



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27



UNITED POWER COOPERATIVE

Employer

And

Case 27-RC-371523

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 111, AFL-CIO**

Petitioner

DECISION AND DIRECTION OF ELECTION

I. INTRODUCTION

The International Brotherhood of Electrical Workers, Local 111, AFL-CIO (Petitioner) petitioned to represent the System Operators employed by United Power Cooperative (United Power or Employer). The Petitioner seeks to add these employees to its already represented bargaining unit of employees at the Employer's facilities.¹ The Employer asserts that the System Operators are guards under Section 9(b)(3) of the Act and therefore the Petitioner cannot appropriately represent them. The Employer further asserts that, should the Regional Director direct an election for the System Operators, this petitioned-for unit does not share a sufficient community of interest with the Employer's Service Unit to warrant an *Amour-Globe* election.²

A Hearing Officer of the Board held a hearing in this matter during which the parties presented their positions and supporting evidence. The parties briefly stated their respective positions prior to the closing of the hearing, and they subsequently filed post-hearing briefs. I have duly considered all testimony, evidence and arguments. Based on the record and on relevant Board law, I find that the Employer's System Operators are not guards as defined by the Act and therefore the Petitioner can appropriately represent them, and I shall direct an election for this unit. I further find that the Petitioner did not meet its burden to establish that the System Operators share a sufficient community of interest with the Employer's represented unit. Thus, the election will be conducted in a stand-alone unit of System Operators. There are approximately five employees in the petitioned-for unit.

¹ The current bargaining unit is described in the collective bargaining agreement between the parties as "All employees of United Power engaged in operation, service, and construction..." The Petitioner and the Employer agree that the unit should exclude office clerical employees, professional employees, guards and supervisors as defined in the Act. The represented unit will be referred to herein as the Service Unit.

² See *Armour & Co.*, 40 NLRB 1333 (1942); and *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937).

II. THE APPROPRIATE STANDARDS

A. Guards

To be a “guard” within the meaning of Section 9(b)(3) of the Act, an employee must “enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer’s premises.” Section 9(b)(3) prohibits the Board from certifying a labor organization “as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.” In this case, the Petitioner admits to membership employees who are other than guards.

B. Self-Determination Elections

“A self-determination election is the proper method by which a union may add unrepresented employees to the contractual unit.” *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990). Before directing such an election, the Board must determine “the extent to which the employees to be included share a community of interest with unit employees, as well as whether the employees to be added constitute an identifiable, distinct segment so as to constitute an appropriate voting group.” *Id.*, citing *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972).

III. FACTS

A. The Employer’s Operations and the Parties’ Collective Bargaining History

United Power Cooperative operates an electrical distribution system³ in Colorado. The electrical distribution system is a network of medium-voltage distribution lines, including transmission and sub-transmission lines, substations, and individual meters. United Power operates approximately 117,000 meters in their service territory, which covers parts of Weld County, Adams County, and Boulder County in Colorado. The overall service area encompasses approximately 900 square miles. The principal physical assets of United Power include the several thousand miles of distribution line, transmission line substations, transformers, switchgear, batteries to manage the electrical power, all the equipment used to maintain the system, and three offices, one in Brighton, Colorado, one in Carbon Valley, which is in the Longmont, Colorado area, and one in Coal Creek, which is in the Boulder, Colorado area.

United Power is an electrical cooperative which means that its customers, referred to as members, are also owners. United Power purchases electrical power through a transmission grid or power pool and then distributes that power on its own distribution grid to its members, who are both residential and business customers. The power pool is maintained twenty-four hours a day, seven days a week and 365 days a year. United Power is required to provide power even if there is a loss of power on their own transmission system. Thus, United Power also maintains battery storage systems in order to be able to generate power to meet the requirements of the power pool.

³ The system is also referred to as the electrical grid or simply “the grid”.

The Vice President of Operations oversees the Operations Department, including the employees out of the Brighton headquarters, the Carbon Valley Service Center, the Inspection and Construction Department, the Substation Department, and various supervisors, Superintendents, Linemen, Substation Electricians, and the System Operators.

The Employer and the Petitioner are parties to a collective bargaining agreement covering the Service Unit, in effect from February 1, 2023 to July 31, 2025, subject to automatic yearly renewal.

B. System Operators

The “Position Purpose and Objectives” section of System Operators’ job description reads:

Performs electrical system operations, radio, telephone, and email dispatching to ensure the reliable delivery of electricity to members, businesses and industry during normal and emergency situations. Time is spent carefully monitoring the system conditions in order to anticipate and mitigate potentially dangerous and costly system problems or if system disturbances do occur, it is the system operator's job to quickly respond and restore the power grid to safe operating conditions.

System Operators⁴ are responsible for monitoring United Power’s electrical grid, transmission lines, meters, substations and the office buildings. They work in the Employer’s Carbon Valley Service Center located in Longmont, Colorado. System Operators work in a secure section of this office, referred to as the Control Room.⁵ In the Control Room the System Operators sit in front of consoles with numerous screens up to monitor the various aspects of the Employer’s operations. The Control Room is secure, but other employees have access to it including all the line personnel, the special equipment group who need to pass through the Control Room to get to another room, the IT employees, some engineering employees, and supervisors and managers.

At the time of the hearing, System Operators are scheduled to work 24 hours a day, seven days a week. Two System Operators work from 6:00 a.m. to 6:30 p.m. and one System Operator works from 6:00 p.m. to 6:30 a.m. The System Operators report directly to the System Operator Supervisor and then to the Vice President of Operations.

United Power’s primary objective is supplying power to its members. The System Operators assist in achieving this objective by monitoring the grid for outages and maintenance issues or anything else that may disrupt power being provided to United Power’s members. The Systems Operators also monitor compliance with the power requirements. During a typical day, most of the System Operators’ work is with United Power’s Linemen and linemen contractors to ensure that power is continuously supplied to the members. Each day United Power has multiple

⁴ The System Operators used to be referred to as Dispatchers.

⁵ Similarly, the Control Room used to be referred to as the Dispatch Center.

outages on the grid. When there are disruptions to power, a computer program notifies the System Operators and the System Operators use the system to identify where the outage is. System Operators typically first report the incidents to their supervisor and then dispatch a Lineman (or sometimes a Substation Technician or Engineer) to the outage. Once onsite, the Lineman will look for the cause of the outage and then call the System Operator so they can discuss the cause of the outage and make a plan of action for repair. The System Operators and Linemen create a clearance and switching procedure⁶ to help the Lineman work safely on the repair. The Linemen will repair the outage and then report back to the System Operator. The record evidence establishes that the working relationship between System Operators and Linemen is highly collaborative. Linemen are essentially the System Operators' eyes and hands in the field. System Operators can manipulate some systems virtually, but they need the Linemen to go out and physically manipulate devices in the field. System Operators do not have the authority to compel Line personnel or any other employees to follow United Power's rules. The System Operator will use the meter software to verify that power is back and then notify the Linemen that things are up and running and the Linemen are cleared to go to their next project. The System Operator will then log the communication. System Operators use a radio log to report both phone calls and radio communications. It can be kept on paper, but most of the Operators use the digital version in Excel. The radio log notes the Lineman the System Operator contacted, the truck number, the method of contact, and the details about the conversation to keep a chronology of all the conversations and actions of an event.

System Operators use numerous computer systems to perform their job duties. The Supervisory Control and Data Acquisition (SCADA) shows the map of all United Power territory and all substations, and System Operators use it to monitor the grid electronically. SCADA notifies System Operators of disruptions to power. SCADA is on its own network for security reasons and is not connected to any other system that has internet access. There is limited access by other United Power staff to SCADA. United Power's Engineers maintain SCADA, and some supervisors and managers have access to SCADA, but System Operators are the only ones who continuously monitor SCADA.

United Power uses a badging system, called the ICT system, for keyless entry to its facilities and the System Operators also monitor this system. At the time of the hearing, only some of the substations had ICT card readers in the control houses and not all of the control houses had key fobs, so employees could enter and exit facilities without this showing up on the System Operators' screens.⁷ System Operators can tell when someone enters facilities, but they cannot remotely grant or deny access to anyone. If, based on the credentials on the key fob, an employee has permission to access the room, they will be granted access. If an employee does not have permission, they will be denied access. System Operators do not control this, nor are they involved in credentialing any employees. During the weekday, the ICT system shows between 500 to 1000 swipes per day, so the System Operators generally cover the ICT screen on their consoles because

⁶The switching procedure is similar to the physical logout tagout procedure. The System Operators place virtual tags on the hotline while the Linemen are working and then remove them when the job is finished. The virtual tags correspond to the physical tags in the field so, if a device is open in the field, it will show as open on the System Operators' screen.

⁷ Employees are supposed to call the System Operators when they arrive and when they leave the substations, but there is no written protocol for this. System Operators have no way to enforce the practice.

the screen just rolls names constantly Monday through Friday. They will occasionally look up and see that someone entered a particular location. If someone badges into a facility after hours it may show up on the ICT screen. The System Operator could observe that an employee entered the facility and contact their supervisor.

The Geographic Information Systems (GIS portal) is the internal mapping system that shows the location of all United Power's poles, wire, equipment, meters, substations, batteries and offices. System Operators and Linemen use the GIS frequently throughout the day. The Automatic Vehicle Locator (AVL) screen shows where United Power's fleet is located via a GPS system. System Operators use this software for dispatching purposes. When there is an outage or an emergency, the System Operators can use the AVL screen to see who the closest employee to the situation is and dispatch accordingly. System Operators do not use the AVL to report on the distances traveled by Linemen because Linemen could travel hundreds of miles per day to perform their job duties. System Operators also do not use the AVL to track overtime reporting for timesheets and do not have any involvement with employee discipline based on overtime reporting discrepancies.

United Power has surveillance cameras at the offices and the substations, which the System Operators can use to monitor those locations. At the time of the hearing, only two substations, out of approximately forty-four substations, were fully commissioned and in use with cameras. The cameras use a lot of data and slow down the computers, so the System Operators do not keep many camera views open. As a practical matter, most of the time the System Operators use the cameras to look at the weather and conditions outside because there are no windows in the Control Room. In the summertime heat, System Operators watch for overloading circuits. In the wintertime, they watch for snowstorms blowing in the areas that can damage lines. They also monitor the weather in the mountain territory to watch for wildfires. If there is a high risk for wildfires, System Operators can manipulate the system and turn on different settings to protect the grid. In the event of a strike at United Power, the System Operators would be responsible for monitoring the cameras for any breaches to the property and reporting the breaches to their supervisor and/or law enforcement. At the time of the hearing, there had not been any strikes at United Power.

System Operators monitor the substation security alarms, the device alarms within the substations, the devices within the field, and the devices pertaining to batteries and power supply communications. System Operators then report the alarms to the appropriate parties, which can include their supervisor, Linemen, Electronic Technicians, Substation Technicians, Engineers, or even the police, if necessary. During their shift, System Operators receive thousands of alarms and so they have filters set up to determine what needs immediate action and what is merely a notification.⁸ During the weekday, when two System Operators are scheduled, the System Operators will typically have one operator doing the clearance and switching procedure for the frequent outages and maintenance issues and the other operator monitoring the alarms. During the nights and weekends, the System Operators' tasks are mainly driven by the various alarms that come in.

⁸ The alarms that require attention have different levels of severity; for example, green is a heads-up, and then it progresses to yellow and orange and up to a high-level red alert.

Most System Operators put SCADA in their top left three monitors and the radio controller (the two-way system to communicate with employees in the field) in the top right monitor. They use the bottom four monitors for the other 12 to 14 different software applications, including the ones discussed above, that they can log into to use as needed. The eight screens are not enough to have every piece of software up and monitored continuously.

Certain other United Power staff also have access to the systems that the System Operators have access to. Supervisors and managers and the Electronic Technicians have access to the security cameras. Supervisors and managers and the HR department have access to the ICT system. Supervisors, managers, and Line Superintendents also have access to the AVL system. However, the System Operators are the only United Power employees who have access to all systems and who monitor the grid and the property in real time twenty-four hours a day, seven days a week.

In addition to being the main point of contact for the field crews for the outages, switching and clearance procedures, and the other day-to-day operations, System Operators are considered part of the first line of defense to protect United Power's buildings and equipment from damage or theft and to protect against cybersecurity attacks.⁹ The most common way that System Operators are notified about damage to United Power's property or equipment or of a possible security breach is if someone, such as the Linemen or the Substation Techs, or even Xcel or TriState employees, notify them of such. When employees in the field find damaged equipment, unsecured doors on equipment, or damage to fences, they report it to the System Operators and then initiate a Distribution List (DL) of members in management. If a United Power employee calls in to report an issue, the System Operators will typically ask that person to call the Substation Superintendent and then the System Operator will make a note of it in the radio log. If a non-United Power person calls to report an issue, System Operators take their name and number and then contact their supervisor or Substation Superintendent. If an incident occurs after hours, the System Operators will take the information and then contact their supervisor on-call. In all these situations, the System Operators will often start an entry in a Teams channel and then immediately hand it off to management personnel, who will take over. United Power's IT department created a Teams channel, a substation event channel, to handle security events. When the System Operator becomes aware of the security event, they start an entry on the channel. Other employees can also start an entry if they noticed the security event first. Once created, others can log an entry to record their various responses to the security event. The procedure for creating the substation event channel was implemented towards the end of 2023 and implemented on Teams channels. Between that time and the date of the hearing, there were only 10 or 15 channels created, meaning only 10 or 15 substation security events occurred. System Operators have minimal direct contact with emergency personnel¹⁰ and have slightly more contact with the emergency dispatchers, from a

⁹ The eighth bullet point down under "Essential Job Functions" of the System Operators job description reads: "Monitors United Power facilities security cameras and alarm console, allowing access to buildings to only United Power personnel or approved contractors. Records all nonelectric entries into appropriate logbooks. Reports any security concerns to the appropriate management personnel."

¹⁰ The record shows at least two occasions when the System Operator contacted 911 after being notified of emergency situations.

couple times a week to once every two or three weeks.¹¹ This limited contact with emergency personnel and dispatchers allows the System Operators to attend to the numerous other issues happening on the grid.

If the System Operators see an alarm on SCADA that could implicate cybersecurity, such as seeing equipment manipulated and not being controlled by them, they are supposed to contact the Information Technology (IT) department, which then uses a phone tree to alert all relevant personnel. All United Power's employees are required to follow the IT rules, including reporting cybersecurity incidents. At the time of the hearing, United Power did not have any incidents that implicated cybersecurity.

United Power relies on the System Operators to monitor and report security issues because United Power does not have a private security force or armed guards. System Operators do not carry weapons or any security type devices. They do not wear a uniform that indicates that they are security guards and they do not participate in security rounds or patrols.

System Operators do not receive significant training on how to perform their job duties, but there are some written policies, including a Substation Physical Security Process flow chart and the Substation Security Operations Guide.¹² They do not receive training in weapons and security procedures. Most of the System Operators' training is on the job training on how to use the various systems and what actions to take in any particular situation. One witness testified that when he first started working, another System Operator showed him how to manipulate and navigate the cameras and report incidents. When a new hire comes in now, the System Operators similarly show them how to log into the systems and how to monitor and report incidences.

C. Community of Interest

There is limited record evidence regarding the System Operators' community of interest indicia. All United Power's employees have similar terms and conditions of employment. For example, they wear the same badges, undergo the same background checks for employment, and use the same software package for timekeeping. However, the System Operators have different schedules than all the other employees. System Operators work regular twelve and a half hour shifts during days, nights, and weekends, while Linemen work regular 8-hour shifts during the day and take turns being on-call during nights and weekends. System Operators do not have regular breaktimes,¹³ as opposed to Linemen who have both regular breaks and lunch breaks during the day and who can also leave the jobsite for meals. There are also differences in overtime wage rates and different benefits premiums between the bargaining unit employees at United Power the non-bargaining unit employees, which include the System Operators.

¹¹ For example, those dispatchers have called the System Operators to notify United Power about a structure fire or to request that United Power personnel go out and de-energize line.

¹² The Substation Security Operations Guide was entered into evidence, subject to a protective order entitled "Agreement and Order Concerning Production of Confidential and Proprietary Documents Pursuant to a Representation Proceeding." The parties and I signed the agreement and order on August 28, 2025.

¹³ They have facilities nearby for short breaks, but are otherwise expected to be monitoring their screens at all times

The Petitioner has argued that “in cases dealing with public utilities that provide electric service to homes and businesses in Colorado, the Board has long held that a systemwide unit is the optimum bargaining unit due to “the essential service rendered to their customers and the integrated and interdependent nature of their operations” citing *Colorado Interstate Gas Co.*, 202 NLRB 847 (1973). This is because the Board seeks to balance the employees’ Section 7 rights against the public’s interest in uninterrupted utility services that only a single entity provides. *Alyeska Pipeline Service Co.*, 348 NLRB 808 (2006).

IV. ANALYSES AND FINDINGS

A. System Operators are Not Guards

Section 9(b)(3) of the Act prohibits the Board from certifying a labor organization “as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.” Under Section 9(b)(3) of the Act, a unit is not appropriate “if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer’s premises...”. Simply stated, Section 9(b)(3) of the Act precludes the Board from either including guards and non-guards in the same unit or certifying a union which represents non-guards as the bargaining agent for a unit of guards

The Board has stated that in determining whether employees are guards, it is primarily concerned with the nature of the employees’ duties, and it has held that employees are guards if they are charged with “guard responsibilities” that are not a minor or incidental part of their overall responsibilities. *Boeing Co.*, 328 NLRB 128, 130 (1999); *J.C. Penney Co.*, 312 NLRB 32 (1993); *Hoffman Security*, 302 NLRB 922, 923 (1991). The employees in question must be engaged “directly and substantially” in the protection of their employer’s property or the property of their employer’s customers in order to be found to be statutory guards. *Courier Dispatch Group*, 311 NLRB 728, 733 (1993). The Board has defined guard responsibilities as those typically associated with traditional police and plant security functions such as: (1) the enforcement of rules directed at other employees; (2) the authority to compel compliance with those rules; (3) training in weapons and security procedures; (4) possession of weapons; (5) participation in security rounds or patrols; (6) monitoring and controlling access to the employer’s premises; and (7) wearing guard-type uniforms or displaying other indicia of guard status. *Boeing Co.*, above, citing *Wolverine Dispatch, Inc.*, 321 NLRB 796, 798 (1996); *55 Liberty Owners Corp.*, 318 NLRB 308, 310 (1995); *Rhode Island Hospital*, 313 NLRB 343, 346 (1993); *Burns Security Services*, 300 NLRB 298, 300 (1990), enf. denied, 942 F.2d 519 (8th Cir. 1991).

First, reviewing United Power’s System Operators’ responsibilities and the seven listed “traditional” guard responsibilities set forth above, the record shows that the System Operators do not enforce rules or compel compliance with those rules, they do not possess weapons or receive training in weapons and security procedures, they do not participate in security rounds or patrols, and they do not wear uniforms or other indicia of guard status. The System Operators cannot

control access to the Employer's premises. However, they are the only employees who monitor the electrical grid twenty-four hours a day seven days a week and who have some tools to monitor United Power's physical assets.

The Board has consistently recognized that when the employees in question meet the statutory requirement for guards, the fact that they do not take direct action against violators, but instead observe and report suspicious activity to a third party, will not defeat their guard status. See *Wackenhut Corp.*, 196 NLRB 278, 278-279 (1972) where the Board found employees to be guards even where they "do not themselves have the power of police to ultimately determine and compel compliance by violators," as long as "they possess and exercise responsibility to observe and report infractions". In weighing guard and non-guard responsibilities, the Board assesses the "primary function" of an employee. *55 Liberty Owners Corp.*, 318 NLRB 308, 310 (1995). The Board has held that dispatchers who do not personally confront employees or others but merely report violations may be found guards where their "authority to observe and report infractions is not merely incidental to their duties, but instead *constitutes one of their primary responsibilities* which is an essential link in [their employer's] effort to safeguard its employees and enforce its rules." *Rhode Island Hospital*, 313 NLRB 343, 347 (1993) (Board found security dispatchers who monitor hospital's CCTV system and dispatch security officers to respond to calls from employees and other individuals regarding problems and emergencies, including those involving security and safety, are guards) (emphasis added).¹⁴ The focus of the inquiry is whether the employees engage in guard responsibilities that are not a minor or incidental part of their overall responsibilities, *supra* at 347.

Recently, in *Sho-Me Power Elec. Coop. & IBEW Local. No. 53*, 373 NLRB No. 139 (Dec. 3, 2024), the Board found that the petitioned-for dispatchers and central office technicians constituted statutory guards pursuant to Sec. 9(b)(3) of the Act because they "enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises," as Sec. 9(b)(3) requires.¹⁵ The Board further found that, although the dispatchers and central office technicians spend the majority of their time performing other functions, it is well-established that the Board's analysis of guard status "is not a numerical accounting of the percentage of time employees spend on such duties but rather the specific nature of the duties themselves." *Boeing Co.*, 328 NLRB 128, 130 (1999); see also *Madison Square Garden*, 333 NLRB 643, 645-646 (2001).

¹⁴ In this case the dispatchers received approximately 20,000 calls a month, from employees who needed a ride to their car, needed a door opened, or wanted to report a suspicious person or a family problem, which were then dispatched to the security officers out in the field. The dispatchers did not investigate calls or security problems or confront employees or other persons to enforce hospital rules. However, the Board found the security dispatchers to be guards under Section 9(b)(3) because the dispatchers' authority to observe and report infractions was not merely incidental to their other duties but constituted one of their primary responsibilities which was an "essential link" in the employer's effort to safeguard its employees and enforce its rules.

¹⁵ In this case the dispatchers and central office technicians monitored and controlled access to the employer's facilities by opening gates and doors for employees, denying access to former or suspended employees, confirming that outside vendors have legitimate business at the employer's facilities, reporting to the security department when an employee attempts to access an unauthorized area, logging visitors, disarming and arming security measures at the employer's substations and gates, responding to and writing reports on intruder alarms, providing passcodes to the employer's secure lockboxes, and alerting the security department and/or law enforcement in the event of a breach.

However, in *Syracuse University*, 325 NLRB 162 (1997), the Board found that parking services enforcement officers whose primary duties consisted of enforcing parking regulations, barricading restricted parking areas, redirecting traffic, giving directions, and issuing parking tickets, parking passes, and tow warnings, were not guards within the meaning of the Act. These employees did not “carry a gun, receive guard training or instructions regarding the safety of the employer’s property, possess keys to open offices, make rounds or present themselves as guards, or have the authority to enforce security rules of the Employer against employees or other persons.” See also *Wolverine Dispatch, Inc.*, 321 NLRB 796 (1996), where the Board found employees to not be guards when their “receptionist or clerical duties” predominated over their guard responsibilities and *Lion Country Safari*, 225 NLRB 969 (1976), where gatemen and tower observers at a wildlife preserve were found not to be guards as their duties were directed to preserving safety during the normal operation of the facility, and they reported any infractions to individuals who actually enforced the rules; and *Deluxe General Incorporated*, 241 NLRB 229, 229-230 (1979), where the Board reversed the Regional Director’s finding that whistlemen and flagmen were guards within the meaning of Section 9(b)(3) where the “sole task assigned to [them] is to regulate the flow of traffic...” and there was “no evidence that [they] interchange with admitted guards or that they are vested with or exercise any authority to enforce rules against employees or other persons to protect the [e]mployer’s property.”

While the record demonstrates that the System Operators can observe and report possible safety or security incidents that show up on their screens, that is not their primary responsibility. These “guard like” duties of observing and reporting security incidences are significantly less frequent than their primary duties of monitoring the grid for outages and maintenance issues and then dispatching the appropriate personnel to keep the electric supply continuous. Further there is no evidence that System Operators regulate access to United Power’s facilities or property.

Finally, the Board has interpreted the intent of Section 9(b)(3) to “avoid conflicting loyalties” on the part of plant protection employees, and to “ensure an employer that it would have a core of such employees to enforce plant rules during a period of unrest and strikes by other employees.” *McDonnell I*, 109 NLRB 967, 969 (1954); *Lion Country Safari*, 225 NLRB 969, 970 (1976); *Blue Grass Industries*, 287 NLRB 274, 300 (1987). To determine whether an employee is a “guard,” the Board’s inquiry must focus on whether the potential conflict in loyalties which concerned Congress is present. To be a guard, the employee must be obligated to enforce plant protection rules against employees and other persons. *United States Gypsum Co.*, 152 NLRB 624, 627-28 (1965). There have not been any strikes at United Power, but should there be one, the System Operators do not have the authority or the obligation to enforce United Power’s rules as part of their job duties.

As set forth above, to be deemed a guard under the Act, employees “must perform security functions involving the protection of an employer’s property, as an essential part of their duties and those security functions must encompass traditional police and plant security functions as a major and continual part of their job duties.” *Inland Steel Co.*, 308 NLRB 868 (1992). In finding guard status, the focus of the inquiry is whether the employee engages in guard responsibilities that are not a minor or incidental part of their overall responsibilities. The employees in *Wackenhut Corp.*, *supra*, and in *Show Me Power*, *supra* and *Rhode Island Hospital*, *supra*, were determined

to be guards because their guard responsibilities were not a minor or incidental part of their overall responsibilities. This leads me to conclude that United Power's System Operators, who do not receive guard training, possess keys to open offices, make rounds, present themselves as guards, or have the authority to enforce United Power's security rules against employees or other persons and who do not perform security functions as an essential part of their duties, do not constitute guards. Instead, I find that System Operators share many similarities to the employees found by the Board to be non-guard employees in *Syracuse University, supra*, *Wolverine Dispatch, supra*, *Lion Country Safari, supra*, and *Deluxe General*. Because the System Operators are not guards within the meaning of Section 9(b)(3) of the Act, I will direct an election for them.

B. A Self-Determination Election is Not Warranted

In determining whether a proposed group of employees should be added to an already existing unit, the Board decides if the employees share a community of interest by considering "whether the employees 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, 123 (2002), citing *Bartlett Collins Co.*, 334 NLRB 484 (2001); and *The Dahl Oil Co.*, 221 NLRB 1311 (1975). The Board also considers, when relevant, the history of collective bargaining in making such determinations. *R-N Market, Inc.*, 190 NLRB 292, 293 (1971). In considering these factors, the Board does not give any factor controlling weight. *Airco, Inc.*, 273 NLRB 348, 348 (1984), citing *E.H. Koester Bakery Co.*, 136 NLRB 1006, 1009-1011 (1962); and *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 136-138 (1962).

If there are only "minimal differences" between the petitioned-for employees' shared interests and the interests of the excluded employees from the perspective of collective bargaining, then an overwhelming community of interest exists, and that classification must be included in the unit. *American Steel Construction*, 372 NLRB No. 23 (2022). But "[i]f there are more than minimal differences," then "the petitioned-for employees have a rational basis such that collective bargaining limited to that unit may appropriately take place." *Id.* The burden of demonstrating the existence of an overwhelming community of interest is on the party asserting it. *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013)

There is no dispute between the parties that a stand-alone unit of System Operators constitutes an identifiable, distinct segment so as to constitute an appropriate voting group for the purposes of collective bargaining. However, there is insufficient evidence to conclude that they should be added to United Power's represented Service Unit. Specifically, the record shows that 1) the System Operators are part of the Operations Department; 2) they have distinct skills and, to the extent that they received training, it is dissimilar from the other employees; 3) they have distinct job functions; 4) they are functionally integrated with and have frequent contact with the other employees, most often the Linemen; 5) there is no temporary or permanent interchange with other employees represented in the Service Unit; 6) they have different work schedules, but otherwise

the same terms and conditions of employment as the other employees; 7) they are separately supervised by the System Operator Supervisor, but ultimately report to the Vice President of Operations; and 8) the parties have an established bargaining history for the Service Unit, but it is silent on the placement of System Operators.

Based on the scant record evidence, the Petitioner failed to present evidence to establish that the petitioned-for employees share a sufficient community of interest with the employees in the Service Unit. Therefore, an *Armour-Globe* election is not appropriate.¹⁶ Where the Petitioner asserted that it would proceed to an election if I concluded an *Armour-Globe* election was not appropriate, I have directed an election in a stand-alone unit of System Operators.

V. CONCLUSION

I conclude that the System Operators are not guards as defined in Section 9(b)(3) of the Act and that they do not share a sufficient community of interest with United Power's Service Unit. I will, therefore, direct an election for the System Operators as a stand-alone unit.

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.¹⁷
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:

Included: All full-time and regular part-time System Operators employed by the Employer at its Colorado facilities.

¹⁶ I find unpersuasive the Petitioner's contention that the burden is on the Employer to present "compelling evidence" that a smaller unit could be found appropriate, using the balancing test set forth in *Alyeska Pipeline*. The burden of demonstrating the existence of an overwhelming community of interest is on the party asserting it.

¹⁷ The Employer, United Power Cooperative, a Colorado corporation with its principal place of business in Brighton, Colorado is engaged in the retail and non-retail supply of electricity. In conducting its operations described above, the Employer annually derives gross revenues in excess of \$250,000 and purchases goods and materials valued in excess of \$5,000, which goods are shipped directly to the Employer's Colorado facilities from points located outside the State of Colorado.

Excluded: Office clerical employees, professional employees, guards, and supervisors as defined by the Act.

VI. 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 **International Brotherhood of Electrical Workers, Local 111, AFL-CIO**.

A. Election Details

The election will be conducted on **Wednesday, February 11, 2026** from 6:00 p.m. to 7:30 p.m. in the Conference Room at the Employer's Carbon Valley Service Center located at 9586 East I-25 Frontage Road, Longmont, Colorado 80504.¹⁸

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, January 24, 2026**, 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, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (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(1) 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

¹⁸ The physical address of the Carbon Valley Service Center was not included in the record. However, a search of the Employer's website revealed the address of the facility.

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 **Monday, February 2, 2026**. The list must be accompanied by a certificate of service showing service on all parties.¹⁹ **The region will no longer 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.

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. 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. In this case, the Notice of Election must be posted and distributed by no later than **12:01 a.m. on Friday, February 6, 2026**. 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

¹⁹ The Petitioner has waived the ten (10) days to which it is entitled to have the voter eligibility list.

the non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution. 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, 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.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated, this 29th day of January 2026, at Denver, Colorado:



MATTHEW S. LOMAX REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 27 Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

