

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 20**

**SACRAMENTO TELEVISION STATIONS INC.**

**Employer**

**and**

**Case 20-RC-340912**

**NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES AND TECHNICIANS –  
COMMUNICATIONS WORKERS OF AMERICA,  
AFL-CIO**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

The Petitioner seeks to represent a unit of all full-time and regular part-time directors, maintenance technicians, building maintenance workers, and operations technicians employed by the Employer at its 2713 KOVR Drive, West Sacramento, California facility. The Employer maintains that the unit sought by the Petitioner is not appropriate because directors should be excluded from the unit. Otherwise, the Petitioner and the Employer agree that the unit should include maintenance technicians, building maintenance workers, and operations technicians.

A hearing officer of the Board held a hearing in this matter and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board law, I find that the unit sought by the Petitioner is appropriate.

**THE EMPLOYER'S OPERATION**

The Employer, Sacramento Television Stations Inc., produces television broadcasts on two television stations: KOVR and KMAX. The Employer produces GoodDay Sacramento, a variety show on KMAX, and CBS news programs, which air on KOVR and KMAX. The news program begins at 4:30 a.m. each weekday. GoodDay Sacramento begins at 7 a.m. every day. GoodDay Sacramento is an unscripted program, while KOVR news programs are scripted. The production takes place primarily out of a station located at 2713 KOVR Drive in West Sacramento, California, which houses two control rooms, including audio rooms and studios, an engineering shop, transmission department, and newsroom. Control room A is used for GoodDay Sacramento, and control room B is used for KOVR news programs.

Mike Parks is the director of technology for the Employer. He testified that he oversees the Engineering, Operations, and IT Department. Ben Ganger is the engineering manager. Ganger reports to Parks. Ganger oversees the maintenance technicians and building maintenance

worker. There are five maintenance technicians and one building maintenance worker currently employed by the Employer.

The Operations Department produces television broadcasts. George Stuart is the operations manager, and he reports to Parks. Stuart oversees the operations supervisor, directors, and operations technicians. The Employer currently employs ten directors and four operations technicians.

## **BOARD LAW**

When determining whether a unit is appropriate, the Board delineates the grouping of employees within which freedom of choice may be given collective expression. At the same time, it creates the context within which the process of collective bargaining must function. Therefore, each unit determination must foster efficient and stable collective bargaining. *Gustave Fisher, Inc.*, 256 NLRB 1069 (1981). The Board has made clear that the unit sought for collective bargaining need only be *an* appropriate unit. Thus, the unit sought need not be the ultimate, or the only, or even the most appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723, 723 (1996). When deciding whether the unit sought in a petition is appropriate, the Board focuses on whether the employees share a “community of interest.” *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985). In turn, when deciding whether a group of employees shares a community of interest, the Board considers whether the employees sought are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002). All relevant factors must be weighed in determining community of interest.

## **APPLICATION OF BOARD LAW TO THE FACTS OF THIS CASE**

### **Administrative Organization**

One consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer’s operation; i.e. whether the petitioned-for unit tracks a dividing or departmental line drawn by the employer. The Board is cognizant of the “administrative set-up” of the employer’s operations and that the manner in which it is structured has a “direct bearing on the community of interest among various groups of employees.” See *International Paper Co.*, 96 NLRB 295, 298 fn. 7 (1951). For example, in finding the petitioned-for unit appropriate in *Macy’s, Inc.*, 361 NLRB 12 (2014), the Board found it particularly significant that the unit conformed to the departmental lines established by the employer in comprising all of the sales employees in the cosmetics and fragrances department. Similarly, in *Northrup Grumman Shipbuilding, Inc.*, 357 NLRB 2015, 2019 (2011) the Board emphasized that the employer had “placed all [the petitioned-for employees] in a separate department, under separate supervision,” in finding the petitioned-for unit appropriate.

Here, the Operations Department includes the production supervisor, directors, and operations technicians. The Engineering Department includes the maintenance technicians and building maintenance worker. Thus, the record is clear that the petitioned-for unit conforms to an administrative grouping of two departments: Operations and Engineering. The Employer's proposal to exclude directors from the petitioned-for unit would sever them from the other Operations Department employees. I find that this factor rules in favor of finding the petitioned-for unit appropriate.

### **Interchange among Employees**

Interchange refers to temporary work assignments or transfers between two groups of employees. Frequent interchange "may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills." *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). Lack of significant employee interchange between groups of employees suggests that employees enjoy a separate community of interest. See e.g., *MGM Mirage*, 338 NLRB 529 (2002) (Board found evidence of only 14 transfers over a 10-year span and none during the 17 months preceding the hearing to be insignificant).

In the case at bar, one director testified that maintenance technicians and operations technicians cover for directors only in rare emergencies. The maintenance building worker has never covered the shift of a director. The same director testified that he had never covered for a maintenance technician, operation technician, or maintenance building worker.

The record reveals no evidence of temporary and/or permanent transfers between the employees whom the parties agree are in the unit and the directors the Employer seeks to exclude. Thus, I find that this factor rules against finding that the directors share a community of interest with the other petitioned-for employees.

### **Contact among Employees**

Also relevant is the amount of work-related contact among employees, including whether they work beside one another. See for example, *Casino Aztar*, 349 NLRB 603, 605-606 (2007).

The directors on the GoodDay Sacramento program are in frequent contact with operations technicians for the show's physical production, live shots, and audio board operation. All directors communicate at times with the operations technicians regarding transmissions. Directors communicate frequently with the maintenance technicians to resolve issues they encounter with the equipment or systems they are using.

Directors perform their work in the studios and control rooms. Operations technicians work in the studio and control room for the GoodDay Sacramento show, as well as the transmission department within the facility. The maintenance technicians work in multiple locations, including the studios and control rooms in the Employer's facility.

The building maintenance worker maintains the entire facility, as well as remote locations, which the maintenance technicians also service. There is no evidence in the record that the building maintenance worker has regular contact with directors.

In sum, there is evidence of significant work-related contact between the employees the parties agree are in the unit and the directors the Employer seeks to exclude. Thus, I find that this factor weighs in favor of finding that the petitioned-for unit shares a community of interest.

### **Common Supervision**

Another community-of-interest factor is whether the employees in dispute are commonly supervised. Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit. *United Operations*, supra at 125. Similarly, while two groups of employees being separately supervised weighs against their inclusion in the same unit, separate supervision does not mandate separate units. *Casino Aztar*, supra at 607, fn 11.

Operations Manager George Stuart supervises both the directors and the operations technicians, while the maintenance technicians and building maintenance worker are supervised by Engineering Manager Bob Ganger. Both Ganger and Stuart report to Director of Technology Mike Parks.

Because the directors share a common direct supervisor (Stuart) with other petitioned-for employees and share an upper-level supervisor (Parks) with all the petitioned-for employees, this factor weighs in favor of finding the petitioned-for unit to be appropriate.

### **The Nature of Employee Skills and Functions**

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew, support a finding of similarity of functions. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *Hamilton Test Systems*, 265 NLRB 595 (1982).

#### *Directors*

Directors build and execute live shows. They do so by coding the Sony ELC automation production system to prepare the show's technical build. Directors use creative control during the show. Directors primarily work on either the GoodDay Sacramento program or news programs. Directors for GoodDay Sacramento work with an audio director - either another director or an operations technician - because they cannot automate audio. They also change camera angles by communicating with the operations technician operating the camera. Directors run cameras regularly as well. All directors serve as an assistant director by supporting other directors' show execution, adjusting code as needed, and touching up camera shots.

The record is clear that directors need to have some technical knowledge of ELC, iNEWS, ISQ, and IFB. Directors also need to know how to run the audio board. The Director of Technology testified that there is no educational requirement for the director position. Although the Employer introduced a director job description into the record that indicated that a college degree or equivalent is preferred, it did not present a witness with first-hand knowledge of the document's origin.

One director testified that one of his training goals is to relearn transmission duties of an operations technician, but there is no evidence in the record that the directors participate in the same training programs as other classifications in the petitioned-for unit.

#### *Maintenance Technicians*

Maintenance technicians maintain all the station equipment, troubleshoot systems, identify and solve issues. They support all the systems used by the directors in the control room and studio, as well as those in transmitter operations and field operations. Maintenance technicians also make recommendations for replacing equipment, design equipment upgrades, and install equipment.

Maintenance technicians are required to have a strong electronic background. They must be familiar with radio frequency theory, computers, technology, and video distribution. The record is clear that an academic background in electrical engineering is desired for this role.

#### *Building Maintenance Worker*

The building maintenance worker maintains and repairs the facility. They are responsible for coordinating with vendors that provide maintenance services, as well as assisting the maintenance technicians at remote sites.

Requirements for the building maintenance role include organizational skills and mechanical skills related to physical facilities. The Director of Technology testified that there is no education requirement. The Employer introduced a building maintenance worker job description into the record that notes "experience in construction and/or a degree or certification from a technical school is desired," however it did not produce a witness with first-hand knowledge of the document's origin.

#### *Operations Technicians*

Operations technicians manage transmission operations. They ensure video production is transmitted with the desired audio and recordings. They also assign IFB channels and provide feedback to talent in the field. They also work on the GoodDay Sacramento show to support the show's physical production by running cameras, preparing guests, setting up bands, and handling the audio board. Operations technicians also handle iNEWS.

The Director of Technology testified that there is no education requirement for this role. The Employer introduced an operations technician job description into the record that notes “AA degree or higher in Television Production or equivalent preferred,” but did not present a witness who could substantiate or provide foundation for the job description.

The record reveals that the job functions, duties, and skills of directors differ substantially from those of the other petitioned-for employees. Directors do not maintain, troubleshoot, or repair equipment as the maintenance technicians do. The directors and maintenance technicians use the same software and equipment, but in distinct roles – the former to operate and the latter to maintain. Directors do not handle transmissions, but they handle the audio board and run cameras just as operations technicians do. Finally, directors are not responsible for building maintenance and repairs, which is the primary function of the building maintenance worker. Taken together, the differences in job function, duties, and skills outweigh the similarities, such that this factor weighs against finding that the directors share a community of interest with the other petitioned-for employees.

### **Degree of Functional Integration**

Functional integration exists where employees must work together and depend on one another to accomplish their tasks. See, e.g., *Wideopen West Illinois, LLC*, 371 NLRB No.107 at fn 16 (2022), citing *Casino Aztar*, supra at 605 (2007); *Publix Super Markets, Inc.*, 343 NLRB 1023, 1024-1025 (2004). Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. *Transerv Systems*, 311 NLRB 766 (1993). However, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.

The record reveals that nearly all the petitioned-for unit employees work toward the common goal of producing TV programs. Specifically, the six directors on the GoodDay Sacramento program work closely with the operations technicians to physically produce the show. They work hand-in-glove with the operations technicians to ensure that their programs are properly transmitted to the station. They both handle cameras during the morning broadcasts and discuss transmission issues as they arise.

Further, the record evidence shows a significant degree of functional integration among the maintenance technicians and directors. Directors often implement quick fixes by closing and reopening software, but they otherwise rely on maintenance technicians to repair systems and prevent technical malfunctions, which occur frequently. One maintenance technician also testified that he provides support to directors if they need help running audio or moving cameras.

Finally, directors carry out their work in control rooms and studios, both of which are physically maintained by the building maintenance worker.

In this matter, the record reveals a high degree of functional integration among the petitioned-for employees. The directors rely on, and work directly with, the operations technicians to produce and transmit the GoodDay Sacramento program. The systems and equipment, which maintenance technicians maintain on the spot and in real time, are essential to the directors' production work. Consequently, this factor weighs in favor of a finding that the directors share a community of interest with the other petitioned-for employees.

### **Terms and Conditions of Employment**

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. For example, in *International Bedding Co.*, 356 NLRB 1336 (2011), the Board found the petitioned-for unit to be appropriate when their common interests included, among other things, shared benefits (such as vacation leave and paid holidays), work rules, employee meetings, and break rooms. In addition, most of the unit sought were all paid on an hourly basis and worked the same schedule. On the contrary, when separate groups of employees shared the same benefits package, a common personnel system for hiring, background checks and training—but had very little else in common—the Board found that a community of interest did not exist. *American Security Corporation*, 321 NLRB 1145 (1996)

Here, most of the employees in the petitioned-for unit are paid on an hourly basis. Directors are offered the same benefit plans and use the same payroll system as operations technicians and maintenance technicians. Directors and operations technicians work the same eight-hour shifts, while maintenance technicians work ten-hour shifts. One director testified that directors work either from 2:45 pm to 11:45 pm or 4:30 am to 12:30 pm. One maintenance technician testified that he works the morning shift from 4:30 am to 2:30 pm Sundays through Wednesdays alongside three to four directors. As outlined here, directors' shifts overlap with both maintenance technicians and operations technicians.

The record reveals that the directors share sufficient common terms and conditions of employment with the other petitioned-for employees to tip the balance in favor of finding that the petitioned-for unit shares a community of interest.

### **CONCLUSION**

In determining that the unit sought by the Petitioner is appropriate, I have carefully weighed the community-of-interest factors cited in *United Operations*, supra. I conclude that the unit sought by Petitioner is appropriate because it tracks the departmental lines drawn by the Employer, the employees are in frequent contact with one another, share common supervision, are functionally integrated, and have common terms and conditions of employment.

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

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>1</sup>
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Directors, Maintenance Technicians, Building Maintenance Workers, and Operations Technicians employed by the Employer at its 2713 KOVR Drive, West Sacramento, California facility. Excluding all other employees, guards, and supervisors as defined by the Act.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by National Association of Broadcast Employees and Technicians – Communications Workers of America, AFL-CIO.

#### **A. Election Details**

The election will be held on Wednesday May 29, 2024 from 11:30 a.m. to 1:00 p.m. and 2:30 p.m. to 3:30 p.m. in the lunchroom at the Employer's facility located at 2713 KOVR Drive, West Sacramento, California.

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<sup>1</sup>The Employer, Sacramento Television Stations Inc., a Delaware corporation with a facility located at 2713 KOVR Drive, West Sacramento, California, the sole facility involved herein, is engaged in the business of television broadcasting. During the past 12 months, a representative period, the Employer derived gross annual revenues in excess of \$100,000 and purchased and received goods valued in excess of \$50,000 from sources directly outside the State of California.



## **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll-period ending date **immediately preceding the April 26, 2024 filing of the petition in this matter**,<sup>2</sup> including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

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

## **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties **by May 22, 2024**.<sup>3</sup> The list must be accompanied by a certificate of service showing service on all parties. **The Region will not serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

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<sup>2</sup> The parties agreed on the record to use the "standard" payroll-period ending (PPE) date for eligibility, but erroneously assigned that date as the PPE date immediately preceding the filing of the petition, rather than the issuance of this Decision. Notwithstanding the parties' confusion regarding the standard, I shall honor their agreement.

<sup>3</sup> The Petitioner waived its right to have the voter list for the full 10 days before the election in this matter.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

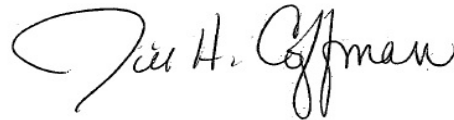
#### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request

for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated: May 20, 2024



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