

**Intermountain Gas Company and United Association
of Journeymen and Apprentices of the Plumbing
and Pipe Fitting Industry, AFL-CIO, Petitioner.**
Case 19-UC-186

August 4, 1977

DECISION ON REVIEW

BY CHAIRMAN FANNING AND MEMBERS
PENELLO AND WALTHER

On March 1, 1977, the Acting Regional Director for Region 19 issued his Decision and Order in this case in which the unit certified in Case 19-RC-4984 was clarified by including vaporization technicians in the unit. Thereafter, pursuant to National Labor Relations Board Rules and Regulations, Series 8, as amended, Petitioner filed a timely request for review of the Acting Regional Director's decision, contending that he had departed from precedent and made findings of fact that were clearly erroneous by not including several other classifications sought by Petitioner in the unit clarification petition.

By telegraphic order dated April 11, 1977, the National Labor Relations Board granted the request for review insofar as it related to Petitioner's requested inclusion of the classifications of leak survey technician and insulation technicians and applicators.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issue under review and hereby makes the following findings:

The Employer is a public utility engaged in the distribution, sale, and service of natural gas in southern Idaho.

The Acting Regional Director found that the classifications of leak survey technician and insulation technicians and applicators were not properly included in the existing unit by way of a unit clarification petition and dismissed, *inter alia*, those portions of the petition seeking the above-named classifications. In making this determination, the Acting Regional Director found that the leak survey technician and insulation technicians and applicators generally worked apart from the rest of the unit employees and enjoyed a community of interest sufficiently separate to warrant their exclusion from the unit.

In disputing the Acting Regional Director's findings, Petitioner asserts that the leak survey technician

performs functions that are essentially the same as those traditionally performed by unit employees. Similarly, Petitioner contends that the insulation technicians and applicators perform tasks that, at least in some measure, are identical to traditional unit work.

We find merit in the contention of Petitioner that the classification of leak survey technician is one properly included in the existing bargaining unit, but we agree with the Acting Regional Director that the insulation technicians and applicators perform different functions than those performed by existing unit classifications.

With respect to the leak survey technician, the record discloses that this is a new classification instituted by the Employer since the date of the last collective-bargaining agreement. The leak survey technician's responsibility is to monitor the Employer's Idaho pipeline system to determine the existence of any leaks in the distribution system. To this end, the employee presently retained in this position travels alone in a small vehicle equipped with a gas detection device and reports all leaks reflected on this apparatus to the Employer's operations manager. Because of traffic considerations, the leak survey technician may work at times other than the normal 8 a.m.-to-5 p.m. schedule generally observed by the Employer. As part of his duties, the leak survey technician also maintains records of his activities for the Department of Transportation, and is apprised of that Department's regulations relevant to his duties. In addition, the leak survey technician decides each year which routes he will traverse in the coming months.

The Acting Regional Director concluded that the leak survey technician did not share a community of interest with other employees in the unit, whose work is directed and assigned by supervisors and who work in contact with other unit employees. Moreover, relying on *Crucible Steel Casting Division of Howmet Corporation*,¹ the Acting Regional Director found that the leak survey function had existed prior to the certification of the unit, albeit on a part-time basis, as a responsibility of the Employer's cathodic protection employees.

Initially, it is clear that the leak survey technician could not be excluded from the unit as a technical employee under our traditional definition of that term.² The leak survey technician admittedly makes no independent judgment as to the severity of the leak once it is detected, and only transmits his findings to the operations superintendent, who will then make a decision as to how to dispose of the problem. Although the employee presently occupy-

¹ 162 NLRB 1513 (1967).

² See, e.g., *Avco Lycoming Division, Avco Corporation*, 173 NLRB 1199 (1968).

ing this position has had previous experience in leak survey detection, he has never received any formal training other than a 1-week orientation period in Atlanta, where he was instructed in the use of the vehicles and monitoring device he now operates.

With regard to those factors relied upon by the Acting Regional Director in determining that the leak survey technician does not share a community of interest with other unit employees, the record discloses that although he is not under any immediate supervision he nonetheless reports on a continual basis to the operations superintendent. While, it is true, as noted above, that the leak survey technician occasionally works unusual hours to avoid the constraints of city traffic and the vicissitudes of atmospheric conditions, he admitted that he "generally" works the standard 8-to-5 schedule. Similarly, while because of the nature of his tasks he is not in frequent contact with other employees, this is a working condition he shares with many employees who are included in the unit.³ Finally, while the Acting Regional Director correctly noted that the leak survey function was at one time performed by cathodic protection employees (an excluded classification), the work of the cathodic protection employees is overwhelmingly technical in nature, and there is no evidence that the portion of their time devoted to leak survey functions contributed to their exclusion from the unit. Indeed, a gas leak detection function is also performed by employees included in the unit, although on a smaller scale.

The classifications of insulation technicians and applicators are also new employment categories instituted subsequent to the execution of the last collective-bargaining agreement between the Employer and Petitioner. These employees work in the Employer's newly created "Home Guard" division, a separate administrative division devoted to certain "non-utility" functions, such as the sale and installation of solar hearing units, insulation, and home appliances.

In finding that the insulation technicians and applicators were not properly included in the existing

bargaining unit, the Acting Regional Director determined that these employees performed either entirely new functions (such as the installation of insulation) or functions that were properly excluded classifications (sales). Furthermore, the Acting Regional Director concluded that because of their different lines of progression, rates of compensation, and completely separate supervision, the insulation technicians and applicators did not share a sufficient community of interest with other unit employees to warrant their inclusion in the certified unit.

For its part, Petitioner contends that the new functions of these employees are not dissimilar from the type of work traditionally performed by unit employees; i.e., the installation of appliance units. Beyond this, Petitioner urges that the factors relied on by the Acting Regional Director to support a finding of a separate community of interest are solely attributable to the fact that these new classifications have not been subject to collective bargaining.

It is clear from the record that in their work insulation technicians and applicators employ skills substantially different from those of other unit employees. In this connection, technicians and applicators are trained extensively in the use and application of urea formaldehyde and cellulose spray, and work with implements used exclusively within the Home Guard division. Moreover, the record reveals that these new classifications are in fact an amalgam of different or previously excluded functions, only a small part of which relates to the traditional unit function of installing appliances.

In addition to the foregoing factors, we are in agreement with the Acting Regional Director that the separate supervision, different lines of pay and progression, and lack of collective-bargaining history all militate against a finding that the insulation technicians and applicators are a proper accretion to the existing certified unit.

Accordingly, the unit is clarified to include the classification of leak survey technician, and to exclude the classifications of insulation technicians and applicators.

³ For instance, the Employer's meter readers have extremely limited contact with other unit employees.