

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

AUTONATION IMPORTS OF LONGWOOD,
INC. d/b/a COURTESY HONDA

Employer

and

Case 12-RC-083701

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AND DISTRICT 166, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

AutoNation Imports of Longwood, Inc. d/b/a Courtesy Honda (“the Employer”)¹ operates a dealership for new and pre-owned Honda vehicles in Sanford, Florida, where it employs approximately 100 employees.² On June 22, 2012, International Association of Machinists and Aerospace Workers, and District 166, AFL-CIO (the Petitioner)³ filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of service technicians and lube technicians. A hearing officer of the Board held a hearing and the parties filed timely briefs with me, which I have duly considered.

¹ The Employer’s name appears as corrected by stipulation of the parties at the hearing.

² More particularly, the Employer is a Florida corporation with an office and place of business located at 1000 Rinehart Road, Sanford, Florida, where it is engaged in the sales, leasing and service of new and pre-owned vehicles. During the past 12 months, in the course and conduct of its business, the Employer derived gross revenues valued in excess of \$500,000, and has purchased and received goods and materials at its Sanford, Florida, facility valued in excess of \$50,000 directly from points located outside the State of Florida.

³ The Petitioner’s name appears as corrected by stipulation of the parties at the hearing.

As evidenced at the hearing and in the briefs, the parties are in disagreement as to the composition of the unit. The Employer contends that an appropriate unit containing service technicians and lube technicians must also include the following positions: service advisor, appointment taker, cashier, service porter, warranty administrator, service support individual, retail parts counter employee, wholesale parts counter employee, parts shipping and receiving employee, parts floater employee and parts driver.⁴ The unit sought by the Petitioner has approximately 24 employees,⁵ while the unit the Employer seeks would include about 54 employees.⁶ All of the disputed classifications are included in the Employer's Service and Parts Department.⁷

I have considered the evidence and the arguments presented by the parties on each of the issues. The primary issue before me is whether the positions that the Union seeks to represent comprise an appropriate craft unit within the meaning of Section 9(b) of the Act. The second issue is whether the service and lube technicians share a sufficient community of interest to be included together in an appropriate unit, even if the service and lube technicians are not craft employees. The third and final issue is whether the Employer has met its burden of proving that the employees it seeks to add to the petitioned-for unit have an overwhelming community of interest with the service technicians and lube technicians, so as to require their inclusion in the unit.

As fully discussed below, I have concluded that the petitioned-for unit is an appropriate craft unit. I further conclude that even if the service technicians and lube technicians are not a

⁴ There is also a shuttle driver in the Service and Parts Department, whose responsibility it is to transport customers to and from the facility. The parties stipulated at the hearing, and I find, that the shuttle driver should be excluded from any unit found appropriate herein.

⁵ This includes 22 service technicians, one of whom is a used car technician, as well as two lube technicians.

⁶ This number includes the following: 22 service technicians; two lube technicians; nine service advisors (also called "ASMs"); two appointment takers; four cashiers; four service porters; one warranty administrator; one service support individual; five retail parts counter employees; one wholesale parts counter employee; one parts shipping and receiving employee; one parts floater; and one parts driver.

⁷ The Employer's Service and Parts Department is also referred to as the "Customer Care Department."

craft unit, they share a sufficient community of interest to be included together in an appropriate unit for collective bargaining. Finally, I conclude that the Employer has not met its burden of establishing that the additional employees whom it seeks to include in the unit share an overwhelming community of interest with the service technicians and lube technicians. Accordingly, I have directed an election in the petitioned-for unit.

To provide a context for my discussion of the issues, I will first present an overview of the Employer's operations. Then, I will set forth the relevant facts regarding the petitioned-for positions and those that the Employer seeks to add to the unit. Finally, I will describe the controlling Board principles and the reasoning for my conclusions.

I. FACTS

A. Overview of the Employer's Operations

The Employer, a franchisee of AutoNation, sells, services and repairs new and pre-owned Honda vehicles. It additionally sells automotive parts to wholesale customers. In conducting these operations, the Employer's dealership is divided into several separate departments, all of which operate at the Employer's facility on Rinehart Road in Sanford, Florida. The two largest departments within the dealership are the Sales Department and the Service and Parts Department.⁸ Solely at issue in this matter is the Service and Parts Department.

B. The Facility

The Employer's facility includes a show room for car sales, offices, a customer waiting room, a bathroom and a break room/sales conference room, all used by the Sales Department. For the Service and Parts portion of the operation, the facility features a service lane; a parts department with a parts counter; a locker room/bathroom; a break room; an express lube bay;

⁸ Other departments include the Finance Department, the Detail Department and the Carwash Department. The Employer utilizes subcontractors to perform the work in the latter two departments.

and two service shop floors. There is a common parking lot that is used by all employees of the dealership.

The service lane, which customers use to access the service area, is located along the outer edge of the eastern side of the building. It is approximately 110 feet long and three lanes wide. The service advisors whom the Employer seeks to include in the unit work at desks situated along the service lane.

Next to the service lane is the service shop area. The shortest distance between the service lane and shop area is approximately six feet; the longest distance is approximately 110 feet. A door at the end of the service lane leads to the shop areas, which are also accessed through garage doors. The shop areas include two large open service shops, the first of which is connected to the express lube area. A small wall, four feet in height, separates the front shop from the back shop. A solid wall separates the express lube shop from the second large service shop. A walkway runs alongside the low wall.

The express lube shop contains four car lifts, where the express lube technicians perform their work. The two large service shops each contain 14 bays, where the service technicians are stationed, including the single used car technician whom the Employer employs.

The parts counter is located near the center of the facility, between the sales showroom and the shop areas where the petitioned-for employees work. The wholesale and retail parts department employees work along the parts counter. The parts shipping and receiving employee performs his work in the back corner of the showroom.

C. Managerial and Supervisory Structure

Jim Doyle is the General Manager of the Employer's dealership. Reporting to Doyle is Service Director Bob Bruhan. Dave Wiggins is the Employer's Parts Manager. He reports directly to Bruhan. Don Mills holds the position of Service Lane Manager/Service Manager. He, too, reports directly to Bruhan.⁹

⁹ Bruhan only joined the Employer's managerial staff about a month prior to the hearing. Mills served as the Interim Service Director for approximately three months before Bruhan's arrival.

Wiggins has oversight responsibility for all parts employees. These include the retail and wholesale parts associates, as well as the shipping and receiving associate, the parts floater associate and the parts driver. Wiggins performs his work in the parts department area of the building, next to the showroom.

Mills oversees the work of the service employees. These include the service and lube technicians, service advisors, porters, the warranty administrator, cashiers, service support associate and appointment takers. Currently, Mills primarily spends his time in the Service Lane area of the facility.¹⁰

D. Team Structure

The Employer utilizes a team concept for the service technicians and the service advisors. There are a total of eight service technician teams, each of which is comprised of three service technicians and each of which is matched with a single service advisor. As described more fully below, the advisor acts as a liaison between the customer and the service technicians. Each team has a team leader who is an A-class service technician, the most highly skilled and highly certified mechanic among the Employer's service technicians. Each team also includes a B-class technician, who is skilled, but less so than the A-class technician, and a C-class technician who is the least skilled among the service technicians. All members of a team are scheduled to work on the same days and for the same hours. "Sister" teams cover work for each other during off-times.

A ninth service advisor is considered a "floater" and is not assigned to any team. Similarly, the used car technician and express lube technicians do not have team assignments. None of the parts department employees is assigned to the service technician/advisor teams. Nor do the teams include any of the following subject classifications: appointment taker, cashier, porter, retail and wholesale parts employees, the parts floater employee, warranty

¹⁰ While serving as the interim Service Director, Mills spent his time in the inside office, as well as in the service lane area of the facility.

administrator, service support employee, parts shipping and receiving employee and parts driver.

E. Workflow in the Service and Parts Department

The customer care process begins when a customer either calls or visits the facility. Calls are directed to one of two appointment takers, who obtains information from the customer about the services sought, schedules an appointment, and inputs the information into the computer. The appointment taker performs these tasks at a desk located toward the front of the building, near the sales and showroom area.

At the end of each work day, the appointment taker prints and gathers all documents related to the service appointments for the following day, including pre-work order sheets, customer histories and, if warranty work is required, a "Honda-in-Sheet." The gathered documents, referred to as a "power-pack," are attached to a clipboard. A porter carries the power-packs to the service lane area of the facility, and deposits them in a bin for pick-up by the service advisors.¹¹ Before leaving for the day, the service advisors review the power-packs in preparation for the next day's work. The technicians never see the power-packs; rather, the service advisor uses them to write a "ticket" for eventual dispatch to the team of technicians.

Once a customer arrives at the facility, one of the Employer's four porters takes the customer's name and contacts the designated service advisor. In the event that a customer requests service without having made an appointment, the porter typically seeks out the first available service advisor, who then greets the customer.

The customer next speaks with the designated service advisor about the reason for the visit, the nature of the services sought and any problems that the customer has experienced with the car. While the customer is speaking with the service advisor, the porter places paper mats on the auto's floorboard and tops off any fluids, as necessary.

¹¹ The Employer attempts to schedule repeat customers with the same service advisor on each trip. Alternatively, customers sometimes request specific service advisors.

The service advisor then walks around the vehicle with the customer, making observations about the car and gathering information that may lead to additional work on the vehicle.¹² The customer and service advisor proceed to the advisor's desk in the service lane, where the service advisor summarizes the customer's requests, along with the advisor's observations, and inputs the information into a computer located on the advisor's desk. The service advisors then use the gathered information to prepare a repair order.¹³

If the customer wishes to wait for the car while it is being serviced, the service advisor directs the customer to the customer waiting area. Those customers who wish to use the dealership's shuttle service are directed to the cashier and then the shuttle's departure area.

Once the repair order has been finalized, the service advisor gives the paperwork to the porter, who drives the vehicle to a waiting area for the cars. The porter then takes the repair order to the service technician team leader, who assigns the work to himself or to one of the other service technicians on his team, depending on the complexity of the job and the other technicians' work assignments.¹⁴

The designated service technician investigates and diagnoses the vehicle's problems. He additionally conducts a multi-point inspection, which may lead to suggestions for repairs not yet included in the service order.¹⁵ Once the service technician has completed the diagnosis and inspection, he speaks with the designated service advisor and describes his recommendations. The advisor next contacts the customer and explains the service

¹² This task is associated with the service advisor's goal of "up-selling," or adding to the customer's list of requested service and repairs.

¹³ The repair order is also referred to as an "RO" or a "work order."

¹⁴ Neither party contends that the Team Leaders are supervisors within the meaning of Section 2(11) of the Act and both parties would include them in the unit found appropriate herein.

¹⁵ The multi-point inspection presents another opportunity for "up-selling," or increasing the amount of work to be done on a customer's vehicle and the resultant profit for the Employer. As described below, this "up-selling" impacts compensation levels for the service technician and the service advisor.

technician's findings and the estimated costs of repair.¹⁶ If the customer approves of the proposed work, the advisor adds the work to the repair order and communicates the customer's approval to the service technician.

Once the final repair order has been updated, the service technician assigned to the job walks to the parts department and retrieves any necessary parts from the retail parts counter associate. The service technician then returns to the shop and repairs the customer's vehicle. As part of the service process, the technician uses a computer in the shop to record descriptions of the problems, the technician's diagnoses, and the work performed to correct the problems. If the repair requires removal of a defective or damaged part that is still under warranty, the service technician takes it to the parts counter, where the retail parts employee enters information about the part into the computer. The parts counter employee then places the warrantied part in a storage area, should a dispute arise with the warranty company about coverage for the part.

After completing all repairs, the service technician returns the paperwork to the designated service advisor and then drives the vehicle to the carwash area of the facility. Using specialized software, the advisor verifies that the time allotted to the repair is appropriate for the work performed and that charges to the customer are consistent with the quoted costs. The advisor then contacts the customer to say that the car is ready for pick-up and requests that a porter bring the vehicle to the service lane area.

When a customer arrives to pick up the vehicle, the service advisor reviews the repair order with him or her, describing the work that was performed and the resultant charges. The customer then pays the cashier and leaves the facility.

¹⁶ On occasion, a service technician may speak with a customer in the shop area, so that he can actually show the customer the nature of the problem with the vehicle. On other occasions, the service technician may speak directly with the customer in the service lane area of the shop, if a face-to-face explanation of a problem is requested or deemed necessary. The record establishes that both types of interaction occur with infrequency and it is the service advisor who most commonly deals directly with the customer.

F. The Job Duties, Certifications, Working Hours and Wages of Employees in the Disputed Classifications

Service Technician

The Employer's 22 service technicians are responsible for vehicle repair and maintenance. Indeed, among the Employer's entire workforce, the service technicians are the only employees who perform such repairs. As set forth in the job description for the position,¹⁷ the service technician's primary duties include the following: perform work as outlined on the repair order with efficiency and accuracy in accordance with dealership and factory standards; communicate with the parts department to obtain needed parts; diagnose causes of vehicle malfunctions and perform the necessary repairs (if authorized by the customer); save and tag parts if the job is under warranty; examine the vehicle to determine whether additional safety or service work is required; road-test vehicles to quality-check repairs; continually monitor the status of each vehicle and communicate the status to the Team Leader; advise the Team Leader of potential problems with meeting estimated completion times; and comply with all federal, state and local regulations, as well as all company policies, procedures and safety standards.

According to the testimony of Service Lane Manager/Service Manager Mills, today's service technician, long referred to as a "mechanic" in the industry, performs his job duties in a significantly different manner than did his predecessors. More particularly, testified Mills, while mechanics in decades past relied on their senses for diagnosing problems with the vehicles, today, the service technicians use computerized diagnostic tools for that purpose. Mills similarly testified that the task of repairing vehicles has dramatically changed over the years, as it is now more common for a technician to *replace* a part than to *repair* it. With respect to these changes in the industry, Team Leader and A-Class service technician Daniel Perez, the Petitioner's

¹⁷ As a franchisee of AutoNation, the Employer utilizes job descriptions produced and distributed by AutoNation, effective 2007.

witness, testified that today's automobiles actually require *higher* levels of skill among the service technicians because the automobile systems are largely computerized and more complicated than in the past.

The Employer's service technicians are categorized as "A-class, B-class and C-class" technicians. As previously noted, the A-class service technician is the most highly trained and skilled among the technicians. As such, he performs the most difficult diagnoses and repair tasks and is able to work on any kind of problem that a vehicle might have.

The A-class technician generally serves as a Team Leader, distributing work assignments to himself and to other members of his team.¹⁸ As Team Leader, the A-class technician additionally trains other technicians, attends sporadic team leader meetings, and then transmits information from those meetings to his other team members.

The B-class technician is somewhat less skilled than the A-class technician. In the absence of an A-class technician, however, a B-class technician is responsible for serving as the Team Leader and dispatching work to the team.¹⁹ More experienced B-class technicians are qualified to perform engine and transmission repairs. Less experienced B-class technicians work on such problems as window regulators and alternators.

The C-class technician typically possesses the least amount of experience among the service technicians. They are generally able to perform maintenance work, brake work, and oil changes. More experienced C-class technicians, like the B-class technicians, may also perform work on window regulators and alternators. Two of the Employer's current C-class technicians regularly perform work that is traditionally assigned to the lube technicians, described below. These C-class technicians perform their work in the main service shop bays, however, not in the lube express bay.

¹⁸ A-class technician Daniel Perez, a Team Leader, testified that he spends 10% of his time "dispatching" work to the other team members and documenting the team's work. The remaining 90% of his time is spending performing A-class diagnoses, service, and repair tasks.

¹⁹ The record reveals that some B-class technicians are actually qualified to be A-class technicians.

The single used car technician also performs his work in the service shop. There are two bays designated for his use. The used car technician spends approximately 95% of his time repairing used cars that arrive at the dealership on trade. While not assigned to a specific team, the used car technician typically works with one of two service advisors.

In performing their service and repair tasks, the service technicians use a variety of tools. The Employer supplies some of the tools associated with the technicians' job, like the hand-held diagnostic computers that technicians connect directly to the vehicles to determine the nature of a problem. Most of the tools that the technicians use, however, are personally owned, often at a great expense to the technicians.²⁰ A-class technician and Team Leader Perez, for example, testified that the personal tools he uses to complete his job duties at the Employer's dealership are valued at approximately \$40,000.00. Perez's personal toolbox, used to hold those tools, is valued at an additional \$9,000.00.

In order to qualify for one of the Employer's service technician positions, one must possess manual dexterity; general mechanical skills; the ability to operate manual transmission vehicles; a valid in-state driver's license; and an acceptable, safe driving record. The service technician must also be able to exert 20 to 50 pounds of force occasionally and/or 10 to 25 pounds of force frequently and/or up to 10 pounds of force frequently to move objects. Service technicians must work at a production rate pace while pushing and/or pulling materials and walk or stand to a significant degree.

The Employer requires all service technicians to have a high school diploma, or the equivalent, and the ability to read and comprehend instructions and information. Preferred qualifications include three or more years of experience as a service technician and certification by the National Institute for Automotive Service Excellence ("ASE certification").

²⁰ The Employer does not require its technicians to wear protective eyewear, so the technicians purchase and wear their own. The service technicians similarly purchase their own heat-protective gloves. The Employer provides rubber gloves, including for use by porters or service advisors on an occasional basis.

Once hired, service technicians are required to maintain specialized Honda certifications. Honda provides both online training and live classroom training, at a corporate training center in Ft. Lauderdale, Florida, to service technicians. A-class and B-class technicians are required to pass approximately 250 tests in order to obtain their Honda certifications.

Whether one is categorized as an A, B or C-class technician is determined, in part, by the numbers and types of certifications that one holds. For example, A-class and Team Leader Perez has worked for the Employer since about 2007. Perez is a “Honda Master Technician” with over a thousand completed tests. He is also a “Legacy-certified Master Technician with advanced-level NAC diagnostics.” Perez possesses the ASE master certification, as well. Like all of the Employer’s service technicians, Perez secures his training and certifications on his own time. Certifications generally expire every five years, requiring the service technician to re-invest in the training.

Service technicians are paid on a flat-rate basis, dictated by the hours it takes the technicians to complete a job as compared to the amount of time allotted for the job by Honda. Thus, for example, where Honda has determined that a particular task should take two hours to complete, but the service technician completes the job in one hour, the service technician is paid the two-hour rate and can earn additional money by working on another job during the remaining allotted hour. Conversely, if the service technician takes longer to complete a job than the allotted time, the service technician is still only paid the rate for the allotted time and he is not compensated for the additional time that it takes to complete the job.

In addition to the flat-rate base pay for service technicians, they are eligible for production bonuses. The bonuses vary according to whether one is an A, B or C-class technician. Specifically, A-class technicians earn a production bonus that is based on the number of total hours “turned” by the entire shop.²¹ Bonuses for the B and C-class technicians,

²¹ “Turn” is a reference to the time a technician spends actually working on a vehicle.

however, are based on the number of hours their team turns. All technicians have opportunities for “up-selling,” in which they identify additional problems with the vehicle and make recommendations to add the repairs for those problems to the customer’s repair order.

Under the flat-rate pay scheme for technicians, A-class technicians earn between \$16.00 and \$24.00 per flagged²² hour. The flat-rate wage range for B-class technicians is \$14.00 to \$20.00, depending on their experience and certifications. C-class technicians are all paid \$12.00 per hour, as is the used car technician. Bibi Bickram, who serves as a Human Resources Specialist for AutoNation in Market 4 (Orlando, Sanford and Jacksonville, Florida), testified that the average annual compensation rate for all of the Employer’s technicians (including the lube technicians) is \$39,000.

A-class technicians generally work from 7:00 a.m. until 5:00 p.m., Monday through Friday. They may also work on some Saturdays, when the shop operates from 7:00 a.m. until 5:00 p.m., or on Sundays, from 9:00 a.m. until 4:00 p.m. B-class technicians typically work from 8:00 a.m. until 6:00 p.m., Monday through Friday, but may also be required to work on Saturdays or Sundays, during the same hours as the A-class technicians. Finally, the C-class technicians usually work from 8:00 a.m. until 6:00 p.m. or from 9:00 a.m. until 7:00 p.m., Monday through Friday. Like the other service technicians, the C-class technicians may be required to work on Saturday from 7:00 a.m. until 5:00 p.m. or Sunday from 9:00 a.m. until 4:00 p.m.

Lube Technician

The Employer’s two lube technicians work in the express lube bays of the shop area. They are responsible for inspecting and lubricating cars in a quick and thorough manner. Lube technicians receive their assignments through the service advisors or porters, usually by placement of a ticket on a customer’s vehicle. They perform light maintenance tasks such as

²² “Flagged” is a reference to the designated number of hours allotted per task.

tire rotations, oil changes, and wiper blade and air filter replacements. On occasion, the lube technicians may also perform rear brake jobs.

Like the service technicians, the lube technicians can also perform the multi-point inspections and are thus involved in the diagnosis process. It is the service technicians who train the lube technicians to conduct such inspections. The service technicians provide additional on-the-job training to the lube technicians, when the opportunity arises and time permits.²³ The lube technicians assist the service technicians in the service bays on an as-needed basis.

The lube technicians are required to take 10 to 15 classes for Honda tests and certifications. They use tools such as screw drivers, air gauges and wrenches to perform their job duties. The lube technicians are trained to use the hand-held scan tool, which is supplied by the Employer. They also use their own tools, which are kept in their privately owned toolboxes. Of the Employer's two current lube techs, one uses a small, portable tool box and the other utilizes a stand-alone tool box, which contains some air tools as well as the normal wrenches and sockets required to perform the assigned tasks.²⁴

In order to qualify for a lube technician position with the Employer, one must have the ability to read and comprehend instructions and information; have knowledge of automotive repair and maintenance; hold a valid in-state driver's license and maintain an acceptable safe driving record; have the ability to operate manual transmission vehicles; and possess manual dexterity, good judgment and effective communication skills. Preferred qualifications for the lube technician include prior experience as a technician's helper or apprentice in an automobile dealership.

²³ When asked on direct examination whether the lube technicians are "literally apprenticing side by side with these service techs," Mills testified, "That's a hard one." He further explained that while the lube technicians are not specifically assigned to apprentice with designated service technicians, the lube technicians go into the shop "and hang out with the tech and ask about information."

²⁴ A-class technician and Team Leader Perez testified that a "start-up" tool supply for the entry-level lube technician position costs about \$1,000.00.

The lube technician classification is an entry-level position within the service shop. The most recently hired lube technician previously worked in the Employer's carwash department. As Service Lane Manager/Service Manager Mills testified, the Employer "can't hire an experienced tech for that position; they just won't last there. You have to hire somebody with little or no skills and build them up and then progress them along to move them up to another level." Thus, the Employer offers the opportunity for lube technicians to become service technicians, based on skill levels and job availability. According to Mills' testimony, in his experience, he has "not yet" had any lube technicians that failed to "make it to service tech." Like the service technicians, the two lube technicians are paid on a flat-rate basis, at a rate of \$12.00 per hour, the same as some of the C-class technicians.²⁵

Service Advisor

The service advisor acts as the dealership's primary contact for customer relations in the Service and Parts Department and its representative for the sales of services. The service advisor is charged with greeting each customer in a prompt courteous manner; communicating with service customers to determine the nature of the mechanical problem(s) as well as the value of maintaining their vehicles in accordance with the manufacturer's specifications; scheduling appointments using dealership-approved forms; and test-driving the vehicle, if needed. Additionally, the service advisor is responsible for obtaining customer and vehicle data; securing a method of payment; conducting a walk-around inspection of vehicles and indentifying any possible body damage; notifying the customer of needed body shop work; and providing the customer with body shop repair estimates. The service advisor must also present each customer with a maintenance schedule/menu, identifying both current and future service needs; offer a multi-point inspection; and obtain customer approval for the inspection expense. It is the service advisor's job to handle any customer complaints with courtesy and tact and to

²⁵ The record is silent as to the working schedule of the lube technicians.

communicate with the customer about any additional work that may be necessary, as well as the estimated costs of such work. Service advisors must additionally follow up on the progress of each repair order during the day and contact customers regarding changes in the estimated cost or time previously promised to the customer. Once a car repair has been completed by the service technician, the service advisor is charged with delivering vehicles to customers, answering any questions and reviewing the work that was performed, as well as escorting customers to the cashier window. Finally, the service advisor must advise customers of parts ordered and make appointments for the installation of those parts; interpret warranty information and policies to the customers; and refer leads and prospects for vehicle sales to the new and pre-owned car departments.

In order to be considered qualified for the service advisor position, one must have a valid in-state driver's license and maintain an acceptable safe driving record; be able to operate a manual transmission vehicle; and demonstrate customer service skills. The Employer also requires that the service advisor have a high school diploma, or its equivalent; have an ability to read and comprehend written instructions and information; and possess excellent written, oral and interpersonal communication skills. Preferred qualifications include previous industry knowledge, ASE certification, and prior sales experience. Service advisors take Honda classes, both online and in person at training locations in either Orlando or Tampa, Florida.²⁶ There are approximately 88 Honda tests associated with those classes.

The service advisor primarily performs his or her job duties in the service lane area of the Employer's facility. At times the service advisor walks into the shop area to communicate with the service technician about repair updates, but such communication occurs most frequently by telephone.²⁷ The advisor occasionally uses a hand-held scan tool to help identify

²⁶ As noted, the service technicians receive their in-person training at a different facility, the training center located in Ft. Lauderdale, Florida.

²⁷ According to Mills, the service advisor can spend a total of 20 to 60 minutes each day on the shop floor, interacting with the service technicians about the status of vehicle repairs. During that time the service advisors are not actually involved in repairing the cars, but are communicating with the service technicians so that the information can be transmitted to the customers.

basic repair needs, though the scan tool used on the service drive is not as sophisticated and does not provide as much in-depth information as those used by the service technicians in the shop. The service advisor will sometimes change a light bulb or wiper blades on the service drive.²⁸

The service advisor is paid on commission only, based upon how much work they “sell” to the customers. The calculation for the advisor’s compensation rate includes hours allotted to the work performed by the service technicians on their team and a percentage of the value of the parts sold by their team for repairs.²⁹ The rate of a service advisor’s pay is also linked to their customer satisfaction index (“CSI”) rating. The CSI rating is based upon the results of a survey that Honda distributes to its customers concerning their experiences with the dealership’s Service and Parts Department. In total, testified Service Lane Manager/Service Manager Mills, the average compensation for service advisors at the Employer’s facility is \$46,000.00 per year. The nine service advisors, including the one “floater” service advisor, generally work from 6:45 a.m. until 6:00 p.m., Monday through Friday. They sometimes work on the weekends, as well, if the service technicians on their teams are scheduled to work on those days.

Appointment Taker

Assigned to a desk in the corner of the sales showroom, the appointment taker is responsible for answering the service phone lines promptly and in a friendly, professional and courteous manner. The appointment taker schedules service appointments for the customers who telephone the service department and enters information into the computer regarding those appointments. As described above, the appointment taker additionally prints and compiles all

²⁸ A-class service technician Perez testified that in his experience, the Employer’s service advisors “hardly ever” change light bulbs.

²⁹ The percentages are determined, in part, by the type of services sold. Thus, for example, the sale of a “customer pay” service (one for which the customer is entirely responsible) yields a higher percentage of compensation (e.g., 5% of the sale), while the sale of warranty work (for which Honda reimburses the dealership) yields a lower percentage of compensation (e.g., 3% of the cost).

relevant documents for the “power-pack,” which a porter takes to the service lane for pick-up and review by the service advisors. The appointment taker is required to take two Honda-sponsored classes and tests. She works full-time, is paid an hourly wage, and is also eligible for a production bonus that is based on the CSI rating. As noted, there are two appointment takers.

Porter

The porter, of whom there are four, is responsible for greeting customers upon arrival, placing paper floor mats in their vehicles and topping off the fluids in their vehicles, as necessary. The porter additionally carries paperwork from the appointment taker to the service lane and moves vehicles to and from the service lane. According to the job description, the porter is also charged with performing deliveries as required, inspecting the vehicle for stains, debris and damages before returning the car to the customer, and keeping the vehicle lot neat and orderly. The porter is additionally responsible for checking the batteries in vehicles in the service lane and for maintaining the facility’s buildings and grounds, as needed. The porter interacts with the service technician when he obtains or leaves the keys for pick-up and/or delivery of the vehicle to the shop floor. The porter is paid an hourly wage and is also eligible for a production bonus based on the CSI rating. There is one full-time porter; the other porters work on a part-time schedule.

Cashier

The cashier is responsible for processing payments for completed service work and/or the purchase of parts. There are four cashiers employed at the Employer’s facility, two of whom work part-time. The cashier is charged with collecting the total retail charges from the customer, whether by cash, check or authorized charge account, using proper procedures. The cashier must also provide the customer with the proper change and/or receipts; complete the accounting section of the repair order; update the customer’s service history file; deliver all repair orders and parts invoices closed during the business day; and handle and account for the cash in and out of the moneybox on a daily basis. Qualifications for the position include the

ability to read, write, add, subtract, divide and comprehend written instructions and information. Preferred qualifications include six to 12 months of previous work experience and demonstrated customer skills. Cashiers are paid an hourly rate and are eligible for a CSI bonus.

Service Support Associate³⁰

Service Lane Manager/Service Manager Mills described the Employer's sole service support associate as a "jack of all trades." Her job duties have included filling in for the cashier and generating "sublet" work (third party service providers for items such as window tinting). The service support associate is paid an hourly rate and works 40 hours per week.

Warranty Administrator

The Employer employs a single warranty administrator, whose job it is to ensure that the dealership is properly reimbursed by Honda for all service work that is covered by warranty. She gathers and reviews all applicable paperwork, including repair orders, so that the dealership can request payment from Honda. The warranty administrator performs her tasks at a desk in an office in the center of the building. She is paid an hourly rate and is also eligible for a production bonus based on the CSI rating. The warranty administrator is a full-time employee. She has no designated break times and works at her own pace, with the flexibility of making up a missed weekday by working on a weekend day.

Retail Parts Associate

The retail parts associate is responsible for obtaining parts and accessories for both the service shop and retail customers. The Employer employs four retail parts associates, each of whom is charged with accurately pricing parts and accessories using the proper pricing sources and transferring the information to the proper document and computer system. Retail parts associates must also stock incoming inventory and maintain the parts department in a clean and orderly manner. They perform this work at the parts counter, between the shop and the showroom.

³⁰ The record does not contain a job description for this position.

In order to qualify as a retail parts associate, one must have a high school diploma, or the equivalent. Retail parts associates must also possess one year of experience in an automotive parts department and one year of sales experience. They are paid based on a percentage of sales.³¹

Wholesale Parts Associate

The Employer employs one wholesale parts associate, whose job it is to sell parts to independent, “outside” companies, including body shops. The wholesale parts associate works alongside the retail parts associate, at the parts counter. Both the retail parts and wholesale parts associates report to Dave Wiggins, the Parts Manager. It appears that the wholesale parts associate is paid under the same compensation scheme as the retail parts associate; that is, based on a percentage of sales.

Parts Shipping and Receiving Associate

The Employer’s one parts shipping and receiving associate also reports to Parts Manager Wiggins. He is responsible for “checking in” the semi-truck that arrives at the facility every morning with a load of parts that were ordered the night before. The parts shipping and receiving employee must verify that the ordered parts were delivered and then sort the parts and disperse them to the appropriate locations within the facility.

The parts shipping and receiving associate must be able to operate a forklift and must have the ability to read and comprehend instructions and information. Further, the parts shipping and receiving associate must possess a valid in-state driver’s license, maintain an acceptable, safe driving record, and have the ability to use the parts department computer system and the ability to interpret vendor catalogs.

³¹ The precise compensation formula for retail parts employees is unclear from the record. Mills testified, “Parts employees are paid out for percentage of a group” but failed to describe which group he was referring. He continued, “What they basically do is they have x-amount of sales and they all take a percentage off of that money.”

Parts Floater Associate

The Employer employs a single parts floater associate at its dealership. The parts floater associate is responsible for filling in for other parts department associates when they are absent.

Parts Driver

There is one parts driver employed at the Employer's facility. The parts driver is responsible for shuttling parts to and from retail and wholesale customers. He additionally distributes parts to the technicians, as needed.³²

G. Benefits and other Terms and Conditions of Employment

The Employer offers several benefits programs, all of which are uniformly available to the petitioned-for employees and those employees whom the Employer seeks to add to the unit. These include health insurance coverage and a 401(k) plan, as well as vacation benefits and holiday leave benefits. The Employer utilizes a single employee handbook for all of its employees and they all receive the same new-hire orientation, regardless of classification. All of the Employer's employees are subject to the same disciplinary policies and procedures and common documentation for these procedures is used in every department of the dealership.

Employees throughout the dealership use computers to "punch in" and "punch out," by signing in at their arrival and departure times. The Service and Parts Department employees take their breaks and lunches at staggered times, so as to guarantee continuity of service for the customers. As mentioned, there are two separate break areas in the facility; one is used by the sales associates and employees in the office areas around the showroom, while the other is used by the service employees. There are two bathrooms, one near the showroom and another in the locker room near the shop. The service employees use the locker room for changing

³² The record is silent concerning the hours and compensation for the parts shipping and receiving associate, the parts floater associate and the parts driver.

clothes, though sometimes the detail shop employees also use the restroom portion of the locker room.

The service technicians and the lube technicians wear specialized uniforms that are blue and gray. The uniform shirts bear the employees' names on patches, along with "Honda" and, where appropriate, insignia indicating ASE certifications. The service technicians and the lube technicians are the only employees who wear the blue and gray uniform shirt and matching pants.

The service advisors, parts employees and porters also wear uniforms, but they are notably different from those of the service technicians and lube technicians. These employees are only required to wear pull-over polo shirts.³³ The remaining employees whom the Employer seeks to include in the unit do not wear uniforms of any sort and may dress as they please.

Finally, all employees are paid on the same bi-weekly schedule, on the 10th and the 25th of each month.

H. Interchange

The record reveals no evidence of temporary interchange among the employees whom the Petitioner seeks to represent and/or those whom the Employer argues should be included in the unit. More particularly, while service technicians and service advisors come in contact with each other in the performance of their respective jobs, the advisors do not "fill in" for service technicians or lube technicians in the event of absence.³⁴ Nor do either the service or lube technicians fill in for the service advisors.

The service technicians have daily contact with the parts department employees, as they obtain parts needed to repair the cars and with the porters, who move cars and materials for them. Neither the technicians nor the parts department employees or porters ever substitute for

³³ Service advisors generally wear khaki pants or shorts with their polo shirts.

³⁴ Mills testified about one occasion when a service advisor "did a lube technician's job for a specific car." This limited task performance does not constitute interchange in that such events are isolated and do not involve substitution for the overall job duties. Instead, it appears from the record that the service advisor was able to perform the lube job because he previously held the lube technician position and that he was merely helping to meet a customer's needs, not replace the lube technician.

each other, however, and there are no temporary interchanges between or among these positions. As to the remaining Service and Parts Department employees, including the cashiers, appointment takers, warranty administrator and service support associate, the record reveals that the petitioned-for employees have little or no contact with any of these employees and that there is absolutely no interchange between the service and lube technicians and these employees.

With respect to permanent interchange, the record reveals that two of the Employer's C-class service technicians became service advisors, in June and September 2011, respectively. Also, in March 2012, a lube technician transferred to a position at the parts counter. In June 2012, a lube technician transferred into the parts department and became the parts shipping and receiving employee. There have been no transfers *into* the service technician position from any of the other classifications that the Employer seeks to include in the unit.

I. Collective Bargaining History

There is no history of collective bargaining between the Petitioner and the Employer. During the hearing and in its brief, however, the Employer argued that the collective bargaining history between four of AutoNation's other franchisees and other affiliates of the Union supports the Employer's position that an appropriate unit must include all employees within the Service and Parts Department. More particularly, the Employer introduced into evidence the recognition and jurisdiction provisions of two separate collective bargaining agreements, for the purpose of demonstrating that affiliates of the International Association of Machinists & Aerospace Worker, AFL-CIO ("IAM") represent wall-to-wall units of service and parts department employees at other locations. The first of these contracts is between AutoWest BMW Mini Mountain View ("AutoWest BMW") and District Lodges 190 and 1101 of the IAM. The second of the collective bargaining agreements in evidence is between AutoWest Honda Fremont ("AutoWest Honda") and IAM District Lodges 190 and 1546.

A review of these agreements reveals that the IAM affiliates have, indeed, represented wall-to-wall units of service and parts department employees. It also reveals, however, that the

classifications included in those units do not correspond to the classifications involved in the instant case. More importantly, the record does not disclose the manner in which the parties to those agreements arrived at the unit descriptions, whether by stipulated election agreement, voluntary recognition, a Regional Director's Decision and Direction of Election, or by directive from the Board. Nor does the record indicate whether the employers' service and parts operations at those facilities are in any manner akin to the circumstances presented by this case. Thus, it would be improper to reach a unit determination in this matter based on the incomplete and tangentially relevant collective bargaining history between completely different parties.

II. ANALYSIS

A. The Parties' Positions

The Petitioner contends that the Employer's service technicians and lube technicians comprise a skilled craft unit that is appropriate for collective bargaining.³⁵ In support of this position, the Petitioner maintains that the service technicians and lube technicians share distinct skills, qualifications, training and certifications that separate them from the other classifications within the Employer's Service and Parts Department. The Petitioner additionally argues that the service technicians and lube technicians whom it seeks to represent share a community of interest that is separate from the other employees whom the Employer seeks to include in the unit.

The Employer argues that the petitioned-for unit does not constitute a skilled craft unit because the Petitioner's inclusion of the lesser-skilled C-class service technicians and the lube technicians "completely destroys the craft theory upon which the instant petition is premised." Inasmuch as the Petitioner failed to confine its petition to a discrete, identifiable craft of homogeneous employees, contends the Employer, the standard for determining an appropriate unit is a traditional community of interest analysis. According to the Employer's position, under

³⁵ At the hearing the Petitioner indicated that it would be willing to proceed to an election in an alternate unit.

a community of interest analysis, the smallest appropriate unit is one comprised of all Service and Parts Department employees.

B. General Principles of Unit Determination

It is well settled that the Act does not require a petitioner to seek representation of employees in *the most* appropriate unit, but only in *an* appropriate unit (emphasis supplied). Morand Bros. Beverage Co., 91 NLRB 409, 419 (1950), enfd. on other grounds, 190 F.2d 576 (7th Cir. 1951). The Board's procedure for determining an appropriate unit under Section 9(b) of the Act is to first examine the petitioned-for unit. If that unit is deemed appropriate, the inquiry ends; if not, the Board will examine the alternative units suggested by the parties. The Board has the discretion to select an appropriate unit that is different from the parties' alternative proposals. Overnite Transportation Co., 331 NLRB 662, 663 (2000). Generally, the Board attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for classifications. Bartlett Collins, 334 NLRB 484, 484 (2001). See also R & D Trucking, 327 NLRB 531 (1999); and State Farm Mutual Automobile Insurance Co., 163 NLRB 677 (1967).

C. The Craft Unit

Based on the above general principles of unit determination, the first inquiry is whether the unit that the Petitioner seeks to represent constitutes a valid "craft unit" that is appropriate for bargaining. The Board defines a craft unit as:

[o]ne consisting of a distinct and homogeneous group of skilled journeymen and craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skill, and specialized tools and equipment.³⁶

Absent a bargaining history involving a more comprehensive unit, the Board will find appropriate a unit of craft employees who have a separate identity of skills, supervision and

³⁶ Burns & Roe Services Corp., 313 NLRB 1307, 1308 (1994).

function. See MGM Mirage d/b/a Mirage Casino-Hotel, 338 NLRB 529 (2002) (Board held that the petitioned-for unit of upholsterers and carpenters comprised a craft unit that did not include remaining employees in the employer's engineering department). As previously noted, there is no bargaining history involving the petitioned-for employees or the parties herein.

In determining whether a petitioned-for craft unit is appropriate, the Board considers the following factors: 1) whether the employees undergo formal training or participate in an apprenticeship program; 2) whether the work is functionally integrated with the work of the employees whom the petitioner seeks to exclude from the unit; 3) whether the job duties of the petitioned-for employees overlap with the duties of the excluded employees; 4) whether the employer assigns work according to need rather than based on craft or jurisdictional lines; and 5) whether the petitioned-for employees share common interests with other employees. Burns & Roe Services Corp., 313 NLRB at 1308.

Applying the above factors to the record evidence in this matter, I find that the petitioned-for employees comprise an appropriate craft unit. The service technicians and lube technicians are the *only* employees in the Employer's workforce who perform repairs on vehicles. Thus, the Employer assigns work to them based on their craft. The most highly skilled service technicians in this group possess multiple Honda and ASE certifications, which they acquired on their own. The lesser skilled employees within the service technician/lube technician group, too, are required to take specialized training and exams in order to work for the Employer. While there is an apparent range of skill levels among the service technicians and with the lube technicians, even the least skilled lube technician handles lubrication, oil and filter changes, belts, hoses and other simple mechanical repair work. Further, both the service technicians and lube technicians use specialized tools that are not utilized by the other Service and Parts Department employees whom the Employer seeks to include in the unit. For the most highly skilled service technician, these specialized and personally owned tools are valued at as much as \$40,000.00. While of a

lesser value, the lube technicians similarly own and use personal tools such as wrenches, sockets and air tools in the performance of their job duties.

The service technicians and the lube technicians are the only employees of the Employer who wear the matching blue and gray uniform bearing their names and the “Honda” patch. Similarly, they are the only employees who are paid on a flat-rate basis. They have their own locker room for changing and a break room that is separate from the one used by many of the employees whom the Employer seeks to include in the unit.

The duties of the service technicians and lube technicians do not significantly overlap with those of other employees in the Service and Parts Department. While service advisors may, on a rare occasion, change a light bulb or wiper blades on the service lane, such conduct occurs with substantial infrequency. At no time is the service advisor, or any other Service and Parts Department employee, assigned to perform the work of the service technicians and/or lube technicians. As to any slight overlap that may occur between the work of the service advisors and that of the service technicians or lube technicians, the Board has held that “some overlap in lesser-skilled duties does not destroy the appropriateness” of a separate craft unit. Mirage Casino-Hotel, 338 NLRB at 533 (Board found that carpenters remained a distinct and homogenous craft unit even though casino engineers sometimes performed low-skilled carpentry repair work).

Finally, the Employer contends that the service technicians and lube technicians fail to constitute an appropriate craft unit, in part, because of the Employer’s “team-oriented effort directed toward the analysis, diagnosis, service, repair and return to customers of their motor vehicles.” More particularly, the Employer argues that by assigning a service advisor to each team of service technicians, the Employer has increased the degree of integration so as to prevent the service technicians and lube technicians from constituting a separate, homogeneous group. In support of this position, Service Lane Manager/Service Manager Mills testified that this dealership’s team approach was unusual among the total of nine dealerships

where he has worked. However different the Employer's eight-team approach may be as a means of enhancing the customer experience, it does not negate a finding that the service technicians and the lube technicians form a unique and distinct homogenous group, in which they are the only employees who perform mechanical repairs on the cars.

The Board has specifically addressed the craft unit issue in the context of the automobile dealership industry. In Dodge City of Wauwatosa, Inc., 282 NLRB 459 (1986), the Board found that the petitioned-for unit of mechanics comprised a craft unit, thereby rejecting the employer's contention that an appropriate unit must include all parts employees and body shop employees. In reaching its conclusion, the Board noted that the mechanics possessed skills and training unique among other employees. *Id.* at 460, fn. 6. The Board further relied on the fact that mechanics worked almost exclusively in the service shop, having only limited contact with employees in the parts and body shops. *Id.* at 459-460. The Board additionally reasoned that most of the petitioned-for mechanics were certified and that the number of transfers in and out of the mechanic's position was limited.

Interestingly, the Board in Dodge City of Wauwatosa found that the mechanics constituted a separate craft unit even though their method of compensation, the same type of flat-rate system used by the Employer, was identical for the body shop employees. In the instant case, the service technicians and lube technicians are separated from all the Employer's other service and parts department employees by their flat-rate method of compensation.

The Board's decision in Fletcher Jones Chevrolet, 300 NLRB 875 (1990), provides additional guidance concerning the craft unit issue in the automobile industry, particularly with respect to the lube technicians. In that case, the employer's "fixed operations department" included sub-divisions of service, parts, the body shop and used cars, each of which had its own manager. As in the instant case, the vast majority of the service technicians held ASE or vehicle manufacturer certifications and they all provided and used their own tools to perform vehicle service and repair work. The service technicians and body shop employees were paid

according to the type of flat-rate system used by the Employer for service and lube technicians. Like in this matter, employees in the remaining service department positions received an hourly wage or base rate plus commission.

The regional director in Fletcher Jones Chevrolet found that the petitioned-for service technicians did not constitute a craft unit because the petitioner had sought to include in the unit the relatively lesser skilled and/or untrained quick service technicians. The regional director also included in the unit dispatchers (similar to the Employer's service advisors), as well as warranty clerks, courtesy drivers, porters, cashiers and secretaries. The Board reversed the regional director, finding that the petitioned-for unit of service technicians was an appropriate craft unit and rejecting the employer's position that an appropriate unit must include all service department employees. In reaching its decision, the Board noted that service technicians were compensated differently than other employees whom the employer sought to include in the unit and that the service technicians used different skills than other employees. The Board additionally relied, in part, on the absence of evidence of temporary interchange and the fact that the service technicians used their own tools, performed distinct job duties and had limited contact with other service department employees.³⁷

Like the Employer in the instant case, the employer in Fletcher Jones Chevrolet specifically argued that the union's inclusion of less skilled employees in the petitioned-for unit precluded a finding that the service technicians constituted a distinct and homogeneous craft unit. Considering the job skills, duties and training of the "quick service technicians" in that case, the Board noted that even though the quick service technicians were less skilled than the petitioned-for service technicians, they nevertheless handled lubrication, oil and filter changes,

³⁷ In both Dodge City of Wauwatosa and Fletcher Jones Chevrolet, the Board noted that, as in the instant case, there was a level of integration between the service technicians' duties and those of other employees in fixed operations, based on the fact that service advisors, service technicians, retail parts associates and other support associates all performed duties associated with the repair orders. Still, the Board found that this limited type of integration was insufficient to require inclusion of all fixed operations employees in the bargaining unit.

belts, hoses and other simple mechanical repair work, making their inclusion in the unit appropriate. The Board also likened the quick service technicians in Fletcher Jones Chevrolet to those with similar skills and duties whom the Board included in the craft unit in Dodge City of Wauwatosa as “helpers or trainees.” While the employer in Fletcher Jones Chevrolet lacked a formal apprenticeship program, the Board nevertheless included the lesser skilled technicians and helpers or trainees in the craft unit because it provided classes and training for lesser skilled technicians to improve their skills.

For the same reasons, I find that the Petitioner’s inclusion of lube technicians in a unit with the service technicians does not negate the existence of a craft unit. The record evidence establishes that the Employer envisions a progression from the lube technician position to the service technician position and that such progression has occurred. Opportunities for advancement from the lube technician position to the service technician are based on on-the-job training that the service technicians provide to the lube technicians, as well as through formal Honda classes and certifications and, to the extent the lube technicians can afford them, ASE classes and certifications.

Seeking to distinguish Dodge City of Wauwatosa and Fletcher Jones Chevrolet from the instant case, the Employer argues that its current “micro team” approach to customer service and the use of modern technology, particularly computers, means that there is more interaction among and between all of the service and parts department classifications and that service technicians no longer perform their work in isolation. In support of this contention, the Employer urges reliance on the W.R. Shadoff, 154 NLRB 992 (1965), in which the Board held that there was “no clear line of demarcation” between the classifications that the petitioner sought to include and exclude from the unit. *Id.* at 994. W.R. Shadoff is distinguishable from the instant case, however, where the petitioner in that matter sought an election among only certain mechanics in the service department and not all of the petitioned-for employees were engaged in servicing and repairing automotive engines. In W.R. Shadoff, the Board also reasoned that

there were varying degrees of skill among the petitioned-for employees that overlapped with those of excluded employees. As previously discussed, the present record does not establish any significant degree of overlap between the employees whom the Petitioner seeks to represent and those it seeks to exclude from the unit.

The Employer additionally cites the Board's decision in Austin Ford, 136 NLRB 1398 (1962) to support its position that the unit sought by the Petitioner is not a distinct and homogenous craft unit. The Employer's reliance on Austin Ford is similarly misplaced because it is factually distinguishable. In Austin Ford, the Board found that all service department employees should be included in the unit. In that case, however, the petitioner sought to represent a unit of line mechanics, excluding other skilled mechanics. The employer's service department in Austin Ford was divided into four sub-departments and the employer temporarily shifted its various skilled mechanics between sub-departments, as needed. There is no evidence of such interchange here. Moreover, unlike the circumstances in Austin Ford, the Employer does not employ skilled mechanics other than those in the unit that the Union seeks to represent.

In sum, I find that the petitioned-for unit of service technicians and lube technicians comprise a distinct and homogeneous group that is an appropriate craft unit. Employees in both classifications perform specialized work, as there are no other employees who service and repair vehicles. Their job duties do not overlap substantially with those of other parts and service employees. There is no temporary interchange between the service and lube technicians and the other employees whom the Employer seeks to include in a broader unit.

The A-class and B-class service technicians are highly skilled in their craft and the C-class technicians and lube technicians are akin to the helpers or apprentices the Board has previously included in the auto technician craft unit. Fletcher Jones Chevrolet, supra; Dodge City of Wauwatosa, supra. All of the Employer's service technicians and lube technicians are required to obtain specialized training and certifications. They work in distinct areas of the

Employer's facility and use tools that are not used by other employees, often at great personal expense. The service technicians and the lube technicians are the only employees among the Employer's workforce who are compensated on a flat-rate basis. Both service technicians and lube technicians wear specific uniforms that are unlike any that other parts and service employees wear and utilize a locker room for changing into street clothes.

D. Community of Interest Factors

Even if the positions in the petitioned-for unit do not comprise a craft unit, I find that a unit of service technicians and lube technicians is an appropriate unit based on a community of interest analysis. In determining whether the petitioned-for unit is appropriate in circumstances not involving craft units, the Board first examines whether the petitioned-for unit is readily identifiable and whether its employees share a community of interest. Where these conditions are met, the Board will find the petitioned-for unit appropriate, despite a contention that the unit employees could be placed in a larger unit which would also be appropriate – or even *more* appropriate - unless the party seeking the larger unit demonstrates that the additional employees “share an overwhelming community of interest in the petitioned-for unit.” Specialty Healthcare & Rehabilitation Center of Mobile, 357 NLRB No. 83 (August 16, 2011), slip op. at 17.

In examining whether the employees possess a separate community of interest the Board considers such factors as mutuality of interest in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. Bartlett Collins, 334 NLRB at 484; Ore-Ida Foods, 313 NLRB 1016 (1994). As set forth above, I have already determined that the service technicians and lube technicians share a sufficient community of interest with each other to warrant their inclusion together in an appropriate unit. In this regard, they have a mutuality of interest in wages, as the service technicians and lube technicians are

the Employer's only employees who are paid according to a flat-rate system.³⁸ They share common supervision, as Service Lane Manager/Service Manager Mills directly supervises employees in both positions. The work that the service technicians and lube technicians perform is functionally integrated, as it all involves physical improvements, by repair or service, to the vehicles. The service technicians and lube technicians share common skills and duties, as they are the only employees who actually perform vehicle repair and maintenance work. They perform their job duties in the shop areas of the facility, wear similar uniforms, share the use of a locker room and break room, and share common hours and schedules.

Having established that the petitioned-for service technicians and lube technicians share a community of interest with each other and constitute a readily identifiable group, the question remains whether the Employer has met its burden of proving that the other employees whom the Employer seeks to add to the unit share an *overwhelming* community of interest with the petitioned-for employees. Northrop Grumman Shipbuilding, Inc., 357 NLRB No. 163, slip op. at 3, fn. 8 (December 30, 2011). I conclude that it has not.

The Board will find that additional employees share an overwhelming community of interest with the petitioned-for employees only when there is "no legitimate basis" upon which to exclude the employees from the larger unit because the community of interest factors "overlap almost completely." DTG Operations, Inc. 357 NLRB No. 175 (December 30, 2011), slip op. at 5; Specialty Healthcare, supra, at 11-13 and fn. 28, quoting Blue Man Vegas, LLC v. NLRB, 529 F.3d 417, 421-422 (D.C. Cir. 2008). Applying this standard, I find that the Employer has not met its burden of proof. Here, there is a legitimate basis for excluding the parts department employees and other service employees from the unit of service technicians and lube

³⁸ The Employer argues that the range of flat-rate compensation rates between A and B-class technicians and C-class and lube technicians is sufficiently large that the C-class and lube technicians should not be included with A and B-class technicians. This argument is unpersuasive given that the entire range is only between \$24.00 per flagged hour and \$12.00 per flagged hour, the fact that all technicians are eligible for production bonuses, and that the C-class technicians and lube technicians share the same general compensation rate.

technicians inasmuch as the community of interests for the employees in the added group do not “overlap almost completely” with those in the petitioned-for unit.

Parts Department Employees

With respect to the parts department employees (the retail and wholesale parts associates, the parts floater, the parts driver and the parts shipping and receiving employee), their job duties are completely distinct from those of the service and lube technicians. The parts department employees are responsible for parts inventory and distribution and have no responsibility for repairing or servicing the automobiles. Qualifications, training and certification requirements are different for the parts department employees than for the service technicians and lube technicians.³⁹ The parts department employees work in an area that is physically separate from the shop areas where the technicians work and they report to a different supervisor, Parts Manager Wiggins. Parts department employees are paid based on a percentage of sales, as opposed to the flat-rate compensation system applied to the technicians. Uniforms for the parts department employees, consisting only of pull-over polo shirts, are completely different from the blue and gray mechanics’ uniforms with name patches and the Honda logo worn by the service technicians and lube technicians. The parts employees do not use the specialized tools that the service and lube technicians use for their work. Finally, while the record reveals that there is some daily interface between service technicians and parts employees, when the technicians obtain the parts necessary for repairs, there is no evidence that the service technicians or lube technicians ever fill-in for the parts employees on a temporary basis, or vice-versa.⁴⁰ Based on the foregoing facts, I find that the parts department

³⁹ While both technicians and parts employees are required to hold a valid driver’s license to qualify for the job, this requirement is insufficient to establish a community of interest given the other disparate factors.

⁴⁰ The two record examples of permanent transfers from the lube technician position to the parts department do not constitute regular “interchange.”

employees do not have an “overwhelming community of interest” with the appropriate unit of service technicians and lube technicians.

Service Advisor

Of all of the employees whom the Employer seeks to add to the petitioned-for unit, those in the service advisor position have the most regular interaction with the service technicians, based on the Employer’s team concept. The Employer’s assignment of eight service advisors to eight teams of technicians means that the service advisors and team leaders (A-class technicians) speak to each other by telephone or in person a total of 20 to 60 minutes per day.⁴¹ This communication or interface is a byproduct of the service advisor’s job, which is to serve as a primary contact for customer relations in the Service and Parts Department and a sales representative for that department. Given that the service advisor acts as a liaison between the customers and the service employees, it is logical that the advisors and technicians work in closer physical proximity to each other than either does to other employees in the Service and Parts Department. There is also some level of integration between the work of the service advisor and that of the technicians, inasmuch as both groups use the same repair orders for performing their duties.⁴² Service advisors and service and lube technicians all report to Service Lane Manager/Service Manager Mills and they work the same hours, based on the team assignments.

Despite common schedules and supervision and notwithstanding the basic levels of interface and integration between service advisors and the technicians, the service technicians and lube technicians are a separate and distinct group because of their job duties, certifications, and qualifications. Unlike the technicians, the advisors do not perform vehicle maintenance and

⁴¹ As previously noted, the lube technicians are not assigned to teams and neither is the “floater” service advisor.

⁴² Both groups of employees also use computers in the performance of their tasks, though the “screens” are different for the technicians than for the service advisors.

repairs.⁴³ They do not receive the same Honda and ASE training as the technicians,⁴⁴ wear the same uniforms as the technicians, or use the same specialized and personally owned tools as the technicians.⁴⁵ Importantly, the service advisors are paid by commission only, calculated according to how much work they sell to the customers. Their pay rate is also linked to their CSI rating, which is not a factor in calculating the technicians' flat-rate compensation. There is no temporary interchange between either service or lube technicians and advisors.⁴⁶ In sum, the commonalities between the service and lube technicians and the service advisors are significantly outweighed by the distinctions in job functions, duties, skills, training, qualifications and certifications. Accordingly, I find that the Employer has not met its burden of establishing that the service advisors share an *overwhelming* community of interest with the petitioned-for employees.

Porter

Like the service advisors and technicians, the porters report directly to Service Lane Manager/Service Manager Mills. Also like the service advisors, the porters have daily interface opportunities with the service and lube technicians when they transport keys, vehicles and/or paperwork between the service lane and the shop. These two factors are insufficient, however,

⁴³ The rare instance in which a service advisor changes a customer's wiper blades or light bulb does not amount to mechanical service and repair on a vehicle.

⁴⁴ While service advisors must undergo manufacturer-sponsored classes, they are not related to the actual repair and maintenance of the cars, but to the advisor's role as the dealership's primary service customer contact and service sales representative. Training classes for advisors take place at different facilities than the classes for technicians (Orlando or Tampa, Florida vs. Ft. Lauderdale, Florida).

⁴⁵ The service advisor's occasional use of the hand-held scan tool on the service lane must be distinguished from the technician's use of complex tools, including air tools, necessary for vehicle maintenance and repair. While the service technicians and lube technicians also utilize computerized scan tools, A-class technician Perez testified that the scan tools used by technicians in the shop are more sophisticated and disclose more "in-depth" information than those used on the service lane. The service advisors use the simpler hand-held scan tools on the service lane for the purpose of "up-selling;" that is, identifying potential opportunities to sell services to the customer.

⁴⁶ The permanent transfer of two C-class technicians to service advisor positions is distinguishable from temporary transfers, in which one classification "fills in" for another classification. There is no evidence that the service and/or lube technicians ever substitute for the service advisor, or vice-versa.

to overcome the outstanding distinctions between the service and lube technicians and the porters. In this regard, the porters' job duties, skills, qualifications and certification are completely different from those of the technicians. While the technicians are responsible for maintaining and repairing vehicles, the porters are responsible for greeting customers, moving vehicles and transporting keys and paperwork. Although the porters may very rarely change wiper blades, their most common service tasks are to put paper mats in the floor boards of the cars, top off fluids, and check batteries; tasks that do not amount to mechanical service and repair. Further, the porters receive an hourly wage, as distinguished from the flat-rate pay system for the technicians and wear pull-over polo shirts for uniforms, as opposed to the mechanics' uniforms worn by the technicians. There is no temporary or permanent interchange between the porters and the service and/or lube technicians. In light of the significant disparities between the porters and the service and lube technicians, I find that the Employer has not met its burden of demonstrating that the porters have an overwhelming community of interest with the service and lube technicians, so as to warrant their inclusion in the appropriate unit.

Appointment Taker, Cashier, Warranty Administrator, and Service Support Associate

With respect to the remaining service employees whom the Employer seeks to include in a larger unit, the result is the same: none has the job duties, function, skills, qualifications, training or certifications of the service and lube technicians. In this regard, the appointment taker is responsible for sitting at a desk and answering the telephone, duties that can in no manner be likened to mechanical service and repair functions performed by the service and lube technicians. The cashier is responsible processing payments for completed service work and/or the purchase of parts, work that is performed at a desk, not in the service shop. The warranty administrator similarly performs her work in an office, as it is her job to gather and review paperwork so that the Employer can be properly reimbursed by Honda for defective parts

or parts under warranty. The service support associate, called a “jack of all trades” by the Employer, fills in for the cashier and is responsible for generating work for third-party vendors.

The primary commonality among the petitioned-for employees and these remaining service employees is that they all report to Service Lane Manager/Service Manager Mills. None of the above-listed service employees is paid according to the flat-rate compensation scheme used for calculating the technicians’ pay, but instead receives an hourly wage, plus the CSI bonus that the service and technicians do not receive. None of these service employees possesses the mechanical training and certifications pursued and held by the technicians. None is required to have a valid driver’s license in order to work for the Employer. There is no interchange, permanent or temporary, between the service and/or lube technicians and the remaining service employees. Indeed, the record reveals that the service and lube technicians have little or no contact with the individuals serving as appointment taker, cashier, warranty administrator and/or service support associate. In these circumstances, I conclude that the Employer has failed to meet its burden of showing that the employees in these disputed classifications share an overwhelming community of interest with the service and lube technicians, so as to require their inclusion in the unit.

In arguing that the parts employees, service advisors, porters, appointment takers, warranty administrator, cashier, and service support associate must be included in a unit with the service technicians and lube technicians, the Employer correctly notes that all of the Employer’s employees are subject to the same policies and procedures, as set forth in the employee handbook. Similarly, as employees of an AutoNation franchisee, they enjoy identical benefits. Still, these factors carry far less weight than the employees’ respective job functions, skills, qualifications, training and certifications. The record simply does not support a finding that the community of interests for the employees whom the Employer seeks to add to the unit “overlap almost completely” with the community of interests of the service and lube technicians. DTG Operations, Inc., supra at 5.

Based on the foregoing and the record as a whole, I find that a unit consisting of the Employer's service technicians and lube technicians is appropriate for collective bargaining.

III. FINDINGS AND CONCLUSIONS

1. The hearing officer's rulings made at the hearing 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 in this matter.

3. The Petitioner claims to represent certain employees of the Employer.

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.

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:⁴⁷

Included: All full-time and regular part-time service technicians and lube technicians employed by the Employer at its facility located at 1000 Rinehart Road, Sanford, Florida.

Excluded: All other employees, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

IV. 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 International Association of Machinists and Aerospace Workers, and District 166, AFL-CIO. The date, time and place of the

⁴⁷ I note that at the hearing the parties stipulated that this is an appropriate unit (Board Exhibit 2, paragraph 7). Given the Employer's arguments at the hearing and in the brief, however, one must conclude that the Employer entered into the stipulation in error.

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 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.). This list may initially be used by me to assist in determining an adequate showing of interest. 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 **August 17, 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, by mail, or by facsimile transmission at 412-395-5986. 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, and follow the detailed instructions. 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 (2)** 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. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

V. 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 **August 24, 2012**. The request may be filed electronically through the Agency's website, www.nlr.gov,⁴⁸ but may not be filed by facsimile.

DATED at Pittsburgh, Pennsylvania this 10th day of August, 2012.

/s/Robert W. Chester
Robert W. Chester, Acting Regional Director
NATIONAL LABOR RELATIONS BOARD
Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, Florida 33602

Classification Index

440-1760-9100
440-1760-9167-0200
440-1760-9167-0233
440-1760-9167-0267

⁴⁸ To file the request for review electronically, go to www.nlr.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.