

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19

**SYSCO SPOKANE, INC.**

Employer

and

**Case 19-RC-187296**

**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 690**

Petitioner

**DECISION AND ORDER**

Petitioner seeks, by a self-determination election, to add all full-time and regular part-time employees in the hostler classification, employed by the Employer at its Post Falls, Idaho, facility, to Petitioner's existing unit of drivers employed out of that facility. The Employer maintains the voting group sought is not appropriate because the hostler does not constitute an identifiable and distinct segment of the Employer's workforce, sharing a community of interest with the drivers, appropriate for a self-determination election.

A hearing officer of the Board held a hearing in this matter and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board law, I find that the petitioned-for voting group sought is not appropriate.

**The Employer's Operations**

The Employer is a food-service distribution company, delivering food products to restaurants and institutions throughout Eastern Washington, Northern Idaho, and Northeastern Oregon. The Employer operates out of a facility, containing a warehouse, offices, and a vehicle yard, in Post Falls, Idaho, approximately 25 miles from Spokane, Washington.

The Employer's operations are organized in a number of different large departments, ranging in responsibility from sales to operations. The classifications at issue in the present case are part of the operations department, which is in turn split into three smaller departments. The first is transportation, consisting primarily of drivers. Second is warehouse, consisting of warehouse employees responsible for the operation of the Employer's warehouse and loading the driver's vehicles. The third section is the fleet department, consisting of a small repair and maintenance staff.

With the exception of one classification, the router, all non-supervisory employees in the transportation department are included in Petitioner's bargaining unit. The current agreement is effective January 16, 2016 to January 15, 2020. None of the employees in the warehouse or fleet department are represented by Petitioner or any other labor

organization. The petitioned-for classification, hostler, is located in the warehouse department.

• **Drivers**

Petitioner's existing unit consists of approximately 56 drivers in three classifications: delivery driver, shuttle driver, and van driver. The 48 delivery drivers make deliveries directly to customers. Delivery drivers working relatively close to Post Falls, of whom there are approximately 30, travel to the facility each day, obtain their loads, and make their deliveries, returning to the facility at the conclusion of their route. The approximately 18 delivery drivers who service areas far from the Employer's facility live in areas they serve and meet tractor-trailers carrying the products for their deliveries at "domiciles," essentially parking lots, where they obtain their loads. The seven shuttle drivers transport the tractor-trailers from the facility to the domiciles. The one van driver makes supplemental deliveries in the Spokane area.

Drivers reporting to the facility arrive in waves, beginning early in the morning. Upon arrival they collect the appropriate paperwork, complete a pre-trip inspection of their vehicle, and then depart for their deliveries. Most of each driver's day is spent on the road. The delivery and shuttle drivers who report to the Employer's facility typically spend 20 to 25 minutes at the facility at the beginning of their shifts and again at the end of their shifts, taking their breaks during the day while making their deliveries. The 18 delivery drivers who work out of domiciles do not have a reason to travel to the Employer's facility on a regular basis and may go years without visiting the facility.

Delivery drivers wear a uniform of shirt, pants, and jacket or vest provided by the company. When making deliveries, drivers use hand dollies and pallet jacks and a handheld scanner to track their work. Delivery drivers are occasionally provided with keys and access codes in order to make deliveries when a customer is not open for business. Customers will occasionally make payment to drivers, who deposit those amounts in a secure bag. That bag is deposited at the warehouse at the completion of the day.

The drivers' wage scale is set by the parties' collective bargaining agreement. Delivery and shuttle drivers earn a base wage in the \$23.00-\$24.00 an-hour range. When beginning their employment drivers earn less, but may earn above these rates based on performance and incentives. The delivery and shuttle drivers are required to hold Class A Commercial Driver's licenses, allowing them to operate the Employer's tractor-trailers on public roads, and an endorsement allowing the use of double trailers. Accordingly, all delivery and shuttle drivers are subject to Department of Transportation regulations and are subject to the Employer's controlled-substances and alcohol-testing policy, as well as the Employer's distracted-driving policy. When hired, drivers participate in the Employer's driver training program, and receive a driver safety orientation.

The first line of supervision for the drivers is a transportation supervisor. One transportation supervisor is responsible for the delivery drivers and the van driver and the other transportation supervisor supervises the shuttle drivers and the router. The transportation supervisors report to the transportation director, who in turn reports to the vice-president of operations, the head of the operations department.

The delivery drivers, shuttle drivers, and van driver are included in Petitioner's current bargaining unit. The only non-supervisory position in the transportation department

excluded from the bargaining unit is the router, the employee responsible for arranging the Employer's truck stock for each day's deliveries.

- **Warehouse Employees**

Employees in seven classifications are employed in the Employer's warehouse. Inbound receivers check-in product delivered by vendors to the Employer's facility, and verify deliveries are correct and undamaged. Inbound forklift operators then place the arriving product in slots within the warehouse rack system. In the evening and overnight, outbound selectors reverse the process and pull items from the warehouse racks, building orders for the next day's deliveries. A computerized system directs the outbound selectors and provides labels so that each pallet can be labeled for delivery. After the outbound selectors finish building the night's orders, let-down forklift operators rearrange stock so it is efficiently maintained.

Outbound selectors place completed orders on the appropriate dock, where outbound loaders wrap the orders and prepare them for loading. As discussed in more detail in the following section, the hostler, the position at issue, delivers the proper trailers to the proper docks, and the outbound loaders load the deliveries. An inbound (will-call) selector is responsible for obtaining any items for customers who come to the facility for pick-up instead of having the product delivered.

Warehouse employees earn approximately \$17.00 an-hour. Except for a safety vest, warehouse employees are not provided a uniform by the Employer. The warehouse employees utilize pallet jacks, forklifts, and other warehouse equipment to move the Employer's product. The warehouse employees have a shared breakroom at the facility.

None of the warehouse employees are represented by Petitioner or any other labor organization. Warehouse employees report to three first-line supervisors, who in turn report to the warehouse manager. The warehouse manager reports to the head of the operations department, the vice-president of operations.

- **Hostler**

The classification Petitioner seeks to include in its existing unit is the hostler, also referred to as the yard spotter. One hostler is employed by the Employer, working exclusively at the Employer's facility.

The hostler begins a shift by collecting a preliminary load sheet from the router, who is responsible for determining which trailers are needed for which routes to accomplish the day's deliveries. The load sheet details the trailers needed and the docks where the trailers should be located. The hostler then pre-trips the trailers, a basic visual inspection, and pre-cools those trailers that require refrigeration, fueling the refrigeration equipment as needed, and transporting the trailers to the proper docks using the "yard dog," a small truck used only in the yard. After checking for changes to the load sheet with the router, the hostler then pre-trips, fuels and places the trucks with the corresponding trailers. The first "wave" of drivers then departs and this process then repeats several times as successive waves of drivers are loaded and leave on their routes.

Throughout this process the hostler is communicating with the router, but also with the outbound warehouse manager regarding trailer placement. The hostler is also conveying to the router and outbound warehouse manager, information he is receiving from

drivers, usually by text message, regarding arrival times and equipment needs. The hostler is also communicating with the mechanics in the fleet and facilities department regarding equipment coming in and out of service.

The hostler earns \$17.33 an-hour, and has the same benefits as the employees in the warehouse. The hostler participates in the orientation and training provided to warehouse employees, and, like other warehouse employees, does not wear a uniform outside of the required safety vest. Unlike other classifications in the warehouse department, the hostler job description states the hostler is required to hold a CDL, but at hearing the Employer's Director of Human Resources testified that is not a requirement in practice, because the hostler does not use the Employer's trucks outside the yard. While past hostlers have had a CDL, the current hostler does not.

In the past, both a warehouse supervisor and a delivery driver have covered for the hostler when the hostler was unavailable. Prior to becoming the hostler, the employee who currently holds that position was employed in various positions in the warehouse, while the prior hostler transferred from that position to a loader position.

The hostler is part of the warehouse department, reporting to the warehouse manager. However, there is evidence in the record that in one instance the fleet and facilities manager – the third manager in the operations department in addition to the transportation director and warehouse manager – issued discipline to the hostler. Prior to 2014, the hostler was in the transportation department and reported to the transportation supervisor, similar to drivers.<sup>1</sup>

### **Board Law**

An *Armour-Globe* self-determination election, derived from *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937) and *Armour & Co.*, 40 NLRB 1333 (1942), is the mechanism that allows unrepresented employees to join an existing bargaining unit, assuming a shared community of interest. *Warner Lambert Co.*, 298 NLRB 993, 995 (1990). An *Armour-Globe* election determines not only whether the employees wish to be represented, but also whether they wish to be included in the existing unit. *Id.*

When a petitioner seeks an *Armour Globe* election the first consideration is whether the voting group sought is an identifiable, distinct segment of the workforce. *St. Vincent Charity Medical Center*, 357 NLRB 854, 855 (2011) (citing *Warner Lambert*, 298 NLRB 993 at 995). Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit, the analysis were the petitioner seeking to represent the employees in a standalone unit. *St. Vincent*, 357 NLRB 854 at 854-

---

<sup>1</sup> At hearing Petitioner requested an adverse inference be drawn from the Employer's asserted failure to produce organizational charts, pursuant to subpoena, from the period when the hostler reported to the transportation supervisor. Specifically, Petitioner seeks a finding that the hostler reported to the transportation supervisor prior to 2014. However, an inference is not necessary to establish this fact, as the Employer's Human Resources Director acknowledged as much during his testimony. From on the record discussions it also appears this dispute is the origin of the Employer's Petition to Revoke Subpoena, filed two days *after* the hearing, on November 10, 2016. Pursuant to Section 102.66(f) of the Board's Rules and Regulations the Petition is dismissed. To the extent this Petition to Revoke memorializes the Employer's on the record arguments I find it duplicative, as the subpoena issue was resolved with the close of the hearing. To the extent it raises new issues I find it untimely, coming after the close of the hearing.

55. Instead, the identifiable and distinct analysis is merely whether the voting group sought is an arbitrary segment of the workforce. *Capitol Cities Broadcasting Corp.*, 194 NLRB 1063, 1064 (1972); see also *The Journal Co.*, 205 NLRB 36, 37 (1973) (dismissing petition seeking television and/or radio newsmen, but omitting announcers, finding “newsmen and the announcers perform similar function in a similar manner and are similarly remunerated, separate representation for either of the groups would constitute an arbitrary and unwarranted fragmentation of employees and would therefore be inappropriate.”).

If the voting group sought is an identifiable and distinct segment of the workforce, the question then is whether the employees in that voting group share a community of interest with the existing unit. *Warner Lambert* at 995. In determining whether a group of employees possesses a community of interest, the Board examines such factors as:

[W]hether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment and are separately supervised.

*Specialty Healthcare and Rehab. Ctr. of Mobile*, 357 NLRB 934, 938-39 (2011) (quoting *United Operations, Inc.*, 338 NLRB 123, 123 (2002)).

- **Identifiable and Distinct Segment of the Workforce**

Petitioner is seeking all of the employees in the hostler classification, and limits its voting group to that one classification. There is no contention that other hostlers employed by the Employer are left unrepresented. Further, Petitioner is not, as in *Capitol Cities* and *The Journal Co.*, supra, seeking to create a voting group by combining classifications from multiple departments.

The Employer argues the hostler is not identifiable and distinct because Petitioner seeks to take one classification from one department, warehouse, and add it to a bargaining unit wholly contained in another department, transportation, creating a “fractured” unit. The Employer further argues this is ill-advised as such a fractured unit would be found inappropriate under *Specialty Healthcare*, supra. However, while the Board has used terms such as “unwarranted fragmentation” in describing the first element of the *Armour Globe* test, the Board has explicitly stated that whether a voting group is an identifiable, distinct segment is *not* the same question as whether the voting group constitutes an appropriate unit, the question addressed by *Specialty Healthcare*. Accordingly, I find the Employer’s arguments regarding the cross-departmental nature of the voting group are more properly directed to the second element of the test, whether a community of interest exists, and I have addressed that issue in the following section.

For the reasons stated above, and because Petitioner seeks all the employees in a single classification with distinctive functions, I find the voting group sought constitutes an identifiable and distinct segment of the Employer’s workforce.

- **Community of Interest Factors**

Having found the hostler an identifiable and distinct element of the Employer's workforce, the question then turns to whether the hostler shares a community of interest with the currently represented drivers. Some aspects of the hostler classification do correlate more closely with the drivers. Taking the community of interest factors in turn, in regard to skills and job functions, the hostler is the only warehouse employee to use the Employer's truck stock. The hostler has some contact with drivers by text message and in passing at the Employer's facility, and there is evidence of short-term interchange with at least one delivery driver covering for the hostler during an absence.

The evidence demonstrates that other community of interest factors are neutral or weigh against finding a community of interest between the hostler and drivers. The hostler receives training with the warehouse employees, not the drivers, and does not use the hand-held scanner utilized by the drivers. While the hostler handles the Employer's truck stock, he does not hold a CDL and is not subject to the Department of Transportation regulations and employer policies commensurate with that license. The hostler is more likely to encounter warehouse employees than drivers in shared spaces at the facility, such as the breakroom. The hostler does not wear the uniform of a delivery driver. The hostler's wage rate is almost identical to that of the warehouse employees, approximately 30 percent below that of the delivery and shuttle drivers.

While a delivery driver has covered for the hostler during an absence, the evidence demonstrates a previous warehouse supervisor has also covered for the hostler when the hostler was unavailable. There is no evidence of long term interchange between the hostler and driver positions.

Regarding functional integration, the evidence demonstrates that, in practice, the hostler is not working fully with the drivers or the warehouse employees, but is instead part of an intermediate group, including the router and the outbound warehouse supervisor, who manages trailer placement in the yard. This is, in essence, an additional function that takes place between the warehouse and delivery phases of the Employer's operation. While correct trailer arrangement is critical to both the warehouse and delivery phases, this intermediate phase is also somewhat separate.

Finally, and critically, the hostler currently is organizationally located in the warehouse department and reports to the warehouse manager. There is no common supervision with the drivers in the unit up to the vice-president of operations, multiple levels of supervision above these employees. The evidence demonstrates that this has not always been the case, but it is undisputed that this has been the Employer's organization for the last two years, and as such I find this weighs heavily against finding a community of interest between the hostler and the drivers in the bargaining unit.

The purpose of the community of interest analysis here, in the *Armour Globe* context, is not whether the hostler has closer ties to the drivers or the warehouse employees. Petitioner seeks to add the hostler to its existing bargaining unit, and it is entitled to an election to do so if a community of interest exists. However, to find such a community of interest here would require ignoring deficiencies in several important community of interest factors, including differing skills, training, and job functions, as well as

differing terms and conditions of employment. Further, the hostler and the drivers have a general lack of contact, only isolated incidents of interchange, and are not functionally integrated beyond the blanket statement drivers could not perform their jobs without the hostler performing his, a statement so general as to not be useful in establishing a community of interest. Finally, and again critically, the drivers and hostler are separately supervised. For these reasons I find that the hostler does not share a community of interest with the drivers in the petitioned-for unit.

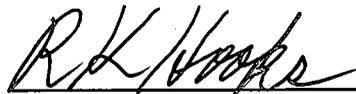
It is hereby ordered that the petition in this matter is dismissed.

#### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67(c) of the Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary of the National Labor Relations Board. The request for review must conform to the requirements of Section 102.67(d) and (e) of the Board's Rules and Regulations and must be filed by **December 1, 2016**.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

**DATED** at Seattle, Washington on the 17th day of November, 2016.



---

Ronald K Hooks, Regional Director  
National Labor Relations Board, Region 19  
2948 Jackson Federal Building  
915 Second Avenue  
Seattle, Washington 98174