

David S. Farkas
Attorney

330-384-4844
Fax. 330-384-3875

April 11, 2012

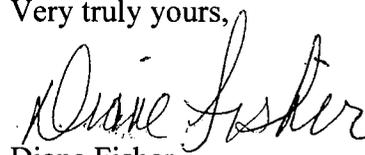
Executive Secretary
National Labor Relations Board
1099 14th Street
Washington, DC 20570-0001

Re: Review of Case # 06-RC-075606
Monongahela Power Company and IBEW Local 2357

Dear Sir or Madam:

Attached please find a request for review of the above captioned decision and direction of election.

Very truly yours,



Diane Fisher
Assistant to David Farkas

cc: Robert Chester, Regional Director, Region 6
Dale McRay, IBEW Local 2357
James Haney
Chuck Cookson
Eileen McNamara

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**BEFORE THE
NATIONAL LABOR RELATIONS BOARD**

MONONGAHEALA POWER)	
COMPANY,)	
)	CASE 6-RC-075606
Employer,)	
)	
- and -)	
)	
INTERNATIONAL BROTHERHOOD)	
OF ELECTRICAL WORKERS LOCAL)	
NO. 2357,)	
)	
Petitioner.)	

REQUEST FOR REVIEW

NOW COMES The Monongahela Power Company (“the Employer”) and, pursuant to Section 102.67 of the Board’s Rules and Regulations, respectfully requests a review of the Decision of the Regional Director, Region Six, in the above-captioned matter, received by the Employer on April 5, 2012, concerning a hearing conducted between the Employer and the International Brotherhood of Electrical Workers Local No. 2357 (“the Petitioner”) on March 14, 2012. The Hearing concerns the petitioner’s request to represent certain employees of the Employer at its Gassaway Service Center location. This Request is grounded on the substantial question of law created by the departure from both Board and Regional precedent found in the Decision, and on the erroneous findings that prejudicially affect the Employer. Specifically:

1. The Petitioner seeks to include a classification of employees known as Distribution Specialists. No community of interest exists between the Distribution Specialists and the other employees sought by the Petitioner, a fact amply demonstrated by the record. The Board has already ruled – in a case involving this same Employer and this same Petitioner – that

an appropriate unit would not include the Distribution Specialists. In Monongahela Power Company, 176 NLRB 915, 917 (1969) this Petitioner sought a unit limited to the “Panhandle Division” of West Virginia, excluding employees in six other administrative divisions in the service area. More specifically, it wanted a unit of “all employees in the Employer’s Panhandle Division, excluding estimators” and several other classifications, and the Board allowed this unit. The record shows agreement by both parties that “estimators” is simply a term historically used for Distribution Specialists. Thus, in other words, this Petitioner established, in the 1969 Board decision, that an appropriate unit includes the physical employees but excludes the “estimators”, i.e., the Distribution Specialists.

2. This case was called to the Regional Director’s decision in the Employer’s brief, but it was not addressed or cited at all in the Regional Director’s Decision and Direction of Election.

3. The Regional Director for Region 6 has also concluded, even more recently, that Distribution Specialists should not be included in a unit with other physical employees. In Pennsylvania Electric Company (Penelec), a sister company of the employer here) Case 6-UC-000489 (2008), the Regional Director held that Distribution Specialists had no community of interest with other physical employees, and could not be included in the unit with them. This case is almost entirely on all fours with the instant case, and was included in the record as Employer Exhibit 7.

4. The Regional Director sought to distinguish the force of Penelec in the Decision in a footnote, by asserting that the case was different as it dealt with a unit clarification petition, rather than a representation petition. (Decision at 14, footnote 10.) Yet this is a distinction without a difference. The Board has never found any distinction between UC petitions and RC petitions with regard to the requirement of a community of interest. The Regional Director for

Region 6 found the Distribution Specialists had no community of interest with the other employees. He should have done the same here.

5. The Regional Director stated that a community of interest existed because the employees were located at a small facility. (Decision at 13.) Yet the mere size of a facility, big or small, is not the controlling factor, and cannot negate the absence of any community of interest. The case cited by the Regional Director for this proposition, United Gas, 190 NLRB 618 (1971) says nothing of the sort.

6. The Regional Director found it significant that the Distribution Specialists and the physical employees work together in storms and in emergency work. (Decision at 14.) It is axiomatic that emergency situations are not determinative of whether or not a community of interest exists. The Board has stated the same. See e.g., R-N-Market Inc. 190 NLRB No. 49 (1971) (“The assignment of grocery clerks to duties in the meat department occurs only at the lunch hour or in emergency situations. We do not regard the latter interchange to be substantial.”)

7. The Regional Director failed to abide by the facts contained in the Record, and held a community of interest existed between the Distribution Specialists and the other employees, a holding contrary to the overwhelming amount of evidence in the record, and contrary to established law.

WHEREFORE, In view of the foregoing, the Employer requests the Board review the Regional Director’s Decision.

Respectfully submitted,



David S Farkas (0076033)

COUNSEL FOR EMPLOYER

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for ensuring the integrity and reliability of financial data. This section also outlines the various methods used to collect and analyze data, highlighting the need for consistency and precision in all reporting.

The second part of the document focuses on the specific procedures for data collection and analysis. It provides a detailed overview of the various techniques used to gather information, including direct observation, interviews, and surveys. The text also discusses the importance of ensuring that all data is properly documented and stored for future reference.

The final part of the document concludes with a summary of the key findings and recommendations. It reiterates the importance of maintaining accurate records and provides a final overview of the data collection and analysis process.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Post Hearing Brief of Monongahela Power Company was sent by ordinary U.S. mail, postage prepaid, to the following:

Robert Chester, Regional Director
National Labor Relations Board, Region 6
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

&

Dale McCray
IBEW Local 2357
25049 Veterans Memorial Highway
Terra Alta, WV 26764

this 11 day of April, 2012.

A handwritten signature in black ink, appearing to read 'David S Farkas', written over a horizontal line.

David S Farkas

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