

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10, SUBREGION 11**

THE BOEING COMPANY

Employer

and

Case 10–RC–215878

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS**

Petitioner

REGIONAL DIRECTOR’S DECISION AND DIRECTION OF ELECTION

I have considered the evidence and the arguments the parties presented on the issues. As described below, based on the record and Board law, including the Board’s decisions in *PCC Structurals, Inc.*, 365 NLRB No. 160 (2017), and *United Operations*, 338 NLRB 123 (2002), I find that the petitioned-for unit limited to the Employer’s full-time and regular part-time Flight-Line Readiness Technicians and Flight-Line Readiness Technician Inspectors is appropriate.

I. INTRODUCTION

The Employer, The Boeing Company, is a Delaware Corporation with an office and place of business in North Charleston, South Carolina where it engages in the manufacture and delivery of commercial aircraft.¹ Petitioner, International Association of Machinists and Aerospace Workers, AFL-CIO, filed this petition under Section 9(c) of the National Labor Relations Act.² Petitioner seeks to represent a unit of all full-time hourly DEJ1³ Flight-Line

¹ Although the Employer has operations globally, only its North Charleston facility is at issue in this proceeding.

² The parties have stipulated that there is no contractual bar to the petition.

³ DEJ1 is the Employer’s Human Resources classification coding for the employees Petitioner seeks to represent. The record does not identify the particular reason these four-characters are used, but they are unique from other codes in the classification system, some other such codes are identified below.

Readiness Technicians (FRTs) and DEJ1 Flight-Line Readiness Technician Inspectors (FRTIs).⁴ There are approximately 178 employees in the petitioned-for unit. Petitioner argues that the petitioned-for unit is appropriate for bargaining because employees in this group share a sufficiently distinct community of interest, based primarily on the FRTs' and FRTIs' specialized skills and training, which includes a different internal Employer training program and the requirement that they obtain an Airframe and Powerplant license; distinct work and job functions of pre-flight and post-flight work to ensure airworthiness of the aircraft, as opposed to building and assembling aircraft; distinct terms and conditions of employment, including substantially higher pay than other production and maintenance employees; separate supervision by the Field Operations Managers and Field Quality Managers; and a separate area at the facility where they work—the Flight Line—which minimizes their contact with the excluded employees.

The Employer maintains that the unit Petitioner seeks is not appropriate and would constitute a gerrymandered, fractured unit because all of its production and maintenance employees work in a functionally integrated process from beginning to end, which results in substantial overlap of employee job functions and necessitates a wall to wall bargaining unit. In particular, the Employer argues that the manufacture of an airplane results in the completion of a large amount of “traveled” work and “rework” on the Flight Line by the FRTs and FRTIs, and by employees excluded from the proposed unit.⁵ The Employer also argues that temporary transfers

⁴ The Petitioner amended its petition on the record in order to correct a typographical error by changing the employee classifications from flight-line *repair* technician and flight-line *repair* technician inspector to the correct title of flight line *readiness* technician and flight-line *readiness* technician inspector. DEJ1 is a code that the Employer has assigned to these two classifications.

⁵ “Traveled work” refers to work that the Employer intended to complete at an earlier phase of the process, but for a variety of reasons, completes later at a different area of facility. “Rework” refers to work initially completed earlier in the process that, due to a variety of reasons such as human error and part defects, must be fixed in a later phase of the manufacturing process.

of FRTs and FRTIs to perform different work in other areas of the facility demonstrate an interchange that requires a wall to wall unit.

The Employer asserts that the only appropriate unit must include all full-time and regular part-time production and maintenance employees, including Aircraft Machinists, Aircraft Painters, Assemblers, Equipment Maintenance Specialists, Fabrication Specialists, Facility Plant Maintenance Specialists, Product Acceptance Specialists, Production Coordinators, Tool and Fixture Specialists, and NDT Quality Test Specialists. The Employer estimates there are about 2,700 production and maintenance employees at its North Charleston facility.

A hearing officer of the Board held a hearing in this matter, and the parties subsequently filed briefs, which I have duly considered.

To provide context for my discussion of the issue, I will first provide a brief overview of the Employer's operations. I will then provide a summary of the relevant facts presented at hearing organized by each of the eight factors outlined in *PCC Structural*s and *United Operations*: whether the petitioned-for employees are 1. organized by the Employer in a separate department; 2. have distinct skills and training; 3. have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; 4. have frequent contact with other employees; 5. have distinct terms and conditions of employment; 6. are separately supervised; 7. are functionally integrated with the Employer's other employees; and 8. interchange with other employees. Lastly, I will provide my legal analysis of the issue presented, including why the balance of the factors demonstrate that Petitioner's unit constitutes an appropriate unit with a sufficiently distinct community of interest and is not a fractured or gerrymandered unit under *Seaboard Marine*, 327 NLRB 556 (1999). In

analyzing the factors, I will use the outward-looking approach described in *PCC Structural*, considering the interests of all production and maintenance employees.

II. FACTS

A. Background Facts

The Employer manufactures commercial 787 aircraft at its manufacturing plant in North Charleston. The Employer builds its airplanes in separate sections housed in different buildings, generally divided between the Aft Building, where employees construct the back of the airplane, and the Mid-Body Building, which focuses on the middle section of the airplane. The airplane then travels to the Final Assembly Building where employees join the mid-body and aft sections and install additional components to complete the primary structure of the aircraft. The Employer paints the airplane in its paint shop. Lastly, the Employer tows the plane from Final Assembly about half a mile to the Flight Line.⁶

The Flight Line is the area where live aircraft operate and from which they take off. It includes a taxiway and nine stalls where the Employer houses airplanes for additional work. On the Flight Line, employees perform numerous tests and inspections as well as complete traveled work and rework to ensure airworthiness. On the Flight Line, the Federal Aviation Administration “tickets” the airplane, which indicates its approval for the Employer and its customer to commence test flights. That approval also puts the airplane into “Repair Station” status for testing.⁷ Both the Employer and its customer then conduct a series of test flights to

⁶ The Mid-body, Aft and Final Assembly buildings are sometimes jointly referred to as the “Factory” while the Flight Line area may also be referred to as the “Field” or “Delivery Center.”

⁷ That “Repair Station” status is significant as it initiates special regulations that govern that status, including random drug testing of employees who work on the airplane while it is in this “Repair Station” status. “Repair Station” is a status, not a location, despite that its name suggests otherwise.

uncover issues not previously identified. Both the Employer flight crew and its customers report back issues that arise during these flights. Employees complete this “repair station” work and, ultimately, the Employer transfers the airplane to the customer.

During this entire process the airplane travels across the majority of the Employer’s campus over a period of about 120 days. The Employer divides the work into Shop Order Instances, called “SOIs,” which set forth the specific task or job that the employees must perform. The employees complete about 9,000 SOIs during the manufacture and delivery of an airplane. The SOIs are designated according to their area of origin such as Final Assembly, Flight Line/Delivery Center, Mid-body, or Aft in a software tracking system called Velocity. The Employer’s goal is that the SOI be completed in its area of origin, but for a variety of reasons such as production delays, weather issues, or supplier issues, the SOI may travel to the next stage of the production process such that employees complete the SOI tasks outside the SOI’s place of origin.

B. Community of Interest Facts from *PCC Structural*s

1. Separate Department

The Employer classifies employees in its Human Resources Management System, or “HRMS,” with different codes. As set forth below, the Employer codes FRTs and FRTIs as DEJ1 employees in this system. The other production and maintenance employees all have different codes.

Classification	Code	Approximate number of employees
FRTs and FRTIs	DEJ1	178
Fabrication Specialists	DCTL	353 ^[8]
Assemblers	DAJX	1371
Painters	DCTJ	143
Production Acceptance Specialists	JADC	225
Tool and Fixture Specialists	DHTM	81
Equipment Maintenance Specialists	DATK	1
Facilities Plant Maintenance Specialists	AAAN	81
Production Control	ECBV	205
Aircraft Machinists	DCTB	19
NDT Quality Tests Specialists	JACU	8

The Employer also assigns most of its employees in its HRMS to a specific building at the plant as their home station—the area where they typically perform most of their work. The vast majority of the production and maintenance employees and classifications are assigned as a home station either to the Aft, Mid-body, or Final Assembly building. The FRTs and FRTIs are not assigned to these buildings, but rather, are all assigned to one of the nine stalls on the Flight Line. The only other employees assigned in the HRMS to the Flight Line stalls are eight ECBV production control employees, 11 DCTJ painters and 10 DCTLs fabrication specialists. The 10 fabrication specialists are part of a special team known as the cabin systems team.

FRTs work in the Operations Department and directly report to one of nine Field Operations Managers. Those nine Field Operations Managers report to Senior Managers John Wilson and Darryl Lyons who in turn report to Superintendent Jay McArthur. McArthur reports to Warren Helm who is the Director over Flight Line Operations. The cabin systems team also reports to two of the nine Field Operations Managers—Travis Bernard and Paul Collier. Five work on first shift and report to one manager and the other five work on second shift and report

⁸ As subset of this group of 353 Fabrication Specialists is the Employer’s cabin system team. There are 10 employees on that team. The cabin system team, and its work on the Flight Line, is discussed in more detail below.

to the other manager. Accordingly, Bernard and Collier each supervise a mixed group of FRTs and cabin systems team employees. The Employer also categorizes its paint employees under the same umbrella of Flight Line Operations, and they ultimately report up through Director Helm.

The Employer organizes the FRTIs in a separate department called the Quality Department. Their first-line supervisors are Field Quality Managers who report to Senior Manager Ronald Pentz and up through Superintendent Gregg Dean in the Quality Department. Apart from the FRTIs, no other employees report to the Field Quality Managers. The JADC Production Acceptance Specialists, sometimes referred to as “Quality Inspectors,” are also part of the Quality Department and ultimately under the management of Superintendent Dean.

The Employer assigns Human Resources Representatives to different areas of the facility. HR Representative Deborah Markowski is assigned the FTRs and HR Representative Lisa Sprinkle-Ferreri to FRTIs as well as other employees in the Quality Department.

2. Skills and Training

When the Employer opened its South Carolina facility several years ago, it provided about 12 weeks of general orientation and training to all its production and maintenance employees. All classifications of production and maintenance employees attended these 12 weeks of training together in joint classes. These trainings included generalized topics like drilling and sealants. After the initial 12 weeks, the Employer separated the FRTs and FRTIs into a standalone group that trained together for an additional three to four months at nearby Trident Technical College. This subsequent training was specific to systems and components of the 787 aircraft. Director Warren Helm testified that, currently, all new production employees receive 12

weeks baseline training and that new FRTs and FRTIs get an additional one to two weeks of separate training depending on special certifications the Employer wants them to have.

The Employer has a multitude of Business Process Instruction, or “BPI,” documents, which lay out detailed guidelines for a variety of Employer policies and procedures. BPI 5470 sets forth special training requirements exclusive to FRTs and FRTIs. It lists nine minimally required trainings such as Flight Line Safety Awareness and Heat and Sun Related Illness and 29 additional trainings that FRTs and FRTIs commonly hold, such as Aircraft Towing and Aircraft Marshaling.⁹ BPI 5470 states that the trainings are designed to ensure that the FRTs and FRTIs can perform their baseline work.

The Employer also requires the FRTs and FRTIs to obtain from the Federal Aviation Administration an Airframe and Powerplant, or “A&P,” license. In order to obtain the license individuals may take 18 months to two years of schooling from an accredited aviation academy and about 2,000 hours of class in three areas of study—General, Airframe and Powerplant.¹⁰ It costs about \$20,000 to \$35,000 to attend an aviation academy. Although some other employees at the Employer also have the A&P license the Employer only requires it of the FRTs and FRTIs. Pursuant to FAA regulations, applicants for the A&P license must pass a written exam and practical exam. To maintain the A&P license the individual must continue to perform accredited work. If the individual’s license lapses, he or she must work under licensed supervision for at least six months to regain it.

⁹ Although the document lists other positions such as GT, AMT and AMTI, those positions do not exist at the Employer’s South Carolina operations.

¹⁰ “Airframe” refers to the systems and subsystems that make up the aircraft and their components. “Powerplant” refers to the mechanical way in which the aircraft is propelled—the engine and other auxiliary power systems.

The Employer sends out weekly required reading via email to all of its production and maintenance employees. The employees choose a series of links in the email that direct them to numerous training and policy materials related to their specific program, location, and job role. The policies are labeled “FAB,” “Factory,” “Field,” and “BT&E.” FAB applies to fabrication employees. Factory applies to employees who work in the Aft, Mid-body, and Final Assembly buildings. Field refers to the Flight Line and BT&E refers to the Employer Test & Evaluation.¹¹ The Employer requires FRTs and FRTIs to read the only the materials labeled as “Field.” Examples include a reading from the week of March 5, 2018, “Release Airplane for Flight or Taxi” that was only required of “Field” employees and a reading from the week of February 26, 2018, “Application of Plastic Film Markers” that was required only for “FAB” and “Factory” employees.

The Employer’s managers have made statements acknowledging the unique skill set of FRTs and FRTIs. These include general statements describing the FRTs’ and FRTIs’ special skills and expertise as the reason why the Employer pays them more than other production and maintenance employees, and statements that a special raise for FRTs and FRTIs was due to their special skill and expertise. The Employer also outlined the rationale for the special raise in internal talking points documents that the Employer created for supervisors and managers to guide the announcement of the raise. In addition, Director of Quality Gregg Dean told FRTIs

¹¹ Helm testified that the Employer considers BT&E as a completely separate business enterprise from commercial airplanes and that it includes some of the pilots and flight crew.

during a March 9, 2018 roundtable meeting that potential layoffs in the Quality Department were unlikely to be as impactful the FRTIs because of their skill set.¹²

3. Job Functions and Work

The Employer jointly refers to Assemblers (DAJX), Fabrication Specialists (DCTL), and Aircraft Machinists (DCTB) as Mechanic Technicians or “MTs.” Their primary duty is to create, install, and assemble many of the component parts of the aircraft such as framing, window and door rigging, and electrical wiring. They also attach the wings, engines, wheels, and other component parts of the aircraft. The cabin systems team also works primarily inside the airplane on cosmetic interior items, including seats, wall paper, mats, and trim.

Aircraft painters (DCTJ) paint the interior and exterior of the airplane. Equipment Maintenance Specialists (DATK) and Facilities Plant Maintenance Specialists (8AAN) perform maintenance on facilities systems such as HVAC, lighting, and equipment, but do not work on the aircraft. They repair and maintain items such as the carts, lifts, and stands that other employees use to work on the aircraft. Production Coordinators (ECBV) and Tool and Fixture Specialists (DHTM) are responsible for tooling and moving parts and materials around the campus. Production Acceptance Specialists (JADC) primarily inspect and sign off on the work performed by other classifications prior to the Flight Line. NDT Quality Test Specialists (JACU) conduct specialized tests concerning the indestructibility of composite materials used in the manufacture process.

¹² Although Senior Manager Ronald Pentz was present at the March 9 roundtable and testified that he (Pentz) did not make such a statement, the testimony of FRTI Chris Jones was uncontroverted that Director of Quality Dean had said that plant-wide reductions would not affect FRTIs as much because of their skills.

The baseline or primary work of FRTs and FRTIs is to ready the airplane for test flights after the airplane leaves final assembly. The Employer’s job description for the DEJ1 role states that the employee “performs final component installation and systems operational functional testing [and] [t]rouble shoots pre-flight and post-flight functions for delivery.” There are about 100 SOI’s that are baseline tasks exclusive to the FRTs and FRTIs. An SOI can range from 4 to 60 pages in length and contain numerous operations to complete.

Examples of this baseline work exclusive to the FRTs and FRTIs includes towing airplanes, the initial fueling process, and compass installation. FRTs and FRTIs tow airplanes using a tow tractor from Final Assembly to Flight Line. FRTs and FRTIs complete the initial fueling process once the airplane arrives at the Flight Line. The process requires the use of a fueling computer and involves transferring fuel to different areas of the airplane, taking samples and conducting analysis, and takes about eight FRTs and two FRTIs at least 10 to 12 hours to complete. FRTs and FRTIs install and test the airplane’s compass system in a designated area of the campus known as the compass rose area on the Flight Line. They also perform a variety of other pre-flight tasks together to prepare the airplane for its initial test flight. At this time the aircraft is fully operational and all its systems, including its engines, are powered for the first time.¹³ As the FRTs complete the pre-flight SOIs, the FRTIs inspect the work and sign off on it by applying an electronic stamp in the Velocity software system.

FRTs and FRTIs also perform repair station work. Repair station is a status that the FAA confers after it reviews the work to make sure it meets standards and certifies the

¹³ Employees in the factory install the plane’s engines, which are delivered from an off-site manufacturer. The engines are not run prior to arriving at the Flight Line.

airplane.¹⁴ Once the FAA issues the ticket, special conditions arise and the FRTs and FRTIs are subject to random drug testing. The FAA requires special qualifications for performing repair station work. While possessing an A&P license is one of several ways to meet the FAA standard, and at least one other facility the Employer allows employees to perform repair station work by meeting one of the other FAA-acceptable qualifications, at the facility involved here, the Employer requires that all FRTs and FRTIs hold A&P licenses. The Employer maintains a roster of employees who are authorized to perform repair station work, which appears to include all FRTs and FRTIs, as well as a handful of painters, NDT Quality Test Specialists, and the cabin systems team. An airplane may average four to five days in repair station status but at times can remain in repair station status for several months if issues arise. In this phase of the process, the FRTIs sign off on FRT work by physically stamping a paper document.

FRTI Chris Jones testified about an example of a typical task that an FRTI and FRT may work on together during this phase in his discussion of the use of the borescope. A borescope is a device used to inspect an engine internally for a variety of reasons such as checking the burn pattern at the request of the manufacturer or customer, or inspecting bird strike damage. An FRT and FRTI, working together side by side, will open the borescope access points and remove engine access plates, then use the scope to observe the engine internally while they turn it mechanically, looking at areas such as burner cans, compressor blades, and turbine blades. The Employer sent Jones to General Electric in Cincinnati where he received three days of training and a certification in order to use the borescope.¹⁵

¹⁴ Repair Station does not refer to a specific area or building, however, the work is typically done in one of two specific flight line stalls.

¹⁵ Jones testified that the borescope device cost \$110,000.

FRTs and FRTIs also redo work that was performed previously in another area, which needs to be corrected due to nonconformance with standards. The Employer refers to this as “rework.” After the FRTs and FRTIs complete their pre-flight work and verify the airplane’s airworthiness, test flights begin. After the initial test flight FRTs and FRTIs address “flight squawks.” Flight squawks are issues identified by either the Employer flight crew during its test flights or by the customer in subsequent customer test flights, which must be repaired or addressed by FRTs and FRTIs. If the flight squawk concerns an interior cabin issue then it may be addressed instead by the cabin systems team.

In addition to rework and flight squawks, FRTs and FRTIs also complete “traveled” work—work that the Employer intended to complete in an earlier phase of the production but was unable to finish. There is a group of 10 MTs (mechanic technicians) from the factory who are dedicated to completing this traveled work on the Flight Line on a regular basis. The FRTs and FRTIs also complete a portion of this traveled work on the Flight Line. The parties dispute the amount of traveled work that the FRTs and FRTIs perform, which I will discuss in further detail below.

There are a range of Business Process Instructions that only apply to the FRTs and FRTIs including examples like BPI 3363, related to releasing airplane for flight or taxi, and UN 7 BPI 2583, related to the FAA airworthiness certificate.

4. Other Contact

FRTs and FRTIs have limited contact with most other production and maintenance employees due to their location in the Flight Line area. It takes about 10 minutes to walk from

end to end of the Flight Line itself. The Flight Line is separated from the factory production buildings by a two lane road, a fence, an airplane taxiway, and drainage trenches. There are periods of time during which the taxiway is closed to pedestrian traffic due to airplanes using the runway. The Flight Line is also the work area of the 10 cabin systems team members. When individuals other than the cabin systems team, FRTs, or FRTIs, approach an airplane they must get permission from the FRT or FRTI team leads or first-line supervisors before entering the roped-off area around airplane and the airplane itself. The 10 MTs from the factory who work on a regular basis in the Flight Line area work under the supervision of Final Assembly building first-line Supervisor Amanda Davis. They are primarily tasked with finishing incomplete work that has traveled from Final Assembly.¹⁶ Senior Manager Ronald Pentz also testified that one Product Acceptance Specialist regularly inspects work on the Flight Line.¹⁷

There is an area in the middle of the North Charleston campus known as the “Hub.” The Hub houses a main cafeteria, credit union, the Employer’s store, and Health Services, which are open to all production and maintenance employees. The Hub is approximately a 10-minute walk from the Flight Line assuming that the taxiway is not closed to pedestrian crossings. There are several other dining facilities across campus including in the Final Assembly, Paint, and

¹⁶ Employer Exhibit 10 indicates that the Employer has assigned a few additional employees to the Flight Line in HRMS, namely, five DCTJ painters and eight ECBV production control employees. However, there is insufficient evidence to show that these 13 employees routinely work in the Flight Line area in the vicinity of the FRTs and FRTIs. There is also insufficient evidence that the NDT Quality Test Specialists, whom the Employer included in its proposed wall to wall unit, work regularly on flight line. FRTI Chris Jones testified that he was unaware of any ECBV Tool or NDT Quality Test Specialists working on the Flight Line. (The transcript mistakenly references the NDT employees as “NBI” and “NDI.”)

¹⁷ It is likely that this Product Acceptance Specialist inspects the work of the team of MTs performing traveled work although this is not clear in the record.

Delivery Center buildings.¹⁸ FRTI Chris Jones testified that he eats at the Hub cafeteria on a very limited basis, typically when he has training in that area of campus. Jones further testified that FRTs and FRTIs usually eat in the Flight Line stalls break rooms because there is insufficient time to travel across campus and back during their 30-minute lunch break.¹⁹ There is a small parking lot adjacent to the Flight Line area where FRTs and FRTIs generally park. There are several much larger parking lots adjacent to the factory area.

The Employer holds several meetings per year with the entire 787 operations team. On a more frequent basis, the Employer holds meetings among just the Flight Line employees. The Employer also holds occasional plant-wide employee celebrations during which employees from across the production and maintenance group may come into contact with one another. These celebrations have included barbecues and a Presidential visit; employee attendance is voluntary. There are also daily morning meetings for each stall on the Flight Line. The purpose of these meetings is to review and coordinate the tasks for the day, review the condition of the aircraft, and discuss daily workflow. Field Quality and Field Operations Managers lead these daily stall meetings and the FRTs and FRTIs attend them together. The daily meeting in one stall also includes the cabin system team. The MTs who regularly travel out to the flight do not participate in these meetings.

¹⁸ The Delivery Center building is located in the Flight Line area and primarily houses management, customers, and pilots.

¹⁹ A first-line supervisor informed FRTI Chris Jones in 2017 that Director David Carbon did not want to see anybody wearing a Flight Line vest at the Hub cafeteria during lunch break because it is too far away from the Flight Line.

5. Terms and Conditions of Employment

Many of the Employer’s Human Resource policies apply to all production and maintenance employees. There are numerous examples including workplace rules, attendance policy, leave policy, overtime guidelines, and regular wage increases. Employer health insurance plans are the same for all production and maintenance employees.

Distinct from other production and maintenance employees, FRTs and FRTIs are subject to random drug testing because of FAA regulation relating to the repair work they perform.²⁰ FRTs and FRTIs are subject to regular hearing tests while other production and maintenance employees are not. The FRTs and FRTIs earn an average of \$8 per hour more than the average for production and maintenance employees, about a 32 percent difference. There are, however, some employees in positions other than FRT or FRTI who earn more than the highest-paid FRTs and FRTIs. In December of 2016, the Employer awarded a 7 percent wage increase to the DEJ1 coded employees – FRTs and FRTIs. No other production and maintenance employee received the raise. Since opening its North Charleston facility in about 2011, this is the only time that the Employer has singled out a classification of employees for a raise. The Employer explained that the wage increase was based on a market compensation study, which identified the DEJ1 group as underpaid.

The Employer’s South Carolina Vice President Joan Robinson-Berry provided written guidance with talking points to all managers about the raise. Berry explained that if employees questioned why only the DEJ1s received a raise, managers should explain that the DEJ1 position

²⁰ The record is unclear as to whether the other employees listed on the repair station roster are subject random drug testing. On cross examination, FRTI Chris Jones testified that he “believed” the other employees listed on the repair station roster would also be subject to drug testing. The Employer did not adduce direct testimony on this point.

is a “critical role” that “requires additional expertise and certifications, which is why the pay scale is different at Boeing and other companies.” Senior Human Resources Manager Amy Kelly testified that the Employer had a third-party market study conducted, which revealed that the DEJIs were underpaid. Ms. Robinson-Berry explained in her memorandum that in reviewing the different “populations” and “skill groups” among the production and maintenance employees, the Employer determined that other employees were already receiving as much as 10 percent above market average for similar skill-level jobs and thus not eligible for the special raise.

The difference in pay between FRTs and FRTIs and other employees affects other benefits that are tied to wages including overtime, retirement, and insurance. For example, the Employer offers production and maintenance employees an Employer match for retirement investments, pensions, and Employer savings plans, which is based on a percentage of the employees’ wages. Likewise, Employer plans for disability, life, and accident plans are based on a percentage of the employee’s wages.

As discussed below in more detail with regard to interchange, in July 2017, the Employer offered voluntary layoffs to the FRTs and FRTIs, of which two employees accepted. Before offering the layoff package the Employer solicited volunteers only from among the FRTs and FRTIs to “downgrade” to a DAJX position but none accepted. The layoff was a voluntary separation that allowed employees to end their employment in exchange for compensation tied to their years of service and an extension of health insurance benefits. The Employer did not invite any other production and maintenance employees to elect the layoff package. Senior HR Manager Kelly testified that the reason the Employer offered the package exclusively to FRTs

and FRTIs was due to an excess of DEJ1s due to their “particular skill.” Unable to garner enough volunteers willing to be downgraded in position or accept the layoff package, the Employer involuntarily moved some FRTs to Mid-body on a loan basis without impacting their pay.

In January 2018, Vice-President of Operations David Carbon and Joan Berry made a facility-wide announcement that all production and maintenance employees would be subject to mandatory weekend overtime in order to make up for production delays due to weather. The Employer described the mandatory weekend schedule as a “3-2-2” explaining that the employees would work three mandatory weekends in a row, then have two weekends off, and then work two more mandatory weekends. Carbon emphasized that the mandatory overtime applied to everyone at the plant, including managers. Later, the Employer required only the FRTs and FRTIs to also work the second weekend off explaining that Carbon’s announcement, “did not apply to the Field.”²¹

The FRTs and FRTIs wear a special reflective Safety Vest that says “Flight Ops” on the back and “Boeing 787 BSC Delivery Center” on the front. The Employer only permits FRTs and FRTIs to wear shorts, a policy deriving from their work location outside in the South Carolina heat.

The Employer’s Team Lead policy shows that the various production and maintenance employees may serve as a non-supervisory team lead. In order to serve as a team lead for the FRTs or FRTIs the employee must have worked as a DEJ1 for at least 12 months. There is no evidence that teams leads in one classification can serve in the team lead role for other

²¹ Unlike the rest of the production and maintenance employees, the FRTs and FRTIs worked what amounted to a “3-1-3.”

classifications. The Employer also has a temporary manager policy that applies to all production and maintenance employees. According to the policy, in order to serve as a temporary Flight Line manager the employee but must have skills and experience specific to the Flight Line.

The FRTs and FRTIs work one of three shifts, each with a 30-minute lunch break, from 6:00 a.m. to 2:30 p.m., 2:30 p.m. to 11:00 p.m., and 11:00 p.m. to 6:00 a.m. The other classifications of production and maintenance employees have different start times with the exception of the tooling portion of the supply chain. The MTs who regularly work in the Flight Line area work from 5:00 a.m. to 3:30 p.m.—a different schedule than the FRTs and FRTIs.

6. Supervision

As explained previously, the FRTs and FRTIs report to first-line supervisors in the Operations and Quality Departments, respectively, and participate in combined morning meetings that also include the cabin systems team. Most of the Employer's policies and procedures appear to apply to all employees at its North Charleston facility. However, the Employer expressly delegates substantial authority to its first-line supervisors in the application of many policies such as the approval of vacation and sick leave, disciplinary matters, and scheduling overtime.

First-line supervisors conduct employee's regular performance evaluations. In rating the employee's performance the employees are compared against "their peers," which in the case of FRTs and FRTIs are "other FRTs and FRTIs" according to the testimony of Human Resources Representative Kelly. Director Helms testified that non-Flight Line managers who travel out to the Flight Line could direct the work of the FRTs and FRTIs but would need to first speak with the FRTs' and FRTIs' supervisors or managers. Employees Williams and Jones testified that

they have never received direction on the Flight Line from any manager apart from their Flight Line managers.

7. Functional Integration

The production and maintenance employees work toward the shared goal of manufacturing and delivering the Employer’s 787 commercial aircraft to customers. The Employer conducts regular meetings across departmental lines to coordinate work amongst the different stages of the manufacturing process. One such meeting is the induction meeting, which the Employer holds for the purpose of discussing traveled work when an airplane is delivered to the Flight Line from Final Assembly. Managers also attend daily meetings across departmental lines, including Final Assembly and Flight Line, to discuss the work flow and coordination. All employees use the Velocity software system to receive assignments and track work through the production process.

8. Interchange

The FRTs and FRTIs complete work associated with other departments in two main categories—performing traveled work and rework on the Flight Line that originated in earlier stages of the production, and during their temporary transfers to the factory.

The parties dispute the amount of time that FRTs and FRTIs spend on these two categories of work. The Employer maintains that FRTs spent about 26 percent of their time on work originally intended to be completed outside the Flight Line in 2017. By contrast, the Union asserts that FRTs spent only about nine percent of total work time on such tasks. In reaching its calculation, the Employer excludes a “Labor Loss” category from its total, which accounted for 19 percent of the total hours in 2017.²² In arriving at its percentage, the Union includes the

²² Labor loss refers to planned and unplanned absences, such as vacations, sick leave, etc.

Labor Loss category as part of the total hours and also excludes rework hours, asserting that rework is part of the FRTs' baseline work and thus fundamentally different from traveled work. The Union also excludes hours not spent working on aircraft such as standby time when employees are not working, training, and meetings.

The parties also dispute the percentage of time that FRTIs spent inspecting work that was originally assigned to earlier stages of production. The Employer asserts that from January 2017 to March 2018, 49 percent of the inspection stamps FRTIs issued were tied to work assigned to earlier stages of the production process. In addition, the Employer asserts that Product Acceptance Specialists performed 11 percent of inspections that were originally assigned to FRTIs. In contrast, the Union asserts that closer to 80 percent of FRTI inspections were actually signing off on core FRT work and that the Employer's percentage is skewed due to "999" or final sign offs that FRTI Marty Huffman completed and those that a few other FRTIs completed during their temporary stints in the Final Assembly Building.²³ A "999" sign off is a final, overall sign off indicating that each of the 4 to 60 operations within an SOI has been completed. It does not require the inspector to be present for the physical work of the mechanic and can be completed in less than a minute. By contrast, signing off on FRT baseline work takes significantly more time, as it requires the FRTI to be present alongside the FRT and perform inspections hand in hand with the FRT as the FRT works through the SOI.

The Union also disputes the Employer's assertion that Product Acceptance Specialists issued stamps on 11 percent of baseline FRT work and asserts that the majority of the sign offs in this category are coded in the data as Customer Item reviews. A Customer Item refers to an

²³ Evidence suggests that the Employer placed Huffman on a long term assignment to the Final Assembly Building upon his request as an accommodation for a family member's medical issues.

issue that the customer identified and requested the Employer to address or repair. Only a subset of Product Acceptance Specialists, known as Customer Quality Inspectors, have the authority to sign off on these tasks after checking with the customer to assure that it is satisfied. Although the Customer Quality Inspector signs off in the Velocity system, an FRTI may have actually verified that the work was performed correctly. Additionally, the Customer Item may have been work beyond the scope of the FRT and FRTIs core work such as addressing a customer issue with a seat cushion pattern. Senior Manager Ronald Pentz testified that Product Acceptance Specialists “rarely inspect FRT work” and that they would do so only in limited cases where the work required a special certification that a particular Product Acceptance Specialist has. Pentz further testified that while the Employer generally tries to code all work to a specific business unit, it cannot always accurately do so.

The data regarding FRT and FRTI hours does not indicate where the FRTs or FRTIs spent the hours performing the work. The data show only where the job originated. In the case of the FRTIs, the data do not indicate the number of hours spent on inspections related to traveled work or rework. It merely describes the number of completed sign offs.

The Employer involuntarily transferred about 18 DEJ1 FRTs to DAJX Assembler positions in Mid-body in 2017 for a period of months. The Employer implemented the loan of FRTs to Mid-body due to production delays in that area,²⁴ after the FRTs and FRTIs declined to accept a voluntary lay off package or to downgrade to DAJX positions. During this time the transferred employees continued to receive their same higher DEJ1 rate of pay.

FRT Williams testified that the Employer has temporarily assigned him to the factory twice in seven years when the factory was behind schedule. The first occasion lasted between

²⁴ This loan of FRTs to Mid-body did not include any FRTIs.

two to four weeks and the second occasions lasted for about 10 days. Williams testified that although the factory manager initially told him he would have to change his shift to match the 10-hour shift of the production and maintenance employees in his loaned department, his Flight Line supervisor retained authority over him and had him work his regular Flight Line schedule instead. FRT Jones testified that he had worked about three to four days outside the Flight Line in the past 14 months.

Some FRTs also temporarily worked off the Flight Line for several months in 2017 as part of a special assignment to the “Dash 10” program, in which they installed and later removed sensor instruments in order to perform flight testing. The Dash 10 was an experimental prototype airplane in development at the time. FRTs worked on the Dash 10 on a voluntary basis and kept their higher compensation during this program. The Employer did not change their department code from DEJ1 during their time in the Dash 10 program. The record is unclear about the extent to which FRTs may have worked together with other production and maintenance employees on the Dash 10 project and who supervised the FRTs during that project.

During all of the various temporary transfers the DEJ1s maintained their higher rate of pay. There is no evidence that non-Flight Line employees perform Flight Line baseline work or that the Employer has temporarily or permanently transferred non-Flight employees into DEJ1 positions.

III. ANALYSIS

A. Relevant Board Law

The Act does not require a petitioner to seek representation of employees in the most appropriate unit possible, but only in *an* appropriate unit. *Overnite Transportation Co.*, 322

NLRB 723 (1996). Thus, the Board first determines whether the unit a petitioner proposed is appropriate because employees in the petitioned-for unit are readily identifiable and share a sufficiently distinct community of interest. *PCC Structural, Inc.*, 365 NLRB No. 160 (2017)²⁵ and *United Operations*, 338 NLRB 123 (2002). Under this traditional community of interest approach, the Board considers the interests of both the petitioned-for employees and those employees to be excluded from the petitioned-for unit to conduct its analysis. The Board will not approve fractured units; that is, combinations of employees that have no rational basis. *Seaboard Marine*, 327 NLRB 556 (1999).

In conducting this analysis the Board uses a multifactor test that assesses whether the petitioned-for employees are organized by the Employer in 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; have frequent contact with other employees; have distinct terms and conditions of employment; are separately supervised; are functionally integrated with the Employer's other employees; and interchange with other employees. *United Operations*, 338 NLRB 123; *PCC Structural*, 360 NLRB No. 160, slip op. at 11. Particularly important to this determination are the organization of the plant and the utilization of skills. *Gustave Fisher*, 256 NLRB 1069 fn. 5 (1981). All relevant factors must be weighed in determining community of interest. Although a plantwide unit is presumed appropriate, *Airco*, 273 NLRB 348, 349 (1984), there is no requirement of a plantwide unit and the Board generally attempts to select the smallest appropriate unit encompassing petitioned-for

²⁵ Following remand from the Board in *PCC Structural, Inc.*, the Regional Director in that case directed an election in a craft-unit of welders. The Regional Director's reasoning in *PCC Structural, Inc.* is not applicable here, where the unit sought is not a craft unit.

employees. *Bartlett Collins Co.*, 334 NLRB 484 (2001), citing *R&D Trucking*, 327 NLRB 531 (1999) and *State Farm Mutual Automobile Insurance Co.*, 163 NLRB 677 (1967).

B. Application of Law

The balance of the factors demonstrates that the employees in the petitioned-for unit share a sufficiently distinct community of interest, are readily identifiable as a group, and are not a fractured unit because the Employer treats the FRTs and FRTIs differently with respect to critical terms and conditions of employment including wages, raises, schedules and lay-offs based on the FRTs and FRTIs distinct skill set and certifications, including the A&P license. Moreover, the FRTs and FRTIs fulfill a unique job function of assuring the airworthiness of airplanes at the end of the Employer's process after manufacture is essentially completed. Further, the Employer readily identifies the petitioned-for unit in a variety of ways including through the issuance of special apparel and its internal job coding and separately supervises FRTs and FRTIs at the first-level. Lastly, the petitioned-for employees' location on the Flight Line constitutes a meaningful separation that limits their contact with most other production and maintenance employees.

Although the FRTs and FRTIs do perform some work that the Employer originally intended to be completed at an earlier phase of its functionally integrated process, and have been temporarily transferred to other departments, the majority of their work is unique to their role on the Flight Line and the Employer has made transfers in limited circumstances in connection with special projects such as the Dash 10 program or to avoid layoffs. These facts do not outweigh the totality of circumstances, which establishes the appropriateness of the petitioned-for unit. As set forth below in detail, six of the factors from *PCC Structural*s weigh in favor of

the Petitioner’s proposed unit: separate department, skills and training, job functions and work, other contact, terms and conditions of employment, and supervision. Although the remaining two factors – functional integration and interchange – are either neutral or weigh in favor of a broader bargaining unit, on balance the petitioned-for unit is appropriate.

1. Separate Department

The FRTs and FRTIs are the only employees whom the Employer internally codes as DEJ1. The Employer has used the DEJ1 designation to separate these employees in a variety of meaningful ways including through its market study to award a pay raise to these employees, and to protect them from layoffs. The DEJ1s also constitute the majority of employees on the Flight Line. The Employer recognizes the Flight Line as a distinct grouping in the required weekly readings and other training materials such as the Flight Line training requirements in BPI 5470. Although the Employer also designates the FRTs and FRTIs in two different departments — Field Operations and Quality — their daily practice of working together side by side and coordinated supervision through the daily stall meeting demonstrates that this departmental designation bears less importance in the analysis. Regardless of the ultimate lines of reporting, the FRTs and FRTIs share the common DEJ1 classification and function with each other as an integrated and coordinated group. Thus, the factor of a separate department weighs in favor of the appropriateness of the proposed unit.

2. Skills and Training

The factor of skills and training weighs heavily in favor of the proposed unit. While some other employees possess the A&P license, the Employer only requires this of the FRTs and FRTIs. The A&P license is difficult and costly to obtain and involves specialized training that

allows the FRTs and FRTIs to perform the unique features of their job such as repair station work. While the Employer points out that FRTs and FRTIs could meet FAA standards for their work without holding the A&P license, and at a different facility the Employer does not require such employees to hold the A&P license, at the facility involved here the Employer does require the FRTs and FRTIs – and only the FRTs and FRTIs – to hold this special license.

Further, the Employer provides substantial additional and separate internal training just to the FRTs and FRTIs as evidenced in BPI 5470, and the testimony of Jones and Williams of their experience when the North Charleston facility opened, and Helm’s testimony about the Employer’s current training practices. The weekly required readings demonstrate yet another difference between the training the Employer provides to the FRTs and FRTIs in contrast to other production and maintenance employees; the Employer only requires the FRTs and FRTIs to read those policies and trainings designated to the “Field.” Most importantly, Vice President Berry’s communication regarding the wage raise and Human Resources Representative Amy Kelly’s testimony make clear that the Employer considers the FRTs’ and FRTIs’ skill set and certifications to be a meaningful distinction that sets them apart from all other production and maintenance employees and warrants special treatment in regard to their terms and conditions of employment. Berry stated that the Employer gave the raise exclusively to the FRTs and FRTIs due to their “additional expertise and certifications,” and Kelly testified that the Employer offered a voluntary layoff package exclusively to the FRTs and FRTIs because of their different skill set.

3. Job Functions and Work

The factor of job functions and work also favors the proposed unit because the FRTs and FRTIs primarily perform unique work together that deals with assuring airworthiness in order to deliver the airplane to the customer. The 100 or so baseline SOIs that are unique to the FRTs and FRTIs show that they have distinct work. The fact that FRTs and FRTIs test and inspect the airplane for the first time after it becomes fully operational, with the engines and all its systems powered and working together, distinguishes their work from the testing that may occur in the factory. The correction of flight squawks and rework to ensure flight worthiness is meaningfully different from the factory work because it is part of the finishing stage to achieve FAA certifications and hand off the airplane to the customer. Although, the FRTs and FRTIs perform traveled work originating in other locations, this does not constitute the majority of their work.²⁶ Thus, the factor of job functions and work weighs in favor of the proposed unit.

4. Other Contact

The factor of contact with other employees also weighs in favor of the proposed unit because the FRTs and FRTIs have limited contact with other production and maintenance employees due to the location of the Flight Line. The Flight Line is an outside location physically separated from the factory buildings and FRTs and FRTIs are typically only present in those buildings during temporary transfers or trainings. The FRTs and FRTIs can park near the Flight Line and do not have to cross the other areas of the campus to arrive at their work station.

²⁶ I find the Union's portrayal of the amount of time and work spent by FRTs and FRTIs on other departments' work more persuasive than the Employer's because the Employer rework logically fits within the FRT and FRTI role of preparing aircraft for airworthiness and the rationale for excluding labor loss from the calculations is questionable. Further, the data the Employer provided diminishes the utility of this information because it does not show the location where the employee performed the subject work. Lastly, Senior Manager Pentz' testimony that Production Acceptance Specialists rarely inspect FRT work and that the Employer cannot always accurately code work also casts doubt on the Employer's figures. Regardless, even if I were to accept the Employer's percentages, it would not be sufficient to change the outcome of the multi-factor test.

The evidence suggests that FRTs and FRTIs rarely use the Employer amenities offered in the center of the campus known as the HUB such as the main cafeteria, store and health services due to its substantial distance from the flight line. Although FRTs and FRTIs may also come into contact with other employees at occasional plant-wide meetings and events, occasional contact with other employees in connection with amenities unrelated to the employees' principal work tasks or during periodic meetings does not change the balance of this factor. Aside from the 10 employees on the cabin systems team and 10 MTs who are routinely on the Flight Line, the petitioned-for unit has minimal working contact with the remaining approximately 2,680 production and maintenance employees

5. Terms and Conditions of Employment

Key differences in the FRTs and FRTIs' terms and conditions of employment result in this factor weighing in favor of the proposed unit. Most strikingly, the FRTs and FRTIs earn about 32 percent more than their other production and maintenance counterparts, which the Employer has acknowledged is due to their "advanced skills and certifications" and "critical role." This substantial difference in pay impacts many other key terms and conditions of employment such as overtime, retirement, and insurance benefits. Thus, FRTs and FRTIs, in effect, receive different overtime, retirement and insurance benefits than other production and maintenance employees. The Employer has repeatedly drawn a distinction between the FRTs and FRTIs and other employees such as through exclusive safety vests, scheduling, random drug testing, mandatory overtime, and offering the 2017 layoff packages.²⁷ Importantly, according to

²⁷ The record suggests, albeit not clearly, that additional employees listed on the repair station roster are also subject to random drug tests. Regardless, this does not change the outcome of the analysis as the handful of employees on the repair station roster apart from the FRTs and FRTIs represent an insignificant portion of the nearly

the testimony of Senior HR Manager Amy Kelly, the Employer decided to offer the 2017 lay off package only to FRTs and FRTIs based on its determination that “there was an excess of DEJIs due to their particular skill.” Once again, the Employer recognized that the petitioned-for employees constituted a meaningfully distinct group. Although many of the Employer’s standard Human Resources policies apply equally to all employees, the authority delegated to first-line supervisors, who only supervise FRTs and FRTIs with respect to key policies such as overtime, leave, and discipline, distinguishes the petitioned-for unit.

There are different apparel rules for FRTs and FRTIs, in that they wear special reflective vests and are the only employees permitted to wear shorts. The Employer correctly points out that these differences merely derive from their working outdoors. That the Employer’s different rules for FRTs and FRTIs is because of their outside work location in my view emphasizes the difference, rather than minimizing it. What makes the FRTs and FRTIs terms and conditions of employment is not so much that they may wear shorts, but that they work in different conditions than other employees and so the Employer devised different apparel rules to accommodate that different working condition. The FRTs’ and FRTIs’ outside work location presents health and safety concerns such as sunburn, overheating, and dehydration, which are not as pronounced for the inside employees. Although the record provided more detail about heat and sun risks for the FRTs and FRTIs, their outdoor working conditions expose them to other elements, including rain and cold.

6. Supervision

2700 production and maintenance employees. Moreover, the Employer treats the FRTs and FRTIs differently in regard to their terms and conditions of employment in a variety of other ways.

The FRTs and FRTIs report to first-line supervisors who do not supervise any other production and maintenance employees except for the 10 employees on the cabin systems team. Importantly, the FRTs and FRTIs and their first-line supervisors participate together in daily meetings to discuss the daily workflow and coordination of assignments. Employees in other job classifications do not participate in these daily meetings with the FRTs and FRTIs except for the cabin systems team. The MTs (mechanic technicians) who routinely work on the Flight Line are not part of these daily meetings. The evidence indicates that non-Flight Line supervisors, even those who are routinely present on the Flight Line, do not give direction to FRTs and FRTIs and, likewise, that the FRTs' and FRTIs' first-line supervisors do not give direction to the MTs on the Flight Line.²⁸ Thus, the factor of supervision weighs in favor of the proposed unit.

7. Functional Integration

The factor of functional integration arguably weighs in favor of the broader unit the Employer seeks because the Employer has an integrated manufacturing process that is coordinated across departments as evidenced by the induction meetings, daily meetings to manage the work flow, and the use of the Velocity software system to track work for the shared purpose of manufacturing and delivering the aircraft. Additionally, the frequent traveling of work from its point of origination to later points in the production system due to a variety of issues, such as quality or supplier issues, demonstrates the functional integration of the Employer's manufacturing process. FRTs and FRTIs are, however, functionally integrated as to each other to a much greater extent than they are with the rest of the workforce, which

²⁸ Jones and Williams testified that they have never received direction from a non-Flight Line supervisor and no employee testified to the contrary. Director Helm merely testified that non-Flight line supervisor *could* direct the FRTs and FRTIs, admitting that they would first need to speak with the FRTs' and/or FRTIs' first-line supervisors.

diminishes the weight of the plantwide functional integration. The FRTs and FRTIs work hand in hand, side by side, as one group performs the repairs and operations and the other observes and inspects. Moreover, although FRT and FRTI work contributes to the shared goal of completing a 787 aircraft, their role is focused more precisely on the delivery and repair of the aircraft rather than manufacturing. Accordingly, the extent of plantwide functional integration is not so great as to strip the FRTs' and FRTIs' of their distinct function at the end, and to some extent, *after*, the overall manufacturing process.

8. Interchange

At first glance, the final factor, interchange, appears to weigh in favor of a broader unit because the Employer has transferred FRTs and FRTIs to other departments to perform other work. However, this factor is at most neutral because the reason the Employer has transferred FRTs and FRTIs is precisely because of what sets them apart as a distinct community. Namely, the fact that they have advanced skills and certifications that allow them to work in other areas without further training. Thus, the reason why the Employer uses them as temporary transfers reinforces other factors, including their unique identity and the degree to which they have unique and superior skills and training. The import of these transfers is also mitigated by the limited duration of the transfers and the fact that the Employer continued to draw a distinction on the loaned employees by treating them differently during their transfers; the Employer continued to pay them at their higher rate and allowed them to retain their previous schedules which differed from the departments to which the Employer loaned them. Moreover, there is little evidence of true interchange, because there is no evidence of production and maintenance employees temporarily transferring *into* the classifications of, or temporarily work as, an FRT or FRTI.

Likewise, there is no evidence of any permanent transfer between FRTs and FRTIs and other production and maintenance classifications.²⁹ On balance, I am not persuaded that their interchange requires a broader unit.

IV. CONCLUSION

In sum, the petitioned-for unit is appropriate as the balance of the factors weigh in favor of the proposed unit.³⁰ Based on the evidence presented at the hearing, I find that the petitioned-for employees share a sufficiently distinct community of interest under the Board’s traditional criteria. Because the combination of employees in the petitioned-for unit has a rational basis, it is also not fractured. See *Seaboard Marine*, 327 NLRB 556 (1999).

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

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.³¹

²⁹ In addition, the temporary transfer to the Dash 10 program is minimal evidence of interchange as it was voluntary and represented a unique opportunity for employees to gain experience working on an experimental prototype.

³⁰ The Union proposed, as an alternate unit, to also include the 10 employees from the cabin systems team. I find that these employees need not be included because, despite their contact with the FRTs and FRTIs due to their location on the Flight Line and shared first-line supervision with FRTIs, the other factors such as difference in terms and conditions and skills and training, weigh heavily towards excluding the cabin systems employees from the bargaining unit.

³¹ At my direction, the Hearing Officer received into the record, over Petitioner’s objection, the Employer’s Statement of Position, which the Employer had timely filed with the Region, but did not serve on the Petition until several hours after the time for doing so. On further consideration, and noting particularly the Board’s Decision in *Brunswick Bowling Products, LLC*, 364 NLRB No. 96 (2016), I conclude that I erred in instructing the Hearing Officer to receive the Employer’s timely-filed but late-served Statement of Position. Because the unit Petitioner sought is not a presumptively-appropriate unit, I would have instructed the Hearing Officer to develop a record regarding the appropriateness of the petitioned-for unit even if I had directed her to reject the Employer’s Statement of Position as untimely served under *Brunswick Bowling Products, LLC*. Notwithstanding that my earlier ruling was in error, I do not find that my error prejudiced Petitioner in this instance, where I would have directed the Hearing Officer to conduct an evidentiary hearing regarding the appropriateness of the unit in any event and based on that record am directing an election in the petitioned-for unit despite my consideration of the Employer’s Statement of Position. By contrast, if I were to reverse my ruling now and reject the Statement of Position after the hearing has

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time hourly DEJ1 flight-line readiness technicians (FRT) and DEJ1 flight-line readiness technician inspectors (FRTI) employed by The Boeing Company at its manufacturing plant in North Charleston, South Carolina, excluding all other employees, including managers, supervisors, professional employees, guards, and supervisors as defined in the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Association of Machinists and Aerospace Workers, AFL-CIO.

A. Election Details

The election will be held on **Thursday, May 31, 2018**, at the times and locations as set forth on page 7 of the Employer's statement of position.

closed and the parties have filed their briefs, such could be prejudicial to the Employer, which may have foregone submitting other evidence or advancing arguments in reliance on my erroneous instruction that the Hearing Officer receive the Statement of Position. Therefore, I do not reverse this non-prejudicial error.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **May 10, 2018**, 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 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 regional director and the parties by **May 23, 2018**. 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.nlr.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.nlr.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 these 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 accompanying 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.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the 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: May 21, 2018

John D. Doyle Jr., Regional Director
Region 10
National Labor Relations Board
Harris Tower
223 Peachtree Street N.E.
Atlanta, GA 30303-1531