

Coca-Cola Bottling Co. of Wisconsin and Teamsters Local 344, affiliated with International Brotherhood of Teamsters, AFL-CIO, Petitioner.
Case 30-UC-321

March 26, 1993

DECISION ON REVIEW AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

On December 17, 1992, the Regional Director for Region 30 issued a Decision and Order in which he granted the instant unit clarification petition to include certain production employees in the existing collective-bargaining unit. In accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review. The Petitioner filed a brief in opposition.

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

The Employer's request for review of the Regional Director's Decision and Order Granting Unit Clarification is granted as it raises substantial issues warranting review.

The Petitioner filed the instant UC petition to clarify the existing unit of warehouse distribution, sales, drivers, mechanics, and vending machine repair employees to include production (bottling) employees, who were hired in 1992. The Regional Director found first that the production employees were properly included in the bargaining unit because they had been included in the unit when it was certified in 1961 and because the successive bargaining agreements thereafter included the production classification in their recognition clauses. The Regional Director alternatively found that the production employees should be included because of their close community of interest with existing unit employees. Based on the undisputed facts set forth by the Regional Director, we find for the following reasons that the Employer's production employees do not constitute an accretion to the existing bargaining unit.

First, in the circumstances of this case, it is immaterial whether production employees were included in the successive contractual recognition clauses. The Employer ceased production operations in 1980 and from 1980 to 1992 had no production operations and employed no production employees. The Board finds that this 12-year hiatus, when the Employer in fact had no production employees, is controlling. In representation cases in general and unit clarification proceedings in particular, the Board looks to the actual, existing composition of units and to employees actually working to determine the composition of units, not to ab-

stract grants of recognition. For example, the Board has dismissed unit clarification petitions when there were no employees in the classification sought to be added,¹ does not automatically accrete employees at a new store solely because the unit description includes all the employer's stores, present and future, in a geographic area,² and has found in cases involving decertification elections that the appropriate unit must be the actual, current unit.³ Accordingly, we shall reverse the Regional Director's principal finding.

Second, we find that the Employer's production employees have a community of interest separate and distinct from the current bargaining unit employees. Bargaining unit employees are engaged in warehouse distribution, sales, and delivery of the product, repair of vending equipment, and in related maintenance. Production employees are engaged in operating the bottling equipment and in related maintenance. Although there is some overlap of functions, as in the operation of forklifts and in the maintenance of production equipment, it is undisputed that the production employees work in a separate walled off area of the facility, are engaged in different work, for the most part use different skills, have not in fact interchanged with unit employees, and have separate day-to-day supervision. In a number of other cases, the Board has found units like the existing warehouse and distribution unit here to be, themselves, separately appropriate. See *Esco Corp.*, 298 NLRB 837 (1990); *Brescome Distributors Corp.*, 197 NLRB 642 (1972); hence, production employees are not a necessary part of, or an accretion to, such a unit. In addition, the 12-year hiatus when the Employer had no production employees renders the earlier inclusion of production employees in the unit insignificant.

Based on the above factors, we find that the production employees can be a separate appropriate unit. Thus, contrary to the Regional Director's conclusions, the production employees do not constitute an accretion to the existing unit. *Safeway Stores*, 256 NLRB 918 (1981). Accordingly, we reverse the Regional Director's Decision and Order Granting Unit Clarification and dismiss the petition.

ORDER

The petition is dismissed.

¹ *ITT World Communications*, 201 NLRB 1 (1973) (petition for unit clarification was dismissed because all persons in the classification sought to be added were statutory supervisors).

² *Melbet Jewelry Co.*, 180 NLRB 107 (1969).

³ *Campbell Soup Co.*, 111 NLRB 234 (1955); a similar standard is used when an employer petitions for an election to test a union's representative status. *K. Van Bourgondien & Sons*, 294 NLRB 268 (1989).