

**Office of Congressional Workplace Rights
LA 200, John Adams Building
110 Second Street, SE Washington, DC 20540-1999**

Plumbers & Gasfitters Local 5, United)		
Association of Journeymen & Apprentices)		
of the Plumbing & Pipefitting Industry)		
Petitioner,)		
and)		Case No. 25-LM-01 (R)
))		
Architect of the Capitol, Capitol Power Plant))		
Respondent.)		
))		

Before the Board of Directors: Barbara Childs Wallace, Chair; Susan S. Robfogel; Alan V. Friedman; Roberta L. Holzwarth; Barbara L. Camens, Members.

DECISION AND DIRECTION OF ELECTION

Plumbers & Gasfitters Local 5, United Association of Journeymen & Apprentices of the Plumbing & Pipefitting Industry (Union) filed a petition on January 29, 2025, with the Board of Directors of the Office of Congressional Workplace Rights (OCWR) seeking to represent employees of the Capitol Power Plant (CPP), which is under the jurisdiction of the Architect of the Capitol (Employing Office or AOC). In response to the petition, the Board, acting pursuant to its authority under Chapter 71 of title 5, United States Code, as applied by section 220 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. § 1351, and OCWR regulations, has investigated the petition. The issue before the Board is whether several positions the Union seeks to include in the proposed bargaining unit are supervisors under OCWR Substantive Regulation § 2421.3(i) and therefore must be excluded from the unit.

I. Background

The Union seeks to represent a group of employees of the Capitol Power Plant, which provides buildings on Capitol Hill with steam and chilled water for heating and cooling and maintains the necessary infrastructure to do so. The petition seeks a representation election for a proposed bargaining unit composed of employees of the Operations and Engineering Divisions of the CPP.

The Operations Division operates chillers and boilers that provide chilled water and steam. The chillers are located in the refrigeration plant, and the boilers are located in the boiler plant, with each plant serving as a duty station. The boiler plant also contains a “cogeneration” unit, which generates electricity. A control room located in the boiler plant is an additional duty station. The Operations Division is divided into four shifts working 12-hour shifts. Each shift is ordinarily composed of a Power Plant Operator Supervisor, a Power Plant Operator Assistant Supervisor, a Control Room Operator Leader, and three Power Plant Operators, though some shifts are short-staffed. The Power Plant Operator Supervisor, Power Plant Operator Assistant Supervisor, and

Control Room Operator Leader are generally stationed in the control room. The Power Plant Operators are generally stationed in one of the plants and at the cogeneration unit, where they do rounds. On each shift, a Power Plant Operator Supervisor oversees work assisted by a Power Plant Operator Assistant Supervisor. The Control Room Operator Leader is stationed in the control room and monitors operations remotely via a computer system. The Operations Division is overseen by a General Supervisor for Operations.

The Engineering Division consists of four branches, of which only the Electrical Branch is at issue here. The Electrical Branch consists of six High Voltage Electricians, an Electrician, a High Voltage Electrician Assistant Supervisor, and a High Voltage Electrician Supervisor. These employees maintain and repair all of the electrical equipment in the CPP, and work throughout the CPP.

While most of the Electrical Branch maintains a standard schedule, four High Voltage Electricians are scheduled to assist the Operations Division and therefore work a similar 12-hour shift. Employees of this branch perform routine and preventative maintenance and handle work orders for corrective maintenance, the details of which are ordinarily communicated electronically.

II. Proposed Bargaining Unit

The Union describes the proposed bargaining unit it seeks to represent as follows:

Included: All Control Room Operator Leaders, Electricians, High Voltage Electrician Leader, High Voltage Electricians, High Voltage Electrician Assistant Supervisors, High Voltage Electrician Supervisors, Instrumentation Controls Technicians, Insulators, Maintenance Mechanics, Maintenance Mechanic Lead, Power Plant Operators, Power Plant Operator Workers, Power Plant Operator Supervisors, Power Plant Operator Assistant Supervisors, and Welders employed by the Employing Office in its Engineering Division and Operating [sic] Division located at the Capitol Power Plant located at 25 E Street, SE, Washington, D.C. 20003.

Excluded: All non-skilled laborers, diesel generator mechanics, coal/laborers, management officials, supervisors as defined by 5 U.S.C. § 7103(10), and employees described in 5 U.S.C. §§ 7112(b)(2), (3), (4), (6) and (7) in its Engineering Division and Operating [sic] Division, as well as all employees in its Utility Services Division.

Joint Ex. 10, Joint Stipulations ¶4.

The Employing Office opposes including in the proposed unit the Control Room Operator Leaders, High Voltage Electrician Assistant Supervisors, High Voltage Electrician Supervisors, Power Plant Operator Assistant Supervisors, and Power Plant Operator Supervisors on the grounds that the employees in these positions are statutory supervisors as set forth in 5 U.S.C. § 7112(b)(1) of the Federal Service Labor-Management Relations Statute (FSLMRS), which is

incorporated into the CAA in 2 U.S.C. § 1351(a)(1), and as defined by OCWR Substantive Regulation § 2421.3(i). *Id.* at ¶5. OCWR held a hearing on January 13 and 14, and February 12, 2026, during which the parties presented testimony and documentary evidence regarding the duties of the disputed positions.

The parties agree and have stipulated to the bargaining unit status of all other positions. The Employing Office does not dispute that the unit sought is appropriate. The parties agree that none of the positions at issue are professional positions as defined by OCWR Substantive Regulation § 2421.3(n).

III. Analysis

The Employing Office contends that five positions are statutory supervisors and therefore must be excluded from the new bargaining unit: Power Plant Operator Supervisors, Power Plant Operator Assistant Supervisors, Control Room Operator Leaders, High Voltage Electrician Supervisor, and High Voltage Electrician Assistant Supervisor. During the hearing, the evidence presented dealt principally with evaluating, hiring, assignment, and discipline.

A. Indicia of Supervision

OCWR Substantive Regulation § 2421.3(i) defines “supervisor,” in pertinent part, as:

an individual employed by an employing office having authority in the interest of the employing office to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment. . . .

This definition tracks the definition of “supervisor” found in the FSLMRS. 5 U.S.C. § 7103(a)(10). That definition is based upon the definition found in the National Labor Relations Act. 29 U.S.C. § 152(11).¹

“An employee need only exercise or effectively recommend any one of the supervisory criteria set forth in the statute to be found a supervisor, as long as the employee consistently uses the requisite independent judgment in connection with the exercise or effective recommendation of that criterion.” *Office of the U.S. Senate Sergeant at Arms and Nat’l Ass’n of Broadcast Empls. and Technicians, CWA, AFL-CIO*, 1998 WL 35281338, Case No. 97-LM-3, at *3 (OOC March

¹ Here, AOC claims that fully half of the employees on each Operations shift are supervisors. Although it has not seen application under the FSLMRS, the National Labor Relations Board (NLRB) will consider, as a secondary indicium, the ratio of supervisors to non-supervisors, whether too high or too low, though it is not determinative. *See Ken-Crest Services and Pennsylvania Social Services Union, Local 668, SEIU*, 335 N.L.R.B. 777, 779 (2001). The NLRB has expressed at least some skepticism when faced with a ratio of 5 supervisors for 11 employees. *Welsh Farms Ice Cream, Inc. and Milk Drivers and Dairy Empls. Local No. 680, of the Int’l Brotherhood of Teamsters*, 161 N.L.R.B. 748, 751 (1966).

17, 1997) (*NABET II*) citing *inter alia* U.S. Dep't of the Navy, Portsmouth Naval Shipyard, Portsmouth, N.H., 38 F.L.R.A. 764, 766, 768-69 (1990).

1. Assignment

In the absence of Board precedent analyzing the supervisory indicia of assignment, we look to the Federal Labor Relations Authority (FLRA) and NLRB decisions for guidance. The FLRA “generally follows the NLRB’s definition of ‘assign’ and finds that assignment is the act of ‘designating an employee to a place (such as a location, department or wing), appointing an individual to a time (such as a shift or overtime period) or giving significant overall duties to an employee.’” FLRA Representation Caselaw Outline, p. 51 (2020) citing *Oakwood Healthcare, Inc. and Int’l Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO*, 348 N.L.R.B. 686, 689 (2006). If there is only one obvious and self-evident choice or if the assignment is made solely on the basis of equalizing workloads, then the assignment is routine or clerical in nature and does not implicate independent judgment, even if it is made free of the control of others and involves forming an opinion or evaluation by discerning and comparing data. *Oakwood Healthcare, Inc.* 348 N.L.R.B. at 693. Assignment of employees to duty stations on a rotating or equitable basis does not require the consistent exercise of independent judgment. *Dep’t of the Navy, Naval Undersea Warfare Engineering Station, Keyport, Washington and AFGE, Local 48*, 7 F.L.R.A. 526, 532 (1981). An employee who does “not have the authority to ‘independently perform’ any of the duties set forth in the statutory definition of a supervisor” and who “assigns and directs employees solely based on his technical expertise and does not have the authority to assign overtime—as opposed to request voluntary overtime—or change an employee’s shift” is not a supervisor. *Social Security Admin. and AFGE*, 60 F.L.R.A. 57, 59-60 (2004). Further, grants of overtime constrained by staffing levels or established procedures tend not to support a finding of independent judgment in assignment. *U.S. Dep’t of the Navy Commander, Navy Region Northwest Fire and Emergency Services, Silverdale, Washington and Int’l Ass’n of Fire Fighters Local F-282, AFL-CIO*, 70 F.L.R.A. 231, 236 (2017). The authority to request but not require employees to work overtime to complete a project on a given day, subject to policy constraints, does not involve independent judgment in assignment. *Ryder Truck Rental, Inc. and Int’l Brotherhood of Teamsters, Local Union No. 118*, 326 N.L.R.B. 1386, 1387 (1998).

Employees who set work priorities, review employees’ work for quality and completion, and are responsible for the quality of the work produced have been found to exercise independent judgment in directing employees. *The Adjutant General State of Vermont, Vermont Air National Guard and The Green Mountain Chapter, Ass’n of Civilian Technicians, Inc.*, 5 F.L.R.A. 779, 784 (1981). Reassignment of work, especially where an individual changes work priorities, is evidence of supervision. *U.S. Dep’t of Energy, Western Area Power Admin., Lakewood, CO and AFGE*, 60 F.L.R.A. 6, 9 (2004). However, an individual who does not set work priorities and who routinely distributes work to employees is not a supervisor, even where such individual occasionally considers expertise and ability. *U.S. Dep’t of Labor, Washington, D.C. and AFGE, Local 12*, 59 F.L.R.A. 853, 853-856 (2004).

2. Hiring

The principal case on hiring is *U.S. Dep't of Veterans Affairs, Veterans Administration Medical Center, Allen Park, MI and American Federation of Government Employees, Local 933*, 35 F.L.R.A. 1206 (1990). In that case, two foremen, including a second shift foreman, were found to be supervisors where they jointly hired a clerical. *Id.* at 1207. Despite the collaborative nature of the hiring process, the FLRA determined that the night foreman exercised independent judgment in hiring because the night foreman was required to form his own preliminary assessment of the candidate and because the night foreman could reject a candidate favored by the other foreman. *Id.* at 1212.

3. Evaluation

Although conducting performance evaluations is not specifically mentioned in the FSLMRS or regulations, an individual may be a supervisor if he or she “exercises independent judgment in evaluating employee performance, and . . . that evaluation is relied [upon] by upper-level management in taking an action listed among the indicia of supervisory authority specified in [§] 7103(a)(10), thereby constituting an effective recommendation of that action.” *NABET II*, at *3 citing *U.S. Dep't of the Interior, Bureau of Indian Affairs, Navajo Area Office, Gallup, N.M. and Am. Fed of Teachers, Nat. Council of Bureau of Indian Affairs Educators*, 45 F.L.R.A. 646, 651 (1992). See also *U.S. Dep't of the Interior, National Park Service, U.S. Park Police and U.S. Park Police Sergeants Ass'n*, 69 F.L.R.A. 31, 40 (2015) (ALJ decision).

4. Discipline

There is very little case law detailing the indicium of discipline under the FSLMRS. Where an employee cannot recommend letters of reprimand without the approval of upper management or further discipline without investigation by upper management, such an employee is not a statutory supervisor. *Undersea Warfare*, 7 F.L.R.A. at 532-33. An employee who reports unprofessional behavior to a supervisor and issues a written warning at the supervisor's direction would not meet the definition of a supervisor. *U.S. Small Business Admin., Dist. Off., Casper, Wyoming and Solidarity, U.S.A.*, 49 F.L.R.A. 1051, 1062 (1994).

B. Application of the Indicia to the Positions at Issue

1. Power Plant Operator Supervisors

The Employing Office introduced testimony that Power Plant Operator Supervisors are involved in hiring, assignment of work, and evaluation of employees. None of the Power Plant Operator Supervisors testified that they had been involved in discipline.

The Power Plant Operator Supervisors sit on hiring panels. At least one member of the three-member panels is from upper management. Tr. 1:186, 243; 2:341; 3:547. At the CPP, the interviewers on hiring panels use pre-written questions. Tr. 1:80. The responses are scored on a scale of 1 to 5. Tr. 2:341-342. A recommendation to hire from the panel is based on a majority

vote. Tr. 1:244-245. That recommendation is also based in some way upon the candidate's numerical score. Tr. 2:460-461. The panels for Operations may include Power Plant Operator Supervisors and Power Plant Operator Assistant Supervisors in the first round of interviews; however, candidates are also interviewed by upper management before a decision to accept or reject a candidate is made. Tr. 2:357; 3:578. The Power Plant Operator Supervisors use pre-written questions, provided to them by their supervisors, the responses to which are scored numerically, demonstrating more involvement by upper management in the decision making. As members of the hiring panel, they can vote on a candidate but their vote cannot on its own reject or accept a candidate, as was the case in *VA Allen Park*. Although some structured hiring processes may involve sufficient independent judgment, based on the specific evidence presented here, the Power Plant Operator Supervisors do not exercise consistent independent judgment when they interview candidates in the hiring process and therefore do not exercise supervision therein.

Work priorities for the Operations Division are set by the General Supervisor and not by the Power Plant Operator Supervisor. Tr. 1:172; 2:433. The General Supervisor also issues directives during his workday or via the night orders. Tr. 1:166. The Power Plant Operator Supervisors will call the General Supervisor outside of his regular tour of duty if issues arise. Tr. 1:111. Power Plant Operator Supervisors assign Power Plant Operators to either the refrigeration plant or the boiler plant. Tr. 1:73, 176. There is no evidence that assignments to one plant or the other are based upon any specific criteria. *See* Tr. 3:560. Operators are called to leave their duty stations and assist when multiple employees are needed to perform a task and not based on any other criteria. Tr. 3:562. Based on the evidence presented at the hearing, the Power Plant Operator Supervisors do not exercise independent judgment in making assignments.

Moreover, regarding the assignment of overtime, the General Supervisor for Operations testified that he had the authority to force overtime, but the Power Plant Operator Supervisors do not have the authority to force overtime, nor do the Power Plant Operator Assistant Supervisors. Tr. 2:444-45. More than four hours of overtime cannot be granted by the Power Plant Operator Supervisors without approval from a higher-level supervisor. Tr. 1:177. Accordingly, the Power Plant Operator Supervisors do not exercise independent judgment with regard to overtime.

The Power Plant Operator Supervisors evaluate employees using a computer application to calculate a numerical score for the employees working under them as part of their annual performance evaluations. Tr. 1:77, 185; 2:451; 3:543, 575. The system rates employees on five factors. Employing Office Ex. 4. The employees conducting the evaluations rate employees in those areas on a score of 1 to 5. Tr. 1:133. The evaluations are reviewed by upper management and returned to the supervisor, and in most cases the reviews are not rejected. Tr. 1:77, 186; 2:452; 3:545, 576. The Power Plant Operator Supervisors sign the evaluations. Tr. 1:77, 185. They also review the evaluations with the employees whom they evaluate. Tr. 1:77, 198-99; 3:545, 3:576. At least some of the evaluators include narrative comments in their evaluations. Tr. 2:453; 3:575; Employing Office Ex. 4. The evaluations are the basis for annual bonuses, which are directly related to the scores. Tr. 2:340, 377, 453-54; 3:546.

The evaluation process here does not rate employees on as many areas as was the case in *NABET II*, which involved 11 factors for evaluation with only 3 scores possible. *NABET II* at *4.

Otherwise, the evaluation process here resembles that of *NABET II*. The totality of the circumstances shows that the Power Plant Operator Supervisors exercise independent judgment in arriving at the ratings in their evaluations. The evaluations here can be distinguished from the mere checklists seen in *U.S. Department of Agriculture Rural Housing Service Centralized Servicing Center and AFGE, Local 3354*, 67 F.L.R.A. 207, 209 (2014). What also distinguishes the evaluations here from *Rural Housing Service*—and puts them in line with *Navajo Area Office* and *NABET II*—is that upper management rely on those evaluations for the purposes of awarding annual bonuses. Ultimately, the evaluations serve as effective recommendations of rewards. Accordingly, the Power Plant Operator Supervisors are supervisors as defined by the FSLMRS and OCWR Substantive Regulation § 2421.3(i) and must be excluded from the bargaining unit.

2. Power Plant Operator Assistant Supervisors

The Power Plant Operator Assistant Supervisors (Assistants) are not supervisors as defined by the FSLMRS and OCWR Substantive Regulation § 2421.3(i).

The Assistants are involved in the assignment/distribution of work in a manner similar to that of Power Plant Operator Supervisors. Tr. 1:190. They cannot force overtime. Tr. 2:44-45. The Assistants are sometimes part of hiring panels. See Tr. 1:242-45; 2:340-45; 2:379-81. The Assistants may have input on evaluations but do not actually rate employees in the computer system. Tr. 2:338, 376. The Assistants do not exercise sufficient independent judgment in assignment, hiring or evaluation.

Two of the Assistants reported some involvement in isolated incidents of purported discipline, while noting that disciplinary issues were rare. Tr. 2:345, 384. One Assistant discussed issuing a letter of reprimand but could not remember or provide details about the letter or the process followed. Tr. 2:345-48. He noted that he discovered the issue that led to the purported discipline, but “the front office took it over after that.” *Id.* Another Assistant had to deal with an employee who had attendance problems while his supervisor was out. Tr. 2:381-84. The Assistant turned over the issue to his supervisor and was unaware how it was resolved. *Id.* There is no evidence that the Assistants effectuate discipline without the approval of upper management. In fact, there is little indication that they did more than report the misconduct and possibly relay the letter of reprimand to the employee. Based on the evidence presented, the Assistants do not exercise independent judgment in effectuating discipline.

In sum, the Power Plant Operator Assistant Supervisors are not supervisors as defined by the FSLMRS and OCWR Substantive Regulation § 2421.3(i) and therefore must be included in the new bargaining unit.

3. Control Room Operator Leaders

Control Room Operator Leaders (Leaders) do not exercise independent judgment with regard to any of the indicia of supervision. Therefore, Control Room Operator Leaders are not supervisors and must be included in the new bargaining unit.

The Leaders are ordinarily stationed in the control room, in front of numerous computer screens. Tr. 1:39-40. They monitor information from a variety of machinery and control certain processes remotely. Tr. 2:395, 2:446. Certain machinery cannot be fully operated remotely, requiring the Leaders to send operators out to start, stop, or otherwise manipulate machinery. *See* Tr. 2:400-401. Leaders may task other employees with responding to emergencies. Tr. 1:269; 2:365, 400. This may entail “reassigning” operators from their assigned stations in one of the plants when work requires multiple employees. Tr. 1:68-69; 3:562, 584. Leaders issue such directions in consultation with their superiors, even in an emergency. Tr. 1:32; 2:420-22. There is no evidence in the record that the Leaders can approve overtime or leave. It is clear that Control Room Operator Leaders do not exercise independent judgment in the assignment of work.

The Leaders are not involved in hiring. Tr. 1:52, 271; 2:418. The Leaders are not involved in discipline. Tr. 1:52, 271-72; 2:417. The Leaders do not evaluate other employees. Tr. 1:53, 270; 2:412.

As such, the Leaders are not supervisors as defined by governing statute and regulations.

4. High Voltage Electrician Supervisor

The work of the Electrical Branch is to perform preventative maintenance and to perform corrective maintenance in response to work orders, which can be submitted by any employee. Tr. 1:125. All of the preventative maintenance and corrective maintenance work orders are contained in an application called WebTMA, which is available to all employees. *Id.* Employees know their work orders and other tasks that they need to complete and do their rounds. Tr. 1:132. The High Voltage Electrician Supervisor distributes work based upon which employees are simply available and attempts to balance workloads. Tr. 1:155. The High Voltage Electrician Supervisor elaborated that he distributes work without concern for the qualities of the individual employees. Tr. 1:155-156. The High Voltage Electrician Supervisor does not grant overtime but instead requests it from his General Supervisor. Tr. 3:506. Accordingly, the High Voltage Electrician Supervisor does not assign work with sufficient independent judgment.

The High Voltage Electrician Supervisor participates in hiring panels. Tr. 1:137. He has reviewed resumes but indicated that the goal was to interview all of those who submitted resumes. Tr. 1:137. The hiring panel involved pre-written questions and scores of one to five. Tr. 1:138. Recommendations of the hiring panel were on the basis of a majority vote. Tr. 1:138. While he can vote on a candidate, his vote cannot on its own reject or accept a candidate. *VA Allen Park*, 35 F.L.R.A. at 1212. Accordingly, based upon the specific evidence presented here, he does not exercise sufficient independent judgment with regard to hiring.

The High Voltage Electrician Supervisor evaluates the employees working under him, using a computer application to calculate a numerical score for the employees working under him as part of their annual performance evaluations. Tr. 1:133. The program provides for rating employees in those areas on a score of one to five. Tr. 1:133. The evaluations are reviewed by upper management and returned to the supervisor, and, in most cases, the reviews are not rejected. Tr. 1:134. The High Voltage Electrician Supervisor signs the evaluations. Tr. 1:133-34. He also reviews the evaluations with the employees that he evaluates. Tr. 1:134. The evaluations are the

basis for annual bonuses, which are directly related to the scores. Tr. 3:527. Like the evaluations performed by the Power Plant Operator Supervisors, the High Voltage Electrician Supervisor's evaluations are comparable to those in *NABET II*. Upper management relies on these evaluations, including for the purposes of awarding annual bonuses. Ultimately, the evaluations serve as effective recommendations of rewards. Accordingly, the High Voltage Electrician Supervisor is a supervisor as defined by the FSLMRS and OCWR Substantive Regulation § 2421.3(i) and must be excluded from the bargaining unit.

It is also more likely than not that the High Voltage Electrician Supervisor exercised independent judgment with regard to discipline. The High Voltage Electrician Supervisor testified that he was involved in a disciplinary matter based upon safety violations. Tr. 1:140. He recommended a three-day suspension. Tr. 1:141. Upper management accepted his recommendation. Tr. 1:142. At the same time, he was unclear about how his recommendation was processed or ultimately how it was approved or by whom. *See* Tr. 1:147-49. He also indicated that he wanted to terminate the employee in question but was required to pick from a list of penalties provided by HR instead. *See* Tr. 1:153-54. Since the Board finds the High Voltage Electrician Supervisor a supervisor on another basis, the Board need not reach a decision on this point.

5. High Voltage Electrician Assistant Supervisor – (vacant)

Although an employee who had previously encumbered the position of High Voltage Electrician Assistant Supervisor testified at the hearing, the position is currently vacant. The Board, like the FLRA, does not address the bargaining unit status of vacant positions. *Office of Communications Media*, 1997 WL 34678670 at 3. *See also U.S. Dep't of Labor, Occupational Safety and Health Administration, San Francisco, California and AFGE, Local 2391, AFL-CIO*, 70 F.L.R.A. 353, 356 (2018) *citing Dep't of the Treasury, Bureau of the Mint, U.S. Mint, Denver, CO, and AFGE, Local 695*, 6 F.L.R.A. 52, 53 (1981). The FLRA insists on testimony regarding the current duties of incumbents rather than testimony regarding past duties. *U.S. Mint, Denver*, 6 F.L.R.A. at 53.

IV. Conclusion

Accordingly, the Power Plant Operator Supervisors and High Voltage Electrician Supervisor are statutory supervisors and should be excluded from the bargaining unit as such. The Power Plant Operator Assistant Supervisors and Control Room Operator Leaders are not statutory supervisors and should be included in the bargaining unit. The High Voltage Electrician Assistant Supervisor position is vacant. Therefore, the Board will not determine at this point whether to include or exclude that position from the unit. Either party is free to petition for clarification at a later date, absent agreement between the parties regarding the position's status. *See Office of Communications Media, Office of the Chief Administrative Officer and Nat'l Ass'n of Broadcast Employees and Technicians, CWA, AFL-CIO (NABET I)*, 1997 WL 34678670, Case No. 96-LM-2, at *3 (OOC March 17, 1997).

DIRECTION OF ELECTION

An election by secret ballot shall be conducted among employees in the following unit, as early as possible, but not later than 40 days from the date of this decision:

Included: All Control Room Operator Leaders, High Voltage Electrician Leaders, Electricians, High Voltage Electricians, Instrumentation Controls Technicians, Insulators, Maintenance Mechanics, Maintenance Mechanic Lead, Power Plant Operators, Power Plant Operator Workers, Power Plant Operator Assistant Supervisors, and Welders employed by the Employing Office in its Engineering Division and Operations Division located at the Capitol Power Plant located at 25 E Street, S.E., Washington, D.C. 20003.

Excluded: All non-skilled laborers, diesel generator mechanics, coal/laborers, management officials, supervisors as defined by 5 U.S.C. § 7103(10), and employees described in 5 U.S.C. §§ 7112(b)(2), (3), (4), (6), and (7) in its Engineering Division and Operations Division, as well as all employees in its Utility Services Division.

The Executive Director of the OCWR (or his designee) shall supervise and conduct the election, subject to Part 2422 of OWCR's Substantive Regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or on furlough, including those in military service who appear in person at the polls. Ineligible to vote are employees who have quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote within the appropriate unit shall vote whether or not they wish to be represented for the purpose of exclusive recognition by the Petitioner, Plumbers & Gasfitters Local 5, United Association of Journeymen & Apprentices of the Plumbing & Pipefitting Industry of the United States and Canada, AFL-CIO or no labor organization.

Issued, Washington, D.C., June 16, 2026