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Public Service Company of Colorado and International Brotherhood of Electrical Workers, Local 111, AFL-CIO, Petitioner. Case 27-RC-162657

July 5, 2017

DECISION ON REVIEW AND ORDER

BY CHAIRMAN MISCIMARRA AND MEMBERS PEARCE
AND MCFERRAN

On December 22, 2015, the Acting Regional Director for Region 27 issued a Decision and Direction of Election in this proceeding, directing an *Armour-Globe*¹ self-determination election among the Employer's plant planners and plant planner/schedulers.² Thereafter, in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review, arguing that the Acting Regional Director erred in finding that the petitioned-for employees were not managerial employees and that they shared a sufficient community of interest with the existing unit to warrant inclusion. The Petitioner filed an opposition brief. On October 11, 2016, the Board granted the Employer's request for review on the question whether the Acting Regional Director erred in finding that the petitioned-for employees share a community of interest with employees in the bargaining unit.³ In all other respects, the request for review was denied. Thereafter, the Employer and the Petitioner filed briefs on review.

Having carefully considered the entire record and the parties' briefs on review, we conclude that the Acting Regional Director properly directed a self-determination election. We affirm the Acting Regional Director's finding that the petitioned-for plant planners and plant planner/schedulers share a sufficient community of interest with the existing unit to warrant inclusion.⁴

¹ See *Armour & Co.*, 40 NLRB 1333 (1942); *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937).

² A mail ballot election was held, and the ballots were comingled and counted on January 29, 2016. The voters voted in favor of inclusion in the existing bargaining unit, with the tally of ballots indicating 14 eligible voters, with 9 votes cast for the Petitioner and 4 against the Petitioner. The Acting Regional Director issued a Certification of Representative on February 12, 2016, and the Regional Director issued a corrected Certification of Representative on July 13, 2016.

³ Then-Chairman Pearce voted to deny review.

⁴ We find evidence not explicitly discussed in the Acting Regional Director's analysis further supports the finding that the petitioned-for planners and current unit employees share a community of interest sufficient to warrant a self-determination election. Most notably, there

Finally, because this case involves a self-determination election, the appropriate certification is a Certification of Results of Election.⁵ We accordingly remand to the Regional Director to issue a second corrected certification.

ORDER

The Acting Regional Director's Decision and Direction of Election is affirmed, and the case is remanded to the Regional Director for further appropriate action consistent with this Order.

Dated, Washington, D.C. July 5, 2017

Philip A. Miscimarra, Chairman

Mark Gaston Pearce, Member

Lauren McFerran, Member

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is substantial functional integration between the groups given that the planners' work is typically preceded by maintenance work orders generated by unit employees, and followed approximately 90 percent of the time by maintenance work performed by unit employees. In addition, the contact between planners and unit employees is more frequent and substantive than found by the Acting Regional Director. Such contact occurs both through regular meetings and through the planners' direct consultations with unit employees as they plan maintenance work (at times these consultations involve substantive interactions between a planner and several unit employees for each work order). These frequent communications and contact with unit employees occur throughout the affected facilities—including on the plant floors, in the warehouses, in the planners' office areas and in the field—and may require several hours of contact per week. One planner testified that he may make six to eight visits to the field in a week to discuss work with unit employees. As to plant organization, most of the planners work in the same departments as unit maintenance employees, and all of the planners are more broadly part of the energy supply area, along with approximately 500 of the 2000 unit employees. As to employee skills and functions, planners and unit employees use the same computer program to process work orders and perform the identical equipment lock-out/tagout function in their work. Although there are certain differences in the employment terms of the petitioned-for and current unit employees, they do not mandate exclusion and may reasonably be expected in the *Armour-Globe* context, where the unit employees' terms are the result of collective bargaining.

In affirming the Acting Regional Director's decision, we do not rely on her use of the appropriate voting group in the community-of-interest analysis, or the diversity of the existing unit in place of a showing of actual shared community of interest. Although the diversity of the existing unit may be relevant to consider generally, it is not one of the traditional community-of-interest factors.

⁵ See NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11470.