

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

International Brotherhood of Teamsters,)	
Local 700,)	
)	
Petitioner,)	
)	
and)	Case No. S-RC-14-047
)	
)	
Illinois State Toll Highway Authority,)	
)	
Employer.)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

On January 23, 2015, Administrative Law Judge (ALJ) Deena Sanceda issued a Recommended Decision and Order (RDO) in the above-captioned case, recommending the Illinois Labor Relations Board, State Panel, find that employees in the titles of Sign Shop Manager, Sign Shop Supervisor, Road Electric Manager, Central Garage Manager, and Central Garage Supervisor employed by the Illinois State Toll Highway Authority (Employer) were not supervisors within the meaning of Section 3(r) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), as amended, (Act), and that a secret ballot election should be conducted among these employees to determine if they wished to be represented by the International Brotherhood of Teamsters, Local 700 (Petitioner), or have “No Representation.” The ALJ also recommended that the Board find that employees in the titles of Maintenance Section Managers (MSM) and Maintenance Section Supervisors (MSS) were supervisors within the meaning of the Act and should be excluded from the petitioned-for unit.

The Employer filed exceptions to the ALJ's RDO pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200 through 1300, excepting to the

portion of the RDO finding that certain of the petitioned-for employees were not supervisors as defined by the Act. The Petitioner did not file a response to the Employer's exceptions or cross-exceptions to the RDO. After reviewing the RDO, the exceptions, and the record, we affirm the portion of the RDO finding the MSM and MSS positions are supervisory employees but find the record is insufficiently developed as to the supervisory status of the remaining petitioned-for employees.

Under Section 3(r), individuals are supervisory employees if they (1) engage in principal work that is substantially different from that of their subordinates; (2) have the authority, in the interest of their employer, to perform any of the 11 enumerated supervisory functions, or to effectively recommend such actions; (3) consistently use independent judgment in the exercise of that authority; and (4) devote a preponderance of their time to exercising that authority. 5 ILCS 315/3(r); City of Freeport v. Ill. State Labor Relations Bd., 135 Ill. 2d 499, 512 (1990). In her RDO, the ALJ determined that the remaining employees engaged in work that was substantially different from the work performed by their subordinates. She also found that there was a factual showing that all of the remaining positions, excluding the Central Garage Manager, had authority to perform at least one of the enumerated supervisory indicia. However, the ALJ concluded, and we agree, that the record is largely devoid of evidence establishing whether or not the remaining employees satisfy the preponderance of time requirement.

While the ALJ concluded that the absence of evidence was sufficient to conclude that the remaining employees were not supervisors under Section 3(r), we disagree. While it ultimately remains the Employer's obligation to establish the purported statutory exclusion, we believe the purposes of the Act would be better served by more fully developing the record prior to making our ultimate determination. As such, we remand for a further evidentiary hearing regarding the

supervisory status of the Sign Shop Manager, the Sign Shop Supervisor, the Road Electric Manager, the Central Garage Manager, and the Central Garage Supervisor.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett
John J. Hartnett, Chairman

/s/ Michael G. Coli
Michael G. Coli, Member

/s/ John R. Samolis
John R. Samolis, Member

/s/ Keith A. Snyder
Keith A. Snyder, Member

/s/ Albert Washington
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago on May 19, 2015, written decision issued in Chicago, Illinois on August 25, 2015.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

International Brotherhood of Teamsters,)	
Local 700,)	
)	
Petitioner)	
)	Case No. S-RC-14-047
and)	
)	
Illinois State Toll Highway Authority,)	
)	
Employer)	

ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On January 8, 2014, the International Brotherhood of Teamsters, Local 700 (Petitioner/Union) filed an amended petition for an election in Case No. S-RC-14-047 with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), as amended (Act), and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1300 (Rules). This petition seeks that the Board find that a bargaining unit consisting of all employees of the Illinois State Toll Highway Authority (Employer/ISTHA) in the titles of Maintenance Section Manager, Maintenance Section Supervisor, Sign Shop Manager, Sign Shop Supervisor, Road Electric Manager, Central Garage Manager, and Central Garage Supervisor is an appropriate unit. ISTHA objects to the unit’s inclusion of all of the petitioned-for employees, asserting that the positions are supervisory and thus excluded from the Act’s coverage.

A hearing was held on March 18 and 19, 2014, before Administrative Law Judge Heather R. Sidwell in Chicago, Illinois. At that time, all parties appeared and were given a full opportunity to participate, adduce relevant evidence, examine witnesses, and argue orally. Both parties timely filed post-hearing briefs. Subsequently, this matter was reassigned to the undersigned Administrative Law Judge. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of this case, I recommend the following:

I. PRELIMINARY FINDINGS

The parties stipulate, and I find, that:

1. The Employer is an instrumentality and administrative agency within the state of Illinois;

2. At all times material hereto, the Employer has been a public employer within the meaning of Section 3(o) of the Act;
3. The Employer is subject to the jurisdiction of the State Panel of the Board pursuant to Sections 5(a-5) and 20(b) of the Act; and
4. The Petitioner is a labor organization within the meaning of Section 3(i) of the Act.

II. ISSUES AND CONTENTIONS

The issue to be resolved is whether the eleven Maintenance Section Managers, eleven Maintenance Section Supervisors, the Sign Shop Manager, the Sign Shop Supervisor, the Road Electric Manager, two Central Garage Managers,¹ and the Central Garage Supervisor are supervisory employees within the meaning of Section 3(r) of the Act. ISTHA argues that these employees are supervisors because they perform the supervisory functions of hiring, promoting, directing and disciplining their subordinates. The Union argues that the petitioned-for employees do not have the authority to perform, or recommend such supervisory functions with the requisite independent judgment, nor do they spend a preponderance of time exercising such authority.²

III. FINDINGS OF FACT

ISTHA is authorized to operate and maintain a system of toll highways in the state of Illinois.³ Paul Kovacs is ISTHA's Department Chief. John Benda is ISTHA's General Manager of Maintenance and Traffic. Benda describes ISTHA's operations as large and decentralized, with 540 employees spread throughout northern Illinois. Operational units are located within the Maintenance & Traffic Division. These units are Roadway, Fleet Traffic Operations Center, Incident Management Permits and Utilities, and Central Dispatch. Maintenance & Traffic Division is located within the Department of Engineering. ISTHA's management is largely

¹ In response to the Petition, the Employer provided the Board with a list of the employee's within the petitioned for positions. This list identified Stanley Peca, Jr. and Scott Schweppe as the petitioned-for Central Garage Managers.

² The Union's post-hearing brief states that only the Maintenance Section Managers and the Maintenance sections Supervisors "are the focus of this litigation." However, the Union has not sought to remove the other positions from the amended petition. As the party seeking to exclude the positions from coverage under the Act, THA has the burden to prove that all the petitioned-for employees are supervisors. Thus, this recommended decision and order will analyze whether THA satisfied this burden with respect to each of the petitioned-for positions it seeks to exclude.

³ 605 ILCS 10/8(f) (2012).

concerned with ensuring consistency, both in maintenance and personnel practices, throughout the highway system. Benda testified that management staff also sets goals and objectives for the highway system. The petitioned-for positions are in the Maintenance and Traffic Division. The positions are assigned to thirteen different sites: Sign Shop, Central Garage and 11 maintenance garages. The employees at these sites are generally referred to as field staff.

principal work distinct from subordinates

Many of petitioned-for positions' subordinates belong to certified collective bargaining units. Teamsters, Local 700 represents some of the employees subordinate to the Maintenance Section Managers, Maintenance Section Supervisors, Sign Shop Manager, Sign Shop Supervisor, Road Electric Manager, Central Garage Manager, and Central Garage Supervisor. Service Employees International Union, Local No. 73 ("SEIU") also represents some of the employees that are subordinate to the Maintenance Section Managers, the Maintenance Section Supervisors, the Central Garage Manager and the Central Garage Supervisor. Teamsters and SEIU each have separate collective bargaining agreements (CBAs) with ISTHA. Both CBAs prohibit employees outside the respective bargaining unit from performing the work of the employees within the bargaining unit. Benda testified that that the petitioned-for employees only perform the same work as their subordinates for training purposes or in the event of an emergency.

hiring procedures

Field staff who have been trained in hiring practices relating to the settlement of Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), may sit on interview panels. Approximately 6 of the 28 petitioned-for employees are trained on ISTHA's Rutan interviewing procedures. The only barrier to training the remaining 22 petitioned-for employees and other field staff is finding the time to schedule and attend the training. Benda testified that the hiring procedure is as follows: the Rutan-trained employees sit on a panel of three interviewers who each record a score for a candidate based on his or her responses to pre-determined interview questions. Two of the panelists are from the operating department and one is from administration. The panels may, though not necessarily, include a District Manager. The scores from all three panelists are forwarded to ISTHA's human resources staff. Staff members then compile these scores and rank each candidate for a position based on the composite scores. The composite score is the sole factor in this ranking. None of the petitioned-for employees who testified had ever participated on an interview panel.

disciplinary policy

All Maintenance Engineering employees are governed by ISTHA's progressive disciplinary policy. The petitioned-for employees apply this policy in issuing discipline to their subordinates. The policy outlines the progressive disciplinary procedures, including under what circumstances to administer the appropriate level of discipline, and how to administer a specific level of discipline. The progressive discipline procedure ranges are as follows Level I: counseling; Level II: verbal warning; Level III: warning letter; Level IV: suspension; and Level V: discharge. The policy lists the maximum level of discipline permitted for a given infraction, and, according to Benda, was issued with the goal of achieving consistency in discipline at the various maintenance sites. The policy identifies thirty different infractions, and the maximum penalty for such infractions, dependent upon whether it is the employees first, second or third offense within a twelve-month period. To illustrate, the maximum penalty for failing to call in when scheduled to work as a first offense is a Level III warning letter; a Level IV two day suspension for a second offense; and a Level V discharge for the third offense. By contrast, the maximum penalty for the first offense of failing to follow safety rules is a Level IV discharge. The policy does not identify a minimum amount of discipline, but Benda testified that ISTHA expects that the discipline administered be in alignment with the policy. Maintenance Section Managers Joseph Dragovich and Samuel Porto each testified that because the policy does not identify the minimum discipline required, they have flexibility in determining how to discipline employees. The policy states that in conjunction with the maximum guidelines specifically identified, that a Level III written warning is appropriate when "Level I [counseling] and Level II [verbal warning] have not corrected the problem."

The petitioned-for employees are authorized to counsel their subordinates and issue oral warnings without approval from their superiors. Counseling and verbal warnings are documented and placed in the employee's file kept at the garage, but are not sent to the central administrative office where the employee's personnel file is housed. Benda testified that in practice, at Level III, IV, and V, the petitioned for employees must seek the approval of their superiors. Benda testified that the recommendations of the Managers and Supervisors carry "considerable weight." Written warnings, suspensions and terminations are formally reported to the central authority to place in the employee's personnel file. In recommendations of discharge, Benda must review the recommendation and agree before the recommendation is forwarded to

the Chief Engineer for his or her final approval. The authority to discharge rests solely with ISTHA's Executive Director, who is the final authority in the chain of review.

performance evaluations

All petitioned-for Managers are responsible for conducting annual performance evaluations of their subordinates. The purpose of the evaluation is to provide a means of determining the performance level of the employee and assist ISTHA in ascertaining training needs or areas where performance needs to improve. The SEIU CBA specifically states that performance evaluations will not be used to determine or deny annual increases or step increases.

Pursuant to the Teamster CBA a satisfactory evaluation is a prerequisite for employees to progress through ISTHA's wage scale and advancement to higher classification within the position. Whether a performance evaluation is sufficiently satisfactory is at the sole discretion of the Employer. Benda testified that if an employee receives a negative evaluation one year, but then receives a positive evaluation the following year, the employee's wage will be adjusted to the level he would have been if he had not received the negative evaluation.

The performance evaluations are divided into ten parts, with the following four parts relating to the employee's job performance: appraisal of performance of duties (basic), appraisal of performance of duties (expanded), equipment operator skills inventory both job specific and system-wide, and overall performance. Each part is comprised of a minimum of ten criteria, with each criterion receiving a numbered evaluation on a scale of 1 through 9. A score of 1-2 is "unsatisfactory. A rating of 3-4 "requires additional training/experience." A rating of 5-7 is "satisfactory." A rating of 8-9 is "highly satisfactory."

The two parts related to duties, are job specific related to specific ability to use a specific piece of equipment. The overall performance part rates an employee on job knowledge, productivity, quality of work, initiative, leadership, planning, follow up, use of time, and interpersonal skills. While each criterion is rated, each part that contains the criteria does not receive a rating, nor does the evaluation as a whole. Essentially, the performance evaluation rates specific duties and functions, but does not provide an overall assessment. The remaining parts identify the employee's disciplinary record; the employee's work safety and driving record; additional training or education; the employee's supervisor's remarks; the employee's remarks; and the signatures of the employee, the supervisor conducting the evaluation, the Supervisor's direct supervisor, and General Manager Benda.

The Teamsters CBA states that in order to advance levels within the job classifications and the salary increase that accompanies the level advancement, the following criteria must be satisfied: minimum months of service, a good work record as evidenced by the lack of serious disciplinary actions within the last twelve months, a satisfactory annual performance evaluation, adequate attendance as evidenced by the lack of disciplinary actions for poor attendance, must pass the applicable certification test, a good safety record as evidenced by a lack of discipline for preventable injuries, no vehicular accidents in the last twelve months. This criterion is not applicable to the Roadway Mechanics, Roadway Autobody Technicians, or Automotive Attendants. Pursuant to the Teamster CBA, the wage levels for the Roadway Mechanics and Roadway Autobody Technicians are determined by years of experience, a test score, a good work record and “satisfactory Performance Evaluation as determined by the Employer.” The CBA is unclear as to whether Automotive Attendants are eligible for incentive increases, and if so which criteria is applied in determining whether the employee receives an increase.

When determining whether an employee will receive a wage incentive increase ISTHA completes a “Wage Rate and Progression Schedule Incentive” form (“incentive form”). The incentive form indicates whether the employee (1) will receive the incentive increase, (2) is denied the incentive increase, or (3) is ineligible for a salary increase, because the employee is already at the highest level earning the highest pay for that particular position. The incentive form is signed by the employee’s supervisors or manager, the employee’s division manager, and the employee services manager, though it is unclear who makes the actual decision. The record contains completed incentive forms for 100 ISTHA employees. Of those 100 employees, 40 were not eligible for a salary increase because they were already earning the maximum salary for their position; 23 were denied salary increases; and 30 were granted their salary increases because they satisfied all seven requirements. Of the employees denied, 17 were denied because they have not been at their current pay level for the requisite period of time; two were denied because they had been issued discipline within the last twelve months; and two were denied because he did not pass the requisite wage and certificate test.

promotions

The SEIU CBA provides that employees interested in promotions will bid for such vacant positions and must pre-qualify through tests and/or interviews. Under the prequalification

system, the most qualified candidate will be chosen based upon the completed pre-qualification and review of the employee's work record and seniority.

job specific duties and procedures

Maintenance Section Manager and Maintenance Section Supervisor

Each Maintenance Section Manager and Maintenance Section Supervisor are assigned to one of ISTHA's 11 maintenance garages that are spread out approximately 25 miles apart on the toll highway that ISTHA operates. Each section garage is responsible for approximately 25 center line miles of highway. Each maintenance section is responsible for maintaining the right-of-way "from fence to fence" by completing tasks such as mending fences, mowing, picking up trash, plowing snow, repairing guardrails and cables, degreasing toll plazas, addressing potholes and cracks in the pavement, aiding motorists, and responding to incidents that occur on the highway. These garages operate 24 hours a day, seven days a week in three shifts of eight hours each: 7:00 a.m. to 3:00 p.m., 3:00 p.m. to 11:00 p.m., and 11:00 p.m. to 7:00 a.m. Maintenance Section Managers and Maintenance Section Supervisors work the 7:00 a.m. to 3:00 p.m. shift Monday through Friday, leaving the employees on the other shifts to work "essentially unsupervised." Maintenance Section employees often work with employees from the Sign Shop or the Road Electric Department in order to accomplish a particular task.

ISTHA's central management staff for roadway maintenance includes Benda; Roadway Maintenance Manager Scott Kapton, who reports directly to General Manager Benda; and two District Managers who report to Kapton. Each Maintenance Section Manager at the 11 maintenance section garages report to their assigned District Manager. The Maintenance Section Supervisors report to the Maintenance Section Manager at their particular garage. Benda, Kapton, and the two District Managers work from ISTHA's central office in Downers Grove and are not present in the 11 garages on a daily basis. Maintenance Section Manager Sam Porto reported that, in the past year, Benda had visited his garage once, Kapton twice, and his District Manager, Wayne Taber, had visited six times.

Each maintenance section garage is staffed with between 24 and 68 employees: three to four Mechanics, a Parts Clerk a Section Clerk, and the remainder in the title of Equipment Operator/Laborer (EOL). Teamsters represent the Mechanics and EOLs. SEIU represents the Parts Clerk. Each maintenance section garage operates with one Maintenance Section Manager and one Maintenance Section Supervisor. The employees assigned to each maintenance section

garage report to both the Maintenance Section Manager and the Maintenance Section Supervisor. The Maintenance Section Supervisor report to the garage's Maintenance Section Manager.

EOLs are responsible for completing the tasks necessary to maintain the right-of-way as assigned. Like the other petitioned-for employees, the EOLs are covered by a collective bargaining agreement that prohibits employees outside of the bargaining unit, such as Maintenance Section Managers and Maintenance Section Supervisors, from performing these tasks except for training purposes or in the event of an emergency. Instead, Maintenance Section Managers and Maintenance Section Supervisors are responsible for determining which tasks will be completed in a given day and assigning those tasks to individual EOLs.

Maintenance Section Managers and Maintenance Section Supervisors have several resources to assist them with determining what tasks should be performed on a given day. Certain tasks are routine, meaning they are assigned every day under the appropriate circumstances. For example, an EOL is assigned to pick up trash daily. Two EOLS are assigned to run the section's Highway Emergency Lane Patrol (HELP) truck each day, a service that runs 16 hours a day for five days a week in each section. HELP trucks assist disabled motorists, provide traffic control and backup at incident scenes, remove debris from the roadway. The HELP truck is an assignment that the EOLS bid for twice a year. Other routine assignments are seasonal. Mowing must be completed as required according to ISTHA policy, and dawn patrol checks the bridges and roadways for ice from 4:00 a.m. to 9:00 a.m. every day when the temperature drops below 36 degrees.

Maintenance Section Managers and Maintenance Section Supervisors also spend up to half their work day driving through their maintenance section to inspect the roadway, looking for damage to the toll highway or cables, guardrail, and fence line. Certain damage, such as guardrail damage, must be repaired within 24 hours under ISTHA policy. While driving their section to inspect the condition of the toll highway, the Maintenance Section Managers and Maintenance Section Supervisors also observe whether previously assigned tasks have been completed and visit the EOL crews at their job sites to offer assistance and guidance as needed.

In addition to daily inspections, each maintenance section undergoes two annual inspections in the spring: one conducted by the Maintenance Section Manager and Maintenance Section Supervisor and one conducted by AECOM, which is a consultant hired by ISTHA. The consultant produces the Safety Appurtenance Basic Inspection and Repair Guidelines for

Maintenance Section Managers and Supervisors, commonly referred to as the AECOM manual, for each maintenance section listing necessary work by order of priority.

Central management staff will occasionally relay particular tasks, such as addressing issues that toll highway neighbors and motorists have complained about, directly to the Maintenance Section Manager and Maintenance Section Supervisor. The central management staff also notifies the garages when it is time to begin certain seasonal routine tasks, such as litter pickup and mowing. From these sources of possible tasks, the Maintenance Section Managers and Maintenance Section Supervisors create a list of tasks to be accomplished each day. In determining which of all possible tasks should be assigned, the Maintenance Section Manager and Maintenance Section Supervisor take several factors into consideration. First, they assign routine tasks and any tasks directed by central management, unless they judge the tasks to be unnecessary or they do not have the equipment necessary to complete a task. Then they assign tasks they have developed from their daily road survey, with emphasis on repairs that must be addressed within 24 hours under ISTHA policy. Again, if the equipment necessary to complete a task is not available or the conditions are not appropriate, Maintenance Section Managers and Maintenance Section Supervisor do not assign that task. Further, if the repair requires a lane closure, ISTHA's lane closure guide dictates the time and number of lanes that can be closed in at a given location. If a task does require lane closure, a Maintenance Section Manager or Maintenance Section Supervisor must determine the number of lanes that must be closed and, based on the guide, the best time at which to schedule the closure. He must then apply to central management for approval of the lane closure. Finally, if any manpower remains, Maintenance Section Managers and Maintenance Section Supervisors assign tasks identified in the AECOM manual, generally in order of priority. As with other repairs, assigning these tasks is subject to the availability of equipment, the lane closure guide, and appropriate conditions. In discussing the importance of developing a work plan, Benda attributed ISTHA's success to the ability of the Maintenance Section Managers to "act and think on their feet and react to situations that occur on the road without having to be told what to do."

Each maintenance section has additional duties to maintain the toll highway during snow and ice events. ISTHA contracts with a service to notify Maintenance Section Managers and other key staff when snow and ice events are predicted. Based on this forecast, each maintenance section determines the number of crew necessary to plow and otherwise maintain

the roadway. The maintenance sections operate on 12-hour shifts during snow and ice emergencies, meaning the EOLs on these shifts necessarily work overtime. If less than a full crew is called in, the overtime hours for snow and ice emergencies, as with all overtime hours, are allocated per the Teamster's CBA, which states that those with the least amount of overtime worked are called in first to equalize overtime among the EOLs.

After creating a work plan, Maintenance Section Managers and Maintenance Section Supervisors assign the tasks to be completed to individual EOLs and the specific piece of equipment to be used. The number of EOLs assigned to a particular task is largely determined by the demands of the job and available equipment. For example, Porto testified that he has four tractors at his garage and thus assigns four EOLs to mow. As to deciding which EOL should be assigned to a particular task, Porto, Dragovich, and Maintenance Section Supervisor Steven Mednis all testified that they try to rotate EOLs through assignments both to maintain familiarity with various tasks, because the EOLs are responsible for knowing how to complete all of the jobs necessary to maintain the toll highway, and to avoid boredom. Dragovich testified that he does consider skill when assigning tasks, and that he assigns less-experienced EOLs to work with more-experienced EOLs for training purposes. Porto stated that he does the same. Mednis testified that he would not send the least experienced EOL at his garage to do the most complex task.

Porto stated that he spends approximately 10 minutes each morning giving out assignments and five to 10 minutes filling out an assignment book for the 11:00 p.m. to 7:00 a.m. shift. The Maintenance Section Supervisor assigned to Porto's garage spends three to five minutes giving out assignments to the EOLs on the 3:00 p.m. to 11:00 p.m. shift.

Nearly all an EOL's assigned tasks correspond to an activity code in ISTHA's maintenance management system. When an EOL completes an assigned task, he or she is responsible for completing and submitting a work order that details the activity code of task completed, the work completed, and the materials and equipment used. The Maintenance Section Managers and Maintenance Section Supervisors review these work orders on a daily basis to ensure that each work order is filled out in accordance with the specifications for the given activity code, that each EOL has accounted for a full work day, and that the assigned tasks have been completed. EOLs are assigned to each garage by central management staff. The Maintenance Section Managers and Maintenance Section Supervisors do not have the authority

to determine the number of EOLs assigned to their garage. During the internal inspections the Maintenance Section Managers make budget requests for materials, supplies and equipments as they deem necessary. Aside from the budget requests for equipment no Maintenance Section Manager has any input in which and how many pieces of equipment its maintenance garage receives.

Dragovich and Porto testified that while they follow the Division's disciplinary policy, the policy does provide flexibility in determining how to discipline employees. For example, Dragovich stated that he usually recommends a three-day suspension for sleeping on the job, even though a five-day suspension is authorized; he has even recommended a one-day suspension for an employee caught sleeping on the job a second time, though the guidelines would have permitted termination. In that case, Dragovich testified that he determined a one-day suspension was appropriate, and central management staff accepted his recommendation.

Porto also conceded that the guidelines give him leeway to consider the circumstances and seriousness of an infraction when disciplining employees. For example, he suggested that he might be lenient on a sleeping employee who was up all night with a child in the emergency room. Porto also stated that he had never discharged an employee for a first offense of failing to follow safety rules, even though discharge is authorized by the guidelines.

However, in order to issue written warnings or suspend or discharge an employee, the Maintenance Section Managers and Maintenance Section Supervisors must obtain the approval of their superiors, which requires them to write a memorandum to their district manager. Benda described the purpose of this memorandum as "selling" discipline to the roadway maintenance central management staff. The memorandum identifies the alleged violation, the alleged facts that the Maintenance Section Manager and Maintenance Section Supervisor believe constitute the violation, and the recommended disciplinary action for the violation. The District Manager reviews the memorandum, and upon review of the facts alleged, determines if he or she concurs with the recommendation. If the District Manager concurs with the recommendation in its entirety, then he or she forwards it to Kapton for review and approval. If the District Manager does not concur with some or all of the recommendation, he or she discusses the recommendation with the Section Manager and/or Section Supervisor so the recommendation can be amended per the district manager's instructions, before the District Manager sends it to Kapton for his approval. Kapton testified that he has "given credibility" to these

recommendations. The review of the Maintenance Section Managers and Maintenance Section Supervisors recommendations are to ensure they are consistent with discipline recommended by other Maintenance Section Managers and Maintenance Section Supervisors for similar offenses, as well as in line with the maintenance directive on progressive discipline. Kapton performs a similar review with the disciplinary recommendations made by the other field supervisors and managers.

Written warnings, suspensions and terminations are formally reported to the central authority to place in the employee's personnel file. Maintenance Section Managers and Maintenance Section Supervisors informally report all counseling and verbal warnings to their district manager as well as filing a formal monthly disciplinary report where it sends to central administration a report of all the Level III and higher discipline. The formally reported incidents are recorded in the employee's formal personnel file, as well as in the informal garage file.

Regarding Level I and Level II discipline, Porto testified he has counseled an employee or issued an oral reprimand ten times in the past year, taking a total of 50 minutes. Mednis testified that he has counseled a subordinate or issued an oral reprimand three times in the past year, taking a total of 45 minutes of his work time. Though central management staff has never altered Mednis' decision to issue an oral reprimand, in the past year he was instructed to counsel an employee that had been involved in an accident, though Mednis believed no discipline should be issued. Regarding Level III and higher discipline, Dragovich stated that he has recommended discipline 40 to 45 times in the prior year, and that his superiors have disagreed with his recommendation only once or twice. He spent a total of 40 to 45 hours issuing discipline approved by central management staff in the past year. Porto made six recommendations for written warnings, suspension, or termination in the prior year, taking a total of six to ten hours. Though he knew some of his recommendations had been altered or rejected, he could not recall how many; Porto did estimate that his recommendations had been rejected or altered at a rate of five to ten percent over the course of his 25-year career as a Maintenance Section Manager. Mednis testified that he has never recommended termination or suspension, but has recommended a written reprimand once or twice in the past year, taking a total of 90 minutes. Central management staff has never rejected Mednis' recommendation for a written reprimand.

While it is the responsibility of the Maintenance Section Managers to complete the annual performance evaluations of all the employees in their maintenance garages, it is not

uncommon for the Maintenance Section Managers to request that the Maintenance Section Supervisors complete their subordinates' performance evaluations, which includes a self evaluation by each employee. The applicable District Manager and General Manager Benda review the performance evaluations to ensure consistency.

Benda testified that it is not uncommon for him or the District Manager to send an evaluation back to the Maintenance Section Manager in order do address discrepancies between the Maintenance Section Manager's assessment and the employee's self assessment. Once the performance evaluation is completed to Benda's and the District Manager's satisfaction, they approve the performance evaluation. The performance evaluations also include a section where the Manager, District Manager, and General Manager Benda approve whether to give the employee the incentive increase.

Sign Shop Manager and Sign Shop Supervisor

Benda characterized ISTHA's Sign Shop as a system-wide activity. The Sign Shop has two main functions: manufacturing and field operations. ISTHA manufactures all of the signs installed on the toll highway system at one central location, the Sign Shop. The Sign Shop staff consists of the Sign Shop Manager, the Sign Shop Supervisor, the Shop Clerk, and 15 Sign Hanger/Makers. Sign Shop employees are responsible for sheeting aluminum, assembling signs, and running the equipment that cuts out letters and lays out signs. As part of the Sign Shop's field operations, employees are responsible for the installation of new signs and emergency repairs to damaged signs.

The Sign Shop Manager and Sign Shop Supervisor are responsible for reviewing requests for signs, comparing requests against ISTHA's manual and uniform traffic control devices to determine the inventory necessary to fulfill the requests, and ordering the necessary inventory. The actual task of laying out and manufacturing the signs is then performed by Sign Maker/Hangers. Teamsters represent the Sign Maker/Hangers. Benda stated that the Sign Shop Manager and Sign Shop Supervisor set the work schedule for their subordinates, determine which tasks will be performed each day, assign individuals to particular tasks, and assemble crews who then go out and perform the work independently, with supervision and guidance as needed. The Sign Shop Manager and Sign Shop Supervisor positions differ in that the Sign Shop Supervisor reports to the Sign Shop Manager. The Sign Shop Manager reports to the Incident Manager. The Incident Manager reports to General Manager Benda.

Road Electric Manager

ISTHA's Road Electric Unit is responsible for maintaining the roadway and street lighting for the toll highway system. This is also a system-wide activity. The Road Electric Unit employs one Road Electric Manager, five Division Electricians, five Helpers and two Re-Lamping Crew members. Teamsters represent the Division Electricians, the Helpers, and the Re-Lamping Crew members. The Division Electricians are assigned to take home a service vehicle equipped with the tools necessary to do an emergency repair and respond directly from home in the event of an emergency. The Road Electric Manager, by contrast, reports to a central location where he coordinates the Road Electric Unit's activities. The record is unclear as to whether the Division Electricians report from home regularly, or only in emergency situations. Though the Road Electric Manager may assist with repairs if the Division Electricians are having difficulty, he typically does not do the repairs. While at the central location, the Road Electric Manager is responsible for determining the tasks to be accomplished each day, scheduling and assigning work, following up to ensure that work is accomplished, and making sure that work is being done safely. He also travels the toll highway system to check on crews that are in the field. The Road Electric Manager reports to the Permits and Utilities Manager. The Permits and Utilities Manager reports to General Manager Benda.

Central Garage Managers and Central Garage Supervisor

testimony

Benda testified that the Central Auto Repair Shop operates with two shifts. The Central Garage Manager is responsible for the entire facility, and the Supervisors are responsible for the evening shift and specialty truck repair. Benda likened ISTHA's Central Garage to a private automotive repair shop. At the Central Garage, certified mechanics maintain ISTHA's entire fleet of vehicles and equipment as well as squad cars for the Illinois State Police. The mechanics perform the skilled labor necessary to maintain these vehicles; the Central Garage Manager and Central Garage Supervisors are not generally needed for guidance, as the mechanics are trained through the Authorized Service Center certification program, but may assist with diagnosing a problem when the mechanics have difficulty. The Central Garage Manager determines the tasks to be completed each day, assigns those tasks to individual mechanics, writes work orders, monitors service schedules for the fleet, and ensures that the mechanics have up-to-date repair and service manuals. When a repair exceeds the scope of what the Central Garage can

accomplish the Central Garage Manager and Central Garage Supervisors coordinate sending that repair out to another shop. ISTHA is a warranty agent for all major vehicle manufacturers. While the mechanics perform warranty repairs, the Central Garage Manager and Central Garage Supervisors perform the tasks necessary for warranty recovery: assembling records and filing claims.

position descriptions and exhibits

Benda also testified that the job descriptions of the Central Shop Truck and Equipment Manager and Central Shop Supervisor are accurate reflections of the positions' duties and responsibilities. In support of its claim that the petitioned-for Central Garage Managers and Central Garage Supervisor are statutory supervisors, ISTHA provided the job description for the position of Central Shop Truck and Equipment Repair Manager and the position of Central Shop Supervisor. In the position description for the Central Shop Truck and Equipment Repair Manager, one section identifies that the position reports to the Central Shop Auto Repair and Body Shop Manager. A separate section of the position description states that the position reports to the Fleet Manager. According to the position description, the Central Shop Auto Repair and Body Shop Manager oversees one Central Shop Supervisor, one Section Clerk, three Parts Clerks, fourteen Mechanics and one Auto Attendant. Teamsters represent the Section Clerks, Mechanics and Auto Attendant. SEIU represents the Parts Clerks.

The position description for the Central Shop Supervisor identifies that the Central Shop Supervisor reports to and takes direction from the Central Shop Auto Repair and Body Shop Manager to manage personnel through personal evaluations; scheduling Central Shop employee vacation, person time, etc; and is responsible for the Central Shop Operations and duties of the Central Shop Auto Repair and Body Shop Manager in his/her absence. According to the position description, the Central Shop Supervisor supervises all Central Shop Mechanics, Parts Clerks and Section Clerks during the night shift, and performs the duties of the Central Shop Auto Repair and Body Shop Manager if required. The position also schedules personal time, vacations and shift personnel, and prepares personnel evaluations as required.

IV. DISCUSSION AND ANALYSIS

Section 3(s) of the Act provides that a bargaining unit as determined by the Board may neither include both supervisory and non-supervisory employees. 5 ILCS 315/3(s)(1) (2012).

The Act provides that a bargaining unit may consist solely of supervisors if the public employer agrees to permit the supervisory bargaining unit. 5 ILCS 315/3(s)(2) (2012). ISTHA argues that the petitioned-for unit consists solely of supervisors, and objects to the unit. Thus, if any of the petitioned-for positions are supervisory as that term is defined in the Act, the supervisory positions may not be included in the petitioned-for bargaining unit. State of Ill., Dep't. of Cent. Mgmt. Serv., 5 PERI ¶ 2012 (IL SLRB 1989). Section 3(r) of the Act provides:

“Supervisor” is an employee whose principal work is substantially different from that of his subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust their grievances, or to effectively recommend such actions, if the exercise of such authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment.

The Board has interpreted this section of the Act as requiring that an employee must satisfy four separate criteria in order to be found a statutory supervisor. Under the Act, a supervisor is an employee who: 1) engages in principal work that is substantially different from that of his subordinates; 2) has the authority, in the interest of the employer, to perform at least one of 11 enumerated indicia of supervisory authority, or to effectively recommend such the performance of such actions; 3) must consistently use independent judgment in the exercise of that supervisory authority; and 4) devotes a preponderance of his employment time to the exercise of that authority. 5 ILCS 315(r) (2012); City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d 499, 512 (1990).

The party asserting a statutory exclusion has the burden of providing sufficient evidence in support of that exclusion. 80 Admin Code. 1210.107(a). As the party asserting the supervisory exclusion, ISTHA has the burden of demonstrating by a preponderance of the evidence that each of the positions that it seeks to exclude satisfies all four prongs of the statutory definition. Cnty. of Boone and Sheriff of Boone Cnty., 19 PERI ¶ 74 (IL LRB-SP 2003); Chief Judge of the Cir. Ct. of Cook Cnty., 18 PERI ¶ 2016 (IL LRB-SP 2002).

The requirement that a supervisor’s principal work be substantially different from that of his subordinates is easily satisfied where that work is obviously and visibly different from the work of his subordinates. City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d at 514. However, even when an alleged supervisor performs functions that are facially similar to those of his subordinates, the first statutory requirement is still satisfied where the employee’s

functions render the nature and essence of his work substantially different. Id. (citing City of Burbank, 1 PERI 2008 (IL SLRB 1985)).

The second requirement of the statutory definition of a supervisor is the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of these actions.

The third prong, the requirement that an alleged supervisor consistently use independent judgment when exercising any of the 11 indicia of supervisory authority is satisfied when the employee at issue “make choices between two or more significant courses of action without substantial review by superiors.” Chief Judge of the Cir. Ct. of Cook Cnty. v. AFSCME, Council 31, 153 Ill. 2d 508, 516 (1992). The frequency with which independent judgment might be required, rather than the number of times supervisory authority requiring independent judgment is actually used, controls the analysis under the third prong. City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d at 520-21.

In order to satisfy the fourth prong, ISTHA must demonstrate that the alleged supervisor spends a preponderance of his time on supervisory functions. This requires that the employee must spend the most significant allotment of his or her time exercising supervisory functions. State of Ill. Dep’t of Cent. Mgmt. Serv. (Dep’t of Corr.) v. Ill. State Labor Rel. Bd., 278 Ill. App. 3d 79, 85 (4th Dist. 1996), citing City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d at 532. Preponderance of time can be measured quantitatively or qualitatively. State of Ill. Dep’t of Cent. Mgmt. Serv. (Ill. Commerce Comm.), 30 PERI ¶ 205 (IL LRB-SP 2014). Measured quantitatively, an employee spends a preponderance of his or her time on supervisory functions when he or she spends a majority of his or her time engaged in these functions. State of Ill. Dep’t of Cent. Mgmt. Serv. (Dep’t. of Children and Family Serv.) v. Ill. State Labor Rel. Bd., 249 Ill. App. 3d 740, 746-747 (4th Dist. 1993). Measured qualitatively, an employee spends a preponderance of his or her time on supervisory functions when these functions are more significant than his or her non-supervisory functions, regardless of the amount of time spent on these supervisory functions. Cnty. of Vermilion v. Ill. Labor Rel. Bd., 344 Ill. App. 3d 1126, 1136 (4th Dist. 2003); AFSCME Council 31 v. Ill. Labor Rel. Bd., 2014 IL App (1st) 130655 aff’g State of Ill. Dep’t of Cent. Mgmt. Serv. (Ill. Commerce Comm’n), 30 PERI ¶ 206 (IL LRB-SP 2014).

As a preliminary matter, I note that the parties offered little or no testimony, and the record otherwise contains insufficient information to support a finding that any of the petitioned-for employees have the authority to lay off, recall or transfer any of their subordinates. The record does contain some information regarding the petitioned-for employee's authority to reward and adjust grievances. However, because ISTHA presents no argument that the petitioned-for employees perform these functions with independent judgment as required by the Act, I find that the record is insufficient to conclude that the at-issue employees are statutory supervisors due to any authority to reward subordinates or adjust grievances.

A. Maintenance Section Managers and Maintenance Section Supervisors

Maintenance Section Managers and Maintenance Section Supervisors are supervisors within the meaning of the Act.

1. principal work

Maintenance Section Managers' and Maintenance Section Supervisors' work are substantially different from that of their subordinates. ISTHA argues that pursuant to Teamsters and SEUI CBAs, neither the Maintenance Section Managers nor Maintenance Section Supervisors are allowed to perform the same works as their subordinates. ISTHA further argues that the testimony provided indicates that only in emergencies do either the Maintenance Section Managers or Maintenance Section Supervisors actually perform such work. While, the Union agrees that within the meaning of the Act the statutory supervisor's principal work must be substantially different from that of his or her subordinates, it offers no argument on this requirement. On whole, the record indicates that the Maintenance Section Managers and Supervisors spend their time determining which tasks shall be completed by their subordinates, and only perform the work allocated to the EOLs when training or in emergencies. Thus, I find that the positions' principal work differs from that of their subordinates.

2. supervisory indicia exercised with independent judgment

Maintenance Section Managers and Maintenance Section Supervisors exercise independent judgment when they discipline and direct their subordinates.

a. *hire*

Maintenance Section Managers and Maintenance Section Supervisors do not possess the authority to hire or to make effective hiring recommendations. Hiring by consensus or

committee does not qualify as the supervisory authority to hire. State of Ill. Dep't of Cent. Mgmt. Serv. (Dep't of Revenue), 29 PERI ¶ 62 (IL LRB-SP 2012) (separate interviews performed by two individuals who each submitted individual recommendations did not constitute the authority to hire by either individual because neither recommendation could be considered effective because there is no way to determine the influence of either single recommendation in the hiring decision); Cnty. of Lake and Sheriff of Lake Cnty., 16 PERI ¶ 2036 (IL SLRB 2000); Pike Cnty. Housing Auth., 28 PERI ¶ 13 (IL LRB-SP 2011) (hiring decisions determined by consensus are not supervisory); see City of Chicago, Dep't of Animal Care and Control, 25 PERI ¶ 152 (IL LRB-LP ALJ 2009) (petitioned-for employee did not make effective recommendations when he participated on a panel with two other employees; noting that any single member's influence was speculative and could be outweighed by another member's opinion). Additionally, when a hiring panel's decision to hire results from the average score of all the panelists, this does not require the use of independent judgment. State of Ill. Dep't of Cent. Mgmt. Serv., 30 PERI ¶ 38 (IL LRB-SP 2013).

The record demonstrates that the Maintenance Section Managers and Maintenance Section Supervisors may sit on a hiring panel of three individuals, where each panel member scores an applicant, creating one combined score. It is this combined score that determines whether the applicant will be hired. Individual panelists do not make the hiring decision themselves. This process is designed so that one panel member cannot exercise the sole authority to hire an applicant or even to effectively recommend hiring an applicant. Each panelist's score can be outweighed by the other panelists' scores, and I find this too speculative to determine that Maintenance Section Managers and Maintenance Section Supervisors that sit on the panel possess the supervisory indicia of authority to hire or even to make effective hiring recommendations.

b. *promote*

Maintenance Section Managers and Maintenance Sections Supervisors do not have the supervisory authority to promote or the supervisory authority to make effective promotion recommendations. ISTHA argues that Maintenance Section Managers' and Maintenance Section Supervisors' authority to promote is demonstrated by their authority to conduct performance evaluations, because receiving a satisfactory performance evaluation is a "factor to be considered" in making promotional decisions. This argument fails because while performance

evaluation is one of seven requirements to advance on the wage rate and progression schedule, the record does not support a finding that such advancement is a promotion. When an employee advances from level to level on the progression schedule, the employee's job title remains the same, and there is no indication that attaining higher level comes with additional duties, responsibilities, or higher ranking. Thus, the record does not support ISTHA's argument that because the Maintenance Section Managers and Maintenance Sections Supervisors conduct their subordinates' performance evaluations, they are in any way involved in promotional decisions.

c. *issuing discipline*

Maintenance Section Managers and Maintenance Section Supervisors possess the supervisory authority to issue discipline as severe as verbal warnings. Verbal reprimands must have an impact on an employee's job status or terms and conditions of employment in order to constitute the supervisory authority to discipline within the meaning of the Act. Chief Judge of the Cir. Ct. of Cook Cnty v. AFSCME, Council 31, 153 Ill. 2d at 530-533; State of Ill. Dep't of Cent. Mgmt. Serv. State Police v. Ill. Labor Rel. Bd., State Panel, 382 Ill. App. 3d 208 (4th Dist. 2008) aff'g State of Ill. Dep't of Cent. Mgmt. Serv. (State Police), 23 PERI ¶ 38 (IL LRB-SP 2007). If verbal reprimands are documented and form the basis for more severe discipline, those reprimands have an effect on the employee's job status and constitute the supervisory authority to discipline. Metro. Alliance of Police v. Ill. Labor Rel. Bd., 362 Ill. App. 3d 469, 478 (2nd Dist. 2005); Metro. Alliance of Police, Bellwood Command Chapter No. 339 v. Ill. Labor Rel. Bd., 354 Ill. App.3d 672, 681-682 (1st Dist. 2004) aff'g Vill. of Bolingbrook, 19 PERI ¶ 125 (IL LRB-SP 2003); Chief Judge of the Cir. Ct. of Cook Cnty., 26 PERI ¶ 117 (IL LRB-SP 2010); but see City of Chicago (Dep't of Bldg.), 15 PERI ¶ 3012 (IL LLRB 1999) (a written reprimand did not impact an employee's terms and conditions of employment because the reprimand was never placed in the employee's personnel file).

ISTHA's progressive discipline policy identifies that when counseling and a verbal warning have not corrected a problem, a written warning should be issued. This indicates, that while a record of the counseling and verbal warning are not kept in the employee's personnel file maintained by central administration, the supervisors and managers utilize their own documented record that serve as a basis for any Level III written warning discipline. Thus, the verbal warnings constitute discipline because they can affect the Maintenance Section Managers' and Supervisors' subordinate's terms and conditions of employment.

Maintenance Section Managers and Maintenance Section Supervisors exercise independent judgment when issuing counseling and verbal warnings. The progressive disciplinary policy identifies the maximum discipline an employee can receive for a specifically identified infraction depending on whether it is the employee's first, second or third offense in a given 12-month period. Maintenance Section Managers and Maintenance Section Supervisors are required to discipline their subordinates for infractions, and are directed as to the maximum discipline to issue, but they do retain the discretion to give lesser discipline than the maximum. Maintenance Section Managers Dragovich and Porto each testified that they make those decisions based on the circumstances presented, using their own discretion.

d. *recommending discipline including suspension and discharge*

Neither Maintenance Section Managers nor Maintenance Section Supervisors have the authority to decide that more severe discipline is warranted; rather, they merely make recommendations when they determine whether a written warning, a suspension or a discharge is appropriate. These disciplinary recommendations constitute supervisory authority if they are effective. A recommendation is effective within the meaning of the meaning of Section 3(r) of the Act when it is adopted as a matter of course with very little, if any, independent review. Vill. of Plainfield, 29 PERI ¶ 123 (IL LRB-SP 2013) citing City of Peru v. Ill. State Labor Rel. Bd., 167 Ill. App. 3d 284, 290 (3d Dist.1988); Peoria Housing Auth., 10 PERI ¶ 2020 (IL SLRB 1994); Vill. of Justice, 17 PERI ¶ 2007 (IL LRB-SP 2000); Cnty. of Cook, 16 PERI ¶3009 (IL LLRB 1999). The Appellate Court has explained that because all recommendations necessarily involve some sort of a review by superiors, a superior's review of the purportedly excluded employee's recommendation "is not the litmus test for effective recommendation. Rather, the litmus test is the influence of the recommendations, i.e., whether they almost always persuade the superiors." Vill. of Plainfield, 29 PERI ¶ 123 (IL LRB-SP 2013) quoting State of Ill. Dep't of Cent. Mgmt. Serv. (Ill. Commerce Comm'n) v. Ill. Labor Rel. Bd., State Panel, 406 Ill. App. 3d 766, 777 (4th Dist. 2010). The Maintenance Section Managers and the Maintenance Section Supervisor that testified, each testified that their recommendations were followed at least 90% of the time. I find that this is sufficient to satisfy the requirement that the Maintenance Section Managers and Maintenance Section Supervisor make effective recommendations for suspension and discharge.

As with the less severe forms of discipline, the Maintenance Section Managers and Maintenance Section Supervisors exercise independent judgment when determining whether to recommend a more severe level of discipline and which level they should recommend. The progressive discipline policy does not indicate a specific level that is required, only what is the maximum that can be recommended. This requires the Maintenance Section Managers and Maintenance Section Supervisors to choose between recommending the maximum discipline as indicated in the policy or recommending a less severe form of discipline. For example, as a Maintenance Section Manager Dragovich exercises his direction and usually recommends a three-day suspension for sleeping on the job, even though a five-day suspension is authorized; he has even recommended a one-day suspension for an employee caught sleeping on the job a second time, though the guidelines would have permitted termination.

e. *direct*

Maintenance Section Managers and Maintenance Section Supervisors direct their subordinates with independent judgment when they assign daily assignments and when they conduct their subordinates' annual performance evaluations. The authority to direct involves functions relating to overseeing the employer's operations or functions which indicate responsibility for the performance of a subordinate's work. Vill. of Germantown Hills, 29 PERI ¶ 130 (IL LRB-SP 2013); Vill. of Glen Carbon, 8 PERI ¶ 2026 (IL SLRB 1992); City of Lincoln, 4 PERI ¶ 2041 (IL SLRB 1988). Functions that constitute the authority to direct within the meaning of the Act include, but are not limited to, giving job assignments, overseeing and reviewing daily work activities, providing instruction and assistance to subordinates, scheduling work hours, approving overtime, approving time off such as vacation or leave requests, and formally evaluating job performance when the evaluation is used to affect the employees' pay or employment status. Cnty. of Lake and Sheriff of Lake Cnty., 16 PERI ¶ 2036 (IL SLRB 2000); Cnty. of Cook, 16 PERI ¶ 3009 (IL LLRB 1999) citing Chief Judge of the Cir. Ct. of Cook Cnty. v. AFSCME, Council 31, 153 Ill. 2d at 524; City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d at 518; Cnty. of McHenry, 15 PERI ¶ 2014 (IL SLRB 1999); City of Sparta, 9 PERI ¶ 2029 (IL SLRB 1993); City of Naperville, 8 PERI ¶ 2016 (IL SLRB 1992). To satisfy the third prong of the supervisory test, the purported supervisor must exercise the supervisory indicia in question with independent judgment. To rise to the level of supervisory authority, a purported supervisor must exercise significant discretionary authority which affects the terms and conditions of the

subordinates' employment. Vill. of Broadview v. Ill. Labor Rel. Bd., 402 Ill. App. 3d 503, 510 (1st Dist. 2010); Ill. Dep't of Cent. Mgmt. Servs. v. Ill. Labor Rel. Bd., 382 Ill. App. 3d 208, 224 (4th Dist. 2008).

Maintenance Section Managers and Maintenance Section Supervisors possess the supervisory authority to direct their subordinates. When purported supervisors spend most of their time giving instructions and reviewing reports, and when their instructions are largely unchallenged by their subordinates, these actions constitute direction, rather than suggestions or advice. City of Chicago, 28 PERI ¶ 86 (IL LRB-LP 2011) aff'd Serv. Emp. Int'l Union, Local 73 v. Ill. Labor Rel. Bd., 2013 IL App (4th) 120279. Maintenance Section Managers and Maintenance Section Supervisors spend their time reviewing completed work orders, reviewing the condition of the toll highway in order to schedule daily assignments for their subordinates, and training and instructing their subordinates. These duties are performed with little or no follow up review by the Maintenance Section Managers' superiors, and the record indicates that the Maintenance Section Managers and Supervisors either conduct these duties together, or independently, but interchangeably. The record does not indicate that when Maintenance Section Supervisors conduct these duties independently Maintenance Section Manager in any way challenge these decisions. ISTHA has issued extensive guidelines that the Maintenance Section Managers and Maintenance Section Supervisors utilize in determining the daily assignments. The Maintenance Section Managers and Supervisors operate the maintenance garages within those guidelines, and are ultimately responsible to ensure that their designated section of the toll highway is operating in a smooth and safe manner. The fact that the Maintenance Section Managers and Maintenance Section Supervisors create daily work schedules utilizing the guidelines distributed by ISTHA does not make the activity routine or clerical. Maintenance Section Managers and Supervisors determine which EOL to assign to which task, and they do this based upon their opinion of who is best suited for the task. This demonstrates the requisite independent judgment to direct subordinates.

Responsibility for formally evaluating or rating work performance is evidence of the authority to direct when the rating or evaluation is used to directly affect the employees' pay or employment status. City of Carbondale, 27 PERI ¶ 68 (IL LRB-SP 2011); City of Naperville, 8 PERI ¶ 2016 (IL SLRB 1992) (supervisory authority to direct found where evaluations affected merit raises); State of Ill., Dep't. of Cent. Mgmt. Serv. (Div. of Police), 4 PERI ¶ 2013 (IL SLRB

1988). When salaries are determined by the parties contract the performance evaluations do not directly affect pay. City of Carbondale, 27 PERI ¶ 68 (IL LRB-SP 2011) (conducting performance evaluations did not constitute the authority to direct because the performance evaluations could were not used to give raises.); but see Vill. of Hinsdale, 22 PERI ¶ 176 (IL SLRB 2006) (employer demonstrated that evaluations affected terms and conditions of employment because patrol officer was required to achieve an overall “standard” to receive a scheduled pay increase and officers could be denied a promotion based on a negative overall rating).

Maintenance Section Managers and Maintenance Section Supervisors direct their subordinates with independent judgment when they conduct their subordinates’ annual performance evaluations. The record demonstrates that a satisfactory performance review is a prerequisite for an employee to advance levels within the job classifications and to receive the salary increase that accompanies the level advancement. The advancement to a higher classification is based upon the following seven criteria: minimum months of service, a good work record as evidenced by the lack of serious disciplinary actions within the last twelve months, a satisfactory annual performance evaluation, adequate attendance as evidenced by the lack of disciplinary actions for poor attendance, passing the applicable certification test, a good safety record as evidenced by a lack of discipline for preventable injuries, and no vehicular accidents in the last twelve months. The performance review only requires ratings of specific duties, but does not consist of an overall rating. Thus, whether an employee received an overall satisfactory performance review is subject to the interpretation of the individual determining whether all the criteria are satisfied for issuing the pay raise. The record is unclear as to who makes that decision. Since a satisfactory performance evaluation is one of seven prerequisites, it could be determinative of whether an employee received a wage increase. While the record does not indicate who decides whether a performance evaluation is overall “satisfactory” or how that overall determination is made, the Maintenance Section Managers and Maintenance Section Supervisors do rate each individual criteria which is reviewed in determining whether the performance evaluation overall is satisfactory. The individual ratings sufficiently effect the subordinates’ terms and conditions of employment to constitute the authority to direct. Since a rating of employee’s ability to perform basic and more specific job duties, and the employee’s overall performance are all subjective interpretations, the Maintenance Section Manager and

Maintenance Section Supervisors exercise independent judgment when evaluating their subordinates. See Vill. of Hinsdale, 22 PERI ¶ 176 (IL LRB-SP 2006) (subjective categories in evaluations demonstrate the evaluator exercises independent judgment).

3. preponderance

The Maintenance Section Managers and Supervisors spend a preponderance of their time exercising supervisory functions, both quantitatively and qualitatively.

a. *measured quantitatively*

The Maintenance Section Managers and Supervisors spend more than half their time performing supervisory functions. While the Maintenance Section Managers and Supervisors spend less than an hour a week issuing and recommending discipline, they do spend more than a majority of their work time directing their subordinates. The first half hour or so of each work day reviewing their subordinates work orders to ensure that the assignments were completed accurately and consistently with ISTHA's procedures, and ensuring that their subordinates utilizing their time effectively. Maintenance Section Managers and Maintenance Section Supervisors then spend at least half of their remaining shift traveling along their section of the toll highway to determine which assignments need to be completed, and to check up on the crews on the toll highway that are in the process of completing assignments already distributed. The Maintenance Section Managers and Maintenance Section Supervisors then spend time actually issuing the assignments to particular staff. Even without considering the time spent pursuing discipline or completing performance evaluations, the Maintenance Section Managers and Maintenance Section Supervisors spend a preponderance of their time, quantitatively, performing supervisory functions.

b. *measured qualitatively*

The Maintenance Section Managers and Supervisors also spend a preponderance of their time performing supervisory functions when measured qualitatively. Measured qualitatively, an employee spends a preponderance of his or her time on supervisory functions when these functions are more significant than his or her non-supervisory functions, regardless of the amount of time spent on these supervisory functions. AFSCME Council 31 v. Ill. Labor Rel. Bd., 2014 IL App (1st) 130655; Cnty. of Vermilion v. Ill. Labor Rel. Bd., 344 Ill. App. 3d at 1136. Maintenance Section Managers and Maintenance Section Supervisors also spend a

preponderance of their times on supervisory functions when measured qualitatively. The primary purpose of the Maintenance Section Manager and the Maintenance Section Supervisor positions are to ensure that their assigned section of the toll highway is operating safely and efficiently. Maintenance Section Managers and Maintenance Section Supervisors achieve this end largely by directing their subordinates to perform the duties that they determine are necessary to ensure this safety and efficiency.

B. Sign Shop Manager and Sign Shop Supervisor

ISTHA has failed to prove that either the Sign Shop Manager or the Sign Shop Supervisor should be excluded from the petitioned-for unit because they are supervisory employees.

1. principal work

The Sign Shop Manager's and Sign Shop Supervisor's work is substantially different from that of their subordinates. As with the Maintenance Section Managers and Maintenance Section Supervisors, both the Sign Shop Manager and the Sign Shop Supervisor are contractually prohibited from performing the work of their subordinates. The record further indicates that this is in fact the practice. The Sign Shop Manager and the Sign Shop Supervisor schedule and review the sign layout and the Sign Shop Maker/Hangers manufacture and hang the signs. Thus, I find that the positions' principal work differs from that of their subordinates.

2. supervisory indicia exercised with independent judgment

The Sign Shop Manager and the Sign Shop Supervisor exercise independent judgment when they discipline and direct their subordinates.

a. *hire*

The Sign Shop Manager and the Sign Shop Supervisor do not possess the authority to hire or to make effective hiring recommendations. The record does not demonstrate that either employee in these positions is trained to, or has actually sat on a hiring panel. Even if they have sat on a panel, as discussed above, because ISTHA's hiring is conducted by combining panelists' scores, I find this too speculative to determine that either the Sign Shop Manager or the Sign Shop Supervisor possess the supervisory indicia of authority to hire or even to make effective hiring recommendations.

b. *promote*

The Sign Shop Manager and the Sign Shop Supervisor do not promote or make promotional recommendations with the requisite independent judgment. Conducting subordinates' annual performance evaluations do not constitute the authority to promote, or to even make effective promotion recommendations, because performance evaluations are related to level increases within the same job classification, not promotions. There is insufficient evidence to support a finding that the Sign Shop Manager or the Sign Shop Supervisor are otherwise involved in promotional decisions. Thus, the Sign Shop Manager and Sign Shop Supervisor do not consistently use independent judgment in exercising the authority to promote or to effectively recommend a promotion.

c. *issuing discipline*

The Sign Shop Manager and the Sign Shop Supervisor possess the supervisory authority to issue discipline as severe as verbal warnings. The Sign Shop Manager and the Sign Shop Supervisor issue discipline in accordance with ISTHA's progressive disciplinary policy, and have the authority to exercise independent judgment when determining the employee should receive counseling or a verbal warning for a first offense. Also, evidence of independent judgment is the fact that the policy provides that only written warnings and more severe discipline are reported to upper management, meaning that the Sign Shop Manager's and Sign Shop Supervisor's authority to issue counseling and verbal warnings are not reviewed by their superiors.

d. *recommending discipline including suspension and discharge*

Neither the Sign Shop Manager nor the Sign Shop Supervisor have the authority to issue discipline more severe than verbal warnings, nor does the record demonstrate that they provide effective recommendations for more severe discipline. The record provides that the Sign Shop Manager and the Sign Shop Supervisor are authorized to recommend written warnings, suspension, and discharge, but the record does not sufficiently prove that these recommendations are effective. Benda's testimony that he gives these recommendations "considerable weight" does not sufficiently demonstrate that these recommendations are almost always persuasive.

e. *direct*

Neither the Sign Shop Manager nor the Sign Shop Supervisor possesses the supervisory authority to direct their subordinates. When purported supervisors spend most of their time

giving instructions and reviewing reports, and when their instructions are largely unchallenged by their subordinates, these actions constitute direction, rather than suggestions or advice. City of Chicago, 28 PERI ¶ 86 (IL LRB-LP 2011) aff'd Service Emp. Int'l Union, Local 73 v. Ill. Labor Rel. Bd., 2013 IL App (4th) 120279. In being responsible for their subordinates' work the purported supervisor must be actively involved in checking, correcting, and giving instructions to subordinates, without guidelines or review by others. Vill of Bolingbrook, 19 PERI ¶ 125 (IL LRB-SP 2003); City of Chicago, 10 PERI ¶ 3017 (IL LLRB 1994); City of Lincoln, 4 PERI ¶ 2041 (IL SLRB 1988).

Like Maintenance Section Managers and Maintenance Section Supervisors, the Sign Shop Manager and Sign Shop Supervisor work together to determine the assignments the Sign Shop will complete. The record indicates that the Sign Shop Manager's and the Sign Shop Supervisor's subordinates' work is done largely independently, though the work is subject to the Sign Shop Manager's and the Sign Shop Supervisor's review. The record does not demonstrate to what level, if any, the Sign Shop Manager's and the Sign Shop Supervisor's work is reviewed by their superiors, thus there is insufficient evidence to affirmatively determine that their work is largely performed without review. While it appears that the Sign Shop Manager and the Sign Shop Supervisor direct their subordinates by assigning them tasks, there is no indication that this is done with the independent judgment. There is insufficient information to determine that the Sign Shop Manager's and the Sign Shop Supervisor's direction effects the terms and condition of their subordinates' employment such to require independent judgment, because the record is undeveloped as to how these decisions are made. The fact that there is insufficient information to determine whether the Sign Shop Managers' and the Sign Shop Supervisors' direction is reviewed by their superiors, also creates a lack of information to support a finding of supervisory authority.

The Sign Shop Manager and the Sign Shop Supervisor direct their subordinates with independent judgment when they conduct their subordinates' annual performance evaluations. As addressed above, annual performance evaluations sufficiently effect the subordinates' terms and conditions of employment to constitute the authority to direct. Since the performance evaluations are based upon subjective interpretations, the Sign Shop Manager and the Sign Shop Supervisor exercise independent judgment when evaluating their subordinates.

3. preponderance

Neither the Sign Shop Manager nor the Sign Shop Supervisor spends a preponderance of their time exercising supervisory functions, either quantitatively and qualitatively. The fact that the Sign Shop Manager and the Sign Shop Supervisor perform work substantially different than their subordinates, does not mean that their work constitutes supervisory functions. As discussed above, while the Sign Shop Manager and the Sign Shop Supervisor perform many functions that their subordinates do not, in order to constitute an exercise of supervisory authority, they must exercise independent judgment when performing supervisory duties. The only duties they perform that satisfy such requirement are when they discipline their subordinates, and when they conduct their subordinates' annual performance evaluations. The record contains insufficient information regarding how often the Sign Shop Manager and the Sign Shop Supervisor issue or recommend discipline, or how important these duties are to their roles as Sign Shop Manager and Sign Shop Supervisor. Therefore, I cannot find that they spend a preponderance of their time performing the supervisory function of disciplining their subordinates.

Similarly, the record is devoid of evidence regarding how much of the Sign Shop Manager's and Sign Shop Supervisor's time is spent evaluating the performance of their subordinates or the relative importance of this function to the Sign Shop Manager's and Sign Shop Supervisor's role. ISTHA argues broadly that the function of evaluating performance meets the quantitative preponderance requirement; because the time spent completing the written evaluation is merely a documented account of the evaluator's constant monitoring and observing the evaluated employee. ISTHA argues that the at-issue positions are constantly evaluating the performance of their subordinates, and performing this task takes up a majority of their time. However, the record is insufficient to support this argument, as there is virtually no evidence regarding the day-to-day activities of the Sign Shop Manager and Sign Shop Supervisor as it relates to evaluating subordinates' performance or the importance of that function. Instead, the record reveals only that it takes other positions⁴ less than one hour per year for each subordinate to complete the written annual performance evaluation. Accordingly, I cannot find on this record that the Sign Shop Manager and Sign Shop Supervisor spend a preponderance of their time conducting performance evaluations, when measured either quantitatively or qualitatively.

⁴ The specific testimony on this point related to the time spent by Maintenance Section Managers and Maintenance Section Supervisors.

C. Road Electric Manager

ISTHA has not proven that the Road Electric Manager should be excluded from the petitioned-for unit because he is a supervisory employee.

1. principal work

The Road Electric Manager's work is substantially different from that of his subordinates. As with the petitioned-for positions addressed above, the Road Electric Manager is contractually prohibited from performing the work of his subordinates. The record further indicates that this is in fact the practice; the Division Electricians that report to the Road Manager perform the emergency electric repair on the road, while the Road Manager coordinates these assignments from a central location. Thus, I find that the position's principal work differs from that of his subordinates.

2. supervisory indicia exercised with independent judgment

The Road Electric Manager exercises independent judgment when he disciplines and directs his subordinates.

a. *hire*

The Road Electric Manager does not possess the authority to hire or to make effective hiring recommendations. As discussed above, ISTHA's hiring is conducted by combining panelists' scores and I find this too speculative to determine that the Road Electric Manager possesses the supervisory indicia of authority to hire or even to make effective hiring recommendations.

b. *promote*

The Road Electric Manager does not have the supervisory authority to promote or recommend promotions. The Road Electric Manager is authorized and is responsible to complete his subordinates' annual performance evaluations and a positive performance evaluation is one of seven criteria necessary for promotion. However, the completion of the performance evaluation also does not constitute the authority to promote because, as discussed above, performance evaluations have an effect on the evaluate employee's level advancement, the record contains insufficient to find that advancing a level within the same job classification constitutes a promotion. Since ISTHA presents no other argument and the record contains insufficient information to support a finding that the Road Electric Manager is otherwise

involved in promotional decisions, I cannot find that the Road Electric Manager is authorized to promote or recommend promotions.

c. *issuing discipline*

The record demonstrates that the Road Electric Manager exercises independent judgment in issuing discipline. Similar to the positions discussed above, the Road Electric Manager is authorized to issue discipline in accordance with ISTHA's progressive disciplinary policy, and has the authority to exercise independent judgment when determining whether the employee should receive counseling or a verbal warning for a first offense. Also, evidence of independent judgment is the fact that the policy provides that only written warnings and more severe discipline are reported to upper management, the Road Electric Manager's authority to issue counseling and verbal warnings are not reviewed by his superiors.

d. *recommending discipline including suspension and discharge*

The Road Electric Manager does not have the authority to issue discipline more severe than verbal warnings, nor does the record demonstrate that he provides effective recommendations for more severe discipline. As evidenced by the progressive disciplinary policy and Benda's testimony, the Road Electric Manager has the authority to recommend written warnings, suspension and discharge, but the record contains no examples of the effectiveness of these recommendations. Without such evidence, I cannot find that the Road Electric Manager effectively recommends suspension or discharge.

e. *direct*

The Road Electric Manager does not possess the supervisory authority to direct his subordinates. Unlike Maintenance Section Managers and Maintenance Section Supervisors there is no indication in the record that the Road Electric Manager considers an Electrician's or Helper's individual skill and abilities when making assignments. Thus, the record lacks sufficient information to determine that the Road Electric Manager consistently exercises independent judgment when making these assignments. The Road Electric Manager does direct his subordinates with independent judgment when he conducts his subordinates' annual performance evaluation, because the evaluation is based on subjective criteria, and affects the subordinates' salary.

3. preponderance

The Road Electric Manager does not spend a preponderance of his time exercising supervisory functions, either quantitatively or qualitatively. The only duties the Road Electric Manager performs that satisfy such requirement are when he disciplines his subordinates, and when he conducts his subordinates' annual performance evaluation. Like the Sign Shop Manager and Sign Shop Supervisor, the existing record contains insufficient information regarding how often or how important these duties are to the role of Road Electric Manager. Thus, I cannot find that the petitioned-for employee in the position of Road Electric Manager spends a preponderance of his time performing supervisory functions.

D. Central Garage Supervisor⁵

ISTHA has not proven that the Central Garage Supervisor should be excluded from the petitioned-for unit because he is a supervisory employee.

1. principal work

The Central Garage Supervisor's work is substantially different from that of his subordinates. As with the petitioned-for positions discussed above, the Central Garage Supervisor is contractually prohibited from performing the work of his subordinates. The record further indicates that the Central Garage Supervisor does not perform the same work as the Central Shop Mechanics, Parts Clerks, or Section Clerk of whom he oversees. Thus, I find that the position's principal work differs from his subordinates.

2. supervisory indicia exercised with independent judgment

The Central Garage Supervisor exercises independent judgment when he disciplines and directs his subordinates.

a. *hire*

The Central Garage Supervisor does not possess the authority to hire or to make effective hiring recommendations. As discussed above, because ISTHA's hiring is conducted by combining panelists' scores, I find this too speculative to determine that Central Garage

⁵ The record contains the job description for the Central Shop Supervisor, but the petitioned-for position is the Central Garage Supervisor. Since this appears to be the only inconsistency regarding this position, I infer that they are the same.

Supervisor possesses the supervisory indicia of authority to hire or even to make effective hiring recommendations.

b. *promote*

The Central Garage Supervisor is authorized to complete his subordinates' annual performance evaluation as required. Like the other at-issue positions, the authority to complete performance evaluations does not constitute either the authority to promote or the authority to make effective promotional recommendations.

c. *issuing discipline*

The Central Garage Supervisor does have the authority to issue discipline up to verbal warnings and consistently exercise independent judgment when issuing such discipline. The Central Garage Supervisor is authorized to counsel his subordinates, and issue them warnings pursuant to ISTHA's progressive disciplinary policy. The policy also provides the Central Shop Supervisor with the authority to exercise independent judgment when determining whether the employee should receive counseling or a verbal warning for a first offense. Based on the application of this policy, as testified to by Maintenance Section Manager Dragovich and Maintenance Section Manager Porto, and General Manager Benda, without contrary information, the record sufficiently demonstrates that the Central Garage Supervisor consistently exercises independent judgment when issuing discipline up to written warnings.

d. *recommending discipline including suspension and discharge*

The Central Garage Supervisor does not have the authority to issue suspensions or discharge, nor does the record demonstrate that he effectively recommends such discipline. The progressive disciplinary policy only grants the Central Garage Supervisor the authority to recommend suspension, but does not grant him the authority to make any recommendations regarding discharge. However, the record does not indicate that any suspension recommendations are sufficiently effective to constitute the supervisory indicia of the authority to suspend. Thus, the Central Garage Supervisor does not possess the authority to suspend, discharge or to effectively recommend such actions.

e. *direct*

The Central Garage Supervisor directs his subordinates with independent judgment when he conducts their performance evaluations, but the record does not demonstrate that he consistently exercises independent judgment when he otherwise directs his subordinates. As

addressed above the annual performance evaluations require independent judgment because they are based upon subjective criteria and the roadway mechanics subordinate to the Central Garage Supervisor must receive a satisfactory performance evaluation in order to move from one pay level to another. The ability to approve requests for time off or to approve overtime constitutes supervisory authority so long as the exercise of this authority involves the consistent use of independent judgment and is not of a mere routine or clerical nature. Village of Morton Grove, 23 PERI ¶72 (IL LRB-SP 2010) (citing City of Carbondale, 3 PERI ¶2044 (IL SLRB 1987)). Here, the Central Shop Supervisor is authorized to schedule his subordinates' personal time and vacations, but the record does not indicate whether such scheduling requires the consistent use of independent judgment; or whether such scheduling is merely routine. As the burdened party, ISTHA is required to demonstrate such judgment, and absent sufficient evidence I must find that the Central Garage Supervisor does not exercise independent judgment when performing such actions.

3. preponderance

The Central Garage Supervisor does not spend a preponderance of his time exercising supervisory functions, measured either quantitatively or qualitatively. As discussed above, the only supervisory functions that the Central Garage Supervisor exercises with independent judgment is his authority to discipline his subordinates up to written warnings, and to conduct their annual performance evaluations. Like the Sign Shop Manager, Sign Shop Supervisor, and Road Electric Manager, the existing record contains insufficient information regarding how often or how important these duties are to the role of Central Garage Supervisor; thus, I cannot find that the petitioned-for employee in the position of Central Garage Supervisor spends a preponderance of his time performing supervisory functions.

E. Central Garage Manager

The Central Garage Manager shall not be excluded from the petitioned-for bargaining unit. The petitioned-for unit includes the title of Central Garage Manager, and identifies that two employees hold this job title; Scott Schweppe and Stanley Peca, Jr. ISTHA provided contradictory evidence that suggests the Central Garage operates under the direction of both the Central Shop Truck and Equipment Repair Manager and the Central Shop Auto Repair and Body Shop Manager. Whether the Truck and Equipment Repair Manager reports to the Auto Repair

and Body Shop Manager is unclear, because the documentary evidence indicates that the position directly reports to Auto Repair and Body Shop Manager *and* the Fleet Manager. The testimony is similarly unreliable because (1) Benda testified that the documentary evidence is accurate, when it contains obvious and blatant inconsistencies, and (2) Benda only refers to the Central Shop Manager, not any more specific job title. Given this contrary information, I cannot determine the actual job titles and job duties of Schweppe or Peca. Based on this record I cannot determine that Schweppe or Peca, or anyone holding the job title of Central Garage Manager is a supervisor within the meaning of the Act. Thus, because of these evidentiary deficiencies ISTHA has failed to satisfy its burden to prove that the petitioned-for position of Central Garage Manager should be excluded from the bargaining unit.

V. CONCLUSIONS OF LAW

Maintenance Section Managers and Maintenance Section Supervisors are supervisors within the meaning of Section 3(r) of the Act. The Sign Shop Manager, the Sign Shop Supervisor, the Road Electric Manager, the Central Garage Manager, and the Central Garage Supervisor are not supervisors within the meaning of Section 3(r) of the Act.

VI. RECOMMENDED ORDER

Unless this recommended decision and order is rejected or modified by the Board, a secret ballot election shall be conducted among employees in the unit described below, at a time and place set forth in the Board issued notice of election. In accordance with the Act and the Board's Rules and Regulations (Rules), 80 Ill. Admin. Code §§1200-1230, eligible employees shall be given an opportunity to vote between representation by "International Brotherhood of Teamsters, Local 700," and "no representation."

INCLUDED: All Illinois State Toll Highway Authority employees in the titles of Sign Shop Manager, Sign Shop Supervisor, Road Electric Manager, Central Garage Manager, and Central Garage Supervisor.

EXCLUDED: All Illinois State Toll Highway Authority employees in the titles of Maintenance Section Managers, Maintenance Section Supervisors, and all other managerial, supervisory or confidential employees within the meaning of the Act.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200-1240, the parties may file exceptions no later than 14 days after service of this recommendation. Parties may file responses to any exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the recommendation. Within five days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed, if at all, with the General Counsel of the Illinois Labor Relation Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted in the Board's Springfield office. Exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois, this 23rd day of January, 2015

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**



**Deena Sanceda
Administrative Law Judge**