

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NEXSTAR BROADCASTING, INC.,

d/b/a KOIN-TV

Respondent Employer,

and

19-CA-240187

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES &
TECHNICIANS THE BROADCASTING AND CABLE
TELEVISION WORKERS OF AMERICA, LOCAL 51, AFL-CIO

Charging Party Union.

RESPONDENT'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

Pursuant to §102.46 of the National Labor Relations Board's Rules and Regulations, Respondent Nexstar Broadcasting, Inc., KOIN-TV ("KOIN", "Nexstar" or "Respondent") files exceptions to the Decision of the Administrative Law Judge ("ALJ") and states that it takes exception with each of the below listed conclusions of the ALJ because they are not supported by substantial evidence and contain error of fact or law, and states the grounds, and record citation, therefore as to each, reserving further citation and argument to the Brief in support thereof :

1. KOIN takes exception with the ALJ's conclusion that:

"Respondent Failed to Provide Relevant and Necessary Information to the Union in the Performance of Its Duties as the Collective-Bargaining Representative of Employees in the Units" (JD 7:5-6)

(Judge’s Decision, page, paragraph, hereinafter abbreviated as: “JD #: #”), on the grounds that all of the relevant information requested was sufficiently responded to and the Union failed to establish the relevance of extra-unit information requested. 2.

2. KOIN takes exception with the ALJ’s findings of facts and conclusions of law that:

“Applying the foregoing standards, I find that the Union has satisfied its burden by showing that the desired information was relevant, and that it would be of use to the Union in carrying out its statutory duties and responsibilities” (JD 7:8-10)

on the grounds that the Union failed to establish the relevance of the extra-unit information requested.

3. KOIN takes exception with the ALJ’s findings of facts and conclusions of law that:

“ Items 1 and 2 of the information request concern subjects not directly related to the bargaining unit, and thus, the Union must establish relevance. The Union established relevance by repeatedly explaining that it sought the other collective-bargaining agreements with similar provisions as proposed by Respondent to formulate its own counterproposal. Even during subsequent bargaining sessions, the Union requested this information as its own research did not match what Respondent had conveyed during the bargaining sessions. However, Respondent insisted that other NABET locals agreed to similar processes proposed by Respondent but continued to refuse to provide information requested at items 1 and 2, claiming proprietary confidential information” (JD 7:19-27)

on the grounds that the Union failed to establish the relevance of the extra-unit information requested.

4. KOIN takes exception with the ALJ’s findings of facts and conclusions of law that:

”In this instance, the information is relevant to assist the Union in assessing the accuracy of Respondent’s proposals and developing its own counterproposals. The Union’s request focused directly on Respondent’s bargaining proposal regarding reimbursement for dues checkoff processing. “Information is relevant under *Caldwell* only if the union is seeking ‘specific information to evaluate the accuracy of the Respondent’s specific claims and to respond appropriately with counterproposals.’” *Arlington Metals Corp.*, 368 NLRB No. 74, slip op. at 3 (2019) (quoting *Caldwell*, supra at 1160).¹²” (JD 7:27-33)

on the grounds that the Union failed to establish the relevance of the extra-unit information requested.

5. KOIN takes exception with the ALJ's findings of facts and conclusions of law that:

“¹² Respondent cites to a decision issued by Administrative Law Judge (ALJ) Mara-Louise Anzalone where Respondent filed an unfair labor practice charge against the Union for refusing to provide requested information (R Br. at 14–15). 2020 WL 1156844 (March 10, 2020). However, this decision is non-binding as no exceptions were filed to the ALJ's decision. See *Colorado Symphony Assoc.*, 366 NLRB No. 122, slip op. at 1 fn. 3 (2018).”(JD 7: fn. 12)

on the grounds that the decision cited as involving the finding of violation of the duty to bargain in good faith by NABET during these very same negotiations on a nearly identical issue is certainly relevant and persuasive to a proper conclusion of law, even if not considered ‘binding precedent’ because NABET failed to file Exceptions.

6. KOIN takes exception with the ALJ's finding of facts of and conclusions of law that: “

Item 3 directly concerns information related to the bargaining unit, and is therefore presumptively relevant. Rather than providing specific information, Respondent provided estimates from Wenger to the Union. Again, the Union has established relevance since Respondent sought to receive a fee for processing the dues checkoff. The Union justifiably sought to learn the exact, itemized cost to Respondent currently to process dues. Thus, the Union has proven that items 1, 2 and 3 are relevant and necessary. (JD 7:33-39)

on the grounds that the information requested was fully supplied in a reasonably clear and understandable manner.

7. KOIN takes exception with the ALJ's findings of facts and conclusions of law that:

For these reasons, Respondent violated Section 8(a)(5) and (1) of the Act when it failed and refused since December 18, 2018 to list the collective-bargaining agreements, with broadcast call letters, union name and local number and copies of the current provisions with effective contract dates; the actual costs to Respondent for dues checkoff practice at each of those locals, and the actual current costs, itemized, to Respondent for dues checkoff practice at the facility (JD 8:14-20)

on the grounds that the relevant information requested was fully supplied in a reasonably clear and understandable manner and that the Union failed to establish the relevance of the extra-unit information (Items #1 and #2) that they requested.

8. KOIN takes exception to the proposed Remedy in its entirety. (JD9:1-26) on the grounds that the information requested was adequately responded to as more fully discussed in these Exceptions and the Supporting Brief, and as a result, no Remedy should be entered other than one dismissing the Complaint in its entirety.
9. KOIN takes exception to the proposed Order in its entirety. (JD9:30-40, 10: 1-34 and fn. 15) on the grounds that the information requested was adequately responded to as discussed in these Exceptions and the Supporting Brief, and as a result, no Order should be entered other than one dismissing the Complaint in its entirety.
10. KOIN takes exception to the proposed "Notice to Employees" in its entirety. ("Appendix") on the grounds that since the information requested was fully supplied, (Joint Stipulation, Exhibit F and G) and as a result, no remedy is required herein.

KOIN respectfully submits these Exceptions and herewith a Brief in Support of its Exceptions this 24th day of September 2020.

/s/ Charles Pautsch

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CERTIFICATE OF SERVICE

This is to certify that on September 24, 2020, a copy of the foregoing Respondent's Exceptions to Administrative Law Judge's Decision, was filed with the NLRB's electronic filing system. Notice of filing will be sent to all Parties by operation of the NLRB's electronic filing system where the Parties then may access this filing and by email service to each of the following on this date of September 24, 2020: Anne Yen, Counsel for the Charging Party at anneyen@unioncounsel.net , Sarah Ingebritsen, Counsel for the General Counsel at Sarah.Ingebritsen.nlr.gov and Ronald Hooks. Regional Director for Region 19 at RonaldHooks@nlrb.gov

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