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Hiller LLC and UA Local 502 Plumbers Pipe Fitters and Services Technicians. Case 10–CA–393487

October 28, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY
AND MAYER

This is a refusal-to-bargain case in which Hiller LLC (the Respondent) is contesting the Union’s certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on August 24, 2026, by UA Local 502 Plumbers Pipe Fitters and Services Technicians (the Union), the General Counsel issued a complaint on August 31, 2026, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union following the Union’s certification in Case 10–R–C–345700. (Official notice is taken of the record in the representation proceeding as defined in the Board’s Rules and Regulations, Sections 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting an affirmative defense.

On September 23, 2026, the General Counsel filed a Motion for Summary Judgment. On September 24, 2026, the Board issued an Order Transferring the Proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On October 8, 2026, the Respondent filed a Response to Notice to Show Cause. On October 15, 2026, the Union filed a reply.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The Respondent admits its refusal to bargain but contests the validity of the certification based on its conten-

tion, raised and rejected in the representation proceeding, that the Plumbing Service Team Leader is a supervisory employee excluded from coverage under the Act.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding.¹ The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor has it established any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

Accordingly, we grant the General Counsel’s Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Tennessee corporation with a facility located in Bowling Green, Kentucky, has been engaged in the business of providing plumbing, HVAC, and electrical services.

In conducting its operations described above, the Respondent annually purchases and receives at its Bowling Green, Kentucky facility goods valued in excess of \$50,000 directly from points located outside the Commonwealth of Kentucky.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. We further find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following an election conducted by secret ballot on July 31, 2024,² the Regional Director issued a Decision on Objections, Approving Withdrawal of Petitioner’s Objections, Overruling Employer’s Objections, and Issuing

¹ The Respondent’s assertions in its answer that the unit improperly includes a supervisor (pars. 7, 8, 10, 11, and 13) is insufficient to preclude summary judgment. Unit composition is a representation issue that was fully litigated and resolved in the underlying representation proceeding. Moreover, the Respondent has admitted that it refused the Union’s request to bargain (par. 10). This admission is sufficient to establish a violation of the Act. *Randalls Food & Drug, L.P.*, 369 NLRB No. 100, slip op. at 1 fn. 1 (2020). Thus, the Respondent’s denial of the legal conclusions in pars. 11 and 12 of the complaint, which state that the Respondent has violated Sec. 8(a)(5) and (1) of the Act by its failure and refusal to bargain with the Union and that its unfair labor practices affect commerce within the meaning of Sec. 2(6) and (7) of the Act, does not raise any issues warranting a hearing.

² Prior to the election, the Regional Director deferred resolution of the supervisory status of the Plumbing Service Team Leader and permitted the employee to vote subject to challenge. Because the challenged ballot was determinative, the parties briefed the issue and a hearing was held. On March 30, 2026, the Regional Director issued a Decision on Exceptions to the Hearing Officer’s Report and Order on Challenged Ballot, adopting the Hearing Officer’s report and concluding that the Respondent had not met its burden to establish the Plumbing Service Team Leader’s supervisory status. On July 14, 2026, the Board denied the Respondent’s Request for Review of the Regional Director’s decision.

Certification of Representative in Case 10–RC–345700 on August 13, 2026, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Included: All full-time and regular part-time plumbers and plumber apprentices/helpers, including those employees in the positions of Plumbing Service Tech, Plumbing Install Tech, Plumbing Install Apprentice, and Plumbing Service Team Leader employed by the Employer at its Bowling Green, Kentucky location.

Excluded: All other employees, Electricians, HVAC techs, professional employees, managers, guards and supervisors as defined in the Act.

The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

B. Refusal to Bargain

On about August 14, 2026, the Union, by email, requested that the Respondent recognize the Union as the exclusive collective-bargaining representative of the unit, and bargain collectively with the Union as the exclusive collective-bargaining representative of the unit. Since about August 20, 2026, and continuing to date, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit since about August 20, 2026, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enf'd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enf'd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964).³

ORDER

The National Labor Relations Board orders that the Respondent Hiller LLC, Bowling Green, Kentucky, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with UA Local 502 Plumbers Pipe Fitters and Services Technicians (the Union) as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(b) 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) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

Included: All full-time and regular part-time plumbers and plumber apprentices/helpers, including those employees in the positions of Plumbing Service Tech, Plumbing Install Tech, Plumbing Install Apprentice, and Plumbing Service Team Leader employed by the Employer at its Bowling Green, Kentucky location.

³ For the reasons stated in his dissent in *Longmont United Hospital*, 374 NLRB No. 52 (2026), in order to effectuate Sec. 10(c) of the Act, Member Prouty believes that additional remedies are required to remedy the harm caused by an employer's unlawful refusal to bargain with its employees' chosen union in a test of certification case. To address the damage created by the unlawful delay in initiating bargaining, Member Prouty would also order the Respondent to make the union and affected employees whole for any provable, reasonably quantifiable economic harm resulting from the unlawful refusal to bargain; provide the union on-site access to the bargaining unit; adhere to a bargaining schedule;

post a notice of employee rights for a period of 1 year; and read and distribute a remedial notice to employees. See *Longmont*, supra, slip op. at 2–5; see also *CP Anchorage Hotel 2 d/b/a Hilton Anchorage*, 371 NLRB No. 151 (2022) (Member Prouty, concurring) (setting forth his view that notice reading and distribution should be standard for all unfair labor practices found by the Board), enf'd. 98 F.4th 314 (D.C. Cir. 2024). Member Prouty believes that these remedies are necessary where, as here, employees have been deprived of the benefit of their chosen representative because of the Respondent's unlawful refusal to bargain.

Excluded: All other employees, Electricians, HVAC techs, professional employees, managers, guards and supervisors as defined in the Act.

(b) Within 14 days of service by the Region, post at its facility in Bowling Green, Kentucky copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 10, 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. Reasonable steps shall be taken by the Respondent 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 August 20, 2026.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 10 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. October 28, 2026

James R. Murphy, Chairman

David M. Prouty, Member

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

⁴ 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

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 recognize and bargain with UA Local 502 Plumbers Pipe Fitters and Services Technicians (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

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, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

Included: All full-time and regular part-time plumbers and plumber apprentices/helpers, including those employees in the positions of Plumbing Service Tech, Plumbing Install Tech, Plumbing Install Apprentice, and Plumbing Service Team Leader employed by the Employer at its Bowling Green, Kentucky location.

Excluded: All other employees, Electricians, HVAC techs, professional employees, managers, guards and supervisors as defined in the Act.

HILLER LLC

The Board's decision can be found at www.nlrb.gov/case/10-CA-393487 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.

United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

