

Sundor Brands, Inc. and International Union of Operating Engineers, Local 48. Case 22–CA–22239

July 24, 2001

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS
LIEBMAN AND TRUESDALE

On March 23, 1998, the National Labor Relations Board issued its Decision and Order in this proceeding.¹ The Board found that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with the employees' certified representative and ordered it to bargain collectively with the Union. The Employer refused to comply with this Order and, on March 31, 1998, petitioned-for review of the Board's decision in the United States Court of Appeals for the District of Columbia Circuit. The Employer contended that the Board's underlying unit determination was unlawful.² The General Counsel filed a cross-application for enforcement.

On February 26, 1999, the court denied the petition for enforcement, granted the petition for review, and remanded the case to the Board for further proceedings in accordance with the court's opinion.³ On May 21, 1999, the Board advised the parties that it had accepted the remand and invited statements of position. The Employer, the General Counsel and the Union each filed statements of position.

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

The Board has considered the parties' statements of position in light of the court's remand. For the reasons set forth below, we adhere to our previous finding that the petitioned-for skilled maintenance unit is appropriate.⁴

The relevant facts are as follows. The Employer manufactures Sunny Delight and Hawaiian Punch juice beverages at its facility in South Brunswick, New Jersey. Its

¹ 325 NLRB 499 (1998).

² Case 22–RC–11374. In an unpublished decision, the Board affirmed the Regional Director's finding that the petitioned-for unit was appropriate.

³ 168 F.3d 515 (D.C. Cir.).

⁴ The Union was certified to represent the employees in the following unit:

All full time and regular part time skilled maintenance employees, including advanced maintenance technicians, maintenance group leaders, electrical and instrumentation technicians, and level 3 utilities coordinators, employed by the [Company] at its South Brunswick, New Jersey facility, but excluding all office clerical employees, all level 2 mechanical/electrical technicians, team coordinators, industrial health and safety specialists, site environmental leaders, risk management leaders, level 1 technicians, and all other employees, professional employees, guards and supervisors as defined in the Act.

operations are divided into four departments, which together carry out the production process.⁵

In 1992, the Respondent's parent company, Proctor and Gamble, began to implement a "high performance work system," which restructured the Company's operations to eliminate multiple, narrow job classifications, and replace them with a "team system." Under the team system, employees are cross-trained to provide all services to a particular product line or operation.⁶

Employees at the plant are designated as "level 1," "level 2," or "level 3," depending on skill and experience. As they progress from level 1 to level 3, employees receive significant wage increases. Employees hired as level 1 employees are assigned to operational/production roles. After mastering basic operational skills and principles of the business, level 1 employees may bid for level 2 positions on a systems path or a mechanical/electric path. Level 2 employees may then bid for level 3 jobs, which are either systems supervisors or highly skilled maintenance technicians. The Employer's skilled maintenance technicians are exclusively highly paid level 3 employees. Despite its stated desire to promote from within the plant, the Employer has recruited and hired its skilled level 3 maintenance employees from outside the facility.

The Union filed a petition seeking to represent a unit consisting of the plant's skilled maintenance employees, namely the level 3 advanced maintenance technicians (AMTs), the level 3 "electrical and instrumentation technicians" (EITs), and the level 3 utilities coordinator (UCs). After a hearing, the Regional Director directed an election in a unit consisting of all AMTs, EITs, UCs, and the maintenance group leaders (MGLs). As noted by the court, the AMTs are members of a work team while the EITs, UCs, and MGLs are not.

The bulk of the skilled maintenance work force consists of 16 AMTs, who are responsible for, among other things, performing all aspects of major electrical and mechanical maintenance including preventive activities, replacement, repairs and rebuilds; overseeing the installation of new projects and initiatives; and combining mechanical and electrical skills with operational skills to support their team. Each AMT works with a team in one of the four primary departments. The AMTs divide their time between working on the floor with their team, fixing problems as they arise, and tending to parts rebuilding, fabrication work, and other long-term projects in the

⁵ The four departments are logistics, concentrate, process and packing.

⁶ For instance, a packing team would not only operate the equipment on a particular line, but also maintain it, perform quality control checks, ensure safe practices, and meet good manufacturing standards.

Company's maintenance shop. The AMTs are not fixed in one spot, but move around the plant, solving mechanical problems on lines other than those their team operates, if their skills are needed.

The two MGLs are responsible for planning maintenance activities by tracking overall plant maintenance, cost data, and work order systems. They also record parts histories and coordinate other projects, installations, and the activities of the AMTs. The MGLs do not belong to an operating team but their work overlaps with the AMTs.

The EITs work throughout the plant performing mechanical, electrical, and programming work on various pieces of production equipment. The Employer schedules one EIT per shift who reports to a team leader and the plant engineer.

The sole UC is ultimately responsible for maintaining the facility's boilers, air compressors, refrigeration systems, pH systems, and its water system and holds a state license to do so. He is not assigned to any team but instead is a full-time member of the facilities and engineering department. He handles complex utilities projects and has no production responsibility. He also trains the level 2 utilities coordinators who spend 20 percent of their time performing basic utilities work and the remainder on level 1 production line work.

The Respondent operates a maintenance shop containing equipment for its maintenance employees. Although this shop is open to all company personnel, AMTs, and other maintenance personnel use it almost exclusively. When nonmaintenance personnel enter the shop, the machines are usually operated for them by the level 3 maintenance employees.

The Board affirmed the Regional Director's finding limiting the unit to maintenance employees, relying on six considerations: (1) the employees' specialized skills relating to the maintenance of plant equipment; (2) their responsibility for doing maintenance tasks; (3) the fact that they spend some part of the working day in the maintenance shop; (4) their frequent interaction with each other; (5) their relatively high rates of pay; and (6) their separate supervision when performing maintenance work.

The court found that two factors, the specialized skills of the maintenance employees and the time spent in the maintenance shop, were supported by substantial evidence. However, the court found that three of the six factors that the Board relied on in support of its unit determination were not supported by substantial evidence. Further, the court found that the Board's reasoning regarding the remaining factor, rates of pay, was unclear. The court therefore remanded the case to the Board to

reconsider its unit determination, including whether the factors for which there is record support could, standing alone, support that determination.

Based on the application of the factors discussed below to the record evidence in this case, we reaffirm our finding that the Employer's maintenance employees comprise a distinct, separate, and cohesive grouping of employees appropriate for collective-bargaining purposes. We base this conclusion on the factors found by the court to be supported by substantial evidence on the record as well as record evidence showing that the maintenance employees' wages are significantly higher than the production employees' wages. We further find, as explained below, that these factors are sufficient support for our conclusion that the petitioned-for maintenance employees are a readily identifiable group with a distinct community of interest and are an appropriate unit for bargaining.⁷

It is the Board's longstanding policy, as set forth in *American Cyanamid Co.*, 131 NLRB 909 (1961), to find petitioned-for separate maintenance department units appropriate where the facts of the case demonstrate the absence of a more comprehensive bargaining history and the petitioned-for maintenance employees have the requisite community of interest. In determining whether a sufficient separate community of interest exists, the Board examines such factors as mutuality of interests in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. Significantly, the Board does not require all factors to be present in order to find a petitioned-for maintenance unit appropriate, so long as the record establishes that "maintenance employees are readily identifiable as a group whose similarity of function and skills create a community of interest such as would warrant separate representation." *Id.* at 910. The *American Cyanamid* Board pointed out that "[w]hile many factors may be common to most situations . . . the effect of any one factor, and therefore the weight to be given it in making the unit determination, will vary from industry to industry and from plant to plant." 131 NLRB at 911. Thus, "collective-bargaining units must be based upon all the relevant evidence in each individual case." *Id.* See also *U.S. Plywood-Champion Papers*, 174 NLRB 292 (1969).

As the court recognized, to handle problems that arise during their shifts, the level 3 maintenance employees manage complex mechanical procedures requiring higher level technical skills than the production employees pos-

⁷ *Capri Sun, Inc.*, 330 NLRB 1124 (2000).

ness. Maintenance employees are required to pass a series of skills and safety tests, to be proficient at welding, fabricating parts from designs, and quickly diagnosing unusual problems. MGLs have all the skills of AMTs as well as the superior organizational skills to coordinate and execute complex repair and installation projects. The level 3 UC is competent in all areas of utility maintenance and repair, holds a State license, and also must oversee all utilities upkeep for the plant. The EITs must be well-versed in all aspects of the plant's mechanical and electrical systems. No level 2 maintenance technicians have been promoted to level 3 or assigned to perform significant amounts of maintenance work. Thus, although the skill level among maintenance employees is varied, all of these employees are more skilled than production employees and perform functions unique to their classifications. This higher skill level provides further support for a finding of separate community of interest.⁸

The court asked the Board to explain its reliance on the petitioned-for unit employees' relatively higher wage rates as a factor showing their community of interest. As the court noted, the Employer's pay scale is correlated to experience and skill level. Level 3 employees accordingly receive higher pay rates than employees in levels 1 and 2, and their higher pay rates do not reflect automatic promotion through the lower levels within the plant over time. The most advanced level 2 employee earns a maximum of \$17.22 per hour, whereas maintenance employees in level 3 start at an entry level rate of \$17.41 per hour with the potential to increase to \$19.41 per hour. We find that this significant wage disparity further favors a separate maintenance unit.⁹

Significantly, the level 3 maintenance employees spend a great deal of time working in a shop dedicated to their needs, and are no more integrated into the production process than in a typical plant. This maintenance shop is almost exclusively used by maintenance personnel, another indicator of their separate community of interest.¹⁰

⁸ *Capri Sun, Inc.*, supra; *Skyline Distributors*, 319 NLRB 270, 270 fn. 2 (1995), enf. 99 F.3d 403, 407 (D.C. Cir. 1996); *Ore-Ida Foods*, 313 NLRB 1016, 1018 (1994), enf. mem. 66 F.3d 328 (7th Cir. 1995).

⁹ *Omni International Hotel*, 283 NLRB 475 (1987). Although there are other level 3 employees in the plant who are not maintenance employees, those employees perform administrative work in the areas of health and safety, environmental requirements, and risk management, and do not share responsibility for maintaining the plant's equipment and utility infrastructure. They therefore should not be included in the unit.

¹⁰ *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). The maintenance employees attend monthly maintenance meetings in addition to the daily team meetings that all team members attend. In its decision, the court questioned whether those meetings were so significant that they outweighed the daily meetings the AMTs attend with employees

We recognize, as did the *American Cyanamid* Board, that the "Board must hold fast to the objectives of the statute using an empirical approach to adjust its decisions to the evolving realities of industrial progress and the reflection of that change in organizations of employees." 131 NLRB at 911. Despite the steps made toward integration here, our review of the record leads us to conclude that the Respondent's operation is not "so integrated . . . that maintenance has lost its identity as a function separate from production, and that maintenance employees are not separately identifiable." *Id.* at 910.

Arguing that the petitioned-for employees do not have a separate community of interest, our dissenting colleague asserts that "all team members are interchangeable" and that "[h]igher-level technicians routinely fill in for absent lower-level production workers." However, the record does not support this assertion. It is clear, in fact, that the AMTs and the EITs rarely, if ever, work on the production line, while the other maintenance classifications are not expected to perform operations work at all. Similarly, no level 2 employees perform level 3 maintenance work. Moreover, although maintenance employees have contact with production employees on the production floor, this by itself does not establish a significant degree of functional integration. As in other industrial settings, the Respondent's maintenance employees must spend a considerable portion of their time around the equipment they service, which is located on the production floor. Nevertheless, the segregation of actual work functions between maintenance and production employees limits the extent to which the operations process depends on the unit employees. While all production processes ultimately depend on maintenance employees to keep them running, if mere physical proximity were sufficient to preclude a separate maintenance unit no such unit would ever be certified. The Board rejected such an outcome in 1961 when it began to allow departmental organization.¹¹ Because the familiar distinction between maintenance and production functions is retained at the Respondent's South Brunswick facility,

outside the unit. While the daily meetings address staffing, production, and other nontechnical issues, the monthly maintenance meetings concern technical issues at the plant involving maintenance employees only. We recognize that the record sets forth a number of instances in which the maintenance employees work alongside and attend meetings with the production employees. We find, however, that those common endeavors do not obliterate the clear functional distinction between the more highly skilled work of the maintenance employees and the duties required of, and performed by the other employees.

¹¹ *American Cyanamid Co.*, 131 NLRB at 910 (Board found maintenance employees had separate supervision, performed various maintenance work for the entire plant, and exercised specialized skills, thus readily identifiable as a group whose similarity of function created a separate community of interest).

the certification of a separate maintenance unit here does not obstruct the Respondent's integration of its production operations.

In its decision, the court asked us to explain why the unit is justified "in spite of, not because of, the disparate supervision of the employees in the unit." 168 F.3d at 520. The reason is that the unit maintenance employees are, for the most part, supervised separately from the other plant employees. The absence of totally identical supervision of the maintenance employees does not defeat their separate identity because their supervision is separate from production supervision and is specifically correlated to their maintenance functions.

Our dissenting colleague asserts that the production team leaders exercise considerable supervision over unit employees. However, it is clear from the record that the primary supervision of maintenance employees comes from outside the production teams. The Respondent's technology manager supervises the 16 AMTs and the 2 MGLs, totaling 18 of the 21 employees in the unit. The EITs are supervised by the control engineer, and the level 3 UC is supervised by the plant engineer. None of these individuals supervises or is a member of a production team. Moreover, there is no record showing that the team leaders' oversight is crucial to the unit employees' maintenance duties or that it diminishes their community of interest.

Based on the foregoing, we find that the maintenance only unit is an appropriate unit for bargaining.

ORDER

The National Labor Relations Board reaffirms its original Order, reported at 325 NLRB 499 (1998), and orders that the Respondent, Sundor Brands, Inc., South Brunswick, New Jersey, its officer, agents, successors, and assigns, shall take the action set forth in that Order.

MEMBER HURTGEN, dissenting.

Contrary to my colleagues, I would not find that the unit consisting of skilled level 3 maintenance technicians is appropriate. These technicians are classified as level 3 advanced maintenance technicians (AMTs) and maintenance group leaders (MGLs),¹ level 3 "electrical and instrumentation technicians" (EITs); and level 3 utilities coordinators (UCs). In my view, these employees, who operate in a highly integrated production and maintenance environment, do not comprise a distinct, separate, and cohesive group of employees appropriate for purposes of collective bargaining.

¹ AMTs serve as MGLs on a rotational basis. In that capacity, they schedule, coordinate, and prioritize maintenance activities.

The issue is whether the skilled level 3 maintenance technicians have a separate community of interest.² In the underlying proceedings in this test-of-certification case, the Board upheld the validity of the certification of a unit of skilled level 3 maintenance technicians.³ The Board found that the employees shared a community of interest based on the asserted existence of six factors: (1) the employees' specialized skills relating to the maintenance of plant equipment; (2) their responsibility for performing maintenance tasks; (3) the fact that they spend some part of the working day in the maintenance shop; (4) their frequent interaction with each other; (5) their relatively high rates of pay; and (6) their separate supervision when performing maintenance work.

The U.S. Court of Appeals for the District of Columbia Circuit denied enforcement. This case is now before the Board on remand from that court.

The Court's Opinion

With respect to whether there is a community of interest among the skilled level 3 maintenance technicians, the court found unjustified the Board's reliance on the second, fourth, and sixth factors listed above. Regarding factor 4, the unit employees' interaction with each other, the Board had noted that the AMTs and the MGLs have common job duties. However, the court pointed out that this does not mean that they work together in performing those duties. Further, although the Board had observed that the level 3 EITs work together with other unit employees in some respects, the Board had not made findings as to the frequency of this working together. In addition, the Board had relied on monthly meetings of skilled level 3 maintenance technicians. However, the court noted that the AMTs meet daily with non-unit employees, and the UCs interact "most consistently" with nonunit employees.

Regarding factor 6, the court noted that each of the four classifications of technicians in the unit is supervised separately. In the court's view, this factor seemed to militate against a finding of cohesiveness among the skilled level 3 maintenance employees.

Regarding factor 2, the Board had found that all the skilled level 3 maintenance technicians had a common task of maintaining equipment in the plant. The court observed that this claim was "grossly overstated," at least as to the level 3 UC technician. The only maintenance work that the UC technician performs is to fill in for temporarily absent level 2 UC technicians.

² *U.S. Plywood-Champion Papers*, 174 NLRB 292 (1969); *American Cyanamid Co.*, 131 NLRB 909 (1961).

³ I did not participate in the decision.

The court also raised an issue with respect to factor 5—wages. The court found that the Board’s decision was unclear. The Board had argued in its brief that the relatively high wages of skilled level 3 maintenance technicians were because of their status as maintenance employees. The court said that “this is not the case.” For example, skilled level 3 maintenance technicians earn the same as equally skilled, equally senior level 3 nonmaintenance employees. Thus, status as a maintenance employee is not the determinative factor regarding rates of pay. On the other hand, the court suggested that the Board may have meant that unit employees (level 3) as a class earn more than nonunit employees (most of whom are levels 1 and 2).

Accordingly, the court held that the Board failed adequately to explain its unit determination. As noted, the court remanded these proceedings for the Board to reconsider whether the factors for which there is support in the record are sufficient to support the present unit determination.

Analysis

In resolving this unit issue, it is important to focus on two different (albeit related) concepts: (1) cohesiveness, i.e., whether there is a community of interest among the unit employees; (2) separateness and distinctness, i.e., whether the unit employees have a community of interest that is separate and distinct from nonunit employees. The court’s concerns involve both of these issues. The issue now before the Board is whether the unit employees’ maintenance skills and the fact that they spend some part of the working day in the maintenance shop provide the basis for a sufficiently separate, distinct, and cohesive community of interest to support reaffirmation of the prior unit determination. In my view, there is insufficient evidence of separateness. As discussed above, the court has shown some of this inadequacy of evidence. I do not believe that my colleagues have satisfactorily answered the court’s concerns. Further, and in addition to the factors considered by the court, I wish to expand on other factors that show that these unit employees do not have a separate, distinct, and cohesive community of interest. To the contrary, they work closely in teams with nonunit employees in a highly integrated production process and share many of the same employment terms and conditions.⁴

The Respondent produces bottled drinks using a plantwide, team-based production process. All employ-

⁴ My colleagues assert that since 1961 the Board has found appropriate a unit of maintenance employees. However, the issue here is whether the level 3 skilled maintenance employees comprise an appropriate unit.

ees are classified as technicians at level 1, level 2, or level 3. The classification is based on overall experience and skill level within the production process, not on specialized job skills. Each of the Respondent’s four core manufacturing departments is staffed by production teams which typically consist of: a team manager, who is responsible for all team production, supervision, and personnel matters; several level 3 technicians, who may be AMTs, EITs, or UCs, and who spend 75 percent of their time working on the production floor, and who also train level 2 employees; several level 2 technicians, who may be EITs or UCs; and approximately 7 to 15 level 1 technicians, who perform the lowest skilled production work.

Teams or individual team members, including the level 3 maintenance employees, can be shifted from one production area to another to respond to maintenance needs or changes in production staffing based on waxing and waning demand for specific products. Technicians at all levels can be assigned to temporary (1 to 5 years) rotational jobs outside of their teams. These rotations are designed to enhance employees’ interdepartmental skills and knowledge and their interchangeability.

Such interchangeability is a hallmark of the Respondent’s team-based operation. Although team members’ basic job duties vary according to their skill and experience levels, team members are interchangeable and must be able to perform the full range of team job functions, which typically include production, maintenance, quality assurance, materials management, safety and environmental control, and inventory. Higher level technicians are required to fill in for absent lower level production workers.⁵ My colleagues assert that level 2 maintenance employees do not perform level 3 work. However, as noted, level 3 maintenance employees can and do perform levels 2 and 1 work.

In attempting to defend the present unit determination, my colleagues stress the fact that the skilled level 3 maintenance employees possess the highest levels of skill and proficiency in performing their maintenance duties. However, as shown, progressive development of employees from the level 1 production work to levels 2 and 3 work, and the resulting employee interchangeability, is integral to the Respondent’s integrated production process.⁶ The fact that the level 3 maintenance techni-

⁵ Contrary to my colleague’s contention, record evidence establishes that levels 1 and 2 technicians conduct maintenance of production equipment, commensurate with their skill and experience levels. Level 1 technicians perform the most basic maintenance functions. Level 2 technicians can troubleshoot, resolve some routine equipment breakdowns, replace parts, and perform preventive maintenance.

⁶ My colleagues contend that no level 2 maintenance technicians have been promoted to level 3. The team-based production process had

cians have higher skills than others on the team does not outweigh the high degree of interchangeability, integration, and interaction with other employees during their maintenance of production equipment on the production floor.⁷

Moreover, all production and maintenance employees, regardless of level, participate in a daily, collaborative, preshift meeting, at which production related information and related maintenance issues are discussed.⁸ They share common employment conditions. These include fixed shifts, use of timeclocks, a plantwide wage scale and benefits, performance appraisal and disciplinary systems, promotion standards, and policies contained in a companywide employee handbook. Job bidding is plantwide.

In addition, the Respondent does not even maintain a separate maintenance department. As noted, skilled level 3 maintenance technicians are assigned to individual

been in operation about 2 years at the time of the hearing in this case. There is record evidence that development and promotion of some level 2 employees to level 3 was imminent.

⁷ My colleagues acknowledge that the skilled level 3 maintenance employees spend “a considerable portion of their time” on the production floor keeping the production equipment and, thus, the production process, up and running. Illogically, however, they contend that this work brings the level 3 maintenance employees into “mere physical proximity” with other production employees but does not result in integration of activities with those employees. The evidence and common sense suggest otherwise. Further, as shown, skilled level 3 maintenance employees are supervised by production team leaders when they are performing maintenance on the production floor.

American Cyanamid Co., 131 NLRB 909 (1961), a case relied on by my colleagues, is not to the contrary. There, unlike the instant case, the engineering (maintenance) department and production department were administratively separate entities reporting separately to the plant manager. See *American Cyanamid Co.*, 130 NLRB 1 (1961). Compare *Proctor & Gamble Paper Products Co.*, 251 NLRB 492 (1980) (unit of highly skilled electrical maintenance workers not appropriate where those workers performed maintenance work on production equipment on plant floor as part of an integrated production operation). Here, the plant is organized along the lines of the product production process; and, although some aspects of the work of the level 3 maintenance employees are supervised by the technology manager and other managers having plantwide subject matter responsibilities, the level 3 maintenance employees are also supervised by production team managers when they perform maintenance on the production floor.

I also note that the *American Cyanamid* cases were decided in 1961. Production technology and operations have changed considerably since then, a fact anticipated by the Board in *American Cyanamid*, 131 NLRB, supra at 911–912, when it cautioned future Boards to

examine on a case-by-case basis the appropriateness of separate maintenance department units, fully cognizant that homogeneity, cohesiveness, and other factors of separate identity are being affected by automation and technological changes and other forms of industrial advancement.

⁸ Contrary to my colleagues, the fact that skilled level 3 maintenance technicians also attend a monthly maintenance meeting does not detract from the high degree of integration and employee contact inherent in the team production concept.

production teams. Although the skilled level 3 maintenance technicians are separately supervised regarding some aspects of the performance of their maintenance duties by managers having certain specialized plantwide responsibilities, they also receive direction from team leaders as they perform maintenance work on the production floor.⁹ Although level 3 maintenance employees perform the most demanding maintenance work, lower level employees regularly perform maintenance tasks as part of their development within the production process, usually under the direction of the skilled level 3 maintenance technicians.

Concededly, there is a separate maintenance shop. However, it is not used exclusively by skilled level 3 maintenance technicians.¹⁰ As noted, these maintenance technicians spend approximately 75 percent of their time on the production floor, not in the shop.¹¹

With respect to wage levels, as noted above, the court observed that skilled level 3 maintenance technicians do not earn more than equally skilled and equally senior nonmaintenance employees. The court suggested, however, that the Board may wish to show that unit employees (all level 3) as a class earn more than nonunit employees (most of whom are levels 1 and 2) as a class. It is true that skilled level 3 maintenance technicians earn more than levels 1 and 2 employees. However, there are nonmaintenance employees who are at level 3; and they

⁹ The technology manager has the ultimate supervisory responsibility for the AMTs and MGLs; the controls engineer supervises the EITs; and the plant engineer supervises the level 3 UC. Thus, categories of employees within the certified unit ultimately are separately supervised by managers with specialized, plantwide responsibilities and oversight. These managers are not assigned to teams. According to my colleagues, “there is no record showing that the team leaders’ oversight is crucial to the unit employees’ maintenance duties or that it diminishes their community of interest.” On the contrary, the record shows that the team leaders’ direction of maintenance employees working on the production floor is integral to their maintenance duties. If it were so that team leader supervision in *not* crucial to the performance of maintenance on the production floor, then on-sight supervision and direction of maintenance work in production areas necessarily would be provided by the specialized managers, rather than the team leaders. Record evidence establishes that the team leaders provide line management and direction of maintenance work in the production areas.

¹⁰ As my colleagues concede, level 3 AMTs work alongside other technicians in the shop by operating shop machinery for non-maintenance personnel. There is no evidence that other unit employees—i.e., EITs and UCs—use the shop at all. Thus, work within the shop is not a condition common or unique to all of the employees in the certified unit.

¹¹ Thus, the record evidence belies my colleagues’ bare assertion that the skilled maintenance employees “are no more integrated into the production process than in a typical plant.” Further, as noted, the maintenance workers spend about 75 percent of their time working with their teams on the production floor, thus contravening my colleagues’ assertion that the production workers “spend a great deal of time working in a shop dedicated to their needs.”

earn as much as the skilled level 3 maintenance technicians. Moreover, the difference between the wage rate of the highest paid level 2 employee (\$17.22 per hour) and the entry level wage of level 3 employees (\$17.41) is minimal and, thus, reflects the structure of the Respondent's progressive job classification structure based on growth over time in employee experience and skill levels.

In short, pay is a function of level; and one's level is tied to attainment of higher degrees of skill and seniority within the Respondent's highly integrated production operation, rather than to any particular kind of skill, e.g., maintenance skill.¹²

¹² *Omni International Hotel*, 283 NLRB, 475, 475 (1987), cited by my colleagues in support of their reliance on the wage differential between level 3 technicians and other production and maintenance employees, is distinguishable. There, the issues were:

Under all the circumstances, I find that the Respondent's operations are "so highly integrated as to destroy the maintenance employees' identity as a separate and distinct function."¹³ In addition, there is no showing of cohesiveness among the unit employees.

(a) the appropriateness of the Board's unit determination standards in the hotel and motel industry; and, (b) whether tips earned by nonengineering department employees sufficiently reduced the disparity between their earnings and those of the engineering department employees sought to be included in the unit.

Further, in *Omni*, in contrast to the instant case, no other nonsupervisory employees earned wages equal to those earned by the engineering department employees.

¹³ *Ore-Ida Foods*, 313 NLRB 1016, 1019 (1994), *enfd.* 66 F.3d 328 (7th Cir. 1995).

My decision is limited to finding that the present unit of skilled level 3 maintenance employees is not appropriate. I do not decide any other issue related to the scope of an appropriate unit of the Respondent's employees.