

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

GALLADE' TECHNOLOGIES¹

Employer

and

CASE 7-RC-21937

UNITED STEELWORKERS OF
AMERICA, AFL-CIO, CLC

Petitioner

APPEARANCES:

Charles S. Mishkind, Attorney, of Grand Rapids, Michigan, for the Employer.

Luisa M. Perez, of Taylor, Michigan, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, 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,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

² The parties filed briefs which have been carefully considered.

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 herein 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 Sections 2(6) and (7) of the Act.

5. The Employer and Petitioner stipulated 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 employees, including CNC machinists, maintenance, material handlers, janitorial, and shipping and receiving employees employed by the Employer at its facility located at 1626 Hess Avenue, Saginaw, Michigan; but excluding confidential employees, clerical employees, seasonal part-time employees, office personnel, quality control, guards, and supervisors as defined in the Act.

However, the Employer contends that the petition is premature and should be dismissed because the present complement of employees is not substantial or representative of the projected workforce due to its plans for expansion that will increase the number of employees and job classifications. The Petitioner contends the petition is not premature.

The Employer is engaged in the manufacture of wheel hubs and bearings for the automotive industry. The Employer built the Hess Avenue facility and opened its doors in December 1998 and shipped its first production in February 1999. It is the only facility involved in this proceeding. The facility itself is approximately 42,000 square feet and currently houses 6 lines of machinery, 2 of which were recently installed and 4 of which have been operational since 1998.

The Hess facility is run by Plant Manager David James May and Production Supervisor Tom Bujalski. The Employer operates three shifts, with Bujalski supervising the first shift employees, and Team Leaders Ed Maher and Tim Marker supervising production on the second and third shifts, respectively.³ Presently, the Employer employs 27 production employees among its three shifts, 26 of which are classified as CNC machinists. The other employee works in shipping and receiving. The Employer has no employees classified as janitorial employees, material handlers, or maintenance employees.⁴

³ I find, and the parties stipulated, that May, Bujalski, Marker, and Maher are supervisors within the meaning of Section 2(11) of the Act in that May possesses the ability to hire and discharge employees, and Bujalski, Marker, and Maher effectively recommend such actions.

The CNC machinist classification involves operation of the Employer's machinery, by placing the raw product into the machine, removing the finished product from the machine, inspecting the quality of the products, and packaging the product for subsequent transfer to the shipping area of the facility. A CNC machinist must have a general knowledge of machining and a general knowledge of computers.

The Employer presented testimony that during 2001, it intends to increase production of its current product line, i.e., hubs and bearings, by nearly 400 percent and therefore plans to increase its workforce by approximately 50 employees by July 1, 2001. Prior to the installation of the new lines, the Employer's maximum output was approximately 55,000 parts per month. In January 2000, a new customer placed an order with the Employer requiring an additional 72,000 parts per month, with full production scheduled for July 2001.⁵ This additional production required the Employer to obtain two new lines of machinery comprised of 8 to 10 new machines. Further, in December 2000 the Employer increased its production commitment to an existing customer by 12,000 parts per month, to be filled by June or July 2001. The Employer projects that by July 2001 its revenues will increase from \$2.5 million to \$9.05 million.

In regard to the two new lines, the Employer has added a new CNC machining line that is somewhat more automated, i.e., requires fewer employees to operate than the existing four lines currently in operation. The second line is similar to the existing machinery. The Employer has also added induction hardening equipment. However, it is unclear whether this equipment stands alone or is part of one of the two new lines of machinery. The new equipment is similar to the existing equipment in the facility, in that it was produced by the same manufacturer and performs the same operations as the existing machinery. The Employer's facility was large enough to accommodate the new machinery at the time it became operational in 1998.

In fulfilling its production commitments, the Employer asserts it intends to hire between 7 and 10 employees per month between February and July 2001, resulting in a total complement of 77 employees. However, in detailing the specific number of employees it needed to hire for the two new lines, the Employer presented testimony that it will need an additional 8 employees per shift to operate the new lines plus an additional employee per shift to perform packaging duties, resulting in 27 new employees. Further, the Employer anticipates hiring employees to fill three additional job classifications: janitorial, material handling and maintenance. Specifically, the Employer projects that it will hire 1 janitorial and 1 material handler employee per shift, and 2 maintenance employees per shift, resulting in 12 additional employees. Moreover, the Employer projects that it will hire one additional employee for

⁴ The record is unclear as to who currently performs the duties that will eventually be assigned to the janitorial and maintenance employees. The record indicates that the duties that will be assigned to the material handlers are currently being shared by the CNC machinists and the single shipping and receiving employee.

⁵ At the time of the hearing, the Employer was running the new machines at 50 percent capacity.

shipping and receiving. All those hired within the next five months will fall within the job classifications included in the petitioned-for bargaining unit, with the exception of quality control employees.

The Employer began advertising for employees in late November 2000 and at the time of the hearing, had hired two employees who started working for the Employer as CNC machinists. At the time of the hearing the Employer had extended offers of employment to three additional employees for CNC machinist positions. The Employer projects that training of new employees will take approximately six to nine months. However, the Employer may transfer its existing CNC machinists to the new machinery and train new employees on the older lines. The employees hired within the near future will be classified as CNC machinists and will work the same hours, receive the same wages, vacation benefits, holidays, and other fringe benefits as the CNC machinists previously employed by the Employer. The Employer does not intend to increase the number of supervisory personnel. At present, the Employer has not placed any advertisements for janitorial and material handling employees. The record does not indicate whether the Employer has placed advertisements for the classifications of maintenance and shipping and receiving. However, the Employer asserts that it plans to hire for these classifications by July 2001. The wages of the janitorial and material handler employees will be substantially less than those paid to the CNC machinists.

The appropriate test in cases involving expanding units is "whether the employees at the time of the holding of an election constitute a substantial and representative segment of the complement to be employed within the foreseeable future." *General Cable Corp.*, 173 NLRB 251 (1968); *Endicott Johnson de Puerto Rico, Inc.*, 172 NLRB 1676, 1677 fn.3 (1968).

To determine whether an employee complement is "substantial and representative," the Board has adopted a case-by-case approach, with the emphasis on achieving "the desired balance between the objective of insuring the goal of maximum employee participation in the selection of a bargaining agent, while not depriving current employees of immediate representation." *Toto Industries (Atlanta)*, 323 NLRB 645 (1997). The major factors considered are the certainty of, and time frame for, the expansion; a comparison of the size of the present work force with the expected ultimate employee complement; and a comparison of the number of current job classifications requiring different skills with the number of expected job classifications requiring different skills. *Id.*; *General Cable Corp.*, supra; *Endicott Johnson de Puerto Rico, Inc.*, supra; and *Libbey Glass Division*, 211 NLRB 939 (1974). In general, the Board finds an existing complement of employees to be substantial and representative when approximately 30 percent of the eventual employee complement is employed in 50 percent of the anticipated job classifications. *Yellowstone International Mailing*, 332 NLRB No. 35 (Sept. 27, 2000); *Custom Deliveries*, 315 NLRB 1018, 1019 fn.8 (1994).

As for the first factor, the Employer's expansion plan, involving the addition of two new lines of machinery to accommodate a new customer as well as increases to production for an existing customer, appears certain and projected for completion by July 2001.

As to the second factor concerning the number of employees, the Employer presented precise testimony that it will increase its workforce by only 39 employees by July 2001, including one employee for shipping and receiving, totaling 67 employees, rather than the asserted 77 employees. The Employer did not establish on the record its need for an additional 10 employees, and I find that the hiring of the contemplated 10 additional employees is too speculative or remote in nature to be considered. See *Jersey Shore Nursing & Rehabilitation Center*, 325 NLRB No. 603 (1998); *Beart Steel & Key Research & Development Co.*, 176 NLRB 134 (1969). Thus, with the addition of the 2 new lines, the total unit employee complement is projected to increase from 27 to 67. Therefore, the current employee complement represents 40 percent of the projected work force. Even if the Employer is given the benefit of the doubt, the current complement of employees (27) represents 35 percent of the Employer's speculative forecast of its eventual workforce (77).

As to the third factor pertaining to job classifications, while the Employer indicated its intent to hire employees for three different job classifications, the actual expansion of the Employer's business does not appear to significantly affect the classifications or types of skills required of employees. There is no evidence that the newly hired employees will perform significantly different job tasks than are currently performed by the existing CNC machinists and shipping and receiving employees. The Employer argues that the janitorial, material handler, and maintenance job classifications are distinct from CNC machinist and shipping and receiving classifications. However, I find based on the record testimony, that the material handler classification will entail a portion of the duties currently performed by the CNC machinist employees. As mentioned earlier, there is no record evidence concerning which, if any, employees are currently performing janitorial and maintenance functions. The record does indicate that the janitorial classification will be paid lower wages and require less skill than the CNC machinist classification; however, the Board considers the distinctiveness of the skills involved in the job classifications in determining whether a petition is premature. *Libbey Glass Division*, supra at 940. There is no evidence that these "new" classifications will require distinct and/or different skills from those required by the CNC machinist or shipping and receiving classifications.

Accordingly, I find that the duties attributable to the material handler classification are essentially similar to those currently being performed by the CNC machinists, in that the CNC machinists currently inspect and package the finished products. Further, I find that the addition of the two new lines will add the new classifications of janitorial and maintenance, to the existing classifications of CNC machinist and shipping and receiving; however, these classifications do not require distinct skills from those already possessed by the Employer's employees.

In sum, the Employer's projected expansion of its work force will not occur for five to six months after the hearing in this matter, and four to five months after the issuance of this decision. The current complement of employees represents approximately 40 percent of the total projected employee complement, and the number of existing job classifications represents

60 percent of the total projected number of classifications. Based on these facts, I find that the current complement is "substantial and representative" of the total projected complement and conducting an immediate election would not unreasonably disenfranchise a substantial number of employees. *Yellowstone International Mailing*, supra; *General Cable Corp.*, supra; *Wittman Steel Mills*, 253 NLRB 320 (1980).

6. Based on the foregoing, I conclude that the following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time employees, including CNC machinists, maintenance, material handlers, janitorial, and shipping and receiving employees employed by the Employer at its facility located at 1626 Hess Avenue, Saginaw, Michigan; but excluding confidential employees, clerical employees, seasonal part-time employees, office personnel, quality control, guards and supervisors as defined in the Act.

Those eligible shall vote as set forth in the attached Direction of Election.

Dated at Detroit, Michigan, this 7th day of February, 2001.

(Seal)

/s/William C. Schaub, Jr.
William C. Schaub, Jr., Regional Director
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316-6701-8300
347-8020-4000
347-8020-8000
362-3325

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of 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 employees 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 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 service 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 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. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC

LIST OF VOTERS⁶

In order to ensure 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); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that **within 7 days** of the date of this Decision, **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **February 14, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

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, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by: **February 21, 2001**.

Section 103.20 of the Board's Rule concerns the posting of election notices. Your attention is directed to the attached copy of that Section.

⁶ If the election involves professional and nonprofessional employees, it is requested that separate lists be submitted for each voting group.