

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

BLAIR CORPORATION

Employer

and

Case 6-RC-12339

DISTRICT 65, INTERNATIONAL ASSOCIATION
OF MACHINISTS & AEROSPACE WORKERS,
AFL-CIO

Petitioner

REGIONAL DIRECTOR'S DECISION AND ORDER

The Employer, Blair Corporation, is engaged in the retail sale of men's and women's apparel and home products via telephone, mail, catalogs, flyers, inserts and the Internet. The Employer does not manufacture any of the merchandise it sells to customers and the general public. The Employer's operation consists of five facilities: Blair Corporate Headquarters located in Warren, Pennsylvania (BCO); Blair Distribution Center (North & South Buildings) located in Irvine, Pennsylvania (BDC); Blair Returns Center located in Erie, Pennsylvania (ERC); Blair Service Center located in Erie, Pennsylvania (ESC); and Blair Service Center located in Franklin, Pennsylvania (FSC). In addition, the Employer operates an outlet store in Grove City, Pennsylvania, a catalog outlet store in Wilmington, Delaware, and a photography studio in West Warren, Pennsylvania. The Petitioner, District 65, International Association of Machinists & Aerospace Workers, AFL-CIO, filed a petition, as amended at the hearing, 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 fulfillment department, maintenance department, credit management department and information services department employees

employed at the BDC, excluding confidential employees, office clerical employees, managerial employees and guards, professional employees and supervisors as defined in the Act.¹ A hearing officer of the Board held a hearing and the Employer filed a timely brief with me.

As evidenced at the hearing and in the Employer's brief, the parties disagree on the issue of whether a unit limited to the BDC is appropriate. Contrary to the Petitioner, the Employer asserts that the only appropriate unit is one which encompasses all employees performing order flow process or order filling process functions not only at the BDC but also at BCO, ERC, ESC and FSC. The employees whom the Employer would include in the broad unit are all employed in the fulfillment department, maintenance department, credit management department, information services department and customer services department. The Petitioner does not seek to represent any customer service department employees since none are employed at BDC. The Employer would not include in its proposed unit any employees employed at its two outlet stores or its photography studio.²

The parties are basically in accord with the composition of a unit limited to the BDC and that the unit should include, inter alia, all employees engaged in the fulfillment or warehouse department (e.g. inspector/packers, machine operators, material handlers, various categories of clerks, stock replenishers, order fillers, facility inspectors, yard truckdrivers, general reconditioners), maintenance department employees (e.g. cleaning/cafeteria attendants, baler operators, janitors, mechanics, shuttle truckdriver, maintenance clerks, groundkeepers, painters, electricians, carpenters), credit management department employees (mail room employees) and information services department employees (computer printer operators and desktop support technicians). The parties are in disagreement whether six employees employed in the maintenance department as building security employees should be included in

¹ The unit description is based on the positions taken by the Petitioner at the hearing.

² There are also four subsidiary companies located in the Wilmington, Delaware area that are not encompassed by the multi-facility unit proposed by the Employer.

the unit. In this regard, the Employer, contrary to the Petitioner, would exclude these employees as guards within the meaning of the Act.³ There are no other employees employed at BDC whose unit placement is in dispute.

There are approximately 590 fulfillment department employees and 50 maintenance department and 11 other department employees employed at BDC. Further, there are approximately 300 employees at BCO, 400 employees at ESC, 400 employees at FSC and 230 employees at ERC that the Employer would include in its proposed multi-facility unit. The Petitioner indicated that it would proceed to an election if maintenance department employees employed at facilities other than the BDC were included in the unit. There is no history of collective bargaining for any of the employees involved herein.

In this case, the Petitioner is seeking a single-facility unit, a unit comprised of all employees at the BDC.⁴ When a labor organization seeks a single facility unit, such a unit is presumptively appropriate under Board law, and it is the employer's heavy burden to rebut that presumption if the employer asserts that a multi-facility unit is the only appropriate unit. I have considered the evidence presented by the parties on this issue. As discussed below, I have concluded that the petitioned-for unit, a unit limited to employees employed at the BDC, is inappropriate for the purposes of collective bargaining, and that the Employer has met its burden in establishing that this unit is not appropriate. Accordingly, I have issued an order dismissing the petition.

³ There are also two building security employees employed at BCO. The Employer would also exclude these employees from its proposed multi-facility unit as guards.

The parties are in agreement that office clerical employees and temporary agency personnel should be excluded from both the petitioned-for unit and the Employer's proposed multi-facility unit.

⁴ The BDC facility is comprised of two buildings, North Building and South Building, which are connected by an enclosed bridge.

To provide a context for my discussion of the issues, I will first provide an overview of the Employer's operations. Then, I will present in detail the facts and reasoning that supports each of my conclusions on the issues.

I. OVERVIEW OF OPERATIONS

As discussed previously, the Employer is in the business of selling men's and women's apparel and home products through mail and telephone orders and via the Internet. As noted, the Employer does not manufacture any of these products but rather purchases products from vendors and sells them to the public. The Employer's production process is the filling of customer orders and responding to customer inquiries with respect to the above-described merchandise at its five facilities located in Western Pennsylvania.⁵ In 2003, the Employer received over 5.2 million telephone orders, over 5.5 million mail orders, and over one million internet orders.⁶

The Employer is organized around departments, rather than locations. As a result, multiple departments are located within each facility.⁷

The Employer is under the overall supervision of president and chief executive officer J. E. Zawacki and is basically divided into two major divisions, each with a number of departments. The two major corporate divisions are the Menswear, Home & Marketing Division and the Operations & Administration Division, which is under the direction of senior vice president T. P. McKeever. Most of the petitioned-for employees and the vast majority of employees the Employer would include in the multi-facility unit work in this division.⁸

⁵ BDC is located 5.7 miles from BCO, 51.5 miles from ERC, 54.5 miles from ESC and 44.5 miles from FSC.

⁶ The Employer also receives, on an annual basis, over 10 million other inquiries about its products.

⁷ In view of the Employer's organizational structure, there is no single plant manager at any of the Employer's facilities responsible for the overall supervision of the facility.

⁸ As discussed below, the only employees not employed in the Operations & Administration Division, which the Petitioner would include in the single facility unit and the Employer would include in its proposed multi-facility unit, are a small number of credit management department employees and information service department employees.

Reporting to McKeever are various department vice presidents, including vice president fulfillment, R. A. Scalise⁹, vice president customer services, S. M. Blair, vice president corporate facilities planning, J. H. Smith and director of personnel (human resources) Rodney T. Henry.

a. Overview of the Single-Facility Unit at BDC

As noted, the Petitioner seeks to represent all fulfillment department employees employed at BDC. The vast majority of employees who are employed in the fulfillment or warehouse department work at BDC in various warehouse, stocking and pulling and order filling functions. These employees either work in the stock order finishing/packing/shipping subdepartment located in the North Building at the BDC or in the warehouse/receiving subdepartment in the South Building at BDC. Both of these subdepartments are under the supervision of a subdepartment manager located at BDC who reports to the fulfillment department's director of operations, Tim Harlin, who reports to Scalise. There are also approximately 50 quality assurance employees who work in the South Building who report to the quality assurance manager who reports to Scalise. The parties are in agreement that the employees in these two subdepartments and the quality control employees are properly included in the unit. Each of the aforementioned subdepartments has various lower level managers and supervisors who report to the subdepartment manager. There are approximately 50 of these individuals working at BDC whom the parties agree should be excluded from the unit as supervisors within the meaning of the Act.

Other fulfillment department employees work at ERC in merchandise returns.¹⁰ These employees are responsible for processing merchandise returned by the customer; opening, inspecting and packing merchandise; processing 65% of the returns to the customers' accounts (35% are processed by the customer service department at BCO); and either returning defective merchandise to the manufacturer or shipping the returned merchandise to BDC for

⁹ Scalise maintains his office at BDC.

¹⁰ In 2001, merchandise returns was relocated from BDC to a new facility– the ERC.

warehousing. These employees report to various supervisors at the ERC who in turn report to the merchandise returns subdepartment manager who reports to the fulfillment department's director of operations.

As noted, approximately 590 petitioned-for fulfillment department employees work at BDC and 230 fulfillment department employees work at ERC. The Petitioner does not seek to represent the ERC fulfillment department employees. There are no fulfillment department employees employed at BCO, ESC or FSC.

Approximately 50 corporate facilities planning or maintenance department employees work at BDC in various job classifications, including janitorial, building security, and craft positions (e.g. electricians, carpenters, mechanics). These employees report to various managers and supervisors who in turn report to Smith. Although the majority of maintenance department employees work at BDC, a smaller number of maintenance employees work at BCO and to a lesser extent at ERC and ESC. No maintenance employees are permanently assigned to FSC.

Another department located at BDC is the Credit Management Department, whose operations are located primarily at BCO, which deals with customer credit issues. At BDC, the Credit Management Department employs six first class mail operators who the parties agree should be included in the unit. These employees mail all documents sent to customers. The Credit Management Department is not part of the Operations & Administration Division, but rather is under the overall supervision of senior vice president and chief financial officer B. J. Flanagan. Flanagan, as a senior vice president, reports directly to Zawacki.

Finally, the Employer's Information Services Department (ISD), whose operations are primarily based at BCO, has a small number of employees at BDC. This department, which is under the supervision of vice president and chief information officer, M. A. Rowe, is responsible for assisting in the processing of customer orders and all communications with customers and customer payments. Rowe reports directly to Zawacki. At BDC, the ISD operates a print room employing three computer printer operators, whom the parties are in agreement should be

included in the unit. The print room receives information from BCO and prints all documents associated with the order filling process and all documents mailed to customers. No computer printer operators are employed at other facilities. The ISD also employs two desktop support technicians at BDC. These employees maintain individual computers and CRTs. The parties are in agreement that these two technicians should be included in the unit. Two desktop support technicians are employed at BCO and two are employed at ERC. The Petitioner would exclude these technicians from the petitioned-for single-facility unit. In addition, there are other classifications of ISD employees employed at BCO. The Petitioner does not seek to represent these employees. The Employer would include them in its proposed multi-facility unit.

b. Overview – the Employer’s Multi-Facility Unit

The Employer would include in its proposed multi-facility unit all customer service department employees. The customer service department receives customer orders by mail, telephone, fax and internet, processes customer orders, completes return processing from the ERC and processes customer payments. The customer service department has operations at BCO, ESC and FSC. Department headquarters are located at BCO. Only customer service department employees are employed at ESC and FSC.¹¹

BCO is the corporate headquarters for the Employer’s entire operation. In addition to a number of departments not an issue herein, the credit management and the information services department maintain the base of their respective operations at BCO. Employees employed in these two departments, as well as those maintenance employees at BCO, are encompassed by the Employer’s multi-facility unit request.

Finally, as noted, the Employer would include in its multi-facility unit those fulfillment department employees employed at ERC as well as the maintenance department employees working at that location.

¹¹ A small number of maintenance department employees are employed at ESC.

II. OVERVIEW OF LEGAL PRECEDENT

It is well established that when a union seeks a presumptively appropriate single-facility unit, it is the employer's heavy burden to present evidence rebutting the presumption that such a unit is appropriate for collective-bargaining purposes. E.g. Trane, 339 NLRB No. 106 (2003); Cargill, Inc., 336 NLRB 1114 (2001). To rebut the presumption, the employer must demonstrate that the day-to-day interests of employees at the single location have been effectively merged into a more comprehensive unit, or by a showing of functional integration so substantial as to negate the separate identity of the single-facility unit. Trane, supra; Cargill, Inc., supra; J & L Plate, Inc., 310 NLRB 429 (1993). However, the Board "has never held or suggested that to rebut the presumption a party must proffer 'overwhelming evidence . . . illustrating the complete submersion of the interests of employees at the single store,' nor is it necessary to show that 'the separate interests' of the employees sought have been 'obliterated'". Trane, supra, at p. 2, citing Petrie Stores Corp., 266 NLRB 75, 76 (1983).

To determine whether a single-facility presumption has been rebutted, the Board examines a number of community of interest factors, including (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions and working conditions; (3) degree of employee interchange; (4) distance between locations; and (5) bargaining history, if any exists. Trane, supra; Cargill, Inc., supra; J & L Plate, Inc., supra. The Board has long held that no one factor is determinative in analyzing whether the single-facility presumption has been overcome. St. Luke's Health System, Inc., 340 NLRB No. 139, p. 3 (2003).

The single-facility presumption is premised on the concept that employees at a single-facility are presumed to form a "homogeneous, identifiable and distinct" group where focus of employment is at site where they perform cohesive supervisory-management hierarchy where the work tasks engaged in by the workforce are designed to achieve a common goal either in

terms of goods produced or services rendered.¹² In this regard, the Board has consistently found that where an employer's operations are so functionally integrated on a multi-location basis, both as to the services provided or to the production processes undertaken and as to the employees who provide them so that the employers facilities operate as a single unit or network, a single facility unit is inappropriate because, in those circumstances and despite the existence of some autonomy over labor relations matters at the local level, the interests of the petitioned-for employees have been effectively merged into a more comprehensive unit. St. Luke's Hospital, supra; Neodata Product/Distribution, 312 NLRB 987 (1993).¹³

The Board's decision in Neodata is particularly relevant to this case since the employer's production process in that case consisted of operations similar in nature to the Employer's operation, i.e., the processing and filling of customer orders. In Neodata, the employer maintained facilities located three miles apart. Employees at one facility (clerical employees, loading dock employees and mailroom employees) received and processed orders for the delivery of products, referred to as the office facility, where employees at the petitioned-for "warehouse" facility packaged, invoiced and shipped the ordered product to the customer, and entered information into the computer for the billing process, which were handled by employees at the office facility. In concluding that the only appropriate unit consisted of employees at both

¹² See discussion of the historical development of the single-facility presumption set forth in Manor Healthcare Corp., 285 NLRB 224, 224-227 (1987).

¹³ The presumptive appropriateness of a petitioned-for single-facility unit has been rebutted where the evidence demonstrated the complete lack of any separate supervision or other oversight at the petitioned-for facility and where the evidence further demonstrated common supervision at all facilities, centralized control over daily operations, identical skills, duties and other terms and conditions of employment among employees and regular contact between employees employed at the facilities. These factors, in the Board's view, outweighed several factors which favored the single-facility presumption—geographical distance and lack of specificity as to the level of interchange. E.g. Trane, supra; Waste Management Northwest, 331 NLRB 309 (2000); R & D Trucking, Inc., 327 NLRB 531 (1999).

Conversely, the Board has also held that where local autonomy exists, the evidence of centralized administration, operational integration, common benefits and personnel policies, common job classifications, and centralized direction of labor policy, including top level constraints on local supervision, are insufficient to rebut the finding of the appropriateness of a single-facility unit, particularly where interchange is minimal. E.g. Cargill, Inc., supra; J & L Plate, Inc., supra; Red Lobster, 300 NLRB 908, 912 (1990); Bowie Hall Trucking, 290 NLRB 41 (1988); New Britain Transportation Co., 330 NLRB 397 (1999); AVI Foodsystems, Inc., 328 NLRB 426 (1999); Esco Corp., 298 NLRB 837 (1990).

facilities, the Board concluded that employees at each facility participated equally and fully at various stages of the order-filling process.¹⁴

In this regard, the Board relied on the following factors in concluding that the single-facility presumption had been overcome: (1) employees at both facilities had frequent personal, telephonic and facsimile contact with each other and used the employer's central computer system to advise each other of the availability of client products, shipping information and other related data; (2) many functions and skills performed at both locations were virtually identical; (3) some clerks (inventory supply clerks) at both locations were supervised by the same individual and performed essentially the same functions (the storage and handling of client products and the monthly inventory of clients' stock using identical equipment to perform this function); (4) certain employees at the office facility (loading dock employees and mail processing employees) performed warehouse type duties similar to the employees working in the warehouse facility; (5) clerks from the office were sent to the warehouse several times a month to perform physical inventory audits of client merchandise; (6) employees were able to bid on vacancies and transfer between facilities, and during the preceding six-month period, 37 employees made such transfers; (7) employees at both facilities received the same fringe benefits and the same time for breaks and meals, were subject to the same employee handbook, were under the same employee appraisal system, attended the same employee quarterly meetings, and attended employee picnics and annual award banquets; (8) newly hired employees took part in the same orientation program; and (9) control over the daily operation and labor relations policy at both facilities rested with the employer's director of operations in conjunction with its manager of personnel.

Based upon the above, the Board concluded that a symbiotic relationship existed between the two facilities as part of the employer's single "order flow" process, resulting in the

¹⁴ The warehouse facility employed approximately 90 employees, while 600 employees were employed at the office. The employer also had a facility 90 miles away which the employer did not seek to include in its multi-location unit.

presumption favoring a single-facility unit limited to the warehouse facility being rebutted.¹⁵ In this regard, the Board stated that the evidence of both common benefits and top level constraints on local supervision was “a very minor part of the case for finding that only a multi-facility unit is appropriate here. The presence of that evidence merely slightly strengthens the case for our ultimate finding. . . .”¹⁶

III. THE EMPLOYER’S ORDER FLOW PROCESS

The Employer, through its ISD department, utilizes a sophisticated automated computer system which processes the company’s business transactions and other information needs, including the printing of documents at BDC. The computer system provides a key link in the merchandise procurement and order filling process between the customer service and fulfillment departments.

¹⁵ In this regard, the Board noted that although each plant manager retained some degree of autonomy, they were constrained in a number of significant respects by controls imposed from headquarters. The director of operations set the production goals for each facility, determined the number of shifts at each facility, as well as the number of employees to be used in each department at each facility. Plant managers could not make purchases in excess of \$200 without prior approval from the director of operations. All requests for hiring had to be approved by the director of operations, and the director of operations had to approve all discipline before it was imposed upon employees. Approximately 20 percent of discipline recommendations were disapproved by higher management. The manager of personnel oversaw and had to approve all employee evaluations and recommendations for pay increases. Where disagreement existed between an employee’s immediate supervisor and the plant manager over an appraisal or the amount of a wage increase, the manager of personnel had final authority on the matter.

In reaching its conclusion that the single-facility presumption had been rebutted, the Board cited its decision in Scholastic Magazines, Inc., 192 NLRB 461 (1971) and Avon Products, 250 NLRB 1479 (1980) where in each case the petitioned-for unit of warehouse employees was found to be inappropriate and a wall to wall unit facility of all employees engaged in the order flow process to be the smallest appropriate unit. Although these cases did not involve the application of the Board’s single-facility presumption, the Board nevertheless relied on these cases, in part, to buttress its conclusion in Neodata that the two facilities constituted integral and indispensable parts of a single “order flow process”, 312 NLRB at 988. See also, S & S Parts Distributors Warehouse, Inc., 277 NLRB 1293 (1985); Barbara George, Inc., 273 NLRB 1239.

In Case 6-RC-8922, the Region issued a Decision and Direction of Election in 1981 involving this employer where an employer-wide unit of all employees engaged in the order flow process was found appropriate. At that time, the Employer’s operation consisted of two facilities in Warren and Irvine. The union in that case sought to represent a multi-facility unit of warehouse and maintenance employees and mail room employees, and excluding those employees engaged in customer service type functions. The Region found that the broader unit, including customer service type employees, was the smallest appropriate unit based upon the highly integrated nature of the Employer’s operations.

¹⁶ 312 NLRB at 989, fn. 6.

Initially, business units at BCO which comprise the Men's Apparel & Home Products Division purchase merchandise from manufacturers for inventory needed to fill customers' orders. Purchase orders are sent from the business units to BDC where fulfillment employees in various subdepartments enter data into the computer system with respect to the inventory (e.g. warehouse location of the merchandise, packing information, product specifications).¹⁷

After the purchase order process is complete, merchandise is received from the vendor at the receiving area in the BDC South Building where information on the manifests accompanying the product is entered into the computer system by data control clerks. The computer system makes decisions about where the product should be delivered within the facility. Product is then sent via a conveyor to tally clerks who work with CRTs to prepare labels specifying where the product is to be sent at BDC (quality control, warehouse, or fill orders). Material handlers use the information on the labels to send the product to its designated location at BDC. If the merchandise is not needed immediately, it is sent to bulk storage. From bulk storage, it can be transferred to order filling as necessary.

Customer orders for merchandise start at BCO, ESC or FSC where they are turned into data through use of the computer system. Customer service department employees at BCO handle and complete customer orders, inquiries, credit issues, payments and returns by mail, telephone or internet. The ESC and FSC customer service department employees primarily handle telephone orders.¹⁸

Throughout the day, customer service enters data into the computer system for orders.¹⁹ After computer programs are run at BCO, print files are transmitted across a communication line to a BDC print server. ISD employees in the print room at BDC print all documents associated

¹⁷ Packing specifications for the inventory are transmitted through use of the computer system to ERC so that ERC can properly pack any customer returns.

¹⁸ Ninety-five percent of all telephone orders and inquiries are handled by either ESC or FSC, with five percent handled by BCO.

¹⁹ During off hours, ISD operators at BCO run over 850 programs that batch orders together for filling and that generate over 135 printouts to enable orders to be filled and customer inquiries to be answered.

with the order process and inquiry response process (e.g. customer order summaries, product status for order pickers, UPS labels). ISD also runs programs that provide information from BDC to BCO in the form of reports that enable customer service representatives to provide information to customers on the availability of product and other related issues.

The documents are sent from the ISD print room to order preparation and pack and ship in the fulfillment department. Order pickers use the documentation to go where the product is located, select it, put a sticker on it, and place it on a tote that is sent on a conveyor belt to the North Building for packing. In the packing area, the packer checks the order and determines how to pack it. After packaging, the order is sent to shipping, where the merchandise is prepared for shipment to the customer.

About 15 percent of all shipments, about 2 million a year, are returned. Customer returns are received at ERC and processed by ERC employees. ERC employees scan customer files on CRT and enter data into the customer data base to accomplish what the customer wants, e.g., a credit card or cash refund, or an exchange. If a customer wants an exchange, that instruction is entered into the computer system and a new order is generated using the ordering system.²⁰

With respect to returned merchandise, ERC handles the product in a manner similar to the way new inventory is handled at BDC. ERC inspects the product, determines final disposition and either returns the product to stock or returns defective merchandise to the manufacturer.²¹ About 88 percent of the merchandise passes inspection and can be restocked. The stock is either stored in a warehouse at ERC or sent by truck to BDC. Approximately two truckloads of stock move each day from ERC to BDC, where the merchandise is placed back

²⁰ If refunds are requested by the customer, ERC employees perform the data entry to credit customers' accounts. More complicated returns are sent to customer service at BCO by inter-building shuttle truck for processing.

²¹ As noted, prior to 2001, returns were handled at BDC. Currently, the fulfillment department budget has a line item for "returns", which includes ERC, just as it did before the returns operation was relocated to ERC.

into the order filling system. The merchandise returned to BDC is based on the Employer's need to replenish inventory or to fill orders. Merchandise initially stored at ERC is sent to BDC when ERC is notified through the computer system that BDC needs that merchandise.

IV. ANALYSIS

The issue presented in this case is whether, when all the relevant evidence is examined, the Employer has met its burden in establishing that a unit limited to BDC is inappropriate, not whether the five facility multi-location unit proposed by the Employer is the smallest appropriate unit. For the reason set forth below, I find that the interests of the petitioned-for employees have been effectively merged into a more comprehensive unit, such that the petitioned-for BDC is not a separate appropriate unit. In reaching this conclusion, I do not pass on whether the Employer's five facility unit is the smallest appropriate unit since the Petitioner has indicated an unwillingness to proceed to an election in a broader multi-location unit.²²

Initially, as set forth above, the record affirmatively establishes that employees at all five facilities perform coordinated functions in the Employer's order flow process, a factor which undermines the appropriateness of a unit limited to BDC, a facility which essentially encompasses employees at the end of that process who are engaged in warehouse and distribution operations. Neodata Product/Distribution, supra. As noted, all facilities are linked to a central computer system which employees at all facilities use to advise each other of the availability of merchandise, the status of orders, customer shipping information, and to change orders or other data. This electronic contact occurs most frequently between customer service representatives and certain classifications of BCD fulfillment department employees and between BCD fulfillment employees and those fulfillment department employees at ERC. It is clear from the record that employees at all locations work together to accomplish the Employer ultimate production goals of receiving orders and thereafter assuring the prompt delivery of

²² Although the Petitioner indicated a willingness to include maintenance employees employed at facilities other than at BDC in its petitioned-for unit, the inclusion of these maintenance employees would not render the requested unit an appropriate unit.

merchandise to customers. These production goals are achieved in part by the fact that many employees at BCO who function as order editors, credit management employees, customer service representatives and in other positions are cross-trained in various fulfillment department jobs. As a result, these BCO employees are regularly assigned on a temporary basis to BCD to assist in the processing and shipping of customer orders.

In this regard, the Employer presented computerized records for 2003 detailing the temporary transfers on a monthly basis to and from the BDC fulfillment operation. These records set forth the employee's name, facility and department assigned, facility and department temporarily assigned, and the number of hours worked. The record shows that there were approximately 385 temporary assignments involving employees whom the Employer would include in its multi-facility unit from BCO to BDC, for a total of approximately 9960 hours. These temporary assignments are made on a regular basis and represent more than a de minimis amount of the total work performed at BCD.²³ In the vast majority of these temporary assignments (over 90 percent), BCO employees were assigned to the finishing/packing subdepartment in the North Building to assist in filling order backlogs. The average length of these temporary assignments was approximately 25 hours.²⁴ Presumably, the high level of temporary assignments of employees to BCO to BCD is due in part to the geographical proximity of the two facilities since no BDC fulfillment department employees were assigned to BCO or any other facility during 2003. Also, temporary assignments involving employees at ERC, ESC and FSC to BDC were virtually nonexistent,²⁵ as were temporary assignments involving employees to and from the four facilities other than BDC.²⁶

²³ This number represents approximately 1245 workdays, or less than one percent of the days worked in the aggregate by unit fulfillment operation employees (2080 hours per year per full-time employee or 153, 400 days).

²⁴ Temporary assignments ranged from a low of 4 hours to a high of 71 hours.

²⁵ The one exception being that two employees from BDC worked at FSC for a total of 45 hours. Thirteen temporary assignments encompassing 195 hours were made with ERC employees assigned to the North Building finishing department and 10 assignments encompassing 40 hours were made involving either FSC or ESC employees being assigned to BDC. ERC employees usually work at BDC on a temporary basis on the weekends.

The functional integration among the facilities is further demonstrated by the interchange involving maintenance department employees. The record shows that since February 2002, the Employer undertook four major projects at various facilities, which required the utilization of maintenance department employees from other facilities. Thus, the record reveals that four craft maintenance employees from BCO worked at BDC for a total of 324 hours, with one of these employees, carpenter Rusty Ziegler, working 219 hours.²⁷ Between February 1, 2002, until September 27, 2002, six craft maintenance employees from BCO and four from BDC worked at FSC relocating the operations from one building to another. Two mechanics from BDC each worked 345 hours at FSC during this period, while a BDC painter and a groundskeeper worked 16 hours and 48 hours, respectively. BCO maintenance employees worked over 2700 hours at FSC during this period.

In addition to special projects, the record reveals that janitors from BDC perform the janitorial work at FSC. The record, however, does not reveal how often this occurs. Further, a groundskeeper from BDC travels to FSC each Wednesday to do the “weekly testing of the generator” and other jobs that need to be done. Mechanics who work at Erie will travel to ERC on an as-needed basis to work on conveyors and mechanical sorters. Forktruck mechanics at BDC work as well at BCO and ERC on an as-needed basis.²⁸

Many of the skills used and functions performed by the petitioned-for employees and those employed at other facilities are virtually identical depending on their particular job classification. Thus, BDC fulfillment department employees and ERC fulfillment department

²⁶ Beginning in early December 2003, through mid-January 2004, the record reveals that eight customer service representatives at BCO were temporarily laid off at BCO and transferred into BDC unit positions for a one to two month period prior to returning to BCO in customer service positions.

²⁷ This project involved the relocation of the packing or finishing department from the South Building to the North Building.

²⁸ Finally, the record also reveals that ISD employees move between BCO and BDC, as needed, for a variety of purposes. For example, computer operations at BCO and printer operators at BDC cross train for two to four weeks each year, moving between facilities.

employees perform essentially the same job functions. In addition, the maintenance employees at all locations, depending on the job classification, also perform identical job duties. Further, employees at all locations routinely and regularly perform computer scanning and data entry work with respect to various aspects of the order flow production process.

An important consideration that undermines the appropriateness of a unit limited to BDC is the Employer's administrative and operational structure which is implemented on a departmental, rather than facility, basis. Thus, vice presidents for each department oversee the Employer's operation and are responsible for different functional areas. There is no facility manager to whom all employees report either at BCD or any of the other facilities. The BCD is a multi-purpose facility with, in addition to the fulfillment department employee and maintenance employees, credit management department mail room employees and IDS print room computer print operators being employed there. The mailroom employees and computer printer operators are not employed at any other facility and perform job functions for the Employer's overall operations and not just for those operations located at BCD. The Customer Service Department has operations at three facilities, BCO, ESC and FSC; Credit Management has employees at BDC and BCO; Fulfillment Department includes BDC and ERC. ISD and Maintenance Department have employees at most locations. All vice presidents, with the exception of Scalise whose office is located at BDC, are located at BCO. Budgets are prepared on a department basis.²⁹

The Employer's human resources function is under the overall supervision of Director of Personnel and Associate Relations Henry, who is responsible for oversight of staffing, associate relations and internal counseling, and counseling of managers and supervisors at all locations. Reporting to Henry are three personnel representatives who have day-to-day responsibility for the human resource function. Roseann Thompson is located at ERC, with responsibility for

²⁹ The BDC fulfillment department orders all supplies for ERC, and delivers them to ERC by shuttle truck.

ERC, ESC and FSC. Daniel Blair is responsible, inter alia, for BCO. Mary Ann Zigler, whose office is located at BDC, is responsible for the entire BDC facility.

Personnel files for all employees are centrally maintained at BCO. Human resource policy is addressed, reviewed and formulated on a corporate-wide basis by the Employer's personnel committee, which is composed of human resource personnel and various managers from the various facilities.

Each department vice president is assisted in his labor relations responsibilities by a personnel representative from the Employer's Human Resources department. Among other duties, these vice presidents determine, in conjunction with Human Resources, the appropriateness of new or vacant positions, and authorize, again in consultation with Human Resources in order to ensure, in part, that corporate-wide progressive discipline guidelines have been met, suspensions or terminations recommended by immediate and/or intermediate department supervision.³⁰ At BCD, Ms. Zigler is responsible for filling vacant positions. She reviews all applications and makes hiring decisions.

The Employer's Human Resource Department is responsible for initiating the annual performance review process by generating a notice sent to the appropriate supervisor or manager on the employee's anniversary date. A common evaluation form is utilized on a corporate-wide basis. Supervisors and managers are trained by human resources in the preparation of evaluations. After the employee's immediate supervisor completes the evaluation, it is reviewed by the next level of management and then sent to human resources.³¹ The immediate supervisor conducts an interview with an employee following completion of the

³⁰ Immediate and intermediate department supervisors and managers have the authority to issue oral and written warnings.

³¹ The Employer concedes that human resources reviews a particular employee's evaluation every third year and only then to ensure that the supervisor's comments are consistent with the rating. On "rare" occasions, human resources will send back the evaluation to the immediate supervisor to clean up any discrepancies between the rating and the accompanying comments.

evaluation process. Annual pay raises are determined by the corporate office using a pay grid and the employee's score on the annual evaluation.³²

Compensation and benefits are centrally administered at BCO. All hourly employees are subject to the same set of work rules, employment policies and procedures, which are set forth in an employee handbook,³³ including pay practices, time off policies and fringe benefits. Vacation, sick time and personal day policies are uniform throughout the company.

Seniority is credited based on company seniority, with some exceptions where departmental seniority is used. Decisions on when to use departmental seniority are made at the vice president level and by Henry.³⁴

The Employer utilizes an electronic timekeeping system that is the central repository for all timekeeping for all locations. All non-exempt employees use the same system by swiping ID cards through a wall unit. The system tracks entitlement to, and use of vacation time, sick time and overtime. However, it is significant that each facility does its own time and attendance verification.

At the present time, an employee incentive program has been implemented at BDC and is scheduled to be implemented at ERC in early summer 2004, and thereafter at the customer service centers.

All safety issues, except minor issues, are handled by employees at BCO. Human Resources runs a number of annual social events for employees, including sports tournaments. These programs are administered from either BCO or BDC. Human Resources also administers a number of company-wide programs for employees, such as a scholarship

³² Employee pay levels are established by the corporate office and apply on a corporate-wide basis.

³³ There is one handbook for full-time employees and another for part-time employees.

³⁴ At BDC, there are approximately 50 supervisors and managers who report to Scalise. Local supervisors and managers have the authority to grant time off and approve overtime and vacation requests consistent with the Employer's personnel policies. Local managers and supervisors also are responsible for initially handling employee complaints and to resolve these complaints, if possible.

program, perfect attendance award program, employee idea program and service award program.

The Employer publishes a monthly newsletter for all employees. Employee reporters at each facility provide information to the BCO, where the newsletter is published and then delivered to each location by shuttle truck and distributed by supervisors. The newsletter serves as a conduit to announce company-wide activities.

Employee training programs are centrally developed at BCO and presented by the corporate training staff, with respect to such things as computer training, safety, fire extinguishers, defensive driver training and other matters; corporate training facilities exist at BCO and BDC. Employees in credit operations are cross-trained for customer service, mail and fulfillment job functions.

In sum, when all of the relevant evidence is examined, I find that it establishes that a single-facility unit is inappropriate here. Indeed, I find that the interests of the petitioned-for employees have been effectively merged into a more comprehensive unit, such that the petitioned-for unit is not a separate appropriate unit. I conclude, therefore that the Employer has rebutted the presumptive appropriateness of the petitioned-for single-facility unit. Neodata Production/Distribution, supra. See also, St. Luke Hospital, supra. I shall, therefore, dismiss the petition in the instant matter.

V. FINDINGS AND CONCLUSIONS

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

3. The Petitioner claims to represent certain employees of the Employer.
4. No 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.

VI. ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

VII. 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, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST (EDT), on June 22, 2004. The request may **not** be filed by facsimile.

Dated: June 8, 2004

/s/ Gerald Kobell

Gerald Kobell, Regional Director

NATIONAL LABOR RELATIONS BOARD
Region Six
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222