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 further hearing, pursuant to adjournment, before **RACHEL FELLER**, Hearing Officer, at the National Labor Relations Board, Region 19, Jackson Federal Building, 915 Second Avenue, Seattle, Washington 98124-1078, Room 2966, on May 25, 2011, at 9:00 A. M.

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, Wa 89101-3045
206-757-8065 (direct)
206-622-3150 (main)
206-325-4185 (home)
206-757-7065 (fax)

On Behalf of the Union-Petitioner:

TERRY JENSEN, ESQ.
ROBBLEE DETWILER BLACK, PLLP
Suite 200
2101 4th Avenue
Seattle, Washington 98121
206-467-6700
206-467-7589

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE	CRT EXAM
Janet Lewis	153					
Angela Ryberg-Marshall	167					210

EXHIBITS

EXHIBIT	IDENTIFIED	IN EVIDENCE
Union		
1	149	174
2 - 4	150	174
5	209	209
6	210	211
7	214	217
8	218	218

P R O C E E D I N G S

HEARING OFFICER FELLER: We're back on the record. It's Wednesday, May 25th, and we are going to continue in the matter of KIRO-TV, 19-UC-0775. Mr. Jensen.

MR. JENSEN: Sure. First, let me start by --

HEARING OFFICER FELLER: The microphone.

MR. JENSEN: Oh.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: -- offering some exhibits. They've already been provided to the employer. The first is Union Exhibit No. 1 which is entitled KIRO-TV Job Description Director/Producer which I'll represent to you, and Mr. Hutcheson can let me know if I'm wrong, is the job description under which the directors worked before they became the Ignite operators.

(Union Exhibit 1 marked for identification)

HEARING OFFICER FELLER: Okay.

MR. JENSEN: Union 2 is the --

MR. HUTCHESON: Excuse me. For clarity purposes, we're talking about non-unit directors.

HEARING OFFICER FELLER: All right. So the directors, not the technical directors.

MR. JENSEN: Correct.

HEARING OFFICER FELLER: All right. Thank you.

MR. HUTCHESON: Union 2?

MR. JENSEN: Union 2 is a two page document which is

entitled Grass Valley Welcome to the Ignite Live Production Control System.

(Union Exhibit 2 marked for identification)

MR. JENSEN: Union 3 is a multi-page document that starts at the top in the black fence, says Grass Valley Summary Ignite.

(Union Exhibit 3 marked for identification)

MR. JENSEN: And Union 4 is a multi-page document that's entitled Grass Valley Ignite Broadcast Application Notes.

(Union Exhibit 4 marked for identification)

MR. JENSEN: And those are all documents that we have received from the employer which purport to describe the Ignite system, how it operates, et cetera. It speaks for itself.

I also am asking the regional director to take administrative notice of the transcript in the earlier R case where the union petitioned to represent the directors. I also have complete clean copies if you actually want them. They're available. I have them with them. I think it's relevant because the primary issue in that case was whether or not the directors at that time were -- could constitute an appropriate bargaining unit. The employer's position, which is testified to at length by Walt Farley in that case, was that they could not properly be in an election at that time because their terms and conditions were going to so dramatically, radically, fundamentally change that they wouldn't be recognizable anymore

as the unit they were in May and June of 2007 when we filed that petition when that hearing was held.

HEARING OFFICER FELLER: Counsel?

MR. HUTCHESON: We would object to consideration of either the transcript or any of the related briefing or exhibits submitted in that case. It happened years ago under different circumstances. The last time I tried to incorporate by reference in a Labor Board proceeding the transcript and record in a prior case I was turned down. So I'm looking forward to equal fair treatment here. I think that we don't have any chance to cross-examine those witnesses in this proceeding and there are different issues, it's a different time, and it's not relevant.

HEARING OFFICER FELLER: Okay. I'm going to defer ruling on that for right now, but, later when I do rule on it, I may be asking Mr. Jensen to note specific pages and note their specific relevance to the case at hand.

MR. JENSEN: Sure. May I just respond to Mr. Hutcheson's remarks?

HEARING OFFICER FELLER: Go ahead, sir.

MR. JENSEN: It was basically simultaneous with the beginnings of the Ignite system and, in terms of cross-examination, the only person whose testimony in there I would refer to, the only part, is their agent Walter Farley, his testimony under oath about the same issue, about the terms and

conditions of directors as they existed in late May and in early June of ’07 as opposed to what he said was imminent and certain changes, dramatic changes, that would happen necessarily with the advent of Ignite.

MR. HUTCHESON: And I would like to briefly respond.

HEARING OFFICER FELLER: Okay.

MR. HUTCHESON: We’re talking about the decision issued by the regional director in Case 19-RC-14987 and Mr. Jensen knows that whatever Mr. Farley testified to was not accepted by the regional director. The law, the case, if you will, is the director’s decision in that case who said it was not premature to hold the election. The election was held and the Petitioner lost.

HEARING OFFICER FELLER: I -- excuse me --

MR. JENSEN: Go ahead. I can go on to that, too, but if you want to go --

HEARING OFFICER FELLER: No, no. I’m going to defer ruling on this for right now.

MR. JENSEN: Okay.

HEARING OFFICER FELLER: So we can go ahead and continue as planned and then at some point later, as I mentioned, if and when I rule, I may ask Mr. Jensen to specify sections of the transcript.

MR. JENSEN: Sure.

HEARING OFFICER FELLER: All right. Mr. Jensen.

MR. JENSEN: I would call Janet Lewis.

HEARING OFFICER FELLER: Please raise your right hand.

(Whereupon,

JANET LEWIS,

having first been duly sworn, was called as a witness herein and was examined and testified as follows:

HEARING OFFICER FELLER: Thank you. Please take a seat. Please state your name and spell it for the record.

THE WITNESS: Janet Lewis. J-a-n-e-t, L-e-w-i-s.

HEARING OFFICER FELLER: Go ahead, Mr. Jensen.

DIRECT EXAMINATION

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

A Good morning.

Q Are you employed?

A Yes, I am.

Q By whom?

A The International Brotherhood of Electrical Workers, Local 46.

Q And how long have you been employed there?

A Since January of 2000.

Q And what’s your position?

A I am a business representative.

Q Okay. Is that what your position has been all the time, a business rep there?

A Yes.

Q As a business representative, have you been involved in any way with the representation of employees at KIRO-TV?

A Yes, I have.

Q And what's been the nature of -- for how long have you been involved with those people?

A I was direct representative I believe it was in around 1995 and then I assisted the new broadcast representative, Laura Robinson, in 1996 with negotiations.

Q In what year?

A 2006. Sorry.

Q Okay. I did hear that right.

A Correct my testimony. 2005 and 2006.

Q And was that for the CBA for the Local 46 people at KIRO-TV?

A That's correct.

Q And you say 2006 negotiations. Is that for the contract that commenced, became effective, about July 20th, '07?

A Yes.

Q Through -- nominally through September 30th, 2010?

A Yes.

Q Okay. So to what extent were you involved in those negotiations?

A I was on the negotiating team.

Q Okay. How many negotiating sessions were there as best you recall?

A Probably around 10 to 15 if you include mediation
Q Okay. And were you in all or substantially all those sessions?
A Substantially all, yes.
Q Okay. And did you take bargaining notes at those meetings?
A I did.
Q Okay. While you were in the meetings?
A Yes.
Q Okay. And yesterday there was some request that we produce bargaining notes. And do you have them here should the Board want those notes?
A I have pretty much all of them. There may be a few that are still in my office.
Q And why would they be in your office and not here?
A I may have overlooked them.
Q Okay. Not that you went through and picked --
A Oh, no. No, no.
Q All right. So I want to go now and ask you about those negotiations in 2006 and 7. Correct?
A Yes.
Q All right. And I want to ask you particularly about the subject of Ignite. Okay? How did the -- when did the first -- Ignite first come up? Who first proposed something on Ignite, how to handle the Ignite operators?

A I remember virtually from the beginning of negotiations this was going to be a subject. Management brought the subject up that they were going to be buying some new technology and wanted to discuss assignment of work on the Ignite system.

Q And did they tell you there'd be some consequence or potential consequence to the union members if they did so?

A Yes. I mean there would be possibly consequences not only to our members, but to the non-unit directors. The piece of equipment, supposed at that time, what we were being told, would combine bargaining unit work with some non-bargaining unit work.

Q And I take it that the result of this was that they suggested there may layoffs of bargaining unit members.

A Yes.

Q What did the union -- what was the position the union took in negotiations?

MR. HUTCHESON: Excuse me. Could I just object?

HEARING OFFICER FELLER: Yes. Sure.

MR. HUTCHESON: And have a continuing objection --

HEARING OFFICER FELLER: Yes.

MR. HUTCHESON: -- to this whole line of questioning? Because bargaining history is irrelevant. The positions of the parties prior to the conclusion of negotiations is irrelevant. What is controlling is the contract language itself. It's not ambiguous. It's clear. It's straightforward. And so all of

this testimony and, presumably, evidence that is soon to be offered is inadmissible and I would object to the continuing line of questioning.

HEARING OFFICER FELLER: Okay. Thank you. Mr. Jensen, response?

MR. JENSEN: Well, I thought you asked for this yesterday --

HEARING OFFICER FELLER: Yes.

MR. JENSEN: -- and I thought Mr. Hutcheson went into this and I do think there certainly is some degree of ambiguity in the contract including the phrase about that this issue will be subject to future negotiations. So I do think there's some ambiguity and I thought we went into it and I thought you requested it.

HEARING OFFICER FELLER: Yes. I'm going to -- I'm going to overrule the objection. The evidence is -- this is a non-adversarial proceeding and the reader of the record can accord the weight appropriate.

MR. HUTCHESON: And may I be granted a continuing objection --

HEARING OFFICER FELLER: Yes.

MR. HUTCHESON: -- so I won't have to interrupt?

HEARING OFFICER FELLER: Yes. You may be granted a continuing objection.

MR. HUTCHESON: Thank you very much.

THE WITNESS: Could you repeat the question, please?
Q BY MR. JENSEN: I'll do my best. I think I was -- I think I was -- let's see if I can go back and recall exactly what that question was. I think I'd asked you -- let's strike the question and begin anew here. What did the employer tell you in negotiations about Ignite and what it expected would happen with Ignite once they brought it on board?
A What we were told in the beginning was that this piece of equipment would automate and combine functions of what our technical directors, our audio people and switching people did during the live show and would combine those functions with some functions of what a director did and that this was new technology and there may not be as many bargaining unit people needed to run the production as before. And our response to that was our bargaining unit we follow the work. Regardless of whatever technology is introduced into our workplace that, if it's still our work, we're going to be doing that work.
Q And at that time -- when did negotiations begin?
A I believe they began around September of 2006.
Q I'm going to hand you Joint Exhibit No. 1 and ask you to look at Page 2, Section 1.3 and ask you to read it to yourself. Have you read it?
A Yes.
Q Is that part of the basis on which the union claimed that they were entitled to perform that work?

A Yes. That section defines our jurisdiction under our bargaining agreement and it definitely talks about electronic equipment, transmission, performing all of those functions that would include what we were being told at the time the Ignite system would do.

Q And from -- the reason we're, obviously, here and from yesterday's testimony, I presume we can jump forward and say there was a dispute between the union and the employer, about whether the union should have all that work.

A Yes. And it was very important from the beginning that the employer wanted non-unit bargaining people to be part of running the Ignite system. We were saying this is our jurisdiction, we're not giving it up, and that sort of set the stage for the rest of the negotiations.

Q Was the employer's initial position that they could assign that work to anyone they wanted, union or not?

A In the beginning the employer wanted to make it non-jurisdictional. That --

Q The union -- I take it -- go ahead. Finish.

A Yes. To assign the work to anybody.

Q Regardless of whether they were represented by the union?

A Yes.

Q That's what you mean by non-jurisdiction?

A Yes.

Q And what was the union's then initial reaction to that?

A We did not agree with that. We said no, this is our bargaining unit work, that we're claiming that work, we're not backing away from that. And we maintained that position throughout the negotiations.

Q And --

HEARING OFFICER FELLER: Excuse me, Mr. Jensen. I'm sorry to interrupt. Can we go off the record for just a minute, please?

MR. JENSEN: Sure.

HEARING OFFICER FELLER: Thank you.

(Off the record).

MR. JENSEN: Yes. I'm just trying to remember where I was.

Q BY MR. JENSEN: Okay, Ms. Lewis, I'm going to remember where I was. I think I'd asked you -- asked you about the basis for your claim to jurisdiction and then I want to go back. I think I'd asked you as to Ignite throughout the negotiations. I think you said at first the employer said they wanted the right to give the Ignite work to whomever they wanted, union or non-union, and at their sole discretion, correction?

A Yes.

Q And the union initially took the position that all the Ignite work should be theirs and they were claiming it all, right?

A That is right.
Q Okay. I don't know if I went on from there. So that's at the start of negotiations and at the end of negotiations we have a contract that describes the deal that was struck. Throughout negotiations how did we come to this agreement? Was it somebody who agreed at the second session and just carried that through or how did we get to where we are?
A Well, throughout the course of events, more information about the Ignite system surfaced that we believed really supported our position that the Ignite operator should be in our bargaining unit, that it was just taking functions that IBEW unit members did and putting them into the Ignite system and that we should be operating it. We also suggested during the course of negotiations to make everyone into one unit, that, you know, at least 90% or more of the Ignite functions would be in our -- you know, should be in our jurisdiction according to our jurisdictional clause. I think when we got into mediation there was some discussion about sharing our jurisdiction with the non-bargaining unit directors.
Q You mean sharing the work, I take it, when you say jurisdiction.
A Yes.
Q Okay.
A Sharing the Ignite work.
Q Okay. So continue.

A So at that point we never wavered from our position that this is our jurisdiction and some of the contract language reflects that, that the union is not giving up bargaining unit jurisdiction. However, we came to a compromise of sharing the Ignite work. Again, the Ignite system was not in place. We hadn't really started doing the work on line. There were some unknowns admitted by both the employer and the union to some extent. So we, in the mediation, we developed a system to share the work during that particular contract cycle and that we would keep the door open to continue bargaining future assignments of work on the Ignite system.

Q Would you turn to, in that Joint Exhibit 1, would you turn to Page 16?

A Are you speaking of the contract?

Q I am.

A I think you took the contract.

HEARING OFFICER FELLER: Here. I have a copy.

MR. JENSEN: Shame on me.

THE WITNESS: Page 16?

Q BY MR. JENSEN: Please.

A Yes.

Q Would you read the top paragraph to yourself?

A Okay.

Q Is that paragraph new since the former contract?

A Yes, it is.

Q Okay. And how did that paragraph come to appear?
A That was part of the language we agreed to in our final bargaining session I believe sometime in July of 2007.
Q There's terms about this neither expands nor contracts the union's jurisdiction.
HEARING OFFICER FELLER: We can go off the record.
(Off the record)
HEARING OFFICER FELLER: Back on the record.
MR. JENSEN: Thank you for your indulgence.
Q BY MR. JENSEN: Who proposed this language that has not an expansion or contraction of the union's jurisdiction? If you remember?
A I think it may -- it was worked on by both parties.
Q Okay. Was there discussion of what this meant?
A Yes.
Q And what was said by whom? Or was there an agreement what it meant?
A Well, I believe there was agreement.
Q What agreement was that?
A That agreement was basically what the language states, that the union is not giving up any jurisdiction, that by agreeing to the language regarding the Ignite system we maintain our jurisdiction, we don't give it up, and, likewise, we're not trying to expand it.
Q Nonetheless, you don't dispute that, basically, for the

term of the contract you agreed that the employer could assign a certain amount of the Ignite work to the then non-union directors, correct?

A That is correct.

Q Would you turn to the next page, 17, and look at -- read Item 4 to yourself?

A Okay.

Q That’s also new language in this contract, correct?

A Yes, it is.

Q Okay. How did that come to be in there?

A That came to be in there because during the term of the contract there was a formula for how the work would be assigned and that future assignment of the work done on the Ignite system would be subject to future contract negotiations, that we had had this discussion that, because there were some unknowns, that we would start bargaining early on the next contract and continue discussions on assigning the work on Ignite.

Q Would you flip back to Page 16 for a moment?

A Okay.

Q And the fourth paragraph down it says from the date of implementation of the automated studio control equipment through September 23, 2010 such assignment shall be subject to the following guideline. Do you see that?

A Yes.

Q And September 23 is one week prior to the nominal expiration date of the contract, correct?
A Yes.
Q Okay. Was there discussion about why that was in there, what that meant?
A Yes. The parties agreed and the -- the employer proposed that the formula for assigning the work would go away and one week before the contract ended. However but also pledged to at the time we were already going to already be in negotiations for the contract and with that understanding in mind we did agree to this language.
Q And was that related to Item 4 on the next page --
A That's correct.
Q -- about subject to future negotiations?
A Correct.
Q Were those kind of a trade off for one another?
A That's what I remember.
Q Ms. Lewis, have you been involved in the current negotiations now for a new contract at KIRO?
A Yes, I have.
Q Okay. And when did those contract negotiations open?
A I was not involved in the beginning of the contract negotiations. I believe they -- I'm not exactly sure that they opened.
Q Whether or not you know the date, do you have a ballpark

understanding of when they opened?

A I think I would have to guess.

Q Okay. Don’t --

A I would say at least three or four months before the contract terminated.

Q Is that normal to start that early?

A Yes and no. I mean it’s not unusual to start that early.

Q Is it unusual in terms of the history of KIRO, if you know? If you don’t know, that’s fine.

A I would say I don’t know at this time.

Q Very well.

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

HEARING OFFICER FELLER: Okay. Mr. Hutcheson.

MR. HUTCHESON: No questions.

HEARING OFFICER FELLER: Mr. Jensen, do you have anything further before I dismiss the witness?

MR. JENSEN: No.

HEARING OFFICER FELLER: All right. You’re dismissed. Thank you.

(Witness excused)

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

(Off the record)

HEARING OFFICER FELLER: Back on the record. All right, Mr. Jensen.

MR. JENSEN: I'd like to call Angela Ryberg Marshall.

HEARING OFFICER FELLER: Please raise your right hand.

(Whereupon,

ANGELA RYBERG MARSHALL,

having first been duly sworn, was called as a witness herein and was examined and testified as follows:

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

THE WITNESS: Angela Marshall. Also, you'll hear Angela Ryberg. A-n-g-e-l-a, M-a-r-s-h-a-l-l. And then the other last name is R-y-b-e-r-g.

HEARING OFFICER FELLER: Thank you.

DIRECT EXAMINATION

Q BY MR. JENSEN: Ms. Marshall, you just explained your two names. Could you explain why that happened and when?

A So I used to work at KIRO Television and at that time my name was Angela Ryberg and since I've acquired my newest job it's Angela Marshall. So that's why people will remember me or documents will have me as Angela Ryberg.

Q So, Ms. Marshall, are you currently employed?

A Yes.

Q And by whom?

A International Brotherhood of Electrical Workers, Local 46.

Q And what's your position?

A Business representative.

Q And how long have you worked there?
A About two and a half years. Since the winter of 2008.
Q Okay. And have you always been employed as a business rep?
A Yes.
Q Okay. And as business rep, can you summarize what your duties are?
A Well, I represent members in the broadcast unit, as well as among other things that I have to do, but I represent our unit at KIRO-TV, KOMO-TV, King, and KCTS.
Q And those are each different bargaining units --
A Yes.
Q -- is that correct?
A Yes.
Q Okay. And so we're talking about the KIRO unit here, correct?
A Yes.
Q All right. Now, prior to going to work for IBEW, what were you doing?
A Prior to that, I worked at KIRO-TV. I was an Ignite operator.
Q How long had you worked at KIRO?
A I think it was about five years.
Q Okay. And did you work at KIRO right until the time you went to work for Local 46?

A Yes. In fact, there was a month overlap.
Q Okay. Did everybody know that?
A Yes.
Q Okay.
A I stuck around during the holiday season to help them through ratings.
Q Okay. So, when you went to work at KIRO that was approximately what year? 2003 did you say?
A It was the very end of 2004.
Q Okay.
A So I suppose I was there for four years.
Q Okay.
A Yeah. It was October, 2004.
Q And, when you went to work at KIRO, what was your position?
A It started off I was hired as a part-time director and, however, they liked that I had technical directing experience, so, while that was my main position --
Q What was your main position?
A Director.
Q Okay.
A They had me fill in periodically as a technical director on certain shifts.
Q And that was true until when?
A Well, that actually developed into becoming a full-time

technical director. So throughout different openings I became a -- started off as a director, filling in as a technical director, and eventually became a technical director and every once in a while would fill in as a director.

Q So at the --

A But they were separate jobs where I go different pay rates and had different responsibilities depending on the shift that I was working on.

Q So as the technical director, a full-time technical director, how long did you have that position?

A I'd say maybe a year.

Q Okay. And as a director, did you say that was part-time or was that full-time?

A It was part-time?

Q Okay. How many hours a week was that generally?

A Oh, since I was a fill-in, it ranged anywhere -- the regular was -- started off as eight hours a week, but I didn't really work eight hours a week. It was, gosh, anywhere from 20 to 40 hours a week --

Q Okay.

A -- depending on vacations.

Q Okay. So is it a fair average to say it was somewhere around 30 hours a week on average?

A Maybe.

Q Soon after you started at KIRO, you were doing that and

the directing -- the director since?
A Yes.
Q Okay. And for how long would that have been?
A Maybe a year and a half.
Q Okay. Before you became a full-time technical director --
A Yes.
Q -- who sometimes filled in still in as a director?
A Uh huh.
Q And then Ignite comes on the scene, right?
A Yes.
Q Okay. And then when do you remember Ignite actually being implemented as best you can recall?
A September of 2007.
Q Okay. Do you have any way of knowing who was the first person, other than Mr. Farley, who was running the Ignite system?
A Yes. I did the first live show.
Q Why do you think you did the first live show?
A I think I felt most comfortable and showed that I felt most comfortable or maybe people felt comfortable with me. I don’t know. Walter was the shadow person, the person who was there to, you know, be the extra set of eyes and hands in case we needed it and the Saturday morning show.
Q And then did you stay on Ignite from that time forward

'til you left?

A Yes.

Q Okay. What about the other people? How were they brought into the Ignite system, the Ignite operators? Did they all come on at the same time doing shows or was this integrated bit by bit?

A It was integrated bit by bit.

Q Over what time span?

A I'd say a few months --

Q Okay.

A -- from the first show, the Saturday morning, and then very quickly thereafter we started doing noon shows and they assigned one person, I believe it was Marty Maddock, to doing that show and they just integrated more shows after those seemed to be smooth enough.

Q Okay. What about the training? I take it you had training for the Ignite system.

A Yes.

Q Okay. Was that training the same as all the other Ignite operators got?

A Yes.

Q Okay. Over what period of time did you have that training?

A I would say over a couple of months. A few months and I would also say that it was continual even after the shows were

implemented.

Q Okay. So up ‘til when it was implemented let’s talk about that training first of all.

A Okay.

Q Is that where you given study materials or lectures or equipment to work on or what?

A We had equipment to work on. They brought in, for a couple of weeks, they brought in a person from Grass Valley, which was the people who made the system, who step up through how things worked and train us in how to do everything and then we kind of formed our own training after that in how to practice basically.

Q Okay.

MR. JENSEN: Madam Hearing Officer, I’m not sure if I’ve officially offered -- I think I did -- but I’m not sure if you received Union’s 1 through 4.

HEARING OFFICER FELLER: You did. I did not. I was just noting that.

MR. HUTCHESON: No objection.

HEARING OFFICER FELLER: Mr. Hutcheson, no objection?

MR. HUTCHESON: No objection.

HEARING OFFICER FELLER: Okay. So, again, we have Union Exhibits 1, 2, 3, and 4. 1 is a job description and then 2, 3, and 4 related to the Ignite system, correct?

MR. JENSEN: Correct.

HEARING OFFICER FELLER: All right. Hearing no objection, I'll enter Union Exhibits 1 through 4 into evidence.

(Union Exhibits 1 through 4, inclusive, received into evidence)

MR. JENSEN: May I borrow then?

HEARING OFFICER FELLER: Yes. You can borrow them.

MR. JENSEN: I don't need 1.

HEARING OFFICER FELLER: Okay.

Q BY MR. JENSEN: I'm handing you, Ms. Marshall, what's been marked and received as Union's Exhibits 2, 3, and 4. Please just a take a moment to overview them. You don't have to read them. And my question is simply this. Were some or all those part of the training that you received? Were those some of the training materials that you received?

A Yes.

Q Okay. All of them or some of them or --

A Some of them were sort of like an introduction to what --

Q You're referring to --

A -- the system does.

Q -- you're referring to Union 2?

A Union 2.

Q Was that given to you folks for the training?

A It was given to us. This was like a pamphlet.

Q Okay.

A Tells what it does.

HEARING OFFICER FELLER: Mr. Jensen, could you sit back

down at your table and talk into the microphone there or at least go --

A (continuing) I would say that Union 3 is more of a training. It kind of goes through all the equipment and what it does, what we need to learn.

Q Was that part of your training materials is what I was trying to get at.

A I think so.

Q Okay. What about Union 4?

A That would have been, also, yes.

Q Ms. Marshall, were there other training materials, written materials, that you received in the training process that you recall or --

A That I recall.

Q Okay. While you were being trained were you trained with the former TV or the TVs and the non-union directors at the same time?

A Yes.

Q Okay. So, when Ignite comes on, you became an Ignite operator for the rest of your tenure there, correct?

A Yes.

Q What I would like you to do for the record here is to kind of painstakingly contrast your duties, responsibilities, skills in running the Ignite operation versus those traits when you were a TV person versus those traits when you were acting as a

director. Could you do that for us, please?

A Yeah. Well, I can start with, you know, when I was working as a director before Ignite. My duties and responsibilities were to prepare for a show, look through scripts, communicate with producers, communicate with the crew, mark my scripts on what's going to be next, and then come up with cues, and then during the show I would sit down and I would give commands to the crew who then execute the items onto air. So I would tell the audio operator to put up the microphone, I would tell the technical director to put video on air, and I would tell the camera operator to move the camera to the female anchor. So, as the director, those are my primary responsibilities during the show. I did not have any technical -- I did not do anything technical when I was directing.

Q What did you mean by that, nothing technical?

A When I was directing a show, I would -- the most technical thing I would do is look at the computer which had a rundown of the show. So I would see what's coming next. You know, what's the next story. But, otherwise, I was not working with equipment to put anything on air or adjust anything. I was telling people what to do, but I wasn't -- I wasn't actually able to execute. If somebody didn't do what I told them to do, it wouldn't be done. I had no control over that. I was directing them. So, other than the fact that you didn't have

any real authority, enforcement authority, if I use the analogy of --

A Right. In name authority, but I didn't have the physical ability to touch equipment and make things happen.

Q Oh, okay. All right. So you're the captain of the ship, so to speak?

A Yes.

Q Okay.

A So then, to transition into my other job as the technical director --

Q Let me stop you just a minute.

A Okay.

Q Let me ask you a little bit more about directing. So what you were doing is nothing really physical at the time other than seeing and speaking?

A Yeah. I want to be really clear. There was one little thing that I did was when I wanted to go to video, I would press a button to hit play --

Q Okay.

A -- but, other than that, I did not physically touch anything other than my script and the rundown.

Q Okay. Would that be the same for all directors?

A Yes.

Q Okay. Now you were going to go on to something.

A Yes. So then, to transition into my other job as a

technical director, I was responsible for putting the physical stuff on the air. I was responsible for creating effects. So, when you see video like wiping from one piece of video to the next or when you see the names going on air or a title that says Seattle that goes on air or when you see a box on the side of the anchor, I was responsible for creating the effect to get that on air and then putting that on air.

Q And I keep hearing that word creating the effect and help me. Tell me for my benefit and the reader of the record what does it mean to create an effect?

A Well, it's anywhere from a simple -- as simple as in the switcher you have to actually take the items and put them together like -- it's called keying, but let's say you want an image of the anchor with their name with a box on the side of their shoulder. You have to -- you have to put that together through the switcher. You have to key that over each other and you have to do it the right way. So I would put that together before you put it on air and then I would hit the button to put it on air.

Q What is the switcher?

A The switcher, this big audio board bigger than where I'm sitting right here.

Q So 4 x 6 or something? 3 x 5?

A 3 x 5 let's say.

Q Three feet by five feet?

A Yeah.
Q Now I still -- how do you --
A And to add to, then the more complicated part of the facts is actually so they were watching the sports or something and you see crazy little switching effects, things flying through the air from a score to a video and that would be something that I would have created even sometimes before the show and then put it on the air when it’s time to put it on the air.
Q But how do you create it?
A Well, there’s a few different pieces of equipment that you go in and you program them to make these moves. You know, you have to -- you kind of have to manually program these things to make them do what you want.
Q Are there -- so they’re not pre -- they’re not all pre-done? You have to actually manufacture some yourself by machine?
A Yeah.
Q Some are pre-done?
A Well, they were pre-done because we would pre-do them.
Q Oh, okay.
A So there would be standard effects that maybe one or some of us would have created and said, oh, this effect is saved at such and such memory number and so, when you want to call it up, you can call it up or if you wanted to create something brand new. There were some people that had fun creating new

things and they would sit there for an hour and make something really weird just because it was fun practice. So you could create things any time and sometimes things were standard and you just saved them and used them all the time.

Q Would directors ever do that?

A No.

Q Do directors, other than you who dual functioned at some point, but do directors know how to do those things?

A No. I don’t think so.

Q So anything else you want to say about the technical director job or is that it?

A The other thing as part of the technical director was you would communicate with not only the director. You’d sit next to the director, communicate with them, but you would also communicate with the rest of your crew if need be. For the most part, you didn't want to communicate too much where you were over -- you know, where on the headset you were talking too much and the people missed director’s cues, but sometimes you would communicate with your camera operator or audio operator or ARCOM operators, the ones who dial in the live shots, or editors or master control operators. So you’d communicate with them as well and master control operators. You would communicate with them on headset quite often as the technical director to tell them when to roll breaks and then sometimes you would communicate with ARCOM on where a remote is

and then, of course, sometimes you would communicate with the rest of the crew if it was essential at the time.

Q Do directors have the same -- communications with the same people?

A With some of the same people, yes. There were just certain duties for certain people, but there were some things that would only interest the technical director. But, yeah, like a director would communicate with the crew on camera shots and audio and stuff like that and then they would communicate with ARCOM on remote channels, but, for instance, they didn't tell the master control operators when to roll the break. It was actually a technical director that I recall telling them to roll the break because they had the button to roll the break.

Q Okay. When you would be directing, who would your crew consist of when you were directing?

A So your crew would be a technical director, an audio operator, a graphics operator, two camera operators, teleprompter operator. That would be your basic crew and then there would be other people you would communicate with, which is --

Q Was the stage manager part of the crew?

A Oh, yes, yes.

Q Okay.

A Sorry. I forgot about the stage manager.

Q Okay. All right. And other people you would communicate

typically with would be who?

A Master control operators, which are IBEW. ARCOM operators, which are IBEW. Editors, which are IBEW. You would communicate with producers. And I think they're called associate producers, but people that assist them. And anchors and reporters.

Q When you were technical director, is it the same people you communicate with as the director does or is there a skewing to it when --

A You would communicate with the same people, but not always to the same extent. It would just depend. You wouldn't like -- you would not want to communicate with them too much to where people don't hear what the director is trying to tell everybody what to do, but, yes, you would communicate with all the same people.

Q Are you familiar with the term rolling commercial break?

A Yes.

Q What is that?

A So each time you have a segment and --

Q Each time? What is a segment?

A In a live show, you're doing a live show, you have a segment and then a commercial break comes up. The technical director was responsible for rolling the break, but master control operator oversees the break, the commercial break. So they work very closely together to make sure that break is

rolling in time.

Q Is that something the directors did?

A No. They would actually call that. So the directors would say roll your break and the technical director would hit the button to roll the break and the master control operator would oversee that break and make sure it was the right scheduled break.

Q You said the switcher was a 3 x 5 component?

A Yes.

A An electronic component of some sort?

A Yes.

Q Who would be responsible for troubleshooting and/or maintaining that?

A Both technical directors and engineers. So you would work on it. If you had a problem that you couldn’t figure out yourself, then you’d call an engineer down to work with you.

Q Okay. And the engineers are IBEW people?

A Yes.

Q Moving in to Ignite then, once you became an Ignite operator, did the job -- did your job change from being a technical director?

A Very, very drastically.

Q Okay. And, since you were both a director and a technical director, would you explain to us in some detail how the Ignite job was different from the technical director and the director

jobs?

A Yeah. To start off with, just the nature of my job changed as far as my schedule changed. Actually, what didn't change was the shows I was responsible to work on, but my schedule changed because my workload was different. So it took longer to prepare for a show and you had less people around to assist with troubleshooting. So I started coming in an hour and a half earlier than I had prior. My lunch break changed within, you know, it changed to a two hour different -- two hours earlier and my work space changed. I was in a completely different room, but then, when it came to the job itself, I went from working with a crew of seven'ish people to it being myself and there would be another Ignite operator on shift available to kind of be a second pair of eyes and hands in case I needed it. I would -- my responsibilities went --

Q Can I interrupt you one second there?

A Yes.

Q If there was a second Ignite operator on to assist you as needed, did you also sometimes serve as a second for some other Ignite operators?

A Always, yes.

Q Okay. I'm sorry. Continue on.

A So I went from -- once Ignite was implemented, I began preparing for a show with working really closely with the news in a way that I didn't before. So there wasn't as much prep

time and there wasn't as much communication with the news department as I had. So I now had to sit down and prepare for a show about an hour and a half before the show. Sometimes two hours. I would sit down and code a show which meant, you know, go on the computer and write up codes anywhere from three letters to 20 letters long to execute a command to put on the air when you're in the middle of the show.

Q Is that something that you had done as a technical director or director?

A It was not.

Q Okay. Continue again.

A That was a brand new thing that we never did before.

Q Let me ask you a little more about coding.

A Uh huh.

Q What's the product, what's the end product, of coding something?

A So you -- actually, I'll start with what the codes actually mean. So, first of all, the operators will create effects sort of like I was discussing as a technical director but in a different system. You'll create these effects that will say, if I, you know, what to have a camera with a box with a person's name on it, I'll make this happen and then I'll have to save it. I have to save it as a file and in that file you name it something. So you would name it Z1XEK2 is actually kind of like what you would name it. That's your code. So you

take that code and oftentimes we have to have most of these codes memorized because, when you're preparing for a show, you go, okay, the producer wants all these different items in a show. I need to plan for these items to be ready for me so I have to code all of them. So you take all of those things that you saved previously, put them in the computer with those codes and then later Ignite will read those to know what to prepare for next when you're actually running through the show.

Q How many codes are there?

A Oh, gosh. I have no idea anymore.

Q Well, how many were there when you were there?

A Thousands.

Q All right. Continue on. What happens if you don't code correctly?

A It's not there.

Q What's that mean? I'm a viewer so --

A That means so what you wanted to see, the image of the person with the box and the person's name that literally won't be there.

Q Okay.

A So, actually, what will end up happening is you'll -- in a lot of cases you'll have to do things sort of manually. You'll have to try and figure out how to try and call up camera 1 with that box and maybe you won't be able to do it. Maybe you won't have time. So you'll call up camera 1 and then you'll have to

manually adjust the camera shot real quick and put that on air. So there's a little bit -- Ignite itself is automated, but it has some manual override that you can do because there are times where you may get the code wrong or maybe you'll accidentally have a typo in it. Maybe you'll accidentally slip an a in there and doesn't read it and so it's not there and so you have to manually override it and try and get the thing you really want on the air.

Q During that show, let's just say it's a half hour show, for example, how much of the time are you, you know, punching buttons, so to speak?

A During the show?

Q Yes.

A The entire time.

Q Okay. Is that true for a technical director --

A Yes.

Q -- that you're totally punching?

A Yes.

Q Okay. Continue on with your contrasting Ignite to your former job.

A Yes. So I would sit down. I would do codes. I would prepare for the show. I would look through the show to see if there's any mistakes that a lot of that is because, when you're in a show you're doing like ten things at once, so you kind of have to prepare for any possible problems or anything that you

can encounter beforehand just so that you don't want to deal with the headache in the moment. So you get your show ready. It's ready. It's coded. You would run through and kind of practice it before hand to see if -- that's when you would maybe discover if you had any misspellings or if you had anything that's not going to work right. So you practice it through if you have time. A lot of times my shows I wouldn't have time because they were hour long shows and, you know, you only have like an hour to get ready for an hour long show. It's not much time in between. So then the show starts. You sit down. You put your headset on. But your crew's not there, so you're ultimately -- for me, when I was working there, there was a stage manager and that was the only person that I was communicating with anymore. So I used to communicate with more of the crew, but I'd sit down, start the show, I'd give commands, but I'd execute the commands. So, ultimately, I was directing myself. So I'd say get ready for camera 1 and I would get ready for camera 1. So it was sort of like I was doing what I used to do, but I was doing something completely different because I was doing both of the things and more. Then during the show you execute these commands. It could be as simple as pressing the button for the things you had coded to go onto the air or, you know, there's a lot of times where you would have to adjust the camera shots if somebody moved or drifted or because you didn't have the elements that you

needed. So adjusting camera shots was a common responsibility during these shows. Adjusting audio, common. So, in theory, it was supposed to be automated, but a lot of times you would have a little bit of manual override to adjust that to make it sound okay.

Q Let me ask you a question there. If Ignite's automated for, let's say, audio, how does Ignite know when to make the audio sounds and how loud to make them?

A Well, they're pretty much set at a standard level, so, in theory, if everything's perfect, it'll sound perfect, but a lot of times that's not always going to be the case. Like maybe somebody has a lighter voice or maybe a microphone is working funny and doesn't sound right. So that's where you would have to manually adjust things. When it comes to knowing what kind of audio, that's where in your codes that you saved you would have previously saved this effect that said camera 1 with this person's microphone which is this microphone that's normally set for that person.

Q With the right sound?

A And so it would manually bring it up.

Q I see. Okay.

A And then another thing is sometimes you would have to bring it down because maybe it brought up the wrong microphone.

Q What about other sounds like when they have, you know, the like theme music when the news comes on or fades out? How does

that get done?

Q Okay.

A So I mean you code literally everything that you need on the air.

Q Okay. I'll let you continue on with --

A Yeah. Well, basically, that kind of summarizes a lot of what you do is during the live show you are doing a lot of things at once. You're directing yourself and maybe anybody else who is listening, which to me it was just the stage manager. You're communicating with anchors, master control operators, Arcom operators, editors, producers. You're adjusting audio. You're adjusting camera shots. You've going through graphics. You're calling up graphics, making sure you have the right graphics. You've inserted graphics on air. And then you're just going through the timing of the show and then you're making sure you're in the spot with the teleprompter operator, which is reading the words, or you're making sure they're in the right spot. So you're kind of doing ten things at once and I think the last time I counted how many things you're doing at once it was ten.

Q And then do I understand correctly? When you just described the Ignite operation is how it's distinct from when you were a technical director? Is that what you were doing there?

A How it's differing or --

Q Yeah. How it's distinct from the technical director's job. Is that what you just were addressing?

A It's sort of -- it's different and it's the same. So like everything I described like those ten things --

Q Yeah.

A -- about two of them are things I used to do as a technical director --

Q Okay.

A -- and then I added things. So there was an audio operator. Now I'm doing the things that the audio operator did. There was a camera operator. Now I'm doing things that the camera operator did in addition to the things I did as a technical director.

Q The things that you did as a technical director that you still did as an Ignite operator you say there were a couple things. What things would those be?

A Switching things on air. So you're responsible for putting the images on the air. Creating the effect. So a lot of the technical stuff. A lot of the -- it's even a -- I mean it's a different switcher, but it's even the same company that makes the switcher. It's just sort of an advanced version so in a lot of cases the equipment has similar traits to it. So you're using the knowledge that you had before on the big switcher and you're applying that. So it's learning how to use this new automated switcher.

Q So if you -- you just said that there were about ten things you were doing on the Ignite --
A Uh huh.
Q -- whereas you used to do two of those as technical director, right?
A Yes.
Q Does that mean, generally speaking, that you would say that 20% of the time on Ignite you're doing something similar to what you used to do and 80% you're doing something different?
A Yes. And let's also clarify. I used to do all those jobs, so --
Q Well, but not at --
A Yeah.
Q Explain now what you mean when you used to do those jobs.
A I used to do camera operation and --
Q Now let me stop you. When you did camera operation that wasn't as a technical director?
A No.
Q Okay. That was a fill-in when needed?
A Actually, when I was a technical director, I would technical direct the morning shows and then on the noon show I would be camera operator. So --
Q Okay. Was that true of the other technical directors that did camera work?

A Some of them.
Q Okay.
A Some of them. It would depend on the shift.
Q But that was a different job?
A Yes.
Q Okay. Now can you distinguish the Ignite job from the director job that you did?
A Yeah. So some of the things that I did as a director previously I would still be doing as Ignite operator and some of the things had changed drastically.
Q So let’s talk about what’s the same and what’s different.
A So the same would be communicating with producers. The same would be looking at the show rundown and looking at the scripts to see what you’re prepared for in the future for the show. Different. Technically, your job has changed drastically. You’re now adjusting audio, adjusting camera shots. You’re now building effects, creating effects, saving effects, putting effects on the air. You’re inserting graphics. You’re -- and then sort of the actual direction part changed in nature because you’re directing, you know, what’s next. So previously as a director I would say the next thing is we’re going to do this, get ready for this, do this. Well, now you’re sort of doing that, but you’re talking to yourself and you’re telling yourself to do it and you’re directing yourself to do it. So but you’re sort of doing similar --

you're going through the motions the same, but it's a whole different dynamic when you don't have the crew that you're directing, but you're instead directing yourself.

Q In summary, how similar was the director's job to the Ignite job or how similar/different?

A Like a percentage or like -

Q Just your reaction.

A I would say they were drastically different, but had some common traits.

Q The same with the contrast of technical director and Ignite?

A I would say they were drastically different, but had a ton of common traits.

Q Okay. When you were an Ignite director where there -- Ignite operator/director -- were you working with other Ignite operators who were both former technical directors and former non-union directors?

A Yes.

Q Is there any difference at all in their duties and skills and chores?

A In no way.

MR. JENSEN: Could I have the witness be handed a copy of Employer Exhibit 5?

HEARING OFFICER FELLER: Yes.

Q BY MR. JENSEN: And I want you to look that over, Ms.

Marshall. Take whatever time you need, but I can tell you that I'm particularly going to ask you about the top of the back of the third page. So just take whatever time you want to look that over.

A I'm there.

Q Are you there?

A I pretty much have it memorized.

Q Okay. Was this, in fact, a union proposal made to KIRO?

A Yes. This is the more recent proposal.

Q Maybe before I go there I better ask this. In the current negotiations for a new contract have you been involved on behalf of IBEW 46?

A Yes. I've been lead negotiator.

Q Okay. And so have you been there from the start?

A Every session.

Q Okay. So as to this proposal and the -- at the top of the page in the red that's underlined which talks about the union's agreement and then the second sentence says the union reserves its right to pursue the issue of the unit placement of automated studio control equipment operators with the NLRB. And then beyond -- underneath all that it's lined out?

A Yes.

Q Okay. Can you explain what was behind this proposal and what the union said to the employer about this proposal?

A Yes. Well, our initial position was that we would like to

continue with the sharing standards of assignment. So that was our position for many months, but management clearly stated their position was to be able to assign on their discretion without any standards in place. So this proposal was given to management as a concession in order to come to agreement. So we were hoping that we would give them what they want. We're giving them assignments. We said if you want assignments to be your discretion, we'll give that to you. However, in exchange for that we want to make sure we don't give up our right to pursue a unit clarification if that should come.

Q Was there discussion between the union and the employer representatives about going to the Board for unit clarification?

A Well, they asked what this meant and I don't recall if they said does this mean you want to go to unit clarification or if I clarified the meaning unit clarification, but we did say this means that we want to be able to take it to a unit clarification.

Q Now I want to take you back to -- let's see if there's -- I want to take you back to 2007. Were you -- 2006-2007 -- were you involved in those negotiations on behalf of the employees?

A Yes.

Q Okay. And what was your capacity there?

A So I was working at KIRO as a director, technical director, not yet an Ignite operator, and I was shop steward.

So I was part of the negotiating team.

Q And were you there for all the sessions?

A Almost all. Not every single one, but most of them.

Q Okay. And --

MR. HUTCHESON: Excuse me. Can I enter the same continuing objection --

HEARING OFFICER FELLER: Yes.

MR. HUTCHESON: -- about the bargaining history?

HEARING OFFICER FELLER: Continuing objection noted and I'll make the same ruling, you have a continuing objection.

MR. HUTCHESON: Okay.

HEARING OFFICER FELLER: Thank you.

MR. HUTCHESON: Thank you.

Q BY MR. JENSEN: Okay. So in those negotiations who first brought up the subject of Ignite?

A KIRO.

Q What did the say?

A They said they have plans to implement this new technology, they don't know if the technology is going to, you know, look like ultimately as far as how it will affect our unit, but that they would like to be able to assign anyone regardless of their union affiliation to this particular new job that they will be putting together. Also, they stated that there would be layoffs.

Q Did they say layoffs of whom or was that clear yet?

A They said a mixture of union and non-union. However, because there was a larger set of union employees, they admitted that it would probably be a larger percentage union, but, well --

Q All right. And throughout the negotiations did the parties early on change their positions on this?

A Early on, no.

Q Eventually was there was change?

A Eventually I'd say the change began when we started going to mediation.

Q And what sort of changes happened there in the parties' positions?

A Well, when -- our position originally was we're not willing to give up our jurisdiction, we think the easiest thing would be just to have everybody in the unit. However, we were willing to entertain ideas of sharing. So that ultimately was our position alone, but the idea of sharing needed to protect us in our jurisdiction.

Q And, when you say our jurisdiction, you mean the work assignment, the work? What do you mean?

A The nature of our unit. We wanted to protect the nature of our unit and know that the people doing the work and that the nature and size of our unit, while expecting layoffs, that it wouldn't drastically change just the landscape of who is on our unit and who does what.

Q And so we ended up with --

MR. JENSEN: Can she be handed Employer's Exhibit 1?

HEARING OFFICER FELLER: Uh huh. Yes.

MR. JENSEN: I mean Joint Exhibit 1.

HEARING OFFICER FELLER: Yeah. Give me a second to find it. Here we go.

Q BY MR. JENSEN: Would you turn to Page 16, please?

A Yes.

Q Maybe even 15. And just look over briefly, if you would, Section 5.9 from start to finish.

A Okay.

Q Okay. So do I understand that in negotiations KIRO wanted more flexibility in making work assignments because of new technology, correct?

A Yes.

Q Okay. Whether they wanted total discretion, whether it's going to be assigned to a union represented person or a non-represented director, correct?

A Yes.

Q Okay. The union took the position, no, this should all be assigned to union represented people, correct?

A Yes.

Q Later a compromise was ultimately forged which is represented in the Collective Bargaining Agreement, Joint 1, correct?

A Yes.
Q In this contract, Page 16, on the fourth paragraph down, it says from date of implementation through September 23 the following guidelines will follow. Now that's a week before the contract expired. Do you remember any discussion of why that was -- whose idea was that to make it expire a week before the contract?
A Management.
Q Did they tell you why?
A Yes. They said they wanted to be able to have flexibility in case the standards weren't working and this one was -- that ultimately the real clear thing was that this sentence was something they were going to stick to for sure. There was no --
Q Okay.
A -- there was no movement on that.
Q Oh. You didn't like it, but they insisted on it?
A Yes.
Q Okay. Now, if you turn the page to Page 17, Item 4.
A Uh huh.
Q It's talking about future contract negotiations. Was that related to this September 23 deadline?
A Absolutely. It was --
Q How so?
A It was the language that was agreed to in exchange for us

agreeing to that date on the previous page. What was expressed was -- what was expressed was, well, look, we'll have time to negotiate this, we'll be willing to negotiate this again in the future to see how it went and we can negotiate this again later and come up with either same standards or new standards and that this is also why we opened up negotiations early and why we agreed in the contract to an earlier opening date to start negotiations.

Q The language in Item 4 who proposed that language?

A Well, I'm not entirely positive. I know it was something that we wanted, but it could have even been --

Q We meaning?

A The union. But it could have even been a mediator's idea on how to satisfy our concerns.

Q Okay.

A So I'm not sure specifically on the language, but I know it was something we were seeking.

Q Would you turn to 16 and look at the top paragraph?

A Yes.

Q It talks about neither an expansion or contraction of union jurisdiction by this contract at Section 5.9. Was there any -- what discussion, if any, was there between the parties about what that meant?

A Well, throughout the entire negotiation process from the very start to the very end we were very clear that we felt like

the jobs was our jurisdiction under our recognition in our contract. However, we knew that, you know, things were going to be changing and we couldn't quite predict what things were going to be like. So we were willing to agree sort of to the agree/disagree language. Management, as well, didn't want us to go in, you know, if it was going to be a heavily, you know, different job that no way applied to our recognition. They didn't want us to accrete the work. So this was language that both parties agreed to in order to agree to disagree on who has the jurisdiction.

Q Reserve the issue if you had to fight it later?

A Yes.

Q You mentioned a moment ago of opening negotiations, you said, early for this contract?

A Yes.

Q What were you talking about there?

A So, prior to this contract, the standard time to begin negotiations was 60 days prior to the expiration date and I think it may have been, you know, giving notice at 90 days and let's, you know, start negotiating within 60 days, something like that, but this time around management agreement to open up negotiations six months early.

Q Is that in the contract?

A Yes.

Q Can you show us --

A I would have to look for I t.
Q Is it -- well, I'll save you that because it will speak for itself. But did negotiations open early then?
A Yes.
Q And when did they open?
A In April. I don't remember the exact date.
Q Okay. But you're talking about the spring here --
A Oh, yes.
Q -- of 2010?
A Yes. 2010.
Q Okay. For the next contract?
A Yes.
Q Okay. Now you mentioned something a moment ago about I think it was the term uncertainty. During the negotiations for the 2007 contract, was there discussion about exactly what the nature of the Ignite job would be?
A There was discussion, but it was all kind of a lot of unknowns.
Q Tell me about that. What do you mean? I take it a -- who didn't know what exactly Ignite would be?
A Management.
Q Okay. How do you know that?
A We asked a lot of questions and there was a lot of we're not really sure yet.
Q What sorts of things did you ask?

A We asked what are the responsibilities going to be, how many people are going to be working on it, how many people will get laid off, what will be the hours of the people working. You know, what will be the duties. I think we tried to really get a scope of just anything we could.

Q Okay. And what did management answer to those questions?

A They said, well, we won't really know until it's implemented. I mean the only thing that they really could tell us was an overall glimpse of, you know, what it's supposed to work like and what they thought it would work like is that everything would be automated and so most of the work that we do as IBEW members, so audio operators, camera operators, technical directors. The thought was that all the duties that they did would go away and the computer would automatically just do it and that a lot of the roles or responsibilities that would be left would be director responsibilities. That was what they -- that's what they guessed that it would be like, but they also admitted that they don't really know until it's implemented.

Q Until it was implemented?

A Yeah.

Q Once it was implemented and you were running it, did it itself evolve or was it pretty much the same from September when you started doing it throughout?

A Well, there was some evolution, but, for the most part,

it's been the same.

Q Okay. And Ignite operators did not begin on air -- serving as on air operators until after the contract had been agreed to, correct?

A Yes.

Q Ms. Marshall, you've talked and used terms like jurisdiction and such and what I'm gleaning from that, and I want you to set me straight if I'm wrong, is that you folks, the union and the employer, were fighting or arguing, debating the assignment of that work, correct?

A Yes.

Q Did the union at any time in any negotiations ever tell the employer they're giving up their right to potentially represent people doing that sort of work?

A Never, ever gave up that right. We never expressed that we would be willing to give up that right.

Q Did the employer ever ask you about that?

A Not a lot of -- not really.

Q Do you think you made it plain that you were never giving up your right to go after those people?

A I think we made that plain.

Q And, in fact, even in 2007 did you have a petition filed to represent directors?

A Yes.

Q Do you still have the contract in front of you?

A Yes.

Q Would you look at Page 17, Item 5, and read it over?

A Uh huh. Yes.

Q Okay. Do you know how that language came to be in the contract, who proposed it?

A Management proposed it because they knew that we could seek representing these non-union employees. They recognized that we could that, so they wanted to put in place what would happen if we did do that.

Q Okay.

MR. JENSEN: Could we have a short break, please?

HEARING OFFICER FELLER: Yes. Let’s go off the record.

(Off the record)

HEARING OFFICER FELLER: All right. We’re back on the record.

In a brief off the record conversation the hearing officer inquired as to the job description for the technical director and the union indicted that it would be introducing a job advertisement for that and the employer indicated they did not have one because they did not believe it was relevant.

MR. JENSEN: I don’t possess one. I’d be happy to have it in evidence, but we do not have it and so I’m going to attempt in a few minutes to introduce the nearest thing we can find to it which is a job ad.

HEARING OFFICER FELLER: All right. Go ahead. Continue

with your witness, please, Mr. Jensen.

MR. JENSEN: Okay.

Q BY MR. JENSEN: Just a few questions to button up here, Ms. Marshall. There was discussion yesterday about the situation with the four former technical directors who were viewed by the company as union until April 26th or 27th. Is it the union's position that we still represent those people?

A Yes.

Q Have you sent a letter so stating to the employer?

A Yes, I did.

Q Okay. And when did you do that?

A Immediately after we learned of the change in management's pending status.

Q Okay. And did they respond?

A Yes.

Q And what did they say?

A They responded that they disagreed.

Q That they disagreed?

A They disagreed, yes.

Q Okay. Yesterday there was also some testimony about the pay rates in the contract and my question is do you know did all the technical -- former technical directors were they paid per the contract rate or were some at different rates?

A Different rates.

Q Explain, please.

A Well, the last time I was able to see all of our members' pay rates, it was clear that many of them, but including the Ignite operator positions, many of them are not paid at the standard rate in the contract or the minimum rate in the contract, but many are paid above that.

Q Okay. Prior to --

A Many or some. I'm not sure exactly which ones off the top of my head.

Q Okay. Prior to Ignite coming on when we had technical directors and directors -- and I understand those were separate, discreet jobs, correct --

A Yes.

Q -- were directors, the non-union directors, allowed to do any technical directing work?

A No.

Q Did they have the skill set to do so?

A I have no idea. They weren't allowed to demonstrate whether they did or not. Oh, I could say maybe they did in past jobs, you know.

Q But do you know about that?

A The specific directors that I know of offhand, no, did not have that.

Q Okay. Do you know the date the hearing in this matter was initially set for?

A The 27th, I believe --

Q Of April?
A -- of April.
Q Okay. When you were going through the training and/or negotiations -- strike that. When you were going through training for the Ignite position, was that described to you as a new job, a new position?
A I believe so.
Q Okay.
(Union Exhibit 5 marked for identification)
Q BY MR. JENSEN: I'm putting in front of you what's been marked as Union Exhibit 5. Would you take a moment to look over that, Ms. Marshall?
A Yes.
Q Do you recognize the document?
A Yes.
Q Do you recognize it as an advertisement placed by KIRO-TV?
A Yes.
MR. JENSEN: I'd offer Union 5.
HEARING OFFICER FELLER: Employer?
MR. HUTCHESON: No objection.
HEARING OFFICER FELLER: Okay. Hearing no objection, Union Exhibit No. 5 is entered into evidence.
(Union Exhibit 5 received into evidence)
HEARING OFFICER FELLER: Are you going to be questioning further on this document or shall I ask her questions about it?

MR. JENSEN: You go right ahead.

COURT EXAMINATION

HEARING OFFICER FELLER: Just to clarify, which of the positions on here would you consider to be the Ignite related position?

THE WITNESS: It's not Ignite. It's the technical director position.

HEARING OFFICER FELLER: The technical director position?

THE WITNESS: Is the top one.

HEARING OFFICER FELLER: Okay.

THE WITNESS: So that old position that no longer is around.

HEARING OFFICER FELLER: Okay. Thank you.

(Union Exhibit 6 marked for identification)

Q BY MR. JENSEN: Ms. Marshall, I've placed before you a one page document that I've marked as Union 6 that has the heading of Ignite Operators. Do you recognize that document?

A Yes.

Q Can you tell us what it is?

A It is a response from management from my information request to ask about who is performing work on Ignite, both union and non-union, how many hours they're working and have worked.

Q And that was -- when was that request made and when was this --

A It was made in 2010. I don't remember the exact month, but it was much earlier, so this doesn't reflect all of 2010 hours.

Q Do you know when you received this?

A I'm going to vaguely say summertime.

Q Okay.

MR. JENSEN: I'd offer Union 6.

MR. HUTCHESON: No objection.

HEARING OFFICER FELLER: Okay. Hearing no objection, Union Exhibit 6 is entered into evidence.

(Union Exhibit 6 received into evidence)

MR. JENSEN: Madam Hearing Officer, yesterday you said -- I believe you said -- maybe I didn't hear you correctly -- you wanted proposals. I have some proposals made by each side. They're not by any means complete. It's just what I happen to have.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: Are you still seeking those documents?

HEARING OFFICER FELLER: Let's go off the record for just a second.

(Off the record)

HEARING OFFICER FELLER: All right. Before we went off the record, we were briefly discussing, I guess, the possibility of entering into -- or of offering into evidence some bargaining proposals. Is that correct?

MR. JENSEN: Yes.

HEARING OFFICER FELLER: Okay. So, if the union is going to offer them into evidence, you can go ahead and do that.

MR. JENSEN: Well, I'm not going to do it unless you're requesting it because, as I said, those things then are going to just open up a can of worms and they're just going to be kind of out of context and I think it's going to open a whole round of questions. If you're requesting them, I'll produce them. I mean I've got them here. I'm willing to do so --

HEARING OFFICER FELLER: Okay.

MR. JENSEN: -- and they're just going to be kind of out of context and I think it's going to open a whole round of questions. If you're requesting them, I'll produce them. I mean I've got them here. I'm willing to do so.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: But I don't know. I think we've heard that there's like ten sessions and, although I understand it, I've got one set for the May 21 where the -- I've got two employer proposals, but one is missing a page. I know what it means. You're not going to know what it means. I can -- if you want them, you're going to get them, but I don't think it makes sense to do that all alone. You ask for them, you're going to get them.

HEARING OFFICER FELLER: Is that --

MR. JENSEN: If the director wants them, I will produce

them right here and now. There's no secrets. So I just think that there's -- well, let me ask Mr. Hutcheson. If I were to offer them, what would your position be?

MR. HUTCHESON: I'd object to their admission into evidence as to their being irrelevant.

MR. JENSEN: So what's your ruling going to be? I mean if you're going to then overrule the objection.

HEARING OFFICER FELLER: Right. I understand. So I mean in the interests of creating a complete record, I think that could be valuable, however, it's your evidence, so --

MR. JENSEN: Well, then, if the --

HEARING OFFICER FELLER: Let's go off the record for just a minute.

(Off the record)

HEARING OFFICER FELLER: All right. Yesterday when the hearing officer requested documentation it was in light of the fact that the witness testifying did not have recollection of bargaining. However, there is now, obviously, evidence in the record related to bargaining. It is your decision as to whether offer or not offer into evidence supplemental documentation, but that was the sort of context in which the original request was made for documentation on bargaining.

MR. JENSEN: Okay. Well --

HEARING OFFICER FELLER: And we can continue as you wish.

MR. JENSEN: Continue. Okay. Am I up?

HEARING OFFICER FELLER: Uh huh.

MR. JENSEN: Okay. What union number was last? Was that 6?

HEARING OFFICER FELLER: Yes, it was.

(Union Exhibit 7 marked for identification)

MR. HUTCHESON: This is 7?

MR. JENSEN: Yes.

HEARING OFFICER FELLER: Yes.

MR. JENSEN: Which I will now describe.

HEARING OFFICER FELLER: Thank you.

MR. JENSEN: All right. I’ve placed in the hands of everyone except the witness -- and in front of the witness -- a package of documents marked Union 7 and that comprises an April 20 letter from the union to Robert Blackstone. It’s a three page letter. There is a March -- excuse me -- a May 15, ’10 letter -- the first was April 20, 2010 -- from the union to Robert Blackstone, a two page letter; a May 24, ’10 letter from the union to Robert Blackstone, a three page letter; and a June 1 letter from the union to Robert Blackstone, a two page letter; and, finally, a letter from the union to Dear Bob, no date at the top, although at the very bottom it indicates it purports to recap a meeting of July 13, ’10. That’s a two page letter. And I would offer those on behalf of the union, as well as a stipulation that Bob is Robert Blackstone who was the union’s -- excuse me -- the employer’s negotiator for the

contract, the current -- the next current contract at the time these letters were sent.

MR. HUTCHESON: First of all, counsel, you've given me two additional letters in my packet.

MR. JENSEN: Oh. Let me pull those out. You can have them, but I don't think we need them.

MR. HUTCHESON: Okay. So July 6th was not one of the ones --

MR. JENSEN: Right.

MR. HUTCHESON: -- were not included?

MR. JENSEN: May 11 and July 6 you should not have.

MR. HUTCHESON: Okay. Now one would have to wonder why that's the case.

MR. JENSEN: I just didn't find them relevant. Here. You can have them. Take them home. Read them. Enjoy them.

MR. HUTCHESON: Well, we have them all. It's just, you know --

MR. JENSEN: You're entitled to them.

MR. HUTCHESON: No. It's your -- would counsel agree that in virtually every case, it not every case, Mr. Blackstone responded to these letters and so this is a one way set of communications with no counter-balancing responses?

MR. JENSEN: You wanted me to stipulate to that? Can we go off the record for a second?

HEARING OFFICER FELLER: Let's go off the record for a

moment, please.

(Off the record)

HEARING OFFICER FELLER: Let's go back on the record. Employer, your position, please?

MR. HUTCHESON: The employer objects to the admission on a couple of grounds. First, they are irrelevant as to what the language in the current contract means. They post-date the negotiation of that language by at least three years. Second, this represents only a partial picture of the discussions that are referenced in these letters, that the employer representative had a different take on what happened and so this is not a complete picture, and, third, it's irrelevant because it doesn't represent any evidence that is controlling in resolving the issues in this case.

HEARING OFFICER FELLER: Mr. Jensen.

MR. JENSEN: Well, I think it is relevant because it states repeatedly and the reason it is offered basically is because the union is continuing to say throughout the entire period that we stand steadfast in not giving up our claim that this is our jurisdiction and it's just showing basically there consistency there basically. It also corroborates -- I believe one of them has -- talked about opening negotiations earlier and then there is another piece where on the Dear Bob letter on the second page, the first big paragraph, where it set out what happened in negotiations about Ignite. So we think it's

relevant. It's up to you. If there was a response, which I don't think there was, they're free to put it in and I agree with what Mr. Hutcheson said, this is our letter, our version, not one that they have signed on to per se.

HEARING OFFICER FELLER: Okay. I'm going to go ahead and allow the evidence and the reader of the record can give it the weight that's appropriate. I do agree that this is, obviously, the union's picture and the employer is free to at a later time introduce its own evidence into the record if it wishes. So Union's 7 then is admitted into evidence.

(Union Exhibit 7 received into evidence)

MR. JENSEN: And then would I be correct, Madam Hearing Officer, to this point that every exhibit which has been marked and introduced and discussed has been offered and accepted?

HEARING OFFICER FELLER: I believe the Union Exhibits -- the Union Exhibits 1 through 7 all checked off on my list. The Employer Exhibits 1 through 7 all checked off and then Joint Exhibits 1 through 4.

MR. JENSEN: So there's been no oversight? He's remembered to offer everything and so have I?

HEARING OFFICER FELLER: I believe so.

MR. JENSEN: Okay. If not, you're doing so now?

HEARING OFFICER FELLER: Let's go off the record and let me check.

(Off the record)

HEARING OFFICER FELLER: Let's go back on the record.

(Union Exhibit 8 marked for identification)

MR. JENSEN: I have placed in front of the witness and handed to the parties a letter dated May 4 from KIRO to one of the employees at KIRO that's been identified in the hearing. It's a two page letter and I would offer it as Union's 8.

MR. HUTCHESON: No objection.

HEARING OFFICER FELLER: Okay. Hearing no objection, Union's 8 is admitted into evidence.

(Union Exhibit 8 received into evidence)

MR. JENSEN: Okay. Then I have no further questions of Ms. Ryberg at this time.

MR. HUTCHESON: No questions.

HEARING OFFICER FELLER: Okay.

MR. JENSEN: I would like to now go back to my offer to -- either offer to place into evidence the transcript of --

HEARING OFFICER FELLER: Can we release her from the hearing?

MR. JENSEN: Sure.

HEARING OFFICER FELLER: You can be excused.

THE WITNESS: Thank you.

(Witness excused)

HEARING OFFICER FELLER: Now that the witness has been excused, yes, on to other procedural matters.

MR. JENSEN: So I would offer the underlying transcript in

the R case that Mr. Hutcheson, I think, has identified by number or would just ask that the regional director take administrative notice of it. As I've told Mr. Hutcheson off the record, there are finite, a very finite, number of pages that I would rely on or want to argue about and I will provide those pages to him at any moment he desires. I'd prefer not to read them off on the record both because of the time it takes and because, if I go through there, I think I can pare them down even further and I can deliver that information easily to Mr. Hutcheson this afternoon.

HEARING OFFICER FELLER: Mr. Hutcheson.

MR. HUTCHESON: That's fine, but I'm going to continue to object to its consideration.

HEARING OFFICER FELLER: Okay. I'm going to go ahead and take administrative notice of the -- what's the case number?

MR. HUTCHESON: 19-RC --

HEARING OFFICER FELLER: 19-RC-14987. So for the underlying record. However, it is my understanding that the reader of the current record will not rely on that prior record unless the parties demonstrate the particular materiality and relevance along with specific citations.

MR. JENSEN: Fair enough.

HEARING OFFICER FELLER: I will additionally take administrative notice of the Decision and Direction of Election issued in that case. Again, 19-RC-14987.

MR. HUTCHESON: And in that regard, can I propose a stipulation which counsel says he will stipulate to?

HEARING OFFICER FELLER: Go ahead.

MR. HUTCHESON: The parties stipulate that the petition filed in Case 19-RC-14987 was filed on May 17, 2007, the hearings were held on that position by the Region on May 31, June 1, and June 4, 2007, the regional director's Decision and Direction of Election, the election among the voting directors occurred on or about July 12, 2007, and the election results were certified by the Region on July 20, 2007. And the employer would so stipulate.

HEARING OFFICER FELLER: Counsel.

MR. JENSEN: As would the union.

HEARING OFFICER FELLER: Okay. The stipulation is noted for the record.

Okay. We're going to go off the record for just a moment.

MR. JENSEN: I have one more --

HEARING OFFICER FELLER: Oh, excuse me. Sorry. Go ahead.

MR. JENSEN: I'd like to offer one more exhibit or that the director take administrative notice of and that would be the employer's post-hearing brief in the aforementioned R case.

HEARING OFFICER FELLER: The employer's post-hearing brief or the union's?

MR. JENSEN: The employer's. Because of the admissions that are in there. And I have the same offer to provide Mr.

Hutcheson today -- if he wants, this afternoon -- maybe he'd give me 'til tomorrow noon, but I'll do whatever he likes -- a citation to every piece of that brief that --

HEARING OFFICER FELLER: And what is the proposed material value of the employer's brief?

MR. JENSEN: Yeah. It's the same as the transcript where they're making representations about the nature of the director's work and how it's eminently going to dramatically change.

MR. HUTCHESON: And I would submit that briefs, clearly, are not evidence, they are argument, and, if you're going to take -- if the regional director's going to take administrative notice of any briefs, it has to be all briefs.

MR. JENSEN: Well, I have no problem with him taking notice of our brief or any other brief.

MR. HUTCHESON: If he's offering them as evidence, it's inadmissible because it's not evidence. It's arguments.

MR. JENSEN: I think there are admissions against interest in there. It's their attorney speaking.

MR. HUTCHESON: Not under oath. Not on the witness stand.

HEARING OFFICER FELLER: Okay. I'm going to go ahead and go off the record.

(Off the record)

HEARING OFFICER FELLER: Let's go back on the record. I will allow the employer to go first with the conclusion since

you started unless you'd like to defer to him. It does not matter.

MR. HUTCHESON: It's your call.

HEARING OFFICER FELLER: Go ahead.

MR. HUTCHESON: Madam Hearing Officer, on behalf of the employer KIRO-TV, Inc., we submit that this petition should be dismissed with prejudice prior to any ruling on its merits. It is barred by the current contract. It is barred by current case law. The union has waived its right to file this petition in the first place by agreeing to language in 5.9 of the current contract, Joint Exhibit No. 1. The parties have agreed on the work assignment issue, which, basically, is what this is all about. They have agreed on the union's so-called jurisdiction. The parties, as a result, have agreed on the scope of the current bargaining unit which has been in place since July of 2007. It is long -- it has been a long-held position with the National Labor Relations Board not to disrupt historical bargaining units, not to disrupt the agreements, the unit agreements, that the parties have reached. It would be disruptive to on-going labor relations for this situation to be changed in this case. And we respectfully request that the petition be dismissed. If, however, that the regional director decides to consider the merits of the petition, then it is clear from this record that the position of the Ignite operator or the Ignite director currently filled by seven people who are

not in the current bargaining unit is -- it would be inappropriate to have the very people who voted against being represented by this unit -- the union, be added to the unit against their will without an election through the back door in this UC petition process. It would be a travesty and an injustice to those workers. Thank you.

HEARING OFFICER FELLER: Thank you very much. Mr. Jensen, please.

MR. JENSEN: Thank you very much. First of all, as to, if we get to the merits, circumstances have changed dramatically as the evidence has shown. This is a new job. This job did not exist when the last contract was agreed upon, so there could be no agreement on it. What the parties did do in that contract was arrive at an interim agreement on how the work would be assigned. They never decided or agreed upon that the people doing that work would not be subject to a UC petition. That didn't happen because the union reserved those rights and never waived the right to represent those people. As to the waiver, I guess that goes to both the merits and the waiver because it’s a brand new job. These two people -- groups of people, the formerly regarded by the people union Ignite operators until April 26/27, and the non-union director, Ignite directors, do exactly the same thing with the same new skill set and a dramatically different job than either did before. The 46 people continue to have the same relationships and

communications and community of interest as they did with the group beforehand. There's no basis to decide that they are non-union at this point. That was an employer dictate and not one we've succumbed to and we've demanded recognition. We've filed unfair labor practices over it, so we've gone around and around about that. Certainly, they're not non-union just because the employer says they're non-union if they've done it illegally.

HEARING OFFICER FELLER: Okay. Thank you for your positions, gentlemen.

MR. HUTCHESON: Are you going to let us continue on? I mean, if you're going to let two lawyers keep arguing, I'll make some more arguments.

HEARING OFFICER FELLER: I think we're -- I would request that the parties continue their arguments in their briefs, respectfully.

MR. HUTCHESON: Thank you.

HEARING OFFICER FELLER: And just on a couple of procedural, new procedural, matters, first, I would like to inquire on the record if -- from the union -- if, for whatever reason, the Region were to decide to direct an election, would the union wish to proceed.

MR. JENSEN: Presumably so.

HEARING OFFICER FELLER: All right. And I'm going to rule on -- I believe I have one outstanding ruling to make with

respect to the briefs of the parties and the RC-19-14987. Is that correct?

MR. JENSEN: Yes.

HEARING OFFICER FELLER: And can I just have you restate your positions briefly?

MR. JENSEN: My position is that this was speaking for the employer at that time and it's made a number of admissions about the dramatic change in this position, stating that it's going to be a new position, et cetera, et cetera. So it really goes to both the merits and the waiver issue. So I'm offering it in evidence.

HEARING OFFICER FELLER: Okay. And are we -- we're talking about both of -- we're talking about both of the parties now, correct?

MR. JENSEN: I'm offering the employer's. They're welcome to put mine in. I'm willing to put mine in, too.

HEARING OFFICER FELLER: All right.

MR. HUTCHESON: And, as previously stated, the employer's position is briefs are argument, they're not testimony, they're not evidence, they're not admissible as evidence, and the controlling document, if you will, is the regional director's decision who ruled that it was not a sufficient change to preclude an election.

HEARING OFFICER FELLER: Okay. I'm going to go ahead and allow -- take administrative notice of the entire proceeding in

Case 19-RC-14987, including the transcript, the parties' briefings, and the Decision and Direction of Election issued by the Region. Again, this is to the extent that such documentation exists. It's my understanding that, after a certain period of time, some documentation might be destroyed pursuant to rules and regulations. However, to the extent that such documentation -- but, again, I would like to reiterate it is my understanding that the reader of the current record will not rely on any of the prior record unless a party demonstrates the particular materiality and relevance and specific citations. And, if we could go off the record for just one moment, we'll finish up.

(Off the record)

HEARING OFFICER FELLER: All right. We're back on the record.

So to complete the record, my understanding is that I have ruled on all outstanding motions and evidence and received any unadmitted evidence into the record, but I believe that that's all been taken care of.

In an off the record conversation, the hearing officer inquired of the parties whether there were any further witnesses or evidence they wished to present. Both parties indicated to me that they do not wish to present any further witnesses. The employer also indicated to me that they had no further evidence that they wished to present. The union,

however, is requesting the possibility of introducing one additional item into evidence and I'm going to allow Mr. Jensen to speak to that document briefly.

MR. JENSEN: Okay. Sure. Thanks. For this hearing I have subpoenaed certain material from the employer. I think training materials may cover that, part of that, subpoena. And, as a result, the employer provided me yesterday with a CD which I understand contains a large volume of training materials and, hopefully, I'll get a chance to review that tomorrow morning and, if I then think that I want to offer into evidence anything that's relevant, I am to let the Region know that by 12 o'clock Pacific time tomorrow.

HEARING OFFICER FELLER: Uh huh. Okay.

MR. JENSEN: And, if I do not, then, as I understand, you're closing the record?

HEARING OFFICER FELLER: Right. So I will just explain for the record. So I am briefly, in a few minutes, going to adjourn the hearing. However, the record will remain open for the sole and limited purpose of allowing Mr. Jensen to determine -- to offer into evidence this purported training disc that he received from the employer pursuant to a subpoena and, again, the Region is giving Mr. Jensen until noon tomorrow, May 26th, to inform the Region in writing of his decision to offer the disc into evidence and the training materials thereon. If the Region has not heard from Mr. Jensen

by noon, then we will issue a document closing the hearing. If Mr. Jensen does choose to offer the disc documentation into the record, Mr. Hutcheson will then have until 4:00 P. M., again, tomorrow, Thursday, May 26th, to provide the Region with his position, after which I as the hearing officer will make my final decision on the admissibility of the document and then will issue a formal document with my ruling and closing the hearing.

The parties will have seven days from the time at which the -- or from the closing of the hearing to submit their briefs to the regional office. Any request to change that must go to the regional -- to change the briefing deadline must go to the regional director in writing. The parties are reminded that they should request an expedited copy from the court reporter. If you fail to do so, late receipt of the transcript will not be grounds for an extension of time to file briefs.

The court reporter has indicated to me that the approximate length of the transcript is about 225 pages.

Anything further?

MR. HUTCHESON: I think one remaining loose end that occurred to me was the subpoena and the petition to revoke the subpoena and you deferred ruling until the end of the hearing and, if Mr. Jensen were to withdraw his subpoena --

MR. JENSEN: So done.

MR. HUTCHESON: -- then I would withdraw my petition.

MR. JENSEN: So done.

MR. HUTCHESON: And so those are gone.

HEARING OFFICER FELLER: Okay. All right. So, Mr. Jensen, I'm noting a motion to withdraw the subpoena and --

MR. HUTCHESON: And a motion to withdraw the petition to revoke the subpoena.

HEARING OFFICER FELLER: -- and a motion to withdraw the petition to revoke the subpoena. Duly noted for the record.

MR. HUTCHESON: And do you grant the motions?

HEARING OFFICER FELLER: I will grant the motions. Thank you.

MR. HUTCHESON: Thank you. And then do I need to say that I will probably be submitting a request for the regional director for some more time to file post-hearing briefs?

HEARING OFFICER FELLER: You can go ahead and state that. That's noted for the record. Again, I will inform the parties that any request to change the deadline must be to the regional director in writing.

MR. HUTCHESON: Thank you.

HEARING OFFICER FELLER: Thank you. Noted for the record. Anything further?

(No response)

HEARING OFFICER FELLER: Hearing nothing further from the parties, the hearing is adjourned and remains open for the limited purpose previously described. Thank you very much.

(Whereupon, the hearing in the above-entitled matter was adjourned pending the receipt of exhibits.)

(Whereupon, the hearing was closed on May 27, 2011.)