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**GE Appliances, A Haier Company and International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL-CIO (IUE) Communications Workers of America, AFL-CIO (CWA), IUE/CWA, Local 83761.** Cases 09-CA-284214 and 09-CA-298179

February 24, 2026

DECISION AND ORDER

BY MEMBERS PROUTY, MURPHY, AND MAYER

On January 26, 2023, Administrative Law Judge Kimberly Sorg-Graves issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel and the Union filed answering briefs, and the Respondent filed a combined reply brief to the answering briefs. Additionally, the General Counsel and the Union filed cross-exceptions and supporting briefs, the Respondent filed a combined answering brief, and the Union filed a reply.

<sup>1</sup> In adopting the judge's finding that the Respondent violated Sec. 8(a)(5) and (1) by unilaterally changing wage rates, we note that the Respondent does not except on the grounds that the judge found both a unilateral-change violation and a midterm-modification violation based on the same facts.

The judge found, and we agree, that the Respondent unreasonably delayed in providing relevant information requested by the Union. Specifically, the parties settled a grievance regarding vacation time usage by agreeing that two employees could take a vacation on the same day. Thereafter, computer terminals used to submit vacation requests still did not make the second day available and the Union filed an information request seeking "who and with what authority removed the second day from the system . . . ." In affirming the judge, we do not rely on the judge's statement that the identity of the individual behind the suspected rescission of the computer terminal update "may appear irrelevant." To the contrary, if the Union's reasonable, albeit mistaken, belief that a manager had rescinded the terminal update had been proven correct, then knowing that person's identity would have aided the Union in determining an appropriate course of action to rectify the situation. Moreover, the Respondent never asked the Union to explain the relevance of the requested information. We therefore find, in agreement with the judge, that under the particular facts and circumstances of this case, the Respondent's month-long delay in providing the requested information was unreasonable.

While Member Prouty joins his colleagues in affirming the judge's finding that the month-long delay in providing the requested information violated the Act, he would find that the requested information was presumptively relevant. In so finding, Member Prouty relies on the judge's findings that "[t]he Union's information request could be interpreted as concerning the terms and conditions of employment in the bargaining unit," and that "[t]he information request was necessary to the Union's ability to effectively represent and communicate with unit employees about the status of their grievance and vacation benefits, a bargaining duty, as well as their efforts to hold the Respondent accountable to the

The National Labor Relations Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions<sup>1</sup> and to adopt the recommended Order as modified and set forth in full below.<sup>2</sup>

ORDER

The National Labor Relations Board orders that the Respondent, GE Appliances, a Haier Company, Louisville, Kentucky, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Changing the terms and conditions of employment of its unit employees without first notifying International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL-CIO (IUE) Communications Workers of America, AFL-CIO (CWA), IUE/CWA, Local 83761 (Union), and giving it an opportunity to bargain.

(b) Making midterm modifications to its collective-bargaining agreement with the Union without the Union's consent, including by altering the contractual wage and shift-differential rates.

(c) Refusing to bargain collectively with the Union by unreasonably delaying in furnishing it with requested

grievance process . . . ." Having found the requested information presumptively relevant, Member Prouty would find that the Respondent's failure to ask the Union to explain relevance is immaterial.

<sup>2</sup> We shall modify the judge's recommended Order to conform to our standard remedial language and in accordance with our decision in *Excel Container, Inc.*, 325 NLRB 17 (1997). We shall also substitute a new notice to conform to the Order as modified.

Additionally, we deny a request by the General Counsel and the Union that the Board remedy the Respondent's unlawful unilateral grant of wage increases to select unit employees by ordering the Respondent to extend the unilateral wage increases to *all* unit employees and to make whole the employees who had not received the increase. Such a remedy would require altering Board precedent, and we decline to do so.

For the reasons stated in his concurrence in *CP Anchorage 2 d/b/a Hilton Anchorage*, 371 NLRB No. 151, slip op. at 9-15 (2022), enfd. 98 F.4th 314 (D.C. Cir. 2024), Member Prouty would make a reading of the notice to employees at a group meeting, accompanied by the distribution of the notice at the meeting, a part of the remedy in this case and a standard remedy for all unfair labor practices found by the Board. While Member Prouty is of the opinion that the Board should aim to achieve its restorative goal of ensuring that employees protected by the Act are more effectively informed that their rights have been violated (and that, they should expect, their rights will not be so violated again) by ordering notice reading in all cases, he finds notice reading and distribution to be particularly appropriate here because the unfair labor practices were serious and widespread. The Respondent unlawfully increased wages for employees in most unit classifications and the Board's standard remedy in this situation—ordering the Respondent to rescind the wage increase if the Union so requests—presents the Union with a Hobson's choice: permit the unlawful wage increase to stand or be further diminished in employees' eyes by forcing rescission of the wage increase. Either choice is insufficient to remedy the violation's damage to the collective-bargaining process.

information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of employees in the following bargaining unit:

All employees at [Respondent's Louisville, Kentucky Appliance Park facility] in the bargaining unit as defined in Article 1 of the 2020-2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020-2024 Appliance Park Local Agreement between Haier and the Union.

(b) Upon request by the Union, rescind the wage and shift-differential increases that were unilaterally implemented on October 4, 2021.

(c) Within 14 days after service by the Region, post at its Louisville, Kentucky facility copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 4, 2021.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 9 a sworn certification of a responsible official on a form provided by the Region

attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. February 24, 2026

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David M. Prouty, Member

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James R. Murphy, Member

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Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX  
NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union  
Choose representatives to bargain with us on your behalf  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

WE WILL NOT change your terms and conditions of employment without first notifying International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL-CIO (IUE) Communications Workers of America, AFL-CIO (CWA), IUE/CWA, Local 83761 (Union), and giving it an opportunity to bargain.

WE WILL NOT make midterm modifications to our collective-bargaining agreement with the Union without the Union's consent, including by altering the contractual wage and shift-differential rates.

WE WILL NOT refuse to bargain collectively with the Union by unreasonably delaying in furnishing it with

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the

requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of employment of our unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following bargaining unit:

All employees at [our Louisville, Kentucky Appliance Park facility] in the bargaining unit as defined in Article 1 of the 2020-2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020-2024 Appliance Park Local Agreement between Haier and the Union.

WE WILL, on request by the Union, rescind the wage and shift-differential increases that were unilaterally implemented on October 4, 2021.

#### GE APPLIANCES, A HAIER COMPANY

The Board's decision can be found at <https://www.nlr.gov/case/09-CA-284214> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



*Zuzana Murarova, Esq.*, for the General Counsel.  
*Jason W. Hillard, Esq.* and *Jacqueline N. Rau, Esq.*, for Respondent.  
*Pamela Newport, Esq.*, for the Charging Party.

#### DECISION

##### INTRODUCTION

KIMBERLY SORG-GRAVES, Administrative Law Judge. GE Appliances, a Haier Company (Respondent) operates a manufacturing facility in Louisville, Kentucky, referred to as Appliance Park. In a 2020–2024 national collective-bargaining agreement, and through local supplemental agreements, Respondent

recognizes the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL–CIO (IUE) Communications Workers of America, AFL–CIO (CWA), IUE/CWA, Local 83761 (Union) as the exclusive collective-bargaining representative of Appliance Park's bargaining unit employees.

Due to increased product demand and staffing shortages related to the COVID-19 pandemic, Respondent notified the Union and workers, nearly simultaneously, in late September of 2021 that there would be wage increases implemented on October 4, 2021, for several categories of unit employees at Appliance Park. The plan did not include wage increases for the longest tenured employees, a group that was more involved in paying union dues than other groups of workers. The rationale offered by Respondent was that the classifications receiving raises were previously below market rate, whereas the group excluded from the wage increases were already above market rate. These wage increases were not accounted for in the collective-bargaining agreement in place and caught the Union, who had previously been rebuffed by Respondent on the topic of raises earlier that fall, off guard. Respondent refused to bargain, citing exigent circumstances. Respondent has also argued that they were relieved of their duty to bargain by the Union's allegedly obstructive behavior in bargaining over a separate remedial proposal involving scheduling. The Union and the Counsel for General Counsel (General Counsel) allege that this unilateral change to compensation terms violated Section 8(a)(1) and Section (5) of the National Labor Relations Act (Act). In April of 2022, the Union filed a grievance with Respondent related to vacation scheduling. In May, Respondent settled the grievance and promised to provide the remedy requested, which involved adjusting kiosks located in the facility to allow for two employees from the same section to take a vacation on the same day(s). There was substantial confusion and delay in the implementation of this remedy that continued into July. Believing that someone had altered the kiosks reversing the remedy after its initial implementation, the Union sent an information request to Respondent in June seeking the identity and relevant authority of the person who changed the kiosks. Respondent ultimately replied on July 13, 2022, to explain that the remedy had never been initially implemented due to a mistake. Respondent asserts that this was not an unreasonable delay, and that they were not obligated to provide this information because it was irrelevant. The Union and General Counsel allege that this was an unreasonable delay in furnishing information relevant to its duty to represent the unit employees, violating Section 8(a)(1) and Section (5) of the Act.

#### STATEMENT OF THE CASE

This case was tried in Cincinnati, Ohio, on October 5, 2022. The Charging Party filed the charges, as captioned above, on October 8, 2021, and June 23, 2022. The General Counsel issued a complaint and consolidated complaint on February 25, 2022, and September 20, 2022. Respondent filed timely answers on March 11, 2022, and September 20, 2022.

The consolidated complaint alleges that Respondent violated Section 8(a)(5) and Section (1) of the Act by failing and refusing to bargain collectively or in good faith with their employees' exclusive bargaining representative.

On the entire record, including my assessment of witness demeanor and the briefs filed by the parties and the General Counsel, I make the following

#### FINDINGS OF FACT AND LEGAL ANALYSIS<sup>1</sup>

##### I. JURISDICTION

Respondent, a Commonwealth of Kentucky corporation with a place of business in Louisville, Kentucky (Respondent's facility or Appliance Park), is engaged in the manufacture and distribution of household appliances. During the 12-month period ending February 1, 2022, Respondent's facility sold and shipped goods valued in excess of \$50,000 directly to sources located outside of the Commonwealth of Kentucky. At all material times, Respondent admits, and I find, that Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. Respondent admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act. (GC Exh. 1(x), 1(bb).)

Based on the foregoing, I find that this dispute affects commerce and that the Board has jurisdiction over this case.

##### II. BACKGROUND

###### *Respondent's Appliance Park Facility*

Respondent's Appliance Park facility in Louisville, Kentucky employs approximately 6000 workers. (Tr. 33, 134.)<sup>2</sup> Respondent manufactures and distributes household appliances such as refrigerators, washers, dryers, and dishwashers from its Appliance Park facility. (Tr. 22, 152.) During the events at issue, supervisors at Respondent's Appliance Park facility included: Andrea Bartley, Labor Relations Manager and later Senior Human Relations Manager; Rob Fritz, Director of Human Resources; Bill Good, Vice President of Manufacturing; Tashe Lazre (née Hughes), Senior Human Resources Business Partner; Jon Lewis, Director of Union Relations; and Tyrone Frazier, Division Director or Foreman of the J01 Building. (Tr. 8, 14, 38, 130, 133, 198, 200, 204; GC Exh. 1(x), p. 2 and 1(bb), p. 2.)

A national collective-bargaining agreement (CBA), effective from December 2020 to December 2024, recognizes the Union as the unit's employees' exclusive collective-bargaining representative. (GC Exh. 2, p. 3.) The Union represents between 5,000 and 6,000 production and maintenance employees at Appliance Park. (Tr. 85, 134, 139, 170.) This Local has represented employees at this location for more than 60 years. (Tr. 18.) The

Appliance Park bargaining unit workers' employment relationships are also covered by a local supplemental agreement and "Appliance Park Guidelines" that similarly recognize the Union. (Tr. 24.) During the period at issue, Kindre Batliner was the union president. (Tr. 62.) The union vice president was Bradley Gilbert. (Tr. 37, 46.) Lance Bergmann was a union staff representative. (Tr. 37.) Many of the union officials involved in the disputes in 2021 and 2022, including Ms. Batliner, were elected in November of 2020, during bargaining for the 2020–2024 CBA. (Tr. 35.)

The unit employees are organized into classifications based on the duration of their tenure. (Tr. 26.) Employees in the "NIT" category, the most senior classification, were all hired before October 2005. (Tr. 84, 139, 196.) Workers classified as "CW1" are the second most senior grouping. (Tr. 26.) The "CW2" and "CW3" designations apply to groups of workers that are successively less senior, with increasing numeric designators indicating decreasing seniority. (Tr. 26.) The least senior group of employees, categorized as "Flex," were hired in or after January 2021. (Tr. 26.) The more senior categories of workers are much smaller in number than the groups of newer hires. (Tr. 33.)

While the Union bargains for unit employees in all five classifications, the Union asserts that there are intergroup differences in the payment of union dues. (Tr. 33, 34; GC Exh. 5.) A review of the data shows that approximately 1 percent of the NIT employees are nondues paying unit employees, while approximately 5 percent of the less senior employees in lower pay scale categories are nondues paying members. Overall, approximately 95 percent of the unit employees are dues paying members. Id.

###### *2020–2024 Collective-bargaining Agreement*

The collective-bargaining agreement governing the employment relationship of Respondent and union workers at Appliance Park through 2024 was negotiated over the second half of 2020 in three rounds of bargaining. (Tr. 35, 195.) The pressures and difficulties facing Appliance Park's operations because of the COVID-19 pandemic, which had begun earlier that year, was already impacting Respondent at the time of negotiations. (Tr. 35, 36, 67, 112, 177.) For example, by mid-2020, staffing shortages had led Appliance Park management to step into shifts on the production line typically filled by bargaining unit employees. (Tr. 36, 71, 156, 178.)

The CBA ratified in December of 2020 established wage rates for each classification of employees in the bargaining unit for the duration of its governance, including yearly cost of living

<sup>1</sup> These findings and legal conclusions rely in part on credibility determinations made regarding witnesses and their testimony about these unfair labor practices. My credibility analysis relies upon a variety of factors, including, but not limited to, the witness's demeanor, the context of the witness testimony, the weight of the respective evidence, established or admitted facts, inherent probabilities, and reasonable inferences that may be drawn from the record as a whole. See *Double D Construction Group*, 339 NLRB 303, 303–305 (2003); *Daikichi Sushi*, 335 NLRB 622, 623 (2001) (citing *Shen Automotive Dealership Group*, 321 NLRB 586, 589 (1996)), enfd. 56 Fed. Appx. 516 (D.C. Cir. 2003.) Credibility findings regarding any witness are not likely to be an all-or-nothing determination; therefore, I may believe that a witness testified credibly regarding one fact but not on another. *Daikichi Sushi*, 335 NLRB at 622.

<sup>2</sup> Abbreviations used in this decision may include: "Tr." for hearing transcript; "GC Exh." for the General Counsel's exhibit; "CP Exh." for Charging Parties' exhibit; "R. Exh." for Respondent's exhibit; "Jt. Exh." for Joint Exhibit; "GC Br." for the General Counsel's Brief; "CP Br." for Charging Party's Brief; and "R. Br." for Respondent's Brief.

<sup>3</sup> The CBA refers to production and maintenance employees but specifically defines the unit as:

All employees at [Respondent's facility] in the bargaining unit as defined in Article 1 of the 2020–2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020–2024 Appliance Park Local Agreement between Haier and the Union.

increases, night shift differentials, and paths for upward reclassifications for new hires. (GC Exh. 2. p. 105.)

*Respondent's Pandemic Staffing Problems and Related Union Discussions*

In 2020, as the COVID-19 pandemic began affecting Respondent's business, certain remedial measures, like the use of management on production lines were utilized to address strains on operations. (Tr. 36, 71, 156, 178.) During the first few months of the pandemic, the Union also negotiated for, and the Respondent instituted, hazard pay for workers. (Tr. 77.)

By 2021, Respondent's Appliance Park facility was facing "unprecedented backorders," as demand for household appliances soared amidst the second year of the COVID-19 pandemic. (Tr. 139, 140, 155.) Several months into 2021, the company was increasingly experiencing severe staffing shortages caused by high rates of absenteeism and attrition, as well as by lower than ideal rates of applications for new hires. (Tr. 70, 139, 140, 155, 169; R. Exhs. 7, 8 and 9.) Appliance Park was experiencing close to or more than 100 percent turnover at several points in late 2021. (Tr. 140, 178; R. Exh. 7.) Absenteeism in some buildings was over 30 percent at times during that fall. (Tr. 150; R. Exhs. 8 and 9.) There was a shortage of 476 workers in just 1 week in September of 2021. (Tr. 69, 155; R. Exh. 1.) As Ms. Bartley, former Labor Relations Manager, described the situation in an email to union officials around September 29, 2021, Respondent considered Appliance Park staffing problems to be at "emergency status" by late that year. (Tr. 155; GC Exh. 8.)

During these troubles, Respondent attempted to engage in sufficient hiring, acquiring over 3000 new employees throughout the year. (Tr. 140, 178; R. Exh. 7.) They increased the number of shifts available and production lines operating. (Tr. 155.) They increased part-time hiring to offset full-time absences. (Tr. 156.) To aide this hiring effort, Respondent increased advertising, as well as signing and referral bonuses. (Tr. 155.) The company also implemented a ride-share program for workers. (Tr. 155, 21–22.) Additionally, Respondent instituted flexible scheduling options for some workers, offering "pick-your-shift" options to new hires, and explored alternative work schedules more broadly. (Tr. 156.)

*Conflict on Alternative Work Schedules*

Respondent's efforts to explore alternative work schedules as a solution to staffing problems led to conflict between the Union and the company. The 2020–2024 CBA's Article 5, Section 1 gave Respondent "the right to make changes to the work week, including establishing alternative work schedules." The provision also states that "when making changes to the workweek, the Company will discuss the changes with the Union in advance." (GC Exh. 2, 9.) Respondent's agents, including Ms. Bartley, contacted the Union about implementing an alternative work schedule around August of 2021, which was also the start of formal consultation with the Union about retention and staffing problems. (Tr. 75, 156.)

The Union asserted that changing work schedules was a mandatory subject of bargaining and refused to consent to any proposed schedule change without additional benefits for workers also included in the shift. (Tr. 82; R. Exh. 2; R. Br. 4.) Ms.

Bartley has maintained that the Union did not indicate their discontent with the alternative scheduling proposal or clearly represent their position that it was subject to bargaining until August 26, 2021, allegedly after "weeks" of prior discussions on the matter. (Tr. 158.) Emails were exchanged and meetings were conducted between Respondent and the Union on this matter and other policy suggestions during August and September of 2021. (Tr. 76, 78, 158; R. Exh. 2.)

While the proposed alternative schedule was ultimately implemented, no agreement was reached on the matter during this timeframe and a grievance was eventually filed by the Union, which was resolved through negotiation shortly before the hearing in this matter. (Tr. 118–119, 169.)

*Consultation With Union on Solutions*

During discussions in the fall of 2021 between the parties about the retention problems, Union President Batliner and other union executives discussed with Respondent, ideas like offering employees daycare benefits, attendance bonuses, hazard compensation, increased overtime, management accountability, employee appreciation, faster upward progression, and base pay raises. (Tr. 75, 76, 79, 161, 181.) Respondent, who rebuffed or deferred on the Union's suggestions, appeared most concerned with their suggestion of an alternative work schedule structure throughout these consultations. (Tr. 115, 116, 165, 180, 185.)

While the Union did suggest pay raises during these discussions, including at a September 7, 2021, meeting, Respondent did not engage in negotiation or proposal-making regarding wages prior to announcing pay raises on September 29, 2021. (Tr. 161, 179–180.)

*Respondent's Research on Market Rates for Wages*

Around August 30, 2021, while discussions with the Union about the alternative work schedule and other retention solutions were ongoing, Respondent conducted research on wages in the Louisville labor market. (Tr. 174, 175.) Respondent had a nearly annual practice of doing this type of research, which companies in the industry typically utilized to gauge recruitment competitiveness and contract negotiation strategy. (Tr. 172, 174.) Respondent's agents conducted the research with internal staff, looking at public job postings online. (Tr. 176.)

This market research indicated that the average wage rate in job postings for production employees in Louisville was \$17.57/hr. (Tr. 164.) Management officials concluded that Respondent's starting wages, those of the least senior classifications like Flex workers, which were about \$15.50/hr., were below market rate by almost 2 dollars an hour. (Tr. 164.) The NIT employees, who received \$25 or more an hour, appeared above market rate. (Tr. 165.)

III. COMPLAINT PARAGRAPHS 6(A) THROUGH 6(C) AND PARAGRAPH 8 ALLEGING THAT RESPONDENT VIOLATED SECTION 8(A)(1) AND SECTION (5) OF THE ACT ON OCTOBER 4, 2021, WHEN IT UNILATERALLY IMPLEMENTED PAY RAISES

*Factual Background*

On September 29, 2021, at the end of a virtual meeting related to the grievance concerning the alternative work schedule dispute, Mr. Fritz and Ms. Bartley, Respondent's agents, informed

Union officials, including Ms. Batliner and Mr. Bergmann, for the first time that the company would be instituting wage increases the next week. (Tr. 37, 5–25; 38, 1–17; 43, 2–11.) Before that conversation was over, Respondent had distributed a letter to union officials and workers announcing the following base pay increases:

CW3/Flex \$1.50 per hour  
 CW Maintenance \$1.50 per hour  
 CW2 \$1.00 per hour  
 CW \$0.50 per hour  
 Employees with less than 5 years of seniority received \$0.50 per hour second and third shift differential<sup>4</sup> (Tr. 39, 40; GC Exh. 7 and 8.)

Respondent rationalized the sudden changes as responsive to market data and urgent staffing shortages. (Tr. 175, 177, 178; GC Exh. 8.) The raises brought Flex and other less senior categories of employees closer to what Respondent contends was the market rate at that time by increasing their wages by between \$0.50/hr. and \$1.50/hr. (Tr. 164; GC Exh. 7.) The wage increases did not apply to the roughly 400 most senior workers classified as NIT. (Tr. 41, 86, 139.) Increases in night differentials also did not affect workers with more than 5 years of service. (Tr. 166, 167.) These changes were implemented as scheduled on October 4, 2021. (Tr. 41.)

The Union distributed a letter to the unit employees explaining that the raises were not negotiated, that it saw the raises as an attempt to divide the unit members, and it would seek to have its members treated equally. (Tr. 45; GC Exh. 10.) The Union requested to arbitrate the dispute, but Respondent refused its request. (Tr. 48, 49; GC Exhs. 12 and 13.)

These permanent changes to compensation rates were not previously proposed to the Union and were not accounted for in the 2020–2024 CBA. (Tr. 43; GC Exh. 2.) Respondent did not agree to bargain with the Union over the decision to institute or the effect of the raises, citing exigent and emergency circumstances. (Tr. 49; GC Exh. 8.) Instances of mid-contract wage increases in previous years, including a 2017 change to starting compensation and the 2020 COVID-19 hazard pay, were first bargained with the Union. (Tr. 77, 93, 121.)

#### Legal Analysis

##### A. Section 8(a)(5)'s Duty to Bargain Prohibits Unilateral Changes to Wages and Contract Modifications Without Union Consent

Section 8(a)(5) of the Act declares that “It shall be an unfair labor practice for an employer...to refuse to bargain collectively with the representatives of his employees.” 29 U.S.C. §158. This provision prohibits employers from making unilateral changes to mandatory subjects of bargaining. *NLRB v. Katz*, 369 U.S. 736 (1962.) As described in Section 8(d), the duty to bargain is also violated when an employer modifies the terms of a contract without the Union’s consent. *Oak Cliff-Golman Baking Co.*, 202

NLRB 614, 616 (1973), enfd. Mem. 505 F.2d 1302 (5th Cir. 1974.)

There are two different theories of violation that potentially apply when an employer changes terms and conditions of employment absent union bargaining or consent: the unilateral change doctrine and the contract modification doctrine. *Des Moines Col Storage, Inc.*, 358 NLRB 488, 488 (2012), citing *Bath Iron Works Corp.*, 345 NLRB 499, 501 (2005), affd. Sub nom. *Bath Marine Draftsmen’s Assn. v. NLRB*, 475 F.3d 14 (1st Cir. 2007.) There are differences between the two frameworks in remedies and defenses, but an employer can be found liable for a violation under both theories. Id. See e.g., *Pacific Maritime Assoc.*, 367 NLRB No. 121, slip op. at 4. (May 2, 2019), citing *Comau, Inc.*, 364 NLRB 523, slip op. at 526–528 (2016); *Naperville Jeep/Dodge*, 357 NLRB 2252, 2271–2272 (2012), enfd. 796 F.3d 31 (D.C. Cir. 2015.)

The unilateral change doctrine applied in *NLRB v. Katz* finds a violation of 8(a)(5) when the employer makes a significant change to a mandatory subject of bargaining and fails to engage in bargaining on that change. 369 U.S. 736; *Golden Stevedoring Co.*, 335 NLRB 410, 416 (2001); *Parsons Electric*, 361 NLRB 207, 212 (2014.) This theory does not require a showing that the contract prohibited the action. *Bath Iron Works Corp.*, 345 NLRB at 502. In contrast, the contract modification doctrine, at issue in *Oak Cliff-Golman Baking Co.*, requires a showing that the employer has failed to adhere to the terms of a collective-bargaining agreement in place. 202 NLRB 614; See e.g., *Nick Robilotto, Inc.*, 292 NLRB 1279 (1989); *Kerry, Inc.*, 358 NLRB 980 (2012); *Knollwood Country Club*, 365 NLRB 404, 405 (2017); *Dearborn County Club*, 298 NLRB 915, 920 (1990) (“It is well settled law that a modification of a clear and unambiguous term of contract of fixed duration, regardless of economic motivation, must be obtained pursuant to a positive affirmation by the employees’ bargaining agent, otherwise the requirements of Section 8(d) of the Act are not met and a violation of Section 8(a)(5) results. Thus, contractual modification cannot be effectuated by merely providing an opportunity for negotiation to the bargaining agent.” (internal citations omitted).)

##### a. Contract Modification Analysis

Determining if an unlawful contract modification has occurred requires an evaluation of the applicable contract, looking to “both the contract language itself and relevant extrinsic evidence, such as a past practice of the parties in regard to the effectuation or implementation of the contract provision in question, or the bargaining history of the provision itself.” *Mining Specialists, Inc.*, 314 NLRB 268, 269 (1994.)

By instituting increases in wages and shift differentials, Respondent modified the contract in place. The 2020–2024 collective-bargaining agreement in effect on October 4, 2021, specified general wage and salary increases for bargaining unit employees at Appliance Park. (GC Exh. 2, p. 105–106.) Ms. Batliner’s testimony confirmed that the CBA covered wage rates. (Tr. 25.) The CBA also shows that shift differentials were specifically determined by Article 5 of the contract. (GC Exh. 2, p.

differentials equal to 10 percent of their hourly wage and did not receive an increase. (Tr. 32; GC Exh. 2.)

<sup>4</sup> Employees with more than 5 years of experience and who were hired before February 1, 2017, receive a second and third shift

10.) Ms. Bartley also testified that shift differentials were addressed in the terms of the contract (Tr. 166.) The method of modification was also a breach of the terms of the contract, as Article 31 of the CBA required specific amounts of notice, as well as bargaining, if either party wished to modify the terms of the contract, and these requirements were not followed by Respondent in October of 2021. (GC Exh. 2, p. 103.)

A company may defend against an alleged contract modification violation by showing that an interpretation with a “sound arguable basis” allowed the action taken, or by showing union consent to the modification through other means. *Des Moines Cold Storage, Inc.*, 358 NLRB 488, 489 (2012); *Bath Iron Works Corp.*, 345 NLRB 499, 501 (2005), *affd. sub nom. Bath Marine Draftsmen's Assn. v. NLRB*, 475 F.3d 14 (1st Cir. 2007.)

Respondent has not argued, and the record does not contain evidence supporting a finding that the terms of the contract allowed their actions or that the Union otherwise consented. Therefore, absent the applicability of other asserted defenses discussed below, I find that Respondent has unlawfully modified the unit workers’ employment relationship in contravention of the CBA, violating Section 8(a)(5) and 8(d) of the Act.

#### *b. Unilateral Change Analysis*

An employer violates 8(a)(5)’s duty to bargain under the unilateral change theory when they make a material, substantial, and significant change to mandatory subjects of bargaining without bargaining with the Union, regardless of whether the changes are specifically addressed by the CBA. See *NLRB v. Katz*, 369 U.S. 736, 747 (1962) (“Unilateral action by an employer without prior discussion with the union does amount to a refusal to negotiate about the affected conditions of employment under negotiation, and must of necessity obstruct bargaining...”); *C&S Industries*, 158 NLRB 454, 456–459 (1966); *Mead Corp.*, 318 NLRB 201, 202 (1995); *Toledo Blade Co.*, 343 NLRB 385 (2004); *Flambeau Airmold Corp.*, 334 NLRB 165 (2001.) As the Board and the courts have long recognized, unilateral changes may violate Section 8(a)(5) of the Act “regardless of what the employer’s motives in instituting such a change may have been.” *Seafarers Local 777 (Yellow Cab) v. NLRB*, 603 F. 2d 862, 889–890 (D.C. Cir. 1978) (citing *Katz*, 369 U.S. at 742–743), denying *rev.* of 229 NLRB 1329 (1977); *Metro Man IV, LLC d/b/a Fountain Bleu Health and Rehabilitation Center, Inc.*, 372 NLRB No. 27, slip op. at 9 (2022.) It is not a violation if the employer’s actions constituted continuation of a past practice or the status quo. *NLRB v. Katz*, 369 U.S. at 746; *E. I. DuPont de Nemours*, 364 NLRB 1648 (2016); *American Red Cross*, 364 NLRB 1390, 1391 (2016.)

Respondent’s challenged actions affected base pay rates and night shift differentials, two subjects of mandatory bargaining. See *e.g.*, *Nexstar Koin-TV*, 371 NLRB No. 118 (recognizing base pay rates as mandatory subjects of bargaining); *Royal Baking Co.*, 309 NLRB 155 (1992) (recognizing nightshift differentials as mandatory subjects of bargaining); *Madelaine Chocolate Novelties, Inc.*, 370 NLRB No. 24 (2020) (also confirming that night shift differentials are subject to mandatory bargaining.) These changes did not uphold the status quo or resemble a past practice. Notably, testimony indicated that prior changes to compensation schemes, including a COVID-19 related pay raise,

were the product of bargaining. (Tr. 77, 93, 121.)

Respondent admits that the changes to compensation made on October 4, 2021, were implemented without the Union’s consent and without bargaining. Thus, these actions were unlawful unilateral changes in violation of Section 8 (a) (5) of the Act unless Respondent can satisfy the requirements of another justification recognized by the Board.

#### *B. Respondent’s Justifications Are Not Applicable or Substantiated*

Respondent argues that their actions adjusting compensation for bargaining unit employees at Appliance Park on October 4, 2021, were not unlawful because they were justified by exigent emergency circumstances and because the Union allegedly engaged in avoidance and delay with respect to bargaining, relieving the employer of the duty to bargain. Neither defense is applicable, nor could these arguments be substantiated by the facts if the defenses were available.

##### *a. Exigent Circumstances Justification*

Respondent cites the strains on business operations caused by the COVID-19 pandemic, particularly the severe staffing challenges experienced at Appliance Park during the fall of 2021, to suggest that the unlawfulness of their action was alleviated, citing cases such as *Bottom-Line Enterprises*, 302 NLRB 373 (1991) for the proposition that this defense is available to them. *Bottom Line* held that unilateral changes could sometimes be excused where “economic exigencies compel prompt action.” *Id.* at 374. This exception is aimed at situations where bargaining is ongoing and prompt action must be taken despite the absence of an impasse. See *RBE Electronics of S.D., Inc.*, 320 NLRB 80, 81 (1995.) The *Bottom Line* doctrine was not designed to address circumstances where there was never any intention to bargain, instead aiming at situations where bargaining for a collective-bargaining agreement had to be interrupted before an agreement was reached or efforts to reach one were exhausted. *Id.*

Any potential application of this doctrine to the unilateral changes here, provides only a weak defense to the unilateral change theory of violation and no defense for the contract modification violation. See *Oak Cliff-Golan Baking Co.*, 207 NLRB 1063, 1064 (1973) (stating that exigent economic pressures are irrelevant where employer modified wages in violation of the contract.) The Board in *Oak Cliff-Golan Baking* noted that the “unambiguous language of Section 8(d) of the Act explicitly: (1) forbade [the employer’s] midterm modification of the contract’s wage provisions without the [u]nion’s consent; and (2) granted the [u]nion the privilege it exercised to refuse to grant consent. Nowhere in the statutory terms is any authority granted to [the Board] to excuse the commission of the proscribed action because of a showing either that such action was compelled by economic need or that it may have served what may appear to [the Board] to be a desirable economic objective.” *Id.*

Even if the existence of a modified contract term did not render this defense irrelevant, Respondent would not be able to show exigent circumstances excused their failure to bargain. The original idea that extenuating circumstances can excuse an employer of their statutory duty to bargain is found in *NLRB v. Katz*, which stated that “we do not foreclose the possibility that there

might be circumstances which the Board could or should accept as excusing or justifying unilateral action.” 369 U.S. at 748; *Winn-Dixie Stores*, 243 NLRB 972, 976 (1979.) This has been read to justify unilateral changes in extreme circumstances of emergency outside of previously established bargaining (but only where no specific contractual term is violated by the change.) See *RBE Electronics of S.D., Inc.*, 320 NLRB 80, 81 (1995); *Hankins Lumber Co.*, 316 NLRB 837, 838 (1995); *Angelica Healthcare Services*, 284 NLRB 844, 852–853 (1987.)

For this exception to the duty to bargain to apply, there must be “compelling economic considerations” resulting from “extraordinary” and “unforeseen” events that require “immediate” action. *Angelica Healthcare Services*, 284 NLRB 844, 852–853 (1987.) This exception is narrow, and employers face a heavy burden in showing it. *Hospital De La Concepcion*, 371 NLRB No. 155 (2022), citing *RBE Electronics of S.D., Inc.*, 320 NLRB 80, 82 (1995); *Triple A Fire Protection, Inc.*, 315 NLRB 409, 414 (1994), *enfd.* 136 F.3d 727 (11th Cir. 1998); *Our Lady of Lourdes Health Center*, 306 NLRB 337, 340 fn. 6 (1992.)

Respondent fails to establish that compelling economic considerations existed to excuse the unilateral change. “Business necessity is not the equivalent of compelling considerations which excuse bargaining.” *Hankins Lumber Co.*, 316 NLRB at 838. In *Hankins*, a log shortage did not create sufficiently compelling circumstances because the “shortage had been a continuous problem for months prior to [the unilateral action].” *Id.* In the instant case, Respondent’s “emergency” situation was a staffing crisis that had been affecting the business for months, if measured from the increases in severity in 2021, and almost 2 years, if measured from the beginning of the pandemic. The issues facing Respondent’s operations were neither unforeseeable, as they followed trends observed throughout the pandemic, nor were they sudden, necessitating immediate action, as demonstrated by the fact that Respondent did not act immediately.<sup>5</sup>

Furthermore, “[a]bsent a dire financial emergency, ... economic events such as loss of significant accounts or contracts, operation at a competitive disadvantage, or supply shortages do not justify unilateral action.” *RBE Electronics of S.D.*, 320 NLRB 80, 81 (1995) (citations omitted.) Respondent’s explanation that their unilateral changes were reacting to market data showing a competitive disadvantage affecting staffing does not meet this high bar, nor does its assertion that Appliance Park was facing the prospect of shutting down lines and leaving orders unfilled. Here, Respondent did not even present evidence that it had or was at imminent risk of losing contracts for its products.

At least one case cited by Respondent demonstrates how far the situation misses the mark. In *Port Printing*, 351 NLRB 1269, 1270 (2007), the Board found that, while their layoffs of employees during a hurricane that imposed drastic economic toll on the business were covered by the exception, an employer’s use of non-unit employees to do unit employee work immediately following the hurricane was not. “The need for immediate decision making created by the hurricane was over.” *Id.* There, the Board

found that even an economically devastating natural disaster only created sufficient emergency for the duration of the storm. See also, *Metro Man IV d/b/a Fountain Bleu Health*, 372 NLRB No. 37, slip op. at 3 (2022) (finding risk to life caused by nursing home staffing shortages exigent circumstances allowing for unilateral wage increases while the economic effects on the employer did not meet that standard; finding the employer’s failure to immediately engage in effects bargaining over the wage increase a violation; and finding the unilateral rescission of the wage increase once the exigent circumstances passed a separate violation.)

In contrast, I find here that the long term nationwide economic effects the pandemic, much less a carefully researched strategy to increase market competitiveness to avoid refunding orders, did not present exigent circumstances that excused Respondent’s unilateral action.

#### b. Union Obstruction Justification

Respondent’s contentions that they were relieved of their duty to bargain by the Union’s behavior in bargaining, specifically over the company’s proposal for alternative work schedules, is without merit. That bargaining dispute was about a different policy altogether. Several possible solutions were raised and discussed by the parties including various methods of increasing compensation. These alternatives were dismissed by Respondent. Respondent never proposed increasing hourly wage rates and then refused to bargain about the compensation changes at issue after it announced the increases. Thus, there were no negotiations for the Union to obstruct, making this defense entirely inapplicable.

#### C. Conclusion

Accordingly, I find that Respondent violated Section 8(a)(5) and 8(d) of the Act, as well as Section 8(a)(1) derivatively, with the changes to compensation announced on September 29, 2021, and implemented October 4, 2021.

IV. COMPLAINT PARAGRAPHS 7(A) THROUGH 7(D) AND PARAGRAPH 9 ALLEGING RESPONDENT VIOLATED SECTION 8(A)(5) AND (1) OF THE ACT BETWEEN JUNE 14, 2022, AND JULY 13, 2022, WHEN IT UNREASONABLY DELAYED IN RESPONDING TO THE UNION’S INFORMATION REQUEST.

#### Factual Background

Workers at Appliance Park place their leave requests through kiosks located inside their assigned buildings. (Tr. 50.) These kiosks are programmed with vacation day allotments that restrict how many employees from a section can be on vacation at once, depending on the area’s needs and staffing resources. (Tr. 50.) During the spring of 2022, certain section’s limited allotments meant that employees were able to take all their vacation days. (Tr. 50; GC Exh. 14.) This became the subject of a grievance filed on April 29, 2022, for the section where the allotment was one employee out on vacation at a time. (Tr. 200; GC Exh. 14.)

market research a month before acting, and was able to give a week’s worth of notice to the Union before acting. There was time to attempt to bargain.

<sup>5</sup> The record shows that Respondent dealt with the problem for months, tried numerous other strategies to alleviate the shortages in previous months, consulted with the Union about the retention problem weeks before they acted on compensation, took the time to do related

This grievance was settled by the Respondent around May 26, 2022, when Ms. Lazare, a Human Resources official, agreed to change the vacation allotments from one to two for the grieved section. (Tr. 51, 220.) Union officials were left with the impression that the change would be made to the kiosks that day. (GC Exh. 17.)

To implement this settlement, Ms. Lazare emailed Mr. Frazier, the division director (or foreman) of the building involved in the grievance, on May 26, 2022, with a message that read, "Please update section 701 to have 2 allotted vacation days. The system currently has the maximum vacation days as 1." (Tr. 201, Tr. 202; R. Exh. 11.) Mr. Frazier responded that same day with an email stating "Copy...Thanks." Id.

On June 14, 2022, at 12:18 p.m., Ms. Taylor, a chief steward, texted Ms. Lazare to query her on the status of the remedy, stating that the second vacation allotment was not available on the building's kiosks at that time, despite Ms. Taylor's belief that the change had been made previously. (GC Exh. 25; Tr. 3-5.)

Also on June 14, 2022, in a 1 p.m. meeting between Respondent officials that included Ms. Lazare and Mr. Frazier, the former reportedly learned that the kiosks had never been updated. (Tr. 203, 204.) Jon Lewis, Respondent's Director of Union Relations, who also attended the meeting, testified that Mr. Frazier requested this meeting to "talk about the fact that he didn't agree with changing the vacation allotment from one to two." (Tr. 220.) Supervisors at this meeting decided to move forward with the remedy over Mr. Frazier's objections and made plans to communicate with the Union about the status of the settlement remedy. (Tr. 204, 205, 221, 222.)

At 1:50 p.m. on this same day, Ms. Lazare responded to Ms. Taylor's text to say, "Will touch base with you." (GC Exh. 25.) Ms. Lazare has testified that she does not recall if she ever followed up. (Tr. 217.)

At this point, Ms. Taylor and Union officials believed that someone had undone the remedy in the kiosks after the allotments had been initially corrected in alignment with the settlement. (Tr. 54; GC Exh. 24.) The Union decided to place an information request "so that [the removal] could be addressed" and the grievance settlement could be complied with. (Tr. 60.) As a result, also on June 14, 2022, Ms. Batliner contacted Ms. Lazare by email at 2:28 p.m. with the following message:

"The Union is requesting information regarding vacation allotment for J01. Per settlement on a grievance the vacation allotment was opened to 2 members per day. We were informed by Brad Jennings that the second vacation day was not going to be available on the kiosk but would have to be approved through him. We are asking who and with what authority removed the second vacation day allotment from the system so that it could be scheduled on the kiosk. We request this information by the end of business today, June 14, 2022. Thank you" (GC Exh. 17.)

Shortly thereafter, at 2:36 p.m. on the same day, Ms. Lazare responded by email to Ms. Batliner, stating:

"Please send a formal information request. On short notice, I will not be able to get the information you are requesting by the end of the day. I will try to get information to you before the week is out." (GC Exh. 17.)

In a 2:37 p.m. email a minute later, Ms. Batliner asserted that

her initial email was the formal request. (GC Exh. 17.) Ms. Lazare's subsequent response at 2:43 p.m. stated that she would respond to the information request once she received the "Local 83761 Request for Information form." (GC Exh. 17.) Ms. Batliner's retort by email 3 minutes later insisted that Ms. Lazare had already received a formal information request from Local 83761 and warned that the Union would proceed with NLRB charges if the company failed to respond. (GC Exhs. 16 and 17.)

Ms. Lazare's next engagement was an email at 2:49 p.m. to Ms. Batliner that stated, "No part of your request has been ignored, refused, or unreasonably delayed without reasonable explanation to the local union." (GC Exh. 16.) At 2:53 p.m., Ms. Batliner's final response in this June 14, 2022, thread stated, "You are incorrect." (GC Exh. 16.)

Ms. Lazare testified that she was seeking, but not requiring, a formal information request on Union letterhead, as that was the format to which she was accustomed. (Tr. 207, 213.) Ms. Lazare also testified that she did intend, at that time, on responding regardless of the format of the request, although Mr. Lewis ultimately took the lead in responding. (Tr. 213.) Ms. Batliner testified that she had never been asked to use a specific form to place an information request before. (Tr. 55, 56.)

Later that same day, at 3:33 p.m. on June 14, 2022, Mr. Lewis sent an email to the foreman (Mr. Frazier) and chief steward (Ms. Taylor) of the affected building, copying Ms. Lazare and Ms. Batliner. (R. Exh. 5.) This message reportedly was planned during the 1 p.m. management meeting, before Ms. Batliner's and Ms. Lazare's earlier email exchange. (Tr. 205.) This email stated:

"After much conversation on the vacation allotment it is determined that the two allowances should be posted in the kiosk. The two replacement operators within the section will be required to know all jobs within the section. Both replacement operators will keep their assigned rate of pay and will be compensated level 5 only when performing the level 5 job. In the event that there are issues with level 5 controlman coverage, we will reevaluate and make adjustments to best provide for and protect the customer. Please advise if you have any questions/concerns." (R. Exh. 5.)

A few days later, on June 22, 2022, around 2 p.m., Ms. Batliner texted Mr. Lewis an inquiry on the status of the information request, stating that she had not received a response. (Tr. 224; GC Exh. 9.) Mr. Lewis seems to have consulted Ms. Lazare shortly thereafter, as later that hour, at 2:49 p.m., Ms. Lazare emailed Mr. Lewis, forwarding both Ms. Batliner's original 2:28 p.m. June 14 email and Mr. Lewis' 3:33 p.m. June 14 message, stating that the later had been a sufficient response to the former. (Tr. 208-209; R. Exh. 12; R. Br. 9.) It was Ms. Lazare's and Mr. Lewis' purported understanding at that time, following this explanation from Ms. Lazare, that the information request had been answered through Mr. Lewis' June 14 email. (Tr. 209, 226.)

Almost 2 weeks after the June 14 communications, on June 28, 2022, Ms. Taylor emailed Ms. Lazare asking if there was "any word on the kiosk issue pertaining to vacation scheduling." (GC Exh. 26.) The subject line of the email was "kiosk investigation." Id.

Around June 30, 2022, Respondent officials, including Ms. Lazare and Mr. Lewis, became aware that the Union had filed a

charge with the NLRB about this dispute. (Tr. 210.)

On July 1, 2022, Ms. Taylor emailed Ms. Lazare to state that some kiosks were still restricting vacation allotments to one employee at a time, requesting a fix “asap” and mentioning a specific leave request that had been denied. (GC Exh. 24.)

Ms. Lazare responded 4 days later, on July 5, 2022, at 3:49 p.m., thanking Ms. Taylor for her patience and stating that she had sent a “notice to IT to resolve this issue” and was “hoping to hear back today.” (GC Exh. 24.) Ms. Taylor responded at 5:01 p.m. thanking her and offering some clarification on which sections were experiencing issues. Id.

Despite these communications indicating kiosks were still restricting vacation allotments in contravention of the grievance settlement in July, Ms. Lazare testified that the kiosk had already been updated by July, “following the meeting in June.” (Tr. 210.)

Mr. Lewis has testified that he was out on leave the week of July 4, 2022, in the midst of some of these exchanges. (Tr. 226.) After returning, on July 13, 2022, Mr. Lewis sent an email to Ms. Batliner and Ms. Lazare, coping Ms. Taylor, that sought to resolve the dispute by clarifying how events had transpired. (Tr. 227; GC Exh. 17.) This email asserted that Mr. Frazier, who had originally been tasked with implementing the settlement remedy, never had the ability to make the changes in the kiosks, and that “someone from Operations” had “came behind/went behind (overruled)” Ms. Lazare to prevent the changes. (GC Exh. 17.) This message, referencing Mr. Lewis’ 3:33 p.m. June 14 email, also claimed that “while the change was completed within a day or so [of Mr. Lewis’ June 14 email], [that prior June 14 email from Mr. Lewis] did not answer the information request.” Id. Finally, the missive stated that it was answering the Union’s information request to say that there was “not any member of management that changed the vacation allotment” and that “it was never changed to two until June 14.” Id.

Also, on the afternoon of July 13, 2022, Ms. Batliner and Mr. Lewis exchanged two additional emails in which Ms. Batliner expressed dismay with how the issue had been handled and Mr. Lewis apologized, stating “the Company didn’t do what we agreed to do until 2 weeks after the fact. We accept that and will do better going forward.” (GC Exh. 17.) Mr. Lewis’ email in this conversation also stated that “[Ms. Lazare] wasn’t aware that the change didn’t take place and didn’t have a reason to second guess the request being honored.” Id.

Mr. Lewis testified that he had additional conversations by phone with Ms. Batliner in which he sought to reassure her about the company’s commitment to accountability and notice of the oversights by Ms. Lazare. (Tr. 228, 229.)

### Legal Analysis

#### A. Respondent Had a Duty to Answer Union’s Relevant Information Request

The NLRA’s Section 8(a)(5) duty to bargain requires employers to provide information requested by the Union where the query is relevant to bargaining responsibilities. *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149, 153 (1956); *Detroit Edison Co. v. NLRB*, 440 U.S. 301, 303 (1979); *Des Moines Cold Storage, Inc.*, 358 NLRB 488, 499 (2012.) The enforcement of a collective-bargaining agreement is considered a bargaining responsibility in

this analysis. *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 436 (1967) (“the duty to bargain unquestionably extends beyond the period of contract negotiations and applies to labor-management relations during the term of an agreement”).

The Union bears the burden of showing relevance for requests not related to terms and conditions of employment of the bargaining unit, while requests related to the bargaining unit are presumptively relevant. See *E.I. Du Pont*, 366 NLRB No. 178, slip op. at 4 (2018); *Disneyland Park*, 350 NLRB 1256, 1257 (2007); *The Earthgrains Co.*, 349 NLRB 389 (2007); *U.S. Postal Serv.*, 363 NLRB 156, 158 (2015.)

The Union’s information request could be interpreted as concerning the terms and conditions of employment in the bargaining unit, as the matter related to leave for unit-employees. Even if the information request is not deemed to relate to bargaining unit employees’ terms and conditions of employment, the Union can still meet their burden to show relevance. Because the Union’s information request pertained to the alleged actions of an unknown subject who, if in existence, was likely suspected to be a management official, the request could also be analogous to those made regarding non-unit employees and other business operations in which the Union must show relevance beyond conclusory explanation to meet their burden. *Disneyland Park*, 350 NLRB 1256, 1258 (2007); *Public Serv. Elec. & Gas Co.*, 323 NLRB 11822, 1186 (1997); *DirectSat USA*, 366 NLRB No. 40, slip op. 1 (2018.)

A “liberal” bar for relevancy is imposed, similar to the threshold for civil discovery. See *e.g.*, *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 437 (1967); *Alcan Rolled Products*, 358 NLRB 37, 40 (2012.) The evaluation depends on whether the requested information bears upon issues in the relationship between the parties and is likely to be of use to the Union in carrying out bargaining responsibilities. See *E.I. Du Pont*, 366 NLRB No. 178, slip op. at 4 (2018.)

The determination of relevance is always fact specific and contextual, but the Board has recognized that assessing grievance procedures is typically sufficient grounds for relevancy. See *United Tech. Corp.*, 274 NLRB 504 (1985); *Leland Stanford Jr. Univ.*, 307 NLRB 75, 80 (1992); *Beth Abraham Health Servs.*, 332 NLRB 1234 (2000); *Ohio Power Co.*, 216 NLRB 987 (1975), *enfd.* 531 F.2d 138 (6th Cir. 1976.) The Board does not determine whether a breach of contract, or grievance settlement, occurred in determining the relevance of an information request related to a suspected breach. See *Teachers College*, 365 NLRB 824, 827 (2017); *Schrock Cabinet Co.*, 339 NLRB 182, 182 (2003.)

An evaluation of the circumstances of this request shows clear relevance; the Union wanted to know when and how the grievance settlement had been complied with, as well as whether and how Respondent might have breached the settlement. The wording of the request, “who and with what authority removed the second vacation day” and subsequent characterizations of the query as an “investigation” can be interpreted as a search for evidence of a breach. The information sought does not need to be ultimately dispositive or determinative for the matters to which it is relevant. *Pennsylvania Power & Light Co.*, 301 NLRB 1104, 1105 (1991.)

The Union’s intent, as described by Ms. Batliner, was to

utilize the information to address any problem and enforce the settlement. (Tr. 60.) While their focus on obtaining an identity may appear irrelevant, the heart of their inquiry was *why* the settlement was not being followed and *how* they might fix the problem, a purpose that led them to seek out the identity of who in management presented an obstacle to enforcing the settlement.

In addition to a relevant intent, a relevant need was present. Union officials, who were attempting to represent workers facing ongoing issues in taking advantage of the negotiated remedy, were in the dark on the status of the remedy and were receiving conflicting information and nonresponses from Respondent about the matter between late May, when the settlement was made, and mid-July, when Mr. Lewis ultimately attempted to bring about clarity for all parties. The information request was necessary to the Union's ability to effectively represent and communicate with unit employees about the status of their grievance and vacation benefits, a bargaining duty, as well as their efforts to hold the employer accountable to the grievance process, a contractually established forum which has its procedure outlined in Article No. 13 of the 2020–2024 CBA. (GC Exh. 2.) The Union was thus seeking to enforce the terms of their contract by seeking to enforce the terms of the settlement, an appropriate and relevant inquiry. See *United Graphics, Inc.*, 281 NLRB 463, 465 (1986) (information is relevant when it “relates directly to the policing of contract terms”).

Furthermore, inconsistencies in the Respondent's representations and difficulties in acquiring responses from HR reasonably raised Union suspicions that the employer might not have been being forthright in their dealings with the Union, raising another ground for relevance related to the Union's valid interest in verifying claims made by the employer about contractual and bargaining related matters. See *e.g.*, *Shoppers Food Warehouse*, 315 NLRB 258, 259 (1994); *Caldwell Mfg. Co.*, 346 NLRB 1159, 1160 (2006); *Des Moines Cold Storage, Inc.*, 358 NLRB 488, 499 (2012.)

The fact that the Union's theory of the situation was evidentially inaccurate, and their information request thus off-base, does not render the request irrelevant. See *Cannelton Industries*, 339 NLRB 996, 1005 (2003) (“Even rumors may be pursued, providing that there is at least some demonstration that the request for information is more than pure fantasy.”) Even where a Union's query seeks nonexistent information, the employer must “timely disclose that requested information does not exist.” *Endo Painting Service*, 360 NLRB 485, 486 (2014.)

Therefore, I find that the information request is thus relevant, particularly considering that the relevance burden is not a heavy one. See *e.g.*, *SBC Midwest*, 346 NLRB 62, 64 (2005.)

#### *B. Respondent Lacks Reasonable Justification for the Delay*

When relevant requested information is eventually provided to the Union, Section 8(a)(5) is violated when the employer engaged in an “unreasonable delay” in furnishing a response. *Monmouth Care Center*, 354 NLRB 11, 41 (2009.) A Respondent must show that they made diligent and good faith efforts to respond to the request “reasonably promptly.” See *U.S. Postal Serv.*, 363 NLRB 156, 158 (2015) (citing *NLRB v. John S. Swift Co.*, 277 F.2d 641 (7th Cir. 1960).) The reasonableness of an employer's timeliness is determined through an evaluation of the

totality of the circumstances, including the complexity and availability of requested information. *Good Life Beverage Co.*, 312 NLRB 1060, 1062 (1993); *Safeway, Inc.*, 369 NLRB No. 30, 2020 WL 763267 (2020.)

A delay is unreasonable when the requested information could have been easily accessed by employer. *Bundy Corp.*, 292 NLRB 671, 672 (1989.) Other factors to consider include the total amount of time elapsed before response, the employer's explanations for the delay, and the employer's efforts to communicate with the Union about the status of the response. *West Penn Power Co.*, 339 NLRB 585, 587–588 (2003.) All of these factors support a finding of unreasonable delay in this case.

While only a month passed between Ms. Batliner's June 14 request and Mr. Lewis' July 13 response, the totality of the circumstances indicate that this delay was unreasonable. The information communicated to the Union on July 13, 2022, by Mr. Lewis was known to management at least as early as the 1 p.m. meeting on June 14, 2022. Furthermore, the response the Respondent ultimately offered did not require anyone to compile documents or engage in other potentially laborious efforts to proffer an explanation. The response was two sentences, entirely from the personal knowledge of management officials involved, information they had had for the entirety of the delay.

Respondent's supervisors had ample opportunity to disclose this information sooner than they did. Mr. Lewis testified that he was in frequent contact with Ms. Batliner during this delay. (Tr. 222, 24–25; 223, 1.) Ms. Lazare was repeatedly contacted by the Union during this delay.

The offered explanation for this delay is purportedly that Respondent thought they had already answered the Union by way of Mr. Lewis' June 14, 2022 email. (Tr. 209, 6–10; Tr. 226, 1; GC Exh. 17.) This was an unreasonable belief. Ms. Lazare gave notice on at least four occasions that the issue was unresolved in the eyes of the Union after June 14 (the June 22 internal conversations with Mr. Lewis, the June 28 message from Ms. Taylor, the June 30 discovery of the NLRB charge, the exchange started by Ms. Taylor on July 1.) Mr. Lewis had similar notice that the Union considered the request outstanding, as he was at least informed so directly on June 22 by Ms. Batliner and indirectly by the NLRB charge he learned of on June 30.

Additionally, it was not reasonable to believe that Mr. Lewis' July 14 message constituted a response in the first place. This communication was allegedly planned before the information request was placed. (Tr. 205.) It is not even clear what Mr. Lewis knew of the information request when he wrote that email. Its contents do not address Ms. Batliner's question. Nor did Mr. Lewis' July 14 message make the information request moot because questions about whether the kiosk system was updated to fully correct the situation continued until sometime after July 5.

It is also considerably damaging to Respondent's argument that they acted reasonably and in good faith that the following transpired: No management official appears to have followed up with the Union after internal discussions on June 22 allegedly sorted the matter in supervisors' view; Ms. Lazare engaged in an unnecessarily hostile and confusing debate with Ms. Batliner on June 14 while apparently in possession of the information eventually offered as a response; and Ms. Lazare repeatedly gave no response to Ms. Taylor's messages about the kiosk issue. Even

considering that Mr. Lewis was out on leave for a week in early July during this time and that Ms. Lazare and Mr. Lewis may have experienced inadvertent miscommunications, these failures are not sufficiently explained or justified. Respondent's failure to communicate and their lack of just cause for delaying weigh against finding their efforts reasonable.

Delays of a similar length have been found to be unreasonable by the Board in other cases. See *Safeway, Inc.*, 369 NLRB No. 30, 2020 WL 763267 (2020), citing *Postal Service*, 308 NLRB 547, 551 (1992) (because information was easy to retrieve and communicate, a 4-week delay was unreasonable); *Capitol Steel & Iron Co.*, 317 NLRB 809, 813 (1995) (finding a 2-week delay unreasonable), *enfd.* 89 F.3d 692 (10th Cir. 1996); *Linwood Care Center*, 367 NLRB No. 14, slip op. at 5 (2018) (finding 6-week delay unreasonable.)

### C. Conclusion

Respondent has violated Section 8(a)(5), as well as 8(a)(1) derivatively, by their failure to respond to the Union's June 14, 2022, information request in a reasonably timely manner.

### CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of 5 Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act and is the designated exclusive collective-bargaining representative of Respondent's employees in the following appropriate collective-bargaining unit:

All employees at [Respondent's facility] in the bargaining unit as defined in Article 1 of the 2020-2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020-2024 Appliance Park Local Agreement between Haier and the Union.

3. By the following conduct, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act and violated Section 8(a)(5) and (1) of the Act:

- (a) Failing and refusing to bargain collectively with the Union as the exclusive collective bargaining representative of the unit employees.
- (b) Conferring wage increases to certain unit employees on October 4, 2021, without the Union's consent in violation of Section 8(a)(5) and (1) and Section 8(d) of the Act.
- (c) Failing to timely provide the Union with information relevant to its bargaining duties in violation of Section 8(a)(5) and (1) of the Act.

### REMEDY

Because I have found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

General Counsel and the Union requested an extraordinary make-whole remedy in this case, asking that the Board mandate

up to \$1.50 per hour raises and increases in the shift differentials for workers excluded from all or part of the 2021 wage and shift differential increases. The traditional make-whole remedies for unilateral changes are described by the Board as "restoration of the situation, as nearly as possible, to that which would have obtained but for" the unlawful conduct. *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 194 (1941.) In this case, the status quo, "but for" the unlawful conduct, is rescindment of the raises granted in October 2021, thereby restoring the bargaining position that existed before the unilateral changes. See *UPS Supply Chain*, 364 NLRB 25, 25 (2016.) Thus, the traditional remedy for unlawful implementation of wage increases is rescission of the increases at the bargaining representative's request and an affirmative bargaining order. See *Goya Foods of Florida*, 356 NLRB 1461 (2011); *Caterair International*, 322 NLRB 64, 68 (1996.)

General Counsel and the Union argue that the traditional remedy will not return the Union to the bargaining position it enjoyed prior to the unilateral change, because that remedy puts the Union in the untenable position of asking the majority of its membership to relinquish a substantial raise or leaving the raise in place and attempting to bargain with Respondent without the leverage of agreeing to the pay increase sought by Respondent for some employees in exchange for a pay increase for all the unit employees. General Counsel and the Union further assert that Respondent's unilateral change was specifically aimed at weakening support for the Union, because Respondent's wage increases excluded the longest-term employees, who are more likely to be full dues paying members of the Union than those who received the wage increases.

The Union's argument does not fully consider that the less senior employees greatly outnumber the most senior employees. Of the more than 400 NIT unit employees, only approximately 5 or 1 percent are not dues paying members of the Union. Of the more than 5000 unit employees who received a wage increase approximately 257 or 5 percent are not dues paying members. Therefore, approximately 95 percent of the 6000 unit employees are dues paying members. (GC Exh. 5.) Based upon a full review, I find the argument that these statistic evidence a significant overall impact overstated.

The Union also asserts that the wage increases sought in the remedy are "merely compensatory and within the Board's authority under the Act." (CP Brief, p. 18.) To support this argument, the Union cites *Southside Electric Cooperative*, 247 NLRB 705 (1980), and *Omni Hotels Management Corp. and Unite Here Local 1*, 371 NLRB No. 53 (2022.) I find that the holding in those cases do not support the Union's argument. In *Southside Electric* the employer unilateral granted wage increases, but after the union indicated that it did not oppose the pay raises, the employer unilaterally withdrew them. Under those circumstances, the Board upheld the administrative law judge's recommended order requiring the employer to reinstate the pay raises that it unlawfully withdrew. In *Omni Hotels Management*, the Board ordered the reinstatement of annual wage increases that the employer unilaterally eliminated. Therefore, in these cases the Board ordered the traditional remedy of requiring the employers to return to the status quo that existed before the unilateral change that the Board found unlawful. Here, returning

to the status quo before the unilateral change would require the rescission of the wage increases, not additional wage increases.

I further note that while the Board enjoys broad discretion to formulate remedies to address to unique circumstances of every case, it evaluates of the severity of a respondent's conduct to determine appropriate remedial measures. *See NLRB v. Mackay Radio & Telegraph Co.*, 304 U.S. 333, 348 (1938); *HTC*, 361 NLRB 709 (2014); *Skyline Distributions*, 99 F.3d 403, 410. (D.C. Cir. 1996) (The Board can determine the appropriateness of certain remedies by using an evaluation of the Section 7 rights affected, the purposes of the act, and the proportionality of potential remedies.) I note that the consolidated complaint does not allege that Respondent's failure to grant a wage increase to the NIT unit employees was motivated by animus against protected activity in violation of 8(a)(3) or 8(a)(1.) Additionally, the violations found here occurred in the context of a labor relationship that has endured for over 60 years, as well as during the term of a collective-bargaining agreement.

Finding that no party cites nor has my research uncovered any authority for the non-traditional remedy requested under the circumstances of this case, I recommend the traditional remedy ordered by the Board of rescission of the wage increases unilaterally granted by Respondent at the Union's request.

Therefore, having found that the Respondent engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Having found that the Respondent violated Section 8(a)(5) and (1) and Section 8(d) of the Act by unilaterally changing employees' wages during the term of the 2020–2024 CBA without the Union's consent, I shall order the Respondent to rescind the unlawful unilateral changes, upon the Union's request. Moreover, I shall order the Respondent to bargain with the Union as the exclusive collective-bargaining representative of the unit employees before implementing any changes in their wages, hours, or other terms and conditions of employment and to not unlawfully modify the CBA during its term without the Union's consent. I further find that Respondent should be ordered to timely provide to the Union requested information relevant to the Union's duty to bargain on behalf of the unit employees.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>6</sup>

#### ORDER

The Respondent, GE Appliances, a Haier Company, Louisville, Kentucky, its officers, agents, successors, and assigns,

<sup>6</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>7</sup> If the facilities involved in these proceedings are open and staffed by a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facilities involved in these proceedings are closed or not staffed by a substantial complement of employees due to the Coronavirus Disease 2019 (COVID-19) pandemic, the notices must be posted within 14 days after the facilities reopen and a substantial complement of employees have returned to work. If, while closed or not staffed by a substantial complement of employees

shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively with the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL–CIO (IUE) Communications Workers of America, AFL–CIO (CWA), IUE/CWA, Local 83761 (Union), the designated exclusive collective-bargaining representative of Respondent's employees in the following appropriate collective bargaining unit:

All employees at [Respondent's Louisville, Kentucky Appliance Park facility] in the bargaining unit as defined in Article 1 of the 2020-2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020-2024 Appliance Park Local Agreement between Haier and the Union.

(b) Failing to continue in effect the terms of the 2020–2024 CBA by unilaterally implementing changes to wages and shift differentials without the Union's consent.

(c) Failing to timely provide the Union with requested information relevant to its bargaining duties.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Provide the Union with notice and an opportunity to bargain before implementing any changes in wages, hours, and working conditions.

(b) Upon request by the Union, rescind the October 4, 2021, wage and shift differential increases.

(c) Provide the Union with requested information relevant to its bargaining duties in a timely manner.

(d) Within 14 days after service by the Region, post at its facility in Louisville, Kentucky copies of the attached notice marked "Appendix."<sup>7</sup> Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its

due to the pandemic, the Respondent is communicating with its employees by electronic means, the notice must also be posted by such electronic means within 14 days after service by the Region. If the notice to be physically posted was posted electronically more than 60 days before physical posting of the notice, the notice shall state at the bottom that "This notice is the same notice previously [sent or posted] electronically on [date]. If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

employees by such means. The Respondent shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. If during the pendency of these proceedings, the Respondent has gone out of business or closed the Louisville, Kentucky facility, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 29, 2021.

(e) Within 21 days after service by Region 9, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

The complaint is dismissed insofar as it alleges violations of the Act that I have not specifically found.

Dated, Washington, D.C., January 26, 2023

#### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively with the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers AFL-CIO (IUE) Communications Workers of America, AFL-CIO (CWA), IUE/CWA, Local 83761 (Union), the designated exclusive collective-bargaining representative of Respondent's employees in the following appropriate collective bargaining unit:

All employees at [Respondent's Louisville, Kentucky

Appliance Park facility] in the bargaining unit as defined in Article 1 of the 2020–2024 National Agreement between Haier U.S. Appliance Solutions, Inc. (Haier) and IUE-CWA, The Industrial Division of the Communication Workers of America, AFL-CIO, CLC and its affiliated GE-IUE/CWA, AFL-CIO, CLC Locals and in the Preamble to the 2020–2024 Appliance Park Local Agreement between Haier and the Union.

WE WILL NOT fail to continue in effect the terms of the 2020–2024 CBA by unilaterally implementing changes to wages and shift differentials without the Union's consent.

WE WILL NOT fail to timely provide the Union with requested information relevant to its bargaining duties.

WE WILL NOT in any like or related manner interfere with, restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon request, bargain with the Union as the exclusive collective-bargaining representative of the unit employees concerning terms and conditions of employment.

WE WILL, upon request of the Union, rescind the unilateral changes to wages and shift differentials, restore the status quo ante as it existed prior to October 4, 2021, and continue in effect all of the terms and conditions of employment contained in the 2020–2024 collective-bargaining agreement with the Union.

#### GE APPLIANCES, A HAIER COMPANY

The Administrative Law Judge's decision can be found at [www.nlr.gov/case/09-CA-284214](http://www.nlr.gov/case/09-CA-284214) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

