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

In the Matter of ROYAL INSTITUTIONAL SERVICES, INC.[1] Employer and TEAMSTERS LOCAL 25 Petitioner	Case 1-RC-21887

DECISION AND DIRECTION OF ELECTION[2]

Teamsters Local 25 seeks to represent a unit of drivers employed by the Employer at its Somerville, Massachusetts location.[3] The Employer contends that the petitioned-for unit is inappropriate. In support of this position, the Employer contends that since it is the exclusive source of laundry services for almost every acute health care facility in Eastern Massachusetts, the Employer should either be considered a health care institution, or that health care industry unit considerations should apply to it, in which case, the only appropriate unit would be a wall-to-wall unit. The Employer's production and janitorial employees are represented by United Food and Commercial Workers

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

[2] Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. In accordance with the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director.

Upon the entire record in this proceeding, I find that: 1) the hearing officer's rulings made at the hearing are free from prejudicial error and are hereby 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 labor organization involved claims to represent certain employees of the Employer; and 4) a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

[3] The Employer and the Petitioner agree that all dispatchers and dock workers should be excluded from the unit.

Union, Local 1445, so the Employer contends that the drivers should be accreted into that unit. Otherwise, the Employer contends, the establishment of the petitioned-for unit will result in the undue proliferation of bargaining units within the health care industry. I reject the Employer's claim that it should be considered a health care institution or that health care unit considerations apply to it, and I find that the petitioned-for unit is an appropriate unit.

FACTS

1. The Employer's Business

John Joyce, the Employer's director of customer services, testified about the Employer's business. The Employer provides laundry and linen service to almost all of the hospitals in Eastern Massachusetts, including Massachusetts General Hospital, Beth Israel Deaconess Medical Center, New England Baptist Hospital, Faulkner Hospital, Spaulding Hospital, Lawrence Memorial Hospital, and Winchester Hospital.[4] Laundry service includes washing bed sheets, patient robes, and all the other laundry items hospitals use daily.

The only work the Employer does at its Somerville facility is industry laundry for acute care hospitals. The Employer processes about 1.3 to 1.4 million pounds of laundry a week at this facility. As part of its linen service, the Employer purchases, replaces, and maintains all the bed sheets that the hospitals use. In order to accommodate a hospital's needs, an Employer representative meets with the hospital's unit managers to determine what their census is and what their linen needs are going to be on their unit. The Employer then builds an "exchange cart," which is a large cart on wheels loaded up with linens, including patient gowns, face cloths, bath blankets, and incontinent pads for that unit. The carts are wheeled off the Employer's trucks at the hospital loading dock and are exchanged within the institution every 24 hours. The cart is built to fill that unit's needs for 24 hours with a 15 percent buffer, so the cart could last for an additional three or four hours. The hospitals do not maintain their own linen inventory and since, according to Joyce, there is not enough laundry capacity within 200 miles of Boston to perform the Employer's work, if there was a disruption in the Employer's ability to do laundry, patients would be without linen and hospitals could not provide proper patient care. Patients would be lying in soiled linen.[5]

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[4] According to Joyce, while these hospitals initially handled their laundry within the hospitals themselves, in the late 1960s or early 1970s, the hospitals pooled their resources and outsourced the laundry service to a co-operative that they created and owned. This co-operative lasted for about 20 to 25 years, but no longer exists, and the Employer now does the laundry for almost all of the hospitals that were previously members of the co-operative.

[5] The Employer's clients have stated, both orally and in writing, how important it is that there is no delay in laundry delivery because of the serious consequences for the hospitals and their patients.

The Employer also prepares "surgi-paks" for operating rooms. These linens are prepared in a separate climate controlled area by people who are specially trained to prepare these garments free from humidity and dust. Doctors from the specific hospitals or units may give certain direction on how a gown should be folded, or similar matters.

The Employer must comply with the Department of Public Health's Joint Commission standards as part of each hospital's accreditation process. While the Joint Commission does not itself perform inspections, in order to be sure that the Employer is following these standards, each hospital annually sends an infection control nurse to the Employer to make sure that the Employer is complying with them. One of the reasons the Employer has all the acute care hospital business that it has is that several other laundries have failed to meet those standards.

2. **The Employer's Employees**

The employees employed by the Employer at its Somerville facility include the truck drivers, who drive the Employer's trucks to transport laundry. The drivers do not require any special laundry or health care training. Christopher Miles, the Employer's transportation manager, oversees the entire transportation department, including the drivers, dispatchers, and dock workers. Most of the Employer's drivers have commercial driver's licenses (CDLs) and are Class A and Class B drivers, though the Employer does have some non-CDL drivers.

The Employer also employs laundry production workers and janitors at its Somerville facility.[6] In addition, the Employer employs employees who work at the hospitals themselves. These employees answer the telephone in the hospital linen departments, taking calls, bringing the exchange cart up to the units, taking soiled linen off the units, and loading the containers that will take the soiled linen out. These employees are basically the housekeeping laundry workers at the hospital and have a separate payroll code from the employees working at the Somerville facility. These employees are not represented by any union.

LAW AND CONCLUSIONS

I do not find the Employer's argument that it should be considered a health care institution or that public policy considerations concerning health care institutions should apply to it persuasive since, at its core, the service the Employer provides to hospitals is laundry service and not patient care.

[6] The production employees and janitors working in the Somerville location are represented by United Food and Commercial Workers International Union, Local 1445, AFL-CIO. The bargaining unit as described in the UFCW's current collective-bargaining agreement with the Employer specifically excludes "clerical employees, guards, maintenance employees, drivers, professional employees, and supervisors as defined in the National Labor Relations Act."

On July 26, 1974, Congress enacted Public Law 93-360 (88 Stat. 396) to give the Board jurisdiction over "health care institutions." This legislation added Section 2(14) to the Act, which defines the term "health care institution" as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility or other institution devoted to the care of sick, infirm or aged persons." In order to be considered a health care institution, an employer must be involved in patient care. In *San Diego Blood Bank*,[7] in rejecting the employer blood bank's claim that it was a health care institution within the meaning of the 1974 amendments, the Board cited the legislative history and stated "the special provisions of the Act applicable to health care institutions relate to "patient care situations" and not "purely administrative health connected facilities." The Board noted that since "supplying blood to hospitals obviously does not involve patient care, blood banks are not health care institutions within the meaning of the amendments."[8] Clearly, if a blood bank that supplies blood to hospitals is not a health care institution, then certainly a laundry that supplies clean linen to a hospital is not one either.

In *Syracuse Region Blood Center*,[9] the Board found that the employer's activities extended beyond blood collection, including patient pheresis and therapeutic phlebotomies and, because of this, the employer was involved in patient care and covered by the 1974 amendments. The Board declined to base its findings on the fact that "a work stoppage at a blood bank could have a more serious impact on the hospitals' operations because blood is a crucial commodity with few (if any) satisfactory substitutes."[10] The Board further explained

> By that reasoning, a blood bank such as the Employer, which is the sole supplier of blood to hospitals in its region, might be found for that reason to be a health care institution, whereas an otherwise identical blood bank, located in a region in which other sources of blood were available, might not be. We respectfully decline to base our analysis in such cases on whether or not the blood bank in question is, in effect, a monopolist.[11]

Surely, if such reasoning was rejected by the Board with respect to blood banks, the same is true of laundries such as the Employer.

The only case cited by the Employer in its post-hearing brief in support of its statement that the health care amendments to the Act were intended to be extended to the

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[7] 219 NLRB 116, 117 (1975).

[8] Id.

[9] 302 NLRB 72, 73 (1991)

[10] Id.

[11] Id.

entire patient-oriented health care industry is *Beverly Farm Foundation, Inc.*[12] In that case, the Board held that Section 2(14) applied to an employer providing residential care and training exclusively for mentally retarded persons, the majority of whom had been cared for by the employer for periods ranging from 15 to 60 years. I find that *Beverly Farm Foundation* is clearly distinguishable from the present case, where the exclusive service the Employer provides, albeit to hospitals, is laundry service, which cannot be considered patient care.

Therefore, I reject the Employer's argument that it is a health care facility or that any special health care facility bargaining unit considerations should apply in this case. Rather, I find that the petitioned-for unit is an appropriate one. See *Bugle Coat, Apron & Linen Service, Inc.*[13]

Accordingly, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time drivers employed by the Employer at its Somerville, Massachusetts facility, but excluding all dispatchers, dock workers, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Regional Director among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in 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 which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date, and who have been

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[12] 218 NLRB 1275 (1975).

[13] 132 NLRB 1098, 1100 (1961).

permanently replaced. Those eligible shall vote whether or not they desire to be represented for purposes of collective bargaining by Teamsters Local 25.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the 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;*[14] *NLRB v. Wyman-Gordon Company*.[15] Accordingly, it is hereby directed that within seven days of the date of this Decision, two copies of an election eligibility list containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the Regional Director, who shall make the list available to all parties to the election. *North Macon Health Care Facility*.[16] In order to be timely filed, such list must be received by the Regional Office, Thomas P. O'Neill, Jr. Federal Building, Sixth Floor, 10 Causeway Street, Boston, Massachusetts, on or before March 23, 2005. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review this Order may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by March 30, 2005.

/s/ Rosemary Pye
Rosemary Pye, Regional Director
First Region
National Labor Relations Board
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, MA 02222-1072

Dated at Boston, Massachusetts
this 16th day of March, 2005.

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[14] 156 NLRB 1236 (1966).

[15] 394 U.S. 759 (1969).

[16] 315 NLRB 359 (1994).