

*United States Government*  
*National Labor Relations Board*  
OFFICE OF THE GENERAL COUNSEL

## Advice Memorandum

DATE: December 11, 2015

TO: John J. Walsh, Acting Regional Director  
Region 22

FROM: Barry J. Kearney, Associate General Counsel  
Division of Advice

SUBJECT: IBEW Local 827 (Verizon New Jersey, Inc.) 554-1475-2500  
Case 22-CB-157166

The Region submitted this case for advice as to whether the Union violated Section 8(b)(3) by refusing to provide the Employer with copies of collective-bargaining agreements it maintains with the Employer's competitors. We conclude that the Union did not violate the Act.

### FACTS

The International Brotherhood of Electrical Workers, Local 827 (the "Union") represents approximately 4,000 employees of Verizon New Jersey, Inc. and Verizon Services Corp. (collectively, the "Employer"), a wire-line communications provider. On June 22, 2015<sup>1</sup> the parties began negotiating a successor contract to their current collective-bargaining agreement. Throughout the bargaining process the Union posted regular updates to its website that were critical of the Employer's bargaining proposals. On July 8, one such update stated that one of the Employer's leave of absence proposals would effectively penalize workers for attempting to return to work from disability, at a time when the "industry standard" was to reintegrate a worker as quickly as possible.

On July 9, the Employer requested the Union to provide copies of its collective-bargaining agreements with other wire-line communications providers, claiming this would enable the Employer to evaluate and respond to proposals made by the Union during bargaining. In its July 13 reply, the Union asked the Employer to provide specific reasons establishing the relevance of its request. The parties exchanged several more communications, with the Employer claiming that the other collective-bargaining agreements would provide assistance in shaping its own contract proposals and help the Employer understand the Union's criticism of its proposals.

---

<sup>1</sup> All remaining dates are in 2015.

The Union refused to provide the documents, and the Employer filed the instant charge on August 4.

### ACTION

We conclude that the Union did not violate Section 8(b)(3) by refusing to provide the Employer copies of its other collective-bargaining agreements. The Employer has not established the relevance of the requested information and the Union has not placed its other contracts in issue by relying on them during bargaining.

Generally, a party engaged in collective bargaining must provide, upon request, information that is relevant for negotiating and administering a contract.<sup>2</sup> Information regarding unit employees' terms and conditions of employment is presumptively relevant and must be produced unless the other party rebuts the presumption.<sup>3</sup> However, a party seeking information concerning employees outside the unit must establish the relevance of that information without the benefit of any presumption.<sup>4</sup> The Board applies a liberal, "discovery-type" standard to determine whether requested information is probably or potentially relevant to statutory duties.<sup>5</sup> But the requesting party must offer more than mere "suspicion or surmise" to be entitled to the information, and there must be more than a "mere concoction of some general theory which explains how the information would be useful."<sup>6</sup> Otherwise, the requesting party would have "unlimited access to any and all data" from the other party.<sup>7</sup>

---

<sup>2</sup> *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 435-36 (1967); *Detroit Edison Co. v. NLRB*, 440 U.S. 301, 303 (1979).

<sup>3</sup> *See, e.g., Proctor Mechanical Corp.*, 279 NLRB 201, 204 (1986) (citing *Bohemia, Inc.*, 272 NLRB 1128, 1129 (1984)).

<sup>4</sup> *Id.* at 204.

<sup>5</sup> *Acme Industrial Co.*, 385 U.S. at 437. *See also, e.g., A-1 Door & Building Solutions*, 356 NLRB No. 76, slip op. at 2 (2011) (citing *Shoppers Food Warehouse Corp.*, 315 NLRB 258, 259 (1994)).

<sup>6</sup> *Hotel & Restaurant Employees Local 226 (Caesar's Palace)*, 281 NLRB 284, 288 (1986) (quoting *San Diego Newspaper Guild v. NLRB*, 548 F.2d 863, 868 (9th Cir. 1977)).

<sup>7</sup> *See Southern Nevada Builders Assn*, 274 NLRB 350, 351-52 (1985) (finding the union was entitled to a list of association members bound to the parties' master

With regard to requests that a union provide collective-bargaining agreements that it has with other employers, the Board has determined that such information is not “inherently relevant.”<sup>8</sup> Thus, in *Coca-Cola Bottling*, the Board held that the employer was entitled to the union’s contract with another company (Pepsi) only because the union had placed its Pepsi contract “in issue” by relying on its terms during negotiations and by asking the employer to adopt the Pepsi contract.<sup>9</sup> Similarly, the Board has held that an employer is entitled to a union’s other collective-bargaining agreements only upon some actual demonstration of relevance, such as policing the terms of a most favored nations clause.<sup>10</sup>

Here, the Employer has not established the relevance to its negotiations of the Union’s collective-bargaining agreements with other employers. Unlike in *Coca-Cola Bottling*, the Union did not place the terms of its other contracts “in issue” by relying on them during negotiations. The Union’s single, vague reference to an “industry standard” on its website criticizing the Employer’s leave of absence proposal did not implicate or reference any agreement it had with another employer.<sup>11</sup> Further, the Employer’s mere assertion that its competitors’ collective-bargaining agreements with the Union would aid it in both formulating its own contract proposals and in helping it understand the Union’s bargaining position does not entitle the Employer to the

---

agreement or “me-too” memorandum, but not a list of every association member; the union’s suspicion that some members were engaged in double-breasted operations did not establish the relevance of the information). *See also Hotel & Restaurant Employees Local 226 (Caesar’s Palace)*, 281 NLRB at 288.

<sup>8</sup> *Teamsters Local Union 688 (Coca-Cola Bottling)*, 302 NLRB 312, 312 n.2 (1991).

<sup>9</sup> *Id.*

<sup>10</sup> *Teamsters Local 272 (Metropolitan Garage)*, 308 NLRB 1132 (1992) (union required to provide copies of other collective-bargaining agreements to employer association so that association could ascertain union’s compliance with “most favored nations” clause); *Electrical Workers IBEW Local 292 (Sound Employers Assn.)*, 317 NLRB 275 (1995) (same).

<sup>11</sup> This case is thus factually distinguishable from *Bakery Workers Local 37 (Vons, a Safeway Company)*, Case 21-CB-13148, Advice Memorandum dated June 24, 2002. There, Advice concluded that the union violated Section 8(b)(3) by failing to provide contracts it had with other employers in part because the union had placed one of its other contracts “in issue” during bargaining by specifically referring to sections of the other contract in its bargaining proposals.

other contracts.<sup>12</sup> Simply because the Union's other contracts would be useful to the Employer does not establish their relevancy.<sup>13</sup>

For the foregoing reasons the charge should be dismissed, absent withdrawal.

/s/  
B.J.K.

---

<sup>12</sup> *Hotel & Restaurant Employees Local 226 (Caesar's Palace)*, 281 NLRB at 288.

<sup>13</sup> See *Teamsters Local 117 (Imperial Parking)*, Case 19-CA-143328, Advice Memorandum dated July 6, 2015 (relevance of union's other contracts not shown where employer simply desired to know industry standards regarding wages, hours, etc., and because employer was considering proposing most favored nations clause); *UFCW, Local 770 (Roger's Poultry Co.)*, Case 21-CB-10532, Advice Memorandum dated October 20, 1989 (relevance of union's other contracts not shown where other contracts would be merely useful by enabling employer to compare wages and benefits paid by other employers and to determine whether other employers had "most favored nations" clauses).