

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

**CENTRAL HUDSON GAS
& ELECTRIC CORPORATION**

Employer

and

Case 03-RC-365557

IBEW LOCAL 320

Petitioner

DECISION AND ORDER

Central Hudson Gas & Electric Corporation (“Employer”) is a transmission and distribution utility company serving customers throughout New York’s Mid-Hudson River Valley. The Employer delivers natural gas and electricity from Putnam and Orange counties in the south to Albany and Columbia counties in the north. On May 13, 2025, IBEW Local 320 (“Union”) filed an *Armour-Globe* petition to include the Employer’s 26 Line Supervisors and Associate Line Supervisors¹ into the existing Transmission & Distribution (“T&D”) bargaining unit.²

¹ As the Line Supervisors and Associate Line Supervisors have all the same job duties and responsibilities, the parties referred to them together as “Line Supervisors” and I will do the same herein.

² The contract reflects that the current T&D bargaining unit includes the following positions: chief construction maintenance worker, chief gas mechanic, chief gas mechanic special, chief gas mechanic welder, chief gas mechanic welder special, chief gas meter repair man/woman, chief gas production man/woman, chief instrumentation & communication technician, chief line clearance technician, chief line clearance technician-PC, chief mechanic, chief plant technician, chief power line technician 2/C, chief power line technician 2/C LES&T electrician, chief power line technician 2/C (LES&T), chief power line technician 2/C (LES&T)-PC, chief power line technician 1/C (HV)-PC, chief relay technician, chief storekeeper, chief tester, commercial representative 1/C, commercial representative 2/C commercial representative-collector, commercial representative-collector special, commercial representative-jr. meter reader, commercial representative-meter reader, commercial representative-1/C special, commercial specialist, construction maintenance worker 1/C, construction maintenance worker 2/C, district representative, district representative-

The Employer submits that the Line Supervisors cannot be included in the existing T&D bargaining unit because they are statutory supervisors under the National Labor Relations Act (“Act”). A hearing was held before a Hearing Officer of the National Labor Relations Board (“Board”) on May 21-23 and 27, 2025. Both parties filed briefs which I have carefully considered.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. I find that the Employer has met its burden of showing the petitioned-for Line Supervisors are supervisors under Section 2(11) of the Act. Accordingly, I dismiss the petition.

I. SUMMARY OF RECORD EVIDENCE

A. Overview of Employer Operations

The Employer is headquartered in Poughkeepsie, NY and its T&D Line Supervisors work across multiple district headquarters and satellite districts. Its senior director of electric operations is Andrew Salemo. Gabriel DePoala (manager – distribution maintenance & transmission), Kevin

special, electrician 1/C, electrician 2/C, electrician 3/C, equipment operator, equipment operator-dynamite handler, equipment operator-special, field clerk/storekeeper, gas mechanic 1/C, gas mechanic 2/C, gas mechanic 3/C, gas mechanic special 1/C, gas mechanic special 2/C, gas mechanic special 3/C, gas mechanic welder 1/C, gas mechanic welder 2/C, gas mechanic welder 3/C, gas mechanic welder special 1/C, gas mechanic welder special 2/C, gas mechanic welder special 3/C, gas meter repairman/woman 1/C, gas meter repairman/woman 2/C, gas meter repairman/woman 3/C, gas production man/woman 1/C, gas production man/woman 2/C, gatekeeper, general maintenance worker 1/C, general maintenance worker 2/C, hydro station operator 1/C, hydro station operator 2/C, instrumentation & communication technician 1/C, instrumentation & communication technician 2/C, instrumentation & communication technician 3/C, line clearance technician 1/C, line clearance technician 2/C, mechanic 1/C, mechanic 2/C, mechanic 3/C, meter shop stock clerk, order dispatcher 1/C, order dispatcher-trainee, plant helper, plant technician 1/C, plant technician 2/C, plant technician 3/C, power line technician 1/C, power line technician 1/C-PC, power line technician 2/C, power line technician 2/C-PC, power line technician 3/C, power line technician 3/C-PC, protective equipment/shop tester, relay technician 1/C, relay technician 2/C, relay technician 3/C, roving chief mechanic operator, roving mechanic operator 1/C, roving mechanic operator 2/C, roving mechanic operator 3/C, safety advocate-gas, safety advocate-electric, service worker A, service worker B, service worker B-PC, splicer 1/C, splicer 2/C, splicer 3/C, splicer helper, stock handler, substation operator 1/C, substation operator 2/C, substation technician 1/C, substation technician 2/C, substation technician 3/C, tester 1/C, tester 2/C, tester 3/C, T&D operations technician, utility worker, utility worker (project trainee).

Sheehan (senior manager – electric district operations), Kyle Defalco (senior manager – electric district operations), and Peter Kothe (manager – substation operations) all report to Salemo. DePoala directly supervises two Line Supervisors, one of whom oversees bargaining unit employees while the other oversees contractor employees on an ongoing large-scale project. DePoala also oversees associate manager for distribution improvement Nathan Jackson, who oversees five Line Supervisors who do not have any direct reports. Sheehan and Defalco supervise a total of five managers of electric district operations – Eric Fortier, Joseph Kisch, Cora DiCesare, James Jolly, and Joshua Sansone. Those managers supervise the remaining Line Supervisors, who each oversee between three and five Line Supervisors. Those Line Supervisors each oversee groups of between three and 13 bargaining unit employees.

In total, approximately 155 bargaining unit employees report to the 26 Line Supervisors. Among them are utility workers; service workers A and B; 1st, 2nd, and 3rd class splicers; 1st, 2nd, and 3rd class power line technicians (PLTs); and 1st and 2nd class chief power line technicians (chief PLTs). Petitioner has represented the bargaining unit employees since about 1944. There are currently 399 bargaining unit employees covered by the T&D contract. The Union has never before represented the Employer's Line Supervisors.³

B. Line Supervisors/Associate Line Supervisors

Line Supervisors typically work Monday to Friday, 7:00 a.m. to 4:00 p.m., with a rotating weekly on-call period. They are entitled to overtime pay after 45 hours per week. Line Supervisors are responsible for planning, scheduling, and coordinating whatever work will be completed in their territory each month and making sure it is executed by the bargaining unit employees. Line

³ Line Supervisors were called line foremen/line forewomen, and chief power line technicians were called working foremen/working forewomen, until sometime in 2025. The record reflects that the changes were to titles only, not to job descriptions or responsibilities.

Supervisors receive packets from their managers containing work orders that lay out the specifics of each job. In creating their monthly workplans, Line Supervisors consider what work was rolled over from the prior month, what permits have come in, what work orders they have been given from their managers, and what bargaining unit employees are available to work as opposed to being on vacation or unavailable for any other reason. Line Supervisors will try to visit each upcoming job site so that they can inform the crews about any special circumstances or make necessary adjustments to the work orders. Based on their evaluation of the job sites, staffing, prioritization of jobs, and whatever emergencies come up, they assign jobs to the bargaining unit employees. When assigning jobs to crews, Line Supervisors also consider apprentices, who need certain work experience to move up the career ladder toward journeyman status. Line Supervisors will assign apprentices to crews that will be doing work in which the apprentice needs to gain experience.

Each Line Supervisor oversees a group of bargaining unit employees. The group is split into smaller crews containing employees of various titles. Line Supervisors can move bargaining unit employees between crews as necessary. The Line Supervisors meet with the crews when bargaining unit employees arrive at work at 7:30 a.m. They go over the assignments and distribute the work packets for each assigned project to the crews. The crews then go into the field and perform the work. Line Supervisors generally try to visit crews during the day either to check in or perform a safety audit on a job. Line Supervisors are required by Employer policy to complete a minimum of 44 safety audits on jobs each year. In addition to assigning jobs to the crews, Line Supervisors can make adjustments to jobs up to a monetary threshold of \$25,000 without seeking authority from upper management. They give crews directions as to how to perform their job duties.

Line Supervisors bear ultimate responsibility for the work done by the bargaining unit employees. In addition to considering apprentices and making sure they are assigned work that will allow them to become proficient enough to be promoted, Line Supervisors must consider the overall skillset of the crew on a given task. On one occasion, a crew member under Line Supervisor David Felker experienced a safety hazard, a primary flash, while working in an elevated area. The result was that the employee lost confidence in himself, and his coworkers lost confidence in his ability to work safely. Felker assigned the employee tasks designed to rebuild his self-confidence, and to demonstrate to the other crew members that he could work safely with them as well. On another occasion, Line Supervisor William Endrizzi assigned a job to a crew with a less experienced lead chief PLT, a journeyman, and two apprentices. The crew made a mistake that resulted in damage to a customer's central air conditioning unit. In Endrizzi's annual evaluation, his manager noted that the crew leader was inexperienced and Endrizzi needed to "give greater consideration to the strengths and weaknesses of the employees he is assigning work to." Senior director of electric operations Salemo testified that this incident negatively impacted Endrizzi's review and ultimately led to a reduced merit increase that year.

Line Supervisors sit on interview committees for bargaining unit utility worker positions. In addition to Line Supervisors, the interview committee includes a supervisor from the Employer's gas division, a supervisor from its substation operations division, and an HR recruiter. Line Supervisors sit on utility worker interview committees because a utility worker who is hired and assigned to the line department would report to a Line Supervisor, and the Line Supervisor knows what they would look for in an employee. Typically, the candidates are interviewed. The committee always reaches consensus after an interview. Then they recommend hiring – or not hiring – that candidate to the Employer's talent acquisition department.

The interview committee's decision alone determines whether a candidate is placed on the recommended list or the not-recommended list. Respondent's director of talent acquisition Michaela Delia testified that all candidates recommended for hire by the interview committee are placed on a list and hired by the Employer as need arises. If the committee recommends against hiring, the candidate is not hired. Of about 800 applicants since January 1, 2024, 95 were interviewed by an interview committee. 40 of those were not recommended for hire. Of the 55 candidates recommended for hire since January 1, 2024, 41 have been hired.

Under the collective-bargaining agreement, grievances at Steps 1(A) and 1(B) are brought to the bargaining unit employee's immediate supervisor – for T&D bargaining unit members, their Line Supervisor. At Step 1(A) the grievant and shop steward have a verbal conversation with the Line Supervisor. If the grievance is not resolved, the grievant can move to Step 1(B), a written grievance that also goes to the Line Supervisor. No Line Supervisor testified to adjusting a grievance at Step 1(B).⁴ The Employer provided one example of a Step 1(B) grievance resolved by a Line Supervisor.

Line Supervisors have some disciplinary authority. A Line Supervisor could send an employee home for insubordination if they refused an order. No Line Supervisor who testified has done so. Manager of district operations Joshua Sansone testified that a Line Supervisor in that scenario would first discuss the issue with the crew and then notify him so he could have a discussion with the employee in the presence of a shop steward. Line Supervisors also provide routine discipline to employees who do not meet a specified number of callout responses (taking

⁴ The record demonstrates that Line Supervisors receive at least sporadic training on labor-relations issues. The Employer provided a sign-in sheet from a 2019 labor-relations training signed by multiple Line Supervisors.

calls for assignments while off-duty). Though Line Supervisors present the resulting disciplines to the employees, in the presence of their stewards at a certain level, they do not independently decide when to issue such disciplines. Instead, they are provided with a list of names, told what level of discipline to issue under the contractually approved protocol, and given prescribed discipline templates that they present to employees.

Line Supervisors have some ability to reward employees. For example, they can and do use their Employer-provided credit cards (“p-cards”) to buy meals for employees working overtime, if the employees waive the meal stipend to which they are contractually entitled. Line Supervisors have also purchased food items for employee appreciation days or to show appreciation for good work. Additionally, Line Supervisors can give bargaining unit employees reward tokens for making a “good catch” safety call. The tokens are redeemable for a piece of safety clothing.

Line Supervisors approve employee timesheets. Either individual employees or the chief PLT on a job will fill out the timesheets with hours worked and designate what type of work was performed to ensure all work is accounted for correctly. Line Supervisors look over the timesheets for accuracy and make any necessary changes. They then sign off on them and the timesheets are processed. If the Employer’s payroll department believes there is an error on a timesheet, it is sent back to the Line Supervisor for correction. When a chief PLT is absent from a job for a certain amount of time, the next-highest level employee becomes contractually eligible for an ‘upgrade’ meaning that they act as the chief and are paid as such. Line Supervisors are responsible for verifying to HR that the upgrades are warranted before payroll is certified.

Line Supervisors perform evaluations of new employees after both three months and six months on the job. These evaluations can have three possible outcomes: termination, an extension

of the probationary period, or transition from probationary status to regular employee status. The evaluation forms include narrative appraisals of various aspects of the probationary employees' performance. Line Supervisors complete these appraisals based on their own experience and interaction with the employees. They also solicit input from the chief power line technicians who lead the crews as they work directly with the probationary employees on a daily basis. The three-month evaluation form solicits a yes/no recommendation as to "whether the employee should be allowed to continue on to the final phase of the probationary period." The six-month evaluation form specifically states that it is used to "recommend whether the employment relationship should be continued or terminated." Once the Line Supervisor writes up the evaluation, it is approved by their manager and another level of management before being signed off on by HR. The Line Supervisor then meets with the employee to administer the evaluation.

Line Supervisors will sometimes perform bargaining unit work, typically in the event of an emergency such as a storm. Line Supervisor Christopher Clark testified that in a storm, he might help move brush out of the road or assist the crew as they begin repairs. They can have work orders adjusted without upward approval as long as the adjustment does not cost the Employer more than \$25,000. Line Supervisors act semi-independently in furtherance of the Employer's goals – for example, Line Supervisor Andrew Ciferri engaged in negotiations with contractors and individual landowners to have certain work done that would save the Employer money in the long run, but he testified that he had to have the deal approved by his managers. He also recommended that the Employer pay a landowner more than the negotiated cost in one circumstance because he felt morally obliged based on the landowner's prior tractability. His recommendation was approved by his supervisors.

Line Supervisors play some role in collective bargaining on behalf of the Employer. A Line Supervisor served on a negotiation subcommittee with other management employees providing recommendations to the Employer's bargaining team in negotiating the most recent collective-bargaining agreement.

II. ANALYSIS

A. Supervisory Status

Supervisors are specifically excluded from the Act's coverage under Section 2(11). That Section defines a supervisor as any individual with the authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The burden of establishing supervisory status is on the party asserting that such status exists. *NLRB v. Kentucky River Cmty. Care, Inc.*, 532 U.S. 706, 711 (2001); *Shaw Inc.*, 350 NLRB 354, 355 (2007); *Croft Metals, Inc.*, 348 NLRB 717, 721 (2006). The party seeking to prove supervisory status must establish it by a preponderance of the evidence. *Croft Metals*, 348 NLRB at 721; *Oakwood Healthcare, Inc.*, 348 NLRB 686, 694 (2006). To establish that individuals are supervisors, the asserting party must show: (1) that the purported supervisors have the authority to engage in any one of the twelve enumerated supervisory functions; (2) that their "exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment"; and (3) that their authority is exercised "in the interest of the employer." *Kentucky River*, 532 U.S. at 710-13.

The statutory criteria for supervisory status set forth in Section 2(11) are read in the disjunctive, and possession of any one of the indicia listed is sufficient to make an individual a supervisor. *Kentucky River*, supra at 713; *Juniper Industries, Inc.*, 311 NLRB 109, 110 (1993). The Board analyzes each case to differentiate between the exercise of independent judgment and the giving of routine instructions, between effective recommendation and forceful suggestions, and between the appearance of supervision and supervision in fact. The exercise of some supervisory authority in a merely routine, clerical, or perfunctory manner does not confer supervisory status on an employee. See *J.C. Brock Corp.*, 314 NLRB 157, 158 (1994); *Juniper Industries*, supra at 110. The authority to effectively recommend an action means that the recommended action is taken without independent investigation by management, not simply that the recommendation of the purported supervisor is ultimately followed. See *The Republican Company*, 361 NLRB No. 15, slip op. at 5 (2014); *DirecTV U.S. DirecTV Holdings LLC*, 357 NLRB No. 149, slip op. at 3-4 (2011); *Children's Farm Home*, 324 NLRB 61, 61 (1997). The Board has an obligation not to construe the statutory language too broadly because the individual found to be a supervisor is denied the employee rights that are protected under the Act. *Oakwood Healthcare, Inc.*, supra at 688; *Avante at Wilson, Inc.*, 348 NLRB 1056, 1058 (2006). Where the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, the Board will find that supervisory status has not been established, at least on the basis of those indicia. *The Republican Company*, supra; *G4S Regulated Security Solutions*, 362 NLRB 1072 (2015); *Dole Fresh Vegetables, Inc.*, 339 NLRB 785, 792 (2003); *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989). The sporadic exercise of supervisory authority is not sufficient to transform an employee into a supervisor. See *Kanahwa Stone Co.*, 334 NLRB 235, 237 (2001); *Gaines Electric Co.*, 309 NLRB 1077, 1078 (1992).

The Employer contends that its Line Supervisors are statutory supervisors under Section 2(11) of the Act because they fulfill the following primary indicia: 1) assign and responsibly direct; 2) hire; 3) adjust grievances; 4) discipline; 5) reward; and 6) evaluate. Additionally, the Employer argues that there are secondary indicia that militate in favor of finding supervisory status.

In its decisions in *Oakwood Healthcare, Inc.*, supra, *Croft Metals, Inc.*, 348 NLRB 717 (2006), and *Golden Crest Healthcare Center*, 348 NLRB 727 (2006), the Board clarified the circumstances in which it will find that individuals exercise sufficient discretion in performing two of the functions listed in Section 2(11) – assignment and responsible direction of work – to justify their classification as statutory supervisors. As defined in *Oakwood Healthcare*, the term “assign” refers to the “act of designating an employee to a place (such as a location, department or wing), appointing an employee to a time (such as a shift or overtime period) or giving significant overall duties, i.e., tasks, to an employee.” *Oakwood Healthcare* at 689-690.

In *Oakwood Healthcare*, the Board explained “responsible direction,” as follows: “If a person on the shop floor has ‘men under him,’ and if that person decides ‘what job shall be undertaken next or who shall do it,’ that person is a supervisor, provided that the direction is both ‘responsible . . . and carried out with independent judgment.’” “Responsible direction,” in contrast to “assignment,” can involve the delegation of discrete tasks as opposed to overall duties. *Oakwood Healthcare* at 690-692. But an individual will be found to have the authority to responsibly direct other employees only if the individual is *accountable* for the performance of the tasks by the other employee. Accountability means that the employer has delegated to the putative supervisor the authority to direct the work and the authority to take corrective action if necessary, and the putative supervisor faces the prospect of adverse consequences if the employees under his or her command fail to perform their tasks correctly. *Ibid.*

Assignment or responsible direction will produce a finding of supervisory status only if the exercise of independent judgment is involved. Independent judgment will be found where the alleged supervisor acts free from the control of others, is required to form an opinion by discerning and comparing data, and makes a decision not dictated by circumstances or company policy. *Oakwood Healthcare, Inc.*, supra at 693. Independent judgment requires that the decision “rise above the merely routine or clerical.” *Oakwood Healthcare, Inc.*, supra at 693. In order for direction to be responsible, the asserted supervisor must be held accountable for the work performed by subordinates and be subject to adverse consequences if the work is not done properly. *Oakwood Healthcare*, supra at 692.

I find that Line Supervisors assign and responsibly direct employees within the meaning of Section 2(11) of the Act. They are responsible for creating a work plan for the month. To do so they must manage variables such as scheduled calls, emergent situations, rollover work from the prior month, and new assignments. While some of the scheduling is dictated by permits, customer appointments, and directives from above, the Line Supervisor must put all that information together and create a plan for what work will happen at what point throughout the month. The Line Supervisors then assign jobs to their crews, which necessarily means designating them to a specific location to perform specific tasks. The crews go to the designated locations and perform the assigned jobs. If there is an issue on a job site, or the crew believes an adjustment needs to be made, it is the Line Supervisor who has final say. Finally, Line Supervisors manage the crews’ execution of the jobs and are held responsible for the outcome and any issues that arise, as when Line Supervisor Endrizzi received a less-favorable annual evaluation, and thus a lower compensation package, as a result of his crew causing damage to a customer’s home.

Line Supervisors use independent judgment and their knowledge of the projects, crews, and which apprentices need experience in what areas to assign jobs to crews and to assign bargaining unit employees to different crews. For example, apprentices need to gain experience performing various tasks and different types of work in order to advance up the career ladder. Line Supervisors take this into account and try to assign apprentices to ensure they get the experience they need. When something goes awry, as when an employee on Line Supervisor David Felker's crew experienced a primary flash while working in an elevated position, the Line Supervisor addresses the situation. Felker gave the employee tasks specifically chosen to rebuild his confidence, and to rebuild his crewmates' confidence in his ability to perform his job safely and well. This goes beyond the routine clerical assignment of tasks that the Board has found insufficient to establish supervisory status. Based on these indicia alone, the Line Supervisors are supervisors within the meaning of Section 2(11) of the Act. However, I will discuss the other supervisory indicia *infra*.

An individual who has authority to hire or effectively recommend hiring is a Section 2(11) supervisor. *Peacock Productions of NBC Universal Media, LLC*, 364 NLRB 1523, 1530 (2016). A purported supervisor effectively recommends hiring if their recommendation is followed with no independent investigation by management. *Republican Co.*, 361 NLRB No. 15 (2014). Here, Line Supervisors sit on utility worker interview committees along with supervisors from the Employer's gas and substation operations departments, interviewing candidates that could ostensibly then report to them. The record reflects that the interview committees always reach consensus, and that their recommendations are followed. The interview committee's decision alone determines whether a candidate is placed on the recommended list or the not-recommended list. Where the committee recommends against hiring, the candidate is placed on a not-recommended list and is

not hired. Where the committee recommends hiring, the candidate is placed on a recommended list from which the Employer hires as need arises. Because the Line Supervisors sit on interview committees and make effective hiring recommendations, they are Section 2(11) supervisors.

The Line Supervisors adjust grievances under the parties' grievance and arbitration mechanism as laid out in the collective-bargaining agreement. It is true that grievances are rare, such that Line Supervisors are fairly unversed in actually exercising this responsibility and when faced with a grievance will typically ask their own manager how to handle it. However, this does not change that they have the authority and have exercised it. Indeed, the Petitioner's own steward training corroborates that step 1 grievances go to the Line Supervisor. I find that Line Supervisors adjust grievances and are therefore supervisors under Section 2(11) of the Act.

I do not find that Line Supervisors' disciplinary authority is sufficient to render them statutory supervisors. An individual's role in disciplining employees, to be found supervisory, must affect an employee's job tenure or status. *Ten Broeck Commons*, 320 NLRB 806, 813 (1996); *Passavant Health Center*, 284 NLRB 887 (1987). In *ITT Lighting Fixtures*, 265 NLRB 1480, 1481 (1982), enf. denied on other grounds, 712 F.2d 40 (2nd Cir. 1983), cert. denied 466 U.S. 978 (1984), the Board stated that to support a claim that LPNs had the authority effectively to recommend discipline, the Employer must prove that the putative supervisors: (a) submit actual recommendations, and not merely anecdotal reports, (b) their recommendations are followed on a regular basis, (c) the triggering disciplinary incidents are not independently investigated by superiors, and (d) the recommendations result from the putative supervisors' own independent judgment. A merely reportorial role in the disciplinary process is insufficient to confer supervisory status. *Community Education Centers*, 360 NLRB No. 17 (2014); *Ken-Crest Services*, 335 NLRB

777 (2001); *Ten Broeck Commons*, supra at 813; *The Ohio Masonic Home*, 295 NLRB 390, 394 (1989).

The record reflects that when Line Supervisors have issued disciplines, they have presented employees with pre-drafted disciplines received from the Employer's HR department based on either insufficient callout responses based on a contractual formula, or timesheet issues. Line Supervisors can adjust callout reports which could change whether an employee would meet the callout percentage and thus be subject to discipline. However, any such adjustment would be to ensure the accuracy of the report. Moreover, there is no evidence in the record that a Line Supervisor could decide not to discipline an employee with an unsatisfactory callout response. There is no evidence of a Line Supervisor independently disciplining a bargaining unit employee outside of these contractual or time and attendance-based issues using anything other than a pre-drafted template from HR.

Line Supervisors do have the ability to reward employees and have exercised this authority without approval from upper management. Specifically, if a bargaining unit employee reports a safety issue, a Line Supervisor can commend them with a "good catch and safety recognition award". The award is a coin that the Line Supervisor, or another supervisor, can distribute to an employee who has gone above and beyond in relation to safety. In addition to the coin, the employee is eligible for a free item of clothing. This ability to reward employees further supports the finding of supervisory status.

Although authority to evaluate is not one of the indicia of supervisory status set out in Section 2(11) of the Act, the Board will analyze the evaluation of employees to determine whether it is an "effective recommendation" of promotion, wage increase, or discipline. *Modesto Radiology Imaging*, slip op. at 2; *Phelps Community Medical Center*, supra at 490. An individual will not be

found to be a supervisor based on the completion of performance evaluations unless the evaluations directly affect the wages or job status of other employees. *Pacific Coast M.S. Industries, Limited*, 335 NLRB 1422, 1423 fn. 1 (2010); *Williamette Industries, Inc.*, 336 NLRB 743, 743 (2001). There must be a direct correlation between the employees' evaluation and their wage increases and/or job status. *Modesto Radiology Imaging*, supra. See also, e.g., *Ten Broeck Commons*, 320 NLRB 806, 813 (1996).

Line Supervisors do evaluate probationary employees, and those evaluations do directly correlate to probationary employees' job status. Specifically, Line Supervisors recommend that probationary employees either be terminated, have their probationary period extended, or be converted to regular employees. This further supports finding supervisory status.

Secondary indicia of supervisory status are not dispositive of the issue but may corroborate a finding of supervisory status if a primary indicium is present. *Sheraton Universal Hotel*, 350 NLRB 1114, 1118 (2007); *Training School at Vineland*, 332 NLRB 1412, fn. 3 (2000). Here, the secondary indicia that corroborate my finding of supervisory status are that Line Supervisors have company credit cards, and the ratio of supervisors to employees.

The Line Supervisors have "p-cards" which are company credit cards. They routinely use these cards to make purchases for things such as meals for employees working overtime who have waived the contractual meal stipend, replacements for an employee's stolen USB cord, or refreshments for lineman appreciation day. Line Supervisor Andrew Davis testified that he used his p-card to buy lunch for his entire team on numerous occasions. Line Supervisor Christopher Clark testified that when he was a line foreman from 2018 to 2020 he had a p-card; was required to return it when he went back into a bargaining unit position and was provided another p-card when he became a Line Supervisor in October 2024.

Though insufficient on its own to establish supervisory status, the ratio of supervisors to employees is a secondary indicium that supports finding supervisory status where the putative supervisors also possess one of the primary indicia. *Albany Medical Center Hospital*, 273 NLRB 485, 486 (1984). Here, there are 26 Line Supervisors supervising approximately 155 bargaining unit employees. The Line Supervisors themselves report to a cadre of seven managers. If required to directly supervise the 155 bargaining unit employees, plus the 26 Line Supervisors, in addition to the other employees they already supervise, the managers would have approximately 30 supervisees each. Manager Sansone testified that it would not be feasible for him to directly supervise the number of bargaining unit employees that his Line Supervisor reports supervise. The Board has found that a 30 to 1 ratio of employees to supervisors is disproportionate. *Formco, Inc.*, 245 NLRB 127, 128 (1979). This secondary factor supports finding that the Line Supervisors are statutory supervisors.

B. Managerial Status

Though they are supervisors, I do not find that Line Supervisors are managerial employees. Managerial employees fall outside the protection of the Act. *NLRB v. Bell Aerospace Co., Division of Textron, Inc.*, 416 U.S. 267 (1974). Managerial employees are those who formulate and effectuate management policies by expressing and making operative decisions on behalf of their employer, representing management interests by taking or recommending discretionary actions that effectively control or implement employer policy. See *NLRB v. Yeshiva University*, 444 U.S. 672, 695-696 (1980). Line Supervisors act in the Employer's interest, implement policies, and recommend actions, but they do so as supervisors. They do not play any role in formulating or controlling Employer policies such that they are more than supervisors. Thus, I do not find that Line Supervisors are managerial employees.

C. Community of Interest

The record does not provide a robust basis upon which to determine whether the Line Supervisors share a community of interest with the bargaining unit employees. Nor does Petitioner address the issue in its brief. However, because I have already found that the Line Supervisors are statutory supervisors under Section 2(11) of the Act, I do not need to make a determination as to community of interest, and I decline to do so.

III. CONCLUSION

Under Section 3(b) of the Act, I have authority to hear and decide this matter on behalf of the Board. Based on the foregoing and the record as a whole, I conclude 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.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and represents the Employer's T&D bargaining unit.
4. No question affecting commerce exists concerning the representation of the Employer's Line Supervisors or Associate Line Supervisors.

IV. ORDER

IT IS HEREBY ORDERED that the petition in this matter is dismissed.

V. RIGHT TO REQUEST REVIEW

Pursuant to Section 102.71 of the Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties as well as on the undersigned, in accordance with the requirements of

the Board's Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business **(5 p.m. Eastern Time) on July 11, 2025**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on July 11, 2025**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was offline or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Direction and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review

without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: June 26, 2025

/s/Linda M. Leslie

LINDA M. LESLIE
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 03
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465