UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

THE BOEING COMPANY

Employer

and Case 19-RC-15372

SOCIETY OF PROFESSIONAL ENGINEERING EMPLOYEES IN AEROSPACE (SPEEA), LOCAL 2001

Petitioner

DECISION AND CONDITIONAL ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act ("the Act"), as amended, a hearing was held before a hearing officer of the National Labor Relations Board ("the Board"). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, the undersigned makes the following findings and conclusions.[1]

I. SUMMARY

The Boeing Company ("the Employer") designs, manufactures and sells aircraft that are operated throughout the world by airlines, governments and other entities. In conducting its operations, the Employer employs tens of thousands of employees, a significant portion of which are engineers. The Society of Professional Engineering Employees in Aerospace (SPEEA), Local 2001 ("Petitioner"), currently represents approximately 14,000 of the Employer's engineering employees employed at various locations in Washington State and California.

Petitioner seeks a self-determination election among a voting group of approximately 92 Field Service Representatives ("FSRs") within the Boeing Commercial Airplanes division, working within the United States to determine whether the FSRs wish to join the existing engineering unit. The Employer opposes the petition, asserting the voting group lacks a community of interest with the engineering unit to make the election sought appropriate.[2] The Employer also asserts the FSRs are not professionals under Section 2(12) of the Act. The Employer further asserts FSR Team Leaders in the voting group are supervisors under Section 2(11) of the Act and, therefore, must be excluded. In response, Petitioner asserts the voting group meets the community of interest and sufficiently distinct requirements for the

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[1] The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 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. The labor organization involved claims to represent certain employees of the Employer and 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.

[2] The Employer asserts the requested voting group would constitute an appropriate stand alone bargaining unit, but Petitioner is not seeking this option.

election sought, the FSRs are professionals and engineers, and the FSR Team Leaders are not supervisors.

I have carefully reviewed and considered the record evidence and the arguments of the parties, both at hearing and in post-hearing briefs.[3] For the reasons expressed below, I find that the petitioned-for self-determination election is improper. Specifically, I have concluded, consistent with the Employer, that the FSRs are not professionals as defined by Section 2(12) of the Act.[4] Accordingly, the election sought seeks to place non-professionals in a professional unit, and absent further action by Petitioner, I will dismiss the petition. In light of this conclusion, I do not find it necessary to address the substance of Petitioner's and Employer's additional arguments at this time, but will instead address these issues in a Supplemental Decision, if necessary.[5]

Below, I have set forth the relevant evidence contained in the record, as well as the legal standard utilized by the Board in regard to professional determinations. Following that portion of the Decision, I have applied those standards to the evidence and articulated the rationale for my determination. Following my conclusion regarding professional status, I have addressed the option available to Petitioner if it intends to proceed with this matter, my conditional order, and the process for requesting review of this decision.

II. RECORD EVIDENCE

A. The Employer's Operations

The Employer, which develops, manufactures, and sells commercial and military aircraft throughout the world, also provides extensive support services for those same aircraft. In conducting its business, the Employer employs tens of thousands of employees in the United States and numerous foreign countries. The production of aircraft requires design and manufacturing capability on a vast scale and while the Employer has a worldwide presence, many of its employees are clustered at several large bases of production in the United States. Three of these bases of production, the Seattle metropolitan area in Washington State, and Edwards Air Force Base, California, and Long Beach, California, are relevant to the instant case.[6]

Although the Employer's organization is complex, the FSRs at issue are located in a limited number of subdivisions. At the first level of division, the Employer is divided into four major business units: Boeing Commercial Airplanes ("BCA"), which manufactures and sells commercial aircraft; Boeing Defense Services ("BDS"), which manufactures and sells military aircraft and aerospace products; Engineering, Operations and Test ("EO&T") a core engineering group that provides engineering resources and research to the entire company; and the Shared Services Group ("SSG") which contains the business structure of the Employer. Engineers are a critical and significant part of each business unit. The FSRs at

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[3] The Employer and the Union timely filed briefs, which were duly considered.

[4] The parties' stipulate the engineers in the existing bargaining unit are professionals as defined by the Act and I accept this stipulation.

[5] On brief, the Employer makes extensive arguments regarding the geographic boundaries and bargaining history of the engineering unit. I treat these as community of interest factors, not separate considerations. If necessary, these arguments will be addressed in a Supplemental Decision as part of a community of interest analysis.

[6] The Seattle metropolitan area includes the Employer's facilities in Seattle, Everett, Tukwila, Renton, and Sea-Tac, Washington. Edwards Air Force base includes facilities at Edwards Air Force Base and Palmdale, California.

issue in the instant case are all employed within BCA.

Within BCA, approximately 89 FSRs are located within the Commercial Aviation Services group, while 3 are located within the Boeing Business Jets subdivision of the sales group.[7] Commercial Aviation Services includes both support services for the introduction of new aircraft models, and a Fleet Services subdivision, both of which contain FSRs.

Currently, approximately 29 FSRs are designated Introduction Representatives ("intro reps") and are assigned in varying capacities to the introduction of new models.[8] The other 60 FSRs are assigned to the Technical Customer Support subdivision, which provides engineering and maintenance support to airline customers' existing fleets. Technical Customer Support contains two organizational groups that include FSRs, Field Service and Customer Support Engineering. Within Field Service, 37 FSRs are located throughout the United States with airline customers as "co-located" FSRs. Eight FSRs are located in the Employer's Seattle Support Center. Within Customer Support Engineering are 15 FSRs, classified as "controllers," employed at the Boeing Operations Center ("BOC") in Seattle.[9]

For ease of review, the classifications of FSR in the voting group are reflected in the following table:

Classification	**Department**	**Number**
Co-located FSR	Technical Customer Support-Field Service	37
FSRs	Boeing Business Jets	3
Intro Reps	787/747-800 Introduction	29
FSRs in Seattle Support Center	Technical Customer Support-Field Service	8
Controllers	Technical Customer Support - Customer Support Engineering	15

The Employer categorizes customers as either first-tier or second-tier and provides levels of support based on this categorization. First-tier customers are those who are the initial operator of an aircraft.[10] Second-tier customers are those that have purchased a used aircraft. As a general matter, first-tier customers tend to be the larger airlines, supported by a co-located FSR, and second-tier smaller airlines, supported by the Seattle Support Center.

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[7] When addressing the number of FSRs in a classification, on a given assignment, or in a certain role, the record is at times inconsistent, although the variations are small and not material to my findings. Where the record is internally inconsistent, I have relied on my calculation derived from Employer's Exhibit 27.

[8] Some of the 29 Intro Reps referenced are currently on loan to other programs, the specifics are discussed in the portion of this Decision addressing the intro rep classification.

[9] At points in the record, including Employer's Exhibit 27, there is reference to 16 controllers, including Support Engineering Manager Christopher Chong. Testimony indicated Chong is on a temporary, but lengthy, assignment as a shift manager in the BOC, but that he has not acted as a controller. As the record does not contain sufficient evidence to address his managerial status or the extent to which his position is temporary, I would vote him subject to challenge if I were directing an election. For the purposes of this Decision, I have excluded Chong from discussion of "controllers."

[10] Airlines either purchase aircraft directly from the Employer or obtain the aircraft through a third party lease agreement, but this difference does not impact on their first-tier status as the initial operator.

FSRs in all classifications interact regularly with the Employer's Service Engineering infrastructure. Service Engineering as a general term refers to engineering departments that work with aircraft in service, as distinguished from engineering departments that design and develop new aircraft. The engineers in new aircraft development are referred to as design engineers, or engineers "at the factory." Service engineers support aircraft in service by issuing "service bulletins," technical documents that are essentially a constantly updated maintenance manual, and responding to specific issues facing customers, submitted to their attention by "service requests," a document describing a technical issue and requesting a solution. As it relates to this case, service engineers are located in the Employer's Customer Support Engineering department. Customer Support Engineering for aircraft produced under the Employer's name is located in Seattle; Customer Support Engineering for McDonnell Douglas aircraft is located in Long Beach.[11]

The Employer produces a wide variety of products, but several aircraft require specific mention. Commercial aircraft are identified as wide-bodied, those having two aisles in the passenger cabin, and narrow bodied, those having a single aisle. The Employer's wide-body aircraft currently in production include the 747, 767, and 777 models, as well as the 787 model expected to enter service in the near future. Narrow body aircraft produced by the Employer include the 737 and 757 models, as well as the MD-80 and MD-90 models.[12] When an existing aircraft design is updated to a significant degree, the Employer may add an additional model designator, such as the 747-800 model, a recently designed update to the established 747 model.

B. The Existing Bargaining Units represented by Petitioner

Petitioner has represented the engineering unit in Washington State since its certification by the Board in 1946.[13] Over time, employees in equivalent engineering positions at Edwards Air Force Base have also been included in the engineering unit. Presently, this unit numbers about 13,600 employees in 43 engineering classifications, and is identified in Article 1, Section 1.1(a) of the engineering agreement.[14]

In the 60+ years since certification, Petitioner has also come to represent a number of other engineers employed by the Employer. These additional bargaining units are addressed

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[11] The Employer's "Customer Support Engineering department" is referred to as such in documentary evidence but was generally referred to as "Service Engineering" in witness testimony. In an attempt to minimize confusion with the record I have referred to the department as "Customer Support Engineering" in discussing the Employer's organization, and "Service Engineering" when discussing the FSRs duties and responsibilities.

[12] The Employer merged with McDonnell Douglas, based in California, in the 1990's. Since the merger, the Employer has supported McDonnell Douglas aircraft in the same manner it supports its other aircraft.

[13] In the parlance of the parties, the existing professional bargaining unit of engineers is referred to as the "professional unit," to distinguish it from a "technical unit" of employees in Seattle and Edwards Air Force Base, also represented by Petitioner. While the "professional unit" descriptor is accurate, the terminology creates confusion when analyzing the FSRs professional status, the critical issue discussed at length in this Decision. Accordingly, the existing "professional unit" consisting of engineers will be referred to as the "engineering unit" in this decision. The current collective bargaining agreement covering the engineering unit will be referred to as the "engineering agreement."

[14] The unit in Section 1.1(a) is defined as:

> All persons working in [the Employer's] plants in the State of Washington, including persons who are on travel status from such plants, who are classified by [the Employer] in one of the classifications listed in Appendix B and including those persons assigned (other than on travel status) at Edwards AFB California or Palmdale, California who are classified by [the Employer] in one of the classifications listed in Appendix B.

in subsequent portions of Section 1.1 of the engineering agreement. Section 1.1(b) recognizes a bargaining unit of approximately 98 engineers employed in Weber and Davis Counties, Utah. Section 1.1(c) recognizes a bargaining unit of employees employed at the Employer's Atlantic Test Center in Florida, although no unit employees are currently employed at this location. Section 1.1(d) recognizes a bargaining unit of approximately 51 engineers employed in Portland, Oregon. Section 1.1(e) recognizes Petitioner as representative of approximately 886 engineers, at several locations, in the Employer's Safety, Health and Environmental Affairs (SHEA) division.[15]

Petitioner also represents a bargaining unit of technical employees working in the Seattle area and Edwards Air Force Base. A pending unit clarification petition regarding engineering unit employees located at Edwards Air Force Base is currently before the Board in 31-UC-311. The issues addressed by the petition do not impact the instant case. Petitioner does not represent engineers employed at the Employer's Long Beach facilities.

C. Employees at Issue

The voting group sought by Petitioner consists of employees in the FSR classification, employed in several departments and serving in different roles.[16] Some general aspects of the FSR position are addressed in the following section, particularly basic conditions of employment. Following this exploration of similarities among FSRs, the variation in the classification is explained in subsequent sections addressing the specific roles and assignments of FSRs. Where applicable, the terms and conditions discussed in regard to FSRs are compared to the terms and conditions of employment in the engineering unit.

1. Field Service Representative Basic Conditions of Employment

a. Education

As FSRs are not required to have an engineering degree, or a bachelor's degree, the FSRs in the petitioned-for groups have diverse educational backgrounds, ranging from no college to master's degrees. Although each classification of FSR has a different job description, and the education requirements differ, the job descriptions consistently state the education requirements may be met by an "equivalent combination of education and experience." The alternative use of experience to meet educational requirements appears common in the FSR position, as in reality approximately a third of the current FSRs have less than a bachelor's degree.

60 of the FSRs in the voting group have at least a bachelor's degree, 34 of which are in an engineering field. The non-engineering degrees held by the remaining FSRs include mechanical and technical degrees, but also degrees from an assortment of liberal arts and business programs.[17] The details of the FSRs educational backgrounds are discussed in more detail in the following sections.

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[15] The parties are not in agreement regarding whether the employees identified in Section 1.1(e) constitute a separate bargaining unit, although they did vote in a self determination election directed in Case 19-RC-13649 in 1999. That dispute is not material to the instant issue, and I have not addressed it here.

[16] Not all FSRs employed by the Employer are included in the voting group sought. FSRs are also employed in other business units, such as BDS. However, the voting group sought does include all domestic FSRs in BCA.

[17] The cornerstone of a mechanical or technical education is not the bachelor's degree, but an airframe and powerplant license ("A&P license"). An A&P license allows an individual to perform maintenance on an aircraft.

b. Experience

FSRs come from primarily two backgrounds within the Employer's organization, former engineers and aircraft mechanics, although these backgrounds are not exclusive. Work experience with the Employer is required prior to becoming an FSR; applicants are expected to have at least 5 years of experience. Approximately 80 percent of FSRs have 20 or more years of experience working for the Employer, including their time as FSRs. In addition, approximately 20 percent of FSRs previously held positions within the engineering unit prior to their current position.

c. Pay

All FSRs are classified under the same job code, GEC7, where the "GE" designates an employee performing product support in field service and the "C7" designates a specific job family within BCA and a level of accountability. In addition to the basic job code, each FSR is classified as a level 3, 4, or 5, with each increasing number designating an increase in ability. Job codes and levels are cross-referenced with the appropriate salary table to determine an employee's salary. The salary tables incorporate four geographic regions, to reflect the different cost of living in different areas.

The Employer utilizes the same salary table for engineering unit employees, and the record contains evidence regarding salary ranges for both the FSRs and the engineering unit in the aggregate. In the Seattle metropolitan area FSRs at level 3 have a salary minimum of $54,000, a mid-point of $77,000 and a salary maximum of $96,000. At level 4 FSRs have a minimum salary of $69,000, a mid-point of $98,000 and a maximum salary of $123,000. At level 5, FSRs have a minimum salary of $87,000, a mid-point of $124,000 and a maximum of $155,000. Some co-located FSRs in higher-cost areas are compensated on a salary table approximately 3 percent higher; some in lower-cost areas are compensated on a salary table approximately 3 percent lower.

Eight classifications in the engineering unit are paid on the same scale as FSRs. For example, level 4 maintenance engineers in the Seattle metropolitan area, have a minimum salary of $69,000, a mid-point of $98,000 and a maximum salary of $123,000, identical to that of level 4 FSRs. One classification of engineer is paid at a lower rate than FSRs, and approximately 30 classifications are paid at a higher rate; approximately 11 to 15 percent higher than FSRs. Several engineering unit positions also have a level 6, which correlates to higher pay, resulting in the highest paid engineers earning approximately 25 percent more than the highest paid FSRs.[18]

In general, FSRs are salaried employees exempt from overtime requirements as administrative employees under the Fair Labor Standards Act (FLSA). Controllers, however, are paid are paid an hourly rate and are eligible for shift differential and overtime, as are engineering unit employees in the BOC.

d. Benefits

FSRs receive the same benefits as employees in the engineering unit, including

[18] As may be expected based on the Employer's system, changing the geographic region does not significantly change the results. The highest earning engineering unit employee in Southern California earns approximately 22 percent more than the highest paid FSR in Southern California.

medical, early retiree medical, dental, short-term disability, long-term disability, life insurance, and others.[19] The Employer also operates several defined-benefit and defined-contribution retirement plans. Eligibility and participation in these plans varies, with date of hire being the primary determinate.

2. Field Service Representatives Co-located with Customers

Turning to the specific FSR classifications, the most numerous group are the 37 co-located FSRs. These are FSRs stationed with customers in the field, based at a first-tier customer's place of business, on an assignment designed to last 5 years. The Employer places an employee in the field with its customers because of the nature of aircraft sales; the sale of an aircraft is only the beginning of the relationship between the Employer and the customer. During the life of the aircraft, the customer is constantly receiving technical updates from the Employer's large service organization regarding safe and efficient operation. The Employer also keeps track of all its aircraft, monitoring their ownership, configuration, and use.

Commercial airlines, some of the Employer's largest customers, also maintain their own complex service organizations. The Employer has found efficiency in placing an FSR with its commercial airline customers. These co-located FSRs are able to coordinate contact and the exchange of information between the Employer's and the customer's respective service organizations.

While co-located FSRs are employees of the Employer, they have an office in the customer's office complex, and some of the co-located FSR's terms and conditions of employment such as hours of work and dress code, will match the standards of the customer, rather than the Employer. In regard to duties, at the most general level, a co-located FSR is a liaison, expected to develop an understanding of any cultural, political, or other factors that may impact how the customer relates with the Employer. More specifically, the co-located FSR is expected to perform both reactive and proactive tasks. Reactive work includes answering questions regarding the Employer's aircraft and providing guidance to the customers' engineers and mechanics when they are troubleshooting a technical issue with an aircraft. Proactive work includes building customer relationships, attending meetings, and acting as a liaison for other employees of the Employer.

Co-located FSRs do not modify, repair, or otherwise physically alter an aircraft. They are prohibited from performing this work, known as "touch labor," on an aircraft. Rather, this work is performed by the customer's mechanics.[20] Co-located FSRs also do not independently design engineering solutions to problems identified by a customer. This is ultimately done by the Employer's Service Engineering department. However, co-located FSRs do provide technical guidance such as providing information, discussing problems, and directing the customer's engineers to existing solutions. Co-located FSRs also assist customers in submitting service requests, the formal mechanism whereby a customer obtains technical support from the Employer. The distinction between designing an engineering solution and providing technical support is fine, and this work is addressed in detail in a following section.

Where more than one FSR is located with a customer, one is designated the team

[19] The parties stipulated that the benefits listed are identical for FSRs and the employees in the engineering unit.

[20] The prohibition on touch labor applies to all classifications of FSR.

leader. Of the 37 co-located FSRs, approximately 10 to 15 are classified as team leaders.

a. Hiring, Training, and Assignment

Employees in the Employer's Field Service Division, including co-located FSRs, are not hired under the Employer's standard hiring method. Under the Employer's standard hiring method, when a job opening is available, it is posted on the Employer's electronic job board, the Boeing Enterprise Staffing System, accessible by all employees. Applicants apply for the position and are selected for hire by management in the appropriate business unit, division or subdivision. In contrast, when any position in Field Service is open, it is merely posted as a field service position, not a specific job title. Applicants do not apply for a specific job then, but instead apply to work in the Field Service Division. A management team within Field Service then conducts several hiring interviews, addressing issues raised by a multi-year assignment to potentially distant parts of the world.[21] When a candidate is selected for entry into Field Service, they are placed in a specific training program referred to as First Base Training.

First Base training lasts approximately 90 days, and is completed at one of several designated bases. During the training period, the candidate must utilize the tools of a co-located FSR, described in detail in a following section, to complete a checklist of tasks. Candidates also are assigned to the Employer's Seattle Support Center for a period of time to familiarize themselves with the variety of departments in the Employer's organization with which a co-located FSR interacts. At the conclusion of first base training, the candidate is either selected to enter Field Service or is rejected.

Once in Field Service, the co-located FSR position is designed so that the employee rotates through a variety of assignments, after an ideal assignment of no more than 5 years, gaining a variety of experience with different customers in different locations. Co-located FSRs who are nearing the end of an assignment are able to access upcoming base assignments for which they may apply. Field Service utilizes a formalized assignment process that attempts to place existing FSRs with the best match of assignment. However, assignment decisions are made by the Regional Directors and other management in Field Services. While on assignment, co-located FSRs will have a week-long visit to either Seattle or Long Beach to interact in person with the Employer's support structure.[22] The week-long visit is referred to as "business week," and is generally scheduled once every 12 to 18 months.

b. Education

The 37 FSRs co-located with customers have a diverse variety of educational backgrounds. Nine of the co-located FSRs have obtained a master's degree; three in engineering, programs, one in information technology, and five in management programs. It is not uncommon, among FSRs, not just co-located FSRs, for an employee holding an undergraduate degree in an engineering field to obtain a master's degree in a management or other business administration program.[23] As a result, referencing only the highest level of education obtained fails to depict an accurate picture of the employees' educational

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[21] While only domestic FSRs are at issue in the current case, the Employer's hiring, training, and assignment process for co-located FSRs does not distinguish between domestic and international assignments.

[22] If the co-located FSR's customer operates primarily legacy McDonnell Douglas aircraft, the FSR visits Long Beach; other FSRs return to Seattle.

[23] To a lesser degree this issue is also presented when an employee with a background as a mechanic, holding an A&P license, obtains an associate's degree.

backgrounds as a group, and here I note all five co-located FSR's with a master's in management also hold a bachelor's degree in an engineering field.

14 co-located FSRs hold a bachelor's degree as their highest degree obtained. 11 of these are degreed engineers, and three in have a degree in a field that is mechanical or technical. Four of the co-located FSRs have a vocational, trade, or associates degree, including three that specifically trained as aircraft mechanics. Four FSRs have some education noted, but have not completed a degree program. The record does not contain the educational background details of the remaining six co-located FSRs.[24]

Based on the record, it can be determined that 20 of the co-located FSRs are degreed engineers; 8 co-located FSRs with a master's degree, 11 with a bachelor's degree, and 1 associate's degree.[25] The remaining 17 are not degreed engineers, with the record explicitly identifying 7 (3 bachelor's degrees and 4 vocational/trade/associate's degrees) as having a mechanical or technical background, and 10 in other fields or without record.

c. Tools

Almost all FSR functions relate to information; collecting information from the customer, distributing information from the Employer, and facilitating efficient access to information. Accordingly, the primary tools used by FSRs are the telephone and e-mail, but also several proprietary web-based resources developed by the Employer to record or access information. These include the Boeing Communication System, My Boeing Fleet/Toolbox ("My Boeing Fleet"), Field Service Data Store ("FSDS"), and the Significant Issues Visibility Tool ("SIVT"). Boeing Communication System allows customers and FSRs to submit and track service requests. My Boeing Fleet allows access to the Employer's vast store of technical documentation, including manuals and service bulletins. The Employer's many manuals include those with directions regarding normal operations, such as a flight manual, and some specially tailored for problem solving, such as the fault isolation manual. FSDS allows FSRs to update an aircraft's status and log any configuration changes that may be performed by entities other than the Employer. SIVT is similar to Boeing Communication System in that it allows FSRs to submit service requests, but it is intended to create visibility for high priority service requests, allowing senior management to track the resolution to these requests.

d. Job Duties, Technical Support Function

The co-located FSR position has two aspects; one part is focused on relationship building, the other is focused on technical issues. The dual nature of the position is reflected in the FSR job description, which lists requirements both general and technical. General abilities include: adaptability, build positive relationships, business (operational) acumen; collaboration; communication, customer focus, decision making; global perspective, political awareness, and strategic decision making. Technical skills include aircraft knowledge, aircraft maintenance, analytical skills, aviation industry, customer knowledge, field base support, flight safety, product and services value, technical writing, and troubleshooting. The relationship building

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[24] Testimony regarding the exhibits containing FSR educational backgrounds indicated this was because the Employer either did not have that information, or the employee had no post high-school education.

[25] In identifying an individual as a "degreed engineer," I use the convention used by the parties, that the degree uses "engineering" in the title. This is a less than ideal method and I recognize that it has shortcomings. However, it is sufficient for the instant case as no inclusion or exclusion will be made on the basis of a degree. Estimating the approximate number of degreed engineers is instead a useful tool utilized in analyzing the unit.

aspect of the FSR position is largely proactive, initiating contact and incorporating the FSR into the customer's operation, while the technical aspect of the position is largely reactive, working to resolve problems brought to the FSR.

The co-located FSRs who testified at hearing indicated the technical, reactive aspect takes most of their time.[26] This function, acting as a "technical advisor," to use the Employer's term, involves assisting the customer with understanding the Employer's technical documents relating to an aircraft, locating spare parts, or coordinating contact with someone in the Employer's organization who can provide the assistance necessary to resolve any issue or problem.

Because co-located FSRs work with major airlines with their own engineering, technical and mechanical resources, the most routine issues involving the Employer's aircraft are resolved without the involvement of the Employer. However, if the customer experiences a problem with an aircraft, or wants to notify the Employer of something out of the ordinary, the customer is likely to consult with the FSR. The FSRs have access to Employer tools that may allow them to access an existing solution (service update, technical document, engineering drawing) that the customer may not possess or could not have been able to locate. Further, by being part of the Employer's organization, the FSR has a broader base of contacts that can provide information; the customer's engineering department knows its aircraft, but the Employer monitors the same aircraft operated by *any* airline. Thus, the FSR may be able to use their tools to identify a fix already developed for another airline, or another airline has a needed spare part.[27] FSRs' access to this wider breadth of information enhances their ability to resolve their respective customer's issues.

The co-located FSR's ability to resolve problems locally varies greatly by customer, as each customer has its own technical infrastructure and varies in the type of issues brought to the FSR. The record indicates that co-located FSRs at a base in Minneapolis, Minnesota, resolved 11 percent of technical problems without additional assistance, while co-located FSRs at a base in Fort Worth, Texas, resolved 40 percent of technical problems. When a co-located FSR is unable to resolve a problem locally, either the customer or the FSR will generate a service request and submit it to the Employer's Service Engineering department.

The service request is received by Service Engineering, and the engineers in that department implement the Employer's process to design a fix for the problem.[28] During the process to develop the fix, the FSR monitors the process and can convey the customer's needs to service engineers. Once a fix is developed and provided to the customer, the FSR confirms that the fix provided by the Employer has resolved the issue.

While perhaps an obvious point, I note the aircraft designed, manufactured, and supported by the Employer are exceedingly complex. An aircraft contains dozens of tightly

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[26] At hearing, FSR Hirsch testified that 70 percent of his work day involves the use of his engineering education.

[27] Customers generally obtain spare parts from their own supply, but parts not at hand are available from the Employer's Material Management division. Evidence in the record indicates co-located FSRs spend approximately 10 percent of their time addressing material management issues.

[28] There is separation in the Employer's organization between engineers who design and develop aircraft not yet in service, referred to as design engineers or engineers "at the factory" in the record, and engineers who design solutions for aircraft in service, referred to as service engineers. Both design and service engineers are members of the engineering unit. Customers also employ engineers to design solutions for aircraft in service, referred to as liaison engineers.

packed systems, mechanical, electrical, hydraulic and others, operating at extreme stress and temperature. Further, the Employer has a massive and complex organization, as do many of the customers. In light of this complexity, it is illustrative to explore several examples of a co-located FSR acting as a technical advisor in detail.[29]

i. Pylon Cracks

Co-located FSR Ross Hirsch described several situations where he assisted his customer with technical issues, one involving a cracked pylon. As described by Hirsch, the customer identified a crack on the left pylon in a 767-300's aft bulkhead, and the customer determined the crack fell outside the standard repair manual for the aircraft. The customer then involved Hirsch, who assisted the customer in attempting to locate a replacement part using the My Boeing Fleet tool. A replacement was not readily available. The FSR and the customer's engineers then explored whether an equivalent part existed on another model aircraft. It did not, and it became apparent the pylon could not simply be replaced, but must be repaired, taking the aircraft out of service for a period of time.

In response, the customer's management sought to move the aircraft to a different location where several 767-300's were undergoing major modifications. The customer hoped to minimize out of service time by combining the repair with the modifications. In order to fly an aircraft with a recognized issue such as the cracked pylon, the customer must receive "no technical objection" clearance from the Employer. Here, Hirsch discussed the information needed by the Employer with the customer's engineer, who created a technical drawing of the pylon to submit to the Employer. Hirsch received the drawing, submitted the information to the Employer using the Boeing Communication System tool, and the following day obtained the clearance. However, the customer's modification center rejected the idea of performing the modification and repair at the same time. As a result, the customer decided to simply repair the aircraft at its present location.

Hirsch, who has a MS in Mechanical Engineering, and the customer's engineer, in discussing the problem, developed an idea for a potential temporary fix, essentially a small "bathtub" shaped piece to fit within the confines of the bulkhead and provide the necessary support to the area surrounding the crack. When a service request was submitted to the Employer, Hirsch and the customer's engineer included their proposal, which the Employer approved. At the same time, the mechanics were removing the surrounding housing to prepare to fix the crack, and in the process discovered a series of other cracks. The customer's engineer reviewed the additional problem first, and then brought Hirsch to the aircraft to observe the additional damage. Hirsch knew that a service bulletin existed stating the pylon should be checked for the beginning of cracking every 1,500 operating hours, but this aircraft had significant cracking only 800 operating hours after the last check. Accordingly, he identified this as a potential issue for the entire 767-300 fleet, escalating the significance of the issue dramatically.

Due to the serious nature of the discovery, Hirsch convened a conference call with the Employer's Service Engineering, Design Engineering, and Safety departments, and with the

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[29] In doing so, I recognize the record contains potentially a dozen or more similar examples. The examples used were selected because the parties rely on them in making their arguments, or because I find them particularly illustrative, providing sufficient insight into the complex task of acting as a technical advisor. To the extent some examples in the record are omitted from a detailed discussion, it is not because they were disregarded; rather to avoid unnecessary repetition.

customer's liaison engineering, engineering management, and managing director of operations. During the call Hirsch advocated for inspecting all 767-300's, but all parties had a say, and ultimately it was determined the next step would be that night to inspect a sample group of 10 of the customer's 767-300's of a similar age and service hours.[30]

During the inspection, two of the 10 aircraft were found to have unexpected cracking. A second conference call was convened the following day with the same participants, FAA representatives, and additional engineers from the Employer and the customer. During this call the Employer's engineers confirmed the problem was not catastrophic, a repair timetable of 20 days was agreed upon, and the inspection was expanded to the entire 767-300 and 767-200 aircraft in service with the customer. During the call it became apparent Service Engineering was likely to develop a service update shortening the inspection period from 1500 hours to 800 hours.

Following the meeting, Hirsch became concerned that Service Engineering would issue a service bulletin requiring mechanics to remove sealant, inspect, and reapply sealant at 800 operating hours. Hirsch recognized this would potentially create economic and technical problems for his customer, as reapplied sealant had to set for 24-hours before operating the aircraft. This was not a problem at the 1500 hour point, as the aircraft was out of service and in a hanger for maintenance, but the scheduled maintenance at 800 hours took place while the aircraft remained in service. Hirsch recommended a brush-and-repaint solution to Service Engineering, avoiding the sealant issue, a recommendation that was incorporated in the final service bulletin.

Following the second conference call, Hirsch and the customer's engineers continued to discuss a fix for the problem. They came to an agreement that the pylon was unlikely to be fixed correctly unless it was repaired on the same machine that made the pylon. Consequently, the pylon was removed and sent to the manufacturer (not the Employer), where the repair was completed with the assistance of the manufacturer's on-site Employer representative and representatives from the Employer's Service Engineering department. Hirsch was not present during the manufacturer's repair.

However, when the pylon returned from the supplier, two more issues arose; one involved aligning fittings and one involved holes that were misdrilled during the customer's installation of the repaired part. Regarding the fittings, when the problem was identified by one of the customer's structural engineers, he approached Hirsch. Hirsch knew of a service bulletin that addressed an equivalent fitting that was adjustable and, after locating some of the equivalent adjustable fittings, provided them to the engineer.[31]

At the same time, another of the customer's structural engineers contacted Hirsch and requested his assessment regarding whether several holes, drilled in preparation for installation of the repaired pylon, but several 1,000ths of an inch over the maximum allowable deviation, required further attention. Hirsch stated that he would contact the Employer's Service Engineering department, but he could guarantee the answer would be that the deviation was unacceptable. Hirsch and the customer's structural engineer then located a service bulletin issued by the Employer stating what to do in the event holes were drilled

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[30] Most aircraft do not operate overnight and have a period of overnight maintenance, including inspection.

[31] Hirsch did not recall if this change was of the type that required approval from Service Engineering. To the extent it did, he contacted Service Engineering and gained approval.

beyond the maximum allowable, and began preparing the fix. When the answer was received from the Employer, stating the deviation was unacceptable, the fix was ready to be given to the customer's mechanics. That fix was implemented and the aircraft returned to service.

ii. Slat Asymmetry

Hirsh provided another technical support example involving slat asymmetry. Slats are control surfaces arrayed on the wings of the aircraft, designed to move up and down in unison. When the slats are not moving symmetrically the cockpit is notified by a warning system. The customer began receiving a number of these messages, and as a first step contacted the Employer's Service Engineering department. Service Engineering had the customer review any existing service bulletins involving the slats to ensure compliance. The customer did so, but the problem continued.

At this point Hirsch was brought in to work on the problem. He discussed the issue with the Employer's Airline Support Engineer (ASE) assigned to the customer, and they concluded that other airlines possibly could have had a similar experience at some point.[32] Hirsch then utilized My Boeing Fleet to research the possibility. Hirsch found reference to an issue that looked similar, and he contacted the co-located FSR with this other airline. After speaking to Hirsch, that FSR reviewed the situation and reported back that the problem was indeed similar. That airline had determined in its experience that a connection in a wire harness tended to corrode and give incorrect signals, and that the problem was resolved by replacing the existing connection with a gold plated connection. Hirsch passed this information on to his customer, and it was implemented. To Hirsh's knowledge, the problem has been resolved.

iii. Inlet Cowl O-Ring

Hirsh also testified about a technical situation involving the heating system for an inlet cowl, a piece on the front of a 767's engine intake. The extreme low temperatures of altitude can cause ice to form on the engine intake, so the cowl around the intake is heated to prevent icing. The system as designed brings excess hot air from the engine to the inlet cowl and directs the hot air to the proper location by a series of holes in the tubing. Hirsch was notified of an issue with the heating system when his customer removed the inlet cowl housing during non-routine maintenance and discovered the tubing to direct the air had fallen off because of a degraded o-ring in the system. The customer's engineering department addressed the acute issue independently, but notified Hirsch because the Employer's maintenance plan documents did not instruct the customer to inspect the o-ring at any point, but clearly it needed scheduled inspection as it could degrade. Hirsch verified the oversight in the Employer's maintenance plan document and contacted the Employer's Service Engineering.

Service Engineering, a "relatively young and inexperienced" engineer according to Hirsch, replied that the maintenance plan document did call for inspection. Hirsh explained to the engineer that the document called for a visual inspection of the area, but the o-ring was

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[32] ASE, a classification within the Customer Support Engineering department, is perhaps best described as the FSRs counterpart within the Employer's engineering support structure. ASEs are frequently the first engineer contacted by an FSR in the event of a technical issue. Like a co-located FSR, an ASE is assigned to a specific customer, is familiar with that customer, and is dedicated to resolving that customer's technical support issues. ASEs are not located in the field, however, but are located with the Customer Support Engineering department. The ASEs in Seattle are in the engineering unit, ASEs in Long Beach, like all Long Beach engineers, are not represented.

contained within the cowl substructure, so the scheduled visual inspection could not verify the condition of the o-ring. Service Engineering continued to resist changing the maintenance document, so Hirsch submitted an annotated collection of photographs. Service Engineering eventually recognized the problem, and added a specialized inspection to the maintenance plan document.

iv. Scribe Line

Co-located FSR Robert Hess testified regarding an incident involving a crack in an aircraft's fuselage, referred to as scribe line damage, where he acted as a technical advisor. As described by Hess, he was contacted by one of the customer's structural engineers, who requested he view a crack that had been discovered in one of the customer's 737's. Hess viewed the crack, and recognizing the situation as serious took pictures and measurements and with the customer's engineers submitted a report to the Employer's Service Engineering by the Boeing Communication System. Service Engineering contacted Hess with additional questions, but at a certain point Service Engineering determined the problem was serious and complex enough to have the affected piece of the fuselage removed and sent to the Employer in Seattle for further testing. After testing, the details of which were outside of the knowledge of Hess, it was determined that some maintenance was being performed with metal tools instead of wooden or plastic, and that the metal tools caused microscopic fractures that over thousands of pressurizations and depressurizations expanded into the crack initially reported to Hess. Hess did not indicate any further involvement with the issue.

v. Wingtip Lights

Deputy Fleet Chief David Topping testified about a technical problem regarding the wingtip lights on the 777-200 and 777-300 models. According to Topping, the covers to the lights, which protect the internal electrical components from exposure to the elements, tended to be lost or become damaged over time. When this occurred, the aircraft could not be operated until repaired, not because the lights were a critical function, but because the lack of a cover exposed the aircraft's electrical system to the elements.

Although the record does not disclose exactly how the Employer's Service Engineering came to work on the problem, it appears a customer brought the issue to the Employer and a team of engineers, including Topping, was working on the problem. According to Topping, during the process the customer's co-located FSRs informed Service Engineering that, from their observation, the problem was due to the sealant on the covers degrading. Based on this information Service Engineering developed a fix to replace the sealant. The co-located FSRs, however, returned to Service Engineering and informed them the fix, a 48-hour process to be done in the field, was an economic problem for customers, because the 48-hour process meant the aircraft had to taken out of service. The FSRs further raised a technical problem, as it was a complex fix for remote locations. The FSRs proposed a short-term fix, essentially leaving the light non-functioning but securing the cover with tape to avoid time-consuming re-sealing. The suggestion was implemented, and permission was obtained for a deviation so that the aircraft could operate without a functioning wingtip light. The FSRs were also involved in the long-term solution, working with a vendor to develop an additional clear protective cover to be placed over the cover, which prevented the sealant from degrading, and thereby alleviating the root cause of the problem. The details of the FSRs' participation in the vendor's process are not contained in the record.

vi. Tire Pressure Gauge

Deputy Fleet Chief Topping also testified regarding a change in a 777 tire pressure gauge that was assisted by a co-located FSR. An Employer multi-disciplinary review committee (Design Engineering, Service Engineering, and Fleet Support Engineering) was facing a problem wherein the gauge was repeatedly failing because two connectors, connecting the tire gauge to the cockpit display, were separating.[33] The committee's recommendation was to increase the torque on the connection, to prevent the separation from occurring. According to Topping, it was the FSR for the customer involved who noticed that the gauge would sometime restore functionality on its own after the airplane would be on the ground for a long time. The FSR reviewed the situation and recommended to engineering that perhaps the metals in the connector were thermally reacting and beginning the separation on their own, and that instead of simply increasing the tightening, the connector should also be held with safety wiring. According to Topping, this suggestion was incorporated in the final engineering solution.

e. Job Duties, Customer Relationships

Proactive work with customers consists of daily "rounds," attending meetings with customers, and acting as a liaison. Co-located FSRs are directed by the Employer to circulate on daily rounds, speaking to the customer's engineering and other departments for the purpose of building relationships and increasing the Employer's visibility. While reactive problems may be brought to the co-located FSR while on rounds, this is not the express purpose of the rounds. Rather, the purpose is relationship building. At hearing it was estimated, depending on the customer, daily rounds may take under an hour to several hours of each co-located FSR's day.

Co-located FSRs act as liaisons at the customer's facility. For example, if another employee of the Employer needs to visit the customer's facility, the FSR may assist with travel arrangements, meet and take the employee to the customer's facility, and provide some information regarding the customer to the employee. FSRs can also function in the inverse, accompanying to and acting as a liaison for customer representatives at Employer-sponsored events such as twice-yearly fleet conferences, where all airlines operating a certain model attend a series of meetings in Seattle or Long Beach.

f. Temporary Transfers

Co-located FSR positions are occasionally filled with employees temporarily transferred from outside Field Service. While Field Service will generally attempt to first fill a temporary absence with a Field Service employee (another co-located FSR or others) on occasion the Employer has placed an ASE in a co-located FSR position. However, co-located FSRs do not take the place of absent ASEs; the temporary transfers occur in only one direction.

3. Field Service Representatives with Boeing Business Jets

The Employer markets a modified 737-700 to compete in the private aircraft market; specially modified aircraft owned by corporations, governments, or individuals, not a common carrier airline. Two FSRs are assigned to the Boeing Business Jets division and currently

[33] The details of how the problem came before the committee, and how the committee was called together, are not contained in the record, but the Employer's response is consistent with receiving a service request.

work within the United States ("BBJ FSRs"); Scott Lenicka in California and Tony Novasio in Dallas. Additional FSRs with Boeing Business Jets are stationed in Switzerland, South Korea, and the United Arab Emirates.[34] A third BBJ FSR, James Polmanteer, recently returned from an international assignment to Seattle, where he is stationed at the moment on loan to the 787 program.[35] The work of the BBJ FSRs is generally similar to that of a co-located FSR, modified for the differences in their respective customers.

a. Hiring, Training, and Assignment

Boeing Business Jets is organizationally separate from the Fleet Services division that contains the departments to which the other FSRs belong. However, the BBJ FSRs are considered part of the Employer's Field Service, so the hiring, training, and assignment process described in regard to co-located FSRs applies. BBJ FSRs are not stationed with a dedicated customer as with a co-located FSR. Instead these FSRs spend a significant amount of time travelling to visit their customers. While BBJ FSRs work out of their homes, they are visiting customers 100 to 130 days a year, approximately half their working time in a given year. A BBJ FSR assignment lasts slightly longer than that of co-located FSR, generally 6 years, to allow the FSR to learn the dynamics of the private airline industry.

b. Education

Of the three BBJ FSRs, none have a master's degree or above. Two of the BBJ FSRs have bachelor degrees, one in aircraft maintenance engineering and one in business administration. The third BBJ FSRs' educational background is not contained in the record. From the record it can be determined that one of the three BBJ FSRs is a degreed engineer. The two others are not degreed engineers, but the record is silent on whether they have any mechanical or technical education.

c. Tools

The tools utilized by the BBJ FSRs are the same as those utilized by co-located FSRs, telephone, e-mail, Boeing Communication System, My Boeing Fleet and FSDS.

d. Job Duties, Technical Support Function

BBJ FSRs are a combination of an intro rep (an FSR classification described in detail in a following section) and co-located FSR for private customers. A BBJ FSR travels to a customer's location when the aircraft is delivered and assists in familiarizing the customer with the aircraft. After introduction, the BBJ FSR then acts in a capacity similar to a co-located FSR, although not physically located with the customer. Private customers are encouraged to contact their BBJ FSR when they have a technical issue with the aircraft. The BBJ FSR can review the issue with the customer's flight or maintenance crew and, if necessary, submit a service request to the Employer's Service Engineering. BBJ FSRs also provide technical support to the third party modification centers licensed by the Employer to modify aircraft to a customer's specifications. If, in performing their modifications, the third party contractors have

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[34] The parties have stipulated that FSRs stationed outside the United States are excluded from the petitioned-for voting group.

[35] Polmanteer is in a manufacturing supervisor position on the 787 program. The record does not contain sufficient evidence to establish definitively whether he will return to the field, and if so whether the assignment will be domestic or international. If I were to order an election, I would permit him to vote subject to challenge.

technical questions, they may be brought to the respective BBJ FSR.

e. Job Duties, Customer Relationships

Because of the variety of customers, BBJ FSRs spend a significant portion of their day (30 to 40 percent) simply returning customer calls and emails. Most inquiries are likely technical, but customers may have other questions where the BBJ FSR can be of other assistance. As noted, BBJ FSRs spend a significant amount of time visiting customers, during which they have an opportunity to build relationships. On these visits, the BBJ FSR is also able to review service bulletins with the customer's flight and maintenance crew and answer questions.

f. Temporary Transfers

The record does not contain evidence of temporary transfers between engineering unit positions and BBJ FSR positions.

4. Field Service Representatives Assigned to Seattle Support Center

The eight FSRs assigned to the Employer's Seattle Support Center perform essentially the same customer support function as co-located FSRs, but in a different manner. The Seattle Support Center was opened in 2009 as an efficient way of providing support to the 400 to 500 second-tier customers operating the Employer's aircraft. The Seattle Support Center supports a large number of customers, and is staffed 24-hours a day, 5-days a week, in order to match customers' business hours.

a. Hiring, Training, and Assignment

Seattle Support Center FSRs, although located in Seattle, are considered part of the Employer's Field Service. As a result, the hiring, training, and assignment process described in regard to co-located FSRs applies. Like co-located FSRs, FSRs in the Seattle Support Center are assigned to customers, although each FSR is assigned to a particular large group of customers. While the assignment does not involve relocation as it does for co-located FSRs, it does set the hours of work for the FSR employed in the Seattle Support Center.

b. Education

Of the eight FSRs in the Seattle Support Center, two have a master's degree, one in global management and one in business administration.[36] Three hold a bachelor's degree, one in mechanical engineering. One FSR holds an associate's degree in electronic engineering, one has a partial year of college, and one has no educational background listed in the record. In sum, four of the FSRs in the Seattle Support Center are degreed engineers, the remaining four are not degreed engineers, and one of the four has evidence of a mechanical or technical education in the record.

c. Tools

The tools utilized by the FSRs in the Seattle Support Center are the same as those

[36] Both FSRs holding a master's degree have engineering degrees in addition; one holds an associate's degree in electrical engineering, one a bachelor's degree in mechanical engineering.

utilized by co-located FSRs, telephone, e-mail, Boeing Communication System, My Boeing Fleet, and FSDS.

d. Job Duties, Technical Support Function

The record does not contain the same level of detail regarding examples of technical support provided by FSRs in the Seattle Support Center as it does for co-located FSRs. The record does establish, however, that the process is essentially the same, while recognizing that many second-tier customers may not be contractually entitled to technical support of the same level as a first-tier customer.

e. Job Duties, Customer Relationships

The record is relatively silent on what, if any, relationship building can be provided to second-tier customers. Certainly some of the liaison functions performed by a co-located FSR are not relevant to a FSR located in the Seattle Support Center.

f. Temporary Transfers

The record does not contain evidence of temporary transfers between engineering unit positions and the Seattle Support Center FSR positions.

5. Intro Reps

Intro reps are FSRs who travel to a customer's base and provide additional support when a new aircraft model is introduced. This often consists of introducing an existing customer to a new model of aircraft, for example a customer who has a fleet of 767s, purchases and begins operating several 777s. The intro rep is stationed with the customer as their crews, mechanics, and engineers become familiar with the new aircraft. This work, traditionally performed by intro reps in the field, is initially addressed below.

However, the Employer is at the moment in a unique position, preparing to introduce an entirely new model, the 787, at the same time it is introducing a new model of its 747 aircraft, the 747-800. In preparation for entry into service of these models, the Employer has recently hired a significant number of additional intro reps. Because the 787's introduction has been delayed, however, these intro reps are not acting as intro reps, but have been loaned to the 787 and 747-800 programs in various capacities to assist in flight testing the aircraft. A section below addresses the unique situation faced by the Employer and the intro reps at this time. Because of the need to prepare for the 787 launch, apparently no intro reps are currently in the field in their traditional capacity.

a. Intro Reps in Field Service

As noted, intro reps travel to a customer's base and provide additional technical support when a new aircraft model is introduced. Similar to co-located FSRs, intro reps are assigned to a customer's place of business and work in close contact with the customers' flight crews, mechanics and engineers. Unlike co-located FSRs, intro reps are not assigned for a long period of time, and do not necessarily seek to build relationships with the customer. Specifically, an intro rep is with the customer for a short period of time, typically 90 days, to address the increased volume of questions that exists when a customer begins operating a new aircraft model.

Intro reps are based in Seattle, but spend approximately 75 percent of the year on assignment. When not on assignment, they prepare for their next assignment, act as a temporary fill-in for an absent FSR in one of the other classifications, or work on special projects.

i. Hiring, Training, and Assignment

Intro reps are Field Service employees and accordingly participate in the same hiring, training, and assignment procedures. The pattern of intro rep assignments is significantly different from that of co-located FSRs. An FSR receives an assignment, relocates, and then begins essentially a standard work schedule in their new location. Intro Reps arrive for an assignment and upon arrival frequently begin working very long hours, working 6 or 7 days a week, for weeks on end.

ii. Education

Similar to co-located FSRs, the 29 intro reps have a variety of educational backgrounds. Four of the intro reps hold a master's degree; in aerospace, technology management, electrical engineering, and physics. 12 intro reps have a bachelor's degree, almost all of which are from engineering programs, including mechanical and electrical engineering. Five of the intro reps have a vocational, trade, or associates degree in an aircraft related program. Eight intro reps have some post-high school education, but have not completed a degree program, or their educational background is not contained in the record. The record reveals that 11 intro reps are degreed engineers (one intro rep with a master's degree and 10 intro reps with a bachelor's degree) and at least 13 of the remaining 18 intro reps have an educational background as a mechanic.

iii. Tools

The tools utilized by Intro Reps are the same as those utilized by co-located FSRs.

iv. Job Duties, Technical Support Function

The intro reps' primary responsibility is what is referred to as the "meet and greet." The intro rep is with the customer's maintenance crew when each new aircraft arrives at the gate. The intro rep then does a visual inspection of the aircraft while the passengers deplane. Once the aircraft is empty, the intro rep enters the aircraft and speaks with the pilots and the cabin crew, answering questions. The intro rep then stays with the aircraft to answer any questions from the customer's maintenance personnel as they prepare the aircraft to depart. Once that aircraft departs, the intro rep proceeds to the next arrival and repeats the process.

The intro reps' secondary responsibility is to assist the customer's maintenance crew on overnight maintenance. In this function the role of the intro rep is similar to that of a co-located FSR; assisting the customer with understanding the Employer's documentation, technical documents relating to an aircraft, locating spare parts, and coordinating contact with the Employer's engineering organization.

Intro Rep Andrew Somers, an aircraft mechanic by training, testified at hearing regarding a specific problem he faced while in the field as an intro rep with a customer

receiving an order of 27 777-300s.[37] Within the first few days of operation, at least one crew was reporting that when in flight a galley drain was backing up and flooding part of the aircraft's passenger compartment. The report was first delivered to maintenance when Somers was not on site, and the customer's maintenance crew independently removed the drain, found a broken wire, and replaced the broken wire. The flooding happened again on the next flight. Somers was contacted at this point, and he began troubleshooting with the customer. They flushed the drainage system and checked the heating and insulation elements in the system. The aircraft was placed in simulated flight mode in an attempt to replicate the situation. Somers also reviewed the relevant maintenance manual and the fault isolation manual. Failing to find a solution locally, a service request was generated and sent to the Employer.

Representatives in Service Engineering, in consultation with Design Engineering, worked with Somers and the customer to identify the problem as a restrictor valve that was freezing in flight. The Employer's engineering department developed the temporary fix of locking the valve open, but a team was dispatched to the airline to continue to work on the problem. That team's involvement and resolution of the problem eventually extended beyond Somer's assignment as an intro rep with that customer.

v. Job Duties, Customer Relationships

Intro reps are, quite simply, not working with a customer for the purpose of building long-term relationships. The nature of the intro reps work is that they arrive, address the surge in technical work associated with introducing a new model, and then move on to their next assignment. Intro reps do not perform rounds, or any of the other activities designed to build co-located FSRs' familiarity and relationships with customers. Further, because intro reps are on-site for such a limited period of time, they are unlikely to have the opportunity to act as a liaison.

vi. Temporary Transfers

The record does not contain evidence of temporary transfers between engineering unit positions and intro rep positions. As previously stated, if needed, intro reps do transfer within FSR classification between assignments.

b. Intro Reps Temporarily Assigned to Other Programs

Of the 29 intro reps, 15 are currently classified in the intro rep position and are performing pre-delivery tasks on the 787 and 747-800 programs. The remaining 14 are not classified as intro reps at this time, but are on loan to the 787 and 747-800 programs to assist with the flight test portion of the aircrafts' development. The 14 employees on loan will return to the intro rep classification when the 787 and 747-800 aircraft are delivered to customers.[38]

i. Intro Reps Assigned to Pre-delivery

The Employer flight tests an aircraft with the specific purpose of certifying the aircraft for service. Flight testing also introduces the aircraft to the routine of service, pre-flight checks,

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[37] The example provided occurred while Somers was on assignment in Southeast Asia. Only domestic FSRs are at issue in this case, but the example is illustrative and the location is not material.

[38] The parties have stipulated accordingly.

flight, and on return post-flight checks and overnight maintenance. The intro reps' pre-delivery work primarily consists of observing the checks and maintenance during flight testing to gain a working knowledge of the aircraft. The intro reps also become familiar with the support structure behind the aircraft, such as technical manuals and aircraft specific software. The intro reps also attend regular meetings involving the various departments working on the 787 project to keep informed regarding the status of the program as the aircraft nears delivery.

ii. Intro Reps Loaned to Flight Test

Approximately seven intro reps are currently on loan to the 787 program and assigned to the ground operations engineer position. Ground operations engineer is a represented position in the engineering unit, and each of the employees loaned to this position has an engineering degree. Seven of the intro reps on loan to the 787 program do not posses an engineering degree, and are currently placed in the flight analyst position. Flight analyst is a represented position in Petitioner's technical bargaining unit.

Ground operations engineers set the configuration of the aircraft as needed before each test flight. They also accompany test flights, acting as a safety officer or weight engineer, a position responsible for ensuring the aircraft is properly weighted and balanced to stay within testing parameters. Flight analysts act as assistants to the flight crew during test flights, logging maintenance issues and consulting with maintenance at the conclusion of the flight.

6. Controllers at the Boeing Operations Center

The BOC is a 24-hour, 365 day a year facility designed to assist customers worldwide with urgent mechanical or operational issues affecting their aircraft. The 15 FSRs employed in the BOC are referred to as "controllers." The BOC itself is one large, open room, with the controllers stationed in the middle, surrounded by banks of computers and teams of specialists on the various aircraft systems. Other employees assigned to the BOC include structural engineers, stress engineers, both are part of the engineering unit, and include system technicians and material management technicians.[39] A number of outside contractors, including engineers, also work in the BOC. The employees in the BOC are supervised by four shift managers. Controllers, while FSRs, are part of the Employer's Customer Support Engineering department, not Field Service.

Under the Employer's procedures, if a customer submits a service request that requires a response within 24 hours, the Boeing Communication Service automatically sends the service request to the BOC.[40] Service requests sent to the BOC are received by a controller who contacts the customer and assesses the problem. The controller then coordinates resolution of the service request with the specialists in the BOC. That process is described in the Technical Support Function section that follows.

At hearing it was estimated 60 percent of controllers' time was spent communicating with customers, the remainder was spent largely on administrative tasks. These tasks include participating in daily meetings with the other BOC employees, and possibly chairing an additional meeting with Employer management, outside engineers, and others if an issue is in

[39] The record does not indicate whether these positions are represented by Petitioner in the technical unit.

[40] Customers must contract with the Employer for BOC support services.

the SIVT process.[41] A shift manager supervises employees working in the BOC on any given shift, including controllers. The controllers also have a designated manager, Rick Cates, who is responsible for controller scheduling.

a. Hiring, Training, and Assignment

As noted, controllers are not part of Field Service, but are contained within the Customer Service Engineering organization. As a result, controllers do not participate in the Field Service hiring process or first base training other FSRs experience. Rather, controllers are hired directly into the BOC under the Employer's standard hiring procedures.

b. Education

Of the 15 controllers in the BOC, two have master's degrees; one in aeronautics and one in aviation management.[42] Seven hold a bachelor's degree, two in engineering fields, one in management, one a liberal arts degree, and the remaining three in mechanical or technical fields. Two have associate's degrees from a mechanical or technical program. The remaining four controllers either have not completed a degree program or their educational background is not listed. In sum, two controllers are degreed engineers, and seven of the remaining 13 controllers have an educational background in a mechanical or technical field.

c. Tools

The common tools utilized by a controller are telephone, email, and the Employer's communication tools described previously. The BOC also contains a large electronic display tracking the progress of all the service requests currently in the BOC, displaying information such as the topic of the request, who is working on the request, and when a resolution is scheduled.

d. Job Duties, Technical Support Function

As noted, service requests sent to the BOC are received by a controller who contacts the customer and assesses the problem. The controller may be able to resolve the problem in a manner similar to a co-located FSR, referring the customer to a service bulletin or other existing documents containing a solution. At hearing, it was estimated that 10 percent of incoming service requests could be resolved with only a controllers' participation.

If the issue is not resolved by the controller, the controller then follows the Employer's protocol to transfer the issue to one of the functional leads in the BOC. A functional lead (not an FSR position) is the contact person within each group of substantive specialists (i.e. structures, avionics). These employees develop a solution, and if necessary consult with the engineers from other specialists in the BOC, or outside the BOC. The engineers may go back to the controller while developing a solution if additional information is needed from the customer. When a solution has been developed and sent to the customer, the controller is responsible for verifying that the solution resolved the problem.

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[41] Controllers also rotate among themselves so that at least one controller is responsible for SIVT at all times. Because SIVT service requests are of the highest priority, and involve communication with executive management, this controller works exclusively on these requests.

[42] Both have a mechanical or technical educational background.

e. Job Duties, Customer Relationships

As the controllers are addressing discreet issues submitted to the BOC for immediate resolution, they do not have relationship building responsibilities.

f. Temporary Transfers

FSRs outside the BOC have served as controllers in a temporary capacity, and have also permanently transferred to controller positions. However, there is no evidence of a controller leaving the BOC and working in one of the other FSR classifications either temporarily or permanently. There is also no evidence of an engineering unit employee being assigned to perform controller work, or a controller being assigned to fill an engineering position.

III. LEGAL ANALYSIS

The typical question presented in a Board election is simply whether employees wish to be represented by a labor organization, with questions concerning representation resolved by the parties or determined by the Board. However, the Board will, under some circumstances, conduct an election that asks employees a question regarding unit placement, referred to as a self-determination election, or an *Armour Globe* election, as *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937) and *Armour & Co.*, 40 NLRB 1333 (1942), form the basis for this line of Board decisions. One circumstance where a self determination election is used is when a petitioner seeks to add a group of unrepresented employees to an existing unit. In that context, the self-determination election determines not only whether the employees wish to be represented, but also the unit placement issue of whether they wish to be included in the existing unit. *Warner Lambert, Co.*, 298 NLRB 993 (1990).

Another instance where the self-determination process is commonly used is in regard to bargaining units consisting of "professionals" as defined by Section 2(12) of the Act. Section 9(b)(1) of the Act prohibits the inclusion of professional employees in a unit with employees who are not professional, unless a majority of the professional employees vote for inclusion in such a unit. A *Sonotone* election, so named after the lead case, *Sonotone Corp.*, 90 NLRB 1236 (1950), is held to meet the requirements of Section 9(b)(1). In a *Sonotone* election, the professional employees are asked first whether they desire to be included in a group composed of nonprofessional employees, and second, their choice with respect to a bargaining representative. If the professionals answer "Yes" to the first question, their votes are to be counted with those of nonprofessionals. If the answer is "No," their votes would be counted separately to decide which labor organization, if any, they wish to represent them in a separate unit. *Centralia Convalescent Center*, 295 NLRB 42 (1989). The *Sonotone* election therefore determines both the representation question, and the unit placement question regarding a mixed unit of professionals and non-professionals.

Here, by its petition, Petitioner explicitly seeks an *Armour Globe* whereby the voting group would decide whether to be included in the engineering unit. Petitioner argues an *Armour Globe* election is permissible if the voting group sought shares a community of interest with the existing unit and comprises an identifiable and distinct segment of the workforce. Accordingly, Petitioner argues extensively on brief that the record supports finding the community of interest and identifiable and distinct factors are met. Only at the end of its argument does Petitioner add that the FSRs in the voting group sought are professionals

under Section 2(12), and engineers, and therefore no mixed professional, non-professional unit issue is present, implicating *Sonotone*.

The Employer approaches the issue in the same manner, although arguing for a different result. The Employer asserts an *Armour Globe* election is inappropriate in the instant case because a community of interest does not exist.[43] Further, the Employer asserts the FSRs are also not engineers as defined in the engineering agreement, so it is inappropriate to include the FSRs in any unit consisting of only engineers. In conclusion, the Employer asserts the FSRs in the voting group sought are not professionals and therefore a mixed professional, non-professional unit is being sought. The Employer argues if any election occurs it must be a *Sonotone* election.

The election posited by the Employer is not a traditional *Sonotone* election, as the professional unit that determines the Section 9(b)(1) question, the engineering unit, is represented by Petitioner. The Employer therefore is seeking an additional election if the *Armour Globe* requirements are met, yet the FSRs are found to be non-professional. The first election would determine whether the FSRs wish to be represented and included in the existing engineering unit. The second election would put the *Sonotone* question to the approximately 14,000 employees in the existing engineering unit, to determine whether they wish to have a mixed professional, non-professional unit. The Employer does not provide case support for this approach, and in my review it does not appear the Board has directed such an election which, for lack of a better term, I shall refer to as a "secondary *Sonotone*," which would result in an additional, secondary, election asking the professional unit whether to accept the non-professionals who voted for inclusion.

In my assessment, the petition and facts in the instant case present a threshold issue; are the FSRs in the voting group sought professional employees? If so, then no Section 9(b)(1) mixed professional, non-professional unit issue exists and the inquiry proceeds to the community of interest question under the *Armour Globe* standard. If the *Armour Globe* requirements are met, the election sought by the petition is appropriate. However, if the *Armour Globe* standard is not met, an election in a stand alone unit would be appropriate.[44]

My conclusion below that the FSRs are not professionals means then the instant petition is seeking to add non-professionals to a professional unit, specifically prohibited by Section 9(b)(1). As set forth below, I find the appropriate action, when faced with a petition that explicitly seeks only a self-determination election among non-professionals to be added to a professional unit, is to dismiss the petition. However, I recognize that when combined properly a mixed unit of professionals and non-professionals does not run afoul of the Act. Accordingly, as requested, I have provided Petitioner the opportunity to indicate a willingness to proceed to a consideration of the "secondary *Sonotone*" election, discussed above. The details regarding this option are addressed in the conclusion of this Decision.

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[43] The parties characterize the Board's *Armour Globe* test differently on brief, but they agree community of interest is the central focus. It is not necessary to reconcile the differences in light of my determination.

[44] By its terms, the petition seeks only a self-determination election. At hearing, Petitioner took the position it was not seeking an election in a stand alone unit, as the Employer was willing to proceed to an election in a stand alone unit of domestic FSRs. I recognize, however, on brief Petitioner has changed its position and has requested, if an alternative election were found appropriate, "a reasonable amount of time to indicate whether it is willing to proceed." This decision addresses only the appropriateness of a self-determination election seeking to add the FSRs to the engineering unit.

In accordance with this analytical framework below I have first addressed the threshold issue of professional status; stating the Board's standard, the relevant facts in the record, and my conclusions. Following my conclusions I have addressed the impact of my finding on the instant petition.

A. Professional Status

Section 2(12) of the Act defines "professional employee" as follows:

> The term "professional employee" means--
> (a) any employee engaged in work
> (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;
> (ii) involving the consistent exercise of discretion and judgment in its performance;
> (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
> (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.
> (b) any employee, who
> (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and
> (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

The four criteria set forth in subpart (a) are conjunctive. *Group Health Assn.*, 317 NLRB 238, 240 (1995) ("Section 2(12)(a) of the Act defines professional employees as those who meet four conjunctive criteria[.]"). "[E]mployees must satisfy each of the four requirements set forth in Section 2(12)[(a)] before they qualify as professional employees within this definition." *Greenhorn & O'Mara, Inc.*, 326 NLRB 514, 517 (1998) (citing *Arizona Public Service Co.*, 310 NLRB 477, 482 (1993)). See also *The Express-News Corp.*, 223 NLRB 627, 630 (1976) (finding the employer's journalists were not professionals due to their failure to meet the requirements of subpart (iv) of Section 2(12)(a)).

The Board has a longstanding test for applying the criteria of Section 2(12)(a), first developed in *Western Electric Co.,* 126 NLRB 1346 (1960) and confirmed in subsequent cases.[45] The test explicitly looks to an employees' actual work performed; the requirements of Section 2(12) cannot be met by merely by considering an employee's degree, license, or other qualification. *Avco Corp.*, 313 NLRB 1357 (1994), citing *Western Electric* at 1347-1348. That is not to say a degree is not relevant to the analysis, however, as educational background is examined "for the purpose of deciding whether the work of the group satisfies the 'knowledge

[45] There is no assertion that Section 12(b) is at issue in the instant case.

of an advanced type' requirement of Section 2(12)(a)." *ibid.* Where a group of purportedly professional employees consists primarily of individuals with professional degrees, the Board will "presume that the work requires "knowledge of an advanced type'...[c]onversely, if few in the group possess the appropriate degree, it logically follows that the work does not require the use of advanced knowledge." *ibid.*

The Board has generally, in applying this test, held engineers to be professional employees.[46] In *Ryan Aeronautical Co.*, 132 NLRB 1160 (1961) the Board examined a disputed group of electronics, mechanical, and test engineers and held them to be professional. *ibid.* The group primarily consisted of degreed engineers, but a segment of non-degreed employees qualified for their positions through "equivalent experience." *id.* at 1163. In analyzing the employees' professional status, the Board first noted the opposition to their professional status was based on some employees lacking engineering degrees. *id.* at 1164. The Board reiterated the holding from *Western Electric*, that it was not the "individual qualifications of each engineer, but rather the character of the work required of them as a group," that was determinative. *ibid.* The Board then concluded because the disputed group predominantly consisted of degreed engineers, application of the *Western Electric* presumption was appropriate and found the engineers professionals under Section 2(12). *ibid.*

In *Chrysler Corp.*, 154 NLRB 352 (1965), the Board again faced a voting group, manufacturing and production engineers, that consisted of degreed engineers and non-degreed employees. There, disputed employees' work involved the production of the Saturn booster for NASA's Saturn rocket program. *ibid.* Their work consisted of receiving designs from design engineering and developing a detailed process plan describing how a part would be manufactured, assembled and tested. *id.* at 354-355. Once approved, they supervised the implementation of the plan, assisted production in resolving engineering problems, and when changes were proposed they assessed the impact on cost and the production schedule, and conducted feasibility studies. *ibid.* Only one-third of the employees at issue held an engineering degree, and the Board did not apply the *Western Electric* presumption, instead examining the work of the manufacturing and production process in detail. *id.* at 356. The Board held that while the manufacturing and production engineers received some limited supervision and oversight from senior engineers, who had to approve changes to manufacturing plans for example, it was the manufacturing and production engineers that ultimately retained responsibility for the manufacturing plan. *id.* at 357-358. The Board then examined the breadth of responsibilities of the manufacturing and production engineers, including drafting manufacturing plans; estimating the impact of changes on production; determining tooling requirements, and designing tools; solving manufacturing, assembly, and testing problems; working on the production floor with production supervisors; and design review for manufacturing feasibility. *ibid.* The Board then determined formulation and guidance of the manufacturing process, in a project as complex as rocket design and production, demonstrated it was essential for manufacturing and production engineers to have widespread knowledge of an advanced type, and, thus, the Board found these disputed employees to be professional employees under Section 2(12). *id.* at 359.

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[46] In the interest of brevity, I have omitted a detailed discussion of generally consistent Board decisions involving engineers that led to *Western Electric.* See *Westinghouse Electric Corp.*, 80 NLRB 591 (1948); *F.W. Sickles Co.*, 81 NLRB 390 (1949); *Western Assoc. of Engineers, Architects, and Surveyors*, 101 NLRB 64 (1952); *Standard Oil*, 107 NLRB 1524 (1954); and *General Electric Co.*, 120 NLRB 199 (1958).

The Board examined the professional status of a group of exclusively engineers is *Avco Corp.*, above. Specifically, the Board examined the professional status of 11 classifications of engineers employed in designing and manufacturing gas turbine engines for tanks, helicopters, and airplanes. *id.* at 1358. In making its determination, the Board first examined the engineers' educational background, noting a majority held at least a bachelor's degree in a specialized field of engineering, and applied the *Western Electric* presumption. *id.* at 1361. The Board then turned to the work performed; concluding many of the classifications were applying "theoretical knowledge" to the "solution of basic analytical engineering problems," in reference to the "design of components or portions of moderately complex functional systems." *ibid.* Having concluded the presumption applied, the evidence of work performed supported the presumption (and that several junior engineers qualified under Section 2(12)(b)), the Board found all the employees under consideration were professionals. *ibid.*

In addition to these cases involving units of exclusively engineers, the Board has also addressed the professional status of a mixed group of employees including engineers as associated support personnel. In *General Dynamics Corp.*, 213 NLRB 851 (1974), the Board addressed the professional status of not just engineers, but a diverse group of engineers, analysts, and administrators involved in the Employer's aerospace division. The Board in that case held several positions were properly classified as professional; including systems analysts and manufacturing development engineers. *id.* at 863-864. In regard to the systems analysts, the Board noted they were part of data systems and management planning group, had educational backgrounds in business, math and statistics, and their work consisted primarily of publishing documents and conducting studies regarding work procedures and business development. *ibid.* While not explicit, in finding the systems analysts were professionals under Section 2(12), the Board made an implicit finding that the business and analytical knowledge contained in their educational backgrounds was "knowledge of an advanced type," and was utilized in performing their duties. In regard to the manufacturing development engineers, the Board found "their job functions and work performance" were comparable to that of the engineers whose professional status was not in dispute. *id.* at 862, 864.

However, the Board also came to the opposite conclusion, finding non-professional status in regard to a senior service engineer classification. *id.* at 863. That classification's duties included "writing publications to assist the Employer's customers...maintain and continuously review basic historical data concerning delivered aircraft, conduct examinations of all accidents and incidents...and assist in product liability legal actions." *ibid.* The Board did not address its conclusion in further detail, other than to note it agreed with the Employer the classification was not "truly" an engineering classification. *ibid.*

With respect to an additional large group of classifications, the Board found while the employees in these classifications:

> exercise considerable technical skill in assisting the Employer to operate efficiently, the character of the work required of them...falls short of that required of professional employees. Their work clearly does not require knowledge of an advanced type as does that ordinarily required and ordinarily performed by groups of employees with professional standing under Section 2(12) of the Act. *id.* at 864.

The Board then briefly detailed the work referenced for these additional classifications, including, in part for: engineering documentation analyst, engineering documentation representative, engineering documentation specialist (determine vendor document submission

compliance); engineer drawings checker (check documents for compliance with Employer's standards); engineer illustrator ("artistically oriented" employees that execute technical drawings at direction of design engineers and draftsmen); equipment engineer (maintenance and research related to the maintenance of certain specialized equipment); manufacturing engineer (assessment of whether present facilities meet future production needs); senior materials and process engineer (create manufacturing specifications and instructions); and tool engineer (design and fabrication of specialized tools). *id.* at 864-868.

As noted, in *General Dynamics*, the Board did not face a distinct group of engineers, as was the case in *Ryan Aeronautical, Chrysler,* and *Avco,* but instead a diverse group of employees involved in a design, manufacturing, and support process that included admittedly professional engineers as a component.

In *Loral Electronics*, 200 NLRB 1019 (1972), the Board addressed a similarly mixed group of employees. The professional status of a workforce consisting of engineers, analysts, quality assurance, and marketing personnel was at issue in that case, in the context of whether the classifications belonged in a professional or technical unit. *ibid.*

The Board in *Loral*, in addressing several marketing employees, specifically considered employees that assist engineers, but that are not performing engineering work. In discussing the professional status of these employees, the Board stated:

> [marketing managers] function as technical liaison representatives dealing with military representatives in Washington and other major cities concerning the Employer's proposals and contracts. Two other employees, a manager of product marketing and a manager of product areas, prepare technical data in connection with bids and technically assist Engineering Division personnel working on bids...While the duties of the 10 marketing representatives as a group require technical expertise, their responsibilities do not require knowledge of an advanced type ordinarily acquired by professional personnel through a prolonged course of specialized study in an institution of higher learning or through experience equivalent to such study. *id.* at 1021.

Because of their technical expertise, but lack of knowledge of an advanced type, the marketing employees were placed in the technical unit. *ibid. Loral* also stands for the proposition that a professional unit need not be limited to only one type of professional, as the Board placed the "chief scientist," a chemist not an engineer by training, and the "manager of human factors," who held a degree in psychology, in the professional unit, after finding they utilized their respective disciplines in performing their work. *id.* at 1020.

Turning to the FSRs at issue in the instant case, it is apparent that some aspects of the Section 2(12)(a) criteria are not in dispute. This is acknowledged by the parties, as the Employer, who opposes finding the FSRs are professional employees, argues only that the fourth aspect of Section 2(12)(a) test is not met. While I agree with the Employer in this regard, I will address the first three factors briefly before turning to the disputed fourth factor.

On the first factor, the FSRs' work is predominantly intellectual and varied in character, as the record is clear FSRs are prohibited from "touch labor" on aircraft, and there is no assertion they perform any other manual or physical task. Also, the mental tasks they perform are varied, as the duties of the FSR position, across classifications, largely consist of responding to the varied service needs of customers. Further, these are predominantly

technical issues the customer cannot resolve on their own, and are therefore by their nature complex problems.

In regard to the second factor, the record also reveals ample evidence that discretion and judgment are utilized on a regular basis by FSRs in completing their work. In each classification, FSRs are presented technical problems that are beyond rote solutions. Indeed, the evidence reveals much of the value in a FSR is their ability to use their discretion and judgment regarding when to seek an existing solution, when to contact Service Engineering, and whom to contact within that organization. Neither party asserts the FSR is merely documenting the requests of the customer and submitting them to the Employer without input.

In regard to the third factor, there is no assertion this work is of such a character that the output produced or the result accomplished can be standardized in relation to a given period of time. Rather, the FSRs' work environment is simply not the type where this factor could be a consideration. Again, because the test is conjunctive, it is the disputed fourth factor, whether the FSRs' work requires knowledge of an advanced type, which determines whether the FSRs are professional employees.

In regard to the disputed factor of Section 12(2)(a), the knowledge "customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning," which the FSRs are asserted to possess, is knowledge of engineering. Professional status in the instant case then is a question of whether the FSRs' work requires engineering knowledge. To make this determination I will initially address the educational background of the FSRs. I will then address the record evidence of the FSRs' tasks that arguably require engineering knowledge, the arguments made by the parties, and their persuasiveness.

1. Educational Background

The educational background of the 92 FSRs in the voting group sought consists of degreed engineers and non-engineers. 38 FSRs are degreed engineers; 20 co-located FSRs, one BBJ FSR, four FSRs in the Seattle Support Center, 11 intro reps, and two controllers. 28 FSRs have an educational background in a mechanical or technical field; seven co-located FSRs, one FSR in the Seattle Support Center, 13 Intro Reps, and 7 controllers.[47] Finally, approximately 26 FSRs have an educational background either not clearly identifiable as an engineering, mechanical, or technical field, or do not have an educational background contained in the record. In short, 40 percent of the unit are degreed engineers, 60 percent of the unit are not. Four conclusions can be drawn from this information.

First, the Board's *Western Electric* presumption holds that where a group of purportedly professional employees consists primarily of individuals with professional degrees, a presumption should apply that the work requires knowledge of an advanced type. Here, the record reveals a majority of the employees in the voting unit sought, approximately 60 percent, are not degreed engineers. Thus, I find that declining to apply the *Western Electric* presumption in the instant case is consistent with the Board's decision in *Chrysler* and its progeny.

Second, there is essentially a bifurcation in the educational background in the FSR

[47] If an individual has an engineering degree and a mechanical and technical background they are counted as a degreed engineer, not in the mechanical or technical degree category.

classification, one group has an engineering background, and one group has mechanical or technical backgrounds. The groups are of approximately equal size, and from the evidence in the record, perform the duties of an FSR equally well. I find the Employer's treatment of the intro reps loaned to the 787 program demonstrates this bifurcation. Specifically, the intro reps loaned to the 787 program have been divided into two groups. Employees with engineering degrees have become ground operations engineers, performing engineer bargaining unit work. Loaned out FSRs without an engineering degree have become flight analysts, positions included in technical unit represented by Petitioner. Under these circumstances, I find this is evidence of the bifurcation, that it persists, and that such is indicative that one need not possess an engineering education, engineering training and/or experience to perform the work of an FSR.

Moreover, the varied backgrounds of the workforce make the instant case similar to *General Dynamics* and *Loral*, addressing mixed groups including employees that support engineers, but are not engineers themselves.[48] I find the marketing managers in *Loral* to be a particularly analogous group to the FSRs in the instant case. In *Loral*, the marketing managers would "prepare technical data in connection with bids and technically assist Engineering Division personnel working on bids," and while their duties required "technical expertise," their responsibilities did not require knowledge of an advanced type, i.e. the knowledge of the engineers with whom they were working. Here, similarly, the FSRs submit technical data to Service Engineering and assist Service Engineering in resolving mechanical or technical issues, but the evidence does not support finding this FSR function requires engineering knowledge, as approximately 60 percent of the unit is able to perform this function with mechanical or technical knowledge.

Third, because the FSRs have a diverse educational background, it is particularly important to analyze the educational background of the FSRs in relation to the work actually performed. As previously stated, a professional determination under Section 2(12) is not merely an assessment of whether employees possess advanced degrees. If this were the case, certainly some of the non-degreed engineers would require a closer examination, as they hold advanced non-engineering degrees, and accordingly have some "knowledge of an advanced type." Rather, the question is whether the assertedly professional employees apply that knowledge *in performing their work*.

For example, an employee with a master's degree in physics (counted here as part of the 60 percent of FSRs who are non-degreed engineers) certainly holds a degree "of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning," as described in Section 2(12)(a)(iv). However, there is no basis in the record for finding that employee is using that knowledge of physics in performing his work as an FSR; therefore, his advanced degree is not conclusive on the instant professional determination.[49]

In this way, the instant case differs from the disputed position of the chief scientist and

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[48] As such, the instant case can be distinguished from *Ryan Aeronautical, Chrysler,* and *Avco,* to the extent those cases addressed groups of engineers exclusively.

[49] I note that in *Avco* the Board used the phrase "professional degree" in regard to the presumption. An argument could be made therefore that in assessing whether the presumption applies the question is whether an individual holds *any* professional degree. I do not apply that reading for two reasons. First, *Avco* involved only engineers, not a multi-disciplinary workforce, so it is unlikely this broad reading of "professional degree" was intended. Second, such a broad reading would appear to run contrary Board's focus on the work performed.

manager of human factors in *Loral*, above. There, the chief scientist and manager of human factors were placed in the professional unit, primarily consisting of engineers. The Board did not place them in the professional unit because they possessed and utilized engineering knowledge in performing their work. Rather, they were placed in the professional unit because they possessed and utilized the knowledge of chemistry and psychology, respectively.[50] Here, the record does not support finding the non-degreed engineers, who hold advanced degrees in other fields necessarily use that non-engineering knowledge in performing their work as an FSR.

Fourth, finally, and perhaps most fundamentally, I find that the lack of engineering degrees among the FSRs supports the conclusion that the FSRs in the voting group sought are not professional employees. While the portion of the FSRs with an engineering degree is significant, it is difficult to conceive how, if the FSR position requires knowledge of an advanced type generally conferred in an engineering degree program, 60 percent of the workforce could meet the requirements of their position without such a degree. I note there is no evidence in the record that non-degreed engineers obtain any sort of additional training on engineering principles, formally or informally, when they become FSRs. The training that is detailed in the record, first base training, lasts a mere 90 days and appears from the record evidence to be specifically tailored to address the non-technical aspects of the FSR position, namely the communication and relationship building aspects. Indeed, there is no evidence in the record indicting first base training differs in any way, in length or substance, for employees with an engineering background and employees with a technical background. In conclusion, I find the varied educational backgrounds of the FSRs as a group supports the Employer's position that the FSRs are not professionals within the meaning of Section 2(12).[51]

2. Work Performed

As demonstrated by the cases cited above, it is necessary to analyze the work actually performed by the FSRs in order to make a complete determination regarding their professional status under section 2(12). While the evidence suggests the FSRs as a group appear to lack the educational background to apply engineering principles in their work, an analysis of their work could indicate otherwise and provide a basis for finding professional status. This is particularly true in the instant case, as the technical advisor function performed by the FSRs appears, to a layperson, to potentially include application of engineering knowledge. In addressing the FSRs work, I will first address some general points, and then analyze the specific technical advisor examples provided.

It is first necessary to define what would constitute applying engineering knowledge. The dictionary definition of engineering is, essentially, the application of science and mathematics to properties of matter and sources of energy in nature to make them useful to people. Engineering is, in short, applied science. In the context of this Employer, engineers

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[50] This is similar to the determination regarding systems analysts in *General Dynamics*; as there, the Board found the position met the requirements of Section 2(12) although the employees training was in business, math and statistics, not engineering.

[51] Although I agree with the ultimate non-professional conclusion argued by the Employer, I do not agree with all of its arguments. The Employer's historical treatment of FSRs as exempt under the Fair Labor Standards Act as "administrative" employees, and not "professional" employees, is not binding on the instant determination. I also do not rely on the Employer's argument that, if FSRs performed engineering work, Petitioner would have sought to claim the work for the engineering unit, based on Petitioner's history of filing similar "claim of work" grievances.

apply science and mathematics to design, manufacture, test, operate, and service aircraft.[52] There is no contention or evidence FSRs in any classification perform any work at the design, manufacturing, and/or testing stages, other than the limited testing exception(s) noted herein. The issue presented is whether when functioning as a technical advisor in the operation and service of aircraft, the FSRs are applying science and mathematics to the level of an engineer.

Although the examples detailed above demonstrate the FSRs assisting engineers certainly, I do not find this demonstration establishes that the FSRs are performing the work of engineers. In regard to the pylon cracks issue, Hirsch engaged in a great deal of activity; he attempted to locate a replacement part, explored whether an equivalent part existed on another aircraft, submitted the request for the "no technical objection" statement from Service Engineering, convened several conference calls with engineering departments, and informed Service Engineering that they did not fully realize the difficulties faced at an 800 operating hours check. However, in each of these instances his primary function appears to be conveying information to the Employer's engineers, or locating information for the customer's engineers. It does not appear he is actually applying any engineering principles, but instead facilitating communication.

I do recognize that when Hirsch developed the "bathtub" fix with the customer's engineer, he was applying engineering knowledge. Clearly, some of the FSRs are degreed engineers and they use this knowledge in making some recommendations. Further, there is no evidence the Employer discourages or prohibits this input to its Service Engineering process. However, I would note that this input is not *required* of FSRs, and there is no evidence that the inability to contribute in this manner prevents the 60 percent of non-degreed engineers from being fully effective FSRs and carrying out the work assigned to and expected of them. Similarly, in regard to Hirsch's tire pressure gauge example, the ability to recognize the thermal interplay of the components likely relied on engineering knowledge. However, this was an engineer making a particularly useful contribution; the Employer had an engineering process in place that presumably would have resolved the problem absent such a suggestion, albeit perhaps not as quickly.

In regard to the inlet cowl o-ring and slat asymmetry examples, I do not find that these examples demonstrate engineering knowledge applied to the problem. In regard to the o-ring issue, this appears to be a mechanical issue regarding the method of inspection, and really the issue was simply explaining that the o-ring was not observable in the manner Service Engineering indicated. Petitioner states on brief that Hirsch made "detailed drawings" of the situation, but Hirsh stated he submitted annotated photographs, and from the context of his testimony the annotations were not technical drawings of the type made by an engineer, but simply a demonstration of how the o-ring was obscured. Regarding the slat asymmetry example, Hirsch located an existing solution, but I do not see how, in doing so, engineering principles were applied. Moreover, Petitioner does not articulate how engineering principles were applied, but merely cites these examples as evidence of "collaboration."

Regarding the scribe line issue, there FSR Hess acted as a conduit of information, taking pictures and measurements and with the customer's engineers submitting a report to Service Engineering. Hess then answered the additional question, but ultimately Service Engineering removed the problem from his hands and had the portion of the plane affected sent to the engineers in Seattle. That was the end of Hess's involvement as FSR; he brought

[52] Here, I use the term "service" to include repair and/or modification where applicable in the FSRs' work.

the issue to Service Engineering, provided information sufficient to determine the issue was serious, and at that point handed the issue off to the Employer's engineers. This appears to be consistent with the way the Employer has designed this aspect of its operations and the role of the FSR within that operation.

I further find the wingtip lights example demonstrates an FSR acting to facilitate communication between engineers, not applying engineering knowledge. The FSR involved informed Service Engineering that sealant degradation was causing the problem, and that the initial fix presented economic and technical problems for the customer, and then obtained permission for the deviation so that the aircraft could operate without a functioning wingtip light. The FSR's proposed short-term fix, essentially securing the cover with tape, while effective, does not seem to rise above a minimal technical solution. The testimony of Topping suggests the FSR was also involved in the long-term solution, working with a vendor to develop a clear protective cover to be placed over the cover, but without further details this incident does not support finding the FSR was utilizing engineering knowledge in this regard.

The other specific examples in the record reinforce the FSR as a conduit of information, rather than a source of engineering solutions. I find such conclusion is also supported by the tools used by FSRs in these examples. The tools used by FSRs, telephone, e-mail, Boeing Communication System, My Boeing Fleet, FSDS, SIVT, are communication tools. They are tools utilized to send and receive information, to facilitate research, and access information. They do not perform mathematical calculations, make technical drawings, or otherwise develop a solution involving engineering applications as contemplated by Section 2(12)(a). I recognize the point made in the record that the nature of modern engineering is such that the much of the calculation and design is computer assisted, but if the FSRs were required to apply engineering knowledge, I would expect they would be given tools to facilitate calculation and design, rather than the tools of communication.

To this point, my analysis of the work performed has focused only on the technical, work performed by all FSRs, and the work that most approximates engineering knowledge. However, this is not the only work performed by FSRs. Rather, co-located FSRs and BBJ FSRs have significant relationship building and customer service responsibilities that are wholly unrelated to engineering and/or technical knowledge. The existence of these other duties further reinforces the conclusion that the work of the FSR is primarily customer liaison in nature, a task that does not require the application of engineering knowledge.

For the FSR classifications that are expected to develop customer relationships, the co-located FSRs and BBJ FSRs who constitute approximately 40 percent of the voting group, these are significant responsibilities. The record reveals co-located FSRs daily rounds, primarily designed to build relationships take between five and 20 percent of each work day. In addition to devoting a portion of each day to relationship building, co-located FSRs will also have occasional periods of this activity exclusively; for example when accompanying their customer to meet with the Employer for a week.

While the record does not contain the same level of detail regarding the BBJ FSRs' relationship building activities, the record does indicate BBJ FSRs spend 30 to 40 percent of their day simply communicating with customers. While the subject matter of the communication may be technical, it can be presumed at least some portion of this time is spent in building positive relationships with the customer. Similarly, the record reveals BBJ FSRs spend approximately 30 percent of the time visiting customers on-site. Again, at least

some portion of this time is spent in building positive relationships with the customer, not on purely technical tasks.

3. Arguments of the Parties

Petitioner's arguments regarding professional status are primarily based on two sources in the record; the Employer's documents including position descriptions and procedures, and the testimony of the FSRs and others at hearing. I will first address the Petitioner's arguments in regard to the documents, then the witnesses. In regard to both, I have addressed only the disputed fourth factor of the professional test, whether the FSRs work requires the use of engineering knowledge, it is not necessary to address Petitioner's arguments in regard to the first three factors.

In regard to the Employer's documents, Petitioner first argues the FSR job descriptions demonstrate the FSRs are professionals and engineers. Petitioner notes that FSR job descriptions require, under "troubleshooting" ability; "the...ability to use established physical, mechanical, or scientific principles and perform the appropriate tests to identify and solve problems encountered on the job." The amount of ability depends on the FSRs' level, with the level 4 description calling for "extensive, specialized ability" and the level 5 description calling for "advanced, expert ability." Petitioner notes the level 5 FSR is referenced as a "technical expert" and is expected to develop "new job applications based on professional principles theories and concepts." Petitioner also notes the Employer's documents require those in the FSR position to have the "determination and perseverance required to solve technical problems." In regard to the controllers, Petitioner notes the job description requires they are an "engineering or technical generalist as appropriate." Petitioner highlights that BBJ FSRs, as mentors, are encouraged "to look for the answer to a difficult question."

Petitioner also refers to directives in the Employer's Field Service Procedures. Specifically, Petitioner notes that in regard to new plane introduction, intro reps and co-located FSRs "provide engineering and technical information," and in the event of problems they assist in proper diagnosis and problem resolution." In regard to problem resolution, Petitioner further notes the Field Service procedures also state FSRs should "make every effort to handle the request on-site by using local resources," and that "as engineers and technicians, FSRs should develop and maintain a professional attitude toward problem solving in the field."

The above is consistent with two conclusions I have reached from the record evidence. First, based on educational background the FSRs consist of essentially two groups, engineers and mechanics. Secondly, FSRs spend a significant portion of their time solving customer's technical problems. What Petitioner's evidence fails to show, however, is FSRs going beyond the technical or mechanical applications in their work and *required* application of engineering principles. At no point in the record is an FSR faced with a problem that requires independent application of "theoretical knowledge" to solve an "analytical Engineering problem," to use the phrasing utilized by the Board in *Avco*. FSRs appear to have the discretion to do so if capable, but under the Employer's process, such a problem should be submitted to the Service Engineering department.[53]

Turning to the witnesses, Petitioner addresses both the issue of educational background and the tasks performed. In regard to the FSRs' educational background,

[53] In this regard I note that when an FSR who is a degreed engineer proposes an engineering solution, such as Hirsch's "bathtub," it is in the context of a recommendation to Service Engineering.

Petitioner notes Hirsch testified that he utilizes, as an FSR, the applied science, decision making, and ability to think systematically that he learned in engineering school. Indeed, Hirsch testified that 70 percent of his work day involves the use of his engineering education, and that his coworker at his current assignment, a non-degreed engineer FSR, similarly utilized the same analytical and decision making skills. However, the conclusion I draw from this testimony is that the "analytical and decision making skills" utilized by FSRs are not exclusive to the engineering field, and do not demonstrate the application of engineering principles. To conclude otherwise would seem to require finding that non-degreed engineers have become de facto engineers through experience, a conclusion I do not find supported by the record.

Again, in the absence of any sort of formal training program that instructs the non-degreed engineers in engineering principles, I conclude the non-degreed FSRs have a lower level of engineering knowledge, but that this does not inhibit their performance as FSRs because the position does not require engineering knowledge. This is in contrast to what I discern to be Petitioner's argument, that by years of collaborating with engineers, non-degreed engineers have gained the equivalent of an engineering degree. Ultimately, I have concluded the evidence as a whole does not support Petitioner's arguments in this regard.

Petitioner attempts to revive its argument by parsing the specific examples of technical assistance in the record. Petitioner argues the use of engineering knowledge is demonstrated by examples such as the tire pressure gauge solution developed with the assistance of an FSR, Hirsch's "bathtub" solution on the pylon crack issue, the need to correct Service Engineering in regard to the inlet cowl o-ring, and the solution discovered regarding slat asymmetry. As previously stated, while I recognize some of the FSRs are degreed engineers and they use this knowledge in making recommendations, there is no evidence this knowledge is required, or that the non-engineers perform poorly as FSRs for not being able to make such recommendations. Indeed, what the Employer actually requires of the FSRs is that they have sufficient technical knowledge to successfully facilitate communication in their role as a technical advisor.

In each of these situations, Petitioner argues strenuously that the FSRs' contribution to the fix demonstrates they are engineers. I do not agree. It is clear when acting as a technical advisor, FSRs are in contact with engineers and that the process can be collaborative. However, I find the examples tend to reinforce the nature of the FSR as a conduit of information, not as an engineer charged with developing the solution. Moreover, the Employer's process in which FSRs operate is designed to place the real engineering work with others who are not included in the petitioned-for voting group.

Further, I note a statement made repeatedly by Petitioner on brief that I do not find supported by the record. Petitioner recognizing that much of the FSRs work is communication related, states "it is impossible to communicate technical issues to engineers effectively without understanding the engineering behind those issues." I do not find the record supports this conclusion, at least stated as it is without context and limitation. As described above, many of the detailed technical advisor examples provided in the record involve an FSR collecting the basics of a problem, i.e. crack in a pylon, recurring slat asymmetry warning indicator, fuselage cracking, and submitting the information to Service Engineering. The information submitted, including accompanying measurements and photographs, does not appear to require an engineering degree to communicate. There is no evidence of an FSR being directed by Service Engineering to conduct a test and report the results or anything of

that nature. Indeed, to use the scribe line example, when the problem was identified as complex and material testing was needed, Service Engineering had a portion of the plane removed and sent to Seattle. The FSR was not directed to perform the testing in the field.

On balance, although I recognize that the FSRs play a critical role in addressing often difficult and complex issues, I find Petitioner's arguments unpersuasive. Throughout its arguments Petitioner failed to articulate how engineering principles, the critical "knowledge of an advanced type" was actually applied to the FSRs' work. Instead, Petitioner conclusively argues FSRs use their engineering or technical background to collaborate with engineers. Collaboration alone, however, is insufficient to establish professional status absent evidence the collaboration required application of engineering principles; this cannot be presumed simply because engineers are involved in the process. In this case, where it does appear engineering principles were applied in this collaboration, it was because an FSR *who was a degreed engineer* had taken the initiative to do so; it was not required of the FSR.

Finally, to the extent Petitioner cites to Board case law regarding professional status, it does not call into question the conclusions reached here. On brief, Petitioner cites *Chrysler* and *Ryan Aeronautical*, discussed above, but only for on the point that professional status is not limited to an assessment of degree or title; a position I have addressed in detail and where I am in agreement with Petitioner.

B. Conclusions as to Professional Status

As stated at the beginning of my analysis, the petition and facts in the instant case present a threshold issue; are the FSRs in the petitioned-for voting group professional employees? I have carefully reviewed and considered the record evidence and the arguments of the parties, and concluded the FSRs do not meet the fourth requirement of Section 2(12)(a); their work does not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning. Instead, the FSRs largely facilitate communication, and while significant technical background is necessary to effectively perform in this role, it is not a role that necessarily requires the application of engineering principles. There is no evidence, and no contention, that professional status under Section 2(12)(b) is at issue in the instant case. Accordingly, I find the FSRs in the petitioned-for voting group are not professional employees under Section 2(12) of the Act.

IV. CONCLUSION

Having found the petitioned-for FSRs in the voting group are not professional employees, I conclude the instant petition is seeking to add non-professionals to a professional unit, specifically prohibited by Section 9(b)(1). As a consequence, I cannot direct the petitioned-for, straightforward *Armour Globe* election. However, I recognize that *Sonotone* presents a framework for adding non-professionals to a professional unit; although typically not under the circumstances presented in the instant case. Under that approach, the FSRs would first vote as to whether they wished to be represented by Petitioner in a combined unit with the existing engineering unit; and, if a majority of the FSRs indicated this desire, a second election would ask the engineering unit whether they wished to be included in a combined unit with the FSRs. Only if a majority of those voting in both groups vote yes would Petitioner be certified to represent the FSRs in the combined unit.

Because Petitioner has not expressed a willingness to go forward to such an election, I shall not address the parties' additional arguments to determine whether it is appropriate to direct such an election at this time. Instead, I shall give Petitioner 10 days from the date of this Decision to inform me in writing whether it wishes to proceed to a potential *Sonotone* election described earlier.[54] If Petitioner indicates a willingness to proceed, I will issue a Supplemental Decision examining the remaining issues and making a determination regarding whether such an election is appropriate. If Petitioner does not inform me in writing of a willingness to go forward within the time period allowed, the petition is dismissed pursuant to my conditional order.[55]

V. ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, conditionally dismissed, unless within 10 days of the issuance of this Decision, Petitioner notifies the undersigned, in writing, with notice to the Employer, that Petitioner is willing to proceed further. If Petitioner elects to proceed further in this case, I will then prepare and issue a Supplemental Decision.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street NW, Washington, DC 20570. This request must be received by the Board in Washington by **April 27, 2011.** The request may be filed through E-Gov on the Board's web site, ***http://www.nlrb.gov***, but may not be filed by facsimile.[56]

DATED at Seattle, Washington on the 13th day of April, 2011.

Richard L. Ahearn, Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

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[54] I have not made a determination regarding the community of interest between the FSRs and the engineering unit, and whether the FSR team leaders possess indicia of supervisory authority within the meaning of Section 2(11) of the Act. I will examine these issues in a supplemental decision if Petitioner elects to proceed.

[55] In addition to informing me in writing of whether it desires to proceed, Petitioner shall also serve on the Employer, a copy of such a written desire in the same manner as my service.

[56] To file a request for review electronically, go to ***http://www.nlrb.gov*** and select the E-Gov tab. Then click on the E-filing link on the menu. When the E-file page opens, go to the heading Board/Office of the Executive Secretary, and click the "File Documents" button under that heading. A page then appears describing the E-filing terms. At the bottom of the page, check the box next to the statement indicating that the user has read and accepts the E-File terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the "Submit Form" button. Guidance for E-Filing is contained in the attachment supplied with the Regional office's original correspondence in this matter and is also located under "E-Gov" on the Board's website, ***http://www.nlrb.gov***.