DECISION AND DIRECTION OF ELECTION

On December 10, 2018, the International Alliance of Theatrical and Stage Employees, AFL-CIO (the Petitioner) filed a petition to represent certain employees of Audio Visual Services Group, LLC (PSAV or the Employer). The petitioner seeks a bargaining unit of "all full-time and regular casual part-time riggers, lead riggers, and rigging supervisors working on jobsites in the geographic jurisdiction of IATSE Local 22 except for those otherwise covered by a collective-bargaining agreement with IATSE Local 22," but excluding "all sales employees, administrative employees, office clerical employees, confidential employees, managerial employees, guards, and supervisors as defined by the Act," (the Unit).

The Employer claims the Unit is not an appropriate unit and should also include audio visual technicians (AV technicians or technicians) and the Employer’s other employees in Washington, D.C., Maryland and Northern Virginia. The Petitioner contends the petitioned-for unit is an appropriate unit.

I have considered the evidence and arguments presented by the parties, and for the reasons described below, I conclude that the petitioned-for unit, with the modification described below, is an appropriate unit because the employees within that unit share a community of interest sufficiently distinct from the Employer’s other employees. I also find that the Petitioner’s proposed geographic scope for its unit, covering Washington, D.C., Northern Virginia, and the Maryland suburbs, not appropriate. Instead, I find the Employer’s proposed

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¹ All dates herein are in 2018, unless specified otherwise.
geographic scope, covering all of its operations in Maryland, Washington, D.C., and Northern Virginia, to be appropriate. As such, I am directing an election in this matter.

I. ISSUES AND POSITION OF PARTIES

There are two issues in this case. The first issue is whether the petitioned-for unit of riggers is an appropriate unit or whether it improperly excludes other employees. The second issue is whether the scope of the unit should include, in addition to Northern Virginia and Washington, D.C., the Employer’s operations in all of Maryland or just those in the suburbs of Maryland.

The Petitioner argues the Unit is appropriate because the riggers are a highly specialized group of employees that work in a select few locations for the Employer, that they make higher wages than other employees, have little to no interchange with other employees, and have limited contact and integration with other employees. The Petitioner also argues that the scope of the Unit should include Northern Virginia, Washington, D.C., and the suburbs of Maryland.

The Employer argues that all employees must be included in the Unit. The Employer focuses its argument primarily, and almost exclusively, on AV technicians, which it argues share a community of interest with riggers. The Employer also states, however, that its other employees in the area—including concierges, drivers, inventory control specialists, and warehouse employees—should also be included in the Unit, increasing it from around 23 to 553. The Employer argues that the scope of the Unit should include Northern Virginia, Washington, D.C., and all of Maryland because its riggers and other employees regularly work at locations throughout the region.

II. FACTS

A. PSAV’S General Operations

PSAV is a global event technology services company that provides event technology and audiovisual (AV) services for meetings and other events, primarily held at hotels, resorts, and convention centers, among other venues. PSAV’s customers include event organizers, corporations, trade associations, producers and meeting planners. PSAV operates in

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2 Hereinafter, the term riggers will be used generally to apply to the positions of riggers, lead riggers and rigging supervisors, as there is no contention that rigging supervisors are supervisors under the Act, or evidence differentiating the positions. Instead, both parties treat all three positions as generally the same.

3 There is one rigger, Kurt Kreuz, who works at the Baltimore Marriott Waterfront in Baltimore, Maryland, whom is not included within the Petitioner’s proposed scope but would be included within the Employer’s proposed scope.
approximately 85 venues throughout Washington, D.C., Maryland, and Virginia. Except for one small conference center, all the venues are hotels.

B. Departmental Organization

Although the Employer did not provide sufficient evidence to provide a bird’s eye view of how all of its divisions or departments are organized, the evidence is sufficient to show that the Employer’s departmental organization includes the following groups.

1. The Rigging Team

The Employer has a rigging team, which includes riggers, lead riggers, rigging supervisors, rigging coordinators, regional rigging managers and directors. The head of the team is Todd Spencer, Vice President of Rigging Services.

The Employer’s rigging team is separated into two programs: installation and operations. The installation program involves the installation team and involves installing fixed rigging points and performing other rigging work to establish a permanent rigging infrastructure at properties with which PSAV has entered into exclusive rigging contracts. The head of the installation team is Damian Purdy, National Director of Rigging Installation. He reports to Spencer. Neither party contends that the installation team should be included in the Unit.

The rigging operations team sets up, operates and takes down rigging for different shows at the property, using the fixed points that were installed by the installation team. It has a separate director from the installation team. The record does not indicate that there is any crossover between the two teams and in fact indicates the opposite. The purpose of the installation team is to allow PSAV to install the fixed rigging infrastructure at the beginning of its relationship with a property and at a time when it is not under a show production schedule. The installation team does not work out of specific venues but instead works nationwide and exists in a standby status until called as needed to specific venues. The rigging operations team, on the other hand, works out of specific venues.

The Employer employs 24 riggers in Washington, D.C., Maryland and Virginia. Nineteen riggers work at the Gaylord National Hotel and Conference Center (the Gaylord) in Fort Washington, Maryland, as their home location, meaning the majority of their time is spent at the Gaylord, although they also work at a variety of other locations in the same regional area. Four riggers work at the Marriott Marquis (the Marquis) in Washington, D.C., as their home location. One rigger works at the Baltimore Marriott Waterfront (the Baltimore Marriott) in Baltimore, Maryland.

There is no evidence indicating that AV technicians, drivers, concierges, or warehouse employees are part of the rigging team. The Employer provided an organizational chart for the rigging team, for example, which does not include any of the other classifications.
2. AV Technicians

The record evidence does not establish where AV technicians fit within PSAV and how they are organized, other than that they are on the "hotel operations" side of the business and not on the rigging team.

3. Warehouse Operations

PSAV also has a department it refers to as warehouse operations. Unlike riggers, which work out of the venues, the warehouse operations are based in PSAV's warehouse in Lanham, Maryland. The warehouse is used to store extra equipment because there is not always sufficient storage at the hotels it services. There are three groups of employees that work at the warehouse: the show production team, the warehouse team and driver technicians.

The show production team is comprised entirely of AV technicians and provides services at outside venues, where PSAV is not the preferred vendor. The team also will support productions at PSAV's in-house sites if necessary, although the evidence does not indicate how often the team provides such support. No riggers work at the warehouse or on the show production team because PSAV does not do rigging where it has not established the rigging infrastructure and entered into an exclusivity agreement.

The warehouse team inventories the equipment at the warehouse, keeps track of it, and performs quality control on it. The team also may provide additional support where the equipment is being used if there is a specific challenge with the piece of equipment and they know how to fix it, although there is no evidence that such events are common.

The driver technicians drive the equipment from the warehouse to where the Employer is doing an event, as well as in between venues if necessary. Also, at venues where the Employer is not the preferred provider and does not have an exclusivity agreement, the drivers may help to set up and operate the equipment.

The evidence indicates that drivers do not come into much contact with riggers. The regional rigging manager, for example, testified that he was not aware of the position and that he had not seen drivers acting as technicians.
4. Concierges

The Employer also has concierges, which are roving technicians used when an outside company is involved in an event. The company can rent lights and audio equipment from the Employer by contacting the concierge.4

C. Skills and Training

1. Riggers

All riggers must be PSAV-qualified or possess an entertainment technology (ETCP) certification to perform work on PSAV events. Per the PSAV rigger training, riggers must “be dedicated specifically and exclusively to rigging tasks.”

To be PSAV-qualified, an employee must first attend a three-day rigging class in Orlando, Florida. The purpose of the class is to provide the individual with the basic knowledge of rigging. After passing the class, the individual must complete 250 hours of on-the-job training as a rigger, working alongside riggers at venues. Once those hours are completed, the individual then must be evaluated and approved by the rigging coordinator or the regional rigging manager. If approved, the employee can then apply to become a rigger.

Employees do not pay for the Orlando training. The Employer covers the training and hotels out of its rigging services side. The individual property where the employee works pays the employee’s per diem.

ETCP certification is provided by a trade group of businesses that provide event services or products. The certification requires riggers to obtain 3,000 hours of on-the-job training as a rigger and to pass the organization’s test. The Employer occasionally contracts extra riggers for specific events. When it does so, it only contracts with riggers who hold ETCP certification.

Although ETCP certification is not required for PSAV-qualified riggers, the Employer nevertheless encourages its riggers to obtain ETCP certification and provides resources to assist riggers in obtaining the certification. It pays riggers $2.00 more per hour after they obtain ETCP certification. Also, the rigging supervisor and regional rigging manager help riggers prepare for the test by emailing interested riggers practice test questions twice a week and offering a prize to the riggers who get the most questions correct, setting up a study group for the riggers, and administering a practice test.

4 In its brief, the Employer claims concierges also operate as “loading liaisons,” who inform outside companies where to put equipment and explain the rules of the specific venue, among other information. The testimony on which the Employer relies, however, indicates that a loading liaison is separate from a concierge because the witness describing the duties, Director of Event Technology Sean Lyden, explained that an employee performed “concierge work or actually loading liaison work,” indicating a difference between the two.
Riggers also take “work at heights” training once a year. In that training, the riggers go through proper utilization of hoists, harnesses, rope work and rescues if something goes wrong while working at height.

Riggers also have a voluntary motor technician training they can apply to take. There is no evidence regarding what that training entails.

2. AV Technicians and Other Employees

AV technicians are not required to undertake the rigger training although they can if they are interested because the class is open to any employee interested in learning about rigging. Approximately 60 AV technicians have taken the three-day Orlando course since 2014. Out of that group, however, only technicians have gone on to complete the 250 hours of on-the-job training and become riggers. There is no evidence that any AV technicians hold ETCP certification, and the regional rigging manager testified that he is not aware of any.

PSAV has conducted a one-day rigger training for some AV technicians covering property-specific rigging at their home venues. After completing the one-day training, technicians can perform work on air walls, ground support, sky hooks and chain motors at the venues where they received the training. They cannot conduct truss work in the air, however, or use similar equipment at other properties. The training does not make the technicians PSAV-qualified riggers. The training is not provided to riggers.

The one-day training is not provided on a regular schedule or at all facilities. Instead, it is provided where the Director of Event Technology (DET) at an individual property requests it. It has been provided at approximately four to five properties in the past two years, including the Washington Hilton and the Fairmont, both in Washington, D.C. It has not been provided at the Gaylord or the Marquis, where almost all of the riggers primarily work.

The one-day training was prompted by PSAV noticing that its Hilton and Fairmont venues had two to three standard setups occurring on a regular basis, so the training was aimed at those specific setups to allow the technicians to do more work and speed the process along. The record does not indicate how many technicians have taken the training or the details of the rigging tasks the technicians engage in at the properties where the training has been given.

The regional rigging manager, who helps draft the test for ETCP certification, is not aware of any training to prepare employees for AV work. Instead, the Employer offers PSAV University, which is available to all employees and covers a range of topics. It contains courses that allow technicians to proceed from third- to first-level technician, discussed below, or to allow employees to become DETs. The training does not appear to cover rigging, however.

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5 One in 2018; four in 2017; 10 in 2016; 18 in 2015; and 27 in 2014.
There is also no evidence that PSAV University is required training for any employee, or that technicians need to take it before being hired.

D. Job Duties and Functional Integration

1. Rigging Defined

The witnesses for the parties disagreed over the scope of activities that constitute rigging because the Employer defines rigging differently than how it is generally understood in the industry. The divisional vice present acknowledged as much, stating, “what we classify as rigging and somebody as a rigger is different than I think what the rest of the industry does.” The Employer’s rigging training manual also warns trainees that the Employer’s definition of rigging includes activities they “may not have even considered rigging in the past.”

The Employer defines rigging as “all work that requires any sort of equipment to be fixed or suspended from the building fabric or structure of the venue for exhibition, conference, sport or special event purposes by means of temporary wires, cables, cords, slings, chains or lifting appliances” and “the hanging or fastening of any items at a height of six feet or above.” The Employer bills clients for “rigging” based on this definition.

The Employer separates rigging into three levels. Level 1 involves ground-supported objects at heights greater than six feet. Level 2 involves flying equipment from building fixtures without truss. Level 3 involves truss mounted equipment hung from rigging points.

The riggers testified to a narrower definition of rigging, based on the tasks they performed as riggers. The tasks they described as constituting rigging fit within Levels 2 and 3 of the Employer’s above rigging hierarchy. Notably, they did not consider ground-supported truss, including truss bridges, to be rigging.

2. Actual Job Duties

a. AV Technicians

AV technicians are responsible for setting up, operating, and tearing down the audiovisual equipment used during the presentations, such as speakers and video screens. They also build ground-supported rigging, including truss bridges. They are separated into three categories: technician 1, technician 2, and technician 3. Technician 3 is an entry-level position and is used for technicians who do smaller setups for the Employer or are still learning with respect to at least one of the following areas: audio, video, lighting, information technology, or projection. The evidence does not indicate how many first-level technicians are among the excluded group of employees referenced on the petition in this case. Technician 2 is a more skilled position and requires the technician to have specialized knowledge and proficiency in two or three of the areas listed above. The evidence does not indicate how many second-level technicians are among the excluded group of employees noted on the petition. Technician 1 is expected to be proficient in two or three of the areas listed above and to be very specialized in
one of the areas, which becomes that technician's predominant job assignment. Unlike the other levels, first-level technicians are expected to know how to hang the equipment related to their specialty on truss. First-level technicians are primarily referred to by their area of specialty; so a technician specializing in audio is referred to as an audio specialist. Assuming that "technical specialist" refers to first-level technicians in the list of employees submitted by the Employer as employees who should be included in the Unit, there are about 44 technical specialists among the excluded employees.

b. Riggers

Riggers' duties revolve around hanging truss from a building's superstructure, along with the audiovisual equipment attached to the truss. That process involves multiple tasks, described below.

i. Building Truss

Before riggers can hang truss, it first must be built and laid out on the floor below where it will be hung. Riggers often build the truss, but it is also sometimes built prior to their arrival to the venue, either by PSAV technicians or employees of an outside company putting on the production.

Riggers work with PSAV technicians only about half of the time. For the other half, riggers work with employees of outside production companies, which often provide truss builders rather than technicians to build the truss. At the Gaylord, for example, the Employer hires truss builders from an outside company called Crew Works. The truss builders leave once the truss is built and the riggers have raised it to working height. Unlike technicians, the truss builders are not responsible for the audiovisual equipment. Riggers often work with multiple outside companies for a single production. For the Scripps Spelling Bee at the Gaylord, for example, the lighting and scenic elements were handled by different companies.

PSAV riggers often work with technicians and truss builders employed by companies other than PSAV because where PSAV provides rigging in Washington, D.C., Maryland and Virginia, it has exclusivity agreements with the venues so that it is the only company that provides the rigging for events held at those venues. The purpose of the exclusivity is safety, because PSAV installs the fixed points at the venues to which the rigging is attached, or has inspected them to insure they are safe, and as a result takes responsibility for the rigging infrastructure. PSAV does not have exclusivity agreements with its venues for AV operations, however, so even though AV technicians work at all 85 venues, it is common for an outside company to provide AV technicians or truss builders while PSAV provides the riggers.

ii. Hanging Equipment and Moving Truss

Once the truss has been built on the ground, the riggers connect their chain motors (which they have hung to points in the ceiling) to the truss and raise it to working height, around three to
six feet off the ground. At that point, the riggers check the truss again and ensure that the cables for the chain motors and power are properly connected to the truss. Then, technical specialists, either employed by the Employer or an outside production company, hang their equipment from the truss. Riggers do not hang audiovisual equipment from rigging, or supervise the technical specialists who do. Instead, the riggers wait for the specialists to hang their equipment and then inspect the attachments to ensure the equipment is properly fastened to the truss. Riggers generally do not touch the audiovisual equipment, although when speakers are involved riggers will work with sound technicians to aim the speakers, which involves the rigger moving the speaker as it is hanging from the truss in accordance with the technician’s instructions. In such circumstances, the technician is usually on the ground while the rigger is up on a lift. Generally, however, if a piece of AV equipment needs to be replaced and is accessible from a lift, the technician will take care of the issue. If it is not, then the riggers will lower the rig or otherwise reach the equipment. Once technicians have hung their equipment on the truss, the riggers will raise the truss using chain motors. Just as riggers generally do not touch the audiovisual equipment, technicians do not touch the chain motors. Technicians also do not raise or lower the truss.

Once the equipment is attached to the truss, the riggers attach safety cables and raise the truss to working height, which is the height it will be at for the event. Once it is at working height, the riggers clean up their equipment and leave. The Employer or outside production company can request them to stay, however, in case they are needed to resolve any issues with the truss. The record does not indicate how frequently the riggers stay for the production, or how many of them stay at a time.

After the event is over, the riggers and technicians will “strike” the set, essentially performing their setup process in reverse. The riggers lower the truss, the technicians remove their equipment, and the employees break the truss apart. During this time, the groups maintain the same functions around these roles as during setup.

iii. High Rigging

At certain venues such as the Gaylord, a significant portion of the riggers’ duties involves high rigging. High rigging involves working in a harness suspended from the ceiling, which can be at heights of 100 to 164 feet. For every rigger working at height (referred to as the up-rigger), another rigger (referred to as the ground rigger) is on the ground operating a belay device from which the rigger is suspended. The ground rigger is responsible for dispensing and taking in rope as the up-rigger moves, and securing the rigger in position so he does not need to hold himself in place while he works. The ground rigger is also responsible for attaching and detaching items that are raised to or lowered from height by the up-rigger. Technicians do not perform as high riggers or ground riggers.\footnote{There is only one occasion a witness identified in which a technician served as a rigger. The witness, Ruble, explained that it was such a dangerous experience he complained to the rigging supervisor, who told him that he would never allow that assignment again.}
Riggers at the Gaylord spend a significant amount of time high rigging due to an annual event called Christmas on the Potomac. The event involves a large Christmas tree and a collection of lighting fixtures hung as high as eight stories in the air, among other features. The event requires riggers to create temporary fixed points in the ceiling to hang lights and scenic elements, and then to hang those elements. It also involves attaching chain motors to the fixed points and operating the chain motors to raise a truss holding lights, scenic elements and a Christmas tree eight stories in the air.

The riggers begin setting up the event around September or October and finish in mid-November. During the event, riggers are on-call to perform such tasks as replacing light fixtures, refilling artificial snow machines and moving scenery, among other tasks, which require the use of ropes and climbing equipment. They then take down the equipment and rigging in January.

iv. Other Responsibilities

Riggers are responsible for the safety of rigging that is hung, including the points in the ceiling from which it is hung. For example, in 2017, a rigger observed and reported a fixed point at the Gaylord that appeared to be broken. The rigging supervisor assigned several riggers at the Gaylord to inspect all the fixed points in the Gaylord’s Exhibit Hall and to fix the points they found to be broken. The process took several months.

The Employer also requires a minimum of two riggers for all rigging calls as a safety precaution.7 There is no evidence of a corresponding requirement for technicians.

v. Ground-Supported Truss

Technicians, not riggers, build ground-supported truss. None of the riggers who testified had constructed ground-supported truss, including a truss bridge. In fact, the rigging supervisor told one rigger that truss bridges do not fall within their purview.

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7 The Employer’s witness, Patrick Wallace, the regional rigging manager for the Mid-Atlantic region, claimed there was no two-rigger requirement and that technicians could serve as the second rigger. I do not rely on Wallace’s testimony on this matter because it is directly contradicted by the training materials used to certify riggers, which he created and which states that “all rigging calls should include a minimum of two riggers as a safety precaution.” Wallace failed to explain why he trained riggers on the requirement if it were not true and failed to provide any specific examples to support his contradictory testimony, other than to say vaguely that it happened one time at a hotel. He also contradicted the statement by explaining that there is a three-rigger requirement at the Gaylord so if one rigger has to leave to get equipment from storage, “that leaves two people, so you can still have operations happening on the floor,” thus indicating that the Employer requires a minimum of two riggers for rigging operations. Also, multiple riggers provided testimony contrasting with Wallace’s claim and testified that they never worked alone or with a technician as their spotter.
Riggers can hang equipment from sky hooks, although there are no sky hooks at the Gaylord or Marquis, where the riggers primarily work. Chain motors are not used with sky hooks.

Riggers install and remove air wall hangers into air wall tracks, which they can then hang items from during a production. Although some technical specialists can hang equipment from air wall hangers at the venues where they received the one-day training, they cannot install or remove the hangers attached to the air wall tracks. The responsibility for maintaining air wall hangers is placed on the riggers, not the technicians. Thus, when an air wall hanger fell at one of PSAV's venues, the rigging coordinator emailed the rigging team about the issue and told them they needed to be certified by himself or a rigging supervisor before they could install air wall hangers again.

c. Other Employees

The Employer provided no evidence regarding the job duties of concierges. The evidence regarding the job duties of warehouse employees, including drivers and warehouse technicians, is described above in the section addressing departmental organization.

E. Contact

The riggers at the Gaylord use radios to communicate with one another. They communicate across a channel that is for riggers only. Although it is technically possible for the riggers to change the channel to communicate with AV technicians, the only rigger to testify on the matter stated he never did so and nobody testified to the contrary. Presumably, the technicians and riggers communicate in person when they are working together hanging equipment on the truss. If a rigger needs to reach a technician, however, he or she will call the AV manager on the phone.

Riggers and technicians work at the same venues and often work together when setting up for a show, which involves hanging the AV equipment on the truss, getting the speakers aimed, and raising the truss with the equipment on it, among other tasks. About half of the time, however, riggers are working with employees of outside companies rather than the Employer's technicians to perform such tasks.

Riggers meet with the regional rigging manager and rigging coordinator once or twice a year. At the meeting, riggers can discuss concerns they have regarding anything that has come up with their day-to-day activities, and the managers discuss large projects that are coming up or were recently completed. No other employees attend the meetings.
F. Interchange

As explained below, there is no evidence of interchange between riggers and any of the other positions sought by the Employer to be included in the unit.

Riggers and technicians have separate schedules and cannot trade shifts. As discussed above for training, AV technicians can become riggers by taking the three-day rigger training, obtaining 250 hours of on-the-job training, and then being evaluated and approved by the regional rigging manager. That has occurred only twice, however.

In the opposite direction, there is no evidence of riggers that have transitioned to being AV technicians. In this regard, the regional rigging manager testified that he was not aware of any riggers that had done so. There is also no evidence regarding how a rigger would become a technician and whether doing so would require any special training.

G. Terms and Conditions of Employment

The Employer has a team member handbook that applies to all employees. It sets forth such terms and conditions of employment as classification requirements for full-time versus part-time employees, leave, disciplinary policy, and fringe benefits, among other topics.

The Employer bills rigging jobs at a minimum of four hours, “based on the specialized nature of rigging services.” There is no minimum for other jobs.

Riggers have different uniform requirements than technicians. Riggers typically wear T-shirts with the Employer’s logo and black pants, cargo pants or jeans; they are not allowed to wear neckties due to the danger they present around chain hoists. Technicians, on the other hand, have dress requirements that vary between properties, and often must wear suits and ties.

Riggers are generally paid higher wages than technicians, although both classifications are hourly employees. Riggers make between $30.50 and $42 per hour. Of the approximately 75 other employees for which the Employer submitted wage information, who appear to all be technical specialists, only the top nine make $30.50 or more, and the highest paid among them makes $37 per hour. One rigger testified regarding the jump in pay that conversion from technician to rigger entails, explaining that his pay increased from around $16-17 per hour to $24-26 per hour when he did so.

8 Kreuz, whom the Petitioner does not seek to include in the Unit and whom the parties stipulated could vote subject to challenge, makes $26 per hour.

9 The Employer did not provide wage information for over 400 of the employees it seeks to include in the Unit.
H. Supervision

The rigging coordinators are the direct supervisors for the riggers. They schedule and assign riggers. The coordinators oversee multiple venues serviced by PSAV and coordinate the rigging projects at those locations. Such coordination involves designing the truss rigs and coordinating the necessary riggers and rigging equipment for a project. The rigging coordinator also operates as the liaison to the client and is responsible for figuring out what the client wants in terms of rigging.

The rigging coordinators report to the DET at the property at which they are working, for purposes of work performed at the property. The DET oversees PSAV’s operations at hotel venues, including its rigging operations. The record is unclear regarding the nature of the DETs authority over rigging coordinators, although it does show that such authority is limited. The rigging coordinators are responsible, for example, for all technical rigging decisions. In such matters, the regional rigging manager rather than the DET is consulted. Also, only riggers that are evaluated and approved by the regional rigging manager are allowed to be riggers in PSAV properties, there is no assigned role for DETs in that process. Unqualified riggers can be reported to the DET, but they must be evaluated by managers in the rigging operations before they can perform any rigging-related tasks. The regional rigging managers, not DETs, provide annual performance reviews for the rigging coordinators.

AV technicians are not scheduled by rigging coordinators or anyone on the rigging team. Instead, they are scheduled by managers on the hotel operations side. The record does not indicate what supervisory position specifically schedules the technicians.

III. ANALYSIS

As explained below, I conclude that under the Board’s community of interest standard set forth in PCC Structural, Inc., 365 NLRB No. 160 (2017), the petitioned-for unit shares a community of interest distinct from excluded employees and is thus an appropriate unit.

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10 Lead riggers are generally more experienced riggers that take the lead during a rig setup. There is no evidence they have supervisory authority.

11 A schedule for riggers provided by the Petitioner has two individuals listed on it that Wallace identified as technicians. He did not explain, however, why two technicians were listed on the schedule or claim that they were scheduled by a rigging supervisor. Instead, when asked about who scheduled technicians, he testified that it was a manager on the hotel operations side. I therefore do not find that the unexplained presence of two technicians on the riggers’ schedule indicates any significant overlap in scheduling functions.
A. The Community of Interest Standard

The Act does not require a petitioner to seek representation of employees in the most appropriate unit, but only an appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723 (1996). To evaluate the propriety of a unit, the Board evaluates “whether employees in the proposed unit share a community of interest sufficiently distinct from the interests of employees excluded from that unit to warrant a separate bargaining unit.” *PCC Structuralis, Inc.*, 365 NLRB No. 160, slip op. at 11 (2017) (emphasis in original). The evaluation requires consideration of both the petitioned-for employees and the employees excluded from the petitioned-for unit. *Id.* at 10.

For its analysis, the Board uses traditional community of interest factors: whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform 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. *Id.* at 13 (citing *United Operations, Inc.*, 338 NLRB 123 (2002)).

B. Application of Standard

I find that departmental organization, skills and training, job duties, interchange, and supervision weigh in favor of the conclusion that riggers share a community of interest distinct from other employees while functional integration, contact and shared terms and conditions of employment weigh against such a finding.

1. Departmental Organization

I find that the Employer’s department organization weighs in favor of finding that riggers share a community of interest distinct from excluded employees. The organizational chart introduced into evidence by the Employer, as part of its required training for riggers, is clear that the “rigging team” includes the petitioned-for employees and does not include any of the other employees the Employer seeks to include in the Unit. The rigging team runs from rigging coordinators up to the Vice President of Global Rigging Services; it does not include AV technicians, drivers, concierges, or warehouse employees anywhere in the organizational hierarchy. Moreover, Patrick Wallace, the regional rigging manager for the Mid-Atlantic region, was not familiar with the concierge or driver positions. He also was unfamiliar with training requirements for AV technicians even though he created the training for riggers,

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12 The Mid-Atlantic region includes Pittsburgh, Pennsylvania; Buffalo, New York; Kentucky; Maryland, Washington, D.C.; Virginia; and West Virginia.
indicating a separation between the AV technicians and riggers. There is no testimony regarding what team or division the technicians fall within, but the Employer’s rigging team hierarchy chart makes it clear it is not within the rigging team. The evidence thus shows that riggers are grouped by themselves by the Employer, supporting the conclusion that they share a community of interest distinct from the larger group urged by the Employer.

2. Skills and Training

I find that the skills and training of the Employer’s employees weigh in favor of finding that riggers share a community of interest distinct from excluded employees. In examining employees’ skills and training, the Board examines whether disputed employees can be distinguished from one another based on duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that disputed employees must meet similar requirements to obtain employment, that they have similar job descriptions or licensure requirements, that they participate in the same Employer training programs, or that they use similar equipment supports a finding of similarity of skills. See, e.g., Casino Aztar, 349 NLRB 603 (2007); J.C. Penny Co., Inc., 328 NLRB 766 (1999); Brand Precision Serv., 313 NLRB 657 (1994).

Here, the Employer requires that riggers either be PSAV-qualified or possess an ETCP certification. The PSAV qualification process requires attending a three-day rigging class in Orlando, Florida, completing 250 hours of on-the-job training, and then being evaluated and approved by the rigging coordinator or the regional rigging manager. ETCP certification requires riggers to obtain 3,000 hours of on-the-job training and passing a test administered by a trade group of event-service businesses. Riggers also must take “work at heights” training once a year. In that training, the riggers go through proper utilization of hoists, harnesses, rope work and rescues if something goes wrong while working at height.

No other group of employees is required to go through the above trainings. AV technicians can take the three-day rigger training if they are interested, but it is not required as part of their employment. Even for those technicians who have taken the three-day training, it is exceedingly rare for them to complete the training to become a rigger. In the past four years, 88 employees have taken the Orlando training but only two completed the 250 hours of on-the-job training and became riggers. Unlike riggers, who PSAV encourages to obtain ETCP certification and many of whom thus hold it, there is no evidence that any other employees hold the certification.

The Employer has conducted a one-day rigger training for technicians, but it is not comparable to the training required for riggers. The one-day training has been given at only four

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13 Also, when employees attend the three-day training for rigging, most of their expenses, such as the hotels and training, are paid out of PSAV’s “rigging services side.” The employees’ home property then pays the rest. The Employer’s administration of training thus further demonstrates the separation of riggers as an administrative unit.
to five venues and covers only the property-specific rigging at each venue. The training does not render the technicians PSAV-qualified riggers, however, meaning the technicians cannot perform rigging work at any property other than where they received the training. Moreover, the training has only been offered to a limited group of AV technicians, those working at venues where two to three standard setups occur on a regular basis and thus present an opportunity for technicians to be trained on basic low-level rigging equipment. There is no evidence that the rigging required at the venues where the one-day training was provided involved the high rigging undertaken at the Gaylord and Marquis. In fact, the one-day trainings have not been offered at the Gaylord and Marquis, where the riggers are assigned and primarily work.  

Moreover, the record evidence does not indicate that other employees must obtain any similar form of certification to perform their jobs. The regional rigging manager testified that he was not aware of any training required for AV technicians. There is testimony regarding PSAV University, which is available to all PSAV employees and covers a range of topics, but there is no evidence that it is required training for any specific classification. The Employer’s witnesses testified only vaguely about the trainings offered in PSAV University, which apparently allows employees to “learn whatever you want about the company” and offers online and in-person courses. Rather than describe any specific course, the Employer’s witnesses offer broad descriptions and conclusory assertions, such that the audio training offered under PSAV University is no “more or less complex” than rigger training, with no supporting explanation as to what audio training entails, whether it is required for a technician, or whether it is accompanied by a requirement for 250-hours of on-the-job training.

In fact, PSAV University illustrates the specialized training and skills required of riggers as distinct from the training offered to other employees. The Employer’s witness testified that although PSAV University covers a broad range of topics for many positions, it does not certify employees to become riggers. There is no indication it offers any rigging training at all. The only way to obtain a rigger position is to attend the three-day training and obtain 250 hours of on-the-job training as a rigger. That rigging certification is separated out from all other trainings demonstrates its specialized nature. The skills and training required for riggers therefore supports the finding that they share a community-of-interest distinct from other employees.

3. Job Functions and Duties

I find that the job functions and duties of the Employer’s employees weigh in favor of finding that riggers share a community of interest distinct from excluded employees. In assessing job duties, the Board examines whether the disputed employees can be distinguished

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14 The Employer claims that “a cross-training technician is qualified to perform rigging at any PSAV property,” but there is no support for such a claim. The evidence the Employer cites, for example, is testimony about the one-day training, which the Employer’s own witnesses admit allows technicians only to perform certain rigging tasks at the specific venues where they received the training, and does not allow the technicians to perform rigging “at any PSAV property.”
from one another. If the evidence shows that employees perform the same basic function, have the same duties, or have a high degree of overlap in their work, then it weighs against finding that the employees' have distinct communities of interest.

Here, the evidence shows that riggers have a distinct function from other employees and do not overlap in their work with AV technicians to a significant degree. Riggers have specific duties that revolve around hanging truss from buildings with the use of chain motors. Riggers' duties for a typical event are as follows: using a Computer Assisted Drawing (CAD) created by the rigging coordinator, the riggers (or truss builders employed by an outside company) lay out and build the truss, and start hanging their chain motors to points in the ceiling from which the truss will be suspended.\(^{15}\) Once the truss is built on the ground, the riggers will connect the chain motors to the truss and raise it to working height, which is around 3 feet off the ground. At that point, the riggers check the truss again and ensure that the cables for the chain motors and power are properly connected to the truss. At this point, the technicians of the production company, which is the Employer only about half the time, then attach their equipment to the truss, such as speakers and lights.

No other employee has duties or authority to attach the chain motors or raise or lower the truss. Instead, AV technicians are responsible for setting up, operating, and tearing down their specialized equipment used during the presentations, such as speakers (for the audio technicians) and video screens (for the visual technicians). Correspondingly, the riggers do not touch that equipment and there is no evidence that riggers perform any technician functions. As the rigging training admonishes, riggers must "be dedicated specifically and exclusively to rigging tasks."

The two groups of employees come into contact when it is time for the technicians to hang their equipment on the truss, but their functions remain separate. Riggers do not hang the technicians' equipment or supervise the technicians as they hang it. Instead, the technicians hang the equipment themselves and the riggers check the attachment afterward as part of their responsibility to ensure the truss can be raised safely. The only instance in which the riggers' and technicians' functions overlap is when a rigger aims a speaker for an audio technician, but the evidence indicates that is a small part of the entire process and only applies to a minor segment of the technician group (i.e., audio specialists). Other than that, the riggers do not touch the technicians' equipment and the technicians do not operate the chain motors. The riggers and technicians thus maintain separate functions even during the hanging of equipment stage.\(^{16}\)

The main point of overlap in function between the riggers and some AV technicians is the building and breaking down of truss when it is on the floor. This shared function is

\(^{15}\) Riggers reach these points either with lifts or through rope work, in which the riggers are suspended in harnesses over 100 feet above the floor.

\(^{16}\) It is also worth noting that only technicians in the technician 1 category (i.e., technical specialists) can hang equipment, so any overlap involved in hanging equipment is limited among the excluded employees.
insufficient to establish a community of interest, however, because the evidence does not indicate that the building and breaking down of truss takes a significant portion of the riggers’ or technicians’ time. Indeed, the riggers testified that often the truss is built before they arrive, demonstrating that the primary and most significant portion of their job is the attaching of the truss to the ceiling and operating it. Moreover, to the extent it is a shared function, the riggers share it with PSAV technicians only half of the time. For the other half, riggers work with outside production companies such as Crew Works, which provide truss builders, not technicians, to build the truss. The evidence is thus insufficient to prove that riggers build or break down truss with other PSAV employees to a significant degree.

There is an overlap in the use of air wall hangers but the overlap is insufficient to create a community of interest. Not all technicians can use air wall hangers, only those that received the one-day training at the four to five properties where the Employer offered it. The Employer does not identify the specific positions or number of employees that received the training, but the small number of properties (four to five out of 85) indicates that only a small minority of technicians can use air wall hangers. Also, those technicians were only trained to use air wall hangers because the Employer determined that the rigging setup at their properties was sufficiently routine and repetitive that the technicians could be trained on the low-level rigging skills of using air walls. Furthermore, although the technicians can use the air wall hangers at these properties, there is no claim that they can install or remove the hangers. Instead, the record indicates that only riggers can remove or install hangers because the task involves skill and weight calculations. Indeed, when an air wall hanger fell at one of PSAV’s venues, the rigging supervisor emailed the rigging team, not technicians, about the issue and told them they needed to be certified by a rigging supervisor before they could install air wall hangers again. The ability to hang equipment on an air wall hanger thus creates an overlap between all riggers and an unnumbered but small group of technicians that is insufficient to create community of interest.

To the extent the Employer claims technicians perform rigging work at other venues, it failed to provide evidence showing in detail what that work entails and how often it is conducted, so there can be no assessment of whether it rises to the level of rigging that is required of the riggers. Instead, the record indicates that riggers’ primary duties are to perform specialized tasks at the Gaylord and Marriott which no other employees are qualified to perform. Those are the only two venues to have high rigging. The generalized references to technicians using air walls at unnamed venues by the Employer’s witnesses is insufficient to demonstrate significant overlap between the functions of riggers and other employees.

Finally, the evidence does not indicate significant overlap between the duties of riggers and other excluded employees. Most of the other employees described in the record work at the warehouse and on productions at venues where PSAV riggers are not present. There is no evidence they perform rigging tasks or have significant contact with riggers.
4. Functional Integration

I find that there is sufficient functional integration between riggers and technicians to weigh in favor of finding that riggers do not share a community of interest distinct from technicians. Functional integration refers to when employees’ work constitutes integral elements of an employer’s production process or business. Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or a single service as a group. Another example of functional integration is when the employer’s work flow involves all employees in a unit sought by a union. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. Transerv Sys., 311 NLRB 766 (1993).

Here, the evidence shows that riggers and technicians play specialized roles in setting up for a single production. A primary purpose of the rigging operated by the riggers is often to raise up the audiovisual equipment mounted by the technicians to be used during a client’s event. To accomplish the task of mounting and raising the equipment on the truss, the two groups work side by side and in coordination. Accordingly, I find that functional integration exists between the technicians and the riggers and weighs against finding that the riggers share a community of interest distinct from the technicians.

The evidence does not support finding, however, functional integration between riggers and other excluded employees. The evidence indicates that riggers rarely come into contact with or routinely work on the same productions as drivers, concierges or other employees. There is thus insufficient evidence to support finding functional integration between riggers and employees other than technicians.

5. Contact

I find that there is sufficient contact between riggers and technicians to weigh in favor of finding that riggers do not share a community of interest distinct from technicians. The amount of work-related contact among employees, including whether they work beside one another is relevant to the community of interest analysis. See, e.g., Casino Aztar, 349 NLRB 603.

Here, riggers have regular work-related contact with AV technicians. As described above, technicians and riggers often work side by side and interact with each other when setting up for certain events—the technicians hang their equipment on the riggers’ truss, and the riggers then check the equipment to ensure it is properly attached. If it is not, they inform the technicians. Also, riggers occasionally will work with sound technicians to aim speakers. The contact between riggers and technicians is thus sufficient to weigh in favor of a community of interest including technicians.

The weight this factor is given should be tempered, though, by the fact that riggers work with PSAV technicians only about half of the time. For the other half, riggers work with
employees of other companies. Moreover, the reason for the limited contact demonstrates a significant difference between the two groups: where PSAV has installed the rigging infrastructure, it holds agreements with the venues that require those venues to use PSAV riggers; there is no such agreements for technicians. This distinction highlights the importance of the PSAV riggers as contrasted to the interchangeability between PSAV technicians and outside technicians. The contact between technicians and riggers thus may weigh against the petitioned-for unit, but it also highlights the distinct interests of the PSAV riggers and technicians.

6. **Interchange**

I find that the lack of significant interchange between riggers and other employees weighs in favor of finding that riggers share a community of interest distinct from excluded employees. Interchangeability refers to temporary work assignments or transfers between two groups of employees. ‘Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” Hilton Hotel Corp., 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. Executive Res. Assoc., 301 NLRB 400, 401 (1991) (citing Spring City Knitting Co. v. NLRB, 647 F.2d 1011, 1015 (9th Cir. 1981)).

Here, there is insufficient evidence of temporary transfers or assignments between riggers and technicians that would suggest a truly fluid work force with comparable skills. There is no example in the record of any non-rigger employee being assigned to a rigger shift. Instead, the record is clear that nobody but riggers can perform their core functions of mounting truss to buildings and operating the truss via chain motors. The tasks the Employer claims technicians perform as rigging are tasks that fall within its broad definition of rigging but does not fall within the riggers’ primary duties, such as ground-supported rigging. For the riggers’ primary tasks, such as attaching and operating chain motors, high rigging and operating the truss, there are no examples in the record where technicians performed such tasks, temporarily or otherwise.

The evidence also shows that most riggers never work as technicians. Only four of the approximately 23 riggers have taken shifts in positions other than riggers. Matt Jones, who was a technician that became a rigger by completing 250 hours of on-the-job training, took some rigging shifts at the Baltimore Marriott when he first was reclassified as a rigger because initially there was not enough work for him, but then stopped doing so when he was transferred to the Gaylord. The second rigger, Eliza Walker, took on technician shifts “every now and then” to pick up extra hours when there were not any rigger shifts available. Another rigger, Amanda Deignan-Stover, took on shifts as a concierge for the same reasons. Finally, Kreuz, a rigger at the Baltimore Marriott, works some shifts as a technician. The super majority of riggers thus do not perform any work as technicians or other classifications.
Moreover, for the four riggers who have taken on work in other classifications, the evidence does not show that such work is frequent or routine. The record is unclear how often Jones, Walker, or Deignan-Stover worked as technicians or concierges and thus cannot show that such work was frequent. In fact, the evidence shows the opposite—Jones took on technician shifts only right after he became a rigger and no longer does so, and the Employer’s witness admitted Walker picks up technician shifts only “every now and then.” The only evidence of a rigger performing AV technician work with any frequency is testimony from the Employer’s witness that Kreuz performs technician work 70 percent of the time, but the witness offers no details to support or even explain that assessment, and the Employer did not call Kreuz to testify or provide his schedule as evidence. The evidence thus fails to show sufficiently that any employee performs AV work with any frequency.

Finally, where riggers have taken work as technicians or concierges, they have done so voluntarily and at their own requests. There is no evidence the Employer schedules riggers in other classifications or vice versa of its own accord and thus no evidence the Employer considers its work force interchangeable. Instead, the evidence shows that all four riggers who worked as technicians did so because they wanted to pick up extra shifts and no rigging shifts were available, and so, as an Employer’s witness explained, the riggers “had a conversation” with management and worked out an arrangement to allow them to take on extra shifts. Indeed, Jones explained that on rigging shifts he performed rigging work and when he took on a technician shift he only performed technician work, demonstrating there was no blurring of the lines between roles. Also, the riggers maintain their higher rigger wages during the extra shifts, further demonstrating that such shifts are not the result of an interchangeable work force but instead discrete instances of the Employer accommodating a few riggers’ requests for extra work. Such limited examples of a minority of riggers requesting to take on extra shifts does not suggest “blurred departmental lines and a truly fluid work force with roughly comparable skills.”

There is also insufficient evidence of frequent permanent transfers. Only three technicians have become riggers since 2014, and there is no evidence that any riggers became technicians in that same period. Also, the three technicians, Jones, Kreuz and Mike Queally, did not simply transfer to the rigging team, but attended the three-day training in Orlando, obtained 250 hours of on-the-job rigger training, and then were approved by the regional rigging manager.¹⁷ The lack of interchange between riggers and technicians, temporary or permanent, thus weighs in favor of finding that the petitioned-for unit shares a community of interest distinct from excluded employees.

¹⁷ Relying on its list of attendees to the Orlando training, the Employer claims Kreuz did not attend the Orlando training but completed the 250 hours of on-the-job training. The Employer provides no further explanation, however, so it is unclear why Kreuz was exempted from the Orlando training requirement.
7. Terms and Conditions of Employment

I find that the terms and conditions of employment shared by most employees weigh in favor of finding that riggers do not share a community of interest distinct from excluded employees. Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. See, e.g., Overnite Trans. Co., 322 NLRB 347 (1996).

Here, the Employer's employees are governed by the same terms and conditions set forth in its team member guidebook, which dictates the differences between full-time and part-time employees, sets forth the Employer's disciplinary policy and the fringe benefits, among other terms and conditions of employment.

Riggers are distinct in their wages, however. Whereas they make between $30.50 and $42 per hour, only the nine highest paid employees among the over-400 employees the Employer seeks to include make as much as the riggers, and none of them make as much as $42 per hour.18 Indeed, the testimony of two riggers shows that when they became riggers, their salaries jumped significantly. Matt Jones' salary jumped from around $16 per hour as a technician to around $24 per hour as rigger, then climbed to $35.50 per hour. Mike Queally testified similarly, that he made around $17 per hour as a technician and that he currently makes $35 per hour as a rigger. The evidence thus shows that for wages, riggers are distinct as a group.

Despite the distinction in wages, I find that the similarity in other terms and conditions of employment is sufficient to support the finding that a community of interest exists between all employees.

8. Supervision

I find that the separate supervision between groups of employees weighs in favor of finding that riggers share a community of interest distinct from excluded employees. Separate

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18 For evidence of wages, the Employer provided a list of the riggers' wages and a list of wages for approximately 75 positions a witness confirmed was "some class of audio visual technicians" in the area. The nature or scope of the list is unclear, but it appears the list represents the highest paid technicians. The list itself identifies the employees as "technical spec" and "technical supy," which would appear to represent the positions of technical specialist (i.e., the highest-level technicians) and technical supervisor (which is likely higher on the wage scale than other technicians). Moreover, the Employer chose not to introduce wage information for the other employees it claims share a community of interest with the riggers, including drivers, concierges, inventory control specialists, and the rest of the technicians (at the third and second levels), which I interpret as a concession that they make significantly less than the riggers.
supervision of groups of employees weighs in favor of finding against their inclusion in the same unit. *United Operations*, 338 NLRB at 125.

Here, the riggers are supervised separately from other employees. Rigging coordinators directly supervise the riggers. They also schedule the riggers, determine what rigging equipment needs to be provided for each project, assign the riggers to their projects, and communicate directly with the client about rigging. Also, to be a rigger, an employee must be evaluated and approved by the regional rigging manager. The evidence thus shows that riggers are supervised primarily by rigging coordinators; there is no reliable evidence that riggers are assigned, scheduled, disciplined, evaluated or hired by anybody outside of the rigging hierarchy.  

There is evidence that DETs, which are on the hotel operations side, occasionally interact with riggers, but the interaction is too limited to constitute overlapping supervision. For example, a DET may be on site where the work is being performed by riggers, but the riggers do not report to the DET. Instead, they will check in with the DET when their work is finished. Also, the rigging coordinators report to the DET at the property at which they are working, but there is no description in the record regarding what that entails. Instead, the evidence shows that for purposes of work performed at the property, the rigging coordinators remain responsible for all technical rigging decisions and that in such matters, the regional rigging manager rather than the DET is consulted. The regional rigging managers, not the DETs, provide annual performance reviews for the rigging coordinators, and when employees need to be moved between venues, the operations managers assign technicians while the rigging coordinators assign riggers. The evidence is thus insufficient to establish that DETs operate significant supervisory control over the riggers.

The evidence is also insufficient to show that rigging coordinators supervise employees other than riggers. None of the Employer’s witnesses claimed that the rigging coordinators exerted any form of supervisory control over non-rigger employees. The Employer also did not provide evidence regarding the supervisory structure of AV technicians or other excluded employees to support the claim of supervisory overlap. In fact, the small amount of evidence in the record demonstrates the rigging coordinators are strictly limited to supervising riggers. The regional rigging manager testified that AV technicians are scheduled by managers on the hotel operations side, not by rigging coordinators, and when asked about how technicians were scheduled, admitted he did not know who on the hotel operations side schedules them, demonstrating it was outside his authority. The evidence thus falls far short of demonstrating significant supervisory overlap between riggers and non-rigging employees. The distinct

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19 Aaron Smith, the DET for the JW Marriott, testified that he had occasion to discipline a rigger “years ago,” but I do not rely on that testimony because it is too vague. Smith did not provide any details regarding the discipline, such as the rigger’s name, the basis for the discipline, whether he consulted with anyone on the rigging team regarding the discipline, or even a date more specific than “years ago,” among other relevant details. The Employer also did not provide a copy of the discipline, even though the witness testified he believed it was a written discipline. Such testimony is thus too vague and unsubstantiated to be relied upon.
supervision of the riggers thus supports finding they share a community of interest distinct from other employees.

9. Summary of Findings

Considering the factors in their totality, I find that the record evidence establishes that the petitioned-for unit of riggers share a community of interest sufficiently distinct from excluded employees such that it is an appropriate unit. The factors that weigh in favor of such a finding are significant, numerous, and demonstrate that riggers are highly specialized employees with exclusive functions, and that they are treated as such by the Employer. Also, the few factors that weigh against such a finding are lightened by evidence showing the difference between riggers and other employees. The riggers and technicians have significant contact when working together, for example, but they only work together half of the time due to the exclusivity agreements the Employer requires for rigging work but does not require for technician work. Similarly, although all employees share many terms and conditions of employment, riggers are generally paid significantly more than other employees. The overall weight of the factors therefore supports the conclusion that the petitioned-for unit shares a community of interest sufficiently distinction from excluded employees.

C. Geographic Scope

I find that the Petitioner’s proposed geographic scope for the Unit, covering Washington, D.C., Northern Virginia, and the Maryland suburbs, is not appropriate. Instead, I find the Employer’s proposed geographic scope, covering all of its operations in Maryland, Washington, D.C., and Northern Virginia, to be appropriate. The parties’ proposals overlap completely in Washington, D.C. and Northern Virginia, but in Maryland the Petitioner’s proposal extends only to the suburbs and thus excludes the Employer’s operations in other parts of Maryland, such as Baltimore. The Employer employs one rigger, Kurt Kreuz, and has at least two locations outside of the Petitioner’s proposed scope, the Baltimore Waterfront and the Hilton Hotel at the Baltimore Washington International Airport. The evidence shows that most riggers have spent time working at one or both of those locations and that such occasions are not isolated. The scope of the Unit should therefore include Kreuz and the Employer’s operations in Maryland, as well as its operations in Washington, D.C. and Northern Virginia.

The parties do not define the exact geographic area covered in “Northern Virginia,” but the Employer agrees to the inclusion of the area and neither party raised an issue with the exact scope of the Northern Virginia area, indicating the parties understand the definition of the area.

The record is unclear regarding what specific area is encompassed by the “Maryland suburbs,” but the Petitioner’s argument indicates it does not extend to Baltimore.
IV. CONCLUSIONS

Based upon the record and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer, Audio Visual Services Group, LLC, d/b/a PSAV, a limited liability company with an office and place of business in Washington, D.C., has been engaged in the business of providing event technology services at hotels and conference centers. In conducting its operations during the 12-month period ending November 30, 2018, the Employer performed services valued in excess of $50,000 in States outside the District of Columbia.

3. The Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

4. The Petitioner is a labor organization as defined in Section 2(5) of the Act.

5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 2(6) and (7) of the Act.

6. I find the following employees of the Employer constitute a unit appropriate for the purpose of collective-bargaining within the meaning of Section 9(b) of the Act:

All full-time, regular part-time and casual riggers\(^22\), lead riggers, and rigging supervisors employed by the Employer on jobsites in Maryland, Washington, D.C., and Northern Virginia, except for those otherwise covered by a collective-bargaining agreement with International Alliance of Theatrical and Stage Employees, Local 22, a/w International Alliance of Theatrical and Stage Employees, AFL-CIO\(^23\), but excluding all other employees including, audio visual technicians, concierges, drivers, inventory control specialists, warehouse employees, sales employees, administrative employees and office clerical employees, confidential employees, managerial employees, guards, and supervisors as defined by the Act.

\(^{22}\) The parties stipulated to the inclusion of "casual" employees although it appears from Board Exhibit 2 that this classification was inadvertently inserted between "regular" and "part-time" employees.

\(^{23}\) It appears, based on Petitioner's Exhibit 1, that the Petitioner and the Employer are parties to a collective-bargaining agreement covering riggers assigned to the Marriott Wardman Park Hotel and Washington Hilton, both of which are based in Washington, D.C.
V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election by U.S. mail among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by the International Alliance of Theatrical and Stage Employees, Local 22, a/w International Alliance of Theatrical and Stage Employees, AFL-CIO.

A. Election Details

The date, time, and place of the election will be specified in a Notice of Election that will issue shortly after this Decision.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending January 27, 2019, 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 that 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. Unit employees in the 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 been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Acting Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be received by the Acting Regional Director and the parties by Thursday, January 31, 2019. The list must be accompanied by a certificate of service showing service on all parties. The Region will no longer serve the voter list.
Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election which will be sent to the parties following the issuance of this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.
VI. RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board’s Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board’s Rules and Regulations.

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.nlrb.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, D.C. 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.

Neither filing of a request for review nor the Board’s granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: January 29, 2019

Nancy Wilson, Acting Regional Director
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