

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

FORBES NURSING CENTER, A PART OF THE
FORBES HEALTH SYSTEM¹

Employer

and

Case 6-RC-11772

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 95-95A, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Julie R. Stern, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.²

Upon the entire record³ in this case, the Regional Director 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.⁴

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

² 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, D.C. 20570-0001. This request must be received by the Board in Washington by March 9, 2000.

³ The Employer and the Petitioner timely filed briefs in this matter which have been duly considered by the undersigned.

⁴ The parties have stipulated, and I find, that the Employer is a health care institution within the meaning of Section 2(14) of the Act.

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)(l) and Section 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit consisting of all skilled maintenance employees, including stationary engineers, maintenance mechanics and the painter, employed by the Employer at its Pittsburgh, Pennsylvania facility; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act and all other employees.⁵ The Employer contends, contrary to the Petitioner, that the only appropriate unit is a unit consisting of all service and maintenance employees, including the skilled maintenance employees sought by the Petitioner. There are approximately 11 skilled maintenance employees and approximately 140⁶ service and maintenance employees in the overall unit which the Employer contends is appropriate. There is no history of collective bargaining for any of the employees at issue herein.

The Forbes Nursing Center consists of a 134-bed skilled nursing facility, a 38-bed personal care facility⁷ and a hospice, which in addition to providing home health services, has an 8-bed in-patient unit.⁸ The Nursing Center is located in the East Liberty section of Pittsburgh,

⁵ The unit as described in the petition includes “mechanics, stationary engineers, carpenters, painters, plumbers, electricians and HVACR mechanics.” The undisputed evidence adduced at the hearing reveals that the Employer does not have separate job classifications for carpenters, plumbers, electricians and HVACR mechanics. Rather, the Employer uses the three job classifications stated in the text, which are accordingly utilized in this Decision.

⁶ In addition to the three job classifications sought by the Petitioner, the Employer would include 19 other job classifications.

⁷ The personal care facility is known as the Forbes Residence.

⁸ The Forbes Nursing Center is part of the Forbes Health System. In addition to the Nursing Center, the Health System includes a 320-bed acute care hospital, the Forbes Regional Hospital located in Monroeville, Pennsylvania. The Forbes Health System is part of the Allegheny University Medical Centers, which in addition to the Forbes Health System, includes three acute care hospitals, Allegheny General Hospital located in Pittsburgh, Pennsylvania, Allegheny Valley Hospital located in Natrona Heights, Pennsylvania, and Canonsburg Hospital located in Canonsburg, Pennsylvania. At present,

Pennsylvania. In the Nursing Center complex, there is a multi-story building, which consists of three wings, each of which contains about 50,000 square feet and is six to seven stories tall, joined at a central corridor. Also in the Nursing Center complex is the Finley Building, which contains about 80,000 square feet and which houses various administrative offices.⁹ A third building in the complex houses the laundry.

The operations of the Nursing Center are under the overall direction of CEO Barry Roth.¹⁰ Reporting directly to Roth is Nursing Center Administrator Michael Haye. The Nursing Center operations are administratively subdivided into eight divisions, each under the direction of a director or manager. These divisions are Facilities Management, Nursing Administration, Dietary, Therapeutic Recreation, Central Supply/Medical Services, Rehab Services, Social Services, and Hospice. These divisions are further subdivided into departments.

In particular, the Facilities Management division is supervised by Director Scott Bierer, and is comprised of the following departments: maintenance¹¹, environmental services, surgical packing, laundry, security¹², couriers, and telecommunications. The maintenance department and the couriers are under the direction of Supervisor/Manager J. Lewindowski; the other departments in Facilities Management are under the direction of Manager Ian Singleton. The maintenance department is located in the basement of the Finley Building, which, as noted, houses various administrative offices. In this area, there is a maintenance shop¹³ as well as a

Allegheny University Medical Centers is in the process of merging with West Penn Health System, which is affiliated with two acute care hospitals, West Penn Hospital located in Pittsburgh, Pennsylvania, and Suburban General located in Bellevue, Pennsylvania. Pursuant to the merger, for some purposes, there is common management among the two Systems.

⁹ These two buildings are connected by a tunnel.

¹⁰ Roth also serves as the CEO of Forbes Regional Hospital and the Forbes Health System.

¹¹ The maintenance department is sometimes referred to as the maintenance/engineering department.

¹² The Employer does not seek the inclusion of the security personnel in the service and maintenance unit it contends is appropriate, acknowledging that the security personnel are guards within the meaning of the Act.

¹³ Maintenance employees are responsible for cleaning this shop; the environmental services department does not clean in this area.

maintenance storeroom. Employed in the maintenance department are three stationary engineers, seven maintenance mechanics, one painter and a receiver. As noted, the Petitioner seeks to represent the stationary engineers, the maintenance mechanics and the painter.

The three stationary engineers sought by the Petitioner are responsible for the maintenance of the HVAC equipment and the steam related equipment. The stationary engineers provide coverage 7 days a week, 24 hours a day. The educational requirements for the position are high school graduation or its equivalent; the experience required is two to five years experience in the stationary engineer field. Stationary engineers must possess a stationary engineers license. The starting wage for stationary engineers is about \$13.60 to \$13.80 per hour and the position is a salary grade 38.¹⁴

The seven maintenance mechanics sought by the Petitioner are responsible for the maintenance of the buildings and the equipment, such as electrical, emergency power, plumbing, HVAC and fire detection systems. Usually, the maintenance mechanics and stationary engineers are each responsible for two floors of the Nursing Center. One maintenance mechanic works in the laundry about 75 to 85 percent of the time, repairing equipment and performing preventive maintenance.¹⁵ The educational requirements for the maintenance mechanic position are high school graduation or its equivalent and associated technical training is preferred; the experience required is two to five years experience in the maintenance field. Some of the maintenance mechanics also possess a stationary engineers license. One maintenance mechanic is a licensed electrician, one is a journeyman plumber, one is a master plumber, and two have CFC certification. The starting wage for maintenance mechanics is about \$13 per hour and the position is a salary grade 38.

¹⁴ The Employer designates wage rates by a numeric salary grade. These salary grades are ranges, which may overlap. As the number associated with the salary grade increases, the wage is higher.

¹⁵ Maintenance mechanics also remove snow from walkways and sidewalks. In the event of a large snowfall, environmental service workers have also been called upon to remove snow.

The painter, who is the final employee sought by the Petitioner, is responsible for preparing, repairing and painting areas, as well as preparing and installing wallpaper. The educational requirements for the painter position are an apprenticeship with a painter and hands-on experience; the experience required is three to five years in a commercial setting. The starting wage for a painter is about \$10 per hour and the position is a salary grade 36.

The skilled maintenance employees may come in contact with any personnel on the floors, and in particular, they may have interactions with environmental service workers regarding a specific problem on the floor. At times, the environmental service workers may provide an extra set of hands to assist the skilled maintenance personnel, such as by holding a door open, but the environmental service workers do not actually perform the skilled maintenance work. After the skilled maintenance personnel complete the job, they are required to clean up after themselves, while the environmental service workers are responsible for performing the final cleaning.

Described below are the 19 other job classifications which the Employer contends must be included in the overall service and maintenance unit. In support of its position that these employees must be included in the unit found appropriate herein, the Employer relies on the testimony that in addition to the primary responsibilities of these employees as set forth below in connection with each classification, these employees also are generally responsible for safety and for maintaining their respective equipment. Unless otherwise noted, the job descriptions for the following 19 positions indicate that they require a high school diploma or education, or its equivalent, and require experience in a related field. Further, according to the job descriptions, the following positions do not require licensing or certification, unless specifically noted.

Considering next the job classifications whose inclusion the Employer urges, there is one additional employee in the maintenance department, the receiver, and the Employer would include this employee in the unit. The receiver is responsible for receiving supplies and

equipment.¹⁶ For this position, an associates degree is preferred¹⁷ and the receiver must be computer literate. The position is a salary grade 32.

When the receiver is absent from work, skilled maintenance employees may be required to cover for him and perform his job duties, which occurs about ten percent of the time. In addition, when there is a large shipment, such as dietary products or linens, skilled maintenance employees may be called upon to assist the receiver. However, the receiver does not perform the duties of the skilled maintenance employees.

In addition to the maintenance department employees, the Employer would also include other service and maintenance classifications within the Facilities Management division in the unit. Thus, the Employer would include 20 service workers I employed in the environmental services department. The environmental service workers I are responsible for cleaning designated areas, and are typically assigned one to a floor. Typically, this department is staffed 16 hours per day. The starting wage for an environmental service worker I is about \$6.50 per hour and the position is a salary grade 30.

Among the responsibilities of the environmental services department is the work associated with relocations of staff. If needed, the skilled maintenance employees will work with the environmental service workers to facilitate the move. For example, the skilled maintenance employees will assist in the loading and unloading of trucks, in preparing the space for occupancy, and in moving the furniture into place. While generally, in the past, there had been about one relocation a month, during the last three to four months, with the reorganization of parent entities, relocations have occurred more frequently.

In addition, the Employer would include nine surgical packers employed in the department of the same name, who are responsible for packaging clean surgical linens for use

¹⁶ Included among the supplies received are those that the receiver will subsequently deliver to the central supply department.

¹⁷ The record does not reveal whether the incumbent in the position has an associates degree.

in the operating rooms at Forbes Regional Hospital and Allegheny Valley Hospital. The surgical packing department is typically staffed from 5 a.m. to 4 p.m.¹⁸

Further, the Employer would include three classifications of employees employed in the laundry department. The Employer's laundry is housed in a separate building on the site, and services the Nursing Center, Forbes Regional Hospital and Allegheny Valley Hospital, processing about four million pounds of laundry per year. The laundry operates in three shifts, but typically is closed from 7 p.m. to 11 p.m.

Within the laundry department, and urged by the Employer as properly included within the unit, are two truck drivers, who are responsible for delivering clean linens to, and retrieving soiled linens from, Forbes Regional Hospital and Allegheny Valley Hospital. In order to drive the laundry truck, these employees must have a commercial drivers license. Also in the laundry department, and urged by the Employer as included in the unit, is a seamstress.¹⁹ The seamstress is responsible for mending laundry and surgical linens. Finally, the Employer contends that 21 service workers I in the laundry department should be included in the unit. Like the service workers in the environmental services department, these service workers have a starting wage of about \$6.50 per hour.

Further, the Facilities Management division includes two couriers, who the Employer asserts should be included in the unit. These couriers are responsible for transporting mail, packages, supplies and equipment between the facilities. The position requires a drivers license. The couriers work Monday through Friday, from 8:00 a.m. to 4:30 p.m. In the absence of the couriers, skilled maintenance employees may be called upon to transport mail or packages, which occurs about ten percent of the time.

¹⁸ The job description for this position does not include its salary grade. Further, to the extent that other positions described in the text infra do not disclose salary grades, the job descriptions for those positions did not include salary grade information.

¹⁹ This position is also referred to as a sewer.

The final department in the Facilities Management division at issue herein is the telecommunications department, which employs four PBX operators, who the Employer contends should be included in the unit. The PBX operators work at the front desk, answering the phone, monitoring the security system, and greeting visitors. This desk is typically staffed 16 hours per day. The starting wage for PBX operators is about \$7 per hour and the position is a salary grade 31.

In addition to the above described classifications in the Facilities Management division, the Employer contends that service employees in two departments in the Nursing Administration division must be included in the unit found appropriate herein. Thus, the Employer would include 36 patient care assistants²⁰ on the four skilled nursing units. The patient care assistants are the primary caregivers for the patients. The position requires certification as a nursing aide and is a salary grade 32. Further, the Employer would include ten resident monitors in the personal care facility. These resident monitors assist residents with activities of daily living. The position is a salary grade 30.

The Employer would further include service and maintenance employees in the Dietary division. Thus, in the dietary department, the Employer would include cooks and service workers III and I, and in the cafeteria department, the Employer would include a cafeteria aide and a service worker I. There are four cooks in the dietary department. For this position, a cooks/chefs diploma or certification is preferred and the position is a salary grade 33. There are two service workers III in the dietary department who assist in the food preparation. For the service worker III position, a cooks/chefs diploma or certification is desirable and the position is a salary grade 31. There are also eight service workers I in the dietary department who assist in food service. For the service workers I position, a food handlers certificate is desirable and the position is a salary grade 30.

²⁰ The patient care assistants are also referred to as PCAs.

As noted, the Employer would include a cafeteria aide and a service worker I working in the cafeteria in the unit. For both of these positions, a food handlers certificate is desirable and the salary grade is 30.

Within the Therapeutic Recreation division, the Employer would include the therapeutic recreation assistant. This employee is responsible for planning, organizing, and leading activities with patients. The position requires an associates degree in a health related field or two years of study in a health related field and experience, and is a salary grade 32.

The Employer would also include the central service assistant²¹ in the Central Supply/ Medical Services division. The central service assistant is responsible for stocking and distributing medical supplies. For the position, CSR certification and/or resident care assistant certification is preferred, and the position is a salary grade 32.

Further, the Employer would include a physical therapy aide in the Rehab Services division. This employee assists the physical therapist and the restorative nurse in providing physical therapy to patients and is a salary grade 32.

Finally, the Employer contends that the unit must include four patient care assistants working in the in-patient unit in the Hospice division. The patient care assistants on these units must have long term care attendant and/or home health aide certification.

All of the service and maintenance employees, including the petitioned-for skilled maintenance employees, have many conditions of employment in common. Thus, they are all paid hourly and are eligible for overtime. There are common pay practices as well, including a bimonthly pay date, a paycheck drawn of the same account, and the distribution of paychecks by division or department heads. There are common benefits available to all of the service and maintenance employees, including paid time off for sickness, leaves of absence and vacations; paid holidays; medical leave; family medical leave; short term disability; long term disability; health insurance; life insurance; and pension plan. In addition, there are common employment

²¹ The central service assistant is also referred to as the central supply assistant.

policies with regard to jury duty, lunch and rest breaks, job bidding, work rules and progressive discipline, and resort to an employee-management problem solving process. Further, the Nursing Center has a time and attendance system used by all employees, as well as an employee cafeteria, and employee parking lots. Furthermore, there are some common social functions and eligibility for employee awards. Finally, there is a common employee handbook as well as numerous standard forms related to various aspects of the employment relationship.²²

In addition to the common practices, policies and procedures enumerated above, as to the Facilities Management division in particular, there are some management decisions which are made at the level of the Facilities Management Director, or by him in conjunction with more senior management. Thus, Facilities Management Director Bierer makes the final determinations as to hiring for the maintenance department, courier department and telecommunications department. Bierer reviews all discipline issued to employees in the division. With senior management, and human resources, Bierer sets the manpower requirements of the division, including the overtime allocations, and makes determinations regarding layoffs.²³

The Employer is not an acute care health care facility. When determining the appropriate bargaining unit for non-acute health care facilities, such as the Employer, the Board applies the "pragmatic or empirical community of interests" test set forth in Park Manor Care Center, Inc., 305 NLRB 872 (1991). In this regard, the Board will consider factors deemed relevant by the Board in its rulemaking proceedings in collective bargaining units in the health care industry, information gathered during rulemaking with regard to units in acute care

²² Many of the practices, policies and procedures described herein are applicable to all employees in the Nursing Center and/or the Forbes Health System as a whole.

²³ While Bierer performs certain human resources type functions for the Facilities Management division as a whole, it does not appear that the petitioned-for skilled maintenance employees are directly supervised by any supervisors outside the maintenance department.

hospitals,²⁴ and prior precedent involving either the type of unit sought or the particular type of health care facility in dispute, as well as traditional community of interest factors. The Board suggested that it would be helpful to compare and contrast the work force in the unit sought with the work force in acute care hospitals. Finally, the Board noted in Park Manor that certain general principles set forth in the rulemaking procedure are equally applicable to unit determinations in nonacute care facilities:

[I]n exercising its discretion to determine appropriate units, the Board must steer a careful course between two undesirable extremes: If the unit is too large, it may be difficult to organize, and, when organized, will contain too diversified a constituency which may generate conflicts of interest and dissatisfaction among constituent groups, making it difficult for the union to represent; on the other hand, if the unit is too small, it may be costly for the employer to deal with because of repetitious bargaining, and/or frequent strikes, jurisdictional disputes and wage whipsawing, and may even be deleterious for the union by too severely limiting its constituency and hence its bargaining strength. [Footnote omitted.] The Board's goal is to find a middle-ground position, to allocate power between labor and management by "striking the balance" in the appropriate place, with units that are neither too large nor too small. [Footnote omitted; 53 Fed.Reg. 33904, 284 NLRB 1534.]

Id. at 876.

Looking first to the Board's experience during rulemaking, the Board's examination of skilled maintenance employees in acute care hospitals during rulemaking resulted in a finding that these employees constitute a discrete and distinct group and should be in a separate bargaining unit. The evidence showed that they work with highly complex and sophisticated systems and equipment, and that skilled maintenance jobs consequently require a higher level of skill and knowledge than is required of unskilled service, maintenance, and clerical employees, as evidenced by higher education, licensing, and training requirements. Skilled maintenance employees are frequently contained within a separate department and are not supervised by any supervisors from outside their own department. While they usually share common fringe benefits and personnel policies with other hospital personnel, skilled

²⁴ See 53 Fed.Reg. 33900 (1988) and 54 Fed.Reg. 16336 (1989), set forth in 284 NLRB 1516, et.seq.

maintenance employees uniformly have higher wages than service and maintenance employees.

Because the operation and maintenance of physical plant systems are the same no matter in which industry they are performed, skilled maintenance employees have separate labor markets and highly mobile cross-industrial career paths, and their wage scales are tied to those of skilled maintenance employees in other industries rather than to wages in the health care industry. Skilled maintenance workers usually have a separate internal labor market within a hospital in terms of career path, with training programs permitting less skilled employees to move into more highly skilled positions and virtually no transfer of clerical or service employees into maintenance positions. Skilled maintenance employees have unique bargaining interests such as access to craft-related education and training programs, tool supply allowances, safety equipment and practices, and input into subcontracting.

The Board found that there is a history of separate representation of skilled maintenance units by unions that specialize in representing them, and that there have been few primary and virtually no sympathy strikes in such units. Jurisdictional disputes among skilled maintenance employees have been rare and, when they do occur, occur regardless of representation in one or several bargaining units. As for an alleged trend toward integration of employee functions and interdisciplinary teams in acute care hospitals, the Board found that such a trend would affect only health care personnel and could have no impact on skilled maintenance employees who operate and maintain physical plant systems.

With specific regard to proliferation, the Board found that there was no evidence that establishing a separate unit of skilled maintenance employees would lead to proliferation of bargaining units in the industry. No labor organizations have sought or demonstrated the appropriateness of other small units and, indeed, the skilled maintenance unit may be viewed as a consolidation of specialized employees inasmuch as it combines such employees as carpenters, painters, plumbers, and electricians. 53 Fed.Reg. 33920-33924, 284 NLRB at 1556-1562.

In applying the Park Manor test to the facts herein, I have also considered relevant precedent decided prior to the rulemaking. Thus, the Board had found separate units of skilled maintenance employees appropriate in a nursing home where the facts reveal that such employees possess a sufficiently separate community of interest to justify their own unit. Hebrew Rehabilitation Center, 230 NLRB 255 (1977). Cf. Four Seasons Nursing Center of Joliet, 208 NLRB 403 (1974) (separate maintenance unit at small nursing home inappropriate where maintenance employees performed only unskilled cleaning and maintenance duties, with major repair work contracted out). Moreover, precedent decided subsequent to Park Manor has found a separate unit of skilled maintenance employees appropriate in a nursing home. Hebrew Home & Hospital, Inc., 311 NLRB 1400 (1993). See also McLean Hospital Corp., 309 NLRB 564 (1992) (separate skilled maintenance unit found to be appropriate in a psychiatric hospital).

Many of the characteristics associated with separate skilled maintenance units in acute care hospitals are present here, albeit on a smaller scale. Thus, the petitioned-for employees perform functions apart from those of the unskilled service and maintenance employees in that they deal with highly complex and sophisticated systems and equipment. The petitioned-for employees, like skilled maintenance employees in acute care hospitals, are generally engaged in the operation, maintenance, and repair of the Employer's physical plant systems, although they occasionally do routine, unskilled work. As noted by the Board in applying the rule, the distinguishing feature of skilled maintenance employees is their work on systems and equipment as opposed to involvement in direct patient care. This factor clearly distinguishes the employees in the petitioned-for unit from many of the other employees whose inclusion is urged herein.

Moreover, the petitioned-for employees possess specialized skills which are different in nature than those possessed by the Employer's other service and maintenance employees. As noted, included among the petitioned-for skilled maintenance employees are several holding

licenses as stationary engineers²⁵, a licensed electrician, a master plumber, a journeyman plumber, and several employees possessing CFC certifications. Although the job descriptions for some of the service and maintenance employees whose inclusion is urged by the Employer indicate that the employee must possess some job-specific licensing or certification, it is obvious from the type of licensing or certification required, along with the job functions and salary grade, that the licenses and certifications for these other classifications do not reflect the higher skills and abilities of the licenses and certifications possessed by the petitioned-for skilled maintenance employees. Further, based upon the available wage information, it appears that commensurate with their higher skills and expertise, the skilled maintenance employees are the highest paid employees among those at issue herein.²⁶ Furthermore, I note that a separate unit of skilled maintenance employees in a nursing home has been held to be appropriate even when the skilled maintenance employees have lacked licenses and received wages comparable to those of other employees. Hebrew Home & Hospital, Inc., supra.²⁷

The skilled maintenance employees have their own separate work area and storage area in the basement of a building housing administrative offices. They are administratively placed in their own department²⁸ under the direction of a Supervisor/Manager J. Lewindowski. In this regard, the petitioned-for employees are similar to those in acute care hospitals in that they are separately supervised. Further, the fact that there are employment practices, policies and procedures common to the skilled maintenance employees as well as the other service and

²⁵ As noted, in addition to the three stationary engineers, some of the maintenance mechanics have stationary engineers licenses.

²⁶ Wage information was not available for five classifications whose inclusion the Employer urges, the surgical packers, the laundry truck drivers, the seamstress, the couriers and the patient care assistants in the in-patient hospice unit.

²⁷ In fact, in Hebrew Home & Hospital, Inc., supra, three of the nine skilled maintenance employees earned less than the dietary, housekeeping and laundry employees.

²⁸ The receiver is also part of the maintenance department. Notwithstanding the placement of the receiver in the maintenance department, it is clear that the receiver does not perform skilled maintenance work and does not possess the skills and abilities to do so, and accordingly, I shall exclude him from the unit found appropriate herein.

maintenance employees, and in many cases common on a broader basis to all Nursing Center or Health System employees, does not mandate the conclusion that a larger unit corresponding to all employees subject to certain policies and procedures, or receiving certain benefits, must be found to be the appropriate unit. See Hebrew Home & Hospital, Inc., supra.

Further, as in acute care hospitals, the petitioned-for employees have only brief, limited, and incidental contact with other employees. Given the nature of the work performed by the skilled maintenance employees, that is, the repair and maintenance of the building and equipment therein, it is not surprising that they come in contact with virtually all of the other employees in the Nursing Center, and in particular, come in contact with the cleaning personnel assigned to the floors. Specifically, the environmental service worker on the floor may call a problem to the attention of a skilled maintenance employee or provide an “extra set of hands” such as by holding a door open. However, in none of these contacts do other employees perform the work of the skilled maintenance employees. Similarly, with the few exceptions noted below, the skilled maintenance employees do not perform work performed by the other service and maintenance employees the Employer seeks to include in the unit. This type of incidental contact was also present in Hebrew Home & Hospital, Inc., supra, but was considered insufficient to mandate the inclusion of other employees in the unit. See also Hebrew Rehabilitation Center, supra, at 256.

As noted, in a few cases the skilled maintenance employees may be called upon to perform other duties normally performed by other service and maintenance employees. Thus, in the absence of the receiver or the two couriers, skilled maintenance employees may be called upon to receive shipments or transport mail and packages. In a similar fashion, the skilled maintenance employees have assisted the receiver with a large delivery and have assisted environmental service workers during the relocation of staff. The skilled maintenance employees also remove snow as needed. It is clear that these duties are ancillary to the primary duties of the skilled maintenance employees and neither the receiver, the couriers, nor the environmental service workers perform the duties of skilled maintenance employees. In this

regard, I note that the skilled maintenance employees found to be a separate appropriate unit in Hebrew Home & Hospital, Inc., supra, also performed other unskilled tasks, including the renovation of office space, assisting groundskeepers, and acting as messengers and delivery persons.

Finally, I have considered Congress' admonition to avoid proliferation of bargaining units in the health care industry and have concluded that a separate skilled maintenance unit here will not result in undue proliferation, for the same reasons the Board concluded that similar units in acute care hospitals did not result in undue proliferation. In particular, I do not find the fact that the Employer herein has a 180-bed facility requires a different result than that reached in Hebrew Home & Hospital, Inc., in which a separate unit comprised of nine skilled maintenance employees was held appropriate in a 334-bed facility, with 232 other service and maintenance employees. Nor do I find the fact that the service and maintenance employees in Hebrew Home & Hospital, Inc. were already represented compels a different result.²⁹

Based on the above and the record as a whole, and utilizing the pragmatic approach adopted by the Board in Park Manor, I find that a unit limited to the skilled maintenance employees, including stationary engineers, maintenance mechanics and the painter employed in the Employer's maintenance department, is an appropriate unit for the purposes of collective bargaining. More particularly, I note the unique functions performed by these employees, the specialized skills possessed and utilized by the employees in carrying out their assigned duties and their correspondingly higher wage rates, and their separate supervision from, and lack of interchange with, the Employer's other employees. Although many aspects of employment of the employees in the petitioned-for unit are comparable to those of the Employer's other

²⁹ In the instant case, there is no other labor organization which seeks to represent any of the Employer's other employees. However, there is currently pending a representation petition for the registered nurses employed by the Forbes Regional Hospital, filed by another labor organization. At the instant hearing, the Employer indicated that in connection with the other petition, it will take the position that the unit must also include the 31 registered nurses employed in the Hospice division of the Nursing Center.

employees, this factor is outweighed by the other factors, discussed in more detail above, indicating that separate representation is appropriate.

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 skilled maintenance employees, including stationary engineers, maintenance mechanics and the painter, employed by the Employer at its Pittsburgh, Pennsylvania facility; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act and all other employees.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.³⁰ Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, 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 and 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,

³⁰ Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.³¹ Those eligible shall vote whether or not they desire to be represented for collective bargaining by International Union of Operating Engineers, Local 95-95A, AFL-CIO.

Dated at Pittsburgh, Pennsylvania, this 24th day of February 2000.

/s/Gerald Kobell

Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

470-5840
470-5860

³¹ In order to assure that all eligible voters may 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, 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 the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director 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, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before March 2, 2000. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.