

OFFICE OF COMPLIANCE
LA 200, John Adams Building, 110 Second Street, S.E.
Washington, D.C. 20540-1999

_____)
Office of Communications Media,)
Office of the Chief Administrative Officer,)
Employing Office,)

and)
) **Case No. 97-LM-2**
National Association of Broadcast Employees)
and Technicians, Communications Workers)
of America, AFL-CIO,)
Petitioner.)
)

Before the Board of Directors: Glen D. Nager, Chair; James N. Adler; Jerry M. Hunter; Lawrence Z. Lorber; Virginia A. Seitz, Members.

DECISION AND ORDER
ON
PETITION FOR CLARIFICATION OF UNIT

Petitioner, National Association of Broadcast Employees and Technicians, Communications Workers of America, AFL-CIO ("Petitioner" or "NABET"), has filed with the Board of Directors of the Office of Compliance ("the Board") a petition to include by clarification certain temporary employees in the following unit of employees of the Office of Communications Media, of the Office of the Chief Administrative Officer ("OCM"), for which the Petitioner was certified as the exclusive representative by the Board on May 7, 1997:

All nonsupervisory, permanent employees of the Office of Communications Media, including employees in the following positions: Senior Camera Operator, Camera Operator, Technical Director, Senior Audio Specialist, Audio Specialist, Character Generator Operator, Electronic Technician, Production Engineering Specialist, excluding the Staff Assistant and those employees excluded by statute.

Office of Communications Media, Office of the Chief Administrative Officer, Employing Office and National Association of Broadcast Employees and Technicians, Communications Workers of America, AFL-CIO, Case No. 96-LM-2 (March 17, 1997), at 4-5 (March 17, 1997). In the foregoing Decision and Direction of Election, the Board

found that the temporary employee position in the OCM was vacant at the time of the pre-election investigatory hearing and therefore that it was inappropriate to make a determination regarding the inclusion or exclusion of the position in the unit. *See id.* at 3-4.

In the instant clarification case, the NABET and OCM have agreed to waive an investigatory hearing and have submitted a written stipulation as constituting the factual record on which to review the petition. Pursuant to the stipulation, the parties agree that the certified unit should be clarified to include the following addition:

Any individual(s) hired to fill one of the five temporary Production/Engineering Specialist positions within the Office of Communications Media approved by the Committee of House Oversight with the expectation that said temporary positions(s) will be encumbered for 30 working days or more within the 12 month calendar year of employment. Each individual temporary position will be deemed to be included within the certified unit for the duration of the calendar year in which it was filled, as of the first day said temporary position was filled.

The parties agree that at least one employee encumbered the position of Temporary Production/Engineering Specialist ("TP/ES") as of the date of the stipulation. The parties have also stipulated that the employees occupying the TP/ES position share with those employees in the certified unit the same general supervision and office conditions and that the TP/ES employees have regular and frequent contact with those in the unit and are paid under the same salary schedule, under the House Employees Position Classification Act, 2 U.S.C. §291 (1997), although at different salary levels which reflect the temporary status of their positions.

In view of the foregoing, the Board finds that it is appropriate to make a determination regarding the inclusion of the temporary positions in the certified unit. It is evident from the record that: (1) employees employed for the TP/ES position under the terms set forth in the proposed clarification description above have a reasonable expectation of continued employment, and (2) such employees have a community of interest with the bargaining unit employees. Moreover, in light of the parties' agreement as to the appropriateness of the clarification and their stipulations as to the similarity of supervision, office conditions, and salary structure, the Board finds that the inclusion of the TP/ES position in the unit will promote effective dealings and efficiency of agency operations. Accordingly, upon consideration of the record in this case and the record and findings in Case No. 96-LM-2, the Board determines that the petition for clarification should be granted. *Cf. U. S. Dep't of the Air Force, 90th Missile Wing*, 48 FLRA 650 (1993) (clarification of unit to include "flexible" employees upheld).

ORDER

IT IS HEREBY ORDERED that the unit sought to be clarified, in which exclusive recognition was granted to the National Association of Broadcast Employees and Technicians, Communications Workers of America, AFL-CIO, on May 7, 1997, is clarified to read as follows:

All nonsupervisory, permanent employees of the Office of Communications Media, including:

(a) employees in the following positions: Senior Camera Operator, Camera Operator, Technical Director, Senior Audio Specialist, Audio Specialist, Character Generator Operator, Electronic Technician, Production Engineering Specialist, excluding the Staff Assistant and those employees excluded by statute;


(b) any individual(s) hired to fill one of the five temporary Production/Engineering Specialist positions within the Office of Communications Media approved by the Committee of House Oversight with the expectation that said temporary positions(s) will be encumbered for 30 working days or more within the 12 month calendar year of employment. Each individual temporary position will be deemed to be included within the certified unit for the duration of the calendar year in which it was filled, as of the first day said temporary position was filled.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Decision and Order on Petition for Clarification of Unit were delivered by first class mail this 16 day of April, 1998.

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La Shean Kelly
Hearing Clerk
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