

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

WASTE MANAGEMENT OF CONNECTICUT, INC.

Employer ¹

and

TEAMSTERS LOCAL 559, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO

Petitioner

Case No. 34-RC-1815

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 labor organization involved claims 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.

¹ The name of the Employer appears as amended at the hearing.

5. The Employer is a Delaware corporation engaged in commercial and residential trash removal. The Petitioner seeks to represent a unit composed of 53 commercial drivers and residential drivers and 20 helpers employed at the Employer's South Windsor, Connecticut facility, the sole facility involved herein. The Employer contends that the petitioned-for unit is inappropriate because it fails to include the 15 "mechanics" employed in its "maintenance group." Although the Petitioner seeks to exclude these individuals from the unit, it has expressed a willingness to proceed to an election in any unit found appropriate. There is no history of collective bargaining covering any of the employees involved herein.

The Employer's facility is under the overall supervision of Operations Manager Jim Donnelly. Reporting to Donnelly are Maintenance Manager Jim Klotzer, who directly supervises the 15 disputed employees in the maintenance group; Dispatcher Gary Hoefling and Operations Supervisor Steven Riordan, who directly supervise the commercial drivers; and Foremen Kevin Walsh and Don Brennan, who directly supervise the residential drivers and the helpers.

The record reveals that the commercial drivers pick up both refuse and recyclable trash from commercial and industrial accounts and are required to possess a commercial drivers' license (CDL). They begin work between 3 and 5 a.m., work from 9 to 12 hours a day, are paid an hourly rate that ranges from \$12 to \$14, and are eligible for overtime. The record reveals that the residential drivers are composed of two separate classifications of hourly paid drivers, those who pick up recyclable trash and those who pick up refuse. The former receive between \$9.50 and \$11 an hour and are not required to possess a CDL. The latter receive between \$10 and \$13 an hour, are required to possess a CDL and are individually accompanied on their vehicles by a helper. All of the residential drivers service municipal accounts, report to work between 5:30 and 6:30 a.m., work less than 8 hours a day but are guaranteed 8 hours of pay. Although all of the drivers who are required to possess a CDL must have some "maintenance background," there is no evidence that they perform automotive repairs or are required to possess the skill to perform automotive repairs.

As previously indicated, a helper accompanies a residential refuse driver on each of the latter's routes. The helpers load trash on the trucks and are not required to possess any form of a drivers' license. Their hourly wage ranges from \$7.50 to \$9.50.

The disputed maintenance group is composed of 10 automotive mechanics, 2 welders, 1 painter, 1 container repair employee and 1 tireman/yardman. Unlike the drivers and helpers who spend the bulk of their time away from the South Windsor facility, the maintenance group primarily work at the facility. More specifically, the tireman/yardman spends about 75% of his time mounting, dismounting, checking and separating tires. The remainder of his time is spent sweeping the yard, "chasing" parts or performing other "miscellaneous" tasks. The painter spends virtually all of his time in the Employer's paint shop, which is located behind the main building, where he paints containers that which are used to temporarily store commercial refuse. The container maintenance employee apparently spends all of his time in the paint shop grinding the containers to prepare them to be painted, and painting the containers in the painter's absence. The 2 welders work in a separate welding bay also located behind the main building. One of the welders is primarily involved in truck repairs, the other welder repairs trash compactors and containers.

The record further reveals that on an average of once a day, 1 of the 10 automotive mechanics may be called upon to drive to a disabled truck to perform road repairs or to provide a replacement vehicle. On an undisclosed number of other occurrences, they may also be required to deliver compactors to the Employer's customers. Therefore, all mechanics are required to possess a CDL. Apart from the foregoing, however, the record clearly reflects that the majority of the mechanics' time is spent at the South Windsor facility repairing the Employer's vehicles. Although some of the mechanics are only required to perform basic preventive maintenance functions, other mechanics are considered "full fledged" automotive mechanics. In this regard, the record reveals that the Employer utilizes on-the-job training, including the use of outside enterprises, to teach "the more specialized types of repairs" in such "special" matters as electronic motors and braking systems.

The record reveals only 2 instances of transfers between mechanics and drivers in the past 7 years. One occurred in 1993 when a mechanic transferred to become a

driver. The other occurred in 1994 when a driver transferred to become a mechanic. With regard to temporary interchange, mechanics may be asked to substitute for drivers who are out due to illness. However, the record reveals that this has occurred only “a couple of times” in the past 10 years.

With limited exception, all employees receive the same benefits and wear the same style of uniform.² However, the mechanics and drivers utilize separate time clocks and washrooms and report to work at different areas at the facility.

In challenging the appropriateness of the petitioned-for unit, the Employer raises arguments in its post-hearing brief that were fully considered and rejected by the Board in *Overnite Transportation Company*, 322 NLRB 723 (1996). I find it unnecessary to revisit them herein. Applying the well-established principles restated by the Board in *Overnite*, supra, I find that none of the disputed employees in the maintenance group share a sufficient community of interest with the drivers to require their inclusion in the petitioned-for unit. In reaching this conclusion I note particularly that the drivers and the maintenance group possess separate and distinct skills; are subject to separate supervision; and experience minimal contact, transfers and interchange. *Novato Disposal Services, Inc.*, 330 NLRB No. 97 (February 10, 2000), and cases cited therein; *Alterman Transportation Lines, Inc.*, 183 NLRB 18, 24 (1970).

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time garbage and recycle truck drivers and helpers employed by the Employer at its South Windsor, Connecticut facility; but excluding office clerical employees, mechanics, maintenance employees, painters, welders, the tireman/yardman and guards, professional employees and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notices

² Although all employees are eligible to receive safety award bonuses, the amount awarded to residential drivers is 1 percent greater than other employees.

of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees in the unit 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 which 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, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. These eligible employees shall vote whether or not they desire to be represented for collective bargaining purposes by Teamsters Local 559, International Brotherhood of Teamsters, AFL-CIO.

To ensure that all eligible employees have the opportunity to be informed of the issues in the exercise of their statutory rights to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision and Direction of Election, the Employer shall file with the undersigned, an eligibility list containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional office, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103, on or before May 22, 2000. No extension of time to file these lists shall be granted 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, N.W., Washington, DC 20570. This request must be received by the Board in Washington by May 30, 2000.

Dated at Hartford, Connecticut this 15th day of May, 2000.

/s/ Peter B. Hoffman
Peter B. Hoffman, Regional Director
Region 34
National Labor Relations Board

440-1760-6280