

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

**TEAMSTERS LOCAL 20,**

Case No. 8-CD-86589

*Charged Party,*

and

**MIDWEST TERMINALS OF  
TOLEDO INTERNATIONAL, INC.,**

*Employer,*

and

**INTERNATIONAL LONGSHOREMEN'S  
ASSOCIATION, LOCAL 1982,**

*Party-In-Interest.*

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**POST-HEARING BRIEF OF TEAMSTERS LOCAL 20**

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**I. STATEMENT OF THE CASE**

This matter is before the Board under Section 10(k) of the National Labor Relations Act ("the Act"). Midwest Terminals of Toledo International, Inc. ("Midwest") filed an unfair labor practice charge on August 3, 2012 alleging that Teamsters Local 20 ("Teamsters") violated Section 8(b)(4)(D) of the Act by engaging in proscribed activity with the object of forcing or requiring Midwest to assign certain work to employees represented by the Teamsters rather than employees represented by the International Longshoremen's Association, Local 1982 ("ILA") in connection with work at the Employer's St. Lawrence Drive facility in Toledo, Ohio

A hearing notice issued in connection with the charge, and after a continuance, a hearing was conducted before Hearing Officer Gina Fraternali on October 24, 2012. The parties stipulated that both the Teamsters and the ILA claim the work in dispute, (Tr. 13), which was stipulated to be “[t]he loading, unloading, and movement of cargo and materials at the Employer's facility located at 3518 St. Lawrence Drive, Toledo, Ohio” (“Work in Dispute”). (Tr. 11-12, 136.) Further, the parties agreed that Midwest is not failing to conform to a certification or order from the Board determining the bargaining representative for the employees performing the Work in Dispute. (Tr. 12-13.) Importantly, as demonstrated below, Midwest has a clear preference in assigning the Work in Dispute to its employees represented by the Teamsters. Moreover, the collective bargaining agreements, past practice, economy and efficiency of operations, and relative skills and training all clearly favor an award of the Work in Dispute to members of Teamsters Local 20.

## **II. JURISDICTION**

The parties stipulated that Midwest is an employer engaged in commerce within the meaning Section 2(6) and (7) of the Act. (Tr. 8-9.) Further, the parties stipulated that the Teamsters and the ILA are labor organizations within the meaning of Section 2(5) of the Act. (Tr. 10-11.) The parties could not all stipulate that there was reasonable cause for the hearing, but did stipulate that Teamsters Business Agent Scott Klingler (“Klingler”) sent a letter on July 31, 2012 to Midwest’s Human Resources Manager Chris Blakely (“Blakely”), stating in pertinent part:

[I]n the event Midwest Terminals improperly withdraws work from the bargaining unit it currently represents based upon the actions of other labor organizations, Teamsters Local 20 will engage in any and all efforts to fight such a withdrawal of

work, including, but not limited to picketing activities to protest the unlawful withdrawal of work from the members of Teamsters Local 20.

(Jt. Ex. 6.) At the hearing, Klingler reaffirmed the threat he made in his letter, stating that the Teamsters intended to strike and picket Midwest if Midwest assigned the Work in Dispute to the members of the ILA. (Tr. 108.) Finally, the parties stipulated that there is no binding, agreed-upon method of for voluntary adjustment of the claims to the Work in Dispute.<sup>1</sup> (Tr. 13-14.)

### **III. THE DISPUTE**

#### ***A. Background Facts***

##### **1. The Employer's Operation**

Midwest is engaged in stevedoring services in interstate and foreign commerce. (Tr. 33-34.) To conduct its operations, it has leased approximately 125 acres from the Port Authority of Greater Toledo, i.e., its St. Lawrence Drive facility, since 2004. (Tr. 35, 84.) Midwest's main services at this facility are twofold—Midwest's employees load and unload cargo from vessels, trucks, or trains, and they also store cargo in warehouses. (Tr. 34.) There is a "wet side" and "dry side" of the facility, separated by none other than St. Lawrence Drive. (Tr. 36.) Vessels are loaded and unloaded, and certain cargo is placed in warehouses on the "wet side," while other cargo is placed in warehouses on the "dry side." (Tr. 37-41.) Midwest currently maintains seven warehouses,<sup>2</sup> one of which is certified for

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<sup>1</sup> Midwest and the ILA attempted to obtain the Teamsters' consent to mediate this dispute in August 2012, but the Teamsters declined. (Tr. 84, 113.)

<sup>2</sup> Currently, one warehouse is being disassembled. (Tr. 41.)

warehousing in connection with the Federal Trade Zone<sup>3</sup> (“FTZ”) and five of which are certified for warehousing in connection with the London Metal Exchange<sup>4</sup> (“LME”). (Tr. 34, 36.)

Midwest employs members of both the Teamsters and the ILA at its St. Lawrence Drive facility. (Tr. 44.) Employees represented by the Teamsters have traditionally worked on both sides of the facility, (Tr. 129-130), but more recently on the “dry side” of Midwest’s St. Lawrence Drive facility by moving metals or other cargo in warehouses and around the Midwest facility. (Tr. 44, 63, 104.) They currently use forklifts and front-end loaders to perform their work.<sup>5</sup> (Tr. 105.) Although the employer running the facility has changed various times over the years, the Teamsters has represented workers at the Midwest facility for over fifty years, (Tr. 80-81, 103-104), and currently has a collective bargaining agreement with Midwest. (Jt. Ex. 1; Tr. 44-45.) There are currently six members of the Teamsters employed by Midwest. (Tr. 99.)

On the other hand, the ILA represents employees on the “wet side” of the Midwest’s St. Lawrence Drive facility. (Tr. 44.) The Employer currently has a master agreement with the ILA, (Jt. Ex. 2; Tr. 81), but there is no current local agreement with Local 1982. (Tr. 45, 81-82.) As such, the parties are operating under the expired agreement. (Jt. Ex. 3; Tr. 45,

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<sup>3</sup> This warehouse is located on the “dry side” of the property. (Tr. 37.)

<sup>4</sup> Two of the LME warehouses are located on the “wet side” of the property, and three are on the “dry side.” (Tr. 42.) These warehouses are regulated, and only certain metals can be stored there. (Tr. 42.) Prior to 2009, however, there was only one LME warehouse, which was located on the “dry side.” (Tr. 43-44.) To expand its business, Midwest went through the process of having additional warehouses on the “wet side” certified. (Tr. 43.)

<sup>5</sup> Although they have yet to perform the work, the Teamsters’ members are also qualified to run a small Libra, i.e., material handler, to load/unload railcars at the St. Lawrence Drive facility. (Tr. 115, 242.)

81-82.) The ILA has represented workers at the Employer since the 1970s. (Tr. 82.) The ILA agreement covers loading and offloading of vessels that come to port, i.e., on the “wet side” of Midwest’s St. Lawrence Drive facility. (Tr. 45.) “Gangs” of ILA workers—crane operators, hatch foreman, and laborers in the hatch—load and unload vessels on the “wet side” of the facility. (Tr. 46.) Given the seasonal nature of the operations, Midwest employs between 11 and 15 members of the ILA at any given time. (Tr. 99.)

After cargo is unloaded from a vessel by the ILA, it would need to be stored in a warehouse on the “dry side” of the operation.<sup>6</sup> (Tr. 47.) Sometimes, due to customer needs, the cargo stays on the “wet side” until it is loaded on another vessel. (Tr. 48.) Typically, Midwest management decides to store the cargo in one (or more) of their various warehouses. (Tr. 48.) In such situations, the cargo needs to be transported to the “dry side” of the St. Lawrence Drive facility. (Tr. 48.) Under Midwest’s current operation, the ILA’s members load the commodity onto trucks on the “wet side.” (Tr. 48.) The trucks—which are currently operated by an independent contractor<sup>7</sup>—will simply drive across St. Lawrence Drive, where members of the Teamsters will unload the commodity into the appropriate FTZ or LME warehouse. (Tr. 48-49.) Essentially, the ILA’s members load and unload trucks on the “wet side,” and the Teamsters’ members load and unload trucks on the “dry side.” This process—i.e., handling commodities three or four different times by various employees—has become extremely costly and inefficient for Midwest. (Tr. 50.)

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<sup>6</sup> The cargo must be moved to allow other vessels at the port to load or unload. (Tr. 47.)

<sup>7</sup> To be sure, members of the Teamsters previously performed this work for Midwest (and predecessor employers) on both the “dry side” and the “wet side” of the St. Lawrence Drive facility. (Tr. 64-65, 129.)

## 2. The Employer's Preferred Change in Operations

Midwest believes the current process is inefficient, and the buffer between the ILA's members and the Teamsters' members is unnecessary. A single transfer between the “wet side” and “dry side,” using the independent contractor Lloyd’s Trucking, usually costs \$10,300.00. (Tr. 50.) It takes about five days to make such a transfer. (Tr. 51.) Over the course of a year, the estimated cost to Midwest is \$100,000.00 to \$200,000.00. (Tr. 51.) There are times when hourly employees represented by the Teamsters are waiting—from one to two hours per day—for Lloyd’s Trucking to bring the cargo and materials from the “wet side” to the “dry side.” (Tr. 132.) If members of the Teamsters would cross over to the “wet side,” there would be very little down time, increasing efficiency and economy of operations. (Tr. 133.) Admittedly, the process could be streamlined—saving money and perhaps eliminating the need for trucks operated by independent contractors altogether—by assigning all of this work to Midwest’s employees represented by the Teamsters. (Tr. 135.)

Rather than handling cargo several different times, the Employer prefers to assign all loading, unloading, and movement of cargo and materials at its St. Lawrence Drive facility—on both the “dry side” and “wet side”—to members of the Teamsters. (Tr. 59, 63-64, 242). That assignment includes operation of all material handlers, forklifts, and front-end loaders to move cargo and materials in and out of warehouses. (Tr. 64, 242.) Notably, Midwest previously assigned that work, on both the “wet side” and the “dry side,” to the employees represented by the Teamsters. (Tr. 64-65.) The Teamsters’ members are qualified to perform the work and perform the work in an efficient manner, whether it is on the “wet side” or the “dry side.” (Tr. 58, 119-120, 127, 130.) They possess all necessary

skills, experience, and required certifications and security clearances to work in all areas of the St. Lawrence Drive facility, whereas the ILA's members do not. (Tr. 73-76, 107, 119-120, 127, 134-135.) Midwest's Operations Manager Terry Leach ("Leach") testified that Midwest would "shut the port down if [Midwest] didn't have the Teamsters," stating: "They're a self-directed workforce. They're very good at what they do. Their attention to detail, their skills and abilities surpass anything that I've ever experienced." (Tr. 58.) The industry standard is to assign warehousing work to the Teamsters' members and to assign only the offloading and loading "of vessels" to the ILA's members. (Tr. 59-60.)

### 3. The Competing Claims to the Work and the Threat to Picket

The Work in Dispute is "[t]he loading, unloading, and movement of cargo and materials at the Employer's facility located at 3518 St. Lawrence Drive, Toledo, Ohio." (Tr. 11-12, 136.) All parties agree that there are competing claims for the Work in Dispute. (Tr. 13.) There has been a conflict between the ILA and the Teamsters concerning the Work in Dispute for years. (Tr. 51.) The first incident occurred in October 2010, when cargo just offloaded from a vessel by members of the ILA needed to be transferred to warehouses on the "dry side" immediately. (Tr. 51-52.) The ILA Steward Miguel Rizo ("Rizo")—unilaterally and in violation of Midwest policy—started to load a truck on the "dry side," where members of the Teamsters have always loaded and unloaded trucks. (Tr. 52.) Midwest held a meeting between ILA Union Steward Rizo and the Teamsters Steward Charlie Erichson ("Erichson") regarding this instance. (Tr. 53.) During that meeting, ILA Union Steward Rizo claimed the Work in Dispute. (Tr. 53.) ILA Union Steward Rizo was written up for insubordination for operating his equipment in the Teamsters' work area without management's permission. (Employer Ex. 1; Tr. 53-54.) ILA Union Steward Rizo

has not performed work on the “dry side” since “he was testing the waters” that day in October 2010. (Tr. 55, 124.) Nor has any other ILA member. (Tr. 106.)

Unfortunately, the discipline against ILA Union Steward Rizo did not prevent the ILA from pursuing the Work in Dispute in other manners. Since April 2011, there have been dozens of grievances filed by the ILA over assignment of the Work in Dispute. (Jt. Ex. 4; Tr. 55, 82.) Those grievances literally claim the Work in Dispute for members represented by the ILA. (Tr. 66, 95-96.) Moreover, through the grievance process, the ILA has demanded that Midwest assign the Work in Dispute to members represented by the ILA. (Tr. 66, 95-96.) Additionally, during negotiations and discussion of grievances in the fall of 2011, the ILA Vice President Andre Joseph told Midwest Human Resources Manager Blakely that “once the ILA touched the cargo, the cargo was their work until it reached its final resting spot.” (Tr. 89, 92, 94, 162-163, 168, 175.) During that time, ILA Vice President Joseph also told Blakely that the Teamsters' employees would no longer be working at the facility on January 1, 2013.<sup>8</sup> (Tr. 89-90, 92.) Finally, since August 2012, the ILA's President Otis Brown and Steward Mark Lockett have claimed that their members should be performing the Work in Dispute during weekly meetings with Midwest's management officials. (Tr. 68-69.) At the hearing, the ILA continued to claim all work at the St. Lawrence Drive facility “ship to shore,” (Tr. 206-207), and will continue to file grievances claiming the Work in Dispute. (Tr. 171.)

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<sup>8</sup> Teamsters Steward Erichson also heard that same statement from ILA member Ralph Libey. (Tr. 125-126.) Libey claimed that the ILA would perform all the work after that date. (Tr. 126.)

The Teamsters discovered that the ILA had filed various grievances since April 2011 claiming the Work in Dispute.<sup>9</sup> (Tr. 85, 112.) After learning that the ILA was claiming the Work in Dispute, Teamsters Business Representative Klingler told Midwest Human Resources Manager Blakely, during an in-person conversation, that the Work in Dispute was only Teamsters' work. (Tr. 86.) Klingler flowed up with a letter to Blakely, threatening to picket if the Work in Dispute was assigned to the ILA's members. (Jt. Ex. 6; Tr. 85, 107.) After receiving the unfair labor practice charge, Klingler called Blakely to discuss the matter, but Blakely never returned his call. (Tr. 87-88.) At the hearing, Klingler asserted that the Teamsters still intend to picket or strike to protect their work jurisdiction. (Tr. 107-108.)

**B. Applicability of the Statute**

Before the Board may proceed with determining a dispute pursuant to Section 10(k) of the Act, there must be reasonable cause to believe that Section 8(b)(4)(ii)(D) has been violated. This standard requires finding there is reasonable cause to believe that: (1) there are competing claims for the disputed work among rival groups of employees, *Carpenters Local 275 (Lymo Construction Co.)*, 334 NLRB 422, 423 (2001); (2) a party has used proscribed means to enforce its claim to the work in dispute, *see, e.g., Electrical Workers Local 3 (Slattery Skanska, Inc.)*, 342 NLRB 173, 174 (2004); and (3) the parties have not agreed on a method for the voluntary adjustment of the dispute, *Operating Engineers Local 150 (R&D Thiel)*, 345 NLRB 1137, 1138-1139 (2005).

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<sup>9</sup> None of those grievances have been withdrawn. (Tr. 170.)

1. There Are Competing Claims for the Work

The parties stipulated that both the Teamsters and the ILA claim the Work in Dispute, (Tr. 13), which was stipulated to be “[t]he loading, unloading, and movement of cargo and materials at the Employer's facility located at 3518 St. Lawrence Drive, Toledo, Ohio.” (Tr. 11-12, 136.) Midwest’s employees represented by the Teamsters currently are performing some of the Work in Dispute, and the Teamsters’ representatives have claimed all the Work in Dispute in several discussions with Midwest’s management. Likewise, in addition to the ILA’s members performing some of the Work in Dispute, the ILA admittedly has claimed it through contract negotiations, written grievances, and grievance discussions. Additionally, the ILA’s officials testified that the ILA claims all work from “ship to shore” and would continue to file grievances over the Work in Dispute. As such, there are competing claims to the Work in Dispute.

2. The Teamsters Engaged in Proscribed Activity

The Teamsters, through Business Representative Klingler’s July 31, 2012 letter, threatened picketing and work stoppages at Midwest’s St. Lawrence Drive facility in the event the Work in Dispute was assigned to members of the ILA. Further, at the hearing, Klingler reaffirmed that the Teamsters would strike and picket if Midwest assigned the Work in Dispute to the ILA’s members. There was absolutely no evidence to the contrary presented at the hearing. To be sure, section 8(b)(4)(D) of the Act provides that it is an unfair labor practice to encourage individuals to engage in a strike, or to threaten, coerce, or restrain any person engaged in commerce, where an object thereof is “forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another

labor organization or in another trade, craft, or class . . .” Moreover, “[a] threat to strike and picket to force or require an employer to reassign disputed work constitutes reasonable cause to believe Section 8(b)(4)(D) has been violated.” *Laborers’ International Union of North America, Local 76 (Albin Carlson Co.)*, 286 NLRB 698, 699-700 (1987). “A charged party’s use of language that, on its face, threatens economic action is sufficient to find reasonable cause to believe Section 8(b)(4)(D) has been violated.” *IBEW Local 71 (Thompson Electric)*, 354 NLRB No. 46, p. 4 (2009). There was no affirmative evidence at the hearing that the Teamsters’ threats were a sham. *Operating Engineers Local 150 (R&D Thiel)*, 340 NLRB 1137, 1140 (2005) (citing *Laborers’ Indiana District Council (E&B Paving)*, 340 NLRB 150 (2003)). Thus, the Board should find that there is reasonable cause to believe that Teamsters engaged in proscribed activity.

3. There Is No Method for Voluntary Adjustment of the Dispute

The parties stipulated that there is no method for voluntary adjustment of the dispute. (Tr. 13-14.) Although there is no binding, agreed-upon method to resolve the dispute between the three parties, Midwest and the ILA attempted to obtain the Teamsters’ consent to mediate this dispute in August 2012. (Tr. 84, 113.) The Teamsters declined. (*Id.*) Thus, the Board should find there is no method for the voluntary adjustment of this dispute between the parties and proceed to determine the merits of the dispute.

**IV. THE MERITS OF THE DISPUTE**

If the jurisdictional prerequisites have been met, Section 10(k) requires the Board to make an affirmative award of the disputed work to one of the groups of employees involved in the dispute. *NLRB v. Electrical Workers Local 1212 (Columbia Broadcasting)*, 364 U.S. 573, 579 (1961). While the Act does not set out the standards the Board is to

apply in making this determination, the Supreme Court has explained that “[e]xperience and common sense will supply the grounds for the performance of this job which Congress has assigned the Board.” *Id.* at 583. Consistent with the Court’s opinion, the Board announced in *Machinists Lodge 1743 (J. A. Jones Construction)*, 135 NLRB 1402, 1410-1411 (1962), that, in making the determination that the Supreme Court found was required by Section 10(k), the Board would consider “all relevant factors,” and that its determination in a jurisdictional dispute would be an act of judgment based on common sense and experience, reached by balancing the factors involved in a particular case. *See generally Teamsters Local 174 (Airborne Express)*, 340 NLRB No. 20, slip op. at 4 (2003). Overall, the applicable factors overwhelmingly favor awarding the Work in Dispute to employees represented by Teamsters.

**A. *The Language of the Agreements Favors the Teamsters***

According to *Machinists Lodge 1743 (J. A. Jones Construction)*, one of the factors to consider in making the determination as to which craft should be assigned the work is the existence and terms of any agreements between the employer and the crafts. In this case, there is no evidence of any Board orders or certifications concerning the employees involved in this dispute. The local agreements, however, specifically favor the assignment of the Work in Dispute to the Teamsters. The Teamsters’ agreement with Midwest specifically covers forklift operators and warehousemen at the St. Lawrence Drive facility, and only excludes work in one warehouse, Facility 1, on the “wet side.”<sup>10</sup> The ILA’s

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<sup>10</sup> Even though the language of the agreement seems to limit work areas, the evidence establishes that members of the Teamsters traditionally have crossed over from the “dry side” to the “wet side” to perform tasks at the request of Midwest, establishing a past practice. There was no evidence that the members of the Teamsters have ever been disciplined for crossing over, but there was evidence that a member of the ILA was disciplined for doing so.

agreements do not specifically cover this work. Tellingly, the *unapproved tentative* agreement between the ILA and Midwest contains the following inclusions: fork-lift operators, end loaders, and material handlers.<sup>11</sup> Thus, the language of the current agreements favors an award of the work to employees represented by the Teamsters.

***B. Prior and Ongoing Employer Practices Favor the Teamsters***

Employees represented by the Teamsters have performed the Work in Dispute on both the “wet side” and “dry side” in the past, having worked at the St. Lawrence Drive facility since the 1950s. Employees represented by the ILA have performed work at Midwest’s St. Lawrence Drive facility since the 1970s. Those ILA-represented employees have worked on both the “wet side” and “dry side,” but have not worked in warehouses on the “dry side” since ILA Union Steward Rizo was disciplined for doing do in 2010. In fact, Midwest has created a buffer between the two unions by subcontracting portions of the Work in Dispute to an independent contractor. Although Midwest subcontracted a portion of the Teamsters’ work on the “wet side,” Midwest now prefers to assign all that work to employees represented by the Teamsters. Thus, the prior and preferred practices favor an award of the work to employees represented by Teamsters.

***C. The Employer’s Preference Favors the Teamsters***

Every single witness for Midwest unequivocally stated that Midwest’s preference is to assign all the Work in Dispute to its employees represented by the Teamsters. This evidence was not refuted. Thus, this factor favors an award of the work to employees represented by the Teamsters.

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<sup>11</sup> It is anticipated that the ILA will argue that its tentative agreement clearly covers the Work in Dispute. To begin, the tentative agreement has not been approved by ILA membership. Even if it had been approved and executed, the Board has not awarded disputed work to the members of a union even where the Board has determined that one union’s contract clearly covers work. *Laborers Local 368*, 305 NLRB 607, 608 (1991).

***D. The Training and Skills to Perform the Work Favor the Teamsters***

Midwest's officials testified that the employees represented by the Teamsters have the skills and proper certifications and clearances to perform the Work in Dispute. Indeed, Midwest's Operations Manager Leach testified that Midwest would "shut the port down if [Midwest] didn't have the Teamsters," stating: "They're a self-directed workforce. They're very good at what they do. Their attention to detail, their skills and abilities surpass anything that I've ever experienced." (Tr. 58.) Leach did concede that only the ILA had the proper training and skills to load and unload vessels at port with cranes,<sup>12</sup> but that work is not part of the Work in Dispute. Moreover, Leach testified that members represented by the ILA do not have the proper certifications to perform any work in the large FTZ warehouse, whereas the Teamsters' members do possess them. Finally, Teamsters Business Representative Klinger testified that the Teamsters' members "are qualified to do forklift work anywhere," and "are qualified, if they're running a loader, to do it anywhere." (Tr. 119.) Thus, this factor weighs in favor of an award of the Work in Dispute to employees represented by the Teamsters.

***E. Efficiency and Economy of Operations Favor the Teamsters***

In order to efficiently load, unload, and transport cargo and materials on and around the St. Lawrence Drive facility, Midwest prefers to assign all the Work in Dispute to employees represented by the Teamsters. Midwest's representatives testified that the current process is inefficient. A single transfer between the "wet side" and "dry side" is extremely costly and time-consuming, costing Midwest between \$100,000.00 and

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<sup>12</sup> While the ILA may claim that only its members possess the skills and training to handle coke at the facility, Midwest's witness adamantly opposed such an implication, testifying on rebuttal that employees represented by the Teamsters are more than qualified to use Libra material handlers to complete these tasks. Teamsters Business Representative Klingler confirmed that fact.

\$200,000.00 per year. There is a considerable amount of down time while Teamsters' members wait for others, i.e., independent contractors, to transfer cargo and materials from the "wet side" to the "dry side." If members of the Teamsters would, instead, cross over to the "wet side," there would be very little down time, increasing efficiency and economy of operations at the St. Lawrence Drive facility. In other words, the process would be streamlined if Midwest assigned all of the Work in Dispute to Midwest's employees represented by the Teamsters. Thus, the economy and efficiency of operations favor an award of the work to the employees represented by the Teamsters.

***F. Area Practice Favors the Teamsters***

While it is true that the ILA's representatives testified that members of the ILA perform work similar to the Work in Dispute in other cities scattered across the eastern half of the United States,<sup>13</sup> the ILA presented no evidence as to the industry practice in the Toledo, Ohio area. On the other hand, Midwest Operations Manager Leach testified that the area industry standard is to assign warehousing work to employees represented by the Teamsters and to assign only the offloading and loading of vessels to the employees represented by the ILA. As such, this factor favors an award of the Work in Dispute to employees represented by the Teamsters.

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<sup>13</sup> To be sure, no party has requested an area-wide award where this type of evidence may be relevant.

**V. CONCLUSION**

For the foregoing reasons, the Board should award the Work in Dispute to the employees for Midwest who are represented by the Teamsters.

Dated this 14th day of November 2012 in Cincinnati, Ohio.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Post-Hearing Brief was served this 14th day of November 2012 via the NLRB's electronic filing system upon the following:

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