IN THE MATTER OF THE ARBITRATION BETWEEN:  
WIDE OPEN WEST ILLINOIS, LLC, Employer,  
and  
LOCAL 21, IBEW, AFL-CIO Petitioner.  

Case No. 13-RC-274653

STATEMENT OF THE CASE

The Petition filed for a representation election for technicians responsible for implementing and maintaining the cable services of a telecommunications company in the Greater Chicago Metropolitan Area.

The Employer has contended that the unit of employees in the petitioned for unit is not appropriate because the employees do not share a sufficient community of interest. The Employer maintains that the only appropriate unit should include employees who are responsible for monitoring the Employer’s nationwide cable operations plus an additional small group of employees who are involved in designing the Employer’s cable operations and responding to consumer concerns in the Chicago area.

The Employer maintains 17 centers throughout the United States to provide cable operations in separate geographic areas for which the Employer is licensed. The Chicago Metropolitan area is one of the 17 centers.

The primary issue which is the subject of this Request for Review is the Acting Regional Director for the 13th Region decision to require the inclusion in the employee unit the employees
responsible for monitoring the Employer’s nationwide cable operations for all of the 17 centers. Each of those centers has a defined group of technicians, as in the petitioned for unit, who are responsible for installing and maintaining the cable operations of the Employer from a central switching station, called the head end, to residential and business customers. The Record of proceedings in the subject hearing did not specify the number of situations in which there were reported problems with the cable operations in the Chicago area as compared to the other 16 areas which are monitored. However, one could assume on an average that Chicago would represent 1/17th of the cable operations which are monitored and 1/17th of issues connected to the operations which had to be addressed.

The Action Regional Director in holding that the monitoring group of employees had to be added to the petitioned for technicians does not provide a detailed account that the monitoring group functions on a nationwide basis and not specific to the Employer’s Chicago Area operations. The fact that the monitoring operations are in Illinois has no specific relations with the Employer’s Chicago cable operations. The monitoring operations could be located anywhere since the monitoring and reporting outages does not require that those employed in the operations be physically located where the cable operations are located. All their work is done by computer and backed up by telephone. The monitoring could be performed anywhere in the world. In fact, the Employer’s dispatch center for its nationwide operations, including the Chicago area, is in Augusta, Georgia and its consumer services center is in foreign countries.

The Petitioner does not contend that the monitoring group of employees should constitute a separate bargaining unit. Rather, the Petitioner maintains that the Acting Regional Director was in error in concluding that the nationwide monitoring group is a necessary component of the unit
of technicians responsible for installing and maintaining the Employer’s Chicago Area cable franchise.

**REVIEW OF THE RECORD AND REASONS IN SUPPORT OF THE PETITIONED FOR UNIT OF EMPLOYEES**

The Petitioner maintains that the unit contained in the Petition is appropriate meeting the community of interest standards set forth in both *The Boeing Company*, 368 NLRB No.67 and *PCC Structuralis, Inc.*, 365 NLRB No. 160 (2017).

**THE EMPLOYER’S OPERATIONS AND THE PETITIONER’S AND EMPLOYER’S UNITS**

WOW is a nationwide operation providing cable services to residential and commercial customers at different locations. WOW has subsidiary LLCs in states where the services are provided, such as WOW Illinois, LLC for the operations in the greater Chicago metropolitan area. Note, Employer Exhibit 27, the Service Area Map for WOW Illinois.

Rebecca Jacobs is the national WOW human relations director. She testified that 1900 employees report to her. (Tr. 162, 22) There are also regional human resource directors who report to Jacobs. The regional director for Illinois also covers Indiana and Maryland. (Tr. 165) According to Jacobs there are 15 or 16 subsidiary WOW corporations, including WOW Illinois. (Tr. 166)

Employer Exhibit 2 contains graphic descriptions of the Employer’s cable operations. The Exhibit describes and pictures the Employer’s physical operations from signals entering a Headend and then running to cables which then branch off to residential and commercial customers.

The unit which is the subject of the Petition includes non-supervisory technicians that install and maintain the cable operations for WOW Illinois. Employer’s Exhibit 5 shows the
employees in the Petitioned for unit as well as the employees the Employer seeks to add to the unit. The unit includes the System Technicians and Locators in the Illinois System and Plant maintenance operation. The System Technicians and Locators are responsible for extending and repairing the cable from the Headend to where the cable branches off to the wires leading to residential and commercial customers. The cable is generally referred to as the “Plant” operations. The Petitioner’s unit includes the Field Service Technicians on the left of Exhibit 5 who are responsible for running the signals into the customer’s premises and installing and maintaining the customer’s computer and audio and video equipment. The functions of the System Technicians, Locators and Field Service Technicians are reflected in the Job Descriptions contained in Employer Exhibits 8, 10 and 13. According to Jacobs the employees who work in the Headend are not included in the Petitioned for unit because they are “exempt.” (Tr. 170)

There is no dispute over the work and skills used by the field Technicians at the job sites.

The Petitioner’s unit also includes three Warehouse Operator Specialists listed on the upper left of Employer Exhibit 5. The Warehouse Operators provide the tools and equipment required by the System and Field Service Technicians and Locators. On occasion the Warehouse Operators will bring equipment to the Technicians’ job sites. (Jacobs, Tr. 175)

The Petitioner’s unit therefore includes all non-supervisory and non-management personnel directly engaged in the implementation and maintenance of WOW Illinois’ operations in the Greater Chicago area described in Employer Exhibit 26.

The Employer has proposed to add technical support personnel (NOC) in WOW’s Network Operations and three Project Coordinators who report directly to Construction and Design management and two Customer Support Specialists who are supervised and managed by the Field
and Dispatch operations. The Employer contends that all non-supervisory, non-managerial, except clerical and professional employees of WOW Illinois must be included in the unit based on their shared community of interest. The Petitioner disagrees. The evidence established that the NOC employees service operations throughout WOW national operations and that none of the NOC employees are specifically dedicated to the Illinois operation. Furthermore, none of the employees the Employer would add to the unit work at the actual job sites and have minimal contact with the System and Field Technicians and Locators.

**THE EMPLOYER’S CASE FOR INCLUDING ADDITIONAL ILLINOIS EMPLOYEES IN THE UNIT**

The Employer primarily argues that the Unit should be “wall-to-wall” of all WOW Illinois employees except the standard exceptions.

The major group of employees the Employer has proposed to add to the unit are the DOC Assurance Technicians. Although NOC is in Illinois and the NOC Technicians are employees of WOW Illinois NOC is not integral to the Greater Chicago operations. The NOC employees work from computers in a suburban building monitoring and if necessary and from their homes during the pandemic, arranging for the dispatching of field technicians throughout the Employer’s national operations. Jacobs testified that if there is a problem with the cable at any of WOW’s operations an alarm sounds in the NOC. (Tr. 194).

The three Project Coordinators are involved in designing additions to the cable operations but do not have direct contact with the field Technicians nor do they function on the work sites. See Szubert’s testimony above at Tr. 306. Customers with concerns contact Employer Call Centers located in Manila and Managua. (Tr. 645)
The two Customer Service Support Specialists respond to customer concerns and inquiries and are not involved in field operations. These employees do not work on site. Their primary function is to respond to inquiries from the field technicians to check on the availability of equipment in connection with an order. (Testimony of manager Dominic Silvio, Tr. 641) Manager Silvio also explained that all the Employer’s dispatch operations are in Augusta, Georgia and that most of the dispatching to the field is performed by computer. (Tr. 642)

The Employer has sought to buttress their position by alluding to social interchanges among the WOW Illinois employees. The evidence showed that on occasion the Employer has held a Christmas party for all employees and there are times when some of the System Technicians will visit the cafeteria when they are picking up or dropping off their bucket trucks parked in the lot attached to the building housing the NOC operations. None of these minimal social encounters have any relation to work performed by the employees. Szubert substantiated that fact in his testimony. (Tr. 308)

Jeff Desiderio has been a Locator for the Employer since 2015. He testified that his assignments normally come from JULIE through tickets issued to him. Julie is an Illinois public body responsible for arranging for locating buried cable and wires whenever there is construction at a location. The Locators receive weekly assignments through JULIE which are then routed by the assigned Locator. (Tr. 708-711).

Desiderio explained that Locators may assist one another if needed and frequently work with System Technicians at a job site. (Tr. 715)

The Locators do not have direct contact with any other employees other than the System Technicians and on occasion a Field Service Technicians. Locators have attended joint meetings
called by supervisors with System Technicians. (Tr. 718). Desiderio recalled a single instance where an Engineer came to his job site to determine the location of buried cable. (Tr. 722)

As the other field Technicians Locators will go to the appropriate warehouse for tools which have been ordered by email from the Technicians to the Warehouse Operator. (Tr. 720-721).

The only time Desiderio experienced a “ride-along” was when new System Technicians were employed as part of their training and orientation. (Tr. 724)

Henry Soto has been a System Technician for the Employer for 17 years. He receives his day-to-day assignments through Mobi from Dispatch in Augusta, Georgia. (Tr. 751-752). As almost all of the System Technicians Soto’s workday begin when he pulls out with his truck from one of the Employer’s parking lots. (Tr. 753)

Soto confirmed that a Locator may be at his job site to determine the location of a cable outage. In those situations, the System Technician would contact the appropriate Locator for assistance directly. (Tr. 755-756)

As the other field Technicians Soto will provide a list of needed tools and equipment to the warehouse personnel for him to pick up. (Tr. 757)

The only time a System Technician may have direct contact with NOC is by phone if the Technician is on off hours standby. When the Technician has repaired an outage under such circumstances, he will then inform NOC by phone. (Tr. 760).
System Technicians receive annual formal evaluations from their supervisors. The Technicians also receive quarterly evaluations from their supervisors to determine bonus entitlements based upon their individual performances. (Tr. 764)

Soto has never had a “ride-along.” (Tr. 769)

The System Technicians will have once a week team meeting with their supervisor. (Tr. 766)

System Technicians do not have contact with Customer Service Support Specialists. Soto recalled one instance in which he happened to encounter an individual as a potential new customer to a Specialist. (Tr. 770-771)

**SUMMARY AND CONCLUSION**

The evidence has demonstrated that there is minimal interchange between the field Technicians and the employees the Employer seeks to add to the unit. Whatever interchange which does exist is performed electronically by telephone and/or computer. The Employer’s position relies upon a premise which is not supported by NLRB decisions that an appropriate unit must consist of all employees of an employer, except the statutory exclusions and clerical personnel.

The evidence has further demonstrated that the NOC employees do not have a special and necessary community of interest with field technicians, but they are not dedicated to the field operations in the Greater Chicago Metropolitan Area. NOC monitors the Employer’s cable operations in 17 regions throughout the United States, only one of which is the Greater Chicago Metropolitan Area. Furthermore, none of the NOC employees are dedicated to the subject area but respond to alarms in WOW’s operations from where they arise on a rotating basis.
NOC works with WOW’s dispatch center in Augusta, Georgia.

Although WOW Illinois is a separate legal entity from other of WOW’s regional operations, WOW is a centralized operation. WOW’s employee handbook, benefits apply to all the employees and are administered by a central human resources office.

Although the NLRB has used the term “community of interest” in determining whether a unit of employees is appropriate for a representation election or certification. There has never been a clear formula for determining the “community of interest.” We can assume that the concept has a direct relation to the hours, wages and working conditions of employees since a representation election is intended to determine whether most of the employees voting have designated a representative for that purpose. However, the Board has never stated that “community of interest” is to be equated with effective bargaining power. Clearly, if that was the standard NOC has more connection with WOW’s operations throughout the country than the one of 17 regional cable operations in the Chicago area.

NOC does not meet the standards for a common community of interest with the actual cable operations of the Employer in the Greater Chicago Metropolitan Area. It is important to bear in mind that both the Employer and the Petitioner recognized that the unit of field technicians sought in the Petition have a community of interest. The issue to be decided is whether the additional employees advanced by the Employer must be added to the unit to meet the Board’s standards for community of interest. The Boeing Company decision and Structural, Inc. both state that one first exams whether the petitioned for unit has an “internal” community of interest based on whether it is a separate department, the employees have distinct skills and training, and distinct job functions along with separate supervision. All these elements exist within the petitioned for unit.
All the petitioned for employees have separate supervision from the employees the Employer seeks to add to the unit, except for the two Customer Service Support Specialists. However, the Specialists do not share the skills, training and tools and working conditions of the field technicians who are responsible for installing and maintaining the Employer’s cable operations for the customers in the Greater Chicago Metropolitan area. (See Employer’s Exhibit 5)

The Boeing decision appears to add another dimension in determining the appropriate representation unit. Aside from the “internal” community of interest designated in PCC Structural, Inc. the community of interest should consider the “context of bargaining.” It is evident that employee bargaining power is enhanced by the number and scope of the employees in a representation unit. However, the NOC employees are not specially related to the “bargaining power” of the field technicians in the Greater Chicago Metropolitan area. The NOC is remotely related to all of WOW’s field and dispatch operations. One could contend that NOC should be part of a nationwide bargaining unit made up of all of WOW’s dispatch and field operation but that is not before the Board in this case. NOC has no more of a community of interest with the subject field Technicians than the field Technicians in the other 16 regions of the country.

In addition, the Petitioner has demonstrated that the Project Coordinators and Customer Support Specialists are not part of the “internal” community of interest of the field Technicians and in the case of the Project Coordinators do not share common supervision.

Wherefore, the Petitioner request that the Regional Director approve the unit as defined in the subject representation Petition.
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Respectfully submitted,

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