

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

JONES LANG LaSALLE AMERICAS, INC.¹

Employer

and

Case 7-RC-072323

**LOCAL 324, INTERNATIONAL UNION OF
OPERATING ENGINEERS (IUOE), AFL-CIO**

Petitioner

APPEARANCES:

Sheryl A. Laughren, Attorney, of Detroit, Michigan, for the Employer.

Amy E. Bachelder, Attorney, of Detroit, Michigan, for Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organization involved claims to represent certain employees of the Employer.

¹ The name of the Employer appears as amended at hearing.

² Both parties timely filed briefs, which were carefully considered.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Overview

The Employer is a global corporation which provides facility management services for various companies, including General Motors (GM), throughout the United States and in other countries. The Employer currently has a five year “Service Agreement (SA) Umbrella,” through June 30, 2015, to provide services for several GM facilities in Lansing, Michigan.³

Petitioner seeks to represent the Employer’s full-time and regular part-time maintenance technicians (MTs) employed by the Employer at the GM Lansing facilities located at 8175 Millett Highway, Lansing, Michigan (Lansing Delta Township Assembly plant, hereafter referred to as “Delta”), and 8001 Davis Highway, Lansing, Michigan (Lansing Regional Stamping plant, hereafter referred to as “Stamping”); but excluding office clerical employees, and guards and supervisors as defined in the Act. Petitioner asserts that Delta and Stamping constitute a single facility, and therefore argues that the petitioned-for unit of MTs is presumptively appropriate.

The Employer argues that Delta and Stamping are two separate facilities, and that a unit of MTs employed only out of those two facilities, while excluding MTs employed out of a third Lansing facility, Lansing Grand River (LGR), would be inappropriate. The Employer asserts that based on its centralized management within the Lansing Region and an overwhelming community of interest, the appropriate unit would include MTs employed out of all three facilities: Delta, Stamping, and LGR.

After considering all the evidence in the record, including community of interest factors such as the contact and interchange of employees, common supervision, and geographic proximity, I find the petitioned-for unit of MTs employed out of Delta and Stamping to be appropriate, regardless of whether Delta and Stamping constitute a single facility or two separate facilities. Employees at all three locations share common terms and conditions of employment, as do other employees of the Employer. Although there is some interchange and interaction between LGR MTs and Delta/Stamping MTs, the extent of such interaction does not appear to be regular or substantial. Further, although the MTs at all three locations share common higher level supervisors, they have different on-the-job, day-to-day supervision and on-site management. Accordingly, the Employer has not met its burden of establishing that the MTs employed out of LGR share an overwhelming community of interest with the MTs employed at Delta and Stamping.

³ The Employer also provides services for other GM facilities in Michigan which are located outside of the Lansing Region and are not a part of this proceeding.

Employer's Operations

The Employer's global headquarters, including its Human Resources Department, are located in Chicago, Illinois. The Employer has a Regional office in Auburn Hills, Michigan, and performs work at various facilities throughout Michigan. The Employer's Lansing Region includes facilities managed by the Employer at four GM Lansing locations: Delta, Stamping, LGR, and Lansing Customer Care and After Sales Plant (CCA).⁴ Employee personnel files for all Lansing employees are kept in Auburn Hills. Most other records, such as attendance and payroll, are stored electronically via a computer system located in the Chicago headquarters, which can be accessed by local Lansing managers.

The Employer asserts that it regionalized its Lansing operations together as one unit in order to be consistent with GM's attempt to regionalize its contract base, and according to the SA Umbrella. The SA Umbrella states that the service provider (the Employer) is expected to share resources within the region to the extent possible to reduce cost to the client (GM). The SA Umbrella divides the service areas provided for under the agreement into "annexes," which are responsible for different functions, including housekeeping, industrial cleaning, maintenance, indirect materials, and others. The petitioned-for unit falls within the "maintenance" annex.

The Employer began performing facility maintenance management services at LGR sometime in 2000, at about the time that plant began production. LGR is a car assembly facility which builds the Cadillac line. The Stamping plant was completed and started production sometime in 2002, and the Employer began performing facility maintenance management services at Stamping around that same time. The Stamping plant currently supplies large and small metal parts to anywhere from four to eight different car assembly plants throughout the United States, including Delta and LGR. The Delta plant construction was completed and began production sometime in 2006, and the Employer began performing facility maintenance management services at Delta since about that time. Delta is a car assembly division of GM building the Buick Enclave, GMC Acadia, and Chevrolet Traverse.

Originally the Employer supervised GM employees performing maintenance work at LGR, Delta, and Stamping. In about April 2010, the Employer began employing and directly supervising its own MTs at LGR⁵ and Stamping. At that time the Employer continued supervising GM employees performing maintenance work at Delta, but also sent its LGR and Stamping MTs to Delta as needed to perform work. However, in late October 2011, the GM maintenance employees at Delta were absorbed by other GM departments, and the Employer hired its own staff of MTs for Delta.

⁴ Neither party argues that CCA should be included in the unit. In addition, there are no MTs employed out of the CCA location.

⁵ The Employer continues to supervise two GM MTs at LGR who are represented by the UAW.

Delta consists of a body shop, which is physically attached to Stamping; a paint shop; and a general assembly building. There is no wall between Delta and Stamping; the wall was knocked down when Delta was built, essentially so that parts could be easily transported from one area to the other. Employees who enter either the Delta or Stamping facilities use a GM access card and walk through a turnstile. Once inside either Delta or Stamping, however, employees can go to the other facility without going outside, and without having to use the access card or pass through a turnstile. The LGR facility is approximately eight miles away from Delta and Stamping. The CCA facility is located approximately midway between Delta/Stamping and LGR.

GM provides space to the Employer at each location, which is referred to as the “team room.” The team rooms include a break area, television and internet access, and office space including desks (at LGR) and cubicles (at Delta and Stamping) for managers.

There is no bargaining history at any of the Lansing locations between the Employer and the Petitioner or any other union. However, the Employer has some operations throughout the country which have employees represented by different locals of the International Union of Operating Engineers (IUOE), AFL-CIO.

Supervisory Hierarchy and Labor Relations

Ted Glimp is the managing director, or client relationship manager (CRM) assigned by the Employer for the entire GM account. Glimp works out of both the Employer’s Chicago and Auburn Hills offices. Reporting directly to Glimp is vice president Jason Gyorki, who oversees the Employer’s Lansing operations. Gyorki has a desk at Delta, LGR, and CCA, and also has a designated space at both Stamping and Auburn Hills. Gyorki also has other responsibilities outside of his role with the GM account, including obtaining additional business throughout the rest of the United States and throughout the globe. Reporting directly to Gyorki are Eric Slaybaugh, the on-site manager for both Delta and Stamping; Henry (Sonny) Hartley, the on-site manager for LGR; Jason Walker, the on-site manager for CCA; all Annex managers for the Lansing Region; and all Support Staff managers for the Lansing Region.⁶

Reporting to Slaybaugh are Delta shift supervisors Dave Warner (first shift), Robert Hawkey (second shift), and Cliff Puffpass (third shift); and the Stamping shift supervisors Ian Alicia (first shift), Sandra Clay (second shift), and Jamieson Ambler (third shift). A variable support manager for Delta, Clark Moore (first shift) also reports to Slaybaugh. Variable support managers cover off-shifts and weekends as needed at any of the Lansing facilities. Reporting to Hartley are LGR shift supervisors Kip Daly (first

⁶ I find that Ted Glimp, Jason Gyorki, Eric Slaybaugh, Henry (Sonny) Hartley, and Jason Walker are supervisors within the meaning of Section 2(11) of the Act based on their authority to evaluate and responsibly direct employees.

shift), the second shift supervisor (which position is currently open), and LGR variable support supervisors Jeff Terres (who is covering the vacant supervisor position on the second shift), and Ryan Alexander.⁷ The shift supervisors directly supervise the MTs. Shift supervisors are required to work at other locations if needed, and also participate in a weekend work rotation. Shift supervisors also are involved in some supervision of contract housekeeping employees who are represented by other unions.

Currently, there are approximately 5 MTs working out of Stamping and 16 working out of Delta (as of October 2011), for a total of 21 employees in the petitioned-for bargaining unit; and about 11 LGR MTs, for a total of 32 employees in the Employer's proposed unit.

Wages, Benefits, and Working Conditions of MTs

Job Duties

MTs at Delta, Stamping, and LGR essentially have the same job duties and responsibilities, which involve emergency maintenance response and building maintenance, including electrical work, pipe fitting, overhead doors, dock doors, fuels, labs, tank farms, and production-critical equipment, but not manufacturing machinery. There are no specific licenses or training required for the jobs. Some of the MTs are licensed, journeymen, or master electricians, and others are licensed, journeymen, or master pipe fitters or plumbers. There are three licensed plumbers at LGR who are also certified in backflow inspection, which is done annually at each location. None of the MTs at Delta or Stamping currently has this certification. There are also four or five MTs who are trained to repair pumps used for industrial cleaning in the paint shop. The record did not identify at which facility these MTs work.

Equipment/Tools

MTs from all three facilities wear identical uniforms and Employer name tags, and carry identical GM access cards, which do not specify their assigned work location. The access cards can be used at any of the Lansing locations. The MTs do not clock in or out, but rather, their direct supervisors approve their work hours through use of the corporate computer system.

The Employer provides the MTs with Nextel cell phones, which they are authorized to take home, and tools that are stored at their assigned work location. The cell phones are preloaded with telephone numbers of all MTs and supervisors. There are also common tools at each location which are shared. Certain larger, more expensive

⁷ I find that Dave Warner, Robert Hawkey, Cliff Puffpass, Ian Alicia, Sandra Clay, Jamieson Ambler, Kip Daly, Clark Moore, Jeff Terres, and Ryan Alexander are supervisors within the meaning of Section 2(11) of the Act based on their authority to approve time off, assign overtime, evaluate and responsibly direct employees.

equipment is utilized by each of the three facilities, and moved back and forth between locations as needed, such as a single backflow preventer testing device. There are also work vehicles that are shared by all three locations, which employees drive from site to site.

Scheduling

MTs typically work a Monday through Friday schedule. However, depending on production volume and scheduling, some work a flexible work schedule, such as Tuesday through Saturday. There is not always a supervisor present on Saturdays at every work location. In these situations, MTs contact their direct supervisor by telephone or they may contact a supervisor working elsewhere within the Lansing Region. Delta and Stamping run three shifts, but LGR runs only a first and second shift. The shift start and end times at each facility are similar, differing only by about an hour.

Available overtime work is typically posted at the facility where the work is scheduled. Usually there are enough volunteers from the home plant, but if not, a manager may contact managers at the other locations to solicit volunteers. Occasionally the Employer schedules special weekend projects. For example, over the Martin Luther King, Jr. holiday weekend in January 2012, there was an extensive painting job in the Delta paint shop, where there were not enough Delta/Stamping MTs. Thus, several MTs from LGR assisted with that work. The record contains a few examples of supervisors from one of the plants asking for overtime volunteers from another plant, and supervisors testified that it is not uncommon for them to ask for assistance from other plants, but the record is silent as to specific examples of overtime worked by employees from different plants aside from the January 2012 weekend, or as to how often this occurs.

Wages and Benefits

Wage and benefit policies for the Employer's employees throughout the globe are determined by Human Resources. The wages and fringe benefits are essentially the same corporate-wide within the United States (aside from California and Hawaii). Employees in countries outside of the United States typically have different benefit programs. Human Resources has established work rules, an employee handbook, disciplinary policy, and a code of ethics which apply to all company employees, and can be found on the Employer's corporate website, "Connect." The website is divided into the different countries or regions, and within each there is a human resource section listing all benefits for a particular area.

MTs at the three facilities are paid \$20.00 per hour, \$20.50 per hour, or \$20.75 per hour, except for one Delta MT who is paid at a higher rate of \$28.60, because he previously worked for the Employer at a GM plant in Pontiac. The difference in pay for the other employees is based on raises received after an annual performance evaluation.

The performance evaluation is referred to as an “individual performance management program,” or IPMP. Through this program, the manager and employee set goals and expectations together. These are monitored twice a year. At the end of the year, the employee is rated on a scale of 0-5, five being the best, and zero being the worst. The whole management team reviews the ratings together, and the MTs from Stamping, Delta and LGR are compared against one another in a matrix. The direct supervisors meet with Slaybaugh or Hartley to discuss the ratings, and place the MTs in a percentage position, i.e., bottom 20%, middle, top 20%, etc. Based on their percentage ranking, MTs can receive a bonus and their raise may be affected. Gyorki, in consultation with his leadership and Human Resources, determines wage rates for the Lansing employees within the set parameters.

Supervision

MTs are directed in their work by the shift supervisor. At the start of the shift, employees report to the team room at their work location. The MTs receive their work assignments from their shift supervisors in the form of written work orders. There are also preventative maintenance scheduled jobs. The shift supervisors monitor the MTs work, and make sure assignments are completed. Shift supervisors have authority to approve time off, and allow an employee to go home if sick, without checking with higher management. An employee calling in sick contacts his/her direct supervisor. Shift supervisors also keep track of employee time, as stated above. Any supervisor can authorize time for any employee who is working for the supervisor on a particular day, regardless of the home base of the supervisor or employee.

Discipline

Shift supervisors have the authority to discipline MTs, but must check with Human Resources before issuing discipline. Gyorki also asserted he would be aware of or involved with employee disciplines. Shift supervisors have authority to send MTs home. Gyorki testified that he would also be involved in the discussion as to what should be done in such a situation, but acknowledged that this had never occurred as far as he was aware. Only one specific example of discipline is discussed in the record. In this situation, Slaybaugh and other managers brought an issue regarding an employee to Gyorki’s attention. After consulting Human Resources, Gyorki decided a verbal warning was the appropriate level of discipline. Gyorki personally issued the warning to the MT, who was in his first week of employment, and provided the MT with a copy of the Employer policy he had violated. The record is not clear as to whether this level of involvement in the disciplinary process by Gyorki is the exception or the norm. Gyorki also testified that he is in charge of making the final determination regarding the termination of an employee. The decision would be based on a recommendation or input from the MT’s immediate supervisor or managers with direct knowledge of the incident in question. No specific examples of MT discharges are described in the record.

Hiring/Training

Job postings for MT openings at any of the facilities are posted online, and any employee of the Employer can use his/her login credentials to access the system and apply for the openings. Site managers Slaybaugh and Hartley meet to discuss openings/needs at each location, determine if any transfers are appropriate based on the desires of the current MTs, review resumes and conduct interviews. Slaybaugh and Hartley present their thoughts and make recommendations to Gyorki, and the hiring decisions are reached as a team. However, Gyorki makes the final determination on all hiring, with Human Resources' involvement. MTs are hired for a specific location, but are told at hire that they may be required to work at other locations.

Charise McGinnis is the training coordinator for the entire Lansing Region, and works out of the Delta facility. Upon hire, all employees are required to attend an orientation conducted by McGinnis and Brandi Sutfin, an administrative support person. The orientation sessions are usually held with combined groups of new MTs from all three Lansing locations.

The Employer also offers other training courses, such as safety training, dock equipment training, electrical safe work practices (ESWP), crater test and product use for paint shop, tank farm training (at the Delta plant only), hi-lo training, and refrigerant filtration training. Much of the training is online or web-based. Gyorki testified that any employee who needs the training is enrolled, regardless of the employee's home facility. The record contains several examples of training sessions with combined classes of employees and managers from Stamping, Delta, LGR, and/or CCA. Employees' training documentation is kept at either the Auburn Hills office or in the training coordinator's office. It is not clear from the record how often employees attend training sessions, or if the training is held on a regular basis.

Interchange

According to employee testimony, since the Employer began employing MTs to work at Delta, the Delta and Stamping MTs have worked throughout both facilities as needed. The Delta MTs usually work in pairs, as do Stamping MTs. They generally work with the same partner for a period of weeks. They occasionally work alone, and with others aside from their partner. MTs at both Delta and Stamping identified several MTs employed out of either Delta or Stamping that they have worked with in the past. Although each team room has its own break area, the record is silent as to whether the Delta and Stamping MTs visit either break room or stay within their assigned team room for breaks and lunch.

There is evidence of some interaction and interchange between the MTs at Delta and Stamping, and the LGR MTs. The interchange essentially occurs because the

Employer is required, by its SA Umbrella agreement with GM, to have staff available to respond to emergency issues within a certain time frame. Since LGR does not have a third shift, Delta and/or Stamping employees are sent over during that shift if any issues arise at LGR that cannot wait until the morning. In addition, certain jobs require certifications that not all employees possess. MT interaction also occurs for weekend or overtime projects, and during new hire orientation and at trainings, as described above. Generally, when MTs travel to other locations, they are supervised by the on-site supervisor as opposed to their regular supervisor. However, on occasions when no on-site supervisor is present, such as on the LGR third shift, the MTs report back to their regular shift supervisor.

The record includes testimony and employer exhibits describing specific instances of interchange that have occurred between LGR MTs and Delta/Stamping MTs. According to the record evidence, since about December 2010 to December 28, 2011, there have been approximately 27 incidents of interchange. Out of those 27 incidents, approximately 22 involved Delta or Stamping employees reporting to LGR on the third shift, or at a time when no LGR MTs were working.⁸ Thus, on those occasions, there was no interaction between the Delta/Stamping MTs and the LGR MTs. Most of the 27 jobs were short in length, some being as short as one hour, including driving time.

In addition to the above, one LGR MT testified regarding three occasions that he worked at Delta, and three occasions that he worked at Stamping, all in 2011. All six incidents occurred on second shift. It is not clear whether any of these incidents are duplicative of the 27 incidents described above. Of the three incidents this MT described where he reported to Stamping, two involved interaction with Stamping employees. For the third incident in Stamping, there is no detail regarding with whom the MT worked, if anyone. Of the three Delta incidents described, the MT worked either with other LGR MTs or with Bob Hawkey, a shift supervisor. The LGR MT also worked with Delta/Stamping MTs during the extensive weekend overtime paint job that occurred at Delta in mid-January 2012, described above. The LGR MT testified that it is not an everyday event for an LGR MT to work at Delta or Stamping, and most days he reports to LGR.

⁸ All of the incidents in Employer Exhibit 13 are clearly labeled as to the shift involved. In addition, a December 28, 2011, incident occurred on second shift, but according to testimony, there was no second shift operating that week. A December 7, 2010, event described in Employer Exhibit 18 also is clearly marked as third shift. A second event in Employer Exhibit 18, in an email dated May 4, 2011, is presumptively on the third shift, as it was sent at 4:40 a.m., and involved two MTs who were identified as being on third shift as of April 28, 2011. Finally, a December 7, 2011, incident described in Employer Exhibit 19 is identified as being on the third shift. The remaining incidents described in Exhibits 18 or 19 appear either to be duplicative of other incidents, or to not involve interchange or interaction. Also, Exhibit 13 includes two events that were not counted: (1) page 22 states that an employee would be sent to LGR the next day, however, there is no further indication as to whether or not this occurred; and (2) page 19 states that LGR came over to pick up a lift. It is not clear from this notation whether it was a manager or an MT who came to pick up the lift, and whether any interaction occurred at that time.

A Delta MT could only recall two occasions when he has worked with LGR MTs who came to the Delta/Stamping plant to perform work, and one of those occasions is discussed above. Two other Delta MTs have never worked at LGR, and have never seen or worked with any LGR MTs during their employment.

According to Employer testimony, MTs also are occasionally sent to the CCA Building in the Lansing Region to perform maintenance work. Gyorki testified that this occurs once a week, or once every couple of weeks. However, the record includes no specific examples of this occurring, and to the extent it does occur, there is no indication that the assignment involves interaction among MTs from the different facilities.

Analysis

It is well settled that there is more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. *Overnight Transportation Co.*, 322 NLRB 723, 723 (1996); *General Instrument Corp. v. NLRB*, 319 F.2d 420, 422-23 (4th Cir. 1963), *cert. denied*, 375 U.S. 966 (1964). The Act does not require that the unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit; the Act requires only that the petitioned-for unit be appropriate. *Transerv Systems*, 311 NLRB 766 (1993); *Morand Brothers Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd.* 190 F.2d 576 (7th Cir. 1951).

The Board's procedure for determining an appropriate unit is to examine the petitioned-for unit, and, if that unit is appropriate, end the inquiry. *Bartlett Collins Co.*, 334 NLRB 484, 484 (2001). Recently, the Board clarified the standard to be applied in cases where a party contends that a petitioned-for unit containing employees who share a community of interest is nevertheless inappropriate because it does not contain additional employees. *Specialty Healthcare*, 357 NLRB No. 83 (2011); *DTG Operations, Inc.*, 357 NLRB No. 175 (2011). The Board held that in such situations, the burden is on the party contending that the unit is inappropriate to demonstrate that the excluded employees share an overwhelming community of interest with the included employees. *Id.* at 14. The Board, in part, relied on an analysis by the D.C. Circuit Court in *Blue Man Vegas, LLC v. NLRB*, 529 F.3d 417 (D.C. Cir. 2008), where the Court stated that an overwhelming community of interest occurs where there is "...no legitimate basis upon which to exclude certain employees..." and where traditional community of interest factors "overlap almost completely." *Specialty Healthcare* at 11, citing *Blue Man Vegas, LLC v. NLRB* at 422.

For a unit to be appropriate, the key question is whether the employees in that unit share a sufficient community of interest. Community-of-interest factors include: (a) similarity of employee skills, qualifications, and training; (b) degree of functional integration; (c) frequency of contact and interchange among employees; (d) commonality of supervision; (e) similarity in benefits, hours, and other terms and conditions of

employment; and (f) bargaining history. *Ore-Ida Foods, Inc.*, 313 NLRB 1016, 1019 (1994), enfd. 66 F.3d 328 (7th Cir. 1995); *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962). A union's desire is always a relevant, but not dispositive, consideration. *E.H. Koester Bakery & Co.*, 136 NLRB 1006 (1962).

In the instant matter, the petitioned-for unit of MTs working out of Delta and Stamping clearly have similar skills, although their qualifications and training may vary. They perform the same job duties on a daily basis, and hold the same job title. According to witness testimony, the Delta and Stamping MTs regularly work throughout both facilities and have interaction with each other during the performance of their duties. Although the employees in Delta and Stamping, and on the different shifts, have different shift supervisors, all of these supervisors report to one site manager who oversees both Delta and Stamping. Finally, MTs at Delta and Stamping share similar benefits, work hours, and other terms and conditions of employment. (There is no bargaining history directly related to the petitioned-for unit.) Accordingly, the record evidence clearly establishes that the petitioned-for unit is appropriate, and consistent with *Specialty Healthcare*, supra, the burden shifts to the Employer to show that the petitioned-for unit is nonetheless inappropriate because it excludes the LGR MTs.

The LGR MTs wear the same uniform, and have the same identification badge and access card as the Delta/Stamping MTs. They work similar shifts, although there is no third shift at LGR. LGR MTs have the same job title, and essentially perform the same work as the Delta/Stamping MTs. They have similar wages, benefits, and work rules. These similarities are in large part due to the centralization of the Employer's human resources office out of its Chicago headquarters. But such centralization does not per se warrant a larger unit. *Hilander Foods*, 348 NLRB 1200, 1203 (2006) (Centralized control over personnel and labor relations policies does not require a finding that seven facilities function as one unit: centralization, by itself, is not sufficient to rebut the single-facility presumption where there is significant local autonomy over labor relations.)

The Employer asserts that LGR MTs have substantial interaction and are fully integrated with Delta and Stamping. Further, the Employer argues that the MTs from all three facilities share common supervision, in that the two site managers report directly to vice president Jason Gyorki, who oversees the Lansing Region for the GM account.

The record establishes that interchange and interaction between LGR MTs and Delta/Stamping MTs occur relatively infrequently. Out of the approximately 33 described incidents of interchange in the record (i.e., approximately 27 described in Employer exhibits, and six described by an LGR MT) over approximately a 13-month period,⁹ about 22 involved Delta/Stamping MTs reporting to LGR on third shift, when no LGR MTs were working, and no interaction among the employees would have occurred.

⁹ The 13-month period covers December 2010 to December 2011.

The 11 remaining occurrences amount to only 4% of possible work days during the 13-month period. Even if the record evidence is examined in a light most favorable to the Employer, and all of the approximately 33 described incidents of interchange are considered, this averages out to less than three occurrences per month of interchange, or approximately 12% of possible work days out of the 13-month period. Compare *Purolator Courier Corp.*, 265 NLRB 659, 661 (1982); *Dayton Transport Corp.*, 270 NLRB 1114 (1984). In addition, it appears that many of the instances of interchange are of less than one day in duration, and involve the same employees. Two Delta/Stamping employees testified that they have never been sent to LGR and have never worked with any LGR MTs. Further, the Employer has failed to provide context for these numbers of incidents supporting its interchange argument. Data alone lacks context and is of little evidentiary value without evidence on the percentage of the total number of work hours or days involving temporary interchange or the percentage of the total employees involved in temporary interchange. See *New Britain Transportation*, 330 NLRB 397, 398 (1999).

MTs from LGR and Delta/Stamping also may interact during overtime work, and during training. However, aside from the January 2012 paint job, the record evidence did not include specific instances of overtime worked by MTs from both LGR and Delta/Stamping, and it is not clear how often this occurs. Additionally, although there are several examples of co-mingled training sessions, the record does not address with what frequency or regularity this training is held. Thus, based on the record evidence, it does not appear that the combined overtime and training occurs frequently enough to establish regular interchange and interaction among the MTs from LGR and Delta/Stamping.

The Employer asserts that the Lansing employees are commonly supervised by Vice President Gyorki. Gyorki is a high-level supervisor who reports to various locations, including not just the four Lansing facilities, but also the Auburn Hills office. Gyorki also testified to other job duties he has beyond his GM responsibilities, on a national and even a global level. Accordingly, aside from the one instance described in the record where Gyorki was directly involved in the discipline of an employee, there is insufficient evidence that he is directly involved in day-to-day supervision of employees on a regular basis. Although he may be consulted on certain issues, the bulk of the day-to-day supervision appears to be conducted by the shift supervisors and site managers.

It is particularly compelling that Delta and Stamping MTs share one site manager, while LGR MTs have a different site manager. Although the site managers work together on evaluations and hiring, and sometimes share equipment, this evidence does not outweigh the lack of frequent and regular interchange and interaction of employees between LGR and Delta/Stamping. Compare *Alamo Rent-a-Car*, 330 NLRB 897, (2000) (Board found a unit consisting of two facilities out of four inappropriate, because the petitioned-for unit did not conform to any administration function or grouping of the

employer's operations as compared to all four facilities; there was neither substantial employee interchange nor functional integration between the two facilities of the petitioned-for unit as compared to the interchange and functional integration between all four facilities; and the employees did not share common supervision in the petitioned-for unit apart from the larger, four facility unit.)

The parties both argue that the "geographic proximity" test applied by the Board in community of interest cases supports their respective positions. The Employer cites *Public Service Co. of N.M.*, 2007 NLRB Reg. Dir. Dec. LEXIS 148 (NLRB Reg. Dir. Dec. 2007) (Regional Director found system-wide unit appropriate despite distance between facilities, based on Board's preference for system-wide units in public utility companies); *NBC* 352 NLRB 90, 92 (2009) (Board found nine miles to be an insignificant distance in an accretion situation, where existing unit was national in scope); and *Mercy Sacramento* 344 NLRB 790 (2005) (Board found separate unit appropriate where, inter alia, distance between facilities was 12-20 miles). Each of these cases relied upon by the Employer deals with different factual scenarios and was analyzed under a different legal standard from the instant matter.

The LGR facility is approximately eight miles away from Delta/Stamping. Standing alone, an eight-mile distance does not seem significantly distant. However, in this case, as the petitioned-for facilities are attached and on the same premises, the eight mile distance between LGR and the Delta/Stamping site is of greater significance. Regardless, geographic proximity is only one factor to be considered, and the lack of common supervision and significant interchange and interaction between LGR and Delta/Stamping is controlling in this case. See *Mercy Sacramento*, Id. at 792; *Alamo Rent-a-Car*, supra. at 898.

Petitioner relies, inter alia, on *J.L. Plate, Inc.*, 310 NLRB 429 (1993), and argues that the Delta and Stamping facilities are essentially one facility, based on several factors, including that the facilities are attached and employees can pass from one to the other without going outside. Petitioner also relies on GM's apparent characterization (on its website) of Delta and Stamping as being one facility. I find it unnecessary to decide whether Delta and Stamping are one facility. The MTs at Delta and Stamping share sufficient community of interest so as to constitute an appropriate unit without relying on the single facility presumption.¹⁰ Having found that the petitioned-for unit is an appropriate unit, *Specialty Healthcare* places a heavy burden on the Employer to establish that an overwhelming community of interest exists between the LGR MTs and the Delta/Stamping MTs, and for all of the reasons stated above, I conclude that the Employer has failed to meet its burden.

¹⁰ In so doing, I acknowledge that a number of the cases relied on herein are also typically cited in support of the single facility presumption, and note that the Board will apply established presumptions, if appropriate, in considering community of interest factors. See *DTG*, supra, at 4 fn 16.

Conclusion

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time maintenance technicians employed by the Employer at the General Motors Lansing facilities located at 8175 Millett Highway, Lansing, Michigan and 8001 Davis Highway, Lansing, Michigan; but excluding office clerical employees, and guards and supervisors as defined in the Act.

Dated at Detroit, Michigan, this 2nd day of March 2012.

(SEAL)

/s/ Dennis R. Boren

Dennis R. Boren, Acting Regional Director
National Labor Relations Board, Region 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, Michigan 48226

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **LOCAL 324, INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE), AFL-CIO**. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have quit or been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.* 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on

the list should be alphabetized (overall or by department, etc.). I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **March 9, 2012**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlr.gov,¹¹ by mail, or by facsimile transmission at **313-226-2090**. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Posting of Election Notices

Section 103.20 of the Board's Rules and Regulations states:

a. Employers shall post copies of the Board's official Notice of Election on conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

b. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sunday, and holidays.

c. A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. [This section is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995).]

¹¹ To file the eligibility list electronically, go to the Agency's website at www.nlr.gov, select **File Case Documents**, enter the NLRB Case Number, select the option to file documents with the **Regional Office**, and follow the detailed instructions.

d. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001**. This request must be received by the Board in Washington by **March 16, 2012**. The request may be filed electronically through the Agency's website, **www.nlr.gov**,¹² but may **not** be filed by facsimile.

¹² To file a Request for Review electronically, go to the Agency's website at **www.nlr.gov**, select **File Case Documents**, enter the NLRB Case Number, select the option to file documents with the **Board/Office of the Executive Secretary** and follow the detailed instructions.