

**Clarian Health Partners, Inc. and International Union of Operating Engineers, Local Union No. 103, AFL-CIO, Petitioner.** Case 25-RC-10225

February 28, 2005

DECISION ON REVIEW AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN  
AND SCHAUMBER

On June 9, 2004, the Regional Director for Region 25 issued a Decision and Direction of Election in which he found appropriate the petitioned-for multifacility unit of skilled maintenance employees at the Employer's Indiana University Hospital (IU) and James Whitcomb Riley Hospital for Children (Riley). Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Employer filed a timely request for review, contending that the appropriate unit should also include skilled maintenance employees at the Employer's Methodist Hospital (Methodist) and four satellite facilities. By Order dated July 7, 2004, the Board granted the Employer's request for review. The Employer and the Petitioner filed briefs on review. The International Union of Operating Engineers filed a brief as amicus curiae.<sup>1</sup>

Having carefully considered the record, including the briefs on review, we find, contrary to the Regional Director, that the petitioned-for multifacility unit, limited to skilled maintenance employees at IU and Riley, is inappropriate. Consequently, we reverse the Regional Director's unit determination and remand this case for further proceedings consistent with this decision.<sup>2</sup>

I. FACTS

A. Overview

The Employer is a health care institution located in Indianapolis, Indiana. The Employer operates the three acute care hospitals involved in this proceeding, as well as a number of satellite medical facilities in the Indianapolis area, and employs 12,000 employees.

IU and Riley were jointly operated by Indiana University until 1997, when they merged with Methodist. The merger of the three hospitals led to the formation of the

<sup>1</sup> The Employer filed a motion to strike fn. 3 of the amicus brief, in which the International Union contends that the Employer's health care system includes, in addition to the three hospitals involved in this proceeding, four hospitals whose skilled maintenance employees the Employer did not argue should be included in any unit found appropriate. We deny the motion to strike because the assertions the International Union makes in its amicus brief do not affect our resolution of the issue before us.

<sup>2</sup> In view of our decision on the unit scope issue, we need not address the Employer's additional request for review regarding seven classifications of Methodist Hospital maintenance employees excluded by the Regional Director.

Employer, which now owns and operates the three hospitals. Administrative, management, and top supervisory functions provided to all three hospitals are highly centralized. There is one board of directors, and the hospitals are recognized by State and Federal regulatory agencies as a single entity. One state health license and one Medicare number cover all facilities. The Joint Commission for the Accreditation of Health Care Organizations (JCAHO) has issued a single accreditation covering all three hospitals. There are single personnel, payroll, marketing, purchasing, patient billing, patient records, finance, and security departments for the three hospitals. All 12,000 employees within the Employer's health care system receive the same handbook, are subject to the same wage and personnel policies, and receive similar benefits and services. All employees utilize the same electronic mail system, and all receive a variety of employer-generated magazines and newsletters.

IU and Riley are jointly referred to as the "West Campus," and are within three city blocks of each other. Methodist is approximately nine-tenths of a mile away and is referred to as the "East Campus." All three hospitals are connected by an aboveground tram system known as the "people mover," which covers the distance from the IU/Riley area to Methodist in about 5 minutes. Each hospital has its own administration consisting of a chief administrative officer, chief medical officer, and a vice president/senior vice president of nursing. Each hospital provides the same full array of medical services that it provided before the merger, with only psychiatric and cardiology services consolidated at one location.

The hiring process is coordinated by the Employer's single human resources department. Job openings, regardless of location, are posted on the Employer's single website and on bulletin boards at all three hospitals. Job applicants use the same application form to apply for all job openings, and hiring preference is given to applicants who are current employees of the Employer regardless of where they work. Although a manager or supervisor at the hospital at which the job vacancy exists may interview prospective candidates, a job offer would be extended in consultation with an employee relations consultant from the human resources department. Employees who are promoted or transferred within the Employer's health care system retain their employer-wide seniority.

B. Skilled Maintenance Employees

The petitioned-for unit of skilled maintenance employees located at IU and Riley includes approximately 50 employees in seven job classifications located primarily in the facilities maintenance department at IU and Riley. Employees in this department are responsible for plant

operations and for the design, construction, maintenance, and repair of hospital buildings and mechanical systems. The Employer's proposed unit of approximately 180 employees also would include skilled maintenance employees at Methodist and several satellite facilities, as well as employees in the clinical engineering department at all three hospitals who are responsible for maintaining clinical equipment.

Each hospital has its own facilities maintenance manager, who directs the work of the unit employees in that hospital. Each facilities maintenance manager reports to the single facilities director, who is responsible for overseeing the work of all three facilities maintenance departments. The facilities director regularly meets with the managers and their supervisors from all three campuses, as one group, to coordinate policies, procedures and departmental performance. All three facilities maintenance locations comprise a single entity to satisfy accreditation,<sup>3</sup> OSHA, and safety certification requirements. All departmental policies and procedures apply to each hospital. All facilities maintenance department employees wear the same uniform, use the same safety equipment, and participate in the same training sessions as a group, typically on their own campuses, but employees will go to a different campus if necessary. Although certain classifications of employees may be based at a particular hospital, employees move between hospitals when necessary, especially during the evening shifts when there are fewer employees on duty.<sup>4</sup>

Front-line supervisors at each hospital report directly to the facilities maintenance manager in charge of that particular location. Requests for work to be done are routed to two dispatchers who are based at Methodist. The dispatchers contact the facilities maintenance manager or supervisor at the location requesting the work to relay the work order. The facilities maintenance manager or supervisor assigns the work to department employees at the hospital at which the work needs to be done. Supervisors from all three locations routinely substitute for one another when a supervisor is absent from work, during which time they supervise employees at locations different from their permanent location. Facilities maintenance department employees attend monthly staff meetings as a group and also attend regular departmental and safety meetings. The locations of these

meetings vary, but IU and Riley employees typically attend meetings at either of those hospitals rather than at Methodist.

In addition to assigning work, facilities maintenance managers schedule and approve overtime and time off for the employees they supervise; annually evaluate the employees they supervise; and impose discipline on those employees when necessary. The facilities maintenance managers also consider applicants for jobs, select candidates to be interviewed, and perform initial screening interviews. Before extending a job offer, managers consult with the human resources department on salary and benefits.

Although there have been few permanent or temporary transfers among skilled maintenance employees within the last few years, the majority of job openings in the facilities maintenance department typically have been filled by employees transferring from one facility to another.<sup>5</sup> The latest transfer for which there is evidence occurred in February 2004, when an equipment technician at Methodist transferred to Riley into an HVAC technician position. In 2003, although there were approximately 300 systemwide transfers from one position to another or from one facility to another, only two of those transfers involved employees in the skilled maintenance unit.<sup>6</sup> Several of the transfers from 2000 to 2002 included employees moving to and from Methodist from IU and Riley. There is some evidence of employees transferring on a temporary basis between the facilities maintenance and clinical engineering departments.

## II. ANALYSIS

The Regional Director found that the petitioned-for skilled maintenance employees in the facilities maintenance department at IU and Riley, plus several classifications of clinical engineering department employees who also work at IU and Riley, constitute an appropriate unit. The Regional Director excluded, contrary to the Employer's contention, skilled maintenance employees located at Methodist. The Regional Director found that although certain functions such as personnel, payroll, purchasing, billing, etc., are centrally administered by the Employer and cover all three hospitals, each hospital is separately administered and operates with substantial autonomy. In finding the IU/Riley unit appropriate, the Regional Director relied on the close geographical proximity of IU and Riley; the close contact and interchange between skilled maintenance employees at IU and Riley,

<sup>3</sup> All three hospitals must individually satisfy the accreditation requirements in order for the Employer to receive overall accreditation.

<sup>4</sup> There are approximately 20 employees in several different job classifications in the unit the Regional Director found appropriate who are based at IU but who perform the same jobs at Riley when required. There are six employees based at Methodist who also work at IU and Riley.

<sup>5</sup> The Petitioner does not dispute the Employer's assertion that over 10 percent of facilities maintenance department employees currently based at Riley transferred from Methodist.

<sup>6</sup> A locksmith and a maintenance technician transferred from IU to Riley.

but not with employees at Methodist; the few employee transfers between IU/Riley and Methodist; and the common supervision of skilled maintenance employees when supervisors fill in for one another. The Regional Director concluded that, despite centralization at the highest level, the skilled maintenance employees at IU and Riley share a community of interest distinct from the interests they share with skilled maintenance employees at Methodist. We disagree.

In determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history.<sup>7</sup> *Laboratory Corp. of America Holdings*, 341 NLRB 1079 (2004); *Bashas', Inc.*, 337 NLRB 710 (2002), and cases cited therein.

Evaluating these factors, we find, contrary to the Regional Director, that the petitioned-for unit which includes employees only at IU and Riley, but not at Methodist, is not an appropriate unit for bargaining. We find that the evidence establishes that the employees at IU and Riley do not share a community of interest distinct from that shared with the skilled maintenance employees at Methodist. See *Laboratory Corp. of America Holdings*, supra at 1082.<sup>8</sup>

The Employer's entire health care system is incorporated, accredited, and licensed as one system. All three acute care hospitals are overseen by a single board of directors and chief administrative officers who oversee operations at all three hospitals and to whom local management is responsible. There is a significant amount of functional integration among facilities with numerous single departments covering all facilities, including human resources, marketing, patient records and billing, laundry, e-mail and publications. A central medical laboratory is being built to handle laboratory functions for all three hospitals. Patients admitted to one hospital can be transferred to another hospital without being discharged and then readmitted. All employees are covered by the same personnel policies, receive the same benefits, are within the same compensation system, and work under the same terms and conditions of employment. Hiring is centralized to the extent that all job openings regardless of location are posted electronically on the single hospital website and on bulletin boards at separate locations. There is a single employment application regardless of job and the single human resources depart-

ment oversees the hiring process. Employees retain systemwide job seniority in the event of a transfer or promotion.

While the amount of centralized administration and management is significant, each hospital also functions in an independent and autonomous fashion. Daily supervision is directed by each hospital's local administrative hierarchy, including departmental managers, rather than by the corporate hierarchy. Included within the local hierarchy is a facilities maintenance manager who is responsible for the labor relations and work assignments of the skilled maintenance employees assigned to a particular hospital.

The primary function of all the skilled maintenance employees is the same regardless of the hospital at which they are based: to inspect, maintain and repair the same types of medical equipment using the same repair skills and the same tools. A single dispatching office located at Methodist assigns maintenance work to each of the three hospitals. The petitioned-for employees wear the same uniforms, clock in to work in the same fashion, and are subject to the same training and safety policies as the employees the Petitioner seeks to exclude. The terms and conditions of employment of employees at IU and Riley are not different in any respect from those of employees located either at Methodist or, for that matter, elsewhere in the Employer's health care system.

Skilled maintenance employees, regardless of location, are in contact with each other on a regular basis, exchanging information, supporting each other's duties, and interacting with other employees who work on similar equipment or systems. Much of this employee contact is over the phone, although employees do go to different facilities to discuss problems, borrow equipment, engage in training, and perform work. Skilled maintenance employees share common supervision on evenings and weekends and in a supervisor's absence, when a supervisor based at one hospital will supervise employees at another hospital. Individual hospital facilities maintenance managers occasionally ask for assistance from other supervisors and managers, and there are regular temporary assignments of personnel from one location to another.<sup>9</sup>

We recognize that IU and Riley are closer to each other than they are to Methodist and that they have been historically linked and jointly referred to as one campus. However, Methodist is less than 1 mile away from IU

<sup>7</sup> There is no bargaining history for any of the Employer's employees.

<sup>8</sup> No party has argued that the IU and Riley hospitals are a "single facility." Accordingly, we do not pass on that issue.

<sup>9</sup> Certain employees have a "home base" but routinely rotate between locations or regularly work on a temporary basis at locations other than their "home base" as specific projects require additional assistance. Employees do not clock in and out when they rotate between separate locations.

and Riley, and employees are able to move easily among all three hospitals in 5 minutes on a tram system. We also recognize that the geographic proximity of IU and Riley makes employee contact and interchange more convenient. However, the approximately 1-mile distance between the two campuses is insignificant given the ease of transportation among the three facilities, common supervision of skilled maintenance employees on a regular basis, and the regular assignment of employees to hospitals other than their permanent locations.<sup>10</sup> Indeed the very closeness of Methodist to IU and Riley supports our finding that the requested unit limited to IU and Riley is not appropriate. See *Laboratory Corp. of America Holdings*, 341 NLRB 1083 (2004).

Evaluating all the above-described factors, we find that the Regional Director erred in finding appropriate a unit limited to skilled maintenance employees at IU and Riley. We need not decide what the appropriate unit is or should be.<sup>11</sup> We do decide, however, that the petitioned-for unit is not appropriate under the circumstances here. We emphasize that the skilled maintenance employees at all three hospitals regularly share common supervision on evening and weekend shifts, and that they have regular contact with one another through temporary assignments away from their permanently assigned hospital. In addition, we emphasize the close geographic proximity

of all three hospitals and the significant degree of centralized administration, management, and functional integration throughout the Employer's system, especially the centrally administered personnel policies, the centralized hiring process, and the identical terms and conditions of employment. While employees in the unit the Regional Director found appropriate are subject to common labor relations policies and centralized management, so are employees excluded from the unit. While employees in the unit the Regional Director found appropriate share similar skills and duties, so do the excluded employees. Furthermore, the IU/Riley grouping does not comport with any of the employer's administrative, managerial, or supervisory departments. Finally, there is evidence of contact and interchange among employees at all three hospitals.

Simply stated, the skilled maintenance employees at IU and Riley do not share a community of interest distinct from that shared with skilled maintenance employees at Methodist. Nor do the employees at Methodist share a community of interest among themselves distinct from that they share with employees at IU and Riley.

Accordingly, we find that the petitioned-for unit limited to employees at IU and Riley is inappropriate. Inasmuch as the Petitioner has not taken a clear position in regard to its willingness to proceed to an election in a unit different than the one found appropriate by the Regional Director, we remand the case to the Regional Director for further appropriate action.

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<sup>10</sup> Although the number of employees who rotate between IU and Riley is greater than the number who rotate between Methodist and IU/Riley, this factor, standing alone, does not warrant a different result.

<sup>11</sup> That is, we need not reach the issue of whether employees at each individual hospital would constitute an appropriate unit or whether satellite locations must be included in any appropriate multifacility unit.