STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

International Union of Operating Engineers Local 150,	)	
Petitioner	)	
and	)	Case No S-UC-12-009
County of DuPage (Department of Public Works),	)	
Employer	)	

ORDER

On October 18, 2012, Administrative Law Judge Kimberly Faith Stevens, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its December 11, 2012 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 11th day of December 2012.

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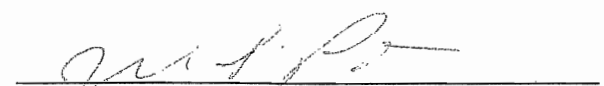

Jerald S. Post
General Counsel

STATE OF ILLINOIS
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International Union of Operating Engineers, Local 150,	)	
Petitioner	)	
and	)	Case No. S-UC-12-009
County of DuPage (Department of Public Works),	)	
Employer	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On November 2, 2011, International Union of Operating Engineers, Local 150 (Petitioner) filed a unit clarification petition in Case No. S-UC-12-009 with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) *as amended* (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). This petition seeks to add the title of principal meter reader to an existing bargaining unit of the County of DuPage (Employer or County).[1] This bargaining unit was previously certified by the Board in Case Number S-RC-11-033.

A hearing was held on May 1, 2012 before Administrative Law Judge Eileen L. Bell in Chicago, Illinois. At that time, all parties appeared and were given a full opportunity to participate, introduce relevant evidence, examine witnesses, and argue orally. Briefs were timely

[1] The record indicates that this existing bargaining unit includes the following titles: water/wastewater maintenance worker, water/wastewater maintenance crew leader, auto mechanic, heavy equipment mechanic, laborer, meter reader/installer, and driver/heavy equipment operator. The title of principal meter reader was in dispute when the unit was originally certified (Case No. S-RC-11-033).

filed by both parties. 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

1. The parties stipulate, and I find, that the Board has jurisdiction to hear this matter pursuant to Sections 5 and 20(b) of the Act.
2. The parties stipulate, and I find, that the Petitioner is a labor organization within the meaning of Section 3(i) of the Act.
3. The parties stipulate, and I find, that the Employer is a public employer within the meaning of Section 3(o) of the Act.
4. The parties stipulate, and I find, that the position at issue is that of principal meter reader, occupied at the time of the petition and hearing by Brian Cronin.
5. The parties stipulate, and I find, that the relevant issue is whether the principal meter reader position occupied by Brian Cronin is a supervisory position within the meaning of the Act.

II. ISSUES AND CONTENTIONS

The central issue to be resolved is whether the County's principal meter reader is a supervisor within the meaning of Section 3(r) of the Act. The Employer contends that this employee is a supervisor within the meaning of the Act and therefore is not eligible to be a part of a bargaining unit with the meter readers who are functionally subordinate to the principal meter reader position. The Petitioner contends that the record does not support the Employer's contention and that the petitioned-for employee is a public employee as defined by the Act.

III. FINDINGS OF FACT

Brian Cronin is the principal meter reader for the County of DuPage. He has worked for the County for over 10 years. He was formerly a meter reader, promoted to senior meter reader[2], and then promoted to principal meter reader. The County also employs four meter readers. Cronin is an hourly employee who receives overtime pay at time and a half. Testimony regarding Cronin's job duties was provided by Kevin Buoy, operations manager at DuPage County Public Works, as well as by Cronin himself.

According to Buoy, the principal meter reader assigns daily activity, adjusts and approves time documents, supervises activities of meter readers, participates in evaluations of meter readers, participates in interviews for potential candidates for the meter reader position, develops the schedule for reading of the routes, reads meters to fill in for meter readers, handles customer complaints, installs equipment, services faulty meters, interacts with the IT department, and interacts with the billing department. Cronin is also the County's grease trap inspector. Cronin does not attend the supervisory meetings for supervisors and managers with the Department of Public Works.

The meter readers do not typically have the interactions with the billing and IT departments that the principal meter reader has. Generally, meter readers are responsible for reading water meters in the County's service area on a schedule that resets every two months. Meter readers may also install and repair equipment. They also bring customer issues to the attention of the principal meter reader.

Cronin testified that the first half hour of his day is spent discussing activities of the day and previous day with the meter readers and "setting up the day for them." After that portion of

[2] This position no longer exists within the structure of the County.

the day, Cronin does final readings for customers who are moving, performs repairs, and deals with issues raised by the billing department. He estimated that he spends approximately 70 to 75 percent of his day in the field dealing with billing and customer issues. In Cronin's absence, the meter readers can distribute the routes and fill in for Cronin.

Cronin assigns daily activities to the meter readers, including the routes to be read for a particular day and the expectation of the time frame in which the routes are to be completed. Buoy testified that Cronin independently decides which routes to assign for a particular day. Cronin further elaborated that the meter reading schedule repeats itself every two months. The schedule of when particular areas need to be read is specific, according to Cronin, because the corresponding municipalities need to get the readings back at the same time. Cronin also confirmed that he bases his assignments on the routes that need to be covered for a particular day, including consideration of whether particular readers have routes that they "know" and can perform more efficiently. Cronin also provides on-the-job instruction to meter readers, and meter readers also assist each other in this way. He does not specify when the meter readers must take breaks and lunch. Cronin communicates with the meter readers in the field, using push-to-connect phones. He estimated that he spends approximately two to three hours per day with the meter readers depending on routes. Meter readers will contact him for further instructions if they finish early, and he may talk with them 10 to 20 times per day by phone.

Cronin signs off on time documents for the meter readers, including approving time off requests. He decides whether to approve or deny time off requests based on the schedule and weather issues. He has denied time off requests in the past. He also makes adjustments in the timekeeping software and approves documents through that program. Meter readers cannot approve the use of their own time off. No other positions currently in the bargaining unit can

approve the use of their own time off. The time documents have to receive a "sign off" in order for a meter reader to be paid. Cronin cannot schedule overtime without approval. Cronin cannot change the working hours of the meter readers.

Cronin participates in evaluating the meter readers, and these evaluations are performed each year or at the six-month anniversary of the date of hire. No other positions currently in the bargaining unit participate in conducting evaluations of other employees. Cronin prepares the evaluation by filling out the form and signing it where it is marked "Supervisor Signature." The director or superintendent typically signs off on these evaluations after Cronin completes them. Cronin testified that he fills out the forms, and then he presents them to his supervisor for review. His supervisor then provides them to the director. Cronin testified that his supervisor told him to adjust numbers on an evaluation in the past. Evaluations are tied to merit wage increases, but the County has not awarded increases in the past three years.

Cronin cannot give a meter reader an extra day off, extra pay, or an award. Cronin has never adjusted or heard a grievance, although it appears that his position may be a step in the grievance process. No grievances have been filed while Cronin has served as principal meter reader.

Cronin also participates in interviews of applicants for the meter reader position. No other positions currently in the bargaining unit attend or conduct interviews of applicants for positions. Cronin participates in the interviews and fills out an interview evaluation form scoring the individuals interviewed. He participates as part of a panel of interviewers, including a representative from HR and an additional administrator at times. Cronin asks questions of the candidates that relate to the daily functions of meter readers. Cronin's scores are included in the

composite score for each interviewee. Seven meter readers have been hired since Cronin became the principal meter reader.

Cronin testified that he does not believe that he can directly fire a meter reader. He further stated that no meter readers have been fired since he has been working for the County, nor has he recommended any meter readers be fired. He has never suspended a meter reader or recommended a suspension. Cronin has not "written up" anyone for discipline. However, he testified that he can "write up" a meter reader. His only involvement in employee discipline was that he participated in meeting with an employee with productivity and timeliness issues, along with Cronin's own supervisor, who actually wrote up the employee in question. He has recommended that a meter reader be promoted to the senior meter reader position, but this recommendation has not been taken as the County does not currently have the senior meter reader position. He has not transferred employees.

The Employer also presented the job description for a principal meter reader, which Buoy testified was the current job description for the position. Cronin confirmed that this job description is accurate.

While ALJ Bell was asking questions of Buoy, he revealed that the division in which the principal meter reader and meter readers work is not one of the eight divisions within Public Works for which he has oversight. Buoy did apparently supervise the division containing the meter reader and principal meter reader positions for a transitional period between financial administrators, who would normally have oversight for that division. It appears from the testimony that Buoy does supervise other members of the proposed bargaining unit. Therefore, his testimony can be credited to the extent that Buoy does have enough familiarity to testify with regard to the job duties and responsibilities of the principal meter reader.

After testimony from Buoy, the Union moved for a directed verdict. This motion was denied by ALJ Bell. The Employer also could not stipulate to the appropriateness of the petitioned-for bargaining unit and was directed by ALJ Bell to present evidence regarding the appropriate bargaining unit. The record reveals that the Employer did not present such evidence.

IV. DISCUSSION AND ANALYSIS

The Employer asserts that Brian Cronin, principal meter reader, is a supervisor within the meaning of Section 3(r) of the Act.[3] Under that Section, petitioned-for employees are supervisors if they: (1) perform principal work substantially different from that of their subordinates, (2) possess authority in the interest of the Employer to perform one or more of the eleven indicia of supervisory authority enumerated in the Act, (3) consistently exercise independent judgment in exercising supervisory authority, and (4) devote a preponderance of their employment time to exercising that authority. City of Freeport v. Illinois State Labor Relations Board, 135 Ill. 2d 499, 512, 554 N.E.2d 155, 162 (1990); Village of New Lenox, 23 PERI ¶104 (IL LRB-SP 2007); Village of Bolingbrook, 19 PERI ¶125 (IL LRB-SP 2003); Village of Justice, 17 PERI ¶2007 (IL SLRB 2000). The party which seeks to exclude an individual from a proposed bargaining unit has the burden of proving that statutory exclusion by a preponderance of the evidence. County of Boone and Sheriff of Boone County, 19 PERI ¶74

[3] Section 3(r) of the Act states, in relevant part:

> "Supervisor" is an employee whose principal work is substantially different from that of his or her subordinates and who has 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 those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding. In addition, in determining supervisory status in police employment, rank shall not be determinative. The Board shall consider, as evidence of bargaining unit inclusion or exclusion, the common law enforcement policies and relationships between police officer ranks and certification under applicable civil service law, ordinances, personnel codes, or Division 2.1 of Article 10 of the Illinois Municipal Code, but these factors shall not be the sole or predominant factors considered by the Board in determining police supervisory status.

(IL LRB-SP 2003); Chief Judge of the Circuit Court of Cook County, 18 PERI ¶2016 (IL LRB-SP 2002).

Principal Work Requirement

In determining whether the principal work requirement has been met, the initial consideration is whether the work of the alleged supervisor and that of his or her subordinates is obviously and visibly different. Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162; Northwest Mosquito Abatement District, 13 PERI ¶2042 (IL SLRB 1997), aff'd. 303 Ill. App. 3d 735, 708 N.E.2d 548 (1st Dist. 1999). If that work is obviously and visibly different, the principal work requirement is met. Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162. However, in other cases, where the alleged supervisor performs functions facially similar to those of his or her subordinates, the Board has looked at what the alleged supervisor actually does to determine whether the "nature and essence" of his or her work is substantially different from that of his or her subordinates. See Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162; Village of Alsip, 2 PERI ¶2038 (IL SLRB 1986); City of Burbank, 1 PERI ¶2008 (IL SLRB 1985).

Although Cronin may, at times, do the work of a meter reader, the essence of his work is markedly different from that of the meter readers. Specifically, Cronin, as principal meter reader, deals directly with the billing and IT departments regarding billing issues or software problems that arise in the field with readings from the meter readers. Cronin also deals directly with customers on issues regarding repairs, installations, and other problems, whereas the meter readers do not perform this function. Cronin makes up the schedules for the meter readers regarding the routes to be read, which meter readers only do occasionally in Cronin's absence. Therefore, I find that the Employer has met the first prong of the supervisory test in that Cronin's principal work is substantially different from that of the meter readers.

Supervisory Indicia and Independent Judgment

With respect to the second and third prongs of the Act's supervisory definition, the Employer must establish that the employee at issue has the authority to perform or effectively recommend any of the eleven indicia of supervisory authority listed in the Act, namely, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, discipline, or adjust grievances, and consistently exercise that authority with independent judgment. The use of independent judgment must involve a consistent choice between two or more significant courses of action and cannot be routine or clerical in nature or be made merely on the basis of the alleged supervisor's superior skill, experience, or knowledge. Chief Judge of the Circuit Court of Cook County v. American Federation of State, County and Municipal Employees, Council 31, 153 Ill. 2d 508, 531, 607 N.E.2d 182, 193 (1992); Freeport, 135 Ill. 2d at 531, 554 N.E.2d at 170; Village of Justice, 17 PERI ¶2007. An effective recommendation satisfying the Act's supervisor requirements is one that is adopted by the alleged supervisor's superiors as a matter of course with very little, if any, independent review. City of Peru v. Illinois State Labor Relations Board, 167 Ill. App. 3d 284, 289, 521 N.E.2d 108, 112 (3rd Dist. 1988); Peoria Housing Authority, 10 PERI ¶2020 (IL SLRB 1994); Village of Justice, 17 PERI ¶2007.

Notably, in its post-hearing brief, the Employer does not articulate or allege with specificity which, if any, of the eleven indicia of supervisory indicia Cronin performs with independent judgment. Moreover, while the job description for the principal meter reader may nominally or generally describe the principal meter reader as a "supervisor" in a general sense, significantly, it does relatively little to demonstrate that Cronin is a supervisor within the narrow meaning of Section 3(r) of the Act. Indeed, job descriptions alone may be insufficient evidence

to establish employees' duties or their supervisory status.[4] See City of Carbondale, 27 PERI ¶68 (IL LRB-SP 2011); State of Illinois, Department of Central Management Services (PSA Option 1), 25 PERI ¶184 (IL LRB-SP 2009); County of Union, 20 PERI ¶9 (IL LRB-SP 2003); Northern Illinois University (Department of Safety), 17 PERI ¶2005 (IL LRB-SP 2000). Furthermore, a party asserting a statutory exclusion cannot satisfy its burden by relying on vague, generalized testimony or contentions as to an employee's job function. Instead, the Board requires that a party support its arguments with specific examples of the alleged supervisory, managerial, or confidential status. State of Illinois, Department of Central Management Services (Department of Public Health), 24 PERI ¶112 (IL LRB-SP 2008); County of Union, 20 PERI ¶9. Despite these considerations, the evidence presented does establish that, at a minimum, Cronin does perform at least one of the supervisory indicia using independent judgment.

i. Direct

The indicium "direct" includes a variety of job functions: giving job assignments, overseeing and reviewing daily work activities, providing instruction and assistance to subordinates, scheduling work hours, approving time off and overtime, and formally evaluating job performance when the evaluation is used to affect the employees' pay or employment status.

[4] There is some dispute among the districts of the Illinois Appellate Court on whether specific examples of the exercise of supervisory authority are required as proof. For instance, the Fifth District has held that conferring authority to perform supervisory indicia is enough to satisfy the requirements of the Act even if there is no evidence that the individual has performed that duty. Village of Maryville v. ILRB, 402 Ill. App. 3d 369, 342 (5th Dist. 2010); see also Illinois Department of Central Management Services v. ILRB, State Panel, 2011 IL App 4th 090966 (4th Dist. September 28, 2011) (Fourth District opinion discussing authority to perform supervisory tasks even in apparent absence of concrete examples of performance); but see Illinois Department of Central Management Services v. ILRB, State Panel, 382 Ill. App. 3d 208, 228-29 (4th Dist. 2008) (finding that, although job description purported to give authority to alleged supervisors, these alleged supervisors did not "in practice" perform the tasks with significant discretionary authority). The First and Third districts have focused on specific examples of authority as exercised in analyzing the supervisory test and have found that, while important, rules and regulations or job descriptions therein are not alone sufficient to meet the burden of proof. See Village of Broadview v. ILRB, 402 Ill. App. 3d 503, 508 (1st Dist. 2010); City of Peru v. ISLRB, 167 Ill. App. 3d 284, 291 (3rd Dist. 1988). However, as noted below, the Employer in this case has not met its burden with regard to the preponderance requirement, and the job description does not aid in proving the Employer's case on that point as it does not include estimates of time spent performing particular tasks. Therefore, its use is of little value as part of the Employer's evidence, regardless of the accuracy of the information contained therein.

Chief Judge of the Circuit Court of Cook County, 19 PERI ¶123 (IL SLRB 2003); County of Cook, 16 PERI ¶3009 (IL LLRB 1999); County of Cook, 15 PERI ¶3022 (IL LLRB 1999); City of Naperville, 8 PERI ¶2016 (IL SLRB 1992). In order to constitute "direction" within the meaning of the Act, an employee's responsibility for his or her subordinates' work performance must also involve discretionary authority that affects the subordinates' terms and conditions of employment. County of Cook, 28 PERI ¶85 (IL LRB-SP 2011); State of Illinois, Department of Central Management Services, 25 PERI ¶186 (IL LRB-SP 2009).

In the instant case, the record does demonstrate that Cronin performs the supervisory indicium of directing employees with independent judgment. Cronin does direct the work of employees in that he assigns routes for the meter readers and approves their time off requests. While Cronin's assignment of routes is based on a rotating schedule of areas that need to have meters read, he considers the skill level and knowledge of routes of the meter readers and determines which routes may be better suited to particular meter readers. He then assigns the routes accordingly. Cronin also reviews with the meter readers the work they perform in a given day, and he provides assistance to them as needed. Moreover, his approval of time off requests appears also to be conducted with independent judgment, in that he determines whether operational needs will allow a meter reader to take time off. He has also denied time off requests in the past due to operational needs.

Ultimately, Cronin is responsible for ensuring that the work of the meter readers is completed in a timely fashion. He must decide the most effective way to assign the work of the work unit in order to accomplish this objective, and in doing so directs the work of subordinate employees. It appears from the record that he does all of these functions without consulting a supervisor in order to obtain approval or review. Indeed, where an employee considers

"knowledge of the individuals involved, the nature of the task to be performed, the employees' relative levels of experience and skill, and the Employer's operational needs" without review by a supervisor, that employee engages in assigning work with independent judgment. County of Cook, 15 PERI ¶3022 (IL LLRB 1999) As it appears from the record that this is the type of activity in which Cronin engages with regard to assignment of work and approval of time off, I find that he performs this indicium with independent judgment within the meaning of the Act.

ii. The remaining indicia

The other examples provided in the record do not demonstrate Cronin's supervisory status in that, even where they show evidence that he performs the supervisory indicia, they are not performed with independent judgment such that they meet the definition in the Act. Moreover, to the extent that it is properly considered, I find that the submitted job description is vague and somewhat unsupported by the testimony provided at hearing. At the same time, the record plainly and consistently shows that Cronin does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, discipline, adjust grievances or effectively recommend any of the remaining indicia of supervisory authority using independent judgment of the kind that would satisfy the requirements of the Act.

Specifically, it appears that Cronin does have some authority to make recommendations with regard to hiring, but again, his participation in this process does not rise to the level of independent judgment necessary under the Act. While Cronin does have apparent authority to participate in the disciplinary process by "writing up" a meter reader, he has not exercised this authority so that it can be determined whether his recommendation of discipline would be effective. No testimony provided evidence that he would make effective recommendations on discipline. In the absence of such evidence, I cannot determine that he performs this indicia by

making effective recommendations on discipline. With regard to evaluations, Cronin does complete evaluations for the meter readers. However, the extent to which his recommendations are accepted in this area is not clear from the record. The evidence shows that he has been directed, in the past, to change an employee's evaluation. Therefore, I cannot determine that he performs this indicium by making effective recommendations. Also, while it appears from the record that Cronin's position is possibly a step in the grievance process, he has not had occasion to exercise any authority in the grievance process such that I can determine whether his recommendation, if any, would be effective.

Notwithstanding these considerations, a single indicium of supervisory authority (of eleven possible indicia) accompanied by independent judgment is enough to establish supervisory status. Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 529, 607 N.E.2d at 192. Because the Employer has submitted evidence showing that Cronin directs the work of employees using independent judgment, I find that the second and third prongs of the supervisory test are satisfied.

Preponderance Requirement

Except with respect to police employment, petitioned-for employees are only deemed supervisory if they spend the preponderance of their work time performing supervisory functions. To satisfy this test, employees must spend more time on supervisory functions than on any one nonsupervisory function. Department of Central Management Services v. Illinois State Labor Relations Board, 278 Ill. App. 3d 79, 83-85 (4th Dist. 1996); State of Illinois, Department of Central Management Services (EPA, DPH, DHS, DCEO), 26 PERI ¶155 (IL LRB-SP 2011). The Employer must demonstrate such allotments of time by setting forth the employees' day-to-day activities, as documented by specific facts in the record. State of Illinois,

Department of Central Management Services (EPA, DPH, DHS, DCEO), 26 PERI ¶155 (citing Stephenson County Circuit Court, 25 PERI ¶92 (IL LRB-SP 2009)); Village of Bolingbrook, 19 PERI ¶125. The calculation of time under the preponderance requirement is based on time spent in the exercise of supervisory authority that qualifies as such under the Act. See Department of Central Management Services, 26 PERI ¶155, citing Downers Grove v. Illinois State Labor Relations Board, 221 Ill. App. 3d 47, 55 (2nd Dist. 1992) (noting that actual time does not include work time spent instructing or directing employees, when such instruction or direction does not qualify as supervisory direction under the Act).

I first note that the Employer, who has the burden of showing that the petitioned-for employee is not a public employee within the meaning of the Act, did not present any evidence on the preponderance requirement. The evidence on this point was obtained from Cronin himself during the Union's case in chief. However, even the testimony presented by the Union on this point shows that Cronin does not spend a preponderance of time performing one or more supervisory indicia with independent judgment.

As noted above, I find that Cronin does direct subordinate employees with the requisite independent judgment to satisfy the second and third prongs of the supervisory test. However, Cronin does not spend a preponderance of time on this job function. Cronin testified that he spends approximately a half hour per day assigning the work of the meter readers, going over the activities of the previous day, and discussing the current day's assignments. In his testimony, Cronin estimated that he spends approximately 70 to 75 percent of his day in the field dealing with billing and customer issues. I do not agree with the Employer's characterization of the components of Cronin's field work as separate and distinct job duties for purposes of determining whether Cronin spends more time directing subordinates than on any other job duty.

Cronin estimated that he spends approximately two to three hours per day with the meter readers. Arguably, some of this time is likely spent directing their work, but the record is not clear as to what portion of this time is spent directing the work of the meter readers. Absent clear evidence on this point, which it was incumbent upon the Employer to present, I must find that Cronin does not spend a preponderance of his work time directing employees. Accordingly, I must find that the Employer has failed to demonstrate that the principal meter reader is a supervisor within the meaning of Section 3(r) of the Act.

Bargaining Unit

With regard to the appropriate bargaining unit for a petitioned-for employee, Section 9(b) of the Act provides, in pertinent part:

> The Board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed by this Act, a unit appropriate for the purpose of collective bargaining, based upon but not limited to such factors as: historical pattern of recognition; community of interest including employee skills and functions; degree of functional integration; interchangeability and contact among employees; fragmentation of employee groups; common supervision, wages, hours and other working conditions of the employees involved; and the desires of the employees. For purposes of this subsection, fragmentation shall not be the sole or predominant factor used by the Board in determining an appropriate bargaining unit.

The Board has held that "[t]he standard for judging whether a unit is appropriate is not whether the petitioned-for unit is the most appropriate or whether it is an appropriate unit." City of Chicago, 23 PERI ¶172 (IL LRB-SP 2007), citing Rend Lake Conservancy District, 14 PERI ¶2051 (IL SLRB 1998).

In this case, the Employer could not stipulate at hearing that the petitioned-for bargaining unit was appropriate. To that end, ALJ Bell directed the Employer to present evidence regarding why this bargaining unit would be inappropriate. The record shows that the Employer presented no such evidence beyond arguing that Cronin is a supervisor under the Act and should therefore

be excluded from the bargaining unit as such. Absent such a showing by the Employer that the unit is inappropriate and considering the evidence in the record, I find that the petitioned-for employee appears to share a community of interest, contact among employees, and hours and working conditions with those in the bargaining unit, and that the employee desires to be included in the unit. Therefore, I find that the petitioned-for bargaining unit is appropriate.

V. CONCLUSIONS OF LAW

I find that principal meter reader Brian Cronin is not a supervisor as defined by Section 3(r) of the Act.

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the County of DuPage's principal meter reader title be included in the petitioned-for unit.

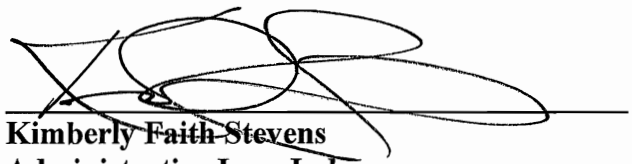
VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 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 with the Board's General Counsel at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The 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. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Springfield, Illinois, this 18th day of October, 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL



Kimberly Faith Stevens
Administrative Law Judge