

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

**US FOODS, INC.**

**and**

**Case 12-CA-109418**

**INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS, LOCAL 385**

**ORDER<sup>1</sup>**

The petition to revoke in part subpoena duces tecum B-710877 is denied.<sup>2</sup> The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations.<sup>3</sup> Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

---

<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> In considering the petition to revoke in part, we have evaluated the subpoena duces tecum as modified by the Region in its October 29, 2013 opposition brief. The Region has narrowed the subpoena by withdrawing the request for "all documents" in paragraph 1 and by limiting the geographical scope of the requests in paragraphs 13, 15, and 16 to the Employer's Port Orange, Florida division, including any satellite locations within that division.

Member Johnson would deny the Employer's petition to revoke in part without prejudice to the Employer's renewing its petition within 14 days. Member Johnson would permit the Employer to renew its petition supported by specific evidence of the cost estimates related to providing the ESI requested in paragraphs 12-16, 20 and 25 – as well as specific evidence of the costs related to providing emails, Xata logs (paper or ESI) and Red Prairie logs (paper or ESI.).

<sup>3</sup> To the extent that the Employer has already provided the Region with documents encompassed by this subpoena, it is not again required to provide them, provided that the Employer accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

Dated, Washington D.C., December 30, 2013

MARK GASTON PEARCE, CHAIRMAN

HARRY I. JOHNSON, III, MEMBER

NANCY SCHIFFER, MEMBER