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Starbucks Corporation and Workers United. Case
28-RC-286556

February 23, 2022

ORDER

BY MEMBERS RING, WILCOX, AND PROUTY

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review. The Employer's request for extraordinary relief is also denied.¹

In denying review of the Regional Director's unit determination, we emphasize that the petitioned-for single store unit is presumptively appropriate. See *Haag Drug*, 169 NLRB 877, 877 (1968) (petitioned-for single store unit in retail chain is presumptively appropriate). Accordingly, the central issue here is whether the Employer has met its "heavy burden" to overcome the presumption that the single-store unit sought by the Petitioner is appropriate. See *California Pacific Medical Center*, 357 NLRB 197, 200 (2011). To rebut this presumption, the Employer "must demonstrate integration so substantial as to negate the separate identity" of the single store unit. *Id.* At various points in its request for review, the Employer suggests that employees at all 14 stores in District 380 must be included in the same bargaining unit because they share some community of interest with those employees in the petitioned-for unit. But the relevant legal question before us is whether the Employer has met its heavy burden to overcome the presumption that the petitioned-for single store unit is appropriate; the mere fact that the petitioned-for employees may share some community of interest with excluded employees does not serve to rebut the presumption. We agree, for the reasons stated in the Regional Director's decision (pertinent portions of which are attached), that the Employer has not met that burden here.

With respect to the factor of interchange, we agree with the Regional Director's conclusion that the data provided by the Employer is insufficient to rebut the presumption in favor of a single-store unit.² The Employer

¹ In denying review of the Regional Director's decision to provide two weeks for the return of ballots in the mail ballot election, we observe that any party is free to present evidence of any actual disenfranchisement of voters, if applicable, in postelection objections.

² We do not, however, agree with the Regional Director's suggestion that the Employer's data regarding interchange was meaningfully

and Petitioner both brandish extensive statistics in support of their arguments, but as the Regional Director recognized, these statistics must be assessed in the context of the relevant legal test, where the key question is the nature and degree of interchange and its significance in the context of collective bargaining. In this regard, although frequent and regular interchange supports finding a community of interest,³ it is well-established that infrequent, limited, and one-way interchange do not require finding a shared community of interest.⁴ In this regard, the Employer argues that 54.9 percent of the petitioned-for employees working at Store 5610 worked in two stores or more over an approximately 2.5-year period. But those numbers do not reflect how often those employees worked at other locations or how often "borrowed" employees worked at Store 5610. By contrast, the Petitioner cites data reflecting that during fiscal year 2021, fewer than 2 percent of shifts at Store 5610 were worked by "borrowed" employees. The available statistics accordingly do not establish that the petitioned-for employees regularly or frequently interchange with other employees in District 380, and instead indicate that any interchange is limited and infrequent. As such, the record also does not establish that Store 5610 employees have frequent contact with employees from other District 380 stores: a slight majority have had some interaction with some employees at some of the other District 380 stores when they cover shifts at those stores, but the record does not show that this interaction was frequent. Moreover, a large minority of Store 5610 employees have no contact with employees assigned to other stores except to the limited extent that an employee from one of those stores covers a shift at Store 5610. This limited evidence of interchange and contact also reflects that the employees at Store 5610 can operate with relative independence. As such, the nature⁵ and degree of interchange present here does not favor rebutting the single-store presumption because it does not negate the separate

"skewed" by the inclusion of the Employer's Store Managers and Assistant Store Managers.

³ See, e.g., *Casino Aztar*, 349 NLRB 603, 605 (2007).

⁴ See, e.g., *MGM Mirage*, 338 NLRB 529, 533-534 (2002); *Foreman & Clark*, 97 NLRB 1080, 1080 (1952).

⁵ We further agree with the Regional Director that the interchange in the present dispute is all voluntary, and therefore carries less weight in the Board's analysis. See *New Britain Transportation Co.*, 330 NLRB 397, 398 (1999).

Member Ring does not rely on the Regional Director's determination that the interchange was voluntary, but agrees that the evidence of interchange does not negate the single facility presumption for the other reasons stated above.

community of interest the Store 5610 employees are presumed to share.⁶

With respect to centralized operations and local autonomy, the Employer contends that its automated tools and company-wide policies limit its Store Managers' discretion over "the daily matters which make up [employees'] grievances and routine problems." See *Haag Drug*, supra at 878. However, the Petitioner adduced specific testimony demonstrating that Store Managers do, in fact, play a significant role in adjusting schedules, approving time off and overtime, evaluating employees, conducting interviews and hiring employees, and imposing discipline. Although the Employer maintains nationwide tools and policies, it is the Store Managers who implement these tools and policies at the local level, and make adjustments as needed in real time (by, for example, addressing employees complaints about work assignments).⁷ In contrast, the Employer provided only conclusory and generalized testimony to support its assertion that Store Managers cannot deviate from its automated tools and that its Store Managers must seek approval from higher-level managers when making personnel de-

⁶ Nearly all of the cases cited by the Employer in support of its interchange arguments are distinguishable insofar as they involved a higher degree of interchange than what is present here. See *Prince Telecom*, 347 NLRB 789, 791–792 (2006) (26 out of 148 technicians were temporarily transferred within a 2-month period, with each temporary transfer lasting between 1 and 16 days); *Budget Rent A Car Sys., Inc.*, 337 NLRB 884, 884–885 (2002) (observing that "the lack of a separate fleet inventory at each store results in a substantial degree of coordination and contact between unit employees from all five stores;" transfers occur "a couple" times per month; and "the district manager has the authority to mandate either permanent or temporary transfers"); *Super X Drugs of Illinois*, 233 NLRB 1114, 1115 (1977) (21 documented instances of interchange among 65 employees in a 14-month period, which represented only "one-half" of total interchange); *Gray Drug Stores, Inc.*, 197 NLRB 924, 924–926 (1972) (300 temporary transfers out of 700 employees over a 6-month period, with a high of 20–25 per week, and transfers appeared to be involuntary); *Twenty-First Century Restaurant of Nostrand Ave. Corp.*, 192 NLRB 881, 882 (1971) ("45 to 50 employees have been temporarily transferred among New York locations during the past year, out of a total of approximately 350 employees," with the general manager transferring employees as necessary); *McDonald's*, 192 NLRB 878, 878–879 (1971) (58 seemingly-involuntary transfers among 245 employees). In addition, in each of these cases other factors not present here favored rebutting the single-facility presumption. See also *Kirlin's Inc. of Cent. Ill.*, 227 NLRB 1220, 1120–1221 (1977) (unclear how frequently interchange occurred, but all other factors weighed heavily in favor of rebutting the single-facility presumption).

⁷ Cf. *Point Pleasant Foodland*, 269 NLRB 353, 354 (1984); *V.I.M. Jeans*, 271 NLRB 1408 (1984); *Petrie Stores Corp.*, 212 NLRB 130, 131 (1974); *Dayton Transp. Corp.*, 270 NLRB 1114, 1115 (1984); *White Castle System*, 264 NLRB 267, 268 (1982); *Kirlin's Inc. of Cent. Ill.*, supra, at 1221. In each of these cases, in contrast to the situation here, a single individual or centralized office exerted extensive, hands-on control over a relatively small number of stores and had final (or shared) authority for almost all personnel decisions.

isions. Because the Employer bears the burden of proof here, it must provide more than conclusory evidence to establish that its Store Managers have little discretion in personnel matters, especially where there is specific evidence indicating otherwise. Contrary to the Employer's assertions, extant Board law is fully capable of taking the Employer's modern-day technology into account; in this case, however, the Employer has not met its burden to prove that these technologies actually negate Store Managers' autonomy over certain personnel matters in the day-to-day operation of individual stores.

Finally, we agree with the Regional Director that the remaining factors under the Board's single-facility test—similarity of employee skills, functions, and working conditions; geographic proximity; and bargaining history—are not sufficient to rebut the single-facility presumption in the context of the Board's multi-factor analysis. While we do not agree with the Regional Director that differences in store layouts (such as the existence of a drive-thru) are meaningful differences in working conditions, we agree that the uniform skills, functions, and working conditions across District 380 are outweighed by other factors, most significantly the lack of significant interchange and Store Managers' local autonomy over the personnel functions discussed above.

Dated, Washington, D.C. February 23, 2022

John F. Ring, Member

Gwynne A. Wilcox, Member

David M. Prouty, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

DECISION AND DIRECTION OF ELECTION

On November 18, 2021,¹ Workers United (Petitioner) filed a petition to represent certain employees of Starbucks Corporation (Employer). The Petitioner seeks a single-facility mail-ballot election for a bargaining unit (the petitioned-for unit) that includes all full-time and

¹ All dates occur in 2021 unless otherwise indicated.

regular part-time Baristas, Shift Supervisors, and Assistant Store Managers performing work at the Employer's store # 5610 located at 6807 E. Baseline Road, #102, Suite 100, Mesa, Arizona (Store 5610), excluding all Store Managers, office clericals, guards, and supervisors as defined in the National Labor Relations Act (the Act). There are approximately 30 employees in the petitioned-for unit.

The Employer contends that the Petitioner's petitioned-for unit limited to a single facility is inappropriate. Rather, the Employer maintains that an appropriate unit must include all the facilities in the Employer's District 380, totaling 14 facilities (14 Employer-sought facilities), including the petitioned-for facility.² The Employer argues that, in the event an election is held, a manual election must occur, and that the Region utilize the voter eligibility formula as explicated in *Davison-Paxon*, 185 NLRB 21 (1970).³ There are approximately 442 employees in the unit proposed by the Employer.

A hearing was held before a Hearing Officer of the National Labor Relations Board (the Board) via videoconference over 3 days, beginning on December 10 and ending December 14, at which time the parties were afforded the opportunity to present evidence and to state their respective positions on the record. The parties submitted post-hearing briefs, which I have carefully considered.

Having considered the parties' positions, evidence, and the entire record,⁴ and for the reasons described below, I find that the petitioned-for unit is an appropriate unit for collective-bargaining purposes, and I am directing an election by mail ballot. The Petitioner has indicated that

² The parties stipulate that the Employer's District 380 is comprised of the following 14 facilities in Arizona: Store 9862, Apache Trail & Delaware, 2580 W. Apache Trail, Apache Junction; Store 9588, Power & Loop 202, 4972 S. Power Road, Gilbert; Store 11891, Signal Butte & Hwy 60, 1923 S. Signal Butte Rd., Mesa; Store 14225, Hunt & Gary, 1757 W. Hunt Hwy, San Tan Valley; Store 19282, Santan Village Pkwy & Loop 202, 2882 S. San Tan Village, Gilbert; Store 54835, Ironwood and Ocotillo, 40889 N. Ironwood Dr., San Tan Valley; Store 55374, Crismon & Southern, 1222 S. Crismon Rd., Mesa; Store 61993, Riggs and Ellsworth, 20824 E. Riggs Rd., Queen Creek; Store 60027, Sossaman & Hampton, 1312 S. Sossaman Rd., Mesa; Store 58302, Signal Butte & Warner, 10720 E. Point Twenty-Two Blvd., Mesa; Store 58630, Higley and Queen Creek, 4865 S. Higley Rd., Gilbert; Store 25812, Ellsworth Rd. & Rittenhouse Rd., 21135 S. Ellsworth Loop Rd., Queen Creek; Store 6756, Ellsworth & Baseline, 2043 S. Ellsworth Rd., Mesa; and Store 5610, Power Rd & Baseline Rd., 6807 E. Baseline Rd. #102, Mesa.

³ *Davidson-Paxon* is a Board case that provides an eligibility formula for determining the eligibility of irregular part-time employees.

⁴ I have taken administrative notice, and the Petitioner and the Employer agree that administrative notice is appropriate, of the records, including transcripts and exhibits, in Cases 03-RC-282115, 03-RC-282127, 03-RC-282139, 03-RC-285929, 03-RC-285986, and 03-RC-285989.

it is willing to proceed to an election in any unit I find appropriate. Therefore, I find that the petitioned-for unit limited to the single petitioned-for Store 5610 is an appropriate unit, and I am directing an election for this unit. There are approximately 30 employees in this appropriate unit.⁵

I. ISSUES AND POSITION OF PARTIES

The primary issue before me is whether the Employer has met its "heavy burden" to overcome the presumption that the single-store unit sought by the Petitioner is appropriate. See *California Pacific Medical Center*, 357 NLRB 197, 200 (2011). The secondary issue before me is whether the method of election should be by mail ballot or manual ballot.

The Petitioner argues that the Employer fails to rebut the strong presumption that a single-facility petitioned-for unit is an appropriate unit. Notably, the Petitioner contends that evidence adduced at hearing demonstrates that the Employer's store managers exercise meaningful control over labor relations and store operations without significant oversight from district management. The Petitioner maintains that the infrequent and voluntary nature of employee interchange does not destroy the petitioned-for unit's homogeneity, but instead bolsters the position that a single-facility unit is appropriate. Additionally, while the Employer provided evidence of corporate-wide policies and integration at a national level, the Petitioner argues that such evidence is insufficient to rebut the presumption of the appropriateness of a single-facility unit in a retail industry setting.

The Employer acknowledges that the single-facility presumption raised by the Petitioner is applicable to the present case. However, the Employer contends that Store 5610, as well as the 13 other stores in District 380, do not maintain the level of local autonomy, control, or authority over labor relations and working conditions to support the appropriateness of a single-facility unit. The Employer underscores that its centralized operational protocols demonstrate a functionally integrated unit with significant employee interchange. Moreover, the Employer argues that centralized policies regarding labor relations, employee skills, functions, training, wages, benefits, and working conditions support the Employer's contention that the smallest appropriate unit must encompass all 14 stores in District 380. The Employer further argues that the geographical proximity of the Dis-

⁵ The parties disagree as to the supervisory status of Assistant Store Managers. Litigation on this issue is deferred until after the election, and individuals holding the title of Assistant Store Manager will vote subject to challenge, because the issue relates to the eligibility or inclusion of a portion of the unit or units involved, which does not significantly impact the size or character of the unit or units.

trict 380 stores, as well as the uniformity of employee interests, notwithstanding a lack of bargaining history in the market, reinforces its position that a single-facility unit is an inappropriate unit.

II. RECORD EVIDENCE

A. Overview of the Employer's Operations

The Employer is a multinational corporation that owns and operates restaurants throughout the world, including nearly 9,000 stores nationwide. In the United States, the Employer organizes its stores into 12 regions which are each headed by a regional vice president. More specifically, regions are divided into areas that are headed by regional directors who report to the regional vice president. Each area is further divided into districts headed by district managers who report to their respective regional director. The Western Mountain Region, divided into regions and districts, is comprised of approximately 800 stores spread out over several states.⁶ In this case, Store 5610 is one of 14 stores in District 380, which is part of Region 140. Store 5610, as well the other 13 stores in the Employer's District 380, are owned by the Employer.

Providing a consistent and uniform product is a primary goal for the Employer in conducting operations nationwide. To that end, the Employer relies on detailed operational plans, devised at a national level, aimed at creating a consistent customer experience across locations. Decisions about store design, equipment placement, marketing and promotions, store budgets, hours of operation, and contracts with vendors and contractors are made at the national level. Moreover, the Employer maintains various technologies administered at the corporate level to assist with supply orders, scheduling, store operations, and consistency in stores' application of human resources policies.

To ensure product consistency across its stores, the Employer uses two distribution centers that serve District 380. The Employer's regional distribution center in Dallas, Texas, supports 3000 stores in several states including Arizona. Additionally, the Employer operates a consolidated distribution center out of Phoenix, Arizona, that supports 250 stores. Both the Employer's regional distribution center and consolidated distribution center serve Store 5610. Currently, 13 of the stores in District 380 are café and drive-thru stores and one store is café only.

⁶ The Employer's Partner Resources Manager testified that the Western Mountain Region is made up of 17 states and Vice President of the Western Mountain Region named eleven of the states in the Western Mountain Region: Arizona, Southern Idaho, Montana, Wyoming, Utah, New Mexico, Nevada, Colorado, North Dakota, South Dakota, and Nebraska.

The 14 stores in District 380 employ approximately 442 employees.⁷ Store 5610 employs approximately 30 employees.

B. Control Over Daily Operations, Labor Relations, and Local Autonomy

Store managers head, manage, and are responsible for the day-to-day operations at each individual store and report to their corresponding district manager. As part of their duties, store managers engage in non-customer facing activities which are conducted during "non-coverage" administrative time. Stores employ shift supervisors and some locations also employ an assistant store manager. Assistant store managers and shift supervisors provide management coverage in the event the store manager is not available to manage the store, such as during non-coverage administrative time. The typical leadership structure at individual stores is topped by the store manager and, followed by the assistant store manager, if one is employed at the store, and a shift supervisor. Individuals tasked with running the store's sales floor are considered "key holders." Key holders are individuals in leadership positions and may include the store manager, assistant store manager, and shift supervisor. Key holders sign cash handling agreements and are given store alarm codes and codes to the store's safe. Store managers are typically assigned to a single store but may be assigned to multiple stores in the event there is an extended need for a store manager at another store. For example, a store manager may be tasked to head dual stores if another store manager is on extended leave or if a new store is opening and staffing for the new store has not been finalized.

Store managers are responsible for personnel decisions, scheduling, payroll, and fiscal decisions. Although store managers are required to regularly exercise discretion in managing the overall store operations, including staffing decisions, the Employer also uses various programs on a nationwide basis, such as its career website and its hiring platform called "Taleo," to assist in the hiring of employees. At the district level, the Employer holds hiring fairs which are facilitated by district managers.⁸ Employees may also refer individuals for hire with the Employer through its "Partner Referral Pro-

⁷ The parties generally refer to employees, such as shift supervisors and baristas, as "partners" consistent with the Employer's internal nomenclature. The Employer's "Partner Guide" also refers to store managers and assistant store managers, as well as café attendants, baristas, and shift managers, as partners.

⁸ The Employer maintains that it regularly conducts market-wide hiring fairs and engages a recruiter to assist in hiring, but witness testimony establishes that such hiring events are not the norm and that recruiters are not primarily involved in the hiring of employee positions at individual stores.

gram.” Once an applicant has passed the Employer’s pre-screening process, an applicant will then be interviewed for a position. Though district managers may participate in the interviewing of entry-level employees, there is no record evidence of the district manager in District 380 taking a role in interviewing entry-level employees. Store managers make the final hiring decisions for certain employees, such as baristas. Store managers are not required to only hire from district-wide hiring fairs and can instead receive and vet resumes, screen and interview applicants, and hire applicants without the assistance of hiring fairs and without the need for outside approval.

Once hired, employees receive training from store managers. The initial employee training, called “First Sip,” is conducted by store managers or an assistant store manager. At this initial training, employees are provided onboarding paperwork including the Employer’s employee handbook, the “Partner Guide”. The Partner Guide directs employees to contact their store manager with questions regarding employee dress code, time-off requests, and other Employer policies, standards, and procedures. Store managers will also go through the policies in the Partner Guide, an ethics and compliance handbook, coffee passport, and assign employees their employee number. Store managers may also involve other employees, such as barista trainers, in the initial training of new employees, but store managers alone sign off on an employee’s successful completion of onboarding and training.

In addition to hiring, store managers also take active roles in employee promotions and, conversely, employee discipline and discharges at the store level. As management’s point-person at individual stores, store managers are in a prime position to receive employee requests for promotions and to prepare and recommend qualified employees for promotion to shift supervisor to the Employer’s district managers. Store managers, in addition to evaluating employee performance and employee development, may also promote employees from barista to barista trainer without approval from district managers. Barista trainers are eligible for additional pay. Regarding discipline, the Employer provides a “Virtual Coach” tool which can assist store managers in deciding to issue discipline to employees. The Virtual Coach functions as a decision tree to assist store managers to assess a situation with an employee and then decide the corrective action. Store managers are not required to use or follow the suggested actions from the Virtual Coach. In addition to issuing discipline, store managers are also tasked with discharging employees at the store level. While some situations involving the discharge of an employee

may require store managers to discuss and seek the assistance from either the district manager or the Employer’s human resources department, Partner Relations, the store manager is the individual tasked with effectuating the discharge of employees.

Store managers are responsible for scheduling at their respective stores. The Employer uses a centralized system called “Partner Hours” to maintain employee availabilities and to generate schedules nationwide three weeks in advance. Store managers modify and make changes to work schedules on a weekly basis depending on employee availability and employee requests for time off. As a result of the COVID-19 pandemic, store managers have at times had to rewrite the work schedule several times a week. Store managers do not need the approval of district managers to revise the work schedule and ensure their respective store is staffed. In addition to approving time-off requests and developing employee schedules, store managers are responsible for approving overtime and ensuring the accuracy of time tracking and payroll records. While the Employer contends that overtime is approved by district managers, the Employer’s Partner Guide is explicit in stating that overtime must be approved by the store manager and failure to receive approval may result in corrective action.

Additionally, store managers assign and direct employees’ work. Another nationwide program maintained and administered by the Employer is the “Play Builder” tool which is used to project in-store workflow, product needs, and employee tasks and assignments. The Employer contends that its Play Builder tool removes discretion and judgement from the local store manager in assigning work assignments and employee tasks. Nevertheless, record evidence demonstrates that store managers, or other Key Holders like shift supervisors or assistant store managers, are not required to strictly adhere to the assignments suggested by the Play Builder tool. Indeed, there is no evidence to suggest that a store manager, assistant store manager, or shift supervisor has been disciplined for failing to use the Play Builder tool or for choosing to ignore the tool’s suggestions. However, the record reflects that assignments or plays suggested by the tool may not make sense during normal operations. To ensure appropriate staffing and work assignments, store managers analyze the sales floor and determine the locations for employees and their respective task assignments which make the most sense according to the in-time business needs.

Regarding store inventory, food products, merchandise, and supplies are ordered and received by stores using the Employer’s inventory management system. The inventory management system is devised and adminis-

tered in the United States by the Employer's operations services team, which is headed by Director of Operations Services Christopher Flett. This nationwide system is used by store managers, assistant store managers, and shift supervisors when placing or receiving orders, or transferring supplies and product between stores, on a daily or weekly basis.

A store's projected needs are calculated by the operations services team on a quarterly basis using the Employer's "Par Builder" tool. The Par Builder tool contains, receives, and uses data regarding the amount of product that a store needs between orders, sales history, forecast, and sales trends. This data is then used to set a store's par which is the anticipated amount of food product and supplies that a store needs per order.

Stores belonging to the same market as Store 5610 receive orders seven times a week. Store managers, assistant store managers, and shift supervisors are able to place orders for additional products based on the actual needs of the store. When placing an order, a store manager, assistant store manager, or shift supervisor will review the suggested order quantity (SOQ) provided by the inventory managing system and then either accept the order or modify the order if they feel the SOQ is incorrect. SOQ's are calculated based on the store's sales history and the store's par, but do not represent strict order requirements that must be followed by store managers. Store managers may use the SOQ's to guide their decision in ordering product, but store managers may also ignore the SOQ's and use their discretion, experience, and observations to order product and supplies.

Earlier in 2021, the Employer initiated an automated ordering system for packaged food and lobby products such as at-home coffee, merchandise, gift cards, and ready to drink products. This system automatically generates orders for packaged products but does not currently generate orders for supplies or products prepared in-store. The orders automatically generated cannot be modified by store managers. The Employer expects to expand its automated ordering system to include additional products and supplies by the end of 2022.

Regarding labor relations, the Employer employs Partner Resources Managers to assist store managers to address workplace concerns. This is done through a system of support centers that focus on talent acquisition, ethics and compliance, and employee relations. As part of this system, employees may seek assistance by using the Employer's human resources hotline administered at the corporate level. The hotline serves as a vehicle for employees to address questions related to policies, workplace concerns, or general benefits questions. Even with the centralized support centers and employee hotline,

employees are routinely prompted to address their concerns with store managers. Indeed, the Employer's policies and guidelines provided to employees establish store managers as the point people for resolving employee concerns, questions, or complaints.

Overall, the Employer maintains that upper-level management is involved behind the scenes on all matters related to labor relations and employee working conditions. However, the Employer did not provide specific examples of upper-level management's direct involvement with employees. Rather, the Employer asserted its corporate-level expectations for store operations. The record evidence and witness testimony repeatedly demonstrated that operations at the store-level differed significantly from corporate expectations and that while upper-level management may be involved behind the scenes, store managers consistently address day-to-day operations and employee concerns at the store level. Moreover, store managers routinely are the highest-level in-store management and represent the highest-level of authority in-store.

C. Employee Skills, Functions, and Working Conditions

Little dispute exists that skills, wages, and benefits are generally the same among the Employer's employees throughout its stores. Store employees use a common skillset to prepare and sell identical products at the Employer's stores nationwide. Notably, employees in District 380 are required to follow the same operating and policy manuals developed at the Employer's headquarters in Seattle, Washington, which apply equally to stores outside of District 380 and specify what food items will sold, the menu prices, and instructions on how to display and prepare food and drink items. Similarly, employees in District 380 operate the same type of equipment and follow the same procedures and routines when preparing and serving food and drinks as employees do nationwide to provide consistent product to consumers.

Employee wages are determined by the Employer's compensation team headquartered in Seattle, Washington. As such, wage scales for employees in District 380 are the same at each store. As noted above, store managers may promote baristas to the position of barista trainer, thereby issuing pay raises to employees, without requiring outside approval. Additionally, while the Employer determines the frequency at which employees are paid and the wages that each position receives, store managers are ultimately responsible for ensuring that payroll is accurate. Employee benefits are also determined by the Employer at a national level. Employees receive the same vacation, time-off, and family leave benefits; health, dental, vision, life, and disability insurances; stock grants; investment and 401(k) plans; educa-

tion benefits; COVID-19 benefits; food discounts; and free coffee and food while working.

Employees are also subject to the same national personnel policies and operating procedures. These procedures govern a range of functions and working conditions, including opening the store, clocking in and out, stocking and displaying merchandise, placing and closing transactions, preparing food and drinks, using the same uniforms and equipment, employee orientation and training, and employee development. Nevertheless, functions and working conditions may still vary between stores depending on the store setup and services provided. One of the fourteen stores in District 380 operates a café while the thirteen other stores, including Store 5610, operate cafés with drive-thrus which necessitate different lay-outs, sets of responsibilities, and operational considerations. At the regional level, the Employer employs store development managers who decide whether a store will be a café only or will be a café and drive-thru.

The Employer also sets store operating hours depending on the needs of the local community. Store managers generally lack authority to change store hours, except for exigent circumstances. For example, store managers have had to close stores early due to COVID-19 outbreaks and staffing shortages caused by COVID-19 outbreaks.

D. Employee Interchange

Individuals applying for hire with the Employer will apply to a store. The application and hiring process is maintained electronically, but store managers may receive applicants in-store and assist the applicants in applying electronically. Once hired, employees are assigned to a “home store,” generally, the location they were interviewed at, and where they will be oriented, trained, and regularly scheduled for work. However, employees can and do work shifts at stores beside their assigned home store through what the Employer refers to as borrowed employees. The record evidence demonstrates that this interchange is typically voluntary and may be initiated by employees seeking additional hours. The interchange may also precede a permanent transfer from one home store to another or may be related to other extenuating circumstances such as new store openings, temporary store closures, or staffing shortages.

The Employer maintains that individuals applying for a position, though they may apply at a particular store, are applying for employment at the district level. As such, the Employer places significant emphasis on its expectation that employees will be assigned to work for non-home store locations whenever necessary. The form employees fill out to indicate their availability to work apprises them of that possibility: “[y]ou could also be

asked to work at another location to meet the needs of the business or to attain your requested hours.” The Employer maintains that employees share a willingness to pick up additional hours and that the culture is such that employees would not refuse to work at another location if asked. Though employees can be disciplined for refusing work hours they have been directed to work, the Employer could not provide an example of employees refusing to work or being disciplined for refusing to work outside of their home store.

As noted by the only store manager to testify during the proceedings, though employees can be disciplined for refusing to work for shifts they have accepted, employees cannot be forced to accept shifts at other stores. Store managers can reach out to employees to seek their cooperation to cover a shift but may ultimately need to cover the shift in the event no employee volunteers. Employees are also responsible for finding coverage for shifts that they cannot work. To find coverage, employees may call or text each other and may also communicate through chat groups via the app GroupMe. GroupMe is a third-party platform and was not created by the Employer and is not owned, facilitated, or administered by the Employer. Employees use GroupMe to create different group chats that may include employees from different stores.

At hearing, the Employer provided raw data regarding employees⁹ working in District 380 during the period from April 29, 2019, to November 14, 2021. The raw data includes information about the amount of interchange within the 14 stores in District 380. The Employer also provided the data analysis and report by economist Dr. Abby Clay Turner to further detail the nature of employee interchange in District 380, including Store 5610. Data from fiscal year 2020 also reflect extenuating circumstances due to the COVID-19 pandemic during which stores may have been temporarily closed.

The Employer highlights the following statistics from its datasets relating to District 380 during the period from April 29, 2019, to November 14, 2021:

- Approximately 55.2% of employees worked in a single store, and, conversely, 44.8% of employees worked in two stores or more.
- Approximately 20.9% of employees worked at one other store beside their home store; ap-

⁹ As noted above, the Employer refers to store managers, assistant store managers, and shift supervisors as partners in its Partner Guide. Moreover, store managers may also be borrowed by other stores and be considered a borrowed partner. Employer’s Exh. 209 is a list of employees in District 380 which includes individuals employed as “baristas,” “shift superv,” “store mana,” and “assistant st.” It is unclear from the raw data or data analysis whether supervisory employees such as store managers were included in the overall calculations and statistics.

proximately 11.5% of employees worked at two other stores beside their home store; and approximately 12.4% of employees worked at three or more other stores beside their home store.

- On average, borrowed employees were required for approximately 25% of total workdays.

The Employer highlights the following statistics from its datasets relating to the petitioned-for Store 5610 during the period from April 29, 2019, to November 14, 2021:

- Of the employees working at Store 5610, approximately 45.1% of employees only worked at Store 5610, and, conversely, 54.9% of employees worked in two stores or more.
- Of the employees working at Store 5610, approximately 18.7% of employees worked at one other store beside Store 5610; approximately 11.4% of employees worked at two other stores beside Store 5610; and approximately 24.9% of employees worked at three or more other stores beside Store 5610.
- Store 5610 was the home store for approximately 42% of all employees working at Store 5610, while the remaining 58% were assigned to other home stores.
- On average, borrowed employees were required for approximately 24% of total workdays in Store 5610.

The Union highlights the following data as providing greater context and specificity regarding employee interchange:

- In fiscal year 2021, 20 out of 58 employees from store 5610 (approximately 34.5%) worked a shift at another store.
- In fiscal year 2021, 92 out of 6,356 shifts in store 5610 (approximately 1.4%) were shifts worked by borrowed employees.
- In fiscal year 2021, 477.83 out of 34,611.02 hours worked in store 5610 (approximately 1.4%) were worked by borrowed employees.

The Petitioner notes that, while the data shows that employees sometimes work at stores other than their home store, nearly 99% (approximately 98.6%) of hours at the petitioned-for Store 5610 were worked by employees dedicated to that store. The Petitioner points to the Employer's data provided in Exhibit 208 which, as pro-

vided to the parties at the hearing, is an Excel book with 11 sheets which include data from fiscal years 2020 and 2021 and October 4 through November 7, 2021.¹⁰ The Petitioner notes that Store 5610 demonstrates a high employee retention rate with a core group of 2–25 employees. Moreover, the Petitioner points to employee testimony which it contends further supports its position that borrowed shifts were infrequent and strictly voluntary.

E. Distance Between Locations

District 380 stores are located in five Arizona municipalities on the eastern part of the Phoenix metropolitan statistical area and lie within Maricopa and Pinal counties: six stores, including Store 5610, are located in the city of Mesa; three stores are located in the town of Gilbert; two stores are located in the unincorporated community of San Tan Valley; two stores are located in the town of Queen Creek; and one store is located in the city of Apache Junction. The Employer uses a population density average of 10,000 people per mile in deciding a store's location. Due to constraints in real estate, locations may be opened in areas with population densities significantly below or above the 10,000 people per mile.¹¹

Stores in District 380 are spread across a geographic area with a 25-mile radius and range from approximately 1.5 to approximately 16 miles apart. According to maps provided by the Employer, Store 5610 is geographically located in the northwest area of District 380. Six stores in District 380 appear within 6 miles east of Store 5610. Seven stores outside of District 380 appear within 6 miles west of Store 5610.

F. Bargaining History

The Employer has no bargaining history with Store 5610 or any store in District 380.

III. ANALYSIS

A. The Appropriateness of a Single-facility Petitioned-for Unit

The Board has long held that a petitioned-for single-facility unit is presumptively appropriate unless it has been so effectively merged or is so functionally integrated with other facilities that it has lost its separate identity. *Dixie Belle Mills, Inc.*, 139 NLRB 629, 631 (1962).

¹⁰ Employer's Exhibit 208 included sheets labeled: Info, Raw Data, Aggregated Data, Q1, Q2, Q3, Q4, Q5, Q6, Q7, and Q8. The entire document does not appear to have been included in the combined file of Employer's exhibits and only appears to include data from sheet "Q7."

¹¹ Store Development Director Karen Parrott testified that a store may be open at a location with a population density of 6000 people per mile, or at a location with a population density of 15,000 people per mile, and that the population densities may balance out to 10,000 people per mile over the course of several miles.

The party contesting a single-facility unit bears a “heavy burden of overcoming the presumption.” *California Pacific Medical Center*, 357 NLRB 197, 200 (2011). To rebut this presumption, the Employer “must demonstrate integration so substantial as to negate the separate identity” of the single store units. *Id.*

To determine whether the single-facility presumption has been rebutted, the Board examines: (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) the degree of employee interchange; (4) the distance between locations; and (5) bargaining history, if any exists. See, e.g., *Trane*, 339 NLRB 866, 867 (2003); *J & L Plate, Inc.*, 310 NLRB 429, 429 (1993). These same factors apply in the retail chain setting. See, e.g., *Red Lobster*, 300 NLRB 908, 912 (1990); *Foodland Of Ravenswood*, 323 NLRB 665, 666 (1997).

Nearly 60 years ago, in *Sav-On Drugs*, the Board abandoned its prior general policy in the retail chain context of making unit determinations coextensive with the employer’s administrative division or the involved geographic area. 138 NLRB 1032 (1962); accord *Frisch’s Big Boy Ill-Mar, Inc.*, 147 NLRB 551 (1964). The Board decided that it would “apply to retail chain operations the same unit policy that it applies to multi-plant enterprises in general, that is . . . in the light of all the relevant circumstances of the particular case.” *Frisch’s Big Boy*, 147 NLRB at 551–552.

The Board expanded upon this policy in *Haag Drug*, stating, “[o]ur experience has led us to conclude that a single store in a retail chain, like single locations in multilocation enterprises in other industries, is *presumptively* an appropriate unit for bargaining.” 169 NLRB 877, 877 (1968) (emphasis in original). It elaborated:

Absent a bargaining history in a more comprehensive unit or functional integration of a sufficient degree to obliterate separate identity, the employees’ ‘fullest freedom’ is maximized, we believe, by treating the employees in a single store . . . as normally constituting an appropriate unit for collective bargaining purposes. *Id.* at 877.

However, as in other contexts, the single-facility presumption is rebuttable. The Board explained:

...(W)here an individual store lacks meaningful identity as a self-contained economic unit, or the actual day-to-day supervision is done solely by central office officials, or where there is substantial employee interchange destructive of homogeneity, these circumstances militate against the appropriateness of a single-store unit. *Id.* at 879.

Here, the Employer has failed to carry its burden that the unit must consist, at a minimum, of the 14 stores in its District 380. In so finding, I note first that the unit sought by a petitioner is always a relevant consideration. *Lundy Packing Co.*, 314 NLRB 1042, 1043 (1994). “Although other combinations of employees here may also constitute an appropriate unit,” the issue is only whether the employees at each petitioned-for store “alone constitute *an* appropriate unit.” *Foodland Of Ravenswood*, 323 NLRB at 666. “There is nothing in the statute which requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the most appropriate unit; the Act only requires that the unit be ‘appropriate.’” *Id.* (quoting *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950)); see also *Haag Drug*, 169 NLRB at 877 (“It is elementary that more than one unit may be appropriate among the employees of a particular enterprise.”).

As detailed below, based on the parties’ arguments and the record as a whole, I find that the petitioned-for single-facility unit is appropriate.

B. The Centralization of Operations

The Board has long recognized that it “is common in retail chain operations, and particularly in food chains, [for there to be] a considerable degree of centralized administration in the functioning of . . . stores.” *Angeli’s Super Valu*, 197 NLRB 85, 85 (1972). It has noted that, “though chainwide uniformity may be advantageous to the employer administratively, it is not a sufficient reason in itself for denying the right of a separate, homogeneous group of employees, possessing a clear community of interest, to express their wishes concerning collective representation.” *Haag Drug*, 169 NLRB at 878.

The Employer operates a highly centralized national retail chain operation and takes great care and pride in executing a standardized customer experience across its locations. To accomplish this, it relies heavily on its centralized operating procedures, including distribution channels, store design, and product offerings, placement, marketing, and promotions, as evidence of functional integration. Notwithstanding the Employer’s evidence of centralized operations, such a circumstance is not considered a primary factor in the consideration of single-store units in the retail industry. *Id.*

The functional integration of two or more plants in substantial respects may weigh heavily in favor of a more comprehensive unit, but it is not a conclusive factor. See *Dixie Belle Mills, Inc.*, 139 NLRB 629, 632 (1962); *J&L Plate*, 310 NLRB 429 (1993). Nevertheless, I am mindful that local autonomy of operations militates toward a separate unit. *Massachusetts Society for the Prevention of Cruelty to Children v. NLRB*, 297

F.3d 41, 47 (1st Cir. 2002); *Hilander Foods*, 348 NLRB 1200, 1202–1205 (2006); *Angelus Furniture Mfg. Co.*, 192 NLRB 992 (1971); *Bank of America*, 196 NLRB 591 (1972); *Parsons Investment Co.*, 152 NLRB 192 (1965); *J. W. Mays, Inc.*, 147 NLRB 968, 969–970 (1964); *Thompson Ramo Wooldridge, Inc.*, 128 NLRB 236, 238 (1960); *D&L Transportation*, 324 NLRB 160 (1997); *New Britain Transportation Co.*, 330 NLRB 397 (1999).

In this regard, I find that the stores' standardization is outweighed by other evidence of local autonomy in operations and labor relations.

C. Control Over Daily Operations and Labor Relations, Including the Extent of Local Autonomy

Even where there was substantial centralization of authority and considerable product integration between facilities, the Board has held that a single facility could constitute a separate appropriate unit if the requested facility retained a substantial degree of autonomy. See *Black and Decker Manufacturing Co.*, 147 NLRB 825 (1964).

The Board considers evidence of local autonomy in daily operations and labor relations to be key considerations in assessing the appropriateness of single-store units in retail chain operations. For example, in *Haag Drug*, the Board found that one of 11 restaurants operated by an employer in a geographic area was an appropriate unit despite a "high degree of centralized administration," including central profit-and-loss records, payroll functions, and chainwide handling of purchasing, vendor payments, and merchandising. 169 NLRB at 878. In finding the single-facility unit appropriate, the Board noted that the centralized operations bore "no direct relation to the employees' day-to-day work and employee interests in the conditions of their employment." *Id.* at 879. The Board explained:

More significant is whether or not the employees perform their day-to-day work under the immediate supervision of a local store manager who is involved in rating employee performance, or in performing a significant portion of the hiring and firing of the employees, and is personally involved with the daily matters which make up their grievances and routine problems. It is in this framework that the community of interest of the employees in a single store takes on significance, for the handling of the day-to-day problems has relevance for all the employees in the store, but not necessarily for employees of the other stores. *Id.* at 878.

The evidence adduced at hearing demonstrates that store managers exercise discretion over many daily operational and labor relations matters. Store managers prepare work schedules, secure coverage outside of employ-

ees' stated availabilities, and make work assignments based on their independent judgment of employees' preferences and strengths. They interview job applicants and effectively recommend individuals for hire, conduct orientations and trainings, and issue or effectively recommend discipline and termination. They observe employee performance, evaluate them, play a central role in promotions, and mediate daily grievances. Store managers issue discipline and effectively recommend disciplinary actions. Though district managers and the Employer's human resources team may be involved in disciplinary action and employee terminations, the record contains no examples of district managers conducting independent investigations of disciplines, evaluations, or grievances.¹² Regarding the hiring of employees, while district managers may facilitate hiring fairs, there is no direct evidence of district managers participating in applicant interviews. Moreover, district managers are simply not present in any individual store with enough frequency to serve as supervisory eyes and ears.¹³

Record evidence demonstrates that "the employees perform their day-to-day work under the immediate supervision of a local store manager who is involved in rating employee performance, or in performing a significant portion of the hiring and firing of the employees and is personally involved with the daily matters which make up their grievances and routine problems." See *Haag Drug*, 169 NLRB 877, 878 (1968). The Employer generally contends that its automated tools and company-wide policies limit store managers' discretion over in-store daily matters. However, the conclusory and generalized testimony provided by the Employer's witnesses fails to rebut the record evidence that store managers play a significant role in adjusting schedules, approving time off and overtime, evaluating employees, conducting interviews and hiring employees, and imposing discipline.

Accordingly, I find that store managers are vested with significant autonomy in handling a range of operational and labor relations matters at the local level,¹⁴ notwith-

¹² See *Red Lobster*, 300 NLRB at 911 (noting importance of independent investigation by upper-level management on matters such as discharges).

¹³ *Red Lobster*, 300 NLRB at 908, fn.4 (finding local autonomy in case where upper level supervisors were present in stores for a full day about once each week and possibly also on store managers' days off in part because "there is insufficient staffing for persons in these two positions to be present in all restaurants at all times"); *Renzetti's Mkt., Inc.*, 238 NLRB 174, 175–176 (1978) (emphasizing that daily supervisor is "better able to comment on the job performance of employees over whom he has constant supervision").

¹⁴ *Cargill, Inc.*, 336 NLRB 1114, 1114 (2001) (finding local autonomy when supervisors make assignments, supervise work, schedule maintenance inspections, impose discipline, handle initial employee

standing the existence of centralized policies and procedures.

D. Employee Skills, Functions, and Working Conditions

No meaningful dispute exists that employees' wages and benefits are uniform throughout District 380 and established by corporate leadership. However, "[w]hile employee benefits have been centrally established, and the uniformity thereof is of some significance, no greater control or uniformity has been shown here than is characteristic of retail chain store operations generally." *Haag Drug*, 169 NLRB at 879.

Likewise, employees' skill sets are largely the same in Store 5610 as in any other store in District 380. Notably, these facts are largely true of all the Employer's stores nationwide. Differences in job functions exist across café only and drive-thru stores in District 380 in similar fashion to stores at a national level. Such differences necessitate different store layouts, equipment, staffing

complaints, and schedule vacations); *Eschenbach-Boysa Co.*, 268 NLRB 550, 551 (1984) (finding local autonomy where stores managers conduct interviews, hire employees, grant time off, and resolve employee problems and complaints even though upper-level manager "reserves for himself many management prerogatives [because] he necessarily must leave many of the day-to-day decisions . . . to his managers"); *Foodland of Ravenswood*, 323 NLRB at 667 ("[R]esponsibility . . . to hire part-time employees, to schedule and assign employees, to approve overtime, to grant time off, to impose and recommend discipline, to evaluate employees and recommend their promotion, and to resolve and handle formal and informal employee grievances, constitutes significant evidence of local authority over employees' status such that centralized control over other matters does not overcome the appropriateness of a single-store unit."); *Renzetti's Mkt.*, 238 NLRB at 174 (finding merit to petitioner's contention that such factors as centralized administrative control, uniform fringe benefits, and interdependence of the stores' operations were outweighed by the "factor which is of chief concern to the employees," the day-to-day working conditions, including discipline, scheduling, requests for leave, and handling routine grievances); *Bud's Thrift-T-Wise*, 236 NLRB 1203, 1204 (1978) (finding that, though central labor policies circumscribed authority, store managers exercised autonomy in interviewing, scheduling, granting time-off, adjusting grievances, evaluating employees, and making effective recommendations for hiring, discipline, and firing); *Lipman's*, 227 NLRB 1436, 1437 (1977) ("With regard to local autonomy, we find that supervisory personnel at the store level exercise considerable authority in personnel matters. While the personnel director makes final decisions as to discipline, schedules vacations, arranges for transfers, and handles grievances brought to her, in our opinion, the store manager and the personnel clerical at the downtown store also have and exercise substantial authority in the personnel area, in that the store manager evaluates and reprimands employees and the personnel clerical interviews, hires, schedules employee shifts, vacations, and overtime, and adjusts grievances."); *Walgreen Co.*, 198 NLRB 1138, 1138 (1972) (finding store manager's autonomy significant where district managers visited individual store, at best, monthly and manager had authority for most hiring); *Haag Drug*, 169 NLRB at 879-80 (stating that store managers are generally autonomous in rating employee performance, hiring and firing, and handling routine grievances).

needs, job responsibilities, and store hours, further supporting the appropriateness of a single-facility unit.¹⁵

As such, I find that differences in job functions and working conditions exist within District 380, outweighing the significance of the Employer's standardized wages, benefits, and skills that are to be expected in a national retail chain.

E. Employee Interchange

Employee interchange must be considered in the total context. *Gray Drug Stores, Inc.*, 197 NLRB 924 (1972); *Carter Camera Shops*, 130 NLRB 276, 278 (1961). Here, the record is replete with data on employee interchange. The Employer argues that its data shows significant interchange throughout District 380. It further emphasizes that employee interchange is facilitated by a corporate culture that "expects" employees to work anywhere in the district as well as the informal third-party group chat used by employees to cover and swap shifts.

However, the employee interchange data provided by the Employer may include store managers.¹⁶ The raw data provided by the Employer and used by Dr. Turner in her analysis of employee interchange does not address or account for the inclusion of store managers into the final tallies of "borrowed partners." As noted by witnesses for both the Employer and the Petitioner, store managers may be borrowed and concurrently used for coverage at separate stores. Moreover, the amount of time that a store manager may be borrowed by any one particular store may significantly skew the statistics related to borrowed partners because store managers do not merely cover single shifts. Rather, store managers may be used for extended periods of time to cover for store managers on vacation or to facilitate the opening of new locations.

Undisputed record evidence further calls the Employer's assertions into question. For example, employee and store manager testimony establishes that employee interchange is largely voluntary. Employees and store managers use a third-party chat interface to arrange, request, and accept shift swaps at their home stores or between stores. As such, employee interchange appears to be the responsibility and under the immediate control of employees and store managers. Though the Employer asserts that employees are expected and directed to cover shifts throughout District 380 or face disciplinary action,

¹⁵ See *Lipman's*, 227 NLRB at fn.7 (noting that two nearby stores had their own "identity as a distinct economic unit by virtue of the fact that one is known as the downtown store and the other is located in a shopping mall"); *Hot Shoppes, Inc.*, 130 NLRB 138, 141 (1961) (finding operations "functionally distinct" where some workers catered at airport and others served in normal restaurants).

¹⁶ Dr. Turner verified that she used the data from Employer's Exh. 208 to complete her analysis of borrowed employees.

the record evidence does not support the Employer's assertions and instead indicates that employees are not required to accept additional work hours or shifts. Moreover, no specific evidence was provided demonstrating that employees have been disciplined for not volunteering or for declining additional shifts. Ultimately, testimony supports the conclusion that employees have the option of accepting or volunteering for shifts or hours at other stores.

The Board has noted that voluntary interchange should be afforded less weight in rebutting the single-facility presumption.¹⁷ Similarly, aside from a voluntary, informal group chat, there is little evidence of regular contact between employees of different stores.¹⁸ The Employer notes that employees regularly pick up out-of-stock supplies from nearby locations, but this point speaks more to the standardization of the Employer's products than to the destruction of homogeneity of individual stores.¹⁹

It is appropriate to give special consideration to interchange at the petitioned-for Store 5610, since it is the homogeneity of those employees that is the central question in assessing whether those employees constitute an appropriate unit. The Employer's data is pivotal to this analysis. Namely, during fiscal year 2021, from September 28, 2020, to October 3, 2021, the percentage of hours worked at Store 5610 by borrowed employees amounted to 1.4 percent of the total hours worked. Additionally, during fiscal year 2021, the percentage of shifts worked by borrowed employees at Store 5610 amounted to 1.4 percent of the total shifts worked. District wide, in fiscal year 2021, the percent of shifts worked by borrowed employees was 1.9 percent of total shifts worked. Furthermore, in fiscal year 2021, the percent of hours worked by borrowed employees amounted to 1.8 percent of total hours worked.²⁰ Such minimal numbers are not sufficient to demonstrate that a single-facility's homogeneity of employees has been destroyed or to rebut the single-facility presumption.²¹

¹⁷ *New Britain Transp. Co.*, 330 NLRB 397, 398 (1999) (“[V]oluntary interchange is given less weight in determining if employees from different locations share a common identity.”); *Red Lobster*, 300 NLRB at 911 (noting that “the significance of that interchange is diminished because the interchange occurs largely as a matter of employee convenience, *i.e.*, it is voluntary”) (emphasis added).

¹⁸ *Hilander Foods*, 348 NLRB at 1203 (“There is no evidence that . . . employees have had frequent contact with employees at the other facilities as a result of central training, central meetings, community service projects, or the newsletter.”).

¹⁹ *Eschenbach-Boysa Co.*, 268 NLRB 550 (1984) (finding single store units appropriate notwithstanding that “[o]nce or twice a week, uniforms, small equipment, or food is transferred between the two restaurants to relieve temporary shortages”).

²⁰ See Employer's Exhibit 208.

²¹ *Cf. Cargill, Inc.*, 336 NLRB at 1114 and *Britain Transp.*, 330 NLRB at 398 with *Purolator Courier Corp.*, 265 NLRB 659, 661

Consequently, I find that the level of employee interchange supports the petitioned-for single-facility unit. I note that while the Employer has demonstrated that a significant percentage of employees work “at least one shift” at another store “per year,” this is not evidence of *regular* interchange sufficient to rebut the single-facility presumption, especially because the data provided by the Employer indicate that the petitioned-for stores “borrow” only a very small percentage of their labor from other stores. See *Cargill, Inc.*, 336 NLRB 1114, 1114 (2001).

F. Distance Between Locations

Geography is frequently a matter of significance in resolving geographical scope issues. *Dixie Belle Mills, Inc.*, 139 NLRB 629, 632 (1962); see also *Van Lear Equipment, Inc.*, 336 NLRB 1059, 1063 (2001); *D&L Transportation*, 324 NLRB 160 (1997); *New Britain Transportation Co.*, 330 NLRB 397, 398 (1999). Generally, plants which are in close proximity to each other are distinguished from those which are separated by meaningful geographical distances. *Id.*

The stores in District 380 are not so proximate as to weigh strongly in favor of a larger 14-store unit. They are located within a 25-mile radius within the geographical boundaries of five separate municipalities in two separate counties in Arizona. Although the petitioned-for store is less than 12 miles from most other locations, it lies over 12 miles from the furthest store in District 380. The Board has regularly found a multi-facility unit inappropriate in cases involving closer or similar proximities.²²

G. Bargaining History

That the Employer lacks a bargaining history for any store in District 380 or any history of bargaining in a more comprehensive unit is at best a neutral factor. If anything, it lends support to the appropriateness of a single-facility unit in the present case. See *Lipman's*, 227 NLRB 1436, 1438 (1977) (in finding single store units in retail chain appropriate, emphasizing “the fact that there is no bargaining history for any of these employees, and

(1982) (interchange factor satisfied where 50 percent of the work force worked at other facilities each day and were frequently supervised by managers at other terminals) and *Dayton Transp. Corp.*, 270 NLRB 1114 (1984) (presumption rebutted with 400 to 425 temporary employee interchanges between terminals among a workforce of 87 and the temporary employees were directly supervised by the terminal manager from the point of dispatch).

²² *Lipman's*, 227 NLRB at fn.7 (1977) (finding stores located only 2 miles apart appropriate single-facility units); *Red Lobster*, 300 NLRB at 908, 912 (finding stores with an average distance of 7 miles apart and all within a 22-mile radius appropriate single-facility units); *New Britain Transp.*, 330 NLRB at 398 (“[G]eographic separation [of 6 to 12 miles], while not determinative, gains significance where, as here, there are other persuasive factors supporting the single-facility unit).

the fact that no labor organization seeks to represent the employees on a broader basis”).

IV. CONCLUSION

Based upon the record and in accordance with the discussion above, I find that the Petitioner’s petitioned-for unit limited to Store 5610 is appropriate. I further find that given the lack of centralized control and employee interchange, the factors under the Board’s single-facility test—similarity of employee skills, functions, and work-

ing conditions; geographic proximity; and bargaining history—are not sufficient to rebut the single-facility presumption. No determination has been made concerning the eligibility of the Assistant Store Managers, as such the employees in this classification, if any, are allowed to vote subject to challenge, with a decision on the eligibility of these individuals to be resolved in a post-election proceeding, if necessary.