BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 19

In the Matter of: KIRO-TV, INC., Employer, and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION NO. 46, Union-Petitioner.	Case No. 19-UC-775

The above-entitled matter came on for hearing pursuant to notice, before **RACHEL FELLER, Hearing Officer,** at the National Labor Relations Board, Jackson Federal Building, 915 Second Avenue, Seattle, Washington, Tuesday, May 24, 2011.

A P P E A R A N C E S

On Behalf of the Employer:

MARK A. HUTCHESON, ESQ.
PAULA SIMON, ESQ.
Davis Wright Tremaine, LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
Tel: 206-757-8065
Fax: 206-757-7065

On Behalf of the Petitioner:

TERRY JENSEN, ESQ.
Robblee Detwiler Black, PLLP
2101 4th Avenue, Suite 200
Seattle, Washington 98121
Tel: 206-467-6700
Fax: 206-467-7589

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE	CRT EXAM
Julie Kelsch	11	57	97	100	38	55
	32	61	101	101		87
	40		106			
	48					
Michael Gilbert	108	139	142			

EXHIBITS

EXHIBIT	IDENTIFIED	IN EVIDENCE
Board		
1(a) through 1(h)	6	6
2	7	7
Joint		
1	9	11
2	9	11
3	10	11
4	10	11
Employer		
1	28	36
2	36	38
3	40	42
4	42	44
5	45	49
6	49	53
7	101	101

P R O C E E D I N G S

HEARING OFFICER RACHEL FELLER: The hearing will be in order.

This is a formal hearing in the matter of KIRO-TV, Case No. 19-UC-775 before the National Labor Relations Board. The hearing officer appearing for the National Labor Relations Board is Rachel Feller.

All parties have been informed of the procedures at formal hearing before the Board by service of a Statement of Standard Procedures with the notice of hearing. I have additional copies of this statement for distribution if any party wants more.

Will counsel please state their appearances for the record? For the Petitioner?

MR. JENSEN: Terry Jensen of Robblee Detwiler Black, 2101 4th Avenue, Suite 200.

HEARING OFFICER FELLER: For the Employer?

MR. HUTCHESON: Mark Hutcheson and Paula Simon of Davis Wright Tremaine, 1201 Third Avenue, Suite 2200, Seattle, Washington.

HEARING OFFICER FELLER: Thank you. Are there any other appearances?

(No response)

HEARING OFFICER FELLER: Let the record show no further response.

Are there any other persons, parties or labor organizations in the hearing room at this time who claim an interest in this proceeding?

(No response)

HEARING OFFICER FELLER: Let the record show no further response.

I now propose to receive the formal papers. They have been marked for identification as Board's Exhibit 1 (sic), inclusive, being an index and description of the entire exhibit. The exhibit has already been shown to all parties. Are there any objections to the receipt of these exhibits into the record?

(Board Exhibit 1(a) through 1(h) marked for identification)

MR. JENSEN: None from Petitioner.

MR. HUTCHESON: No objection.

HEARING OFFICER FELLER: Hearing no objections, the formal papers are received into evidence.

(Board Exhibit 1(a) through 1(h) received into evidence)

HEARING OFFICER FELLER: The parties to this proceeding have executed and I have approved a document, which is marked as Board Exhibit 2. That exhibit contains a series of stipulations including, among other items, that the Petitioner is a labor organization within the meaning of the Act and that the Employer meets the jurisdictional standards of the Board. Are there any objections to the receipt of Board Exhibit 2?

(Board Exhibit 2 marked for identification)

MR. JENSEN: No.

MR. HUTCHESON: No.

HEARING OFFICER FELLER: Hearing no objection, Board Exhibit 2 is received in evidence.

(Board Exhibit 2 received into evidence)

HEARING OFFICER FELLER: Are there any pre-hearing motions made by any party that need to be addressed at this time?

(No response)

HEARING OFFICER FELLER: My understanding is that -- can we go off the record for a second?

(Off the record)

HEARING OFFICER FELLER: Back on the record. There was a pre-hearing motion made to quash the subpoena and I am going to defer ruling on the motion until later in the hearing.

Are there any other motions to intervene in these proceedings to be submitted to the hearing officer at this time? Are the parties aware of any other employers or labor organizations that have an interest in this proceeding?

MR. JENSEN: I’m not aware of any.

HEARING OFFICER FELLER: The hearing officer hears no response.

(Long pause)

HEARING OFFICER FELLER: It is my understanding that the issues to be litigated today is that there is a unit

clarification petition seeking to determine the inclusion of the bargaining unit employees who operate the IGNITE Board. Are there any other issues of which I'm not aware?

MR. JENSEN: Not that I know of.

HEARING OFFICER FELLER: Okay. The record shows no response.

For the presentation of the evidence, we are going to begin with the Employer. Employer, please present your first witness.

MR. HUTCHESON: Julie Kelsch.

HEARING OFFICER FELLER: Ms. Kelsch, please take the stand. Please raise your right hand.

Whereupon,

JULIE KELSCH

was called as a witness, by and on behalf of the Employer, and having been duly sworn, was examined and testified as follows:

HEARING OFFICER FELLER: Please take a seat.

MR. HUTCHESON: Before questioning this witness, Madame Hearing Officer, could we get into the record some joint exhibits?

HEARING OFFICER FELLER: Yes, that's fine.

MR. HUTCHESON: Because I don't think they're in yet.

HEARING OFFICER FELLER: No, I don't have anything besides Board Exhibit 1 and Board Exhibit 2.

MR. HUTCHESON: So I propose then we introduce Joint

Exhibit 1, the current collective bargaining agreement.

(Joint Exhibit 1 marked for identification)

HEARING OFFICER FELLER: Okay. This'll be marked as -- are we going to mark them as Employer Exhibit 1?

MR. HUTCHESON: We've already marked it on our side as Joint Exhibit 1, so --

HEARING OFFICER FELLER: Okay, that's fine.

MR. JENSEN: So stipulated.

HEARING OFFICER FELLER: Alright. And the record shows that the union stipulates to that. Can you please describe for the record what the exhibit is?

MR. HUTCHESON: It is a copy of the current labor agreement that became effective on July 20, 2007, and had an original expiration date of September 30, 2010, but it continues in effect until today, through today because the union party has sent a termination notice. It is the agreement between the Employer and the Petitioner.

HEARING OFFICER FELLER: Okay. We'll have you go ahead and introduce the other documents as well and we can have the witness talk about them, or someone else before they're entered into evidence.

MR. HUTCHESON: Respondent proposes that we introduce Joint Exhibit No. 2.

(Joint Exhibit 2 marked for identification)

HEARING OFFICER FELLER: Please describe that document.

MR. HUTCHESON: It is a copy of the job description for a position that, according to the document, is referred to as IGNITE director.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: So stipulated, we agree.

HEARING OFFICER FELLER: Okay. So that’s stipulated for Joint Exhibit -- the introductions of Joint Exhibit 2.

MR. HUTCHESON: Joint Exhibit 3, which we propose to have admitted into evidence, is a copy of the performance evaluation tool used to evaluate the performance of people who operate the IGNITE equipment.

(Joint Exhibit 3 marked for identification)

HEARING OFFICER FELLER: Okay.

MR. JENSEN: So stipulated.

HEARING OFFICER FELLER: Okay. Sir, could you please make sure that you speak into the microphone? I don’t know if that’s picking up for the record. You’re getting it?

COURT REPORTER: Yeah, but louder is better.

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: Joint Exhibit No. 4, which we propose to introduce, is a copy of work schedules covering the weeks beginning December 26, 2010 through April 16, 2011 that include the schedules of the employees in question.

(Joint Exhibit 4 marked for identification)

HEARING OFFICER FELLER: Okay, alright. So Joint Exhibits

1 through 4 have been introduced. Alright.

MR. HUTCHESON: Have they been admitted?

HEARING OFFICER FELLER: I'm going to wait until we just have --

MR. HUTCHESON: Well, since we've stipulated to --

HEARING OFFICER FELLER: I'm going to go off record for just a second.

(Off the record)

HEARING OFFICER FELLER: Alright, seeing that the parties have both agreed to the admission of the evidence, I'm going to go ahead and admit Joint Exhibits 1, 2, 3 and 4.

(Joint Exhibits 1 through 4 received into evidence)

MR. HUTCHESON: Thank you.

HEARING OFFICER FELLER: Thank you. Alright. Our first witness, can you please state and spell your name for the record?

WITNESS: Julie Kelsch, J-u-l-i-e, K-e-l-s-c-h.

HEARING OFFICER FELLER: Alright. Mr. Hutcheson?

DIRECT EXAMINATION

Q BY MR. HUTCHESON: Julie Kelsch, are you currently employed?

A Yes.

Q By who?

A KIRO Television.

Q Is that the Employer in this proceeding?

A Yes.

Q How long have you been employed there?

A 15 years, plus.

Q What is your position there at KIRO?

A Human resources manager.

Q How long have you had that position?

A 15 years.

Q Could you briefly describe your duties and responsibilities?

A Sure. I am a one-person department dealing with all human resource functions from benefits, administration, payroll, labor relations, employee relations, disciplinary actions, and so forth.

Q Are you responsible for overseeing the administration of the Employer’s personnel policies?

A Yes.

Q Do you have personal and direct involvement in labor relations?

A Yes.

Q Are you a member of the Employer’s bargaining team?

A Yes.

Q Were you involved in the negotiations that led up to the current CBA, Joint Exhibit No. 1?

A Yes.

MR. JENSEN: Mr. Hutcheson, excuse me. Could I please ask

the witness, keep your voice up? It's very hard for me to hear over here.

WITNESS: Sure.

MR. JENSEN: You have a soft voice and I don't hear well.

MR. HUTCHESON: The Employer proposes the following stipulation --

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: -- based on information provided by Ms. Kelsch that it currently -- as of yesterday, employs a total of 186 employees. Would the Petitioner so stipulate?

MR. JENSEN: We have no basis for not. We wouldn't have a count, obviously.

MR. HUTCHESON: Alright. So --

HEARING OFFICER FELLER: The witness can also testify to her knowledge --

MR. HUTCHESON: Yes.

HEARING OFFICER FELLER: -- about the number of employees currently employed by the Employer.

Q BY MR. HUTCHESON: So if I hand you -- do you know off the top of your head all the numbers about who's and how many people in which bargaining unit and so forth?

A Roughly, but no, not exactly.

Q Alright. So the Employer has in place in Seattle how many bargaining units today?

A Four.

Q Is the Petitioner one of the unions that represents one of the four bargaining units?

A Yes.

Q Can you describe the other bargaining units?

A The others are the IATSE, which is the news photographers unit; AFTRA, which has two units, one being the on-air talent and stage managers, and their second unit is news writers.

Q Okay. And in addition, you would have a number of non-management, non-supervisory and non-bargaining unit employees, correct?

A Correct.

Q Does there exist a job title at KIRO called news producer?

A Yes.

Q Okay. I'm going to hand you a document just for purposes of refreshing your recollection. Can you tell the hearing officer how many people are currently employed by KIRO and how many people are in the various job descriptions that you identified -- in the various bargaining units that you have identified?

A There's a total of 186 employees. In the IBEW unit, there are currently 29. In the AFTRA talent unit, there are 30; AFTRA writers, there are 5. And IATSE, there are 25.

Q How many news producers are currently employed?

A Nine.

Q Okay, thank you. At the -- roughly, what year was the

IGNITE operation introduced?

A 2007.

HEARING OFFICER FELLER: Excuse me, for the record, can you explain what that is?

MR. HUTCHESON: Okay. That’s right, we have to start with that.

Q Alright, so prior to 2007, how -- let me ask you this, what is the primary product of KIRO-TV?

A News.

Q And prior to 2007, how was the news produced in terms of people involved in this proceeding?

A On the production side --

Q Yes.

A -- there were several employees involved that handled different functions, camera operators, audio operators. There were technical directors, directors and then editorial producers, reports, news photographers. They all did their individual function that’s compiled into the news product, the non-technical version.

Q And some of those employees are represented by -- were represented by Petitioner, correct?

A Correct.

Q Some were unrepresented?

A Correct.

Q And some were represented by AFTRA?

A Correct.
Q And were some represented by IATSE?
A Yes.
Q What is IGNITE?
A IGNITE is studio automation technology or hardware and software that allows us to automate the production functions.
Q Would it be fair to say that IGNITE is a type of automated studio equipment?
A Yes.
Q How did it change things?
A It allowed the shows to be produced with one operator controlling the functions that were previously handled by the camera operator, the audio operator.
Q Okay. Could you describe what this equipment looks like?
A It looks like a large computer, several monitors and a lot of buttons.
Q Does it look like potentially the inside of a small aircraft?
A To me, yes.
Q In the cockpit?
A Yes.
Q So there are multiple monitors?
A Yes.
Q Video screens. And is there a keyboard?
A Yes.

Q Are there multiple keyboards?
A Multiple keyboards, multiple boards, yes.
Q Boards. And on these boards are keys and buttons?
A Yes.
Q And where is this equipment located?
A It is located in what we call the control room near the news studio.
Q What does the person operating this equipment do?
A They do pre-production before the show. They work with the producer to come up with the rundown and direct the automation what to do. And then during the show, they control that by pressing the buttons essentially.
Q And by pressing the buttons, what happens?
A The show progresses. So what we see on air at home -- it’s giving it commands is what it’s doing to the next segment, the next reporter.
Q Does it give commands to any equipment located outside of the control room?
A I believe so, I don’t know.
Q Are there in place now robotic cameras?
A Yes.
Q How do those cameras know what to do?
A The IGNITE.
Q So the person operating the IGNITE equipment can manipulate the robotic camera, correct?

A Yes.
Q Where is that robotic camera located?
A In the studio.
Q Okay. Where is the studio relative to the control room?
A It would be adjacent to it, a separate room.
Q How large would you estimate, roughly, the size of the control room?
A 20 by 20.
Q 20 feet by 20 feet?
A Yeah.
Q Okay. In addition to the IGNITE equipment being operated by the person operating that equipment, is there anyone else in that room?
A Yes.
Q What job classification would that be?
A There would also typically be a producer and possibly an executive producer in the room.
Q Does the producer and/or executive producer sit at a separate location from where the person operating the IGNITE equipment sits?
A Yes.
Q Describe where they sit and the equipment they use.
A They sit next to the director and they are also using computer monitoring the several computer screens as well as the on-air.

Q But it’s different equipment -- it’s separate and apart from the IGNITE equipment?

A Yes.

Q Okay. Are the producers and executive producers represented by the IBEW?

A No.

Q Are they representing by any union?

A No.

Q Are there any other people, employee classifications, that work inside the control room on a regular basis?

A I don’t believe so.

Q Outside -- where is the studio relative to the control room?

A It is next to it.

Q Would it be on the other side of a wall?

A Yes.

Q Inside the studio, what classifications work?

A In the studio, we would have a stage manager, as well as what we call on-air talent that anchors, news anchors.

Q Are the on-air talent represented by AFTRA?

A Yes.

Q The stage manager you mentioned, who represents --

A He would also be AFTRA.

Q Okay. Are there any IBEW represented employees that work in the studio?

A No.

Q To what extent do the directors and producers work together?

A They work together in the preproduction phases. The producer would communicate with the director what is going to be in the show, what types of shots they need, graphic elements, etc. And then during the show, of course, they're sitting side-by-side. So if there's anything that varies from the original line down, they would have to be in very close communications on those details.

Q If you drew a distinction between the on-air talent leading the news, as they say, as opposed to the producers and directors working in the control room, who has the most impact on the content of the news?

A On the content, I would say the producers and the directors.

Q Can the news be broadcast without participation of the directors?

A No.

Q Today, how many employees fill the director job classification?

A I believe there are seven.

Q Do you have a breakdown on how many are full time and how many are part time?

A Four full time and three part time.

Q Okay. In early 2007 -- no, strike that. In 2008, after IGNITE was up running fully, what job classifications were involved in operating the IGNITE equipment?

A There was IGNITE directors. There was also -- it was IGNITE director.

Q Were there people that were represented operating this equipment?

A Represented?

Q By any union?

A Yes.

Q Who were they?

A They were former, what we call, technical directors.

Q And they were represented by Petitioner?

A Yes.

Q Were there others who were unrepresented operating the same equipment?

A Yes.

Q Their title is what?

A Director.

Q Okay. During the time that -- just picking 2008 as a timeframe, that both technical directors represented by the IBEW and directors who were unrepresented were operating this equipment, was there any material difference between their duties and responsibilities?

A No.

Q Do they operate under the same job description?
A Yes.
Q Do they receive the same training?
A Yes.
Q Were they supervised by the same people?
A Yes.
Q Was their performance evaluated using the same tool?
A Yes.
MR. JENSEN: I'm sorry, Mr. Hutcheson, I didn't hear at first. This litany of questions relates to --
MR. HUTCHESON: 2008.
MR. JENSEN: After --
MR. HUTCHESON: After total implementation in 2008.
MR. JENSEN: Thank you.
Q So again, focusing on 2008 after total implementation and while the current agreement was in force, of course, were there any differences between the technical directors operating this equipment and the directors operating this equipment other than whether they were represented by a union or not?
A No.
Q Was their pay the same?
A Generally.
Q The directors were not paid pursuant to the IBEW contract?
A No, that's correct.
Q So was their pay different?

A Yes.

Q How would you describe the difference?

A The directors were typically higher scale.

Q Okay.

HEARING OFFICER FELLER: Excuse me, can you state for the record if you know how much each job classification made?

MR. HUTCHESON: The contract has the --

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: -- technical director pay rates. They are called engineering technicians in the pay scale, I believe.

WITNESS: Yes.

Q Back in 2008, you probably don’t recall what the non-unit directors were being paid, do you?

A I don’t.

HEARING OFFICER FELLER: Do you believe it was higher or lower?

WITNESS: I believe it was higher.

HEARING OFFICER FELLER: You believe it was higher? Okay.

Q In any event, it was different, correct?

A It was different.

Q Why was it different besides the difference in dollar amounts?

A Skills, length of service --

Q Did the --

A -- different --

Q -- IBEW agreement then and now call for certain premiums and differentials?
A Yes.
Q And do the non-unit directors receive those premiums and differentials?
A No.
Q So there’s differences in the way the pay was constructed, correct?
A Right.
Q Were there differences in holidays?
A Yes.
Q And could you just describe quickly what those differences were?
A Within the IBEW unit, they observe President’s Day, which non-unit does not. Non-unit can vary from year-to-year depending on when holidays fall. IBEW, they are specifically outlined within the contract, the dates. Non-unit has two floating holidays. I believe IBEW observes the employee birthday as well.
Q So there are differences in the designation of holidays as well as the number of holidays?
A Yes.
Q Is there a difference in vacation?
A Yes.
Q Is there a difference in sick leave?

A Yes.

HEARING OFFICER FELLER: Excuse me again, can you describe where those differences come from?

WITNESS: In vacation, there's a difference in when the accrual rate increase. For example, when they might get five weeks -- I'm sorry, when they might get three weeks, four weeks. Do you need more detail than that?

HEARING OFFICER FELLER: And this is from the collective bargaining agreement versus non-unit?

WITNESS: Correct.

Q So the Employer has certain pay systems and benefit programs for unrepresented people that differ from those represented by different unions, correct?

A Yes.

Q Okay. With respect to interaction that the people operating the IGNITE equipment have with other employees, with whom do they interact? What other classifications of employees do they interact?

A The other newsroom employees, the -- primarily with the producer, as well as the other on-air talent.

Q So you've described already the contact that exists between producers and executive producers and directors inside the control room. How about outside the control room? With whom do the directors have contact?

A I guess the other newsroom employees.

Q When you say other newsroom employees, where are these employees situated when they do their work?
A In the newsroom.
Q Is that a space that's different from the control room?
A Yes.
Q Is it different from the studio?
A Yes.
Q Okay. Inside the newsroom, what classifications work?
A Producers, reporters, assignment desk, news photographers, news management, web content producers.
Q Inside the newsroom, are there any IBEW represented employees?
A The newsroom itself, no.
Q Are there news editors that work in there?
A Yes, in a separate area.
Q In a separate area? Not in the newsroom?
A No.
Q So you said that in the control room, the directors operating IGNITE equipment would have no contact with IBEW represented people, correct?
A Yes.
Q Within the newsroom, another place they work, how much contact do they have with -- on a day-to-day basis interacting with coworkers do they have with IBEW represented employees?
A Not a lot.

Q Any?
A They may have some. I mean, in the course of the day, there's people coming and going. It's a busy newsroom.
Q But the IBEW represented people don't have workstations designated inside the newsroom, correct?
A No.
Q Do directors work anywhere else besides the control room and the newsroom?
A They have a desk area.
Q Where is that located?
A It's currently on the third floor of the building.
Q Is it a separate desk area or is it --
A Yes.
Q -- comingled with other classifications?
A No, it's separate.
Q And at this so-called desk area, do they have interaction on a day-to-day basis with coworkers represented by the IBEW?
A No.
Q Okay. Since IGNITE was implemented in 2007 to today, has there been any material change in the way the IGNITE operation operates?
A No.
Q Has the hardware changed or the equipment the same equipment that was installed back in 2007?
A The same?

Q Yes.

A Yes.

Q Does it have the same look and feel as it did in 2007 compared to today?

A Yes.

Q Have there been any software updates to the software?

A I believe so, yes.

Q Has those updates changed the nature of the duties and responsibilities of those who operate the equipment?

A No.

Q Has it resulted in a change of their work product?

A No.

(Long pause)

MR. HUTCHESON: Do we call these Employer's exhibits or Respondent's exhibits? What would you prefer?

HEARING OFFICER FELLER: Employer's exhibits.

MR. HUTCHESON: Employer's exhibits.

HEARING OFFICER FELLER: According to the, I think, consensus in the room.

MR. HUTCHESON: This will be Employer's Exhibit No. 1.

(Employer Exhibit 1 marked for identification)

HEARING OFFICER FELLER: Thank you.

MR. JENSEN: Just a minute, can I read it before your question?

MR. HUTCHESON: Okay.

MR. JENSEN: And this is Employer 1?

MR. HUTCHESON: Yes.

HEARING OFFICER FELLER: Thank you.

(Long pause)

HEARING OFFICER FELLER: Excuse me. Can we go off the record for just a second?

(Off the record)

HEARING OFFICER FELLER: Alright, back on the record. I'd like to ask you a couple of questions before we move on. You were talking before about the -- that the IGNITE operators have the same supervisor. Who is that supervisor?

WITNESS: Walter Farley.

HEARING OFFICER FELLER: And what is the name of the department that he supervises?

WITNESS: Production.

HEARING OFFICER FELLER: Production. And who else does that supervisor supervise? What other job classifications?

WITNESS: The stage manager classification.

HEARING OFFICER FELLER: The stage manager classification? And are they represented by a union?

WITNESS: Yes, it'd be AFTRA.

HEARING OFFICER FELLER: AFTRA, okay. I know you talked about this briefly, but you can say one more time, where do the IBEW represented employees work in conjunction to where the IGNITE operators work -- or in relation to, excuse me?

WITNESS: The --

HEARING OFFICER FELLER: Primarily.

WITNESS: ARCOM, which is remote -- the satellite, basically.

HEARING OFFICER FELLER: Where is that located?

WITNESS: It’s adjacent to the newsroom.

HEARING OFFICER FELLER: Okay.

WITNESS: There’s news editors, which is also adjacent to the newsroom. Who am I forgetting? Master control, which is on the second floor.

HEARING OFFICER FELLER: Okay.

WITNESS: Maintenance engineers, which is -- could be anywhere in the building, but their workstation is on the second floor.

HEARING OFFICER FELLER: Okay. And which departments --

MR. HUTCHESON: Excuse me --

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: And you’re talking about the van operators?

WITNESS: Yes, and the van operators too, which may or may not be the ARCOM operators. They -- some of them do dual functions, but they would of course be in the field operating the trucks.

HEARING OFFICER FELLER: In the field, okay. And who are the supervisors that -- the supervisors that supervise the IBEW

represented employees? What departments are those for?

WITNESS: There would be two -- they break down into two different departments. One would be within news, but they report to the news operations manager and that would be the ARCOM, the truck operators and the editors. And then the maintenance engineers and master control fall under the engineering department and their chief engineer is Pat Otis.

HEARING OFFICER FELLER: Okay, great. And you said before that the IGNITE operators were both represented and unrepresented, and you can stop me if you're going to get into this. But how is it determined who is doing what job?

WITNESS: How was it determined?

HEARING OFFICER FELLER: Uh huh.

WITNESS: Everyone was given the -- you mean initially?

HEARING OFFICER FELLER: Uh huh.

WITNESS: In 2007? So every --

MR. JENSEN: Excuse me, Ms. Hearing Officer, which job are you talking about?

HEARING OFFICER FELLER: The IGNITE operators, excuse me.

MR. JENSEN: Okay, thank you.

WITNESS: So when we rolled out IGNITE, they were all given the opportunity to learn and train the system.

HEARING OFFICER FELLER: And who's they?

WITNESS: The directors, technical directors, it was also open to any of the audio operators, camera operators that were

employed at that time.

HEARING OFFICER FELLER: Okay. And those classifications, again, were or were not represented by IBEW?

WITNESS: The camera and audio were by IBEW.

HEARING OFFICER FELLER: Were?

WITNESS: Yes.

HEARING OFFICER FELLER: And the technical directors as well?

WITNESS: Yes.

HEARING OFFICER FELLER: Okay.

WITNESS: Yes.

HEARING OFFICER FELLER: And they were all given the opportunity to --

WITNESS: They were given the opportunity to train.

HEARING OFFICER FELLER: Okay.

WITNESS: And so based upon training and skill level and aptitude at that point, the existing members, I guess, directors and technical directors, were selected.

HEARING OFFICER FELLER: Okay.

(Long pause)

HEARING OFFICER FELLER: Okay. I think that’s good for right now, thank you.

MR. HUTCHESON: Just picking up on your last questions --

HEARING OFFICER FELLER: Yes.

Q BY MR. HUTCHESON: Some employees who were given the opportunity to be trained on this equipment chose not to?

A Correct.

Q Is that correct?

A Yes.

Q And the directors who were chosen to be trained -- who chose to train and then chose to operate the equipment, they were non-represented people, right?

A Yes.

Q Going forward after implementation of the equipment, how is it decided that work could be performed either by the represented technical directors or the non-represented directors?

A We negotiated an agreement that’s part of the current collective bargaining agreement.

Q Is the language that spells out how that was to work -- does that appear in Section 5.9 of Joint Exhibit No. 1?

A Yes.

HEARING OFFICER FELLER: Do you have a copy of that? Would you like to --

WITNESS: I don’t have a copy.

HEARING OFFICER FELLER: One moment.

(Long pause)

HEARING OFFICER FELLER: Here. The hearing officer is providing the witness with a copy of Joint Exhibit 1.

MR. HUTCHESON: I can give her a copy.

HEARING OFFICER FELLER: Okay.

(Long pause)

Q Did the parties negotiate in Section 5.9 a formula for sharing this work?

A Yes.

Q Were there other certain standards and guidelines set forth in that section?

A Yes.

Q Was there an expiration date as to when those standards and guidelines would end?

A Yes.

Q And what is that date?

A September 23rd, 2010.

Q Did the parties negotiate the consequences of having any represented employees laid off as a result of introduction of IGNITE?

A Yes.

Q Does that language appear in Section 7.4 of the CBA?

A Yes, 7.4.

HEARING OFFICER FELLER: Excuse me. Can you just state what 7.4 says briefly? Give me a moment to catch up.

Q Does it provide for enhanced severance benefits for represented who were laid off as a result of introduction of the automated studio equipment known as IGNITE?

A Yes.

Q Were employees subsequently laid off as a result of IGNITE?

A Yes.

Q Did they receive the severance pay?

A Yes.

Q Back in 2007, in addition to negotiating this issue, did the Petitioner also file a grievance?

A Yes.

Q What happened to that grievance?

A It was resolved.

Q Back to trying to establish --

HEARING OFFICER FELLER: Excuse me, I'm sorry. Could you repeat that again?

WITNESS: It was resolved.

HEARING OFFICER FELLER: How was it resolved?

WITNESS: They sent us a letter dropping the grievance.

HEARING OFFICER FELLER: Okay.

Q And was the resolution part of a negotiated settlement of the current agreement?

A Yes.

Q Okay.

Q You have before you a document that's been marked for identification as Employer's Exhibit No. 1. Do you recognize this document?

A Yes.

Q What is it?

A This is an email that went out from our general manager basically announcing to all employees that we would be introducing this automated studio equipment the following year.

Q What was the date of this email?

A July 13th, 2006.

Q Do you recall seeing this email?

A Yes.

Q Would you have been a recipient -- are you a mail user?

A Yes.

Q Okay.

MR. HUTCHESON: Offer Employer's Exhibit No. 1.

HEARING OFFICER FELLER: Any objection?

MR. JENSEN: No objection.

HEARING OFFICER FELLER: Okay, Employer Exhibit 1 is received into evidence.

(Employer Exhibit 1 received into evidence)

(Long pause)

Q Ms. Kelsch, do you recognize what's been marked as Employer's Exhibit No. 2?

(Employer Exhibit 2 marked for identification)

A Yes.

Q What is it?

A This is a schedule that was put together for rehearsals

using the IGNITE equipment.

Q What do you mean when you say rehearsal?

A They were basically mirroring the newscast so it wasn't affecting on their product, but while we doing it, they might be mirroring it to work out any glitches in the system, give people practice run-throughs prior to the actual implementation.

Q In July of 2007, were the names of these people that appear on this document those who participated in the rehearsal?

A It appears to be, yes.

Q Do you recognize from looking at the names whether any of these names were related to then bargaining unit personnel?

A Yes.

Q Did they also relate to then non-bargaining unit directors?

A Yes.

Q Did IGNITE, to your knowledge and recollection, become fully implemented sometime in August of 2007?

A Yes, there were some shows that were fully automated.

Q Then it was rolled out on a show-by-show basis?

A Correct.

MR. HUTCHESON: Offer Employer's Exhibit No. 2.

HEARING OFFICER FELLER: I'm sorry, can I voir dire the document for just one second?

VOIR DIRE

Q BY HEARING OFFICER FELLER: You may've answered this and I missed it, but who prepared the document?

A I believe --

Q To your belief?

A -- this would have been prepared by Walter Farley, the production manager.

Q Okay. And how would the employees or anyone receive this?

A It would have either been posted or available. I think he's got a shared drive where he stores --

Q Okay.

A -- schedules.

HEARING OFFICER FELLER: Any objection to the document from the union?

MR. JENSEN: Just a second. No.

HEARING OFFICER FELLER: Okay. Employer's Exhibit No. 2 is introduced into evidence.

(Employer Exhibit 2 received into evidence)

HEARING OFFICER FELLER: Just for clarification for the reader of the record, can you please go through Employer's Exhibit 2 and to the best of your ability identify who would've been in the bargaining unit and not in the bargaining unit?

WITNESS: Yes.

HEARING OFFICER FELLER: There's a lot of first names, it seems to me.

WITNESS: I'll stretch my memory.

HEARING OFFICER FELLER: To the best of your ability. If you're not sure --

WITNESS: Well, it would be Walt Farley, the production manager; Ben would've been Ben Costa, who I believe was a non-unit director; Gulston and Julie would've been the on-air talent; Greg Richardson was an audio operator in the unit. Tony Guarascio is a stage manager. Marty Medak was an in-unit technical director. Angela Ryberg was an in-unit director. You were Ryberg, right?

MR. HUTCHESON: Let the record reflect that Angela is --

WITNESS: Sorry.

MR. HUTCHESON: -- a person sitting here in the hearing room.

WITNESS: Mike Gilbert, in-unit; Steve Brien was an in-unit audio operator; Andrew Welch was a non-unit director; Tina Buddel was an in-unit technical director; Mike Harvey, he's a stage manager; Kathy Sullivan, non-unit director; Helen Green, in-unit technical director; Derik Loso was a stage manager in AFTRA; Alex McBurney, non-unit director. Did I cover everybody? I think I did.

HEARING OFFICER FELLER: I think you're really close if you didn't get everybody.

WITNESS: Yeah, there are multiple names.

MR. HUTCHESON: Is Employer's Exhibit No. 2 admitted?

HEARING OFFICER FELLER: Yes, I believe I already admitted it into evidence.

MR. HUTCHESON: Okay, sorry, I couldn't remember.

HEARING OFFICER FELLER: No, that's okay. I'm keeping my checklist, but it's good to check on me as well.

(Long pause)

CONTINUED DIRECT EXAMINATION

Q BY MR. HUTCHESON: Ms. Kelsch, I've handed you a collection of documents that has been marked for identification as Employer's Exhibit No. 3. Do you recognize this?

(Employer Exhibit 3 marked for identification)

A Yes.

Q Would you briefly describe what this exhibit consists of for the record?

A Yes. The first is a grievance filed by Petitioner related to training on the IGNITE system. The second and third documents are extensions of the timeline relating to the grievance.

MR. JENSEN: Could you -- for our benefit, when you say the second, tell us --

WITNESS: Sure.

MR. JENSEN: -- what letterhead and what date you're referring to?

HEARING OFFICER FELLER: Yes, please.

WITNESS: Yes.

A The second is a letter dated May 16th --

HEARING OFFICER FELLER: Thank you.

A -- from myself to Laura Robinson, then business rep, with an extension to May 31st, 2007. The third document is a letter dated June 7th, again myself to Laura Robinson, which looks like it extended it to June 28th, 2007.

HEARING OFFICER FELLER: I'm sorry, my copy of the June 7th letter is very, very difficult to read. Can you repeat again what that date is?

WITNESS: Extended to June 28th.

HEARING OFFICER FELLER: 28th, okay. Let the record show that the hard-to-read document -- hard-to-read blank in the middle of the June 7th letter in Exhibit 3 is June 28th.

MR. HUTCHESON: The record will also show that the next page, which is page 5 of this exhibit --

HEARING OFFICER FELLER: Oh, refers to it.

MR. HUTCHESON: -- July 5 refers to the June 28th confirmation.

HEARING OFFICER FELLER: Thank you.

A The fourth document is a letter from Laura Robinson to myself stating that the matter had not been resolved by the June 28th date and referring it to arbitration.

Q That's the letter dated July 12, 2007?

A I'm sorry, July 5th, requesting a meeting, I'm sorry --

Q Okay.

A -- to discuss arbitration. The July 12th letter, which is the next document, is the letter referring it to arbitration by the union. And the final document is the July 24th letter from Laura Robinson to myself withdrawing the grievance in light of the recent negotiations and ratifications of the contract.

MR. HUTCHESON: Offer Employer's No. 3.

MR. JENSEN: No objection.

HEARING OFFICER FELLER: Okay. Employer Exhibit No. 3 is entered into evidence.

(Employer Exhibit 3 received into evidence)

(Long pause)

MR. JENSEN: This is going to be which number?

MR. HUTCHESON: Employer's Exhibit No. 4.

(Employer Exhibit 4 marked for identification)

Q Ms. Kelsch, do you recognize this document?

A Yes.

Q Turn to the last page. Do you recognize who signed this document?

A Yes.

Q Who is that?

A Laura Robinson, who was the previous business rep for IBEW.

Q What is this document?

A This is a letter that Laura sent to IBEW members on July 2nd of 2007.

Q Was this letter sent before the current contract was finalized?

A Yes.

Q On the second page, do you see where -- a paragraph that's entitled, "Fact," has a marking on it?

A Yes.

Q Do you recall whether that was there --

MR. HUTCHESON: Let the record reflect, I'm the one who added that marking, so it was not part of the original document.

HEARING OFFICER FELLER: Okay, the star on page 2?

MR. HUTCHESON: Yes.

HEARING OFFICER FELLER: Is that what you're referring to?

MR. HUTCHESON: It is.

HEARING OFFICER FELLER: Okay.

Q Does this document confirm that obviously the IGNITE equipment operation was a heated subject of bargaining?

A Yes.

MR. HUTCHESON: Offer Employer's Exhibit No. 4.

HEARING OFFICER FELLER: Any objection?

MR. JENSEN: I need a couple of minutes to look at it.

HEARING OFFICER FELLER: Sure. Let's take a moment and go off the record please.

(Off the record)

HEARING OFFICER FELLER: And we're back on the record.

Let the record reflect that we still have Ms. Welch (sic) on the stand.

WITNESS: Kelsch.

HEARING OFFICER FELLER: Kelsch, excuse me. Thank you.

MR. HUTCHESON: Employer's Exhibit No. 4 has been offered into evidence and we're waiting for ruling on its admissibility.

HEARING OFFICER FELLER: And we're waiting on union counsel's position on it as well.

MR. JENSEN: No objection.

HEARING OFFICER FELLER: No objection? Hearing no objection, Employer Exhibit 4 is entered into evidence.

(Employer's Exhibit 4 received into evidence)

Q BY MR. HUTCHESON: Ms. Kelsch, has the issue who should operate the IGNITE equipment been a subject of current bargaining?

A Yes.

Q In fact, do you recall when bargaining commenced or a new agreement to replace the current agreement, Joint Exhibit No. 1?

A My recollection, it was the end of March 2010.

Q Have you participated in each and every bargaining session since March of 2010?

A Yes.

Q What has been the union's position, if you can summarize

it, regarding operation of the IGNITE equipment?

A That they believe they have jurisdiction over that equipment.

Q Has the union submitted proposals that related to this subject from time-to-time?

A Yes.

(Long pause)

MR. JENSEN: This is going to be 5?

MR. HUTCHESON: Employer's 5.

(Employer's Exhibit 5 marked for identification)

Q Did Petitioner submit a proposal on April 6th, 2011?

A Yes.

Q And what's been marked for identification as Employer's Exhibit No. 5 a copy of this proposal?

A Yes.

MR. HUTCHESON: For the record, the handwriting on the upper right hand corner is mine.

HEARING OFFICER FELLER: Okay.

Q Do you recall seeing this proposal, Ms. Kelsch?

A Yes.

Q Turning your attention to what would be the third page -- I'm sorry, the fourth page. The third actual sheet of paper, at the bottom, do you see the reference to Section 5.9?

A Yes.

Q Does this represent the latest proposal that the union has

made on the subject?

MR. JENSEN: Do you mean the latest as of April 6th?

MR. HUTCHESON: We would stipulate that the union does not submit a proposal on this subject, or any other, since the bargaining session on April 6th, 2011. So this has to be the latest proposal.

Q Correct?

A That’s correct.

HEARING OFFICER FELLER: Just to make sure that the record’s clear, does the union stipulate that there have been no other proposals?

MR. JENSEN: Let me ask and --

HEARING OFFICER FELLER: Okay.

MR. JENSEN: Yeah, the --

HEARING OFFICER FELLER: If not, we can --

MR. JENSEN: -- union --

HEARING OFFICER FELLER: -- just let the Employer --

MR. JENSEN: The union will so --

HEARING OFFICER FELLER: -- go ahead and --

MR. JENSEN: -- stipulate. Can I have just a second to --

MR. HUTCHESON: Sure.

MR. JENSEN: You’re just going to talk about 5.9?

MR. HUTCHESON: Yes.

MR. JENSEN: Let me just read it for a second.

(Long pause)

HEARING OFFICER FELLER: We can go off the record while we're waiting.

(Off the record)

HEARING OFFICER FELLER: I would actually like to ask some questions about the document briefly. The document marked as Employer Exhibit 5 appears to have what I consider to be track changes. Do you know how those changes came into existence?

WITNESS: The items that would be either stricken or -- stricken would have been in part of the collective bargaining agreement, and the underlying would be what the union has proposed --

HEARING OFFICER FELLER: Sure.

WITNESS: -- to add to.

HEARING OFFICER FELLER: So, I guess my question is, did you make those changes or did somebody else make those changes based off of what they received from the union, or is this what you received from the union physically?

WITNESS: This is what was presented by Angela Marshall at the bargaining table.

HEARING OFFICER FELLER: Okay.

WITNESS: Yes.

MR. HUTCHESON: So this -- just to be clear, this is a copy of the union's proposal, correct?

WITNESS: Correct.

HEARING OFFICER FELLER: Okay. With no changes made to it

by the Employer?

MR. HUTCHESON: No, other than the notation --

HEARING OFFICER FELLER: Other than the notation at the top?

CONTINUED DIRECT EXAMINATION

Q BY MR. HUTCHESON: For the record, the material -- the language that the union is proposing to add to the contract is underlying, correct?

A Yes.

Q The language that the union is proposing to delete from the contract is stricken through?

A Yes.

Q And the language that is different one way or another, appears to be in red. Is that correct?

A Right.

Q The black language would be what appears in the current contract, Joint Exhibit No. 1, correct?

A Correct.

Q So directing your attention back to Section 5.9, which is on the third physical page back, toward the bottom, do you see where the union has proposed to stricken language that says, “nor entitle any employee to continue to be given such assignments?”

A Yes.

Q That is language that they are proposing to be stricken

from the current agreement, right?

A Correct.

Q Turn the page, up at the top, the second sentence at the top that the union proposes to add states that, “The union reserves its right to pursue the issue of the unit placement of automated studio control equipment operators with the NLRB.” Do you see that language?

A Yes.

Q That language does not appear in the current contract, right?

A Correct.

MR. HUTCHESON: Offer Employer’s Exhibit No. 5.

HEARING OFFICER FELLER: Any objection from the union?

MR. JENSEN: No objection, thanks.

HEARING OFFICER FELLER: Okay. Hearing no objection from the union, Employer Exhibit No. 5 is entered into evidence.

(Employer Exhibit 5 received into evidence)

(Long pause)

Q Ms. Kelsch, I’ve handed you a document that’s been marked for identification as Employer’s Exhibit No. 6. Do you see that?

(Employer Exhibit 6 marked for identification)

A Yes.

Q What does it appear to be -- what do the first three pages appear to be?

A These are -- IBEW was reintroducing a proposal it had previously proposed.

Q What's the date of this proposal?

A August 18th, 2010.

Q Would this proposal have been submitted prior to the April 6th, 2011 proposal, Employer's Exhibit No. 5?

A Yes.

Q This goes back in time chronologically, correct?

A Correct.

MR. HUTCHESON: Again, for the record, the handwritten notes in the upper right hand corner are mine.

Q Did you recall seeing and receiving a copy of this proposal from the IBEW back on August 18, 2010?

A Yes.

Q Does that date have any particular significance to you?

A Yes, it's my birthday.

Q Okay, you remember bargaining on your birthday, correct?

A Yes, I do.

Q Could you turn to the last two pages of this document? It appears to relate to an IBEW proposal to modify Section 5.9, correct?

A Correct.

Q And again, the handwritten notations in the upper right hand corner are mine. Do you recall a bargaining session on October 27, 2010?

A Yes.
Q Do you recall that the union made proposals to change many other provisions other than 5.9?
A Yes.
Q So the second two pages represent only a partial proposal received on October 27, 2010, correct?
A Correct.
Q Okay. Back to the first three pages, turn to the second page, do you see the reference to Section 5.9?
A Yes.
Q Do you see in this language any proposal to strike the words in the second paragraph, “nor entitle any employee to continue to be given such assignments?”
A Any strike-through? No.
Q So this proposal did not include the deletion of that language, correct?
A That’s correct.
Q And if you scan the rest of their proposal on August 18, 2010 for Section 5.9, do you see any reference to a reservation of right to file a UC petition or otherwise pursue inclusion in the unit, I think night operators, with the NLRB?
A No.
Q With respect to the last two pages in the proposal on October 27, 2010, do you see any proposal to strike the words, “nor entitle any employee to continue to be given such

assignments” in the second paragraph?

A Yes.

Q You see a proposal to strike those words?

A No.

Q Okay. So the proposal would retain that language, correct?

A Correct.

Q If you scan the balance of this proposal on October 27, 2010, do you see any reservation of rights to file a UC petition with the Labor Board?

A No.

Q Does the current contract contain language that states employees -- bargaining unit employees shall not be entitled to continue to be given assignments to operate the IGNITE equipment?

A The current contract has that language, yes.

Q Does the current contract, Joint Exhibit No. 1, include a reservation of rights to file a UC petition with the Labor Board?

A No.

MR. HUTCHESON: Offer Employer’s Exhibit No. 6.

HEARING OFFICER FELLER: Union?

MR. JENSEN: Give me a moment to --

HEARING OFFICER FELLER: Sure. We can go off the record for moment please.

(Off the record)

HEARING OFFICER FELLER: We're back on the record. I was looking for the union's position on --

MR. JENSEN: No objection.

HEARING OFFICER FELLER: -- whether there are objections to Employer Exhibit 6.

MR. JENSEN: No objection.

HEARING OFFICER FELLER: No? Hearing no objection, Employer Exhibit 6 is entered into the record.

(Employer Exhibit 6 received into evidence)

MR. HUTCHESON: The Employer would propose the following stipulation dates, that the current agreement, Joint Exhibit No. 1, was tentatively agreed to on July 13, 2007; was ratified by the union membership on July 20, 2007, which is why the agreement became effective on July 20, 2007; was signed by the Employer on September 20, 2007; and was signed by the union on October 2, 2007.

MR. JENSEN: Give me one second. I would stipulate that, but I would add one other thing. I think there's a -- one of the -- they call them side letters part of that, which is signed by KIRO and Eric Lenner on September 19, I believe. I only say that to make sure that we have everything accurately.

MR. HUTCHESON: Yeah, you're right, Side Letter No. 7.

MR. JENSEN: Okay.

MR. HUTCHESON: So I modify the stipulation to say other

than the side letter being signed by the union -- or rather, the Employer on September 19, 2007.

HEARING OFFICER FELLER: And what is the last date for the October one signed by the union?

MR. HUTCHESON: October 2, signed by the union.

HEARING OFFICER FELLER: October 2, okay. So I'm going to repeat this back into the record to make sure it's all clear. I have a stipulation from both of the parties saying that the collective bargaining agreement from the -- beginning in 2007, was tentatively agreed to July 13th, 2007; ratified by the union and became effective July 20th, 2007; signed by the Employer on -- the Side Letter No. 7 was signed by the Employer on September 19th, 2007; the collective bargaining agreement was signed by the Employer on September 20th, 2007; and the collective bargaining agreement was signed by the union on October 2nd, 2007. Is that the correct stipulation?

MR. HUTCHESON: Yes.

MR. JENSEN: We would so stipulate.

MR. HUTCHESON: So would the Employer.

HEARING OFFICER FELLER: Okay. Stipulation noted for the record.

Q BY MR. HUTCHESON: Ms. Kelsch, as we sit here today, how many people currently operate the IGNITE equipment at KIRO-TV?

A Seven.

Q And of those seven, how many of them are unrepresented

directors?

A Seven.

Q How many of them -- as we sit here today, how many -- are there any bargaining unit people operating the equipment?

A No.

MR. HUTCHESON: No further questions.

HEARING OFFICER FELLER: Okay. Union, cross-examination?

MR. JENSEN: Yeah, let me start -- let's see. Give me one second off-the-record.

HEARING OFFICER FELLER: Okay. Off the record please.

(Off the record)

HEARING OFFICER FELLER: We're back on the record. The hearing officer would like to ask one question of the witness before allowing for cross-examination.

COURT EXAMINATION

Q BY HEARING OFFICER FELLER: Before going off the record, you mentioned that there were seven IGNITE employees currently employed by the Employer. Just for clarification, could you please name those employees? If you want a piece of paper to write something down to help you, that's fine too.

A Marty Medak, Kathy Sullivan, Erin Evans, Alex McBurney, Mike Gilbert, Tyler Owens and Helen Green. And I did forget to mention the production manager, Walter Farley does occasionally still direct a show as well.

Q Okay. And what is --

A I didn't mention him in --

Q Can you give me that name again please?

A Walter Farley.

Q Walter Farley, production manager?

A Yes.

Q And --

MR. HUTCHESON: I think we can stipulate that he is a statutory supervisor.

HEARING OFFICER FELLER: Based upon indicia?

MR. HUTCHESON: About 12 of them.

HEARING OFFICER FELLER: Can you name --

MR. JENSEN: We so stipulate and it's --

HEARING OFFICER FELLER: Off the record for a moment.

(Off the record)

HEARING OFFICER FELLER: Back on the record. In an off-the-record conversation, the parties have agreed that Walter Farley, correct? Is a Section 2(11) statutory supervisor on the basis that he assigns responsibly, directs work, evaluates employees and disciplines employees. Employer, so stipulated?

MR. HUTCHESON: So stipulated.

HEARING OFFICER FELLER: Union?

MR. JENSEN: Yes, ma'am.

HEARING OFFICER FELLER: Okay. And we agree as well that the other employees previously mentioned are not statutory supervisors or have any other statutory indicia?

MR. JENSEN: The other seven?

HEARING OFFICER FELLER: The other ones previously mentioned.

MR. JENSEN: We don’t assert their supervisors over here.

MR. HUTCHESON: We don’t either.

HEARING OFFICER FELLER: Okay, just to clarify, okay. Thank you. Union, your witness for cross-examination.

MR. JENSEN: Okay.

CROSS-EXAMINATION

Q BY MR. JENSEN: Good morning, Ms. Kelsch.

A Good morning.

Q First, I want to go back to what you just ended with when you testified. I’m going to say this for the record, the hearing officer knows this and Mr. Hutcheson knows this, there is a pending unfair labor practice and it relates, perhaps, to testimony you just gave. I do not intend to litigate that whatsoever in this forum. In fact, I was surprised that the Board chose to run this hearing with that being pending.

But you were just asked by Mr. Hutcheson -- I think it says, as you sit here today, are all seven of the -- excluding Farley -- of the people who operate the IGNITE system, are they all non-represented, you were asked. And you said that’s true, correct?

A Correct.

Q Okay. And just so you understand because I was in the

hearing over the directors' status a couple of years ago and I keep using the term, IGNITE operator. You understand what I'm talking about there?

A Yes.

Q Because I think your job description now says IGNITE director, does it not?

A I believe so, yes.

Q Okay. And you understand what -- and I'll be -- when I use that, I'm using that term consistent with your job description, okay?

A Yes.

Q Okay. Maybe I should say the IGNITE people. But just for the record, when you were asked if they're all now non-represented, four of those people were formerly regarded as represented by KIRO until April 27 of this year, correct?

A Correct.

HEARING OFFICER FELLER: Excuse me, I just want to clarify to please limit it to that -- the fact of representation or non-representation and not go into any further detail.

MR. JENSEN: Well, I do plan to go just a hair farther, but again, I didn't want this to come up and I didn't think the hearing should be held today. I am not litigating the ULP.

Q Ms. Kelsch, on April 26, you and your news director called each of those --

HEARING OFFICER FELLER: Excuse me, I'm going to have to

stop this line questioning.

MR. JENSEN: Well, I'm going to make an offer of proof then. I'm -- I am not going to litigate the ULP, but you've got on the testimony that they're unrepresented. You've held a hearing at a time when it probably shouldn't have been held, and I so stated. So I'm going to offer to prove that what was asked at the -- that each of those people were given an alternative of that time to either be laid off or be -- continue in their position but non-represented, and they had to decide within 24 hours. That's my offer of proof.

HEARING OFFICER FELLER: Okay. I'm going to go off the record for a moment.

(Off the record)

HEARING OFFICER FELLER: Prior to going off the record, Mr. Jensen made an offer of proof. I will say that I received the offer of proof, but the evidence proffered is rejected. However, I will allow the parties to stipulate that on a certain date, certain employees' positions were designated non-unit positions. And we can go off the record again to discuss that.

(Off the record)

HEARING OFFICER FELLER: In an off-the-record conversation, the parties discussed the represented status of the IGNITE operators prior to approximately April 26th, 2011. My understanding, and we'll hear from the parties in a moment,

is there was a stipulation relating to, prior to on or about April 26th, 2011, four of the IGNITE operators were represented by the IBEW. Those four employees are Martin Medak, Erin Evans, Michael Gilbert and Helen Green.

Additionally, prior to on or about April 26th, three of the seven IGNITE operators were non-unit employees. Those employees are Alex McBurney, Kathy Sullivan and Tyler Owens. Do the parties stipulate?

MR. HUTCHESON: Employer will so stipulate.

MR. JENSEN: We will so stipulate, but I also -- it has to be in the context that the record makes plain that we still on the union's side maintain that we have at all times represented those four people as IGNITE operators represented by Local 46.

HEARING OFFICER FELLER: Okay. The union so contends. That's noted on the record.

MR. HUTCHESON: For the record, it should be noted that the Employer -- this witness will confirm that one of the four, Erin Evans, started her career as a non-unit director. And then in order to comply with the contractual formula for sharing the work, had to join the union, become a unit member, so she --

HEARING OFFICER FELLER: Okay, well --

MR. HUTCHESON: -- started non-unit, became unit and is now non-unit. So we can't --

HEARING OFFICER FELLER: Okay. We can get into that in

redirect if you would like and you can have the witness testify about prior --

MR. HUTCHESON: Nah, just trying to keep the off-the-record comments straight on the record.

HEARING OFFICER FELLER: Okay, thank you. Alright, anything else before we move on related to those --

MR. HUTCHESON: No.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: Thank you for your assistance there. Back to me again?

HEARING OFFICER FELLER: Yes, sir.

MR. JENSEN: Alright.

HEARING OFFICER FELLER: Continue with your cross please.

MR. JENSEN: Okay.

CONTINUED CROSS-EXAMINATION

Q BY MR. JENSEN: Ms. Kelsch, the news director is Todd -- what's the last name?

A Mokhtari.

Q Mokhtari. What's his relationship -- business relationship to the IGNITE operators? Does he have any supervisory role in any way?

A Yes, he is the department manager over production and news and web.

Q So does that mean he supervises, for example -- or Walt Farley reports to Todd?

A Yes.
Q Okay. Does Todd have any role in evaluating the IGNITE operators?
A Yes.
Q What role is that?
A He, with Walt Farley, works on the performance review to evaluate their performance.
Q You're the human relations manager, you're a staff of one?
A Yes.
Q I presume you have an office?
A Yes.
Q Where is the office?
A On the third floor.
Q Okay. Where is the -- where do the IGNITE operators work?
A On the -- typically in the control room on the first floor.
Q Is there a basement under the first floor, or is that the first floor?
A There is a basement, yes.
Q Okay. So there's like a basement and first, second, third floor?
A Correct.
Q More floors than that too, or is that it?
A I believe that's it.
Q Okay. What hours do you work?

A 8:30 to 5:30, roughly.
Q Where do you find yourself when you're working?
A Wherever I need to be, whether it be in a meeting in my office, here.
Q Alright. How often are you where the IGNITE operators are?
A Not a lot.
Q You talked about the contact of the IGNITE operators with others in the IBEW unit. For example, engineers. Now, can you tell me to what extent you are aware of the extent that the IGNITE operators -- the union IGNITE operators -- or for that matter, all -- any of the IGNITE operators have contacts on a regular basis with the engineers in the Local 46 unit?
A No.
Q No what? I just --
A Well, can you ask the question again?
Q I'll try to do better, yes.
A Yeah.
Q What do you know about the recurring contacts? What, if anything, do you know about recurring contacts between IGNITE operators and engineers in the Local 46 unit?
A They may work with them if there's technical issues regarding the software or equipment that they're using.
Q Do you know how often that is?
A No.

Q Do you know the nature of any specific -- or the nature of such contacts?

A Not specifically.

Q Okay. Do you know whether the IGNITE operators are in contact with the engineers by any form of ready communication like headsets or intercom, or anything else?

A They may be, but I don’t know specifically.

Q Okay. That’s fine. If you don’t know, you don’t know. What about with the news editors? They’re in the 46 unit, correct?

A Correct.

Q What, if anything, do you know about the extent and nature of contacts between IGNITE operators and the news editors?

A Generally, I mean, they may have some contact.

Q Do you know anything about the specifics?

A Not specifically.

Q About how often?

A No.

Q What about -- is it R-COM operators?

A Yes.

Q Okay. Same question, are they also Local 46 people?

A Yes.

Q And same questions about IGNITE operators’ contacts with them, do you know anything more about that than you do the other two we just asked about?

A No, just general contact.
Q You don’t know how often or the nature of it specifically?
A No.
Q You were asked by your counsel about the pay rates. And as to the IBEW represented people, you -- there was reference to the CBA. But isn’t it true that a number of those IGNITE operators, those four we just talked about who were, in your view, formerly represented by Local 46, they actually, in several cases, receive higher wage rates than what the contract requires. Isn’t that correct?
A Without having it in front of me, I don’t remember their exact rates.
(Long pause)
Q Okay. If we went back to -- IGNITE was implemented in some respects, some degree at least, in calendar year 2007, correct?
A Correct.
Q Okay. Can we assume that by mid-2008, it was up and running -- you know, called full speed, the way it’s running today?
A Yes.
Q Okay. So from that time in the year 2008 through today, is it essentially the same operations, the same skills and duties being used and exercised by IGNITE operators?
A Yes.

Q Okay. They have had training updates, I understand.
A Yes.
Q And when that happens, do all of the IGNITE operators get that training?
A I believe so, yes.
Q Okay. Does anybody else get that training, or do you know?
A I don’t know.
Q You were involved with the negotiations, the contract negotiations, with Local 46 for the current round of negotiations, correct?
A Yes.
Q And I think you said that you’d been in each session, correct?
A I believe so.
Q Okay. You were also involved in the 2007 negotiations, correct?
A Correct.
Q Were you in all those sessions too, or substantially so?
A If not all, the majority, yes.
Q Yeah, okay. You were a major negotiator for KIRO?
A Yes.
Q Okay. Now, I see somewhere in one of the exhibits here refer to that IGNITE was the -- from KIRO’s point of view, the toughest subject of negotiations in 2007. Is that a fair

characterization from your point of view?
A It was a main topic of negotiations, yes.
Q Was there anything more important than IGNITE?
A I don't recall.
Q When I talk about IGNITE and negotiations, what I'm referring to, and I'm sure you understand, is the dispute -- the obvious dispute that would -- existed going clear back to 2007, at least, between IBEW 46 and KIRO as to who was going to run IGNITE and who was going to lose jobs, correct?
A Yes.
Q Okay. As to the 2010 -- I guess we're now in 2011, aren't we, negotiations for the -- if I refer to the 2010 negotiations, you understand what I'm talking about, the current negotiations, right?
A Yes.
Q Okay. Which have been ongoing since late March of '10?
A Yes.
Q Okay. Now, we -- you do not have a collective bargaining agreement done yet, right, obviously?
A We're operating with the existing collective bargaining agreement, yes.
Q Right, you haven't concluded negotiations for a new agreement, right?
A Correct.
Q Okay. Have there been in these negotiations any tentative

agreements as to the IGNITE issue?

A No.

Q So that subject and all that deals with IGNITE is still under discussion?

A Yes.

HEARING OFFICER FELLER: I'm sorry, just to clarify the record, for the record, you asked, "that issue and all that it deals with is still under discussion." Can you have the witness please sort of delineate more specifically what issues those are with --

MR. JENSEN: Well, let me help her. I think it's more fair if -- unless she wants to go first.

Q I was just referring to there'd been a formula at some point that been offered back and forth. All aspects of the IGNITE conversation, that's all I meant.

A That it's still ongoing?

Q Yes.

A Yeah, there's a difference of opinion --

Q Yeah, you understood that?

A -- what terms --

HEARING OFFICER FELLER: Right, and I guess to clarify the record, what I would like to know since I'm unclear is what those are, whether they're agreed upon or disagreed upon, what are the issues related to IGNITE?

WITNESS: You want to me to answer that?

HEARING OFFICER FELLER: Yes, please.

WITNESS: So, the union has maintained that they have jurisdiction over the automated studio equipment --

HEARING OFFICER FELLER: Okay.

WITNESS: -- as outlined in Section 5.9 that we've referenced. The Employer's position is that we negotiated that in the current collective bargaining agreement. We had a transition agreement as to who would operate that equipment, which expired September 23rd, 2010, and is no longer in effect.

HEARING OFFICER FELLER: And what other issues relate to IGNITE? Or is that the --

WITNESS: That's --

HEARING OFFICER FELLER: That's it?

WITNESS: Yes.

HEARING OFFICER FELLER: Okay. Now you may continue your examination of the witness. Thank you.

MR. JENSEN: Thank you very much.

(Long pause)

Q BY MR. JENSEN: In the 2007 to 2010 contract, you've already been asked about the provision that says that the formula the Employer agreed to that the requirements that the Employer follow would expire September 23, 2010. Do you remember that?

A Yes.

Q Okay. Now, you never understood that to mean the union

was giving its right to claim that work or people doing that work after that date, did you?

A My understanding was that as of September 23rd, 2010, the Employer could have union and nonunion people do that. Whether or not the union wanted to raise an issue, of course they can raise the issue. But the understanding going into that agreement was that we would no longer have to have this ratio standard 1 and 2.

Q Right, your understanding was you would have a right at that point to depart from the rigors of the formula that had been set forth in the contract, correct?

A Right, the union had given up those rights with this language that we agreed to.

Q But you -- but the contract also said that that subject then would be subject to future negotiations, correct? You need me to point that out to you?

A No.

MR. HUTCHESON: The language speaks for itself.

HEARING OFFICER FELLER: Can you just point the hearing officer please in the direction?

MR. HUTCHESON: 5.9.

MR. JENSEN: Do you have it handy?

HEARING OFFICER FELLER: I have 5.9 in front of me. If you could let me know specifically where we're talking about to clarify for the reader of the record. Are we looking at the

paragraph in the middle of page 16 that says September 23rd, 2010, or are we talking about something else?

MR. JENSEN: Right now, I'm talking about on page 17, item no. 4.

HEARING OFFICER FELLER: Can you please speak into the microphone?

MR. JENSEN: Right now, I'm speaking of page 17 of the Joint Exhibit 1, item no. 4, which says --

HEARING OFFICER FELLER: So page 17, item 4.

MR. JENSEN: Yes, and I quote, "The parties recognize that staffing for the automated studio control equipment is subject to future contract negotiations."

HEARING OFFICER FELLER: We'll have it be noted the language speaks for itself.

Q BY MR. JENSEN: You have that in front of you, Ms. Kelsch?

A Yes.

Q You saw that?

A Yes.

Q Okay. My question to you was to ask you to verify that in view of that and everything that went on in negotiations, you never understood that when that contract was agreed to that Local 46 was giving up their claim to represent people doing that work?

A No, all that language says to me is that it would be a subject of negotiations.

Q Okay.

(Long pause)

Q Would you have in front of you, so I can ask you a couple of questions, Employer's Exhibit 2?

A Yes.

Q Okay. Now, when you -- and feel free to look at that throughout your testimony. When you talked about that, I believe you talked about this being mirroring of the news shows. Do I have that correct?

A I believe I said it may have been.

Q May have been.

A May have been, yeah.

Q Okay. I don't know because on top it says, Rehearsal. And my understanding is that there's a difference between mirroring and rehearsal. Am I correct or do you know?

A I believe there were a couple of phases that took place. One would've been independently, not necessarily with the newscast. I guess like a mock newscast would be a better way to do it. And then my understanding was that there was some mirroring as well.

Q So I'm going to take it and you help me here if I'm wrong. I take it from what you just said that if it was a mock newscast, that's what would be a rehearsal, correct?

A They would both essentially be rehearsals versus a live on-air newscast.

Q Right. So whether it was a mock newscast or whether it was what you refer to as mirroring, both would come under the rubric of rehearsal?

HEARING OFFICER FELLER: I'm sorry, could you clarify for the record what mirroring is?

MR. JENSEN: I'm going to get to that.

HEARING OFFICER FELLER: Okay.

A In my opinion, yes, they're both rehearsals.

Q Sure, okay. Now following up on the hearing officer's question, what is mirroring? Or do you know? I don't.

A My understanding would be while a newscast is taking place that somebody would be implementing as well, not effectively the on-air product, but how it would occur once we were operating with the IGNITE system.

Q Practicing?

A Practicing, yes.

Q Do you know, was this rehearsal/mirroring as to mock telecasts -- do you know if that was done after the several weeks of training was done or is it done simultaneously, or do you know?

A I don't know.

Q Okay. If we look at Employer's 6, if you pick up there, it starts on Tuesday, July 10, correct?

A Employer 2, you mean?

Q Yes, excuse me, Employer 2. Does the activity then start

on Tuesday the 10th of July?

A No. July 9th.

Q July 9, Monday?

A Right.

Q Okay. Now, do we know -- when we look at this, there's Ben, Mike, Walt, Andrew. Are those the same Mikes? No, two different Mikes. One's Mike Harvey and one must be Mike Gilbert, correct?

A I believe so, yes.

Q Do you -- do we know on this occasion from this exhibit who was doing what?

A The indication would be that -- if you look at --

Q Do you know without looking at it?

A Off the top of my head, no.

Q Okay. So go ahead with what you --

A Ben would've been coding the show, meaning putting in the codes to the IGNITE system to direct the show. Mike would've been the observer, looking out, second set of eyes type position. And Walt would've been the reader, which I believe would be reading the news. I could be wrong.

Q No, no, no, no, no, you can't -- you have to deal with me here now. Now, under that are three names again, Walt -- same Walt, I take it?

A Yes.

Q And Andrew and Mike Harvey.

A Yes.
Q Do we know what Andrew and Mike were doing?
(Long pause)
A When I look at this, they would've been doing the same code, observe, reader.
Q And that's based --
A In that order, based upon what it says in the previous timeslot.
Q Okay. Do we know -- let's take the top bunch there on Monday, the 9th, 12:30 p.m. Do we know how long this went on?
A Beyond what is on this document?
Q Yeah.
A I don't know.
Q I mean, do you know whether it lasted until 1:00 or until 6:00? Do we -- I can't tell. Can you tell me anything that I --
A No.
Q Okay. So the same throughout the whole thing, you would just have to assume from what you've got here, you draw your own conclusion. But you don't know anything more than that, correct?
A Other than what's stated on the document, no.
Q Okay. I believe you testified that IGNITE was fully implemented August of '07. Did I hear you right or if I made a mistake, do you understand it was fully implemented in August

of ’07?

A What do you mean by fully implemented?

Q Well, let’s go back to the very start. When was it first used for on-air production purposes?

A My recollection is August of ’07.

Q Okay. And that’s based on just a recollection?

A Yes, and reviewing documents, yes.

Q If it started in August of ’07, do you know when in August of ’07?

A The exact date, not off the top --

Q Do you know whether it was early or late August?

A Early August, I believe.

Q Do you know who -- do you know what it was used for initially?

A Not off of the top of my head, but it would’ve been an early morning newscast or we worked our way up to the main newscast.

Q Okay. Do you know who did those -- the first -- who was the first IGNITE operator who did the first few shows?

A No.

Q You say you worked up from -- starting with a morning newscast. Explain that process.

A I don’t know the exact, you know, step progression.

Q Right.

A We started with an initial newscast and worked on that for

a period of time, a week or so, or at least a few newscasts, and then progressed to the noon newscast, for example, and so forth until all shows were being done through the IGNITE system.

Q Do I understand that -- let’s just assume what you said is accurate that you start with an early morning newscast is how we inaugurated this system, okay?

A Okay.

Q Then was it that you continued to do that every day for that early morning newscast, and then after that all seemed to come together, you moved on to another newscast?

A That’s my recollection.

Q Okay. Any recall how long it would take to get the first newscast all set up and feel good, we can go take another one on now?

A It was pretty steady progression, a week or so, I think, roughly.

Q Okay.

(Long pause)

Q When -- as a result of IGNITE, there were a number of Local 46 bargaining personnel laid off, correct?

A Yes.

Q Were there others also laid off beyond Local 46?

A Yes.

Q Okay. Do you remember when that layoff occurred?

A There were two groups, an initial group at the end of August 2007, and then the end of September 2007.

Q You mentioned training for the IGNITE system for people --

HEARING OFFICER FELLER: Excuse me, before we move on, can I ask a question about those layoffs?

MR. JENSEN: Sure.

HEARING OFFICER FELLER: Can you tell me how many employees were laid off in each of those layoffs approximately and what job categories and whether or not they were covered by a bargaining unit?

WITNESS: Off the top of my head, I would say total --

HEARING OFFICER FELLER: Yeah, to the best -- yeah, sure.

WITNESS: -- of 10 to 12. It -- within IBEW, it was audio operators --

HEARING OFFICER FELLER: Okay.

WITNESS: -- camera operators. There were, I believe, some technical directors possibly impacted. Non-unit would've been directors. There were, I believe, a couple of graphic producers that were non-unit.

HEARING OFFICER FELLER: Okay. And so you said approximately, just to clarify, about ten for each or ten total?

WITNESS: Total.

HEARING OFFICER FELLER: Ten total --

WITNESS: Between --

HEARING OFFICER FELLER: -- split up into groups between late August and late September?

WITNESS: Correct.

HEARING OFFICER FELLER: Okay. Thank you.

MR. JENSEN: Okay.

Q BY MR. JENSEN: And let me go back, Ms. Kelsch, so you understand me and the nomenclature I've been taught in this process. The people who are now doing the function that you describe in the job description as IGNITE directors -- you understand what I'm talking about there?

A Yes.

Q Okay. Those are -- are they made up entirely of people who were formerly nonunion directors or union technical directors, other than Farley?

A No. There have been people hired that were not previous employees.

Q Okay. When were they hired, just ballpark?

A 2008, 2009. Honestly, I don't remember.

Q How many are those?

A At least two is my recollection.

Q Do you remember them by name?

A Tyler Owens and Erin Evans.

Q Okay. You've already testified -- no, that's not true. Mr. Hutcheson has spoken about that. Tell me about the hiring of Erin Evans, how she came in and her process to become an

IGNITE operator.

A She was hired as a part time non-unit director. My recollection is when Ms. Marshall resigned from the position, Erin was promoted to a fulltime position and in order to meet the standards of the collective bargaining agreement, that position had to be filled by a bargaining unit member. So Erin was required to join the union.

Q I guess what I was trying to get to is, she was then moved into a technical director position. Is that correct?

A Was a director, yes, but under the collective bargaining agreement was a technical director.

Q Okay, okay, I understand. What about Tyler Owens? How did he come to be hired, if you know?

A So then when -- my recollection again is that when Erin was promoted, there was a part time position vacated that Tyler -- no, I don’t know -- yeah, that maybe -- I don’t know, I can’t remember other than he was hired and to meet the ratios or the number of hours, it was --

Q That’s okay.

A Yeah.

Q If you don’t know, you don’t know.

A Yeah.

Q Okay. The -- do you know how much training, how much formal training, the IGNITE operators got before IGNITE was implemented? Are you aware or not?

A Not the exact, no.
Q It was a number of weeks, though, correct?
A Yes.
Q Okay. Which was essentially fulltime from their total shift, it was all day intense for the most part?
A I don’t recall that.
Q Okay. You mentioned that some people -- and let’s go back before the recent hiring of Tyler and Erin that you spoke of. Prior to that, when IGNITE came on and was fully implemented, everybody who was doing that IGNITE operation was either a former non-union director or formally designated as a technical director represented by Local 46.
A At the time --
Q That you implemented the --
A Yes.
Q Okay. You mentioned some other people took some IGNITE training. You talked about -- did you say some audio people took some IGNITE training?
A They were given the opportunity to receive that training.
Q Do you know if they took training?
A I think in some part. I don’t recall if they did the entire training.
Q Do you know of anybody besides the technical directors and the directors who you know took training on IGNITE?
A Not that I know.

Q Okay.

(Long pause)

Q Prior to implementation of IGNITE, where did the directors work? Where was their workstation?

A Prior to?

Q Uh huh.

A It's a different control room. They worked in the control room.

Q Okay. Same control room with the technical directors?

A Yes.

Q Okay. Since implementation of IGNITE, there's a new control room built for the IGNITE function, correct?

A Correct.

Q You were asked some questions about the IGNITE hardware. I'm not sure if we got -- we got in it looked like an airplane cockpit, but how large is it?

A It is six feet wide, four feet, five feet wide -- or depth, I mean, including the equipment, the desk and so forth.

Q So the surface is like around 24, 25 square feet of surface area. Did you say there's monitors and things attached as well?

A Yes.

Q Watching what's going on around the facility? What do the monitors monitor?

A The incoming feeds, there's various different things on

there.

Q How many monitors are there?

A There’s multiple. I don’t know the exact number.

Q Okay. Ms. Kelsch, the IBEW 46 unit, going up to at least the time of about April 26th, has been recognized at KIRO for how many years approximately?

A Prior to my arrival, I don’t know.

Q Ever since your arrival?

A Yes.

Q Okay. Any changes in the bargaining unit in that timeframe prior to April 26th and the layoffs we’ve described here?

A To the bargaining unit?

Q Uh huh.

A I don’t remember off the top of my head.

Q Are the -- you described some other units too, the AFTRA -- I’m testing my memory here. Does AFTRA have one or more than one unit?

A Two units.

Q Two? Have their units been, in terms of job classifications until IGNITE, been the same over the long haul as well?

A I’m sorry?

Q Have their units remained the same, you know, over the years leading up to IGNITE?

A My recollection is yes.

Q Same with IATSE?

A Yes.

Q How often are the IGNITE operators in the newsroom, if you know?

A I don’t know the exact timeframe, no.

Q How much of the time, if you know, is the IGNITE -- are the IGNITE operators working outside of their control room?

A I don’t know the exact time.

Q You talked about the -- if I have this right, the IGNITE directors and producers working together in pre-production. Do you remember -- do I have that right?

A Yes.

Q Okay. Now, where do they do this?

A In the newsroom, is my understanding.

Q You don’t observe it firsthand?

A No.

Q So do you know exactly what they’re doing?

A Not to the details, no.

Q Okay. Do you know how often that happens then, firsthand experience?

A Daily.

Q How do you know that?

A They’re putting together the newscasts, we do those daily.

Q Okay. But you’re not seeing it?

A No.

Q You just assume that's how it works?

A I don't assume, that's what my understanding based upon my years of experience with the TV station is.

Q Are you there with them?

A No.

(Long pause)

MR. JENSEN: Nothing further. Thank you very much, Ms. Kelsch.

HEARING OFFICER FELLER: Okay. I think the hearing officer will have --

MR. JENSEN: Oh, wait, I take that back. I do have something else. I do have something else.

HEARING OFFICER FELLER: Okay, continue.

MR. JENSEN: Okay. Are we back on?

HEARING OFFICER FELLER: We're still on the record. I don't think we ever went off.

MR. JENSEN: Okay.

Q Will you please pick up Employer's 5 for me?

A Okay.

Q And I want you to turn --

(Long pause)

Q I think, Ms. Kelsch, I'm starting on what's the third piece of paper near the bottom of 5.9. If you flip the page, I want to look at the red at the top. It says, "The union

reserves its right to pursue the issue of the unit placement of automated studio control equipment operators with the NLRB." See that?

A Yes.

Q Alright. And you were in the negotiations when this was discussed, correct?

A Yes.

Q And then below this, and my copy's very hard to read, but it suggests to me in my eyesight that starting with the next paragraph, which said that, "The Employer intends," all the way down, I believe the rest of that page is all lined out. In other words, the union had taken that out of their proposal, correct?

A Yes.

Q Okay. Now, do you recall the union explaining why they were making these two changes in their proposal?

A Explaining it, no.

Q Do you remember that they said -- was there no explanation given, or you just don't remember it?

A I recall us asking what this meant to clarify.

Q Okay.

A And my recollection is that it was something to the effect of exactly what it says, "We reserve our right to go to the NLRB."

MR. JENSEN: Nothing further. Thank you very much.

HEARING OFFICER FELLER: Alright. We're going to go off the record for a lunch break. When we return, there will be some follow-up questions from the hearing officer for the witness.

MR. HUTCHESON: And I have a tiny bit of redirect.

HEARING OFFICER FELLER: Do you want to do it when we come back on the record?

MR. HUTCHESON: I can do it right now, if you'd like and then I'd be done.

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: Depending on what you do.

HEARING OFFICER FELLER: Let's go off the record.

(Off the record)

HEARING OFFICER FELLER: We're back on the record. Ms. Kelsch, you're reminded that you're still under oath.

COURT EXAMINATION

Q BY HEARING OFFICER FELLER: I would like to follow-up with some questions, just to follow-up on both the direct and cross-examination from earlier today. First I'd like to talk about, prior to the IGNITE system, who did the jobs, I guess, that the IGNITE board functions? You talked about that briefly earlier, but I just wanted you to elaborate a little bit more.

A So there would have been a director, a technical director, a camera operator, an audio operator, I believe that's it.

Q And which of those job classifications were and were not

covered by bargaining units?

A They were all covered with the exception of director.

Q Under which bargaining unit?

A IBEW.

Q All by IBEW? Okay. And --

MR. HUTCHESON: Your Honor (sic)?

HEARING OFFICER FELLER: Yes?

MR. HUTCHESON: To keep the record clear, I don’t think the witness meant to say what she just said. The camera operators are represented by IATSE.

WITNESS: The studio camera operator.

MR. HUTCHESON: Ah.

Q And these are different camera operators?

A We also have news camera operators, which work in the field.

Q Okay, right, the field operators that were -- thank you for clarifying. So the field operators would be affiliated with the news vans. Is that correct?

A They do work in the vans.

Q Okay.

MR. JENSEN: So was the testimony that the news camera operators are 46 people?

HEARING OFFICER FELLER: That’s what we’re trying to clarify right now.

MR. JENSEN: Okay, that’s what I want to know too.

HEARING OFFICER FELLER: Okay.

Q So can we just start all over again? Let's go through it. So director was one of the people --

A Yes.

Q -- that you named.

A Yes, that was a non-unit.

Q What was the next category?

A Technical director.

Q Technical director. And that is?

A Union.

Q Union with IBEW?

A Yes.

Q Next one?

A Studio camera operators.

Q Studio camera operators who are covered by?

A IBEW.

Q Okay. The next one?

A Audio operators that were IBEW.

Q Okay. Any further --

HEARING OFFICER FELLER: You'll have opportunity for re-cross and redirect of this witness as well.

Q Okay. We talked earlier about the layoffs in approximately August and September of 2007.

A Yes.

Q What was the reason for laying off those classifications

of employees?

A Because with this equipment, we no longer needed a person -- a separate person to operate that equipment. The controls -- the commands that were put into the system would tell the camera operator -- or tell the camera what shots to do and so forth.

Q Okay. When was the IGNITE operator position created?

A I'm sorry?

Q When was the IGNITE operator position -- or that position, that job created? The IGNITE director, I think, has been referred to. There have been other names floating around.

A In 2007.

Q In 2007? And how were people selected for that job?

A Again, it was based upon -- those positions were all given the opportunity to essentially apply and be trained on that. It was determined, based upon the training they went through, their skills, their aptitude through that training who would be in those positions.

Q Do you know of the people who wound up in those jobs, what jobs they held previously?

A Yes.

Q Can you go through that briefly?

A They were either a director or a technical director.

Q So the ones that wound up in that job were all previously directors or technical directors?

A Yes.
Q Okay. Can you explain from 2007 through January 1st, 2011, just to make it clear, what was the scheduling like for the technical directors and directors? How were their schedules determined? What did they look like?
A I don't know off the top of my head. I'm not day-to-day familiar with that, but it would be determined by Walter Farley, the production manager.
Q Okay.
A In a general sense, there's typically a director assigned to each show and there's oftentimes a backup person who sits behind them in the control room. So there would've been two people on a given shift.
Q Okay. Do you know, and you may not, what -- who of those people -- if there was any shift -- whether who was union and who was not union for doing those jobs on who was assigned and who was backup?
A No.
Q Is that no, you don't know, or --
A I don't know.
Q Okay. We talked a little bit before about supervisors. How many -- who does the supervisor that supervises the IGNITE directors -- who does that person report to again?
A Walter Farley reports to Todd Mokhtari, the news director.
Q Who else does the news director manage?

A All the news employees, so reporters, photographers, truck operators, R-COM editors, assignment editors, producers.

Q Okay. Alright.

(Long pause)

Q On or about April 2011, did the Employer make a decision or designation that the IGNITE operator positions would no longer be in the unit?

MR. HUTCHESON: Can you repeat that question?

HEARING OFFICER FELLER: Sorry, yes.

Q In approximately, I guess, April 2011, did the Employer make a decision or any sort of designation that certain positions would no longer be in the unit?

MR. HUTCHESON: So isn’t this within the scope of what you said you weren’t going to pursue when counsel tried to make an offer of proof? Is this an attempt to litigate the pending ULP charge?

HEARING OFFICER FELLER: I will hold the question for now and may try to rephrase it later. I apologize. I was trying to get a --

MR. JENSEN: No apology necessary, and I understand Mr. Hutcheson’s objection. And I will say again that I think that we’ve handicapped ourselves by putting this hearing before the ULP investigation’s concluded because it necessarily restricts us from putting in certain evidence. And so I’m going to make that objection again and --

HEARING OFFICER FELLER: Okay.

MR. JENSEN: -- I don't have a problem with your question, but I understand why Mr. Hutcheson --

HEARING OFFICER FELLER: Right.

MR. JENSEN: -- would.

HEARING OFFICER FELLER: Okay. And I will ask the witness to not ask (sic) the question right now. We'll withhold ruling on the objection but may return to it later.

Q Okay. I would, however, like to go into some of the bargaining history on Article 5.9 from 2007.

HEARING OFFICER FELLER: Yes? Off the record please.

(Off the record)

HEARING OFFICER FELLER: Back on the record.

Q So I would like to know -- going to some questioning about the bargaining history, for not this current round of bargaining, but the prior round. I'm guessing about 2006 or 2007?

A Okay.

Q And you testified earlier that you were present for those negotiations as well, correct?

A Correct.

Q And can you refresh my memory as to your role in those negotiations?

A I was a representative of the Employer at the negotiations.

Q Okay. Do you remember any proposals that were made regarding Section 5.9? I guess it starts on page 15 of Joint Employer (sic) Exhibit 1.

A Not specifically.

Q Do you remember generally what types of discussions were occurring around that section?

A Generally, I know we had several months of negotiations involving it.

Q Okay. Specifically, I'm on page 16, Paragraph 4. From the date of the implementation of the automated studio equipment through September 23rd, 2010, okay?

A Yes.

Q Okay. Do you remember any discussions about the date?

A I remember there were discussions, I don't remember --

Q Okay. Do you remember any discussions about like why that date was chosen or what was going to happen after that date?

A I remember my understanding of what was going to happen after that date.

Q Okay.

A I don't specifically remember the conversations.

Q Okay. And just to clarify, looking at page 1 of Joint Exhibit 1, it says it goes through September 30th, 2010. Do you have any recollection as to why there may've been a different date in that?

A Yes.

Q What was that?

A Because we negotiated this as a transition to this new equipment that was going into operation. At the end of that time period, these negotiated standards that we agreed to, which determine the number of operators, which would be unit and non-unit and so forth, as of September 3rd that those long -- those would no longer be applicable.

Q Okay.

A The standards would no longer be applicable.

Q Okay.

HEARING OFFICER FELLER: Can we go off the record for a second please?

(Off the record)

HEARING OFFICER FELLER: We're back on the record. I want to go through a couple of administrative things before continuing. First, the hearing had previously asked a question to the witness about decisions regarding the IGNITE positions. I wanted to formally withdraw my question from the record.

Also, there were some off-the-record conversations about the appropriateness of moving forward with the UC petition in light of the C-case, the ULP that has been held in abeyance pending the outcome of the UC petition and decision. Just to reiterate on the record, the -- my understanding of the Region's position is that this was an administrative decision made independent from and prior to the opening of the UC

hearing today.

Citing to the “National Labor Relations Board Case Handling Manual, Part 2 on Representation Proceedings,” Section 11731.3, which talks about Exception 3 for blocking charges, which is entitled, “Petition and Charge Raise Significant Common Issues; UC and AC Petitions.”

MR. HUTCHESON: Can you say that section over again?

HEARING OFFICER FELLER: Yes. 11731.3.

MR. HUTCHESON: Thank you.

HEARING OFFICER FELLER: And so that is my -- just to summarize, the parties had expressed concerns about the continued processing of it. The hearing officer expressed that this is the understanding of moving forward with the UC petition.

One moment, can we go off the record again for one second?

(Off the record)

HEARING OFFICER FELLER: Back on the record. I wanted to summarize one additional off-the-record conversation relating to the hearing officer’s request for bargaining history notes related to the bargaining of the contract beginning in 2007, the contract marked as Joint Exhibit 1. The hearing officer had requested any bargaining history notes related to Article 5.9 to provide context for that article for the reader of the record.

The parties, if my recollection is correct, expressed

concern over the depth, time and amount of records relating to that article, as well as their relevance.

MR. HUTCHESON: And admissibility.

HEARING OFFICER FELLER: And admissibility. Well, relevance and admissibility.

MR. JENSEN: My primary concern was whether we have a whole package or whether there's a hole in it. I can certainly review what I have tonight, but I suspect there's holes in the whole process, so that makes it problematical.

HEARING OFFICER FELLER: Okay. We're not moving forward on this regardless now because I don't believe that either party has those documents with them. It was just in the interest of summarizing off-the-record conversations.

MR. JENSEN: I have some. I have some.

HEARING OFFICER FELLER: No -- sure, but to give the parties opportunity to go back and clarify, I was trying to summarize the off-the-record conversations and make a note of that.

Any further issues before I allow for redirect and re-cross of the witness? Any administrative matters?

(No response)

HEARING OFFICER FELLER: Okay. Your witness.

MR. HUTCHESON: Thank you.

REDIRECT EXAMINATION

Q BY MR. HUTCHESON: Ms. Kelsch, regarding the union's

proposal made at the final stage of the bargaining process on July 13, 2007, do you recall whether the union proposed a one-time bonus payment for IBEW's agreement regarding the IGNITE operations part of the final settlement?

A Yes, I believe they did propose a --

Q Do you recall the specifics of that proposal?

A Something to the effect of $2,000 for fulltime, and it was less than that for part time.

Q I'm going to approach you and hand you a document that's not been marked but just to use for you to look at for your --

A Okay.

Q -- to refresh your recollection and I'll show it to counsel in a minute.

(Long pause)

HEARING OFFICER FELLER: Can you repeat that for the record please? I'm sorry, counsel stepped away from the microphone.

Q So just look at the bottom of the second page, refresh your recollection, and then you can hand it back to me. And then I will hand it to counsel.

A Okay.

(Long pause)

Q Do you recall the specifics --

MR. JENSEN: Can you let me look --

MR. HUTCHESON: Oh, I'm sorry.

HEARING OFFICER FELLER: We can go off the record for a moment while counsel reads.

(Off the record)

HEARING OFFICER FELLER: To clarify for the reader of the record, the witness was provided with a document to refresh her recollection, but the document was not admitted into evidence -- or not offered.

MR. HUTCHESON: Or offered.

HEARING OFFICER FELLER: Not offered, excuse me.

Q So Ms. Kelsch, do you now recall the economic specifics of the union's proposal relative to the IGNITE issue?

A Yes, there was a bonus structure that each fulltime member would be paid a bonus upon ratification of $2,500. And each part time employee who was working at least 400 hours would be paid $1,200.

Q Now in part of the overall settlement, it included the IGNITE provision in Article 5.9, correct?

A Yes.

Q All bargaining unit members would receive the bonus under that proposal, not just the technical directors, correct?

A Correct.

Q Okay. Did the final agreement that was reached later that -- tentative agreement that was reached later that day on July 13, 2007, and subsequently ratified on July 20, 2007, include lump sum bonus payments in addition to wage increases?

A Yes.

Q Thank you.

MR. HUTCHESON: No further questions.

HEARING OFFICER FELLER: Mr. Jensen?

(Long pause)

MR. JENSEN: Okay.

RECROSS-EXAMINATION

Q BY MR. JENSEN: Good afternoon this time. You were just asked about a document that was not put in evidence, but it's a two-page document in front of you, Ms. Kelsch, entitled, "Union Proposal July 13, 2007 on Open and Economic Items," correct?

A Yes.

Q Okay.

HEARING OFFICER FELLER: Just let the record reflect the document is not in front of the witness.

WITNESS: It's not.

MR. JENSEN: I'm sorry.

HEARING OFFICER FELLER: It was not offered into evidence.

MR. JENSEN: Okay.

Q If you need to look at it, let me know, and I can show it to you with your counsel's permission.

HEARING OFFICER FELLER: Hang on a second, can we go off the record?

(Off the record)

HEARING OFFICER FELLER: Sorry. Go ahead.

MR. HUTCHESON: The Employer offers Employer's Exhibit No. 7.

(Employer Exhibit 7 marked for identification)

MR. JENSEN: No objection.

HEARING OFFICER FELLER: Hearing no objection -- excuse me, can we have it described for the record briefly?

REDIRECT EXAMINATION

Q BY MR. HUTCHESON: Ms. Kelsch, is this a copy of the union's proposal, dated July 13, 2007 on open and economic items?

A Yes.

Q And it's a two-page document?

A Yes.

Q And this was a document presented by the union's bargaining team?

A Yes.

HEARING OFFICER FELLER: Okay. Hearing no objection -- correct, Mr. Jensen?

MR. JENSEN: Yes.

HEARING OFFICER FELLER: Employer Exhibit No. 7 is entered into evidence.

(Employer Exhibit 7 received into evidence)

MR. JENSEN: Okay.

RECROSS-EXAMINATION

Q BY MR. JENSEN: Ms. Kelsch, you have it in front of you

now, right?

A Yes.

Q Employer's 7? Okay. So this is a proposal made on or about July 13, according to the document, correct?

A Correct.

Q The last prior contract prior to the one you were negotiating in '07, expired on September 30, 2006, correct?

A That'd be speculation, I don't have it in front of me. I don't remember the exact dates.

MR. HUTCHESON: For the record, it was an anniversary date of some such date, but it was continued into July of 2007. The union gave a termination notice in July and then withdrew the termination notice. You have those documents, so it didn't actually expire back when it was due to expire.

HEARING OFFICER FELLER: Can --

(Long pause)

MR. JENSEN: Good to go?

HEARING OFFICER FELLER: I --

MR. HUTCHESON: Would you agree with that, Mr. Jensen?

MR. JENSEN: I don't know, but I don't contest it.

MR. HUTCHESON: Okay.

MR. JENSEN: I don't know off the top of my head. Okay.

Q Ms. Kelsch, at the time that the union presented KIRO with Employer 7, you were continuing the terms, I presume, of the last prior contract, which had the anniversary date -- or the

nominal concluding date as September 30, 2006, correct?
A I believe so.
Q Okay. In that timeframe after September 6, as the terms of that contract were being followed, employees were -- bargaining unit employees represented by Local 46 were receiving pay rates per the terms in the old contract, which ran through September 30 of ’06, correct?
A Yes.
Q Okay. Now, in July ’07, which is approximately nine months later, something like that, they were still receiving those older pay rates, correct?
A Yes.
Q In negotiations, the Local 46 team was asking for retroactive pay when the new contract got done that would reach back until October 1 of ’06, correct?
A Yes, the proposal would’ve gone back to October 1st, 2006.
Q Okay. And if you’ll look at page 2, this -- pardon me one second.
(Long pause)
Q If you could turn to page 2 at the bottom where it has the -- what I guess we’ll call the bonus, correct?
A Yes.
Q That was -- part of that deal was that that bonus was going to be paid per the -- or requested by Local 46 in exchange for dropping a demand for retroactive pay to October

1, correct?

A No.

Q That wasn't a factor?

A No. When I looked --

(Long pause)

Q I wasn't asking what you were going to say when you looked at the document. I wasn't asking about that. I was asking about your recall of the negotiations. Do you not recall that Local 46 representatives said that they wanted this bonus in lieu of retroactive pay as part of this?

A I don't recall that, no.

Q Okay.

(Long pause)

Q Ms. Kelsch, this afternoon, you were talking at some point -- you were testifying about the -- in Joint Exhibit 1 -- is that up there with you?

A Yes.

Q 5.9, and there was some -- it speaks for itself, but there some agreements in there about how much work would go where, etc. You referred to an understanding about certain standards ending on September 23, 2010. Do you remember talking about that?

A Yes.

Q Okay. What did you mean by standards?

A Below that -- the fourth paragraph where it refers to

September 23rd, it refers to the following guidelines. That's what I was referring to.

Q Okay. What page is that?

A Page 16.

HEARING OFFICER FELLER: Excuse me, sir, could you please speak into the microphone? You can move it back a little. Thank you.

(Long pause)

Q Ms. Kelsch, when the IGNITE operation first came online, it was actually operative online. And I think you testified that was being in August. Do you remember who was performing IGNITE at that time? The IGNITE function?

A Specifically by name?

Q Yes.

A The people I've already stated. The individuals I've already stated.

Q Well, you started with one news show, you said.

A Do I know who -- I don't want to ask your question, but I guess I'm not understanding what you're asking me.

Q Okay. You said you started -- KIRO started with just running one news show, I think you said morning news show.

A Yes.

Q Typically at a given time, if it's a 5:30 a.m. news show, it's the same person day-to-day-to-day who runs that show on the IGNITE, correct?

A Yes.

Q Do you know who it was who first started doing IGNITE?

A The first show?

Q Yes.

A No, I don't.

(Long pause)

MR. JENSEN: Nothing further. Thank you very much.

HEARING OFFICER FELLER: Employer, redirect?

MR. HUTCHESON: Redirect please.

HEARING OFFICER FELLER: Yes.

REDIRECT EXAMINATION

Q BY MR. HUTCHESON: On the issue of retroactive pay and bonuses and so forth, could you turn to page 9 of Joint Exhibit No. 1?

A Page 9, yes.

Q Does it appear that the new wage rates went into effect on October 1, 2006?

A Yes.

Q Which would be retroactive from July 20, 2007?

A Yes.

Q And if you turn the page to page 11, do you see the fourth paragraph?

A Yes.

Q Referring to retroactive pay in the first year of the agreement on or after October 1, 2006, do you see that?

A Yes.

Q So there was retroactive pay increases given in addition to the bonus referred to two paragraphs later, correct?

A That's correct.

Q And is it your understanding that the rationale, in part, for the ratification bonus was in consideration for IBEW's agreement regarding IGNITE operation?

A Yes.

Q And after April -- well, as of today, being at this hearing today, do you feel like KIRO-TV has received the benefits of its bargain?

MR. JENSEN: I object.

MR. HUTCHESON: I withdraw the question. I couldn't help myself.

HEARING OFFICER FELLER: Any further --

MR. HUTCHESON: No --

HEARING OFFICER FELLER: -- questions for this witness?

MR. HUTCHESON: No further questions.

MR. JENSEN: I'm sorry?

HEARING OFFICER FELLER: Any further questions for this witness?

MR. JENSEN: No.

HEARING OFFICER FELLER: You may be excused. Thank you.

(Witness excused)

HEARING OFFICER FELLER: Employer, do you have any

additional witnesses to present?

MR. HUTCHESON: Not at this time.

HEARING OFFICER FELLER: Okay. Should we take a break before we move on to the union's evidence? Or would you like to continue going forward?

MR. JENSEN: Let's take a five-minute break.

HEARING OFFICER FELLER: Okay. Let's take a five-minute break.

(Off the record)

HEARING OFFICER FELLER: Back on the record. Mr. Jensen, you can go ahead and begin presenting your case.

MR. JENSEN: Okay. I would call Mike Gilbert.

HEARING OFFICER FELLER: Please raise your right hand.

Whereupon,

MICHAEL GILBERT

was called as a witness, by and on behalf of the Petitioner, and having been duly sworn, was examined and testified as follows:

HEARING OFFICER FELLER: Please state your name and spell it for the record.

WITNESS: Michael Erhard Gilbert, M-i-c-h-a-e-l, E-r-h-a-r-d, G-i-l-b-e-r-t.

HEARING OFFICER FELLER: Mr. Jensen?

MR. JENSEN: Okay.

DIRECT EXAMINATION

Q BY MR. JENSEN: Good afternoon, Gilbert. Thanks for coming and joining us. You're currently employed, are you?
A Correct.
Q By whom?
A KIRO-TV.
Q What do you do there?
A I use IGNITE to put newscasts on the air.
Q As far as you know, is there job title or classification for you?
A IGNITE operator.
Q Okay. How long have you been employed at KIRO?
A A little over five years, I believe.
Q Okay. When you came over to KIRO, what was your position?
A Morning technical director.
Q Technical director?
A Technical director.
Q So that was an IBEW 46 position?
A Yes.
Q Okay. And you said mornings. Does that mean you were initially assigned to do morning news?
A Correct, morning newscasts.
Q Did that change at some time away from morning to some other newscast? Or have you always been on morning?
A When we implemented IGNITE, I was given an opportunity to stay with the company and I shifted my schedule to an evening

role that I'm in now.

Q Okay. So --

A Weekend and evening.

Q I'm sorry, go ahead.

A Evening and weekend role.

Q Okay. So for the first -- most of the first few years, you were pretty much steady morning?

A Yes.

Q Now, you part time or full time?

A Part time.

Q Always been part time?

A Yes.

Q Does that mean morning and then fill in weekends? What's that mean? What kind of schedule do you have?

A Yeah, when I was in the mornings, it was a five-day work week. I believe it was 4:00 to 8:00 a.m. and then any fill in as required. It's kind of the job description that, you know, we fill in as needed to help out.

Q Okay. And that was until you went to work as an IGNITE operator?

A Correct.

Q When -- do you recall when that was?

A September or August of '07.

Q And then you do have experience in this field before you came to KIRO?

A Yes, I've been a technical director for seven years.
Q Other stations in this market?
A Market 123, which is Eugene, Oregon.
Q Okay. Alright. Now, as a technical director, which is what you were performing until you went on to IGNITE around August/September of '07, correct?
A Correct.
Q Can you describe your duties and responsibilities for us?
A I worked with the director of the show and the producer to execute the elements of the show on the air, the video elements, the visual elements to take graphics, cameras, live shots and videotape and mix them altogether in real time and put them on the air.
Q How did you do that as a technical director?
A Under the guidance and supervision of the director, I would execute the commands they called for. Also, I would look at the rundown, which basically tells us where we are and what stories are coming up next and how the producer and director want the show to work. I basically follow that and follow their call and essentially push buttons and electronically route video signals, I guess, the technical way to describe it.
Q Okay. Would you have at that time in executing that function -- is that pretty much totally what you did as a technical director?
A Yeah. In my original 8:00 a.m. to 4:00 a.m. (sic) shift,

I was strictly a technical director. In fill-in roles, you know, for vacation relief or sick relief, I would often run studio cameras. Several other times, I've run audio. I was in the union so I'd be able to run the audio board.

Q Okay. Since IGNITE came on, have you been doing camera and audio work?

A Yes, that's -- IGNITE, through our guidance controls, cameras, audio, video --

Q When you do audio in the pre-IGNITE days, what would you be doing?

A There's a room behind our main control room, has a large audio console. I would, at the director's command, open mikes, mix videotape sources, mix music in, play music, open up mikes for live shots and other functions like that. Basically, an audio version of technical direction, so just opening various audio sources.

Q Is that function performed like that after IGNITE came on?

A In some ways, yes. Adjusting microphones, manually opening and closing microphones.

Q Who does that now?

A The IGNITE operator.

Q From their console?

A Correct.

Q What about the camera work? When you did that, what would that involve?

A Camera work would involve -- you know, the duration of the shift, after half the shift, you'd go into the studio, put a headset on. Under the director's guidance, you would essentially point cameras, get the camera shots, zoom, focus and frame camera shots, adjust pedestal heights and move them around the studio a little bit.

Q So were you manually there working the camera?

A Correct, zoom control on the right and a focus control on the left and point and frame the cameras manually.

Q Now, since IGNITE's come on, you've been doing IGNITE. Is there any more manual operation of the cameras?

A Yeah, the base camera shots are preset that we preset them for each anchor when they arrive on the set. Different anchors have different behaviors. They tend to kind of move around a lot and the way we frame our shots, you've got to keep them centered, you've got to keep them framed. So there's a lot of manual trimming.

The other half of my job in the evening, I assist other directors or operators with framing camera shots to keep the anchors centered and looking good.

Q Okay. So I need to understand, I was given to understand that the cameras are controlled now by IGNITE. But you're saying there's also a physical element?

A Essentially there is a -- if you imagine an autodial on your phone, before each show, we have essentially an autodial

and a set of camera shots for one anchor. Then during that show, we're constantly trimming and adjusting. Different anchors have different little things they do, so we do manually trim the cameras during the show.

Q Are you doing that from the IGNITE console?

A From a joystick. There's a Vinton Camera control to the right. The Vinton controls is a completely separate system from a guidance. IGNITE speaks to Vinton, but they're two separate units.

Q Okay. Are they located together in the control room?

A Yes, they're to the right of the IGNITE control panel.

Q Before IGNITE when you operated a camera, were you physically in the studio working the camera?

A Correct. I was physically controlling the camera with my hands, direct link to the camera. Now with Vinton, it's a control surface I use, which is electronically connected.

Q All done up in the control room there?

A Correct.

Q Okay. When you are in the -- operating IGNITE as the IGNITE operator -- a moment ago, you used the term, director, and you used the term, operator. Were you talking about the person who operates IGNITE?

A Yeah.

Q When you were a technical director prior to implementation of IGNITE, what was the relationship between you as a technical

director and the nonunion directors?

A The directors basically would -- I guess as I mentioned before, they would execute the vision of the producer and the director would sit to the left of me and he or she would say, “Ready Camera 1,” and I would ready Camera 1. They would take 1 and I would take that. I would basically execute their commands that they called for during a show. The way we do it is we pair up a director with the technical director so they can prepare for each show beforehand. So we might go over before the show any questions we had.

I would ask the director, you know, what they want to do here, kind of stylistic, you know, little tidbits. But essentially, I execute their commands visually on the air and work with them to do --

Q So are you -- were you then following their orders, so to speak?

A Yes, I would follow their commands and execute the show that way.

Q Alright.

(Long pause)

Q Prior to implementation of IGNITE, did directors -- the nonunion directors ever do technical director work?

A No. There was one exception. Angela was a technical director and would be called on occasionally to direct.

Q But she was --

A She was a technical director.

Q She was a Union 46 member?

A Correct, yeah. No nonunion employees would technically direct anything.

Q Okay. How did you get trained to be a technical director?

A The first station I worked at, I started as a news assistant and essentially worked my way up in a few weeks. I had pretty good technical knowledge of it already and just kind of like, you know -- just hands-on training basically. I kind of taught myself how to use it in off hours, stay after work and taught myself how to switch on a Grass Valley switcher.

And then I moved to a second station for a fulltime job doing the same thing. I've done a lot of freelance work, done some regional telecasts in sports, and that gave me, you know, further on-the-job training.

Q How long did it take you to learn -- to become professional as a technical director when you were trying to learn it?

A I'd say it was about five years of really doing different types of shows, doing live newscasts, live sports, which is whole different ballgame, so to speak. It took awhile to kind of get to that point where, you know -- where your hands don't sweat the moment you sit down at the control surface. And I guess coming to KIRO was -- one of the big advantages at KIRO is we have the same equipment I had at my old previous station.

So it was a good transition, albeit a much faster based newscast.

I still remember the -- I'm pretty sure I wore off some Sharpie on the board. I'd come in with black hands after the first newscast, but yeah, it was basically just on-the-job training and hands-on -- you know, I consider it a trade almost.

Q When you came to KIRO, were you given training as a technical director?

A Yes.

Q What was the nature of that?

A The nature was basically showing me the effects that we did. I had a very good understanding of mechanical operation of the switcher, basically just doing it a different way to suit the way that KIRO -- to suit our newscasts basically.

Q Who trained you?

A Marty Medak and I believe Angela helped me out. I did most of my training in the evening.

Q How long was that training? I mean, what did it consist of?

A I believe --

Q In terms of times?

A At first, I started in the evenings. They brought me in -- I came to get the job as a morning, but they brought me in in the evenings to observe the shows. I sat down with Marty

and Paul Thompson, who no longer works there. They basically just kind of gave me some hands-on training, showing me the new effects we would do. At that point, I was memorizing what numbers to use and what effects to use at that point.

Q So did that take a few days, a few weeks, a few hours? What'd that take?

A I had it down after maybe a week.

Q Okay.

A But I think it's kind of been a longstanding policy to keep -- you know, you don't just want to throw somebody on the air, especially -- you know, I think I got there in April, so right before the May books. So there was kind of an extended period of time before I actually sat down at the helm and drove the ship.

Q How long was that, do you think?

A I'd say a month or so.

Q Okay.

A We had to get out of ratings.

Q Okay, okay. When you became an IGNITE operator, did you receive specific training for that?

A Yes.

Q Where did you receive that training?

A In the control room, the new control room adjacent to the studio where IGNITE is right now.

Q Is that a new control room that was built just for the

IGNITE -- for the new IGNITE operation?

A Yes, it’s a brand new control room.

Q When was that built?

A I believe that was started well before the August implementation date or on-air date.

Q Okay.

A But it was the sports office and they cut it in half and added a door and ran some wires in there.

Q Okay. Now, that training that you had for IGNITE, over what time period did that take place?

A I’d like to say late summer of ’07. That would be my best guess.

Q Okay. Was it -- for how long of a period -- how long a calendar period did that run?

A I honestly couldn’t answer you. I guess -- if I were to wager a guess, probably --

Q Or make your best estimate.

A Probably several weeks of training.

Q Okay. Was that daily?

A Yes.

Q Was it for a good or a small part of your day each day when you were there?

A If I recall correctly, I was working a normal shift and I believe I was -- we were all covering for each other essentially on various roles. To the best of my recollection,

it was kind of half on the job, half training.

Q When you said, we were all covering for each other, who were you referring to?

A I guess in our daily jobs, you know, technical director, director, I believe we shifted some schedules around. Not roles, I should say, but shifted schedules around to -- again, this is my best recollection. I can’t be sure.

Q Sure.

A It’s been awhile since --

HEARING OFFICER FELLER: Microphone.

MR. JENSEN: Does he have all the Employer exhibits over there?

HEARING OFFICER FELLER: I believe so.

(Long pause)

HEARING OFFICER FELLER: I believe the prior witness just left them up there.

MR. JENSEN: Yeah. Okay.

HEARING OFFICER FELLER: Are we okay here? Okay.

Q Let me ask you to take a look at Employer Exhibit No. 2, which has at the top, IGNITE Rehearsal Schedule with the date of July 8. We find your name on there.

A On July 8th?

Q Well, on the exhibit someplace.

A Yes.

MR. HUTCHESON: Can I ask counsel to step away from the

witness?

HEARING OFFICER FELLER: Sorry. Yes, can you please continue questioning from your --

MR. JENSEN: Can I borrow this?

HEARING OFFICER FELLER: Yes.

A I see Mike as an observe. There's two Mikes, but one is Mike H., which is Mike Harvey, so definitely not me. It looks like Mike is an observe, so I would be observing while Ben would code and Walter Farley would be essentially the anchor on the set.

Q So then coding, tell us what coding is.

A With IGNITE, in order to control IGNITE -- in order to give IGNITE, I guess, anything to work with, we enter in various codes. Like if I want to go to Camera 1, I type in "C1." That calls up an effect that one of us has built ahead of time, you know, setting up the switcher. So basically, we type in a series of codes based on what the producer wants to do.

If they want to start on a camera and then go to a double box for a live shot. Then a live shot, we'd have to code those three separate events using a special code, which is typed into a field and IGNITE sees that and populates part of the screen with that.

Q How does IGNITE know when to do these things that you programmed in?

A The operator essentially reads along the teleprompter, reads along in their scripts, waits for a cue in a script that the producers call for. When we get a roll cue to go to video, the operator will hit a button --

Q Okay.

A -- a certain button the equipment to go to the next event.

Q Okay. Back to Employer's 2 there, then when -- so Ben would be coding and you were observing. Does that mean you were just standing by to watch what goes on?

A I'm observing what Ben is doing, basically just watching the operation.

Q And Walt is acting as an anchor?

A He's sitting on set with the microphone and reading some scripts just to help us. It was -- we did some training where we'd watch a newscast, but it doesn't really give you a good sense of what you're doing, so it's good to have somebody out there so we know when to change sources, go to next events and so forth.

Q So when you're rehearsing -- this says IGNITE Rehearsal Schedule. Are you familiar with the term, mirroring?

A Yes.

Q What's that mean?

A That's what I kind of referred to earlier. I guess we'd recue an air check or a recording of a previous newscast, I believe, and essentially mimic it, you know, follow along with

the newscast, pre-videotaped newscast.

Q And in addition, is there something called mock newscasts?

A Yeah, code, observe, reader, Ben, Mike, Walt on July 9th, that was a mock newscast.

Q Okay.

A And Walter playing the part of the talent, I guess --

Q Is one an earlier phase and later another phase?

A To be honest, I can’t remember what -- which came first, but I believe as it went along, we started reading for each other. So I’d say the mock newscast went along later in the training.

Q In these training sessions, I take it that you had to get coverage so various people would be in sometimes and then other times, other people would be in. Is that correct?

A Yes.

Q Was the training mixed where technical directors would be in with people who were directors at the time?

A During training, yes.

Q Is that your recall?

A Yeah, we still had a full -- an original -- I guess I refer to it as the early control room crew where we still had separate directors, technical directors when everybody was still with the company, I believe, during training, or most of the people were -- yeah, we were all mixed together.

Q So now let’s go forward to when IGNITE is implemented. Is

that what you're doing now at all time you're at KIRO? Are you still a part time employee?

A Part time employee, yes.

Q And all the time you're there, all the time you're an IGNITE operator?

A Yes.

Q Okay. You said, I think, you changed now to -- what time is your newscast now?

A My work schedule, I guess, would be the easiest way to describe it, is Saturday through Wednesday. I do the Saturday morning newscast from 7:00 a.m. to 8:30 a.m. And then I come back -- that's it for the day. It's a four-hour morning show -- or four-hour call in the morning. Sunday evening, I do the 6:00 news, or the 6:30 news. And then on Monday, I do the 6:00 newscast.

Q If there's a newscast that's a half an hour or an hour, is that all you have to be operating IGNITE? Or are you doing more IGNITE operations at other times in preparation?

A We shifted our promotion schedule. We do promotions in the evenings between newscasts and -- after newscasts, before -- essentially during -- anytime between newscasts, we're usually doing promotions that involve us --

HEARING OFFICER FELLER: Can you explain for the record what a promotion is?

WITNESS: A promotion would be essentially promoting

stories we're working on for a later newscast or promoting what we're working -- you know, basically working on. We have a team of producers that will basically create these little 30-second TV spots and we record our news anchors in the studio, record -- you know, reading a script basically.

HEARING OFFICER FELLER: Thank you.

Q When you're doing that, is that part of the IGNITE function or is that something separate and apart?

A Yeah, we use IGNITE for them.

Q Okay. When you're doing your IGNITE function, you're in the control room, right?

A Yes.

Q The new control room?

A Yes.

Q Who else is in there with you at that time?

A Usually another IGNITE operator. There's always a producer. Well, when we're doing a newscast, there's a producer, sometimes and assistant producer and associate producer in the back of the room, depending on what show. They'll either be dealing with the traffic talent and calling up traffic cameras. Or the evening shows, they'll be speaking to live shots and coordinating with them.

Q Okay.

A And the fourth person -- third or fourth person will be usually another IGNITE operator.

Q What is that person doing when you're on the IGNITE system? What's the other person doing?

A They are either preparing for their show -- in the evenings now, we have a solid 90 minutes of news, three 30-minute newscasts. The next operator will be looking over their show, they'll go in the newsroom, work in there and come in and just to check over their show on another IGNITE computer at the back of the room, another IGNITE system.

Q Are they two whole different functioning systems?

A Yeah, for all intensive purposes, they are. They cannot be on the air at the same time, but the back on is a mirror image of the front one.

Q Okay.

A So if the front one were to go down, we can switch over to the back one, vice versa.

Q So either one works at a given time?

A Yes.

Q Is the person who's currently operating the IGNITE for the on-air show that's currently on, is that person always in front of a certain one of the two IGNITE --

A Yeah, they're always -- unless there's something severely wrong with the system, they're always the main control unit at the desk with monitors in front of them.

Q Okay. While you're sitting at the main IGNITE computer and someone else is usually at the back one, do the two IGNITE

operators interact at all?

A Yeah, if -- you know, given the nature of our newscasts, we get a lot of breaking news. So if there's breaking news and the producer needs to make some changes such as floating a story -- floating a story is essentially just removing it from air. We're not deleting it, we're just telling it we're not going to put that on the air.

Sometimes things are so hectic, we've got a very busy, very involved newscast. That second set of the eyes in the back of the room can look ahead on the rundown and tell us where a good point to -- you know, or if it's possible to do that, to remove it.

Occasionally when you float a story, you need to adjust your coding to tell IGNITE, you know, you can't have two videotapes from the same source next to each other. You'll have a conflict. So the person in the back will assist the primary director or operator to, you know, rectify any problems that might come up.

Q When there's typically two IGNITE operators in the room, you're talking about during newscasts, right?

A During newscasts.

Q Is it not used for other things other than newscasts?

A Yeah, we've got -- we've done some sports specials, I believe some -- any work that involves anything in the studio, we have candidates in the building for elections. They were

able to come in and give their -- they were given an equal amount of time to come in and record a piece. We used IGNITE to record those elements.

Q Now -- go ahead.

A Usually anything involving the studio cameras, yes, we do -- any work in the studio usually, I know, for -- there's a show -- I can't remember what the name of it is, I think it's called, "Better." We do satellite interviews for that. We'll interview various people. A few weekends ago, we did Comcast, CARES, live to air commercials, I executed those with another producer at the station.

Q Is the -- are there any differences in the jobs of the various IGNITE operators, whether they had been former nonunion directors or they were former union represented technical director? Are there any differences?

A No, not that I can see. We all perform the same job.

Q Do you see your job as changed now you're an IGNITE operator from when you were a technical director?

A Definitely.

Q Tell us some of the differences.

A The -- essentially, we control everything now. Before when you had a full control room, you've got a director, a technical director, an audio engineer, a camera person and a graphics operator. You know, there's five different people who can kind of take over. You know, let's say the director became

incapacitated, we are a pretty well-oiled machine. So based on the teleprompter going, we could still continue the show. The audio guy has a good feeling for that. That's what they do. As a TD, I would often just kind of execute, you know, autonomously occasionally to do that.

So now as an operator, I'm in control of audio, video, graphics, cameras, punching up live shots, putting them on the air -- not dialing them in, but -- so I do everything. I guess I liken it to a -- you know, if you're watching a movie and that point when you get distracted and realize you're not -- you know, you're just at home watching a movie. If you break your concentration for a split second, the show's going to tumble and crash and burn. So the level of focus and concentration is much greater now than it ever was before.

We've got more things to worry about as a technical director. I worried about video. I worried about what was on the air, what I was seeing. With IGNITE, I have to worry about audio, I have to worry about server conflicts, I have to worry about -- you know, anything, you name it.

And certain shows, we don't have a floor director out there. I also get to play, you know, audio engineer sometimes. Now we've got engineers in the building most of the time, but you're kind of a jack of all trades now with IGNITE. You're in control of everything.

(Long pause)

Q You're aware, I presume, of other people in KIRO operations who are represented by IBEW 46?

A Yes.

Q What kinds of classifications are you aware of there?

A Editors, R-COM operators who work in the building and in the field driving the satellite trucks, or maintenance engineers, and a few IGNITE operators.

Q As an IGNITE operator, do you still have contacts at work with those other IBEW people?

A Yes, I work with them on a daily basis for the most part.

Q Can you give a couple of examples?

A Chuck Carter, he is an R-COM operator. Kenny's another R-COM operator. CB's an engineer, I'll see him on a daily basis. Saturdays, I see Johnny Clark. He's one of our news engineers, news maintenance engineers. I see him every Saturday morning after my show. He comes in and sees how we're doing and I'll help occasionally with, you know, troubleshooting microphones or whatever's on his list.

Q Did you ever do directing before you became an IGNITE operator?

A At my previous station, I --

Q At KIRO, I mean.

A Never. Never directed anything at KIRO.

HEARING OFFICER FELLER: Excuse me, before we continue, I just wanted to ask for some clarification. You gave some names

about people who you understood to be members of IBEW.

WITNESS: Yes.

HEARING OFFICER FELLER: And that were employees as well. Can you describe the nature of your interaction besides you said you saw a couple? Can you tell me about the sort of work interactions, what occurred on a daily basis?

WITNESS: So I guess to give an example, R-COM operator -- R-COM is the area of the station where we dial in live shots where they work with the live crews in the field to set up a live link before the newscast for a reporter in the field. R-COM also controls our weather cameras or beauty cameras around there. Oftentimes, a producer will just put a C-Tech camera in the script and often ask R-COM what channel they want to put that in. So I'll interact with them over the headset or I'll go back there and talk to them.

HEARING OFFICER FELLER: Okay.

WITNESS: Other times for preproduction things, a producer will call me and ask me to ingest, which means record a various video source like the weather computer to show a storm front rolling in. I'll go back and talk to an editor to say this is where I put it, this is what they wanted.

Maintenance engineers, such as Johnny, I'll work with him sometimes Saturday mornings after the show to -- if we have any troubles with any equipment, I'll help him out and test microphones and such.

HEARING OFFICER FELLER: If you were to guesstimate the amount of time you spend every day interacting with these people, five minutes, an hour --

WITNESS: If it's going over -- you know, just conversation, it's usually -- with R-COM, it's usually a brief -- no more than a couple minute conversation just to establish where things are going to be. If it's an engineering issue, it could be ten minutes to an hour, depends on what -- generally, you know, I only deal with the engineers when there's a problem or something needs to be installed or fixed.

So generally, just a brief conversation with R-COM on a daily basis and then a check-in with -- the engineers check in with us after every show to verify there are no equipment errors. So I speak to them on a daily basis.

HEARING OFFICER FELLER: Mr. Jensen?

MR. JENSEN: Yeah.

Q Mr. Gilbert, you were just asked by the hearing officer some questions about how much time you spend in these interactions with other IBEW represented people at KIRO. As a follow-up, I'm going to ask you, how important are those interactions you have to carry out your job function?

A Very important. For R-COM, you know, I mentioned the C-tech camera. That's kind of the thing that always comes up. It might be a little confusing but, you know, the -- we have 11 live shot channels and we have -- to see a live shot, we have

to put it in one of those 11 channels. We have a Seattle camera that's on our tower that I can punch up directly without having to go to R-COM. However, our C-tech camera doesn't have that, but our producers believe that it's a source we can punch up, so I always have to go to R-COM and work with them.

It's important. We have a direct line on our intercom panel to speak with R-COM during a newscast if an issue comes. It's pretty important. The engineering relationships are very important because they help fix the equipment that we have. With IGNITE, there's a lot of different sources going in and out of it. You never know when something's going to break, so we deal with them quite a bit.

Q Okay. There was -- let me ask you, to what extent are you aware of the IGNITE operators working with producers in pre-production? Does that make sense to you what I just said?

A Yeah, as I heard earlier, you were referencing pre-production as the time spent before the newscast, prepare for the newscast. Is that what --

Q Okay.

A -- context you're using it in?

Q Well, I'm just parroting what I heard in earlier testimony.

A Okay. That's what I heard earlier, so I'll refer to that as --

Q Okay.

A -- production. So usually before a newscast, I will come in and I'll look over and see what the producers' requesting, you know, what they'd like to do, what various effects they'd like to do. I'll kind of thumb through that. We make a lot of changes as show time gets closer and closer. So I'll give a brief look over the show and any specialized effects, I'll see if we have those in our, you know, virtual repertoire of -- you know, there's 9,000 effects we've got, and basically how many -- there's a lot of different permeations of all those too.

The likelihood that it is there, you know, it's about 50/50 sometimes, depending on what kind of effect they want to do. So I'll look over for some big effects, then I'll go out, sit in the newsroom and talk to my producer and work with he or she to get a good show on the air. I'll kind of go back and forth between the newsroom and the control room to look up effects to see if we have them. I'll have to go to the control room because that's where IGNITE is and that's the only way to find out if it's in there or not.

Q So when you're working with the producer, is that in the control room mostly or the newsroom, or both?

A It's a good share of both. We have almost an instant messenger. They call them talk lines. It's a little field we can type in on our news program to communicate with our producers. Oftentimes, they'll just tell them to call me or -- if we're building effects.

But basically, before and probably the hour leading up to the newscast is when I'll go out and sit in the newsroom with the producer because that's when the newscast will start one way and it will drastically change. So I'll spend the majority of the time right before my show in the newsroom.

Q How much time are you usually spending with the producer, daily basis?

A About an hour per show. It directly involves back and forth communication.

Q Is that producer a union represented person?

A I don't know what -- I believe --

Q If you don't know, just say that. If you don't know, that's fine.

A I don't know. I know our writers are, but I don't know for a fact that --

Q Okay, fine. Is the amount or the nature of time you spent working with the producers any different as an IGNITE operator than it was as a technical director?

A Much different.

Q In what way?

A As a technical director, I let the director interact with producer because the director was the one that basically saw the producer's vision through to air through various directing of different employees. As an IGNITE operator, I assume the role of technical director, audio engineer, camera operator,

graphics operator. So my interaction now is more important than ever with the producer, much more so than it was beforehand. Beforehand, it was one of the simple stylistic, you know, would you like a flash here, would you like a different effect here? Now everything for that execution.

Q I think you said that when you took your training in the -- was the training for IGNITE -- it must've been in the KIRO facility, right?

A Yes, it was in the new control room.

Q And did you take it where you were always with the same group or did you vary with a different group from one day to the other during training?

A I guess looking at this form --

Q Employer's 2?

A Employer's 2, yeah, the schedule. It looks like the groups were mixed up a little bit.

Q Is that consistent with your recall or not?

A It's -- to be honest, it was so long ago, it --

Q Okay.

A Everything after it, it's just kind of a whirlwind.

Q Do you remember anybody other than the former nonunion directors and the former technical directors partaking of the training?

A I know of one union audio engineer that was given the opportunity to, but they didn't really have what it takes to

use it, so they kind of removed themselves from that. And then one of our floor directors, Mike Harvey, showed an interest in it, but again, it was kind of a -- couldn't really cut it for it.

Q How long did they stay in the program, do you have any recall?

A Not very long, I know that.

Q Okay. In your position as an IGNITE operator -- and I take it from what you said earlier that that's basically been since about August or September of '07 to this date, correct?

A Correct.

Q Do you know Julie Kelsch?

A Yes, I do.

Q Okay. Do you see her frequently around your workstations?

A No.

Q How often do you think you see her there?

A Either in passing or the occasional visit to her office, so --

Q No, not you visit her office. There's reasons we don't want to go there.

A Yeah.

Q When she'd be in your workstation --

A Oh. I'd say slim to never, not usually. I don't see her in my area.

Q Do you consider that you've learned an entirely new skill

set with the IGNITE training and operation?

A Yes. I guess if I could add to that --

Q Go ahead.

A It's kind of -- it's taking various skill sets I've had and put them into one kind of interesting, neurotic, high-strung kind of seat of your pants skill, I guess.

Q Do you say that because you'd normally done camerawork and audio-work and TD work and all those?

A Yeah, I've done all the separate jobs. I'm kind of a perfectionist when it comes to each aspect of that. It's been nice in that regard that I've had ultimate control over all of it. When it goes really well, it feels really good. When it goes bad, you know --

Q It feels accordingly? Okay. So when you were a TD then doing your job, would --

HEARING OFFICER FELLER: Excuse me, TD being technical director?

MR. JENSEN: Technical director.

HEARING OFFICER FELLER: Okay.

Q You were involved with coordinating with several people at that time to accomplish your work. Is that correct?

A Yes.

Q But now you don't do that so much, you do it all through IGNITE, basically?

A Yes.

Q Okay.

MR. JENSEN: I think that's all I have for you and I thank you very much for your time.

HEARING OFFICER FELLER: Thank you.

MR. JENSEN: You don't get to go yet.

HEARING OFFICER FELLER: Can we go off the record for just a second please?

(Off the record)

MR. HUTCHESON: Just a few questions.

CROSS-EXAMINATION

Q BY MR. HUTCHESON: Prior to August of 2007 when you were a technical director, you received commands from a director, you said, correct?

A Yes.

Q Where did the director get those commands?

A They would read the scripts and look at the rundown and make notes on their scripts, and basically read along and decide what they wanted me to do.

Q And create the show?

A Correct.

Q And then tell you to execute the show?

A They would tell me where to go and what to do.

Q And then you would implement the commands and on-air would come the show, correct?

A Yes.

Q After August of 2007, who issued those commands?
A I issued them to myself.
Q Exactly. So you got the commands from the same sources?
A Yes, essentially. It's a slightly different way, but --
Q And then executed the commands by communicating them through some technology, correct?
A I would -- I guess, yeah, operate a control surface and put those commands on the air, yes.
Q So you are now both the commander and the executor?
A Yes, I'm the entire production team.
Q During your normal work shift, how many hours were you on duty, if you will? What was the length of your shifts today? As an IGNITE person operating IGNITE equipment, how long are your daily work shifts?
A I have eight-hour days and I have four and a half-hour days.
Q And the four and a half-hour days were the Saturday morning?
A Saturday morning.
Q Okay. Taking the eight and a half hour days, did that include a half an hour lunch break?
A One hour lunch.
Q One hour lunch?
A Yes.
Q During your normal full day, not the shorter day, you said

about an hour would be spent doing preproduction with the producer?

A Yes, just preparing for the specific newscast.

Q Right. How long would the specific newscast take?

A On Mondays, it’s a half hour newscast.

Q On Saturday mornings, it’s --

A It’s a 90-minute newscast.

Q Was there one more you did on Sunday night?

A Sunday evening, yes.

Q How long is that?

A Half hour newscast.

Q Okay. When you do the newscasts, you do them inside the control room, right?

A That’s correct.

Q Physically, you’re required to be --

A I’m sitting at the new control room running IGNITE, yes.

Q So if you took your eight and a half hour day, could you tell us how much time you would spend inside the control room?

A The majority of it would be, I would say. Taking away from breaks and -- from my dinner break, the majority of my day is spent in the control room.

Q When you’re doing your preproduction work with the producer before the show, the newscast, you would spend it either in the control room or the newsroom?

A In the newsroom and the control room, correct.

Q If you were either outside the newsroom or outside the control room on an average typical workday, how many minutes would you be somewhere else besides eating your meal?

A I guess -- just to add it all up, probably, you know, between studio time and walking around the building, it would probably add to be a half an hour of time out of those environments.

Q So clearly, the bulk of your time was either -- was in the control room with a major piece being in the newsroom?

A Yeah.

MR. HUTCHESON: Nothing further.

HEARING OFFICER FELLER: Any other questions for the witness?

MR. JENSEN: Give me one second.

(Long pause)

REDIRECT EXAMINATION

Q BY MR. JENSEN: Is the percentage of time you spend in the control room while you're on the clock any different as an IGNITE operator than it was when you were a TD?

A Yes.

Q How so?

A Basically, we're the only person there now to perform that function. Before, we always needed, you know, multiple people but, again, I guess I'm the only person that is capable of putting the news on the air. That's the difference between now

and then.

Q Maybe you didn’t understand.

A Sorry.

Q One of us didn’t understand each other. You just described for Mr. Hutcheson you spend the vast majority of your on the clock hours in the control room. I was asking you if that was consistent or is it different from the amount of time you were in the control room when you were a TD.

A When I was a TD, most of my time was also spent in the control room unless I was running cameras.

Q Okay, okay. Alright.

MR. JENSEN: Nothing further.

HEARING OFFICER FELLER: Anything further?

MR. HUTCHESON: Nothing further.

HEARING OFFICER FELLER: Okay. The witness is excused.

(Witness excused)

HEARING OFFICER FELLER: Just to close up, tomorrow morning, we’ll be reconvening at 9:00 a.m. on the 18th floor. We’re going to be in a different hearing room tomorrow. Also just to reiterate the hearing officer’s request for the parties to bring bargaining information.

MR. JENSEN: Could I be difficult and just ask a question here?

HEARING OFFICER FELLER: On the record or off the record?

MR. JENSEN: Let’s go off.

HEARING OFFICER FELLER: Okay. Let's go off the record for a moment.

(Whereupon, the hearing in the above-entitled matter was adjourned until Wednesday, May 25, 2011, 9:00 a.m.)