

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12**

**GENERAL ELECTRIC COMPANY**

**Employer<sup>1</sup>**

**and**

**Case 12-RC-9011**

**IUE-CWA, INDUSTRIAL DIVISION OF  
COMMUNICATION WORKERS OF AMERICA, AFL-CIO**

**Petitioner<sup>2</sup>**

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

The Employer, General Electric Company, installs, services, maintains, and repairs electrical appliances for residential and commercial customers. The Employer does not maintain a facility for its operations in Florida. Rather, the Employer employs field service technicians who work from their homes and receive their daily work assignments from a dispatch center located in the Employer's Atlanta, Georgia, business center. The Employer has divided Florida into two geographic consumer service areas; Fort Myers, Tampa, and Orlando comprise one area and the remainder of Florida is the other. The field technicians are assigned to geographic zones within these consumer service areas, including the Ft. Myers zone.

On January 16, 2004, the Petitioner, IUE-CWA, Industrial Division of Communications Workers of America, AFL-CIO, 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 all full-time and regular part-time service repair technicians and

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Petitioner's name appears as amended at the hearing.

apprentices<sup>3</sup> employed in the Fort Myers area. On January 27, 2004, a hearing officer of the Board held a hearing.

The sole issue before me is whether the field service technicians (technicians) employed in the Fort Myers area constitute an appropriate unit for collective bargaining. The Petitioner contends that the petitioned-for unit of Fort Myers technicians is entitled to the single facility presumption. The Employer argues that no “single facility” exists because all technicians work from their homes through remote dispatching from Atlanta, and, therefore, it need not rebut the single facility presumption. The unit sought by the Petitioner consists of approximately 15 technicians. The Employer contends that the appropriate unit should include the approximately 15 technicians employed in the Fort Myers area, the 27 technicians employed in the Tampa area, and the 21 technicians employed in the Orlando area, for a total of 63 technicians.

I have considered the evidence and the arguments presented by the parties, and the timely filed brief of the Petitioner has been carefully considered. As discussed below, I find that the single facility presumption is not applicable here, and that, in any event, the unit sought by the Petitioner is not a distinct and identifiable unit. Rather, I conclude that the appropriate unit consists of all technicians employed in the Fort Myers, Tampa, and Orlando consumer service area. There are approximately 63 employees in the unit found appropriate herein.

In the discussion below, I will first present an overview of the Employer’s organizational and supervisory structure. I will then address in detail the factors relevant to the scope of the unit issue. Finally, I will analyze the facts and provide the reasoning in support of my conclusions.

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<sup>3</sup> At the hearing, the parties referred to the petitioned-for unit employees as “service repair technicians”, “service technicians”, or “field service technicians”; however, the exact job title used by the Employer is “field service technician”.

## **Organizational and Supervisory Structure**

The Employer installs, services, maintains, and repairs electrical appliances for residential and commercial customers. Its consumer services division, based in Louisville, Kentucky, oversees its field operations. In Florida, prior to about 1995, the Employer had a facility in each geographical zone, e.g., Fort Myers, Tampa, or Orlando, with a site manager and a dispatcher at each facility. The technicians reported daily to the facility where they received their daily service call assignments. Since that time, the Employer has closed its facilities, reorganized its management structure, and converted to delivery of its consumer services by technicians who work from their homes.

The dispatch of all consumer services and repair calls throughout the nation are centralized in two business centers located in Atlanta and Phoenix. The Atlanta business center is the dispatch center for Florida. As noted above, the Employer has divided Florida into two geographic consumer service areas; one covers the Fort Myers, Tampa, and Orlando area (FMTO) which is supervised and managed by consumer service manager Dan Bramblett. The other consumer service area in Florida is supervised and managed by consumer service manager Helena Hernandez. Both Bramblett and Hernandez report to Mark Marzano, the Atlanta business center manager. Marzano reports to Daryl Miller, general manager of consumer services.

In the course of the Employer's restructuring of its Florida operations, consumer service manager Bramlet assumed supervision of the Tampa zone in 1993, the Orlando zone in 1997, and the Fort Myers zone in 2003. He is responsible for all operational and managerial decisions in the FMTO. Bramlet hires and disciplines the FMTO technicians. He conducts an annual performance review of all FMTO technicians; however, the review has no impact on their wage progression.

Bramlet travels in each zone on a weekly basis, but he holds a meeting with the technicians in their assigned zone about every four to six weeks. The technicians can contact him by phone or e-mail throughout the day.

### **Duties, Skills, and Training**

All FMTO technicians have the same duties and skills.<sup>4</sup> All do in-home repair and service of major appliances, and all sell service contracts. All technicians must possess a specified certification and be able to perform certain physical activities. All technicians are assigned service trucks, to be kept at their personal residences, which are used for all service calls. All receive truck stock inventory from the same source, which is delivered to their homes. All have laptop computers and cell phones for the remote dispatching of their daily service calls from Atlanta. At the end of the work day, each technician prints a "STAR" report which reflects the invoice number for each service call and mails it to Atlanta. The star report identifies the region, zone, and technician number. The technician must return certain replaced parts to Louisville for analysis with a requisite sticker which identifies the region, zone, and technician number.

FMTO technicians all receive the same training conducted by Bramlet, which includes training concerning administrative procedures and policies, rules of conduct, the truck custody agreement, and environmental health and safety issues.

### **Wages, Benefits and Working Conditions**

The FMTO technicians receive the same benefits package, which includes health, retirement, and disability benefits, vacation, holidays, and sick leave. The technicians are all covered by the same wage progression scale, grades 12 through 20, ranging from about \$16 to \$25 an hour. During the two-year apprenticeship program,

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<sup>4</sup> The parties stipulated that apprentices have the same duties as the technicians, although they are considered to be in training for two years. At this time, there are three apprentices in the FMTO (two of whom are in Fort Myers). Bramlet monitors their work performance on a day-to-day basis.

the apprentices start at a 60 percent wage scale and receive wage increases every six months. The technicians work 40 hours a week, from 8:00 a.m. to 4:30 p.m., and they can decide to work overtime without prior permission to complete a service call. The technicians wear uniforms, with a choice of two colors for shirts, shorts or long pants, and an optional hat. With respect to temporary zone reassignments, company seniority is applied. Vacation bids are awarded based on zone seniority.

All FMTO technicians have the same work rules, as well as performance standards. Their primary performance goals are “revenue per day “(rpd) and “quality of service” (qos). There are nine other performance goals, including those related to customer contacts, “incompletes”, and sales of service contracts. The performance goals are tracked for each FMTO technician on a monthly basis by the Louisville office. An individual “technician performance review” shows the technician’s monthly statistics related to the performance of all 11 goals. An annual “tech ranking by category” report ranks all FMTO technicians, regardless of zone, based on their performance in five goals. These reports identify the consumer service area, region, zone, and technician number. Bramlett reports the performance goal statistics for the entire FMTO technician group to Atlanta. Based on the entire group’s performance statistics, the FMTO won the consumer service area award for 2003.

### **Functional Integration**

The Employer treats the FMTO as a single operational unit with a single reporting line of authority. Bramlett manages the FMTO as a whole regarding service call volume, and he reviews the daily assignments for each FMTO technician. As noted, the daily work assignments for all FMTO technicians are dispatched through Atlanta, and all service call records are submitted there. The work performance standard reports for all FMTO technicians are submitted as a group to Atlanta. All FMTO technicians forward certain replacement parts to Louisville. All FMTO technicians receive their truck

inventory stock from a single source, and it is delivered to their homes. Trucks are moved among zones in the FMTO based on need. As discussed below, technicians can take a temporary transfer assignment within the FMTO or throughout the nation to avoid layoff. Likewise, technicians are solicited to take temporary transfer assignments within the FMTO or throughout the nation based on increased call volume.

### **Employee Interchange**

As noted, Bramlett reviews the FMTO call volume as a whole. In general, the peak season for Tampa and Orlando is the summer; for Fort Myers, the peak season is the winter. As a result, FMTO technicians can experience slow periods which could result in a layoff but for the Employer's transfer policies. When calls decrease in one area and increase in another area, Bramlett solicits technicians to take a temporary transfer to compensate for the fluctuation. In the case of a substantial increase in calls, if Bramlett cannot provide coverage through the FMTO technicians, he will alert Atlanta to solicit technicians from other consumer service areas throughout the nation. Likewise, if an FMTO technician is about to be laid off and cannot be accommodated within the FMTO, he can request a temporary assignment anywhere in the nation. These technicians who accept temporary assignments are given travel and living expenses. In addition, when an FMTO technician must take sick leave or personal leave, Bramlett can solicit a temporary replacement among his technicians. In 2003, due to sufficient coverage in the FMTO, one of the technicians took a three-month assignment in Virginia due to a peak call volume there. When temporarily working in another zone, the technician uses a different technician number while there. Regardless of the geographic work assignment, inside or outside the FMTO, the daily work functions of the technicians remain the same.

In 2003, there were 15 technicians working in the Fort Myers area. One Orlando technician testified that he took a temporary transfer to Fort Myers from February to May

2003, and he has worked there since November 2003; he also has worked temporarily in Tampa. He testified that there are two technicians from Mississippi and one from Indiana who are temporarily assigned to Fort Myers now. An Orlando technician took a temporary assignment in South Dakota and then returned to Tampa for his permanent assignment; he also worked in Fort Myers for about two months in 2003. Another Orlando technician worked in Fort Myers for about a month in the spring and the fall of 2003. In 2002, a technician transferred permanently from Orlando to Tampa; he also worked temporarily in Fort Myers in 2003. In 2001, an Orlando technician worked temporarily in Tampa to replace two technicians on sick leave. In the event of a short-term illness, Bramlett informally designates a "shared technician" who will pick-up some assigned zip codes of the ill technician along with his own assignment. Another technician has had permanent assignments in each of the three zones within the FMTO, and yet another technician transferred from Orlando to Tampa permanently.

### **Employee Contact**

Due to the nature of the work, technicians work autonomously regardless of zone assignment within the FMTO and their work sites vary throughout the day. Within a technician's zone, there can be in-person contact with another technician due to a two-man job, which occurs about once a week, or a parts swap, which occurs about once a month. These opportunities are based on the proximity of their zip codes within the zone. Although every technician has a cell phone, other than as described above, there is little need for work-related contact between technicians. Bramlett chooses a central location in each zone to conduct meetings regarding administrative matters which last about two hours. He does the same for annual training sessions which last about half a day. If a technician has a temporary zone assignment, he attends the meetings and training sessions held in that zone.

## ANALYSIS

The Petitioner contends that the petitioned-for unit consisting of the field technicians assigned to the Fort Myers area of the FMTO is a “single facility unit” which is a presumptively appropriate unit. The Employer argues that there is no “single facility” for field technicians assigned to any single zone in the FMTO, but rather all field technicians work from their homes within geographic areas of the FMTO. There is no dispute that the Employer has restructured its Florida operations by closing its individual geographic zone facilities, which included site managers and dispatchers, and has replaced the former method of operating with the remote dispatching of field technicians who work from their homes. The Employer also has greatly reduced the number of consumer service managers, who now oversee large geographic consumer service areas consisting of several zones. In these circumstances, I find that the petitioned-for unit does not constitute a “single facility” unit and should not be considered a presumptively appropriate unit.

However, the Board’s criteria for determining whether employees in a petitioned-for unit share a community of interest separate and apart from employees outside the petitioned-for unit correlate with the criteria for determining whether an employer has rebutted the presumption of a single facility unit and the result here would be the same under either analysis. The traditional community of interest test examines the similarity of the employees’ skills and functions, common supervision, interchange and contact among employees, the degree of functional integration in the Employer’s operation, similarity of working conditions, and similarity of wages and fringe benefits. See Kalamazoo Paper Box Corporation, 136 N.L.R.B.134, 137 (1962); Yuengling Brewing Co. of Tampa, 333 N.L.R.B. 892 (2001). Additional criteria analyzed by the Board for the determination as to whether an employer has rebutted the single facility presumption are centralized control over daily operations including the extent of local autonomy,

geographic proximity of the facilities or locations of the employees outside of the petitioned-for unit, and collective-bargaining history. J & L Plate, Inc., 310 N.L.R.B. 429 (1993); Budget Rent A Car Systems, Inc., 337 N.L.R.B. 884 (2002).

There is virtually no difference in the duties and skills of the FMTO technicians; they can move freely among zones without any additional training or experience. The Board has held that similar job classifications and similar work performed by employees at multiple locations is a significant factor in this analysis. Cheney Bigelow Wire Works, 197 N.L.R.B. 1279 (1972). All FMTO technicians are remotely dispatched based on their individual primary and secondary zip codes; the reassignment of zip codes affects the site but not the performance of their work. All work under the same work rules and performance standards. The FMTO technicians are ranked as a whole, not on a zone by zone basis, on their work performance. Although technicians meet separately by zone for administrative meetings and training, this relates more to logistics than any difference in content of the meetings and training. From an operational standpoint, it simply makes more sense to have Bramlett travel from zone to zone rather than to have 63 technicians travel to a single site. The same wage progression scale and benefits package apply to all technicians.<sup>5</sup> Although the award of vacation bids is based on zone seniority, this single distinction is insignificant when viewed as part of the entire benefits package.

The Employer's operations are highly integrated, not only in Florida but throughout the nation. The Employer conducts its nationwide operations through just two dispatch centers in Atlanta and Phoenix. There is a single administrative center in

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<sup>5</sup> The Petitioner argues that the presence of two apprentices in Fort Myers, who earn a percentage of the wage progression wage scale during their two-year apprenticeship, establishes an important difference in the terms and conditions of the technicians in Fort Myers as compared to the other two zones. However, an apprentice working in any zone would receive the same proportionate wages; and, moreover, there is a third apprentice who works in one of the other two zones at this time.

Louisville, and a single line of managerial authority from first-line supervisor Bramlett, to the Atlanta business center manager, to the Atlanta consumer services manager. Based on call volume, technicians can transfer throughout the nation, whether to avoid a layoff or to cover an increased call volume. The centralization of administrative functions is a significant factor as well. Burns International Security Service, Inc., 257 N.L.R.B. 387, 389 (1981).

With respect to employee interchange, there have been a number of temporary reassignments, especially due to the difference in peak seasons between Fort Myers (winter) and the Tampa and Orlando zones (summer), as well as permanent transfers. Since Bramlett acquired the Fort Myers zone in 2003, which is the permanent zone for approximately 15 technicians, 4 Orlando technicians have worked there temporarily, along with 2 technicians from Mississippi and 1 from Indiana. Three Orlando technicians have transferred permanently to Tampa. Another Orlando technician has replaced technicians on sick leave in Tampa twice; and one technician has been permanently assigned to all three zones. Although no Fort Myers technician has been transferred to the other two zones, the record demonstrates that this is due to the call volume in Fort Myers which has required temporary transfers from Tampa and Orlando as well as from other states.

The Petitioner argues that the evidence of temporary transfers should be accorded less weight here because they have been voluntary in nature, citing New Britain Transportation Co., 330 N.L.R.B. 397, 398 (1999). Although the Board did find that the single facility presumption had not been rebutted in New Britain, the Board relied upon the fact that the degree of local autonomy was sufficient to overcome the employer's centralized control over personnel and labor relation's policies. However, such local autonomy does not exist here. Moreover, in Budget Rent A Car Systems, 337 N.L.R.B. 884 (2002), the Board found that the single facility presumption had been

rebutted where all transfers were voluntary. Furthermore, and most importantly, the Board has long held that no single factor is determinative in the analysis of the evidence necessary to rebut the single facility presumption. West Jersey Health System, 293 N.L.R.B. 749, 751 (1989).

The Petitioner emphasizes the use of local seniority for the award of vacation bids and the overtime policy as evidence of distinguishing factors between Fort Myers and Tampa and Orlando. Not only is the vacation bid issue insignificant in light of the entire wage and benefits package shared by all FMTO technicians, but Fort Myers is treated no differently than the other zones. This is true as to the overtime policy as well which allows technicians to work overtime to complete service calls without prior approval. Although the amount of overtime may vary from zone to zone, the policy is the same for the entire FMTO.

As for employee contact, due to the elimination of daily reporting and dispatching sites, each technician works separate and apart from other technicians except for the occasional two-man job or parts swap. There is little work-related need for phone contact between technicians.

It is recognized that the FMTO covers a very large geographical area and there is considerable distance between the city of Fort Myers and the cities of Tampa and Orlando. However, due to the contiguous boundaries of the FMTO zones, a Fort Myers technician may be working closer to a Tampa technician than to another Fort Myers technician, and an Orlando technician may be working closer to a Tampa technician than to another Orlando technician. Each technician works a separate piece of his zone as determined by his primary and secondary zip codes. In these circumstances, the

factor of geographic proximity loses its significance. In addition, there is no history of collective bargaining for the employees in any of the three zones within the FMTO.<sup>6</sup>

In summary, I find that a unit of the petitioned-for employees who work in the Fort Myers area is not a distinct and identifiable unit. Rather, the record establishes that the smallest appropriate unit including technicians assigned to the Fort Myers zone must also include the technicians in the Tampa and Orlando zones due to their identical duties and skills, common terms and conditions of employment, common supervision, highly centralized control of operations and labor policy, functional integration, and the lack of significant local autonomy. Since the technicians work autonomously from their homes through remote dispatching from Atlanta, the significance of the factors related to employee contact and geographic proximity is diminished. In these circumstances, the evidence of employee interchange is sufficient to support my conclusion that the petitioned-for unit is not appropriate.

### **CONCLUSIONS AND FINDINGS**

A. 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.<sup>7</sup>

B. The Petitioner claims to represent certain employees of the Employer.

C. 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 2(7) of the Act.

D. The following employees constitute a unit appropriate for purposes of

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<sup>6</sup> The Petitioner contends that there is a "longstanding" collective bargaining history between the Employer and the Petitioner in two individual consumer service zones elsewhere. However, it appears this collective bargaining history may have preceded the Employer's restructuring of its consumer service operations into multi-zone service areas.

<sup>7</sup> The Employer is a New York corporation. As noted above, it is engaged in the commercial and residential installation, service, maintenance, and repair of electrical appliances. During the past 12 months, in conducting its business operations described above, the Employer purchased and received at its places of business in Fort Myers, Florida, goods and materials valued in excess of \$50,000 directly from points located outside the State of Florida.

collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time field service technicians and apprentices employed in the Fort Myers, Tampa, and Orlando consumer service area, excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

### **DIRECTION OF ELECTION<sup>8</sup>**

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 purposes of collective bargaining by IUE-CWA, Industrial Division of Communications Workers of America, 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.

### **Voting Eligibility**

Eligible to vote in the election are those in the unit who are employed during the payroll period ending immediately before 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 an 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 that began less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers, but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

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<sup>8</sup> As the unit found appropriate herein is larger than the unit initially sought by the Petitioner, and as it has been administratively determined that the Petitioner does not have an adequate showing of interest to proceed to an election among the employees in the unit, Petitioner must submit an adequate showing of interest within 14 days from the date of this Decision and Direction of Election, absent which, if Petitioner does not withdraw its petition, the petition will be dismissed.

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.

### **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 N.L.R.B. 1236 (1966); N.L.R.B. 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 eligible voters. North Macon Health Care Facility, 315 N.L.R.B. 359, 361 (1994). This 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. This list may be used initially by the Regional Director to determine if the Petitioner has an adequate showing of interest.

To be timely filed, the list must be received in the Regional Office, 201 East Kennedy Blvd., Suite 530, Tampa, FL 33602, on or before **March 5, 2004**. No extension of time to file this list will 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. Since the list will be made available to all parties to the election, please furnish a total of **two** copies. If you have any questions, please contact the Regional Office.

### **Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three full 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 full 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 N.L.R.B. 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **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 14<sup>th</sup> Street, N.W. Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5:00 p.m., EST on **March 12, 2004**. The request may not be filed by facsimile.

Dated at Tampa, Florida, this 27<sup>th</sup> day of February, 2004.

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