

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31**

BOWERS COMPANIES, INC.,
d/b/a BOWERS AMBULANCE,

Employer

Case No. 31-RC-104784

and

UNITED EMERGENCY MEDICAL
SERVICE WORKERS / AFSCME-AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

I. INTRODUCTION

On May 9, 2013, United Emergency Medical Service Workers / AFSCME-AFL-CIO (Petitioner) filed petition 31-RC-104784 under Section 9(c) of the National Labor Relations Act (Act), seeking to represent a unit of Emergency Medical Technicians (EMTs), Paramedics, Registered Nurses (RNs), and ambulance service employees employed by Bowers Companies, Inc., d/b/a Bowers Ambulance (Employer) to perform non-emergency interfacility ambulance services.

A hearing was held on May 22, 2013, on the petition referenced above before a hearing officer of the National Labor Relations Board (Board).

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Upon the entire record in this proceeding, I find:

1. HEARING OFFICER'S RULINGS: The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. JURISDICTION: The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.¹

3. LABOR ORGANIZATION: The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. QUESTION CONCERNING COMMERCE: 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. APPROPRIATE UNIT: The parties stipulated, and I find based on the mandate of Section 9(b)(1) of the Act, that it is necessary to ascertain the desires of professional employees as to inclusion in a bargaining unit with nonprofessional employees. Accordingly, I shall direct separate elections in the following voting groups:

Group A: Included: All full-time and regular part-time EMTs, Paramedics, RTs (Respiratory Therapists), and Field Training Officers employed by the Employer at or out of the following locations: Long Beach Station, 3355 E. Spring Street, Suite No. 301, Long Beach, California 90806; Lancaster Station, 1055 W. Columbia Way, Suite No. 108, Lancaster, California

¹ The Employer is a California corporation with its principal place of business located at 3355 East Spring Street, Suite #301, Long Beach, California. The Employer is engaged in providing non-emergency interfacility ambulance services to customers located in Southern California. During the past twelve (12) months, a representative period, the Employer purchased and received goods valued in excess of \$50,000, which goods were shipped directly to the Employer's facilities from points located outside the State of California.

93534; and North Hollywood Station, 12638 S. Saticoy St., North Hollywood, California 91605.

Excluded: Office clerical employees, all other employees, RNs, including CCT RNs, confidential employees, dispatchers, mechanics, fleet technicians 1 and 2, couriers, crew chiefs, guards and supervisors as defined in the Act, as amended.

Group B: Included: All full-time and regular part-time RNs, including CCT RNs, employed by the Employer at or out of the following locations: Long Beach Station, 3355 E. Spring Street, Suite No. 301, Long Beach, California 90806; Lancaster Station, 1055 W. Columbia Way, Suite No. 108, Lancaster, California 93534; and North Hollywood Station, 12638 S. Saticoy St., North Hollywood, California 91605.

Excluded: Office clerical employees, all other employees, EMTs, Paramedics, RTs, Field Training Officers, confidential employees, dispatchers, mechanics, fleet technicians 1 and 2, couriers, crew chiefs, guards and supervisors as defined in the Act, as amended.

The nonprofessional employees in voting group A will vote as to whether or not they desire to be represented for collective bargaining purposes by United Emergency Medical Service Workers / AFSCME-AFL-CIO.

The professional employees in voting group B will be asked two questions on their ballot: (1) Do you desire to be included in a single unit with the nonprofessional employees for purposes of collective bargaining? (2) Do you desire to be represented for purposes of collective bargaining by United Emergency Medical Service Workers / AFSCME-AFL-CIO?

If a majority of the professional employees in voting group B vote 'yes' to the first question, indicating their wish to be included in a unit with nonprofessional employees, they will be so included. Their votes on the second question will then be counted together with the votes of the nonprofessional employees in voting group A to decide whether or not the Petitioner has been selected as representative for the combined unit. If, on the other hand, a majority of the professional employees in voting group B vote against inclusion, they will

not be included with the nonprofessional employees. Their votes on the second question will then be counted separately to decide whether or not the Petitioner has been selected as representative of the professional employees in a separate professional unit.

The final unit determinations, then, are based, in part, upon the results of the election among the professional employees. However, consistent with the mandate of Section 9(b)(1) of the Act and the Board's holdings in *Sonotone Corp.*, 90 NLRB 1236 (1950), as reaffirmed by *Pratt & Whitney*, 327 NLRB 1213, 1217-18 (1999), I now make the following findings in regard to the appropriate unit:

1. If a majority of the professional employees in voting group B vote for inclusion in the unit with nonprofessional employees, I find that the following employees will constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time and regular part-time EMTs, Paramedics, RTs (Respiratory Therapists), Field Training Officers, and RNs, including CCT RNs, employed by the Employer at or out of the following locations: Long Beach Station, 3355 E. Spring Street, Suite No. 301, Long Beach, California 90806; Lancaster Station, 1055 W. Columbia Way, Suite No. 108, Lancaster, California 93534; and North Hollywood Station, 12638 S. Saticoy St., North Hollywood, California 91605.

EXCLUDED: Office clerical employees, all other employees, confidential employees, dispatchers, mechanics, fleet technicians 1 and 2, couriers, crew chiefs, guards and supervisors as defined in the Act, as amended.

If a majority of the professional employees in voting group B do not vote for inclusion in the unit with nonprofessional employees, I find that the following two groups of employees constitute separate bargaining units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Unit A

Included: All full-time and regular part-time EMTs, Paramedics, RTs (Respiratory Therapists), and Field Training Officers employed by the Employer at or out of the following locations: Long Beach Station, 3355 E. Spring Street, Suite No. 301, Long Beach, California 90806; Lancaster Station, 1055 W. Columbia Way, Suite No. 108, Lancaster, California 93534; and North Hollywood Station, 12638 S. Saticoy St., North Hollywood, California 91605.

Excluded: Office clerical employees, all other employees, RNs, including CCT RNs, confidential employees, dispatchers, mechanics, fleet technicians 1 and 2, couriers, crew chiefs, guards and supervisors as defined in the Act, as amended.

Unit B

Included: All full-time and regular part-time RNs, including CCT RNs, employed by the Employer at or out of the following locations: Long Beach Station, 3355 E. Spring Street, Suite No. 301, Long Beach, California 90806; Lancaster Station, 1055 W. Columbia Way, Suite No. 108, Lancaster, California 93534; and North Hollywood Station, 12638 S. Saticoy St., North Hollywood, California 91605.

Excluded: Office clerical employees, all other employees, EMTs, Paramedics, RTs, Field Training Officers, confidential employees, dispatchers, mechanics, fleet technicians 1 and 2, couriers, crew chiefs, guards and supervisors as defined in the Act, as amended.

No issues were litigated at hearing. The parties stipulated to commerce, labor organization status, appropriate unit and question concerning representation.

No party raised any bar issues.

There are approximately 268 employees in the petitioned-for unit.²

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the voting groups/units found appropriate above. The

² There are approximately 248 employees in voting group A (nonprofessional employees) and 20 employees in voting group B (professional employees).

employees will vote whether or not they wish to be represented for purposes of collective bargaining by United Emergency Medical Service Workers / AFSCME-AFL-CIO. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Director will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote are those in the voting groups/units 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 an 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. Those employees in 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 have been discharged for cause since the designated payroll period; (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and (3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

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 election eligibility lists, one list for each voting group/unit containing the **full** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The lists must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the lists should be alphabetized (overall or by department, etc.). The lists may initially be used by the Region to assist in determining an adequate showing of interest. The Region shall, in turn, make the lists available to all parties to the election.

To be timely filed, the lists must be received in the NLRB Region 31 Regional Office, 11500 W. Olympic Boulevard, Suite 600, Los Angeles, California 90064, on or before **June 7, 2013**. No extension of time to file these lists will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file these lists. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The lists may be submitted to the Regional office by

electronic filing through the Agency's website, www.nlr.gov,³ by mail, by hand or courier delivery, or by facsimile transmission at (310) 235-7420. The burden of establishing the timely filing and receipt of these lists will continue to be placed on the sending party. Since the lists will be made available to all parties to the election, please furnish a total of **three** copies, unless the lists are submitted by facsimile or E-Filing through the Agency website, in which case no copies need be submitted. You may not submit the lists to the Region by email. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

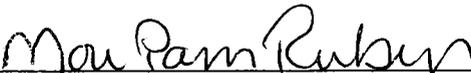
According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement 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 five (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.

³ To e-file, go to the agency's website at www.nlr.gov, click "e-file documents," and enter the 10-digit case number (found on the top right of the charge or petition form). Then simply follow the prompts. At the end, you will receive a confirmation number and an e-mail notification that the documents were successfully filed.

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, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **June 14, 2013**. The request may be filed electronically through the Agency's web site, www.nlr.gov,⁴ but may not be filed by facsimile.

DATED at Los Angeles, California this 31st day of May, 2013.



Mori Pam Rubin, Regional Director
National Labor Relations Board
Region 31

⁴ To e-file, go to the agency's website at www.nlr.gov, click "e-file documents," and enter the 10-digit case number (found on the top right of the charge or petition form). Then simply follow the prompts. At the end, you will receive a confirmation number and an e-mail notification that the documents were successfully filed.