

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

MIDWEST AIR TRAFFIC CONTROL
SERVICE, INC.

Employer

and

Case 14-UD-296

JASON E. LEE, an Individual

Petitioner

and

NATIONAL AIR TRAFFIC CONTROLLERS
ASSOCIATION

Union

REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer, Midwest Air Traffic Control Service, Inc., provides air traffic control and related aviation services to the federal government and municipal clients. The services primarily involve the staffing and operation of air traffic control towers at regional and municipal airports across the United States, including the St. Louis Regional Airport in East Alton, Illinois. The Employer and Union, National Air Traffic Controllers Association, are parties to a current collective-bargaining agreement with a union security clause requiring membership in the Union as a condition of employment. The Petitioner, Jason E. Lee, filed a petition with the National Labor Relations Board pursuant to Section 9(e) of the National Labor Relations Act seeking a union security deauthorization (UD) election in a unit limited to all full-time and regular part-time air traffic control specialists employed by the Employer at the St. Louis Regional Airport, East Alton, Illinois. A hearing officer of the Board held a hearing and the Employer and Union filed briefs with me.

As evidenced at hearing and in the Employer and Union's respective briefs, the parties disagree on the scope of the unit. Specifically, the parties dispute whether the appropriate unit for a UD election is the petitioned-for East Alton, Illinois unit sought by the Petitioner and the Employer or the multi-facility unit sought by the Union. The unit sought by the Petitioner and the Employer has four air traffic controllers. The unit the Union seeks includes approximately 70 air traffic controllers employed at 14 airport facilities located across several states.

I have fully considered the evidence and arguments presented by the parties on the unit scope issue. As discussed below, I conclude that the petitioned-for single-facility unit of air traffic control specialists (controllers) employed at the Employer's East Alton, Illinois facility is the appropriate unit in which to conduct the UD election.

I. OVERVIEW OF OPERATIONS

The Employer provides air traffic control and related aviation services at airports in the United States and abroad. Its business in the United States involves providing services to the federal government and municipalities by staffing and operating airport traffic control towers distributed over Area 1 and Area 3, as organized by the Federal Aviation Authority (FAA). Area 1 covers the Northeastern portion of the United States while Area 3 covers the Central and Great Lakes region. The Area 3 territory serviced by the Employer includes airport traffic control towers at the St. Louis Regional Airport, East Alton, Illinois; Williamson County Regional Airport, Marion, Illinois; Central Wisconsin Airport, Mosinee, Illinois; and, Wisconsin Municipal Airport, Kenosha, Wisconsin. Area 1 comprises 10 air traffic control towers in Massachusetts, New York, Pennsylvania, Connecticut, New Hampshire, and Maryland. The Employer operates both represented and unrepresented facilities.¹

¹ Professional Air Traffic Controllers Organization (PATCO), which represents air traffic control specialists at other facilities of the Employer, is not a party in the instant matter.

The Employer's corporate offices are located in Overland, Kansas. Gary Havens is the chairman of the board of directors. Shane Cordes is president and chief executive officer (CEO). Bill Ellis is vice-president (VP) of aviation services and reports to CEO Cordes. Area 1 and Area 3 each have a manager for air traffic services reporting directly to VP Ellis. Randy Walls is manager for air traffic services for Area 1, and Tim Pierce holds that position for Area 3. These executive officers and managers work out of the Employer's corporate offices.

The work of directing air traffic at the air traffic control towers is performed by air traffic control specialists, the only classification of employees represented by the Union. There are between four to six air traffic control specialists at each facility. Air traffic managers are the highest and only supervisory personnel at each facility. Each facility has one air traffic manager who is responsible for the day-to-day supervision of the operations of the air traffic control tower and work of the air traffic control specialists. The air traffic managers report directly to their assigned area air traffic manager at the corporate offices. The duties of air traffic managers at each facility include scheduling of air traffic control specialists, processing of payroll records, coordination with the FAA and related entities, maintenance of operational and personnel records of the facility, and general supervision of the functioning of the air traffic control tower. Air traffic managers evaluate employees but lack authority to reward employees as the terms and conditions of employment are determined by the parties' collective-bargaining agreement. While air traffic managers interview prospective candidates for employment, they may not directly hire employees. They interview from a short list of candidates prescreened and provided by the area air traffic manager and make hiring recommendations to the area air traffic manager. Such recommendations to hire are typically effective recommendations to hire. Air traffic managers in each facility may not discharge

employees but they may issue discipline. Decisions to discharge employees are made at the corporate offices, typically by CEO Cordes.

There is little, if any, contact between the air traffic managers at the Employer's respective facilities. The air traffic control specialists have no contacts with employees in their sister facilities. Indeed, air traffic control specialist qualifications are airport tower-specific such that they are not transferable from one airport facility to another. Each air traffic control specialist must have a control tower operator certificate, a professional license issued for their specific facility. Thus, an air traffic control specialist at the East Alton airport would be unqualified to work at another airport control tower, and vice versa. There is no history of temporary transfers of employees between facilities. With respect to permanent transfers, an air traffic control specialist desiring a transfer to a different facility must apply to the corporate offices and must be professionally certified anew and trained to work at the facility. There was no evidence introduced of such permanent transfers.

All four represented facilities in Area 3 were individually certified by the Board in 1997 subsequent to Board elections. The parties negotiated collective-bargaining agreements covering the four facilities which went into effect in 1998 and 2002. During negotiations for the parties' first agreement, the Employer initially proposed separate collective-bargaining agreements for each certified unit. The Union initially proposed the following language:

ARTICLE 2

UNION RECOGNITION AND REPRESENTATION

Section 1. The Employer hereby recognizes the Union as the exclusive bargaining representative of air traffic control specialists employed at the Employer's Kenosha (ENW), Central Wisconsin (CWA), Hailey (SUN), and Marion (MWA) facilities, pursuant to Section 9(a) of the National Labor Relations Act.

Section 2. If the bargaining unit described in Section 1 of this Article is amended to include other employees, those employees shall be covered by this Agreement.

In the Union's final proposal and in the language agreed upon, the language of Section 2 was changed to read, "If the bargaining units described in Section 1..." The record is silent as to any negotiations leading up to that change. In the collective-bargaining agreement, the four facilities were also listed in Appendix 1 appended to the agreement.

The 2002 collective-bargaining agreement modified the language of Section 1 and attached copies of the Board certifications for the four facilities, but made no change in Section 2. The agreement also provided for both facility level and national grievances.

In 2005, the Employer was awarded contracts under the Federal Contract Tower Program to provide air traffic control services at nine Area 1 air traffic control towers. These facilities, at which the Union was individually certified in separate units by the Board, were taken over from the company that previously held the contracts. Pursuant to provisions of the 2002 collective-bargaining agreement then in effect, the parties negotiated for inclusion of the air traffic control specialists from the newly-acquired facilities in the 2002 agreement. In 2005 the parties executed a Memorandum of Understanding to apply the 2002 agreement to the Area 1 employees and to comply with provisions of the Service Contract Act that prohibits a successor employer on a federal government contract from diminishing the wages and specified fringe benefits of employees paid by the predecessor employer.

During negotiations for the 2008 collective-bargaining agreement, which is effective for 60 months from February 4, 2008, the Employer expressed an interest in clarifying language to indicate that each facility was a separate bargaining unit. The Union was not interested in revising the recognition clause, stating that it was better to have the facilities all comprise one unit in order to insulate the Union from decertification. As the Employer's chief negotiator characterized it, the parties agreed to disagree.

In April 2008, subsequent to an election, the Union was certified as representative of the air traffic control specialists employed by the Employer at its Niagara Falls, New York facility. This brought to 14 the total number of airport facilities in Areas 1 and 3 where the Union represents air traffic control specialists of the Employer.

All three collective-bargaining agreements between the parties have been master agreements covering all bargained terms and conditions of employment of air traffic control specialists at the facilities where the Union represents the employees. Union ratification votes for the collective-bargaining agreements have been pooled together by the Union such that there is no indication of how any particular facility voted. The current 2008 collective-bargaining agreement is applicable to employees of all 14 individually certified airport tower facilities, including the East Alton, Illinois facility. The 2008 collective-bargaining agreement, as well as the two prior agreements, contains a union security clause requiring membership in the Union as a condition of employment. Article 2 of the 2008 collective-bargaining agreement contains a recognition clause not substantially dissimilar from the versions in prior agreements, save for the number of the airport facilities listed and covered by the agreement. The relevant portions of Article 2, the recognition clause, state:

Section 1. The Employer hereby recognizes the Union as the exclusive bargaining representative of air traffic control specialists employed at the air traffic control towers listed in Appendix 1 to this Agreement, pursuant to Section 9(a) of the National Labor Relations Act and certification of the Union as the exclusive bargaining agent of bargaining unit employees employed at the Employer's facilities listed on Appendix 1 are attached as Appendix 2 to this Agreement.

Section 2. If the bargaining units described in Section 1 of this Article are amended to include other employees, those employees shall be covered by this Agreement.

Appendix 1 of the 2008 collective-bargaining agreement states that the Union is the certified representative for "bargaining unit" employees and lists 14 of the Employer's

facilities, including the East Alton, Illinois facility.² The recognition clauses in all three collective-bargaining agreements, Article 2, Section 2, are the only portion of the agreements that refer to “bargaining units” in plural form in reference to the air traffic control specialists represented by the Union at the various facilities. Provisions of the 2008 collective-bargaining agreement, as well as the 2002 and 1998 agreements, are replete with references to “bargaining unit” in the singular, generally used in the term “bargaining unit employee(s)” to define the persons covered by various provisions of the agreement.³

Throughout the duration of all three collective-bargaining agreements, the length of the bargaining history, there has never been any separate local agreement to the master collective-bargaining agreements. There has never been an instance of any local bargaining over any term or condition of employment. All matters related to bargaining are handled by the Union’s national officers and are taken up directly with the Employer’s corporate offices. Air traffic managers, who head each facility, do not negotiate for the Employer. The Union has no local presence at any facility other than employee-union representatives who are not authorized to bargain or negotiate with the Employer.

While the collective-bargaining agreements between the parties contain the terms and conditions of employment of employees across multiple facilities, it is evident that there are deviations. With respect to wages and holiday pay, for instance, the

² Appendix 2 of the 2008 collective-bargaining agreement purports to have appended to the agreement NLRB certifications, but those certifications are missing and not a part of Employer’s Exhibit 21, the 2008 agreement. Employer’s Exhibit 13, the 2002 collective-bargaining agreement, attached at Appendix 2 the four individual certifications for the Employer’s Area 3 towers.

³ Thus, for example, in the current 2008 collective-bargaining agreement the term “bargaining unit” is used in Article 4 Employee Rights, Article 7 Changes in Working Conditions, Article 9 Grievance Procedure, Article 11 Dues Withholding, Article 12 Seniority, Article 14 Working Hours, Article 17 Vacancies, Article 23 Position Descriptions, Article 24 Employee Assistance Program, Article 30 Union Publications and Use of Employer’s Facilities, and Article 40 Union Security.

collective-bargaining does not set forth any specific wage rates or holidays, but are those specified by the Department of Labor wage determination. Those determinations, subject to periodic adjustment, are set forth in the Employer's contracts with its clients. As the collective-bargaining agreements between the Employer and the Union cover different localities, with differing costs of living, there are likely to be some differences in compensation. Wage rates and benefits of respective facilities may also be adjusted at those facilities of the Employer subject to the Service Contract Act, which regulates pay and benefits where a successor has taken over operations of a facility subject to the Federal Contract Tower Program.

While the parties claim to have a bifurcated grievance and arbitration procedure whereby grievances are handled at a local and a national level, the evidence tends to establish that grievances filed by the Union, from whatever facility they may originate, are typically filed locally and invariably handled through the Employer's corporate offices and the national representatives of the Union. Air traffic managers heading each facility have no authority to determine the merits of grievances or otherwise adjust grievances. Determination of the merits of grievances affecting a facility is not binding on other facilities and do not necessarily set precedent between the parties. On occasion, to the extent their interests coincide, grievances originating from multiple facilities have been consolidated and processed together. Only the national officers of the Union may invoke arbitration pursuant to the parties' collective-bargaining agreement.

II. ANALYSIS OF THE APPROPRIATE UNIT

A UD petition seeking rescission of a contractual union security clause must seek an election in a bargaining unit that is coextensive with the contractually defined unit. *Heck's Inc.*, 234 NLRB 756, 757 (1978); *Illinois School Bus Co.*, 231 NLRB 1 (1977); *S.B. Rest. of Huntington, Inc.*, 223 NLRB 1445, 1446 (1976). Here, the petitioned-for unit at the St. Louis Regional Airport in East Alton, Illinois, was separately certified on

July 2, 1997. However, under the “merger doctrine” long-recognized by the Board, an employer and a union may be found to have merged previously separate units where the parties’ contract, bargaining history, and course of conduct evince a desire to create a singular, overall unit in place of single-facility units. *White-Westinghouse Corp.*, 229 NLRB 667, 672 (1977), citing *General Electric Co.*, 180 NLRB 1094, 1095 (1970). A merger of previously individually certified units destroys the separate identities of the units and a Board election may only be properly directed in the merged unit. *General Electric*, supra. To find an effective merger of bargaining units, however, the Board requires “unmistakable evidence that the parties *mutually* agreed to extinguish the separateness of the previously recognized or certified units” and, in absence of such evidence, the Board will find the individually certified units appropriate. See *Utility Workers Local 111 (Ohio Power Co.)*, 203 NLRB 230, 239 (1973), enfd. 490 F.2d 1383 (6th Cir. 1974). I find the evidence here falls short of the unmistakable evidence needed to support a finding that the parties merged the individually certified bargaining units at the Employer’s facilities.

A. Contract Language

In determining whether a merger of separate facilities has occurred, the Board first looks to contract language, particularly the scope of the unit as defined in the recognition clause. If the scope of the unit as described in the contractual recognition clause indicates a merger of units, the Board finds an effective merger has occurred. *Green-Wood Cemetery*, 280 NLRB 1359, 1360 (1986); *W.T. Grant Co.*, 179 NLRB 670 (1969). Where the applicable recognition clause refers to separate units or is otherwise ambiguous, the Board generally finds against an effective merger in the absence of other evidence clearly pointing to a merger. *Sears, Roebuck and Co.*, 253 NLRB 211, 212 (1980); *Metropolitan Life Insurance Company*, 172 NLRB 1257, 1258 (1968). If a

merger of bargaining units is to be found, it must be clear that the parties agreed to extinguish the existence of separate units and merge the units into a single unit.

Neither the parties' current 2008 collective-bargaining agreement, nor prior agreements in 2002 and 1998, contains clear evidence that the parties mutually agreed to merge the separate units into a single unit. The 2008 collective-bargaining agreement as well as the prior agreements have been titled and considered master agreements by both parties, suggesting at least the prospect of local agreements. An intent to merge the units is not discernible from the terms of the current collective-bargaining agreement or from prior agreements. The recognition clause currently in effect, Article 2, Section 1, makes the Union the bargaining agent of "bargaining unit" employees at the facilities listed in Appendix 1 of the agreement. Article 2, Section 2, in providing for the contingency that the Union may come to represent air traffic control specialists at other facilities of the Employer, refers to the employees already represented by the Union as belonging to "bargaining units". The use of "bargaining units" in this section of the collective-bargaining agreement dates back to the 1998 agreement. After the recognition clause, the term "bargaining unit" is used in many articles of the collective-bargaining agreement referring to the air traffic control specialists covered by the agreement. Appendix 1 of the current agreement lists the Union as the collective-bargaining agent certified by the Board for bargaining unit employees at the 14 facilities which were certified as separate units.

I find that the use of plural form "units" in the recognition clause is evidence that there was no mutual intent to merge the individually certified units. At most, the Union's equivocal claim that the plural form is inexplicable bears on its intent, not the Employer's. I find little evidentiary value in the use of the singular form of the word as a modifier. Thus, I note that the use of the term "bargaining unit employee" as a modifier is

commonly used to distinguish unit employees from non-unit employees, but does not clearly define the scope of the unit referenced.

The ambiguity in the collective-bargaining agreement and the parties' disagreement is underlined by the parties' discussions in May 2007 regarding negotiations for a new contract. In a meeting the Employer's representative expressed interest in "clarifying" the language of the recognition clause to reflect that each airport control tower was a separate unit. In a letter dated May 22, 2007 to the Employer confirming the parties' discussion, the Union's contract administrator and director of training wrote that it ". . . was much better for NATCA to have the towers all comprise one unit to insulate us from decertifications." The position taken by both parties on the issue of the existence of a single versus multiple units is rather tentative and unsure. Neither position articulated in the correspondence expresses the certainty one might expect on that issue given a 10-year bargaining history. I note that by May 2007, the significance was well known to the parties as a result of Board litigation of the issue raised herein, in cases involving units represented by PATCO which had essentially identical contract language.

While there is evidence that the parties discussed the issue of separate contracts for each facility, there was no evidence produced by either party that a change in the unit scope was consciously explored in the initial negotiations. As noted, in the negotiations for the 2008 agreement, the issue was briefly discussed, but dropped with no clear resolution.

However, while I find that the use of the term "units" is consistent with the continued existence of single facility units, the term per se is not conclusive. *General Electric*, supra. Accordingly, I turn to a consideration of the context provided by the parties' overall bargaining history and conduct.

B. Bargaining History and Conduct

In evaluating the impact of conduct and bargaining in the broad sense, I must determine whether the evidence shows an intent to merge the separate units or simply shows a practice of centralized bargaining for separate bargaining units. See *Remington Office Machines*, 158 NLRB 994 (1966); *Duval Corporation*, 234 NLRB 160, 161 (1978). Many of the indicia relied upon by the Board to find that a merger has occurred have been found to be insufficient in the context provided by other cases. Compare *General Electric*, supra with *Sears, Roebuck and Co.*, supra. Thus, while the Union relies on such factors as a single agreement for all facilities, common terms and conditions of employment, pooled ratification votes, lack of local agreements, and administration of the contract at the Union's "national" level;⁴ those facts have been relied upon by the Board to support a merger finding in some cases, but distinguished in others to reach the opposite result.

In finding that no merger has been proved herein, I first note, though this is not an initial determination of unit scope, that each facility is essentially independent of the others in its day-to-day operation, with separate local supervision and no evidence of employee interchange or contact, and substantial geographical separations. Thus, factors that would ordinarily show a multi-facility community of interest are absent here. In the two separate negotiations in which the matter was expressly raised, the Employer has taken the position that the units should remain separate and there is nothing in the bargaining history – or, as noted above in the recognition language of the agreements – that is sufficient to prove that the Employer consciously ceded that position. Despite the fact the issue resurfaced in 2007, and had been the subject of litigation before the Board, the parties did not clarify the issue in the 2008 contract negotiations. Finally, the

⁴ It should be noted that the "national" is the certified representative for each facility and does not have separate, subordinate local unions for any of the 4 to 6 employee units.

Union's own conduct raises questions as to legitimacy of its claim. Thus, in 1997, 2005, and as late as 2008, the Union sought certification in separate units. The Union did not seek certification on a multi-facility basis, nor did it seek an election to add any of the new facilities to an existing multi-facility unit in 2005 or 2008.

The record evidence on the parties' bargaining history and conduct does not provide "unmistakable evidence" of a merger of all the Employer's facilities listed in the current collective-bargaining agreement. There is insufficient evidence of the parties' "mutual" desire or intent to extinguish the individually certified bargaining units and to merge the units. To find otherwise would be to impose a merger of units on the parties where the available evidence is far from conclusive.

In cases such as *General Electric*, supra and *White-Westinghouse*, supra, enfd. 604 F.2d 689 (D.C. Cir. 1979), relied upon by the Union, the Board confronted no evidence that the parties' history of negotiation on unit scope was ambiguous. Perhaps more specific negotiating history was not in evidence or was lost over the passage of time, but for whatever reason the Board derived the parties' intent in those cases from bargaining history and conduct without consideration of the parties' negotiations as to the specific area of unit scope. Here, where the evidence of specific negotiations on unit scope establishes ambiguity, I find those cases distinguishable. In the absence of unmistakable evidence that the parties, through contractual language, bargaining history, and course of conduct, acquiesced in the extinction of the separately certified units and merged the units into a single multi-facility unit, I find that the certified East Alton, Illinois unit constitutes the appropriate unit for the UD election. *Delta Mills, Inc.*, 287 NLRB 367, 369 (1987); *Sears, Roebuck and Co.*, supra; *Duval Corp.*, supra; *Utility Workers Local 111 (Ohio Power Co.)*, supra; *Metropolitan Life Insurance Company*, supra; *Remington Office Machines, Minneapolis Branch*, supra; see also, *Louisiana Dock Co.*, 293 NLRB 233, 235 (1989).

III. CONCLUSIONS AND FINDINGS

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

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are 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 case.
3. The Union is a labor organization within the meaning of the Act.
4. The Petitioner seeks an election to rescind the Union's authority to require, under its collective-bargaining agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their employment.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining:

All full-time and regular part-time air traffic control specialists (controllers) employed by the Employer at the St. Louis Regional Airport, East Alton, Illinois, EXCLUDING all other employees, facility manager, guards, and supervisors as defined in the Act.

IV. 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 on whether or not to withdraw the authority of the Union to require, under its agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their jobs. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

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

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list for the unit, 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 of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in Region 14, 1222 Spruce Street, Room 8.302, St. Louis, Missouri, on or before **February 20, 2009**. 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 (314) 539-7794. 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 to be submitted. If you have any questions, please contact Region 14.

C. Notice of Posting Obligations

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

V. E-FILING

The National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of

the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-filing can also be found on the National Labor Relations Board website at www.nlr.gov. On the home page of the website, select the **E-Gov** tab and click on **E-Filing**. Then select the NLRB office for which you wish to E-file your documents. Detailed E-filing instructions explaining how to file the documents electronically will be displayed.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., (EDT) on **February 27, 2009**. The request may **not** be filed by facsimile.

Dated: February 13, 2009
at St. Louis, Missouri

/s/ Ralph R. Tremain
Ralph R. Tremain, Regional Director
National Labor Relations Board, Region 14