

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

FRITO-LAY NORTH AMERICA, INC.

Employer

and

Case 04-RC-376082

TEAMSTERS LOCAL 929 A/W INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

Petitioner

**DECISION AND DIRECTION OF ELECTION**

The sole issue in this case is the appropriateness of a bargaining unit sought by Teamsters Local 929 a/w International Brotherhood of Teamsters (the Petitioner) consisting of truck drivers employed by Frito-Lay North America, Inc. (the Employer) at 260 Hansen Access Road, King of Prussia, Pennsylvania (the Facility).<sup>1</sup> The Petitioner seeks to represent a unit consisting of Sales Delivery Specialists, Delivery Specialist Leads, and Delivery Merchandising Specialists.<sup>2</sup> These 26 employees are primarily responsible for delivering large quantities of the Employer's products using Employer-supplied bulk trucks. The Employer contends that the petitioned-for unit is fractured, hence the only appropriate unit containing those employees would include all customer-facing roles within its Sales Organization (SO) consisting of an additional 127 employees spanning seven classifications. Because the Employer has failed to meet its burden establishing that these seven additional classifications share an "overwhelming community of interest" with the petitioned-for classifications, I hereby direct an election in the petitioned-for unit. *American Steel Construction, Inc.*, 372 NLRB No. 23, slip op. at 17 (Dec. 14, 2022).

On December 15, 2025, a hearing officer of the Board held a hearing in this matter to adduce relevant testimony and receive documentary evidence, and the parties filed post-hearing briefs. The Employer presented two witnesses: Field Sales Management Director Kevin Herrera, and Human Resource Director Chelsey Hollenshead. The Petitioner did not present any witnesses. As explained below, based on the record and relevant Board law, I find that the petitioned-for unit is appropriate and hence I will direct an election in that unit.<sup>3</sup>

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<sup>1</sup> In Board Exhibit 2, the parties made a joint motion to amend the petition and other formal documents to reflect the correct legal names of the parties. I hereby grant the motion.

<sup>2</sup> On December 3, 2025, the Petitioner filed a petition seeking "[a]ll drivers based out of the [Facility]." At hearing, the Petitioner specified that it only seeks these three classifications.

<sup>3</sup> Though Herrera has previously been employed in several of the classifications at issue, no witnesses were presented who presently occupy those classifications. As such, much of the testimony is vague and secondhand.

## I. FACTS

### A. The Employer's Operations

The Employer is a Delaware corporation that manufactures and distributes snack food products nationwide (B. Exh. 1(h)). From the Facility, the Employer transports and distributes its products to smaller customers such as convenience stores and larger customers such as supermarkets. The Facility is the largest of the four facilities in the Employer's Philadelphia Zone, housing both its SO and a distribution center consisting primarily of warehouse employees. The unit proposed by the Employer consists of all the nonsupervisory classifications within the SO, including the petitioned-for classifications plus the following contested employees: 15 Route Sales Associates (RSAs), 90 Route Sales Representatives (RSRs) of whom 68 are RSR Leads and 22 are RSR Co-Leads, four RSR Specialists, 14 Sales Merchandisers, one Sales Relief Merchandiser, and three Merchandiser Leads (B. Exh. 1(h)). Field Sales Management Associate Leader (FSMAL) for Delivery Specialists Travis Parker supervises all the petitioned-for employees and none of the contested employees. All Route Sales employees who drive trucks report to one of four FSMALs, and all truckless Route Sales employees and merchandising employees report to one of four other FSMALs. All FSMALs report to Field Sales Management Director Kevin Herrera, the only SO employee who testified at the hearing. From Herrera upward, the chain of command is identical among the employees at issue.

The Employer uses a "direct store delivery" (DSD) system whereby the SO promotes, sells, orders, transports, delivers, and merchandises the product for its customers. First, the contested RSRs promote and sell products to customers and place orders. Next, the petitioned-for bulk-truck drivers, along with a subset of contested "trucked" RSRs, transport and deliver the product to the customer's premises using Employer-issued vehicles. The bulk-truck drivers deliver only to larger customers using larger bulk trucks, whereas the trucked RSRs use smaller trucks for smaller customers. For larger customers, the truckless RSRs would then handle additional selling and ordering at the stores where the bulk-truck drivers have delivered their product.

The final stage of the process is merchandising, which entails taking the products delivered by the bulk-truck drivers, entering the customer's shop floor, building displays, and stocking shelves. For smaller stores, the trucked RSRs who delivered the product handle all the merchandising. For larger stores, merchandising is performed by the contested Sales Merchandisers, Merchandiser Leads, and truckless RSRs, and sometimes the petitioned-for Delivery Merchandising Specialist.

Bulk-truck drivers and trucked RSRs spend about 90% of their time in the field, whereas truckless RSRs and merchandising employees work entirely in the field. Bulk-truck drivers and trucked RSRs begin and end their day in the "settlement room" at the Facility, where they pick up and file paperwork necessary for their deliveries. In contrast, truckless RSRs and merchandising employees begin their shifts at their first assigned stores and do not regularly report to the Facility. The record contains some testimony regarding how large-store employees might interact when

customers refuse product or delays occur, but no specific examples were provided and the frequency is unclear.

#### *Commonalities Among All SO Employees at Issue*

The petitioned-for and the contested employees have some overlap terms and conditions of employment as to credentials, training, equipment, seniority, workplace policies, and benefits. All SO employees at issue are required to have a valid driver's license, and none are required to hold a Commercial Driver's License (CDL). All have a similar three-day onboarding exposing them to all stages of the DSD process. All attend quarterly training on the same policies, including on close maneuvering while driving. All bulk-truck drivers and trucked RSRs must attend quarterly defensive-driving training, which is the same irrespective of the size of the truck. All SO employees use the same handheld devices and printers to process orders and communicate, and are issued the same knee pads and slip-resistant shoes. All may bid into other positions irrespective of their past training. All share a seniority list, which is used for bidding on vacation days and routes. All are subject to the same attendance and disciplinary policies (Emp. Exh. 11 & 12). Finally, all are eligible for the same benefits, including healthcare, dental, vision, life, retirement, paid time off, tuition reimbursement, uniform allowances, and sick days.

#### **B. The Petitioned-for Unit**

The Petitioner seeks a unit of 26 bulk-truck drivers whose primary duties are to drive Employer-supplied bulk trucks to deliver products to supermarkets and other larger customers. The 24 Sales Delivery Specialists, single Delivery Specialist Lead, and single Delivery Merchandising Specialist begin their shifts at the Facility anywhere from 1:00 a.m. to 3:00 a.m.. They must pass a Department of Transportation (DOT) physical examination to drive commercial vehicles. Most of their terms and conditions of employment are outlined in the National Sales Hourly Employee Handbook (Emp. Exh. 11). They report to the assembly room to collect their paperwork, and then they drive a 24-foot or 30-foot truck whose products have been preloaded by the warehouse team. Operation of a bulk truck requires specialized knowledge of liftgates and airbrake systems that are inapplicable to smaller trucks. Bulk-truck drivers work five days a week and are given specific routes. They are scheduled for 45 to 48 weekly hours and thus tend to regularly work overtime. All are paid hourly at the following rates: Delivery Specialists (\$28), Leads (\$30.80), and Delivery Merchandising Specialists (\$29.40).

Upon arriving to a larger store, the petitioned-for employees offload carts of product and then work with a store receiver to ensure that the product comports with the customer's order receipt. The Sales Delivery Specialists have the same route for five days, whereas the one Lead has the same route for only three days. The Lead's two other workdays are spent assisting other Sales Delivery Specialists or "covering for our delivery specialist manager for his office."<sup>4</sup> The

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<sup>4</sup> The record is silent on the meaning of "covering for," how much time is spent "covering for" the manager, or whether the Lead performs work that is materially different from that of non-Leads. Accordingly, I am unable to determine whether the Lead sporadically engages in supervisory duties under Section 2(11) of the Act. *Detroit College of Business*, 296 NLRB 318, 320 (1989) (applying five-factor test "to determine the nature of the individual's alliance with management")

single Delivery Merchandising Specialist has a hybrid role combining Sales Delivery Specialist and Sales Merchandiser duties, which I will address in greater detail in the next section. Thus, Delivery Merchandising Specialists might deliver product to four stores on a given day, and they might merchandise up to two of those stores.

### C. The Contested Classifications

In this section, I describe the seven contested classifications sought to be included by the Employer. First, I describe four of these classifications under the heading of “Route Sales employees.” Next, I describe the remaining three classifications under the heading of “merchandising employees.” Finally, I discuss interchange among the various employees at issue.

#### 1. *Route Sales Employees*

The 109 contested Route Sales employees include 68 RSR Leads, 22 RSR Co-Leads, 15 RSAs, and four RSR Specialists. They are responsible for developing relationships with customers; promoting, selling, and ordering product; and merchandising when handling smaller accounts (Emp. Exh. 12). Most of their terms and conditions of employment are outlined in the National Sales RSR Hourly Employee Handbook (Emp. Exh. 12). All RSRs report to the Facility between 3:00 a.m. and 6:00 a.m.. RSA is the entry-level position to the RSR role. Whereas an RSR is assigned to a fixed route, the Associates fill in for RSR routes experiencing a longer-term vacancy. The 60 trucked RSRs drive Employer-supplied small box trucks to deliver to between six to 10 smaller stores daily, where they perform similar functions as the merchandising employees. Their routes tend to differ daily, serving between 20 and 30 customers a week. They are not trained on the unique features of bulk trucks such as liftgates or airbrakes. In addition to promoting, ordering, and selling, truckless RSRs perform merchandising work at larger stores. The four RSR Specialists can sell, order, merchandise, and drive both the small trucks and the bulk trucks. Thus, the RSR Specialists are the first individuals used by the Employer to cover short-term RSR vacancies, and they spend about 20% of their time coaching newer employees. RSR Leads are assigned to specific routes five days a week, serving the same customers weekly. To ensure seven-day service to customers, Co-Leads work the other two days in a given week when the Lead is not working. Co-Leads still work five days a week, covering the off days of up to three different Leads.

Route Sales employees receive annual sales-specific training that is unavailable to the other classifications at issue. The trucked RSRs and all RSAs must pass the same DOT examination as the petitioned-for employees. Because most of the 32 truckless RSRs began as RSAs, in effect most Route Sales employees have passed the DOT examination—even if they do not keep it current.

In contrast to the petitioned-for and the merchandising employees, Route Sales employees are salaried and most receive performance pay. All 15 RSAs earn \$70,400 annually irrespective of

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for purposes of statutory exclusion from the unit). Nor is the record sufficient for me to characterize them as dual-function employees warranting exclusion. *Berea Publishing Co.*, 140 NLRB 516, 519 (1963) (applying community-of-interest test for employees who perform both unit and nonunit work).

tenure. RSRs earn a minimum of \$75,900 and a maximum of \$103,200 annually. Thus, 15% of an RSR's salary is based on sales volume targets set by management based on the prior year's sales data. All Route Sales employees are assigned routes totaling 45 to 48 hours, five days a week. Because Route Sales employees do not have a fixed hourly rate, their overtime is calculated based on a variable rate under the Fair Labor Standards Act.

The National Sales RSR Hourly Employee Handbook's section on Basic Job Accountabilities lists numerous duties for Route Sales employees, including:

Determine customer needs and identify selling opportunities. [] Walk the entire store to identify locations for incremental displays and other selling opportunities. [] Review all Frito-Lay display locations to determine needs. [] Observe competitive activities and consumer buying habits, traffic flow, and sell-off. [] Identify when new stores are opening or closing in market and partner with manager/team to successfully initiate or terminate service[.] Build rapport with store-level customers to create selling opportunities. Routinely greet customer and create a personal relationship based on service and knowledge of the business. . . . Demonstrate an interest in the customers' success by sharing account observations and making suggestions on improvements. . . . Keep the customer informed of Frito-Lay product performance, consumer and industry updates, and opportunities for increased profits in salty snacks and convenience foods. . . . Maximize sales and manage freshness, variety and availability of on-truck and in-store inventories (Emp. Exh. 12 at 25).

None of the foregoing duties is listed in the National Sales Hourly Employee Handbook applicable to the petitioned-for employees (Emp. Exh. 11 at 25). Some duties are listed in both handbooks but with materially different language concerning the degree of responsibility. Thus, the RSR handbook provides, "Plan for weekly and period sales execution based on current account opportunities, upcoming promotions, Customer Annual Plans (CAPs), and new products. [] Know sales objectives and performance to date. [] Know upcoming promotions and in-store activities (e.g. resets, support needs)." The petitioned-for employees' handbook contains similar language, but with the word "understand" instead of "plan for" or "know" (Emp. Exh. 11 at 25).

## *2. Merchandising Employees*

The 14 Sales Merchandisers, single Sales Relief Merchandiser, and three Merchandiser Leads complete the final stage of the SO process exclusively at larger stores. They drive their personal vehicles to three to five stores daily, remove bags of product from the boxes delivered by the petitioned-for employees, and place the product on shelves on the sales floor. They follow the Employer's prescribed planogram and are responsible for ensuring that products are properly rotated based on expiration dates. The Sales Relief Merchandiser performs identical tasks but is expected to fill in for absent coworkers. The record is silent as to the additional duties of Leads. Non-Leads are paid \$23.55 per hour, Leads are paid \$27.10, and neither receive performance pay. They are subject to the same non-RFR handbook as the petitioned-for employees. After delivering product using a bulk truck, the petitioned-for Delivery Merchandising Specialist performs merchandising work for up to two of the four customers in a given day. Truckless RSRs sometimes merchandise, but the record is unclear as to how often.

### 3. *Interchange Between Petitioned-for and Contested Employees*

The record contains minimal evidence of interchange. Short-term vacancies in the bulk-truck driver routes are primarily filled by the four RSR Specialists. There were 72 instances of short-term interchange between petitioned-for and contested employees between March 1 and December 12, 2025 (Emp. Exh. 3). In all cases, it was an RSR Specialist covering a Delivery Specialist shift for up to five days in a given week (Emp. Exh. 3). In about nine instances a year, typically around busier seasons, a non-Specialist RSR might drive a bulk truck to deliver extra product to a larger store. There was no evidence of instances in which bulk-truck drivers performed the work of contested employees on a short-term basis. Two examples were provided of RSR employees permanently transferring to Delivery Specialist positions. Three examples were provided of Delivery Specialists transferring to RSR positions.

## II. **LEGAL AUTHORITY**

The Act provides that “the unit appropriate for purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.” 29 U.S.C. § 159(b). Thus, a petitioner is not required to seek representation of employees in the most appropriate unit possible, but only in *an* appropriate unit. *Overnite Transp. Co.*, 322 NLRB 347, 350 (1996). “[I]n every unit determination case, the Board’s inquiry will ‘consider only whether the requested unit is an appropriate one even though it may not be the optimum or most appropriate unit for collective bargaining.’” *American Steel Construction, Inc.*, 372 NLRB No. 23, slip op. at 3 (Dec. 14, 2022), quoting *Black & Decker Mfg. Co.*, 147 NLRB 825, 828 (1964). Thus, the Board first determines whether the unit proposed by a petitioner is appropriate. If the petitioned-for unit is readily identifiable and employees in that unit share a community of interest, the Board will find that unit to be appropriate. See *id.* This is so even if the petitioned-for employees could be placed in a larger unit that would also be appropriate or even more appropriate, unless the employees in the larger unit share an “overwhelming community of interest” with those in the petitioned-for unit. *Id.*, overruling *PCC Structurals, Inc.*, 365 NLRB 1696 (2017) and returning to the standard articulated in *Specialty Healthcare & Rehab. Ctr. of Mobile*, 357 NLRB 934, 934 (2011) enfd. sub nom *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552, 554 (6th Cir. 2013).<sup>5</sup>

The first step of the *American Steel* test is whether the “subdivision” of job classifications sought by the petitioner “(1) shares an internal community of interest; (2) is readily identifiable as a group based on job classifications, departments, functions, work locations, skills, or similar factors; and (3) is sufficiently distinct.” *American Steel*, slip op. at 17. “[T]he Board does not approve fractured units, i.e., combinations of employees that … have no rational basis.” *Odwalla*,

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<sup>5</sup> It bears mention here that both the *Specialty Healthcare-American Steel* and *PCC Structurals-Boeing* frameworks are in broad agreement about the overall process of unit determinations and the elements that are involved; the one point of difference is the showing required under the “sufficiently distinct” element. *American Steel*, slip op. at 10, 16. Thus, both frameworks agree that the petitioned-for employees must share an internal community of interest, that the petitioned-for unit must be “identifiable,” and that the Board will consider industry-specific precedent and rules it has developed through case adjudication.

*Inc.*, 357 NLRB 1608, 1612 (2011), quoting *Seaboard Marine*, 327 NLRB 556, 556 (1999). Factors relevant to assessing community of interest include whether 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 [e]mployer'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). All relevant factors must be weighed in determining community of interest and no single factor is dispositive. See *DTG Operations, Inc.*, 357 NLRB 2122, 2126 (2011). Additionally, functional integration exists only where employees "must work together and depend on one another to accomplish their tasks" and not merely when they are part of the same production process. *WideOpenWest Illinois, LLC*, 371 NLRB No. 107, slip op. at 7, fn. 16 (June 10, 2022); *Casino Aztar*, 349 NLRB 603, 605 (2007). To establish that the petitioned-for employees are "readily identifiable," they must "logically and reasonably be segregated from other employees for the purposes of collective bargaining" and the grouping cannot be "clearly arbitrary." *American Steel*, slip op. at 5, quoting *Champion Machine and Forging Co.*, 51 NLRB 705, 707-08 (1943).

The "sufficiently distinct" factor is only analyzed when a party contends that additional classifications should be added to the petitioned-for unit, at which point the inquiry moves to the second step. *American Steel*, slip op. at 17. Hence, the Board determines whether the additional employees share an "overwhelming community of interest" with the petitioned-for employees "such that there is no rational basis for the exclusion." Id. This standard is satisfied where the community-of-interest factors "overlap almost completely." *Specialty Healthcare* at 944, quoting *Blue Man Vegas, LLC. v. NLRB*, 529 F.3d 417, 421-422 (D.C. Cir. 2008). The burden of demonstrating the existence of an overwhelming community of interest is on the party asserting it. *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB 2015, 2017 fn. 8 (2011). "[D]emonstrating that another unit containing the employees in the proposed unit plus others is appropriate, or even that it is more appropriate, is not sufficient to demonstrate that the proposed [smaller] unit is inappropriate." *DPI Secuprint, Inc.*, 362 NLRB 1407, 1410 (2015), quoting *Specialty Healthcare* at 943; see also *Pacemaker Mobile Homes*, 194 NLRB 742, 743 (1972) (unit excluding truck drivers appropriate thus irrelevant that larger unit also appropriate). Thus, a petitioner's desired unit is relevant but not controlling. *Publix Super Markets*, 343 NLRB 1023, 1029 (2004) ("there may be more than one appropriate unit in a given case, and the Petitioner may seek an election in any appropriate unit").

The Board has long held that drivers-only units are appropriate. *E. H. Koester Bakery Co., Inc.*, 136 NLRB 1006, 1006, 1012 (1962) (drivers could be excluded from a petitioned-for production and maintenance unit because, among other things, drivers spent the vast majority of their time away from the facility, had distinct working conditions, and had little contact with the petitioned-for employees). Thus, "drivers may constitute an appropriate unit apart from warehouse and production employees unless they are so integrated with a larger unit that they have lost their separate identity." *Triangle Building Prods. Corp.*, 338 NLRB 257, 266 (2002); see also *Home Depot USA*, 331 NLRB 1289, 1291 (2000) (drivers-only unit appropriate despite spending 30-40% of working time on non-driving tasks and sharing interest with others); *Overnite Transp. Co.*, 331

NLRB 662, 663 (2000) (reversing finding that petitioned-for unit of dockworkers should include truck drivers because drivers perform a separate function, possess special skills and qualifications, worked away from the facility most of the day, and did not have any overlapping duties or interchange with the other employees); *Overnite Transp. Co.*, 322 NLRB 347, 347 (1996) (driver unit appropriate without mechanics).

### **III. ANALYSIS**

In this section, I apply the *American Steel* test. At the first step, I conclude that the petitioned-for unit of bulk-truck drivers is an appropriate unit. Then, I apply the second step of the test in three parts, concluding that the petitioned-for employees lack an overwhelming community of interest with the contested employees.

#### **A. The Petitioned-for Unit is Appropriate**

The petitioned for unit of Sales Delivery Specialists, Delivery Specialist Leads, and Delivery Merchandising Specialists is an appropriate unit because it “(1) shares an internal community of interest[,] . . . (2) is readily identifiable as a group[,] . . . and (3) is sufficiently distinct.” *American Steel*, slip op. at 17. The petitioned-for employees share an internal community of interest primarily because their core job function is to drive larger bulk trucks to deliver the Employer’s products to larger customers. Unlike the Employer’s smaller box trucks, the bulk trucks require specialized training on liftgates and airbrakes. Thus, the Employer hires, trains, and evaluates the petitioned-for employees overwhelmingly based on their ability to drive and unload these larger trucks. They are all in the same SO department, are paid hourly at similar wage rates, and are not compensated based on performance. Their shifts all start between 1:00 a.m. and 3:00 a.m., the earliest of all classifications at issue. They are “readily identifiable as a group” because they are the only employees who drive bulk trucks to larger customers, and they are supervised by a manager who does not supervise any of the contested employees. Though the Delivery Merchandising Specialist performs some merchandising duties, most of his work, and his terms and conditions of employment, appear to be identical to that of the Sales Delivery Specialists and Delivery Specialist Leads. Finally, the petitioned-for unit is “sufficiently distinct” for the reasons that follow in my application of the second step of the *American Steel* test. Accordingly, I conclude that the petitioned-for unit is appropriate for the purposes of collective bargaining.

#### **B. The Contested Employees Lack an Overwhelming Community of Interest with the Petitioned-for Employees**

Here, I apply the second step of the *American Steel* test, concluding that the employees the Employer seeks to add to the unit do not share an overwhelming community of interest warranting their inclusion in a unit with the petitioned-for employees. Hence, I find that the Route Sales and merchandising employees work separately from the employees in the petitioned-for unit and perform distinct tasks with distinct qualifications and distinct expectations; are separately supervised; have infrequent and limited interchange with the petitioned-for employees; and have insufficient contact and interdependence to be considered functionally integrated. Moreover, nearly all Route Sales employees are compensated partly based on performance of duties that are materially different from those performed by the petitioned-for employees. First, I address the

Route Sales employees. Next, I address all merchandising employees. Finally, I explain how even though all employees at issue have some commonalities, the Employer has nonetheless failed to meet its *American Steel* burden.

### *1. Route Sales Employees*

I conclude that the 109 RSR Leads, RSR Co-Leads, and RSAs, and RSR Specialists do not share an overwhelming community of interest with the 26 petitioned-for employees. In contrast to the almost exclusively manual work performed by bulk-truck drivers, Route Sales employees perform work that is largely strategic, relational, and business oriented. Unlike bulk-truck drivers, Route Sales employees order products and are incentivized in their compensation structure to promote products. As such, their job description as detailed in the RSR handbook requires a deeper knowledge of consumer trends, customer preferences, and sales goals. Moreover, the truckless RSRs lack the core distinguishing feature of the bulk-truck drivers—the operation of an Employer-supplied truck. While the remaining 77 Route Sales employees operate Employer-operated trucks, they do so in addition to the previously described tasks unique to Route Sales employees. That means exclusively driving smaller trucks to smaller stores, and then performing additional sales and merchandising work that the petitioned-for employees do not perform.

Moreover, there is very limited interchange and functional integration among the Route Sales and the petitioned-for employees. While five RSR Specialists covered short-term delivery-driver vacancies on 72 shifts between March and December 2025, I find this to be a trivial amount of interchange given the 153 SO employees at issue. To illustrate, in a single week, the 26 bulk-truck drivers collectively work 130 shifts. There is no functional integration between bulk-truck drivers and Route Sales employees because each fulfill merely one part of the sequence within the same production process. See *WideOpenWest Illinois, LLC*, 371 NLRB No. 107, slip op. at 7 (June 10, 2022). Bulk-truck drivers begin their shifts between 1:00 a.m. and 3:00 a.m., whereas RSRs begin between 3:00 a.m. and 6:00 a.m. Despite sometimes crossing paths in the settlement room, trucked RSRs seem to lack substantive work-related interaction with bulk-truck drivers, as the groups service different types of customers. Though truckless RSRs servicing larger customers might have limited interaction with bulk-truck drivers, the record contains insufficient evidence that they “must work together and depend upon one another to accomplish their tasks.” Id at fn. 16. Whereas all bulk-truck drivers report to a single supervisor, each Route Sales employee reports to one of eight supervisors with no authority over bulk-truck drivers. Therefore, Route Sales employees lack an overwhelming community of interest with the petitioned-for employees.

Though the Employer contends that *Casino Aztar*, 349 NLRB 603, 605 (2007) would require a finding of significant interchange, I disagree. In that pre-*Specialty Healthcare* case, the Board found functional integration and interchange within a 200-employee unit involving a smaller fraction of total employee interchange hours than is present here. See id. Thus, within a 13-month period, “there were 53 instances of beverage employees working catering events involving 29 different employees working a total of 297.31 hours.” Id. But the Board in *Casino Aztar* did not rely on that fact alone in finding functional integration and interchange, for which there was additional overwhelming evidence: “When working catering events, no distinction is made between beverage, catering, and restaurant employees. Employees from different subdepartments work side-by-side, wear the same uniform or costume, and answer to catering supervisors. Usually, they are all paid the

same rate through catering and share tips equally.” Id. Therefore, the present record, which lacks detail on employee interaction, is distinguishable.

## 2. *Merchandising Employees*

I conclude that the 14 Sales Merchandisers, single Sales Relief Merchandiser, and single Merchandiser Lead do not share an overwhelming community of interest with the petitioned-for employees. Merchandisers do not drive Employer-supplied trucks, let alone the bulk trucks operated by bulk-truck drivers. Merchandisers perform most of their duties on the sales floor, where delivery operators do not typically work.<sup>6</sup> The record contains insufficient evidence of substantive interaction between merchandising and the petitioned-for employees. In the DSD sequence for larger stores, it appears that merchandising employees are only likely to interact with bulk-truck drivers when there are delays or product refusals. The merchandising employees and the petitioned-for employees are separately supervised, and there is no evidence of interchange among them. Therefore, the merchandising employees lack an overwhelming community of interest with the petitioned-for employees.

## 3. *The Employees at Issue Lack an Overwhelming Community of Interest Despite Their Commonalities*

The commonalities between the petitioned-for employees and the contested employees do not rise to the level of an overwhelming community of interest under *American Steel*. I acknowledge that these groups have overlap as to departmental grouping in the SO, skills, training, equipment, seniority, work policies, benefits, and other terms and conditions of employment contained in the respective handbooks. Additionally, the Employer emphasizes that all classifications at issue are required to have valid driver’s licenses, they all operate vehicles in the course of their work, and the vast majority retain DOL certification. But driving a car to reach one’s work destination is routine in the geography served by the Philadelphia Zone. Most of the contested employees’ core job duties do not involve the operation of a motor vehicle; driving is merely a way for those employees to arrive at customers’ destinations before performing their work. In contrast, the petitioned-for employees must drive the Employer’s bulk trucks to transport and deliver the Employer’s products as an inextricable aspect of their employment. Therefore, while the Employer’s contentions may establish that the broader unit sought by the Employer is an appropriate unit, the contested employees do not share such an overwhelming community of interest as to require their inclusion.

## IV. CONCLUSIONS AND FINDINGS

I have carefully weighed the record evidence and the parties’ arguments and conclude that the petitioned-for unit of bulk-truck drivers constitutes an identifiable and distinct group that shares an internal community of interest. The Employer has failed to demonstrate that an overwhelming

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<sup>6</sup> The record lacks detail as to how often the petitioned-for Delivery Merchandising Specialist performs merchandising duties. Accordingly, the record is insufficient for me to analyze whether Delivery Merchandising Specialists are dual-function employees warranting exclusion. See *Berea Publishing Co.*, 140 NLRB 516, 519 (1963).

community of interest exists between the petitioned-for unit and the contested SO employees whom it asserts must be included in any appropriate unit sought. Therefore, it is appropriate to hold an election among the petitioned-for Sales Delivery Specialists, Delivery Specialist Leads, and Delivery Merchandising Specialists.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the Board. Based on the entire record in this proceeding, including the stipulations by the parties, and in accordance with the discussion above, I further find and conclude as follows:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial errors and are hereby affirmed.

2. The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>7</sup>

3. The parties stipulated, and I find, that 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. The parties stipulated, and I find, that there is no collective-bargaining agreement covering any of the employees in the unit, and there is no contract bar or other bar to an election in this matter.

5. 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.

6. 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 Sales Delivery Specialists, Delivery Specialist Leads, and Delivery Merchandising Specialists employed by the Employer at its 260 Hansen Access Road, King of Prussia, Pennsylvania facility.

**Excluded:** All other employees, warehouse employees, Delivery Specialist Managers, Route Sales Associates, Route Sales Representative Leads, Route Sales Representative Co-Leads, Route Sales Representative Specialists, Sales Merchandisers, Sales Relief Merchandisers, Merchandiser Leads, office clerical

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<sup>7</sup> The Employer is a Delaware corporation that operates a facility located at 260 Hansen Access Road, King of Prussia, PA, where it is engaged in the transportation and distribution of manufactured products. During the calendar year 2025, a representative period, the Employer derived gross revenues in excess of \$1,000,000, and the Employer purchased and received at its King of Prussia, Pennsylvania facility goods valued in excess of \$50,000 directly from points outside the Commonwealth of Pennsylvania.

employees, professional employees, confidential employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

## **V. 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 Teamsters Local 929 a/w International Brotherhood of Teamsters.

### **A. Election Details**

The election will be held on **Thursday, February 19, 2026** from 10:00 a.m. to 11:30 a.m. in the Betsy Ross Conference Room at the Employer's 260 Hansen Access Road, King of Prussia, Pennsylvania facility.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, January 31, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

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(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 (that employees use at work), 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 **February 6, 2026**. The list must be accompanied by a certificate of service showing service on all parties. **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.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.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.nlrb.gov](http://www.nlrb.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.

**VI. 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.nlrb.gov](http://www.nlrb.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: February 4, 2026

*/s/ Kimberly Andrews*

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KIMBERLY ANDREWS  
REGIONAL DIRECTOR  
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