

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

JOHNSON CONTROLS WORLD SERVICES INC.^{1/}

Employer

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION NO. 26

Petitioner

and

STEAMFITTERS LOCAL UNION NO. 62, UNITED
ASSOCIATION OF JOURNEYMEN AND APPRENTICES
OF THE PLUMBING AND PIPEFITTING INDUSTRY OF
THE UNITED STATES AND CANADA, AFL-CIO

Petitioner

Case 5-RC-14921; 5-RC-14922

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby 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 herein.
3. The Petitioner involved claims to represent certain employees of the Employer.^{2/}
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.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.^{3/}

All employees employed by the Employer at the Patuxent Naval Air Station in Lexington Park, Maryland including the Solomons Annex on Solomons Island, Maryland and Webster Field in St. Inigoes, Maryland, in its Utilities, Preventive Maintenance and Service Order Shops, including all electricians, electronic technicians I, general maintenance workers, heavy equipment operators, heavy truck drivers, industrial wastewater operators, laborers, maintenance trades helpers, plumbers, riggers, sewage plant operators, wastewater operators, and water plant operators in the Utilities Shop; general maintenance workers, heavy truck drivers, heavy equipment mechanics, HVAC mechanics, laborers, stationary engineers, and the electricians in the Preventive Maintenance Shop; and electricians, carpenters, general maintenance workers, HVAC mechanics, laborers, roofers, sign painters, stationary engineers, and welders in the Service Order Shop, but excluding all employees in the Indefinite Quantity (IQ) Department, Work Control and Business Administration, specifically carpenters, skilled laborers, electricians, estimators, HVAC mechanics, IQ buyers, laborers, painters, production control clerks, sheet metal employees in IQ, production controls clerks in Work Control, general clerks II, light truck drivers, order clerk II, warehouse clerk in Business Administration, all office clericals, guards and supervisors as defined in the Act.

OVER

DIRECTION OF ELECTION

An Election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by

STEAMFITTERS LOCAL UNION NO. 602, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO

LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. The request must be received by the Board in Washington by **January 3, 2000**.

Dated December 17, 1999

at Baltimore, Maryland

/s/ LOUIS J. D'AMICO

Regional Director, Region 5



1/ At the hearing the petitions were amended to show the correct name of the Employer to be Johnson Controls World Services Inc., (herein the Employer). The parties stipulated that the Employer, a Florida corporation with its headquarters located in Cape Canaveral, Florida, is engaged in the performance of maintenance services to various facilities of the United States government, including the Patuxent River Naval Air Station in Lexington Park, Maryland, pursuant to a contract with the United States Department of the Navy. Annually the Employer receives gross revenues in excess of \$50,000 for services performed at the Patuxent River Naval Air Station in Lexington Park, Maryland, pursuant to that contract. It was stipulated that the Employer is engaged in commerce within the meaning of the Act.

2/ The parties stipulated that International Brotherhood of Electrical Workers, Local Union No. 26, (Local 26) and Steamfitters Local Union No. 602, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, (Local 602) are labor organizations within the meaning of the National Labor Relations Act.

3/ There is no history of collective bargaining.

The Employer's contract with the Navy includes the Solomons Annex on Solomons Island and Webster Field in St. Inigoes as well as the Naval Air Station. The Employer is responsible for all maintenance and operations of the facility infrastructure for the base including response to service orders, preventive maintenance and indefinite quantity work (minor construction). The Employer's most recent contract with the Navy at this location, commencing on November 1, 1999, is smaller in scope than its previous contract requiring it to reorganize its operation reducing the number of employees working on the contract as of that date.

Petitioned for Units

At the hearing Local 26 amended its petition to seek a unit including the electricians, the electronic technician I, the maintenance trades helper and the general maintenance worker (former electrician QC in the Preventive Maintenance Shop), employed in the Employer's Operation at Patuxent Naval Air Station under the Service Contract Act, excluding IQ Department employees, and all other employees, guards and supervisors as defined in the Act. The unit that Local 26 seeks includes approximately twelve employees.

Local 602's requested unit includes all employees in Utilities, Preventive Maintenance and Service Order Shops. There are approximately 65 employees in this unit.

The Employer takes the position that the unit requested by Local 602 is the only appropriate unit.

Stipulations

The parties stipulated that employees in IQ and Work Control and Business Administration, should be excluded from any unit found appropriate.

The parties stipulated that Preventive Maintenance Shop Supervisor Joseph Watts, Service Order Shop Supervisor Alvin Wallace and Utilities Shop Supervisor Robert Allen Lathroum are supervisors within the meaning of Section 2(11) of the Act.

The Employer's Operations

Larry Autry, the Employer's general manager testified regarding the Employer's operations. The Employer's operations are divided into four shops, Utilities Shop, Service Order Shop, Preventive Maintenance Shop and an Indefinite Quantity Shop (IQ Shop). The parties stipulated that employees in the IQ Shop should be excluded from any unit found appropriate. The other three shops' employees report to work at Building 589.

Utilites Shop

The Utilities Shop's primary responsibility is electrical distribution, sewage, collection, and wastewater treatment. It also handles plumbing, rigging, heavy equipment operation and equipment for ceremonies. Allen Lathroum supervises the approximately 27 employees in Utilities Shop. The classifications in this shop are: electricians, electronic technician I, general maintenance worker, heavy equipment operator, heavy truck driver, industrial wastewater operator, laborer, maintenance trades helper, plumber, rigger, sewage plant operator, wastewater operator, water operator, and water plant operator.

The four electricians in the Utilities Shop work on airfield lighting, high voltage distribution, fire suppression systems, as well as identify underground utilities at digs, and handle miscellaneous tasks. They, like all electricians under the Employer's contract with the Navy, must be licensed.

Only the Utilities Shop has a maintenance trades helper. He assists either the electronic technician or one of the electricians with preventive maintenance on fire alarms, a two person job.

The one general maintenance worker in the Utilities Shop plans and coordinates ceremonies including transporting equipment, installing CD players and microphones as well as hanging flags. He also works on digs and moves and is a jack of all trades.

The heavy equipment operator runs the equipment to dig up underground utilities and operates cranes to load and unload planes. He works as a part of a crew, working with a rigger, a plumber or an electrician depending on the type of job. The heavy truck driver supports the heavy equipment operator moving dirt that has been dug by dump truck. The industrial wastewater operator checks the system and flushes the tanks that separate oil from water that has been collected follow spills.

There are also three laborers in the Utilities Shop. They assist the craftsmen and are used primarily for ceremonies, moves and digs. The work of two plumbers covers a broad spectrum. The rigger supports heavy equipment operations making sure that loads are secured properly. The sewage plant operator has a "class V" license for sewage treatment. He operates lift stations which collect sewage and send it to the county for treatment. The two wastewater operators check the lift stations and make sure they are working properly. The six water plant operators insure that the wells run, that water is treated and then stored in tanks for distribution. The water plant is the only 24 hour operation. Thus the water plant operator who is on duty at the plant after 4pm and has the additional duty of taking emergency dispatch calls.

Preventive Maintenance Shop

The Preventive Maintenance Shop performs preventive maintenance, predicted maintenance and reliability centered maintenance. Joseph Watts supervises approximately 27 employees classified as general maintenance worker, heavy truck driver, heavy equipment mechanic, HVAC mechanic Laborer, stationary engineer and electrician.

The four general maintenance workers in the Preventive Maintenance Shop change filters and belts and make sure that equipment is running appropriately. They also assist other crafts. One of the general maintenance employees, Phillip Ridgell was formerly the electrician QC. As such he was working as an electrician with a small team at a different base, but was not licensed. As of November 1999 the Navy ceased allowing a waiver of its requirement under its contract with the Employer that all electricians (as well as plumbers and certain other classifications) be licensed. Ridgell was unable to pass the test for a license and so was transferred to the Preventive Maintenance Shop where he does not do electrical work. Ridgell is not performing any work that the other three general maintenance employees do not do.

The one heavy truck driver in the Preventive Maintenance Shop transports weights used to certify overhead hoists and cranes from location to location. There are two heavy equipment mechanics. One works on the overhead hoists and cranes and the other on emergency generators.

The ten HVAC mechanics in the Preventive Maintenance Shop work on air conditioning, refrigeration, heating and air handling units through out the base and assist with service call in other shops as needed. The one laborer in the shop supports all of the other employees such as by carrying or holding equipment for them. There are two stationary engineers who primarily do boiler work.

The one electrician in the Preventive Maintenance Shop lends support throughout the shop.

Service Order Shop

The Employer contracts to perform 16,000 service orders per year. Service orders include requests to replace switches, mount boards, or any number of other customer requirements. Alvin Wallace supervises the Service Order Shop's approximately 17 employees classified as electricians, carpenters, general maintenance worker, HVAC mechanic, laborer, roofer, sign painter, stationary engineer and welder.

The four electricians in the Service Order Shop mainly respond to service calls that come in for problems involving electricity such as lights out. Other examples of their work include mounting CD players for ceremonies, moving air conditioner vents and helping with fire alarms that have gone off.

The two carpenters in the Service Order Shop do whatever the customer asks including installing windows and replacing doorknobs. The three general maintenance workers in the Service Order Shop are jacks of all trades unstopping toilets, changing light bulbs, doing minor changing of electrical motors and minor carpentry. The three HVAC mechanics respond to call regarding air conditioning being too hot or too cold or ice machines not working. The one laborer is generally assigned to work with the welder does the welding for all the shops.. There is one roofer who works on roofs and also has carpenter duties. There is one sign painter who handles personalized sign requirements for the base. The one stationary engineer in the Service Order Shop responds to boiler calls.

Interchange

Employees in the Utilities Shop, the Preventive Maintenance Shop and the Service Order Shop work side by side fifteen percent of the time. Employees in these three shops, particularly Utilities Shop employees, also often work on composite crews with IQ employees (who all the parties stipulated should be excluded) particularly during weather emergencies. On composite crews, electricians do electrical work and plumbers do plumbing work though they may assist each other. There are also temporary and permanent transfers between departments depending on workloads. Though some examples were given, the record does not detail the extent of such transfers.

Supervision

None of the three supervisors in these shops is an electrician and none has an electrical background. If electricians run into a problem or have a question they ask their fellow electricians for assistance, or consult the customer's electrical engineers or the manufacturer or vendor.

Positions of the Parties

Local 26 and the Employer filed briefs. The Employer in its brief argues that Local 26's petitioned-for unit is an arbitrary grouping and does not meet the Board's standards for an appropriate unit citing *Brown & Root Braun*, 310 NLRB

632 (1993); *Atlanta Division of S.J. Groves and Sons Company*, 267 NLRB 175 (1983). Local 602 is in essential agreement with the Employer's position.

Local 26 argues in its brief that the unit it seeks is *an* appropriate unit, a legitimate craft unit properly separable from the broader unit sought by the other parties. Local 26 relies on *Burns and Roe*, 313 NLRB 1307 (1994) as well as *E. I. Du Pont & Co.*, 162 NLRB 413 (1966); *NLRB v. Metal Container Corp.*, 660 F2d 1309 (8th Cir 1981), enf. 249 NLRB 1222 (1980); *California Institute of Technology*, supra.

Conclusion

Section 9(b) of the Act states:

The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, or subdivision thereof.....

The statute does not require that a unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit. Rather, the Act only requires that the unit be "appropriate." *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), enf'd 190 F.2d 576 (7th Cir. 1951); *Parsons Investment Co.*, 152 NLRB 192 fn. 1 (1965); *Capital Bakers*, 168 NLRB 904, 905 (1968); *National Cash Register Co.*, 166 NLRB 173 (1967); *NLRB v. Carson Cable TV*, 795 F.2d 897 (9th Cir. 1986); *Dezcon, Inc.*, 295 NLRB 109 (1989). A union is, therefore, not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballantine & Sons*, 141 NLRB 1103 (1963); *Bamberger's Paramus*, 151 NLRB 748, 751 (1965); *Purity Food Stores*, 160 NLRB 651 (1966). It is well settled that there is more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. See *General Instrument Corp. v. NLRB*, 319 F.2d 420, 422-423 (4th Cir. 1962), cert. denied 375 U.S. 966 (1964); *Mountain Telephone Co. v. NLRB*, 310 F.2d 478, 480 (10th Cir. 1962).

With respect to craft or departmental units, the general rule is that where no bargaining history on a more comprehensive basis exists, a craft or traditional departmental group having a separate identity of functions, skills, and supervision, exercising craft skills or having a craft nucleus, is generally appropriate. See, e. g., *E. I. Du Pont & Co.*, 162 NLRB 413 (1966); *E. I. Du Pont & Co.*, 192 NLRB 1019 (1971). In *Burns & Roe*, 313 NLRB 1307 (1994) the Board described the test:

In determining whether a petitioned-for group of employees constitutes a separate craft unit, the Board looks at whether the petitioned-for employees participate in a formal training of apprenticeship program; whether the work is functionally integrated with the work of the excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; whether the employer assigns

work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits and cross training.

In the *Burns & Roe* situation one union sought to represent electrical department employees and another sought to represent maintenance employees. The Board noted in its finding of the two units as appropriate that no union sought to represent employees on a broader basis as the Employer contended was appropriate.

In *Union Carbide*, 156 NLRB 634 (1966), the Plumbers union sought to represent either the pipefitters, welders and instrument repairmen either in a single unit or in separate units or any combination thereof while the Machinists union in agreement with the employer sought an overall production and maintenance unit. The Board found appropriate a unit of plumbers and welders and a separate unit of instrument repairmen and allowed these two groups to vote for representation by the Plumbers or to be included in the pool voting in the overall unit for or against representation by the Machinists. The Board refused to allow the Plumbers to appear on the ballot for the overall unit finding such intervention to be inconsistent with its prior position.

Thus the question is whether the unit petitioned for by Local 26 constitutes an identifiable craft unit entitled to separate representation and eligible for a self-determination election or whether only the larger unit sought by Local 602 and the Employer is appropriate.

I find that the record herein fails to establish that the unit sought by Local 26 constitutes a craft unit. I note that Local 26 included in its proposed unit the classification of "general maintenance worker," which is not a classification included in an electrical craft unit. Furthermore, the unit proposed by Local 26 does not constitute a functionally distinct group with common interests separate from the Employer's other employees. Accordingly, since the unit is an arbitrary grouping which does not constitute a distinct and homogenous group or a craft unit, the petition in Case 5-RC-14922 is dismissed.

I find that the unit sought by Local 602 is an appropriate unit and I hereby direct an election in that unit. Local 26 has not indicated a desire to participate in an election in this unit. Therefore, Local 26 will not appear on the ballot.