oversee the flow of work packages to various technical teams. In performing this work they come into contact with production and maintenance employees. From this record evidence, we are unable to tell whether the disputed NGG clerical employees are primarily engaged in office clerical work or in plant clerical work. We therefore will vote those individuals under challenge.

Appropriate Units

Accordingly, based on the foregoing and the parties' stipulations, we find that the following employees constitute appropriate units for collective bargaining within the meaning of Section 9(b) of the Act:

1. Case 4-RC-18589: All full-time and regular part-time production and maintenance employees, including plant clerical employees, employed by the Employer in its Nuclear Generation Group; excluding all employees covered by the Professional, Supervisory, and Managerial (PSM) pay plan, office clerical employees, confidential employees, guards, and supervisors as defined in the Act.

2. Cases 4-RC-18572 and 4-RC-18573: All full-time and regular part-time craft and technical employees, including plant clerical employees, employed by the Employer in its Power Generation Group; excluding all employees covered by the Professional, Supervisory, and Managerial (PSM) pay plan, office clerical employees, confidential employees, guards and supervisors as defined in the Act.

[Direction of Election omitted from publication.]