

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15

ENTERGY OPERATIONS, INC.  
WATERFORD III NUCLEAR POWER  
STATION<sup>1</sup>

Employer

and

Case 15-RC-8538

UTILITY WORKERS UNION OF  
AMERICA, AFL-CIO

Petitioner

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

The Employer, Entergy Operations, Inc. Waterford III Nuclear Power Station, operates a nuclear power facility in Kilona, Louisiana. The Waterford III facility is part of the branch of Entergy Operations, Inc. known as Entergy Nuclear South. Waterford III is one of Entergy Nuclear South's four nuclear facilities. The Petitioner, Utility Workers Union 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 production and maintenance workers. A hearing officer of the Board held a hearing and the parties filed briefs with me.

During the hearing, the parties entered into stipulations regarding the specific job classifications they agreed should be included in the unit.<sup>2</sup> As evidenced at the hearing

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

<sup>2</sup> The specific job classifications stipulated to on the record **include**, administrative service employees, drafters, electricians, mechanics, operations administrative assistants, operations operators, technicians, and lead technicians, and **exclude**, work management analysts, schedulers, outage schedulers, work-week managers, HP chemistry specialists, administrative coordinators, analysts, consultants, contractors, coordinators, directors, engineers, executive secretaries, instructors, interns, managers, operations technicians, planners, senior secretaries, specialists, student employees, superintendents, technical

and in the briefs, the parties disagree on the issue of whether 10 warehouse employees, known as lead material operators and senior material operators, share a sufficient community of interest with the other unit employees to warrant their inclusion in the bargaining unit.

The Employer contends that the lead material operators and senior material operators should be excluded from the bargaining unit because they do not share a sufficient community of interest with other bargaining unit employees. The Petitioner maintains they do share a sufficient community of interest.

I have considered the evidence and arguments presented by the parties on this issue. As discussed below, I have concluded that both the lead material operators and senior material operators share a substantial community of interest with the other bargaining unit employees. Therefore, their inclusion in the bargaining unit is appropriate.

## **I. OVERVIEW OF OPERATIONS**

The Employer operates a nuclear power facility in Kilon, Louisiana where it produces and distributes electrical power.

The overall operations of the Employer are the responsibility of its Chief Executive Officer. Reporting to the Chief Executive Officer is the Vice President. Reporting to the Vice President is the Site Vice President, Joe Venable, as well as the General Manager, Kevin Walsh. Reporting to the General Manager are several department managers, including the Maintenance Manager and the MP&C Manager. Reporting directly to the MP&C Manager is the Material Supervisor, Randy Trevillion who directly supervises the lead material operators and senior material operators, the only job classifications in dispute in this case. Reporting directly to the Maintenance Manager are the Mechanical, I&C, Support, and Electrical Superintendents. Drafters, a

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assistants, temporary employees, confidential employees, office clerical employees, guard,

classification stipulated to be in the bargaining unit, report directly to D. Gallodoro, the Configuration Management Supervisor, who reports directly to the Design Engineering Manager, Joe Reese. Joe Reese reports to Engineering Director Russ Brian who reports directly to the Site Vice President.

The Employer's facility is divided into three designated areas. These areas are called the "Owner Controlled Area," which encompasses the entire facility; the "Protected Area," a smaller area within the "Owner Controlled Area;" and the "Vital Area" located within the "Protected Area." Each designated area has a different level of security. All employees have access to the "Owner Controlled Area." The "Protected" and "Vital" areas are more restricted. The "Protected Area" is completely enclosed by a fence and has "intrusion detection" (Tr. 29) and cameras as a safeguard to break-ins. According to the testimony of Maintenance Manager, Jason Laque, the "protected area" includes buildings that are "directly related to power-producing equipment" (Tr. 29) as well as the maintenance shops and support employees such as chemistry and radiation protection employees. The "Vital Area" is where "vital equipment to be able to bring the plant to safe shutdown conditions is located." (Tr. 34). According to Laque, an employee's access to these different areas is determined by his/her need to be in that area to perform their job functions, each employee has a key card that is encoded to allow them into the areas to which they need to go. According to Laque, access privileges are not determined by classification, but by individuals because different individuals within the same job classifications may have different access needs in order to perform their jobs. In addition to the key cards, at the entrance to the "protected area" there is a hand scan. Vehicles entering the "protected area" must go through a "vehicle trap." With the "trap", a vehicle passes through one fence and is trapped between that exterior fence and an interior fence, while security inspects the vehicle. In order to enter

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and supervisors as defined by the Act.

the “vital area” employees must again scan their key card, but there are no other security checks at this entrance, such as a hand scan.

The lead and senior material operators work in the facility warehouses. One of these warehouses, referred to as the service building warehouse (or inside warehouse), is located within the “protected area.” The other three warehouses, referred to as 2B, 5B, and 7B (or outside warehouses), are located outside of the “protected area,” but inside the “owner controlled area.” The material operators are the only potential bargaining unit employees assigned to these warehouses. There is however, a Quality Specialist assigned to these warehouses who reports to the same supervisor as the material operators.<sup>3</sup>

## II. COMMUNITY OF INTEREST

Before examining facts in the instant case, I will briefly review the standards involved in determining community of interest.

In deciding the appropriate unit, the Board first considers the union’s petition and whether that unit is appropriate . . . The Board, however, does not compel a petitioner to seek any particular appropriate unit. The Board’s declared policy is to consider only whether the unit requested is an appropriate one, even though it may not be the optimum or most appropriate unit for collective bargaining. Overnite Transportation Company, 322 NLRB 723 (1996); P.J. Dick Contracting, 290 NLRB 150 (1988).

The Petitioner has requested a unit including the lead material operators and the senior material operators. The Employer asserts that the inclusion of the material operators is inappropriate because they do not share a community of interest with other members of the bargaining unit. As noted earlier, I have concluded that the material operators do share a community of interest with the bargaining unit and the unit

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<sup>3</sup> The Quality Specialist position is not included in the petitioned-for Unit.

requested by the Petitioner is an appropriate unit. In making these determinations I considered the following factors:

1. Degree of functional integration,
2. Common Supervision,
3. The nature of employee skills and functions,
4. Interchangeability and contact among employees,
5. General working conditions, and
6. Fringe benefits.<sup>4</sup>

Before evaluating each of these factors individually, I will provide a detailed description of the material operator classification.

### **III. Material Operators**

#### Work Locations and Conditions

There are currently 10 material operators employed at the Employer's Killona, Louisiana facility. Two senior material operators and one lead material operator are currently assigned to the service building warehouse, which is located within the protected area. There are six senior material operators and one lead material operator assigned to the outside warehouses. All of these material operators are currently supervised by Randy Trevillion, the Supervisor of Materials. The outside warehouse is not air conditioned, but it does have an air conditioned break room and office area. The break room contains vending machines and, according to Maintenance Manager Laque, is open to all employees, not just the material operators. Each of the material operators in the outside warehouse has his/her own office or cubicle, computer, and telephone with voicemail.

The entire inside warehouse is air-conditioned. The inside warehouse does not have a specific area designated for breaks, but does have an office area that could be used to take breaks. There are no vending machines in the inside warehouse but there

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<sup>4</sup> See Overnite Transportation, supra at 724.

are vending machines inside the service building, located adjacent to the inside warehouse. Each material operator in the inside warehouse has their own desk in a shared office in the warehouse office area. Each of these operators also has a computer and telephone with voicemail.

Both the inside and outside warehouse have their own fax machines and the outside warehouse has a photocopier. The inside warehouse personnel use a photocopier located in the service building.

In addition to the above-mentioned break areas, the Employer has two cafeterias that all employees can use.

#### Pay and Benefits

Lead material operators receive a salary in the range of \$56,591.41 to \$57,119.41. The salary range for senior material operators is \$47,376.37 to \$55,323.49. Maintenance department salary scales for electricians, mechanics, and I & C employees range from \$51,449.53 to \$69,743.17. As far as other classifications that have been stipulated as part of the bargaining unit, drafters salaries range from \$39,542.41 to \$51,022.45 and operators have salaries that range from \$51,438.13 to \$72,703.81.

Keith Baker, the Manager of Employee Relations, testified that all employees at Waterford III are offered a choice between the same medical insurance plans. The contribution rate for all employees is 75 percent by the Employer and 25 percent by the employee. All employees are also offered an identical pension plan. Additionally, a 401(k) plan is offered through an outside vendor and the match for all employees is 70 cents on the dollar for the first six percent of salary. Baker also testified that there are no differences between the benefits of the employees stipulated to be in the bargaining unit and those who are stipulated to be out of the bargaining unit, management and non-management.

Work Schedules

Employees in the Employer's facility generally work one of three different schedules. The first is a 12-hour rotating shift, another is a four-ten schedule in which the employees work 10-hour work days for four days a week. Most of these employees work from Monday to Thursday, but some work from Tuesday to Friday. The other schedule is called an alternate work week schedule. In this schedule the employees work nine-hour days from Monday through Thursday and have a day off every other Friday. The Fridays that they do work are eight-hour days. The material operators and the maintenance employees primarily work the four-ten schedule. When outages occur, they are temporarily switched to 12 hours per day for six days a week. There are scheduled outages about every 18 months as well as other outages, called "forced outages." Danny Plaisance testified that a former supervisor, Bob Laird, in a discussion about a possible shift change, once informed a group of material operators that they will work whatever shift maintenance works because they have to support maintenance.

As far as the work schedules of other stipulated bargaining unit employees, Manager of Employee Relations Keith Baker testified that administrative services employees can work the alternate work schedule or the four-tens schedule, some operations employees work the alternate work schedule and some work the 12-hour rotating shift schedule, the drafters work the alternate work schedule, HP technicians work the four-ten schedule or the 12-hour rotating schedule, the I&C Technicians and Chemistry technicians work the rotating 12-hour schedule or the four-tens. The Radwaste Technicians work the four-ten schedule. All of these job classifications have been stipulated by the parties as included in the bargaining unit.

In addition to working their regular schedule, material operators are issued beepers. If there is a need for a material operator to be called-in on a scheduled day off, the material operators are all called on their beepers. If they are interested in working

they can answer the page, but they are not required to do so. The record does not reflect if other employees have the ability to decline an offer to work when called in.

Job Duties

The primary responsibility of the material operators is to accept delivery of materials from outside vendors, called receipt inspection and to issue those materials to employees in the facility, primarily the employees in the maintenance department.

There is testimony that the Quality Specialist, who is supervised by Randy Trevillion, also performs some receipt inspections and performs peer reviews of the material operators' work. However, the material operators also do peer reviews of each other's work and the Quality Specialist's primary duties appear to be lab testing of certain items, such as analysis of diesel fuel. From the testimony it appears that the Quality Specialist will spend, at most, about 50% of his/her time working with the material operators in receipt inspection and stocking. As items arrive at the facility they are usually received at the outside warehouse where the material operators perform a receipt inspection. This process generally involves checking purchase orders and the delivered material to make sure that the deliveries are correct and meet safety standards. All items are logged into the facility by the material operators because of the necessity for the Employer to maintain "traceability" on the materials entering the facility. The receipt inspection are primarily performed at the outside warehouses, as this is where outside vendors deliver their goods. However, on occasion there are large materials which need to be delivered directly to another part of the facility. In these instances the material operator will travel to the delivery location and perform the receipt inspection there.

Once the material have been received, it is the responsibility of the material operators to either store the material in the appropriate place or to inform the intended recipient that their item has arrived, so that it can be picked up at the warehouse. Most

of the items are stocked in the outside warehouses or in the "lay-down" yard. Some smaller items are stocked in the inside warehouse. As explained in greater detail later, the material operators will occasionally deliver the items to the intended recipients. Once the materials are stored, they are issued to the other employees, usually the maintenance employees, as needed to perform assigned projects throughout the facility. Usually the employees come to a counter in the warehouse to request the item and occasionally, as noted earlier, the items are delivered directly to employees.

As far as items that are stocked in the warehouses, when employees in other departments, primarily maintenance employees, need these items they go to a counter in either the inside or outside warehouses and present the material operator with a material request number. The material operator punches the number into a computer, finds the requested item(s), and issues the item to the other employee along with an issue ticket. The ticket is provided for the employee to put in his packet to prove what item they used on each job. Material Operator Danny Plaisance testified that about 60 to 65% of his contacts with other employees are with maintenance department employees, who have been stipulated as part of the bargaining unit. Material Operator Vernon Parnell testified that about 70% of the tickets he issues for material are issued to maintenance employees.

There are some items received that are not stored in the any of the warehouses. For instance, the Chemistry Department has chemicals delivered on a weekly basis. According to Plaisance, the material operators will receive the chemical and then contact the chemistry department by telephone and advise the intended recipient, whose name is usually listed on the package, that their item is available to be picked up. The chemicals will be transported from the outside warehouse to the inside warehouse as part of the daily delivery and the Chemistry Department employees can pick up the chemicals at the inside warehouse.

When certain items are received that have low amounts of contamination, the material operators will call an HP Technician to the outside warehouse. The HP Technician will test the item and then, if it passes the test, the material operators will receive the item. At that point, the HP technician will come in the outside warehouse while a material operator calls the inside warehouse. The outside material operator will then escort the HP Technician and the contaminated item to administration where they will meet a material operator from the inside warehouse. The inside warehouse material operator and the HP Technician will then proceed to an area called "minus 4." At this area, there is a locker where items with low levels of contamination are kept. Both the HP technician and the material operator have a key to this locker and the locker cannot be opened without both keys. In order to retrieve items from this locker the HP Technicians must go to the inside warehouse and have a material operator come with him to minus 4 to open the locker. Danny Plaisance, a material operator, testified that it is about twice a month that items have to be stored in the locker at minus 4.

In addition to minus 4, there is an area called minus 35. Material Operator Vernon Farnell testified that they will have parts returned that are contaminated and therefore can't be stored in the warehouse. They are stored in a cage in minus 35. The material operators don't handle these items, they simply go to minus 35 and verify the tag on the items and instruct other employees on where to place the item. When items are retrieved from this area, the material operators go to verify what is being taken out.

Anastacio P. Delgado, Jr., a Senior Mechanic in the Maintenance Department (a stipulated bargaining unit position), testified that each morning there is a maintenance meeting where job assignments are distributed to the maintenance employees. After receiving their assignment, the mechanics check the equipment on which they will be working to make sure that it has been safely shut down, when necessary. Next the mechanic will go back to the maintenance shop to get his procedures for the job. These

procedures specify the particular parts that will be needed for the job. If particular parts are needed, Delgado says that he will take the material request to the material operator at the counter in the inside warehouse. When the item is one that is stocked in the inside warehouse the material operator will follow normal procedures to issue the item. However, if the item is stocked in one of the outside warehouses, the material operator at the inside warehouse will have to contact those at the outside warehouse. If the item is urgent, the inside warehouse can request that the outside warehouse "walk-up" the item to the protected area. In this process the material operator from the outside will bring the item to the protected area security gate where an inside material operator will meet him to retrieve the item. Delgado testified that, on some occasions, the inside warehouse has faxed the material request to the outside warehouse and he, Delgado, has driven a truck to the outside warehouse to pick up the item. If the item is not urgent the outside warehouse will deliver the item to the inside warehouse in one of their regular deliveries to the inside warehouse, which are made once a day using a truck. These daily deliveries are made to a back gate called "gate 2." Security officers are advised that the delivery is being made and meet the material operator at the back gate. The security officers will open the gate and inspect the load. After the inspection, the material operator will unload the truck and then reload it with any items that need to be transported from the inside to the outside. Once the truck is loaded, security will again inspect the new load and then let the truck back out of the gate.

Delgado testified that he goes to the warehouse to obtain parts a minimum of once each day, sometimes three or four times a day. Delgado also testified that on occasion, when his job assignment is located outside the protected area or at the river (the river area is at the Mississippi river bank where there are intake and discharge structures) he will go straight to the outside warehouse to request parts rather than the inside warehouse.

As far as inside warehouse employees obtaining items from the outside warehouse, Material Operator Plaisance testified that they will fax the request to the outside warehouse. If the maintenance employee has told them that the part is urgent they will call the outside warehouse and request that the part be walked-up to the protected area. The outside material operator would then pull the material and call the inside warehouse when it is available. The material operators from the outside and inside warehouses will meet at the administration building or the protected area security gate, where the item will be exchanged. For larger items, the exchange will be made at the vehicle trap. The outside material operator will drive the item into the vehicle trap and then back out. Once the security guards have inspected the item they will allow the inside material operator through the inside gate to retrieve the item.

Material Operator Plaisance who is assigned to the outside warehouses, testified that about every other week he goes to the inside warehouse to work. He testified that on these weeks he works for three days in the inside warehouse performing the issuing function of the material operator job.

Material operators also perform a function called pre-staging. In this situation, they will receive a material request in advance for a particular job. They will collect the items needed for that job and stage them in an area to be retrieved by the maintenance employees assigned to that job. The maintenance employees will go through the normal procedure of going to the counter and presenting the request number, but their order will already have been prepared by the material operator.

Once a job is completed the maintenance employee may have parts obtained through the warehouse that ended up not being needed in the job. If this is the case, the employee will take the part back to the warehouse where he/she and the material operator will fill out a return form on a computer. The items can't be returned without the assistance of the material operator. Material Operator Plaisance testified that

occasionally these returned items will need to be returned to the vendor. When this situation occurs the material operators are responsible for packaging the item for shipping and for contacting the vendor and any necessary transportation service, such as a trucking company.

#### Training

All employees in the facility receive training called General Employee Training (GET) 1, 2 or 3. The level of GET training an employee receives depends upon what level of training is needed for them to perform their job functions. GET 1 is for access to the facility, GET 2 is for "training to radiation to enter . . . radiation-controlled areas," and GET 3 is for the ability to wear respirators. Everybody at the facility receives GET 1. The necessity for GET 2 and GET 3 training is determined by an employee's need to enter certain areas of the facility. According to Jason Laque, the mechanical, I&C, and electrical employees have to have GET 1, 2, and 3 training. It is not clear from the records exactly what GET training material operators are required to have beyond GET 1.

In addition to General Employee training, the material operators also receive annual receipt inspection training and forklift training. During receipt inspection training the material operators who do not regularly perform receipt inspection (specifically, those who are regularly assigned to the inside warehouse) will spend about one or two days at the outside warehouse performing the function of receipt inspection. The material operators are required to complete 45 hours of forklift training every three years.

#### Work in Other Departments

Although working outside of the material operator job classification seems to be rare for the material operators, there have been at least three instances in which material operators were temporarily or permanently assigned to a different department.

Material Operator Kay Bordelon was assigned to work in the Safety Department, a department that has not been included in the bargaining unit, for about 1½ years. According to Jason Laque, the move was made so that the employee could learn about safety and become a more rounded employee and after her completion in this position another employee from any department could be assigned to rotate into safety for a learning experience. Former warehouse supervisor Bruce Kennedy testified that Ms. Bordelon still occasionally works in the safety department when an employee is absent. While Bordelon was working in the safety department, she was still classified as a material operator and paid out of the material operations budget, but she was supervised by and evaluated by someone in the safety department.

Additionally, Laque testified that he recalled an employee named Donnie Ussergy, who permanently transferred into the maintenance department from material operator. This individual had to pass an aptitude test to make the transfer and after obtaining the transfer had to complete qualification classes and training. Mr. Ussergy is now retired.

Material Operator Vernon Farnell testified that during an outage he worked in the turbine building, with maintenance employees. He did not remember when this outage was, but says that, during the time he was assigned to work shifts of six 12-hour days, he worked a seventh day each week for about a month in the turbine building as a material operator.

#### **IV. Analysis**

##### Degree of Functional Integration

Material operators do not perform the job functions of any of the job classifications stipulated to be in the bargaining unit. However, several of these other job classifications, such as maintenance employees and some technicians, would not be

able to perform their jobs but for the material operators providing the materials needed to complete the assignments.

In The Boeing Company, 337 NLRB 152 (2001), in finding that 3 groups of Boeing employees did perform functionally integrated work, the Board found that the work of the employer was only accomplished through the coordinated efforts of all three groups.

#### Supervision

It is clear from the record that the material operators do not share common immediate supervision with any other bargaining unit employees. However, it is noted that the other groups stipulated to be a part of the bargaining unit also do not share direct supervision. The Drafters do not share direct supervision with any other bargaining unit employees and even within the maintenance department, the mechanical, I&C, and electrical classifications each have their own superintendent. Further, the Board has held that differences in supervision are not “per se a basis for exclusion” from a bargaining unit. Texas-Empire Pipe Line Company, 88 NLRB 631 (1950).

#### Nature of Employees Skills and Functions

Material operators receive General Employee Training, as do all other employees. Additionally, they must have the computer skills necessary to input material transactions into the company computer system. Some of the material operators are also trained to operate forklifts and to cut steel needed by maintenance employees.

It is not clear from the record, what training, besides General Employee Training, is given to other bargaining unit employees. However, it is noted that none of the training given to material operators is highly technical or specialized training. Further, it can be reasonably concluded that there is not a high degree of similarity between the training received by other groups of stipulated bargaining unit employees. The

classifications of chemistry technicians, HP technicians, drafters, electricians, and mechanics, would clearly all require very different types of skills and training.

#### Interchangeability and Contact Among Employees

Although, interchange between material operations and other departments is not overwhelmingly common, it does sporadically occur, as in the case of Vernon Farnell. More importantly, the evidence is overwhelming that the stipulated bargaining unit classifications have daily, frequent work-related contact with the material operators. In fact, it is evident that several job classifications, such as mechanical, I&C, and electrical, would find it very difficult, if not impossible, to perform their job functions without the materials provided by the material operators. With respect to technicians, it is evident that they could not properly store many contaminated parts and material without the regular help of material operators. It is reasonable to conclude that, in a nuclear power facility, the proper storage of radioactive components and materials, is essential not only to the functioning of the facility, but to the safety of all employees and the community. Clearly, the functions performed by the material operators are an integral part of the work performed by the maintenance department and therefore require the material operators to have daily contact with members of the stipulated bargaining unit.

#### General Working Conditions

As noted in detail, the material operators perform the bulk of their work from the warehouses, located both inside and outside the protected areas. However, on a daily basis the material operators leave their warehouses to exchange urgent materials with operators from another warehouse, to make daily deliveries to another warehouse, to sometimes deliver materials directly to work areas, and to occasionally travel to other work areas to receive goods that are not delivered directly to the warehouse. Although their primary work area is in the warehouses, the material operators are not distinctly segregated from other employees or work areas, their work can take them to many

different areas of the facility and they are not required to remain in the warehouse for their entire shift. This is compared to the maintenance department employees who primarily perform work in the field, but who often are assigned to projects in a fabrication shop or other indoor areas of the facility.

With respect to work hours, the material operators primarily work the four-ten schedule, as do many other bargaining unit employees, such as the maintenance employees. As noted earlier other bargaining unit employees can also work this shift schedule, such as administrative services employees and many technicians. The work hours of material operators are not distinct from other bargaining unit employees.

#### Wages and Fringe Benefits

The record clearly indicates that the wages and fringe benefits of the material operators are consistent, identical in the case of benefits, with all other bargaining unit employees. Therefore, a comparison of the wages and benefits of the stipulated bargaining unit classifications to the wages and benefits of material operators does not lead to a conclusion that material operators must not be included in the bargaining unit found appropriate in this case.

#### Conclusion

In a case involving a stipulated bargaining unit that, while appropriate, is not highly homogeneous, the fact that one particular classification does not meet every prong of the community of interest test does not render it inappropriate for inclusion in the bargaining unit. As discussed in detail above, based in large part on the integral part material operators play in the operations performed by other bargaining unit employees, and the material operators' similarities to other bargaining unit employees in the areas of wages, hours, benefits, and working conditions, I find that the inclusion of the lead material operators and senior material operators in the bargaining unit, as proposed by the Petitioner, is appropriate. Therefore, in that the unit proposed by the Petitioner is an

appropriate unit there is no need to consider any alternate unit and the lead material operators and senior material operators will be included in the unit found appropriate herein.

## V. CONCLUSIONS AND FINDINGS

Based on the entire record in this matter and in accordance with the discussion above, I concluded 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 employees of the Employer.
4. A question affecting commerce exists concerning the Representation of certain employee 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 purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees employed by the Employer at Waterford III Nuclear Power Station, Killona, Louisiana, **including** administrative services employees, drafters, electricians, mechanics, operations administrative assistants, operations operators, technicians, lead technicians, lead material operators, and senior material operators; **excluding** work management analysts, schedulers, outage schedulers, work-week managers, HP chemistry specialists, administrative coordinators, analysts, consultants, contractors, coordinators, directors, engineers, executive secretaries, instructors, interns, managers, operations technicians, planners, senior secretaries, specialists, student employees, superintendents, technical assistants, temporary employees, confidential employees, office clerical employees, guards, and supervisors as defined by the Act.

## VI. 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 Utility Worker Union 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 his Decision.

**A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were 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. Also eligible are employees engaged in an economic strike that began less than 12 months before the election date 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 Region 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). This list must be on a 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 Region Office, 1515 Poydras Street, Suite 610, New Orleans, LA 70112, on or before July 19, 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. The list may be submitted by facsimile transmission at (504) 589-4069. 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 litigations 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 election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employer 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 p.m., EST on July 26, 2004. The request may **not** be filed by facsimile.

Dated: July 12, 2004

/s/ [Rodney D. Johnson]

Rodney D. Johnson, Regional Director,  
National Labor Relations Board, Region 15  
1515 Poydras Street, Suite 610  
New Orleans, Louisiana 70112-3723

**Classification Index**  
401-7550