

**Warner-Lambert Company and Local 3, International Brotherhood of Firemen & Oilers, AFL-CIO, Petitioner. Case 1-RC-19206**

June 29, 1990

**DECISION ON REVIEW AND  
DIRECTION OF ELECTION**

**BY CHAIRMAN STEPHENS AND MEMBERS  
CRACRAFT AND DEVANEY**

On March 29, 1989, the Regional Director for Region 1 of the National Labor Relations Board issued a Decision and Order in this proceeding. In her decision, the Regional Director concluded, among other things, that a self-determination election to permit the packaging machine mechanics to vote on inclusion with the currently represented machine and repair employees was not appropriate.<sup>1</sup> In this regard, the Regional Director found that those two groups of employees could not constitute a separate appropriate bargaining unit because the petitioned-for employees share a community of interest with the Employer's production employees, who are unrepresented.

Thereafter, in accord with Section 102.67 of the Board's Rules and Regulations, the Petitioner filed a timely request for review of the Regional Director's decision. The Petitioner contended, *inter alia*, that the packaging machine mechanics constitute an appropriate unit with the maintenance and repair employees, (1) because of the differences between the packaging machine mechanics and the production employees, and (2) because the mechanics and the maintenance and repair employees together constitute the engineering department, possess a high grade of skills, are more highly paid than production employees, and are not seasonally laid off.<sup>2</sup> The Employer filed an opposition to the request for review. On August 25, 1989, the Board granted the Petitioner's request for review solely with respect to the issue whether a self-determination election for packaging machine mechanics should be held.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the entire record in this case, including the briefs on review filed by the Petitioner and the Employer, and makes the following findings.

<sup>1</sup> The Regional Director also concluded that a unit limited to packaging machine mechanics was inappropriate. The Board denied the Petitioner's request for review with respect to this finding.

<sup>2</sup> The Petitioner also contended that the packaging machine mechanics constitute a separate appropriate unit.

The Employer manufactures candy products at its Cambridge, Massachusetts facility. In February 1988, the Employer purchased the facility from National Biscuit Company (NABISCO). The Petitioner has represented the maintenance and repair employees at this facility since 1983 and has represented the "sanitors" in a separate unit since February 1989. The remaining employees at the facility are unrepresented. There are about 250 hourly paid employees, including 210 production employees, 15 packaging machine mechanics, and 15 maintenance and repair employees.

The Employer's facility is a six-floor building with candy production lines on the top four floors. Plant operations on each of the production floors are essentially the same. Candy production is a continuous process. Candy is cooked, cooled, and formed. The candy arrives, usually by conveyor belt, in the packaging area. Each product has its own line of packaging machines. Production employees feed the candy into the packaging machine and handle the wrapping and packaging process.

The packaging machine mechanics are usually stationed near a packaging line. They are responsible for ensuring that the packaging machines keep running and that the continuous production process is not interrupted. Packaging machine mechanics usually remain in the area of the packaging machines to clear jams or to perform repairs on the machinery as necessary. While packaging machine mechanics are working on a machine that is down, production continues. Spare machines, if available on a given production line, are used to package the product while the packaging machine mechanic performs repairs. If no spare machine is available, the candy is produced and stacked while the packaging machine mechanic completes repairs. Packaging machine mechanics usually have no duties in other areas of the facility while they are assigned to a particular line.

Of the 15 packaging machine mechanics, all but 2 to 4 are assigned to a particular line. Although a packaging machine mechanic may switch between lines occasionally, or even on a given day, such mechanics generally remain in one location for the duration of a shift and may stay with that line for weeks or months at a time. Those packaging machine mechanics not assigned to particular lines are assigned instead to special project work on packaging machines. Packaging machine mechanics are also involved in preventive maintenance programs on the packaging machines when time permits.

Packaging machine mechanics are not required to have any particular educational background. About half of the current packaging machine mechanics were hired from the ranks of the produc-

tion employees and half from outside. When they do not have a packaging mechanic background, they receive on-the-job training for a period of between 6 and 8 months.

There are three classifications of packaging machine mechanics: A, B, and C, with A being the highest rank. Some packaging machine mechanics only learn how to service some of the Employer's packaging machines. To reach the A classification, a packaging machine mechanic is expected to be able to service most or all of the packaging machines. Over half the current packaging machine mechanics are in the "A" classification. Packaging machine mechanics sometimes fabricate the parts necessary for machine repair. They have their own shop. One packaging machine mechanic testified that he sometimes uses the maintenance and repair employees' shop, and maintenance and repair employees sometimes use the packaging machine mechanics' shop. Production employees do not repair packaging machines, although they may assist packaging machine mechanics in the performance of their duties by turning the machines on and off. The packaging machine mechanics have been told they cannot do production work; however, some have, on occasion, helped production workers who have fallen behind.

The currently represented maintenance and repair employees keep the Employer's facility and equipment operating. That bargaining unit includes an electrician, a sheet metal mechanic, a machinist/millwright, a painter, and three levels of mechanics. Some of these positions require a license. These employees are assigned tasks in various locations throughout the facility. They perform electrical work on the Employer's packaging machines, but do not otherwise repair or maintain the packaging machines. They repair some conveyor belts and other machines involved in production working in the vicinity of the processing employees. They also maintain general building equipment. Both the packaging machine mechanics and the maintenance and repair employees operate under a work order system, whereby assignments other than packaging machine mechanics' line assignments are distributed.

The packaging machine mechanics and the maintenance and repair employees are both included in the Employer's engineering department, which is headed by a plant engineering manager. Each group has its own immediate supervisor, who reports to the plant engineering manager. On the second shift, after the packaging machine mechanics' supervisor leaves, the packaging machine mechanics may, on occasion, receive instructions or priorities from a production supervisor. If a pack-

aging machine mechanic on the second shift has a problem or question, he will call his supervisor or lead person at home for direction. The engineering department manager prepares an overall budget for the entire department, but the two groups are separately budgeted by him.

Production employees have become both packaging machine mechanics and maintenance and repair employees. At least one packaging machine mechanic has become a maintenance and repair employee.

The Employer shuts down production in the summer, during which time it lays off production employees. However, neither the packaging machine mechanics nor the maintenance and repair employees are laid off. Some packaging machine mechanics work during this period on packaging machines rather than take vacation. A majority of maintenance and repair employees work during the shutdown.

Production employees earn between \$7-\$8 an hour. Packaging machine mechanics earn in excess of \$11 an hour and maintenance and repair employees earn in excess of \$12 an hour. Production employees and packaging machine mechanics receive a percentage annual wage increase at the same time each year. The organized employees and packaging machine mechanics formerly received an annual bonus, but those bonuses were recently converted to hourly rates and applied to the wages of the two groups. Production employees and packaging machine mechanics have the same benefits package, and these benefits are different from those in the collective-bargaining agreement applicable to the organized maintenance and repair employees. The packaging machine mechanics and the maintenance and repair employees are eligible for tuition reimbursement from the Employer.

Packaging machine mechanics are scheduled to begin work between 6 and 6:45 a.m. and at 1 or 3 p.m., prior to the time packaging employees are scheduled, to set up the packaging machines. Packaging machine mechanics are scheduled for breaks and lunch with the production crews, but may be unable to take breaks when scheduled because of repair needs.

Packaging machine mechanics and maintenance and repair employees wear blue uniforms, while production employees wear white uniforms. Packaging machine mechanics and production employees share a timeclock and locker facilities, while maintenance and repair employees have a separate timeclock and locker facilities.

In two other candy factories in the Greater Boston area, one of which closed in 1984, packaging machine mechanics have been included in bar-

gaining units with skilled building and utility employees.

The Regional Director determined that the packaging machine mechanics are an integral part of the Employer's production process because they report to work before production employees to set up machines; most are assigned to one line per shift and remain for long periods on that line even when the machines are running; they are not required to have special training when hired; not all are trained to work on all lines; and they share common facilities with the production employees and receive similar benefits. She therefore found a unit limited to packaging machine mechanics inappropriate.<sup>3</sup> Citing *Beecham Inc.*, 251 NLRB 731, 732 (1980), the Regional Director further found that since the packaging machine mechanics' work is an integral part of the work of the production employees, a unit of packaging machine mechanics and the currently represented maintenance and repair employees would not be a unit of a distinct and homogeneous group of employees with interests separate from those of other employees such as to constitute an appropriate unit. The Regional Director therefore concluded, citing *Lone Star Producing Co.*, 85 NLRB 1137 (1949), that it would not effectuate the purposes of the Act to permit the packaging machine mechanics to vote for inclusion with the maintenance and repair employees.

We do not agree with the Regional Director's conclusion regarding the holding of a self-determination election for packaging machine mechanics to decide whether they wish to be included in the unit with the maintenance and repair employees. A self-determination election is the proper method by which a union may add unrepresented employees to the contractual unit. In this regard, it is necessary to determine the extent to which the employees to be included share a community of interest with unit employees, as well as whether the employees to be added constitute an identifiable, distinct segment so as to constitute an appropriate voting group. *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972). That packaging machine mechanics do not constitute a separate appropriate unit does not mean that they could not, in the proper circumstances, be added to the maintenance and repair unit as opposed to the unit of production employees.

The cases relied on by the Regional Director do not hold to the contrary. For example, the issue in *Peterson/Puritan, Inc.*, 240 NLRB 1051 (1979), was whether line mechanics constituted a separate appropriate unit. In finding that such a unit was not

appropriate because the line mechanics worked close to production workers and performed duties that were an integral part of the production process, the Board, in *Peterson*, specifically noted that it was not deciding whether the line mechanics shared a community of interest with production workers greater than that shared with other maintenance employees. Id. at 1051 fn. 3.

The record in the present case shows that the packaging machine mechanics share a closer community of interest with the maintenance and repair employees than with production employees. Although the packaging machine mechanics have separate immediate supervision from the maintenance and repair employees, as they do from the production employees, the Employer has placed the packaging machine mechanics and the maintenance and repair employees in one department under the same general supervisor.

The skills of the two groups are more closely comparable than those of the packaging machine mechanics and the production employees. Packaging machine mechanics hired by the Employer either have a packaging mechanic background or undergo 6 to 8 months training on the job. Production employees who become mechanics undergo this training. Packaging machine mechanics repair and maintain packaging machinery. Some even fabricate parts for repairs. Maintenance and repair employees also repair and maintain machinery that is used in the production process, including electrical repairs for the packaging machines. Although, unlike the mechanics, some of the maintenance and repair employees are licensed, some are not. Further, packaging machine mechanics sometimes use the maintenance and repair employees' shop, and the maintenance and repair employees sometimes use the packaging machine mechanics' shop. Production employees do no maintenance or repair of machinery.

The wage rates of the packaging machine mechanics also show their jobs to be more comparable to those of the maintenance and repair employees than to those of the production employees. Packaging machine mechanics' hourly wages start at \$11 an hour and those of maintenance and repair employees at \$12 an hour, both substantially higher than the \$7- to \$8-an-hour range of the production employees. Further, both the packaging machine mechanics and the maintenance and repair employees, unlike the production employees, had their annual bonuses converted to an increase in hourly wages. Because of the substantial difference in wages between packaging machine mechanics and production workers, we do not place great weight on the fact that both, like all of the Employer's un-

<sup>3</sup> The Board denied the Petitioner's request for review of this finding

represented hourly employees, have the same benefits.

We also view as significant that neither the packaging machine mechanics nor the maintenance and repair employees are laid off after peak season, as are the production workers. Some packaging machine mechanics and the majority of the maintenance and repair workers continue performing maintenance work during the shutdown period. We note that the mechanics often continue on the job to repair machines when the production employees go on break or to lunch. Though perhaps of lesser importance, we also note that the packaging machine mechanics are distinguishable from the production workers on the line by their different colored uniforms, and that these uniforms are the same color as those of the maintenance and repair employees.

Although a substantial number of current packaging machine mechanics have transferred from production, there do not appear to be any transfers from packaging machine mechanic to production. Further, there has been at least one transfer from packaging machine mechanic to maintenance and repair. Additionally, the evidence also shows that there is no permitted interchange of function on the job between production workers and mechanics. To the extent that mechanics help production employees who have fallen behind, they are violating company rules.

Based on the foregoing, we find that the packaging machine mechanics share a sufficient communi-

ty of interest with the maintenance and repair employees to warrant their inclusion in the same unit.<sup>4</sup> Accordingly, we reverse the Regional Director and direct a self-determination election for the mechanics to decide whether they wish to be represented in the maintenance and repair employees' unit.

[Direction of Election omitted from publication.]

<sup>4</sup> In *Beecham Products*, above, the Board found that the petitioned-for unit of maintenance employees, including machine mechanics, machine service employees, and building maintenance employees, was inappropriate on the grounds that the machine maintenance mechanics and machine service employees had a closer community of interest with production employees than with building maintenance mechanics, and that their work was an integral part of the production process. We find that *Beecham* is distinguishable. In *Beecham*, the employer chose to place the machine mechanics and service employees in the same department as the production employees, while putting the building mechanics in a separate department. The machine mechanics were supervised by production department supervisors. Machine mechanics' duties included assisting machine operators. By contrast, the packaging machine mechanics and maintenance and repair mechanics are in the same department and share common general supervision. Further, the packaging machine mechanics have been warned not to engage in production work. In *Beecham*, machine mechanics and building mechanics engaged in distinct job functions. Building mechanics worked on production lines only when a major overhaul or repair was needed. Here, maintenance and repair employees do some work on the machines maintained by the packaging machine mechanics and regularly maintain production equipment. In *Beecham*, the Board stated that production employees and machine mechanics were hourly paid and did not suggest any substantial distinction in pay, here, packaging machine mechanics and maintenance and repair employees earn similar hourly wages, which are substantially more per hour than those of the production employees and, unlike production employees, both have had their annual bonuses converted to hourly rates. In *Beecham*, maintenance mechanics as well as production employees were laid off; mechanics could even bump into production positions. Here, packaging mechanics and maintenance and repair employees are not laid off like the production workers during the annual turndown periods, but continue working, repairing packaging and production equipment.