

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

ARNOLD LOGISTICS, LLC

Employer¹

and

Case 4–RC–20596

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 771, AFL-CIO

Petitioner²

**REGIONAL DIRECTOR’S DECISION AND
DIRECTION OF ELECTION**

The Employer, Arnold Logistics, LLC, is a logistics services provider with multiple facilities, including a facility in East Petersburg, Lancaster County, Pennsylvania (herein called the Lancaster facility). The Petitioner, Teamsters Local 771, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of employees at the Lancaster facility. A hearing officer of the Board held a hearing, and the parties filed briefs with me.

The parties disagree on a single issue. While the Petitioner seeks to represent a unit of approximately 164 employees employed at the Lancaster facility, the Employer contends that only a unit consisting of approximately 862 employees employed at all of its central Pennsylvania facilities is appropriate. The parties stipulated that a unit consisting of the following classifications is appropriate: “all full-time and regular part-time laborers, warehouse auditors, forklift operators, coordinators/line leaders, mechanics, and dispatchers, excluding all other employees, office clericals, guards and supervisors as defined in the Act.”

I have considered the evidence and the arguments presented by the parties concerning the appropriate scope of the unit. As discussed below, I have concluded, in agreement with the Employer, that the presumption favoring a single location unit has been overcome in this case. Accordingly, I have directed an election in a unit of employees who are employed at all of the Employer’s central Pennsylvania facilities.

To provide a context for my discussion concerning the appropriate scope of the unit, I will first provide a brief overview of the Employer’s operations. Then, I will review the factors

¹ The Employer’s name appears as amended at hearing.

² The Petitioner’s name appears as amended at hearing.

that must be evaluated in determining whether the presumption in favor of a single location unit has been overcome. Finally, I will present in detail the facts and reasoning that support my conclusion.

I. OVERVIEW OF OPERATIONS

The Employer is a third-party logistics services provider for various manufacturers and retailers. Its services include the packaging and assembly of products, distribution of orders and returns, and warehousing. The vast majority of the Employer's business operations are in central Pennsylvania, where it has facilities located in Lancaster, Camp Hill, Mechanicsburg, Middletown, and Shiremanstown. The Employer also has a facility in Mountville, Pennsylvania, but that facility is not currently operational.³ The number of hourly employees employed at each of the central Pennsylvania facilities is as follows: Lancaster-- 164; Camp Hill-- 218; Mechanicsburg-- 353; Middletown-- 66; and Shiremanstown-- 61. In addition to its central Pennsylvania facilities, the Employer has two facilities with a total of approximately 100 employees in Texas, one facility with about 12 employees in Illinois, and one facility with approximately 20 employees in Ohio.

The Employer's President and CEO, Douglas Enck, is responsible for the Employer's overall operations. He works at the Employer's corporate headquarters, which are located at the Camp Hill facility. The Employer has 11 divisions, which are structured based on the types of products handled and the similarity of the work performed.⁴ The Lancaster facility, which is the sole facility in Division Five, primarily handles products sold through retail stores, while some other divisions ship products directly to consumers or to distribution centers. Division Managers and other management staff at the individual facilities oversee the daily operations of their divisions and are responsible for the customer accounts under their control.

The Lancaster facility has been in operation for about three years. Its highest-ranking official is Division Manager Bryan Peroni. Currently, the Employer performs about 98 percent of the work at the Lancaster facility for a single customer, a software manufacturer, and virtually all of its remaining work is for two other customers.

II. FACTORS RELEVANT TO THE APPLICATION OF THE PRESUMPTION IN FAVOR OF A SINGLE LOCATION UNIT

It is well-settled that a single location unit is presumptively appropriate for collective bargaining. *D&L Transportation, Inc.*, 324 NLRB 160 (1997); *J&L Plate*, 310 NLRB 429 (1993), citing *Dixie Belle Mills*, 139 NLRB 629, 631 (1962); *Bowie Hall Trucking*, 290 NLRB 41, 42 (1988). However, the presumption in favor of a single location unit can be overcome by a showing of functional integration so substantial as to negate the separate identity of a single facility unit. *Cargill, Inc.*, 336 NLRB No. 118 (2001); *New Britain Transportation Co.*, 330

³ The parties agree that if it is determined that only a unit consisting of all of the central Pennsylvania facilities is appropriate, the Mountville facility should not be included.

⁴ For example, one or two divisions deal primarily with food products.

NLRB 397 (1999). In determining whether the single location presumption has been rebutted, the Board considers such factors as centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions and working conditions; degree of employee interchange; geographic proximity; and bargaining history, if any. *New Britain Transportation Co.*, supra; *Globe Furniture Rentals*, 298 NLRB 288 (1990). The burden is on the party opposing a petitioned-for single location unit to present evidence to overcome the presumption. *J&L Plate*, supra; *Red Lobster*, 300 NLRB 908, 910–911 (1990). The statute does not require that a unit for bargaining be the only appropriate unit or even the most appropriate unit. Rather, the Act requires only that the unit be *an* appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Morand Bros. Beverage*, 91 NLRB 409, 418 (1950), *enfd.* on other grounds 190 F.2d 576 (7th Cir. 1951). Thus, the unit sought by the Petitioner is always a relevant consideration. *Overnite Transportation Co.*, supra at 323-324. I will now discuss each of the factors that the Board considers in determining whether the single-location unit presumption has been overcome.

**A. Control Over Daily Operations and Labor Relations,
Including the Extent of Local Autonomy**

Although the Employer's daily operations are administered by management staff at each of its facilities, its daily operating procedures are based on company-wide policies that are developed at the corporate office in Camp Hill. The Employer's overall human resources and labor relations functions are performed primarily by its Human Resources department. Additionally, the Employer's project management, finance, purchasing, accounting, marketing, security, information systems, and maintenance operations are centralized and administered at its Camp Hill headquarters. Enck and other members of corporate management visit the individual facilities, including the Lancaster facility, about two to three times a week. Enck also speaks to Peroni by telephone several times a day. The Employer's Division Managers attend staff meetings at the Camp Hill headquarters at least once a month, and they are sometimes assigned to work at different facilities in central Pennsylvania. Although the Division Managers have day-to-day contact with customer representatives, they have no authority to negotiate agreements on behalf of the Employer.

The Employer accepts employment applications and interviews applicants at its individual facilities. The Employer also conducts job fairs for prospective applicants at each facility, including Lancaster, and may tentatively hire employees at the job fairs. However, all applications are reviewed, screened, and processed at the corporate office at Camp Hill, which also conducts reference checks and gives final approval for hire. Similarly, Peroni and other Division Managers recommend suspensions, discharges and other disciplinary actions, but they have no authority to discipline employees without corporate approval, except in the event of an emergency. The Human Resources department automatically tracks employee attendance at all of the facilities and determines whether discipline under the Employer's progressive discipline system is warranted. If so, the counseling or other discipline will be presented to the employee at his or her facility. Employee evaluations are completed at the individual facilities and then forwarded to Camp Hill, where Enck reviews spreadsheets of all of the evaluations and determines the amount of employees' wage increases. The Camp Hill headquarters generates

paychecks for all employees and then delivers them to the individual facilities where they are distributed to employees.

B. Employees' Skills, Functions, and Working Conditions

Although the employees employed at the various central Pennsylvania facilities handle products for different customers, they have similar skills, use similar equipment, and perform similar jobs. Employees at all facilities primarily use shrink-wrapping equipment, forklifts, and sorting, labeling and scanning machines. There are minor variations between the machines at the different facilities, depending on the products to be handled, but the skills needed to operate the machines are the same. Some forklift operators at the Middletown facility operate a "pull pack" forklift, which requires additional skill and training. These employees are paid a higher rate than the Employer's other forklift operators, including those employed at the Lancaster facility.⁵

The Employer's employees in the same job classifications at all central Pennsylvania facilities receive the same starting wage rates and benefits, including holidays. While the Employer maintains separate seniority lists for each division, all vacancies for non-warehouse positions are posted at each of the central Pennsylvania facilities.

All new employees receive the same employee handbook and attend an orientation program conducted by a human resources manager at Camp Hill or one of the individual facilities. All employees have photo identification cards with a magnetic strip that they use to enter any of the Employer's facilities. The Employer invites all of the employees from the various central Pennsylvania facilities to the same Christmas Party.

The Lancaster, Mechanicsburg, and Shiremanstown facilities operate on three shifts that have similar starting and ending times. Other central Pennsylvania facilities operate on two shifts with different starting times. Employees who need to call out from work may contact their individual facility manager or the Human Resources department at Camp Hill. Overtime work is offered to employees at the facility where the work is based. If employees are injured at work, they call their department supervisors at their facility.

C. Degree of Employee Interchange

According to Enck, the transfer of employees between central Pennsylvania facilities is a significant feature of the Employer's operations as it facilitates the Employer's ability to handle peak volumes of work for its customers and to offer continuous employment to all employees. When additional staffing is needed at a facility, a request for more employees is submitted to a corporate manager at Camp Hill, who either transfers employees to the requesting facility or, if the volume of work makes it infeasible to transfer employees, secures temporary employees from a temporary agency. The Employer generally seeks volunteers for transfers between facilities in order of seniority, but if there are not enough volunteers the Employer requires the least senior

⁵ Unlike other forklifts, "pull packs" do not lift palettes but instead slide underneath plastic or corrugated sheets, which hold the product to be lifted.

employees to transfer.⁶ When the Employer transfers employees between facilities, the employees have the option of driving themselves to the new location or using bus transportation provided by the Employer.

During the two-year period preceding the filing of the instant petition, 120 employees were transferred between the Lancaster and Camp Hill facilities, 30 employees were transferred between the Lancaster and Mountville facilities, two employees were transferred from the Lancaster facility to the Mechanicsburg facility, and one employee was transferred from the Middletown facility to the Lancaster facility. The Employer made these transfers for various reasons relating to its operating needs. Thus, 81 employees were transferred to balance work volume at the central Pennsylvania facilities,⁷ 44 employees were transferred to assist with inventory and quality control,⁸ 19 employees were transferred to start up a new account,⁹ and 10 employees were transferred to train employees at other facilities.¹⁰ At least two-thirds of these 153 temporary transfers were for periods of one week or more.¹¹

The Employer transferred at least 26 employees from the Mountville facility to the Lancaster facility in September 2002 due to an account closure. There were no other permanent transfers of employees between the Employer's facilities during the last two years.¹²

D. Geographic Proximity

The average distance between the Employer's central Pennsylvania locations is approximately 20 miles, and all facilities are located within a radius of about 42 miles.¹³ The Lancaster facility is located the farthest from the corporate office at Camp Hill, 38 miles. The distances between the Lancaster facility, the Middletown facility, and the Shiremanstown facility are 24 miles, 38 miles, and 42 miles, respectively. The Camp Hill facility is four miles from the Mechanicsburg facility, 13 miles from the Middletown facility, and half a mile from the Shiremanstown facility. The Mechanicsburg facility is 16 miles from the Middletown facility and four miles from the Shiremanstown facility, and the Middletown facility is 13 miles from the Shiremanstown facility.

E. Bargaining History

There is no history of collective bargaining affecting any of the Employer's employees.

⁶ While Enck testified that employees could be terminated for refusing a transfer, he was not aware of any such refusal.

⁷ These transfers occurred on nine occasions and involved 1,2,4,6,8,9,10,13 and 27 employees at a time.

⁸ These transfers occurred on three occasions and involved 2, 17, and 25 employees at a time.

⁹ These transfers all occurred on a single occasion.

¹⁰ These transfers occurred on four occasions, and involved 1,1,2, and 6 employees at a time.

¹¹ These numbers are approximate. The Employer contends that there were additional transfers but did not provide evidence in support of this contention.

¹² There is no evidence concerning the transfer of employees between the central Pennsylvania facilities that do not involve the Lancaster facility.

¹³ Enck estimated that the distance between the Mountville facility and the Lancaster facility is eight miles.

III. ANALYSIS

I find that the Employer has overcome the presumption that a single location unit of the Employer's employees at the Lancaster facility is appropriate. The record shows that the Employer's operations are highly integrated and administratively centralized. At the Employer's corporate offices in Camp Hill, the Employer maintains company-wide human resources and labor relations functions, as well as centralized project management, security and maintenance operations, and financial and information technology systems. While the Employer's Division Managers oversee the day-to-day operations at the individual facilities, they have no authority to hire, discharge, or discipline employees without corporate approval. Additionally, all of the Employer's central Pennsylvania employees have similar skills, use similar equipment, perform similar jobs, follow the same employee handbook, and receive the same wages and benefits. President Enck and other senior corporate officials regularly visit the individual facilities, and Division Managers also remain in close telephone contact with headquarters. There is extensive employee interchange between the Lancaster facility and the other central Pennsylvania facilities. In this regard, I find that 153 temporary transfers and 26 permanent transfers of employees involving the Lancaster facility during a two-year period is a significant number in the context of the Employer's overall operations in central Pennsylvania.¹⁴ The Employer initiated the temporary transfers based on its operating needs, and at least two-thirds of the transfers lasted for at least one week.¹⁵ The central Pennsylvania facilities are located within a fairly wide radius of approximately 42 miles, which militates in favor of the appropriateness of the petitioned-for single location unit. However, in view of the centralization of the Employer's operations, the lack of local autonomy over significant labor relations matters, the similarity in employees' jobs, skills, wages, and other working conditions, and the significant degree of employee interchange between employees at the Lancaster facility and the other central Pennsylvania facilities, the distance is not so great as to preclude a finding that a single location unit is inappropriate. *Novato Disposal Services, Inc.*, 328 NLRB 820 (1999); *Barber-Colman Co.*, 130 NLRB 478 (1961). Cf. *New Britain Transportation Co.*, supra.¹⁶

Finally, neither the Petitioner nor the Employer seeks to include the employees employed at the Employer's facilities in Illinois, Ohio, and Texas within the scope of the unit. There is no evidence of interchange between employees of those facilities and employees of the central Pennsylvania facilities. Moreover, given the significant distance between those facilities and the central Pennsylvania facilities, I find that limiting the scope of the unit to include only the Employer's central Pennsylvania facilities is appropriate. See *See's Candy Shops*, 202 NLRB

¹⁴ See *NLRB v. Purity Food Stores*, 376 F.2d 497 (1st Cir. 1967), cert. denied, 389 U.S. 959 (1967).

¹⁵ The Board has found that permanent interchange is a less significant indicator of community of interest than temporary interchange and thus is given less weight in deciding unit scope issues. *Bashas', Inc.*, 337 NLRB No. 113, slip op. at 2, fn. 7 (2002); *Red Lobster*, 300 NLRB 908, 911 (1990).

¹⁶ In *New Britain Transportation*, the Board found the petitioned-for unit of a single facility to be appropriate in view of sufficient local autonomy and a lack of significant interchange involving that facility. Among other things, the Board found that the Employer failed to provide sufficient evidence of interchange because it presented its data in aggregate form without sufficient context or details. The Board also noted that most of the temporary transfers of bus drivers were for special events for which the employees voluntarily signed up. In the instant case, the interchange data is more detailed; it includes the dates of the transfers, the facilities and the number of employees involved in each transfer, and the duration of the transfers. Moreover, the Employer will require employees to transfer between the central Pennsylvania facilities if necessary to meet its operating needs. See *D&L Transportation*, 324 NLRB 160, 162 fn. 7 (1997).

538 (1973). Cf. *Bashas', Inc.*, supra. Accordingly, I find that the only appropriate unit consists of employees at all of the Employer's facilities in central Pennsylvania, specifically the Lancaster, Camp Hill, Mechanicsburg, Middletown, and Shiremanstown facilities. *Waste Management Northwest*, 331 NLRB 309 (2000); *R&D Trucking, Inc.*, 327 NLRB 531 (1999); *Globe Furniture Rentals, Inc.*, supra.

IV. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are 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 in this case.
3. The Petitioner claims to represent certain of the employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. 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 laborers, warehouse auditors, forklift operators, coordinators/line leaders, mechanics, and dispatchers employed by the Employer at its facilities located in Camp Hill, Lancaster, Mechanicsburg, Middletown, and Shiremanstown, Pennsylvania, and EXCLUDING all other employees, office clerical employees, guards and supervisors as defined in the Act.

At the hearing, the Petitioner declined to indicate whether it wished to proceed to an election in a multi-location unit if the petitioned-for unit were found to be inappropriate. Accordingly, the Petitioner will be given the opportunity to proceed to an election in the unit set forth above. The Petitioner's showing of interest may now be inadequate due to the additional employees included in the unit as a result of this Decision. Accordingly, the Petitioner should advise the undersigned Regional Director as to whether or not it wishes to proceed to an election in the unit found appropriate, and the Petitioner has 14 days from the issuance of this Decision to augment its showing of interest, if necessary. See, *NLRB Casehandling Manual (Part Two), Representation Proceedings*, Sec. 11031.2. If the Petitioner fails to submit an adequate showing of interest within this period, or to withdraw the petition, the petition will be dismissed without further order. The Direction of Election set forth below is thus conditioned on the Petitioner having an adequate showing of interest. See *Alamo Rent-A-Car*, 330 NLRB 897 (2000). In the

event that a request for review is filed with respect to this Decision, the foregoing requirement will be suspended until the Board rules on the request for review.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for the purposes of collective bargaining by International Brotherhood of Teamsters, Local 771, AFL-CIO. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those employees in the unit who were employed during the payroll period immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the election date and who retained their status as such during the eligibility period, and the replacements of those economic strikers. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

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).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106 on or before

February 27, 2003. No extension of time to file this list shall be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (215) 597-7658. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **March 6, 2003**.



Dated February 20, 2003

at Philadelphia, PA

/s/

DOROTHY L. MOORE-DUNCAN
Regional Director, Region Four
National Labor Relations Board

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