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

Milwaukee, Wisconsin

WAUKESHA ELECTRIC SYSTEMS, INC.[1]

Employer

and **Case 30-RC-6555**

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 2150

Petitioner

DECISION AND DIRECTION OF ELECTION[2]

The issue presented at the hearing is whether the petitioned-for unit of production and maintenance employees at the Employer's Waukesha, Wisconsin facilities is an appropriate unit. The Employer argues that such a unit is inappropriate and, based on a shared community of interest, an appropriate unit must include various positions in the Quality, Purchasing, and Engineering Departments.[3] Those positions are as follows:

1. Quality Department Employees (9 employees)
   a. Quality Specialists
   b. Associate Quality Engineers
   c. Product/Process Auditors

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

[2] Upon a petition duly filed under Section 9(c) of the National Labor Relations Act (Act), as amended, a hearing was held before a hearing officer of the National Labor Relations Board (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. Waukesha Electric Systems, Inc. is a corporation engaged in the manufacturing of electrical transformers from its Waukesha, Wisconsin facility. During the past twelve months, a representative period, the Employer sold and shipped goods and materials valued in excess of $50,000 directly to customers located outside the State of Wisconsin and had gross revenues in excess of $50,000. 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 (Union) is a labor organization within the meaning of the Act.
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 Employer and Petitioner filed post-hearing briefs that were duly considered.

[3] The petitioned-for unit consists of approximately 300 employees. The Employer seeks to include approximately 50 additional employees.

2. Purchasing Department (33 employees)
    a. Buyer/Analysts
    b. Material Coordinators
3. Engineering Department (4 employees)
    a. Designers
    b. Winding Design Specialists and Order Process Specialists
    c. Senior Wiring Technicians
    d. Design Specialists Order/Entry
    e. Engineering Process Specialists and Control Process Specialists

Decision Summary

Based on the record and relevant law, I find that an appropriate unit of production and maintenance employees must include the employees in the Quality Department, but need not include employees in the Purchasing and Engineering Departments.

The Quality Department employees (Quality Specialists, Associate Quality Engineers and Product/Process Auditors) all work closely with the employees in the petitioned-for unit. Approximately 95% of their day is spent on the production floor working side-by-side with production and maintenance employees. The remainder of the Quality Department employees' time is spent in offices on the first floor, directly adjacent to the production areas. In addition to the interaction and close proximity of the two groups, there is interchange and overlapping duties and supervision.

In contrast to the employees in the Quality Department, I find that the community of interest between the Purchasing Department employees (Buyer/Analysts and Material Coordinators) and the production and maintenance employees is insufficient to require that they be included in the unit of production and maintenance employees. The Buyer/Analysts and the Material Coordinators spend little time on the shop floor or interacting with production and maintenance employees, and the remainder of their time is spent in their offices on the second floor.

Additionally, I find that the community of interest between the employees in the Engineering Department and the production and maintenance employees is insufficient to require that they be included in the unit of production and maintenance employees. I find that these are technical employees and, based on relevant law, are not so closely related to the production and maintenance employees such that a unit excluding them would be inappropriate.

Taking these determinations into account, I conclude the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All regular full-time and regular part-time production and maintenance employees and Quality Department employees, including Quality Specialists, Associate Quality Engineers and Product/Process Auditors, employed by the Employer at its Waukesha, Wisconsin facilities; excluding managerial employees, Purchasing Department employees, including Buyer/Analysts and Material Coordinators, Engineering Department employees, including Designers, Winding Designer Specialists and Order Process Specialists, Senior Wiring Technicians, Design Specialists Order/Entry, and Engineering Process Specialists and Control Process Specialists, office clerical employees, guards and supervisors as defined in the Act.

Background

The Employer manufactures electrical transformers for utility and industrial customers. While the Employer has a number of facilities throughout the United States, the two at issue here are located at 400 South Prairie (400) and 1100 South Prairie (1100) in Waukesha, Wisconsin. The parties agree that the employees at issue are located at both 400 and 1100. There is no history of collective bargaining for these employees.

The two facilities in Waukesha are located near each other, separated by three to four other companies. The production process takes place on the first floor of both 400 and 1100. The Quality Department is also located on the first floor at only 400. The Purchasing Department is

located on the second floor of 400, and the Engineering Department is located on the third floor at 400, along with manufacturing supervision.

Currently the Employer's highest-ranking official at its Waukesha facilities is Senior Vice President of Transformers and Equipment, Myron Bechtel. There are several department heads who report to Bechtel, including the departments at issue here, Waukesha Plant Engineering Manager, Larry Lazar, and Waukesha Plant Operations Manager, Dan McDermott.

The Union petitioned for a unit of all full-time and regular part-time production and maintenance employees at the two Waukesha facilities. The petition specifically identifies the following classifications: Core, Core and Coil, Assembly, Test, Shipping, Tan/Welding/Paint, Insulation Fabrication, Winding/Processing, Receiving, Control Boxes – LTC, Maintenance, and Dispatchers. The petition excludes inspectors, managerial employees, office clerical employees, guards and supervisors as defined in the Act.[4]

Discussion

The issue in this case is whether the Union's proposed unit of production and maintenance employees is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act. The Board's procedure for determining an appropriate unit is to examine the petitioned-for unit, and, if that unit is appropriate, end the inquiry into unit appropriateness. *Bartlett Collins Co.*, 334 NLRB 484 (2001). The unit needs only to be an appropriate unit, and need not be the most appropriate unit. *Morand Bros. Beverage Co.*, 91 NLRB 409, 419 (1950), *enfd. on other grounds* 190 F.2d 576 (7th Cir. 1951). For a unit to be appropriate, the key question is whether the employees share a sufficient community of interest, which is determined by examining such factors as mutuality of interest in wages, hours, and

[4] The record appears to reflect that the "inspectors" are the Quality Control employees discussed in this Decision and accordingly are treated as such.

other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. See *Ore-Ida Foods*, 313 NLRB 1016 (1994), *affd.* 66 F.3d 328 (7th Cir. 1995).

I. Quality Department Employees (Including Quality Specialists, Associate Quality Engineers and Product/Process Auditors)

Quality Department employees are responsible for inspecting the quality of the product and ensuring that the operators adhere to specific engineering standards. Quality Department employees have significant interaction with production and maintenance employees when carrying out their job duties, some interchange, and are located close to the production area when not working out on the floor. Additionally, they have similar benefits to those enjoyed by the production and maintenance employees. Some of the Quality Department employees are directly supervised by the Winding Department Supervisor.[5]

Quality control employees are generally included in a unit of production and maintenance employees. *Blue Grass Industries*, 287 NLRB 274, 276 fn. 10 (1987) (employees who inspected garments at the end of the production line were included in a production and maintenance unit, even though the Board found their work stations were physically distinct from the production area).

Similarly, the Quality Department employees at the Employer are responsible for inspecting the quality of the product.[6] Quality Department employees' inspection assignments are listed on a wipe board located outside the Quality Department offices by operators and

[5] The parties agree that the Winding Department employees should be included in any proposed unit.
[6] The testimony demonstrates that the Employer recently made changes in the Quality Department and that the Associate Quality Engineer is performing the same tasks as the Quality Specialists.

foremen.[7] They spend 95% of their day on the shop floor helping to verify that the product meets the engineering requirements.[8] During the inspection, the Quality Department employees fill out checklists indicating whether the product is in conformance with the engineering standards. Shop floor operators fill out similar checklists during the manufacturing process for the parts of the product that are not accessible to the Quality Department employees. In fact, there are components of the product, the load temperature gauges and control boxes, that the Quality Specialists do not regularly inspect.

The load temperature gauges and control boxes are manufactured at 1100, and, when completed, are added to the transformers manufactured at 400. The operators and permanent Testers (a petitioned-for classification) perform inspections in those areas. It is only when they cannot resolve an issue that they call a Quality Specialist for assistance. When the Quality Specialists receive the inspection checklists from the departments at 1100, they examine the checklists to ensure that all the areas are signed off, but do not independently inspect the product.

The checklists include an indication of whether the product is defective in some way because of the Employer's process (nonconformance report, or NCR) and whether any of the materials are defective (DM).[9] DMs are filled out by both Product/Process Auditors and Testers. Quality Department employees investigate the NCRs and DMs by talking to the operators. The DMs are then electronically sent to engineering, materials, planning, manufacturing or quality, depending on the particular problem. In conjunction with the above checklists and the NCRs,

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[7] Unlike the Quality Specialists, the Product/Process Auditors are supervised by Winding Shop Floor Supervisor Andy Dominguez, and are notified on the floor that an audit or inspection needs to be made.

[8] The Quality Specialists do not interact with the operator during the actual product inspection but do so in other parts of the inspection process, as described below.

[9] The Union suggested in the hearing, though it was not argued in brief, that the Quality Department's employees may not be statutory employees, but rather supervisors, because they fill out NCRs. However, the Board has found that safety inspectors' written citations are not effective recommendations for discipline when no disciplinary action is taken without independent investigations by the supervisors. *Brown and Root, Inc.*, 314 NLRB 19 (1994). The testimony suggests that the discipline decisions for production and maintenance employees are made on the shop floor and the Quality Department employees are unaware of that process. The Quality Department employees are not supervisors.

both the Quality Department employees and some shop floor operators fill out tags demonstrating whether products are acceptable or should be held.

In addition to the above-described interaction with production and maintenance employees, the Quality Specialists also have some interchange with petitioned-for employees. Until recently the Quality Specialists performed "ratio inspections" but, because the size of the Test Department increased and the size of the Quality Department decreased, that function was turned over to the Testers. Quality Specialists continue to fill in for Testers, when they are not available, to perform ratio inspections. The Quality Specialists, therefore, have shared knowledge and interchange with the Testers.

The Quality Department employees and production and maintenance employees all receive the same health, medical, dental, vision and vacation benefits.[10] While Quality Specialists and the Associate Quality Engineer are supervised separately by Quality Department supervisors, the Product/Process Auditors report to the Winding Shop Floor Supervisor.

The Union highlights certain distinctions, such as that Quality Specialists are salaried, nonexempt employees at labor grade 6, receive one year of on-the-job training, may work different hours and have other differences.[11] However, the interaction, interchange and overlap of the two groups demonstrates a community of interest strong enough to overcome the differences between them and require that the Quality Department employees be included in the petitioned-for unit of production and maintenance employees.[12]

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[10] These benefits are the same for all hourly, salaried nonexempt and salaried exempt employees

[11] The Employer has a salary structure for its salaried, nonexempt employees that ranges from labor grade 2 through 8. The positions the Employer seeks to include range from labor grade 5 to 8. The labor grade salary ranges are as follows; labor grade 5, ranges from $27,330 to $42,570, labor grade 6 ranges from $30,420 to $47,490, labor grade 7 ranges from $34,070 to $53,380 and labor grade 8 ranges from $38,450 to $60,270. The production and maintenance employees are paid hourly pursuant to a scale that ranges from $11.43/hour to $27.32/hour. The average hourly employee earns between $20/hour and $25/hour.

[12] The Union, in its brief relies on *The Lundy Packing Company, Inc.*, 314 NLRB 1042 (1994). However, the employees in *Lundy* had no interchange and were separately supervised. Id. at 1043. As described above, the Quality Specialists perform some inspections for the Testers and the Product/Process Auditors have the same supervision as operators in the Winding Department.

II. Purchasing Department

The Purchasing Department ensures that the necessary parts for the products are present in the facility and that those parts meet the required quality standards. If there are problems with the parts the Purchasing employees contact the suppliers.

A. Buyer/Analysts[13]

Buyer/Analysts analyze and control the inventory and deal with suppliers to ensure effective delivery of quality materials to maintain production schedules in a cost effective manner. They have little interaction with production and maintenance employees, no interchange, and are located on the second floor. While they have some similar benefits, Buyer/Analysts are exempt, salaried employees.

In *Weldun International Inc.*, 321 NLRB 733 (1996), both the Production Control Scheduler (Scheduler) and the Fin and Spare Parts Estimator (Estimator) were excluded from the petitioned-for unit of production and maintenance employees. Id. at 735. The Scheduler was responsible for scheduling the date for materials to arrive, the date for wiring and assembly and the number of people required for a job. The Estimator estimated the cost of spare machine parts for customers. The Board found that the positions involved skills far different from that of production and maintenance employees and should be excluded from the unit, even though both positions interacted with production and maintenance employees. Id.

Buyer/Analysts make material requisitions based on their daily assessment of the stock status report, which shows the engineering requirements on a job against the inventory in the

[13] There are two Buyer/Analyst in Waukesha and one in California who are all supervised by Purchasing Supervisor Patti Cook. The parties stipulated that the Buyer/Analysts in California should not be included in the unit, even if the Buyer/Analysts in Waukesha are included.

facility, and, based on those reports, make appropriate material requisitions. Additionally, they deal with suppliers and physically count certain inventory.

While the Buyer/Analysts spend about 20 to 25% of their time physically counting and maintaining inventory on the production floor, only 10% of that time is spent interacting with unit employees. The time interacting with employees includes dealing with the Dispatchers regarding NCRs, DMs, and the stages of production, the Receiving Department employees regarding incorrect orders, and the operators regarding upcoming projects.[14] The remaining 75 to 80% of their time is spent on the computer in their offices. They do not perform any production and maintenance work.

Buyer/Analysts are salaried, exempt and are a labor grade 8. They work approximately nine-hour days and do not receive overtime. Unlike production and maintenance employees, Buyer/Analysts get paid when they call in sick. There is a preference that they have degrees but previous work experience is acceptable.

Buyer/Analysts, similar to the employees in *Weldun International Inc.*, have skills different from production and maintenance employees, and have limited interaction with employees. Additionally, the Buyer/Analysts have a higher salary range, are exempt, and receive sick pay.

The Employer argues, conversely, that the employees responsible for purchasing manufacturing inventory are deemed to share a community of interest with production and maintenance employees, and, therefore should be included in the unit. The Employer cites *Container Research Corp.*, 188 NLRB 586 (1971) for this proposition. The material planners described in *Container Research Corp.* perform duties similar to those of the Buyer/Analysts. Id. at 586-587. However, there the material planners received the same fringe benefits and earnings

[14] Dispatchers ensure the materials are in the appropriate departments for use by the operators.

comparable to production and maintenance employees. Here, the Buyer/Analysts receive a salary, which, at its top range, exceeds that of the maximum earnings possible for production and maintenance employees.[15] Additionally, unlike the production and maintenance employees, the Buyer/Analysts are exempt employees. Further, there was no indication in *Container Research Corp.* of how much time the material planners spent interacting with unit employees. Id. Here, the Buyer/Analysts spend a mere 10% of their time interacting with unit employees. Finally, there is a preference that Buyer/Analysts have degrees. While there are similarities between the material planners in *Container Research Corp.* and the Buyer/Analysts here, the greater differences are such that a unit of production and maintenance employees, excluding Buyer/Analysts, is an appropriate unit.[16]

B. Material Coordinators

The Material Coordinators establish and maintain departmental filing systems, reconcile both invoices and receipts for materials and resolve material discrepancies. They process requisitions to create purchase orders and contact suppliers for information regarding shipments. They collect documents regarding inventory use. Material Coordinators perform 95% of their job functions at their computers. The insignificant amount of time they spend interacting with production and maintenance employees is incidental to their primary function. While the Material Coordinators have similar benefits as production and maintenance, they are salaried, nonexempt employees.

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[15] Production and maintenance employees' hourly wages range from $11.43 to $27.32/hour. Assuming a 2000 hour year, the production and maintenance employees' salaries would range from $22,860 to $54,640 a year. There is testimony that the average production and maintenance employee receives $20.00 to $25.00/hour.

[16] The Employer relied primarily on *Container Research Corp.* but also cited *Raytee Co.*, 228 NLRB 646, 647 (1977) and *Brown and Root, Inc.*, 314 NLRB 19 (1994). In *Raytee Co.* the buyer was located in an office next to the production area and had little contact with employees who were not in production. In *Brown and Root, Inc.*, several materials inventory personnel were included in the unit of production and maintenance employees. However, those employees had significant interaction, up to 40%, with field employees and several performed construction and/or warehouse work. This is unlike the Buyer/Analysts or the Material Coordinators herein who primarily work in the office and do not perform production and maintenance work.

Employees who spend the majority of their time in offices or at their computer performing their duties were excluded from units as office clericals, even when they have daily contact with unit employees. *Brown and Root, Inc.*, 314 NLRB 19, 27 (1994). In *Brown and Root, Inc.*, the Material-Receiving Clerk was excluded from the unit when she spent 80% of her time keypunching and filing lists of materials received. The remaining 20% of her time was spent expediting material, including going to the field to check erroneous deliveries. Additionally, another office employee, who was supervised by the carpenter superintendent, was excluded even though she obtained blueprints from other buildings and had contact with unit employees two to three times a day. Similarly, Material Coordinators here primarily engage in office clerical work, despite their incidental contact with production and maintenance employees.

Material Coordinators create purchase orders from the material requisitions created by the Buyer/Analysts. After the order has been sent, the Material Coordinators call the supplier to ensure they received the order and indicate the date of delivery. When the order is received in the facility the Material Coordinators receive the invoice, stamp it, and enter the information into the computer. If there is a discrepancy in the quantity of a product, the Material Coordinators call the Receiving Department for a product recount. This occurs at least once a day. If there are other discrepancies on the invoice, the Material Coordinators give the invoice to the Buyer/Analysts to handle.

In addition to the purchasing process, the Material Coordinators also help manage the inventory. Twice daily, they collect inventory log sheets from three departments. This takes five or ten minutes each time. When collecting the log sheets the Material Coordinators ask any questions they may have from the previous day. The Material Coordinators return to their office and reduce the computerized inventory by the amount indicated on the log sheets. Material

Coordinators ask the operator about discrepancies on the log sheets. There is no testimony about how frequently this occurs. At the end of the day the Material Coordinators file the log sheets in the Receiving Department.

Though the Material Coordinators spend approximately half an hour a day on the floor, the remaining nearly 95% of their day is spent on the computer in their office on the second floor at 400. They do not any perform production and maintenance work.

Though the Material Coordinators and production and maintenance employees share similar benefits, as do all nonexempt and exempt employees, the Material Coordinators are salaried, nonexempt and are a labor grade 5. While the Quality Department employees are also paid on a salaried, nonexempt basis, the extensive interaction, interchange and overlap of their jobs with the production and maintenance employees necessitate they be included in the unit. However, the interaction between the Material Coordinators and the production and maintenance employees is merely incidental to the primary clerical duties of the Material Coordinators. Based on their duties, the Material Coordinators are office clericals, and a unit of production and maintenance employees excluding the Material Coordinators is an appropriate unit.

III. Engineering Department

A. Designers (including Senior Designers (Design Specialists), Designers (Senior Design Specialists), Associate Designers (Design Associates)[17]

The Designers are responsible for creating layouts, drawings and shop paper (material requirements for the shop). Designers use their skill, technical knowledge and discretion, within parameters, to perform their job. Most of their time is spent in their offices on the third floor of

[17] The Employer also seeks to include Senior Design Assistants. They are considered here with the Senior Design Specialists but are a labor grade 6, instead of a labor grade 7.

400, and their interaction with production and maintenance employees is incidental to their primary function.

Designers, to perform their primary function, rely on the customer specifications, known as a CRDB, as well as a design sheet, both of which establish the parameters for the electrical design of the transformer.[18] The Designers use the CRDB and design sheet to load information into the Company's CAD drawing system. The CAD system starts building a model and helps develop the shop paper. The Designers then, within the parameters, use their skill, discretion and knowledge to develop drawings for the assembly of the transformers.

In addition to creating drawings and shop paper, the Designers recommend and develop new procedures to improve the efficiency of their department. The recommendations are implemented as soon as possible. There are currently about 150 updates that are waiting to be made.

The Designers' (specifically the Designer and Design Specialist) job function requires that they have an associate degree or related comparable experience. All Designers must also be able to use the Company's 3-D computer design software. Designers are trained to use this software either inside or outside the plant. While there was testimony that none of the design positions require a degree, nobody without a degree or experience at another transformer company has been hired into any of the design positions.

The above description of the Designers' duties demonstrates that the Designers are technical employees. *The Sheffield Corporation*, 108 NLRB 349, 351 (1954). In *The Sheffield Corporation*, designers and detailers who were assigned to the engineering department and separately supervised, and whose work areas were apart from those of the production and

[18] Both the CRDB and the design sheet are created by the design group, including the order entry group, design engineers, and the electrical engineers.

maintenance employee, were found to be skilled technical employees and were excluded from a production and maintenance unit. Likewise, in *Hancock Electronics Corp.*, 116 NLRB 442 (1956), a "draftsman detailer B" was excluded from the production and maintenance unit as a technical employee. In both those cases, the Board excluded those positions, following the existing policy of excluding technical employees whenever one party objected to their inclusion.

In *The Sheffield Corporation*, 134 NLRB 1101 (1961), the Board abandoned the automatic exclusion of technical employees upon the objection of any party, and set forth the factors to be considered whenever the unit placement of technical employees was in issue:

> [D]esires of the parties, history of bargaining, similarity of skills and job functions, common supervision, contact and/or interchange with other employees, similarity of working conditions, type of industry, organization of plant, whether the technical employees work in separately situated and separately controlled areas, and whether any union seeks to represent technical employees separately.

Id. at 1103-1104 (footnote omitted).

The parties disagree about the inclusion of the Designers. There has been no history of collective bargaining with this Employer. There was no demonstration that there is any similarity of skills between the Designers and those of the production and maintenance employees. Designers do not perform production and maintenance duties.

There is some limited interaction between the Designers and the production and maintenance employees. The engineering department has some inspection responsibility that requires limited interaction with production and maintenance employees. However, the inspection responsibility extends beyond just Designers to internal designers, the design engineers and the mechanical designers (positions the Employer does not seek to include in the unit). The Designers spend no more than an average of one hour a day troubleshooting and

dealing with inspections. However, the hour is merely an average, and a Designer can go a week without dealing with production employees.

While the Designers and production and maintenance employees do share similar health, medical, dental, vision and vacation benefits, all of the designers are nonexempt, salaried employees who receive overtime. While the Designers are able to work overtime, they primarily work first shift.[19] The Designers' salaries range from labor grade 5 to labor grade 8. In addition to the different pay structure, the production and maintenance employees work on the first floor of 400 and 1100, and the Designers are located on the third floor of 400, along with manufacturing supervision.

It appears there is no similarity of supervision between the Designers and production and maintenance employees. Designers report to Production Supervisor for Mechanical Designers, John Barzcak, who reports to Waukesha Plant Engineering Manager, Larry Lazar. Lazar reports directly to Vice President of Transformers and Equipment, Myron Bechtel. The production and maintenance employees report to individual supervisors, who report to Managers, who report to Waukesha Plant Operations Manager, Dan McDermott. McDermott reports to Bechtel.

No union seeks to represent technical employees separately.

The Employer, relying on *Virginia Manufacturing Co.* 311 NLRB 992 (1993), argues that the Designers are not technical employees, they do share a community of interest with production and maintenance employees and, even if they are technical employees, they should not be excluded from the unit.

The drafting employee in *Virginia Manufacturing Co.* "had contact with production employees at least once a day in connection with his production control duties and more than

[19] The testimony reflects that production employees work three shifts, from 7:00 a.m. to 3:00 p.m., from 3:00 p.m. to 11:00 p.m. and from 11:00 p.m. to 7:00 a.m.

once a day, on average, in connection with his drafting duties." Id. at 994. In addition, the employee spent 20% of his time as a quality control clerk during which he spent most of his time on the production floor. The drafting employee worked on or near the production floor when performing all of his duties and was supervised by the quality control manager, who supervised the quality control employees who were "indisputably in the unit." Id. This is unlike the Designers herein, who may go a week without interacting with production and maintenance employees and are separately supervised.

The Employer correctly argues that technical employees should not be automatically excluded from a unit of other employees. *The Sheffield Corporation*, 134 NLRB 1101 (1961). Based on the facts presented and the test set forth in *The Sheffield Corporation*, the Designers are technical employees and do not share such a close community of interest with the production and maintenance employees. Therefore, a unit excluding the Designers is not inappropriate.[20]

B. Winding Design Specialists and Order Process Specialists

The Winding Design Specialists and the Order Process Specialists (these two positions will collectively be referred to as Specialists) perform the same job, except that the Order Process Specialists are one labor grade lower. The Specialists perform the same job as the Designers, except the drawings and bills of material they prepare are used only by the Winding Department.

These positions require three to five years of either technical training or work in electrical technology with a working knowledge of electrical and insulation design of transformers and components. The Winding Design Specialist's duties are performed with a minimum of supervision and they require a professional knowledge of technical subjects, including materials,

[20] The Union argues certain Designers should be considered supervisory because they take over intermittently for Barczak. It is unnecessary for me to reach that issue since a unit of production and maintenance employees, excluding Designers, is an appropriate unit.

applicable industry standards, engineering, quality assurance, and mechanical procedures and processes. The Winding Design Specialist must be able to collaborate effectively with peers and managers and influence decisions in order to affect process change.

The Specialists, within identified parameters, use their skill, discretion and technical knowledge to develop drawings for the Winding Department. They do not engage in physical production or maintenance.

The Specialists provide assistance to the Winding Department, since it has no dedicated troubleshooter. If there is a problem, the foreman requests that the Specialists go to the floor to deal with the problem. Operators neither call the Specialists nor go to the third floor to request assistance, but may ask the Specialists a question in the cafeteria. The Specialists are not responsible for any inspections. The Winding Design Specialist spends an average of one hour a day on the plant floor, but can go a week without being on the plant floor.

The Specialists share a cubicle on the third floor of 400. The Winding Design Specialist is salaried, nonexempt, labor grade 7, and the Order Process Specialist is salaried, nonexempt, labor grade 6.

It appears there is no similarity of supervision between the Specialists and the production and maintenance employees. The Winding Design Specialist (Andy Prodoehl) and the Order Process Specialist (Steve McCormick) both report to Manager of Mechanical Engineering, Peter Michel, who reports to Lazar. Lazar reports directly to Bechtel. The production and maintenance employees are supervised as stated above in the discussion of Designers.

Under the analysis, set forth above in *The Sheffield Corporation*, 134 NLRB 1101 (1961), I find the Winding Design Specialist and the Order Process Specialist are technical employees

and do not share such a close community of interest with the production and maintenance employees so that a unit excluding them is inappropriate.

C. Senior Wiring Technicians

The Senior Wiring Technicians perform the same work as the Designers, except the Senior Wiring Technicians prepare their drawings and shop paper for use by Operators in the Control Box-LTC department, located at 1100.

Senior Wiring Technicians must have either three to five years of experience in design, drafting and manufacturing of control panels or an equivalent of two years technical training in the area of electrical technology and one to two years of drafting experience.

They use their skill, discretion and technical knowledge to develop drawings, within the parameters, to perform their jobs. The Senior Wiring Technicians do not have any responsibility to sign off on inspections but they do examine the completed units.

The Senior Wiring Technicians are salaried, nonexempt, labor grade 6. They do not perform any production and maintenance work.

It appears there is no similarity of supervision between Senior Wiring Technicians (Carolyn Dowdle, Checser Gerbensky, Al Eckl and Linda Swets) and the production and maintenance employees. The Senior Wiring Technicians report to Controls Supervisor Mark Janovetz, who reports to Lazar. The production and maintenance employees are supervised as stated above in the discussion of Designers.

Under the analysis, set forth above, in *The Sheffield Corporation*, 134 NLRB 1101 (1961), I find the Senior Wiring Technicians are technical employees and do not share such a close community of interest with the production and maintenance employees so that a unit excluding them is inappropriate.

D. Design Specialists Order/Entry

The Design Specialists Order/Entry is responsible for generating the preliminary layout and approval outline drawings for all incoming orders. Additionally, they assist the supervisors in estimating hours and anticipating and finding solutions to problems unique to a given order. The drawings they create are for the control group, which is in the engineering department. The Design Specialists Order/Entry also set up, program and troubleshoot the computer related products used by the test floor (a petitioned-for classification). They have irregular interaction with production and maintenance employees.

This position requires an associate degree or equivalent with five to seven years experience as a skilled designer, along with a thorough knowledge of production, the Employer's TA system, and appropriate computer programs. Additionally, the Design Specialist Order/Entry position description states that prior supervisory experience is helpful. They use their skill, discretion and technical knowledge to perform their jobs, within identified parameters.

The Design Specialist Order/Entry are salaried, nonexempt, labor grade 8. They do not perform any production and maintenance work.

It appears there is no similarity of supervision between Design Specialists Order/Entry (Brian Shoop, whose back-up is Pat Moores) and the production and maintenance employees. Mr. Shoop reports to Manager of Mechanical Engineering Peter Michel, who reports to Lazar. Mr. Moores reports to Controls Supervisor Mark Janovetz. The production and maintenance employees are supervised as stated above in the discussion of Designers.

The Design Specialists Order/Entry interact with test employees when they set up, program and troubleshoot the computer related products used by the test floor. However, they do

not regularly spend time on the plant floor. They may not go to the plant floor for a period of two weeks and then spend several days on the plant floor.

Under the analysis, set forth above, in *The Sheffield Corporation*, 134 NLRB 1101 (1961), I find the Design Specialists Order/Entry are technical employees and do not share such a close community of interest with the production and maintenance employees that a unit excluding them is inappropriate.

E. Engineering Process Specialist (Senior Process Technician) and Control Process Specialist

The Engineering Process Specialist and the Control Process Specialist are identical positions, except that the Engineering Process Specialist acts as the representative for Engineering and the Control Process Specialist acts as a representative for the Control Group. Both act as the representative on any Production, Quality Assurance or Field Service problems requiring immediate engineering assistance. They complete or assure proper and accurate completion of NCRs or Engineering Change Orders. They work closely with engineering and manufacturing personnel to make certain that corrective actions are properly implemented. They improve quality by recommending changes to documentation and processes among departments to rectify quality deficiencies. They both, within identified parameters, use their skill, discretion and technical knowledge to perform their jobs.[21] Despite their interaction with production and maintenance employees, they have skills and duties different from production and maintenance employees, are assigned to the Engineering Department and have higher salary potential.

The duties are performed with a minimum of supervision and require a professional knowledge of technical subjects, including materials, applicable industry standards, engineering,

[21] While there was no testimony regarding the extent to which this takes place, the job description states that the Engineering Process Specialist assumes the responsibilities of the Mechanical Design Process/QA Supervisor when the supervisor is out of the plant and the Control Process Specialist assumes the responsibilities of the Control Group when the Control Supervisor is out of the plant. It is not necessary for me to decide if these portions are supervisory since a unit of production and maintenance employees, excluding these positions, is an appropriate unit.

quality assurance, and control procedures and processes. Both positions must be able to collaborate effectively with peers and managers and influence decisions in order to affect process change.

Both positions spend 100% of their time troubleshooting and reviewing and dealing with the NCRs written by the shop or Quality Specialists. They attempt to independently resolve NCRs. The Engineering Process Specialist is on call 24 hours a day, 7 days a week. They both interact with production and maintenance employees, as well as with Quality Department employees when performing these functions.

The Engineering Process Specialist is salaried, nonexempt, labor grade 8 and the Control Process Specialist is salaried, nonexempt, labor grade 7.

It appears there is no similarity of supervision between the two positions and the production and maintenance employees. The Engineering Process Specialist (Karl Prohaska) reports to Michel. The Control Process Specialist (Grant Kozera) reports to Janovetz. The production and maintenance employees are supervised as stated above in the discussion of Designers.

Under the analysis, set forth above, in *The Sheffield Corporation*, 134 NLRB 1101, I find the Engineering Process Specialist and the Control Process Specialist are technical employees. Clearly these employees spend more time interacting with the production and maintenance employees than the other technical employees. However, based on their unique skills and duties and their placement and supervision in the Engineering Department, they are more closely aligned with the Engineering Department. Therefore, a unit of production and maintenance employees, excluding these positions, is an appropriate unit.

CONCLUSION

Based on the above analysis, I find the petitioned-for unit of production and maintenance employees, including the Quality Specialists, Associate Quality Engineer and Product/Process Auditors to be an appropriate unit for purposes of collective bargaining. I conclude the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All regular full-time and regular part-time production and maintenance employees and Quality Department employees, including Quality Specialists, Associate Quality Engineers and Product/Process Auditors, employed by the Employer at its Waukesha, Wisconsin facilities; excluding managerial employees, Purchasing Department employees, including Buyer/Analysts and Material Coordinators, Engineering Department employees, including Designers, Winding Designer Specialists and Order Process Specialists, Senior Wiring Technicians, Design Specialists Order/Entry, and Engineering Process Specialists and Control Process Specialists, office clerical employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among employees in the unit 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 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. Employees engaged in any economic strike who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. 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. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by International Brotherhood of Electrical Workers Local Union 2150

LIST OF VOTERS

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 the 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*, 384 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, the Employer shall file with the undersigned, **two** copies of an election eligibility list, containing the **full** names (including first and last names) and addresses of all the eligible voters, and upon receipt, the undersigned shall make the list available to all parties to the election. To speed preliminary checking and the voting process itself, it is requested that the names be alphabetized. **In order to be timely filed, such list must be received in the Regional Office, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 on or before November 28, 2003.** 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, DC 20570. **This request must be received by the Board in Washington by December 4, 2003.**

Signed at Milwaukee, Wisconsin on November 20, 2003.

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Joyce Ann Seiser, Acting Regional Director
National Labor Relations Board
Thirtieth Region
Henry S. Reuss Federal Plaza, Suite 700
310 West Wisconsin Avenue
Milwaukee, Wisconsin 53203