In the Matter of:

THE BOEING COMPANY,

Employer,

and

AIRPLANE MANUFACTURING PILOTS ASSOCIATION/SPEEA IFPTE LOCAL 2001

Petitioner.

Case No. 19-RC-71950

PETITIONER’S SECOND BRIEF TO ACTING REGIONAL DIRECTOR
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I. STATEMENT OF THE CASE AND FACTUAL BACKGROUND

A. STATEMENT OF THE CASE
Petitioner Airplane Manufacturing Pilots Association (AMPA) filed an RC petition on January 6, 2012, seeking an Armour-Globe election in which the Employer’s roughly 29 Safety, Standards and Technical Pilots in job code ADPX could choose to join a bargaining unit of approximately 37 Instructor Pilots represented by Petitioner. A hearing commenced on January 24, 2012 and concluded on January 27, 2012. The parties stipulated at the hearing that “the only issue for hearing is the community of interest between the petitioned for voting group and the existing unit, and whether an Armour-Globe election is appropriate. The Employer is not raising issues that the voting group does not constitute a distinct and identifiable segment of the work force or other issues, such as supervisory status.” (Board Exhibit 3) The stipulation proceeded to exclude from the proposed voting group four categories of pilots within the ADPX job code: 1) the individuals on PEL (Pilot Early Leave); 2) five Boeing Test & Evaluation (BT & E) Pilots; 3) two ADPX pilots working remotely; and 4) two executive pilots. (Board Exhibit 3)

Notwithstanding the stipulations agreed to at the hearing, the Employer contended in its post-hearing brief dated February 7, 2012 (“Employer’s Brief”), that “the petitioned-for unit does not appropriate[ly] constitute a readily identifiable group of employees within the Company’s organizational or administrative structure.” (Employer’s Brief p. 19) The Employer argued that the proposed unit would not be appropriate because, “[t]he Union does not seek classifications of employees that are in the same department as most ADPX pilots and AMPA pilots when combined, e.g., simulator-only instructors.” (Employer’s Brief p. 21) Thus, while the Employer purportedly adhered to its stipulation conceding that the petitioned for ADPX voting group constituted a “distinct and identifiable segment,” it argued that, when combined with the existing unit of Instructor Pilots, the overall bargaining unit did not contain “employees readily
identifiable as a group” as required by the NLRB’s decision in Specialty Healthcare and Rehabilitation Center of Mobile 357 NLRB No. 83 (2011).

On February 13, 2012, the Acting Regional Director (ARD) issued an Order Reopening Record (“Order Reopening Record”). He stated that “the Employer’s brief would appear to raise significant issues concerning the intended effect of the parties’” stipulations in Board Exhibit 3.” (Order Reopening Record, p. 2) The ARD explained, “the Employer also appears to further call into question the effect of the parties’” stipulations by noting in its brief that BTE pilots and/or other pilots share a community of interest with the petitioned-for voting group and/or the existing unit of instructor pilots represented by Petitioner, notwithstanding the parties’” stipulation to exclude BTE pilots and others from the voting group.” (Id. n. 3) The ARD pointed out that the record alluded to a group of “simulator-only instructors” who ostensibly worked side by side with the Instructor Pilots, but whom the Petitioner did not represent in the existing unit nor seek to represent in the voting group. (Id. p. 2) Thus, he found, “significant issues exist concerning these simulator-only instructors and BTE pilots and whether they constitute unrepresented employees residual to the existing unit and/or whether the petitioned-for pilots do „not constitute an appropriate voting group as they are an arbitrary segment of a broader group of unrepresented employees who perform similar duties.“” (Order Reopening Record p. 2 (quoting St. Vincent Charity Medical Center, 357 NLRB No. 79, slip op. n. 10)) The ARD stated that at the reopened hearing, the Region would take evidence,

. . . including testimony and documents, relevant and material to addressing and resolving the factual issues noted above and relating to the simulator-only instructors and BTE pilots. Further, at the reopened hearing, the parties should present all relevant and material evidence detailing the community of interest, or
lack thereof, that these simulator-only instructors and/or BTE pilots may share with the petitioned-for voting group and/or the existing unit of instructor pilots. (Id.)

Accordingly, the reopened hearing took place on February 22 and 23, 2012. On February 22, 2012, before the presentation of any evidence, to address the concerns of both the ARD and the Employer concerning the Simulator-only Instructors, the Petitioner filed an Amended Petition seeking their inclusion in the voting group. The ARD accepted the filing of that petition as Board Exhibit 6. (Tr. p. 512) The parties presented evidence relevant to the Amended Petition at the subsequent hearing. At the conclusion of that evidence, the parties reaffirmed their stipulations in Board Exhibit 3 regarding the four excluded categories of employees from the voting group for purposes of this hearing only. (Tr. p. 631) However, the parties withdrew from the other stipulation in Board Exhibit 3 providing that Employer would not raise issues that the voting group constitutes a distinct and identifiable segment of the work force. (Tr. p. 631-632)

B. FACTUAL BACKGROUND

Since the arguments below delve deeply into the factual details pertinent to this case, to avoid repetition, Petitioner will provide only an outline of the general facts in the current section. Beginning in approximately 1997 the Boeing Instructor Pilots formed the Lazy B Pilots Association and won representation rights. (Tr. p. 209–210) In approximately 2008 Lazy B changed its name to AMPA.1 (Tr. p. 366) Those pilots qualify under Federal Aviation

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1 Descriptions of the job duties of pilots that follow identify only their major job functions. More detail is given below.
Administration (FAA) regulations to instruct other pilots in the simulators for the various models of Boeing airplanes. (Tr. p. 41-43) They also do line assist training in which they provide instruction in actual airplanes to customer pilots new to a particular model. (Tr. p. 42) That instruction provides the initial operating experience (IOE) for the customer pilots. (Tr. p. 219; 319) The FAA has awarded six Instructor Pilots the designation of Training Center Evaluator (TCE). (Tr. p. 64; 301) In that capacity, they give check rides or examinations in the simulator to test the skills of a pilot to operate a certain model of aircraft so that the pilot can obtain or maintain his Pilot’s License with the FAA. (Tr. p 300-301) Currently, Boeing employs 37 AMPA-represented Instructor Pilots in Flight Training-Airplane (FTA), under Darren Champlin. (Employer’s Exhibit 1; Joint Exhibit 3; Tr. p. 41)

Three categories of ADPX Pilots, Technical, Standards and Safety, seek to join the existing unit. This portion of the voting group consists of a total of 29 pilots. (Joint Exhibit 3) Technical Pilots have responsibility for the technical publications used by pilots to operate Boeing airplanes. (Tr. p. 25-28) All the Standards Pilots have received the TCE designation from the FAA, function as instructors in the simulators, and ensure compliance with Boeing manuals and FAA requirements. (Tr. p. 104-111) The Safety Pilots serve as the lead pilots on check up visits to airlines approximately 6 to 18 months after they receive a new Boeing airplane model in the implementation of Boeing’s Flight Operations Support Program (FOSP). (Tr. p. 84; 132 and 230-232) They also investigate accidents involving Boeing airplanes. (Tr. p. 237)

The Amended Petition also includes in the proposed voting group the 38 Simulator-only Instructors working in the State of Washington. (Petitioner’s Exhibit 30) They work in job code GGE5 in Flight Training-Simulator. (Tr. p. 512) They provide both fixed base and full flight
simulator training to internal and external customers. (Tr. p. 524) Thus, they train pilots employed by airlines and the Technical Pilots, Standards Pilots, Safety Pilots and Instructor Pilots employed by Boeing. (Tr. p. 524-525) Approximately 15 of the Simulator-only Instructors perform as TCEs, doing the identical duties as the Instructor Pilots and Standards Pilots who work in that capacity. (Tr. p. 526-527)

With that background, the Petitioner will show the entitlement of the voting group in the Amended Petition to an Armour-Globe election below.

II. ARGUMENT

A. Board Law Mandates an Armour-Globe Election if the Voting Group Shares a Community of Interest with the Existing Unit and it Comprises an Identifiable, Distinct Segment of the Workforce.

The ARD should order an Armour-Globe election in which the members of the proposed voting group can express their desire whether to join the existing pilot bargaining unit. They share a significant community of interest with the existing unit, and they constitute a distinct and identifiable segment of the workforce.

Case law concerning Armour-Globe elections dates back nearly to the inception of the National Labor Relations Act. The doctrine originated with Globe Machine and Stamping Co., 3 NLRB 294 (1937), in which the Board permitted employees to determine whether they wished to form several separate bargaining units or a larger single unit. The Board extended this doctrine to permit a group of historically unrepresented employees to decide whether they wished to join
an existing unit in *Armour and Company*, 40 NLRB 1333 (1942). The labor law community refers to elections of this type as *Armour-Globe* or self-determination elections. A history of the development of the doctrine appears in *NLRB v. Raytheon Company*, 918 F2d 249 (1st Cir. 1990).

This history recounts the decisions of the Board holding that to obtain a self-determination election the petitioner need not establish that the designated voting group would constitute an appropriate unit by itself. *Maryland Drydock Co.*, 50 NLRB 363 (1943). A petitioner need only show that the employees seeking inclusion share a community of interest with the unit employees and that the former employees form an “identifiable, distinct segment so as to constitute an appropriate voting group.” *Warner Lambert*, Co. 298 NLRB 993, 995 (1990).

The Board most recently revisited the concepts involved in *Armour-Globe* elections in *St. Vincent Charity Med. Ctr.*, 357 NLRB No. 79, 2011 NLRB LEXIS 494, 9-10 (Aug. 26, 2011). In that case, the Board rejected the Regional Director’s determination that a petitioner seeking an *Armour-Globe* election must include in the voting group all remaining unrepresented employees residual to the existing unit. (Slip Op., p. 2) The Board further reaffirmed the holding of *Warner-Lambert*, *supra*, that a petitioner can obtain a self-determination election if the employees in the proposed voting group “share a community of interests with the currently represented employees and . . . constitute an identifiable, distinct segment.” *Id.*

According to the Board in *St. Vincent Charity Med. Ctr.*, the *Armour-Globe* procedure promotes the salutary goal of avoiding the undue proliferation of bargaining units. *Id.* In the instant case, a very large employer advocates the representation of distinct but closely related
groups of pilots in at least two and perhaps three small separate units. This position nearly defines the “proliferation” that Board policy seeks to minimize.

The Employer objected to the application of the Armour-Globe procedure in the January 2012 portion of the hearing on the ground that the Union seeks “to nearly double the size of the existing unit through the use of the Armour-Globe mechanism.”2 (Tr. p. 10; 479) Then, in the February hearing, the Employer objected to the Amended Petition based upon “the union’s effort now to triple the size of the existing unit.” (Tr. p. 502) The Employer’s position that a petitioner cannot apply the Armour-Globe doctrine to substantially increase the size of a bargaining unit finds no support in Board law. No case expressly confronts such a contention, but in at least one, the Board required a self-determination election for a voting group of 15 employees to decide whether they wished to join an existing unit of 18 employees. Kansas City Terminal Elevator Co., 269 NLRB 350, 351-52 (1984). The Board rejected the union’s attempt to obtain a separate unit for the 15 unrepresented employees, based upon the community of interest between the two groups of employees, rendering the proposed separate unit inappropriate. Thus, current Board law not only permits Petitioner in this case to obtain an Armour-Globe election, it would mandate that the Regional Director order such an election regardless of the Union’s position, notwithstanding that this would almost triple the size of the existing bargaining unit.

The instant situation does not properly analogize to the cases applying principles of accretion, where the Board limits that doctrine to “the addition of a relatively small group of employees to an existing unit where these additional employees share a community of interest

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2 While Employer alluded to this argument twice in the original hearing, it did not appear in the brief. Employer, however, may raise the argument again now.
with the unit employees and have no separate identity.” Safety Carrier, Inc., 306 NLRB 960, 969 (1992) [Emphasis supplied]. Unlike accretion cases, in which the Board does not conduct an election before adding employees to an existing unit, the Armour-Globe mechanism assures that the union must enjoy majority support in both the existing unit and in the voting group as a prerequisite to the addition of the historically unrepresented employees to the bargaining unit. In the existing unit, the union already successfully represents the employees based upon majority support, and in the voting group, the Board conducts an election in which the union must demonstrate majority support to achieve the entry of the previously unrepresented employees into the existing unit.

B. THE PROPOSED VOTING GROUP CONSTITUTES AN IDENTIFIABLE, DISTINCT SEGMENT OF THE WORKFORCE.

The ARD must determine, as the initial step in deciding whether to direct an Armour-Globe election, whether the voting group qualifies as distinct and identifiable. (St. Vincent supra slip opinion p. 2) According to St. Vincent, a voting group so qualifies if it is neither “random” nor “arbitrary.” Id. The Board based its approval of the voting group in St. Vincent on the fact, for example, that the employees in the voting group work together in the same classification, in the same administrative division, performing the same functions, in the same location. Id. Additionally, in affirming the distinct and identifiable nature of the voting group in St. Vincent, the Board considered the absence of any excluded employees performing the same functions as the included employees. Id.
According to this guidance offered in St. Vincent, the voting group described in the Amended Petition qualifies as distinct and identifiable. The employees in two job classifications, ADPX and GGE5 comprise that voting group.

As to the ADPX classification, the employer eagerly maintained its participation in the stipulation excluding four distinct groups from that classification in Board Exhibit 3. The ARD should not permit the Employer to exploit a stipulation it proposed by objecting to a voting group based upon those exclusions. The parties produced evidence justifying the exclusion of each of those four groups for purposes of this hearing only. Pilots on PEL (Pilot Early Leave) are on a form of early retirement, and have no expectation of returning to active status as a Boeing employee. The BT&E employees operate in a business unit known as Engineering Operations and Technology (EO&T). (Tr. p. 607) The ADPX pilots work within a distinct business unit known as Commercial Airplane Services (CAS). (Tr. p. 610) Additionally, the excluded BT&E employees work at Boeing Field. (Tr. p. 609; 617) The ADPX pilots work primarily at the 25-01 Building on the Longacres campus where the Training Center is located. Likewise, the parties excluded two ADPX pilots who work remotely and the two ADPX pilots who work in Executive Flight Operations in Gary, Indiana. (Tr. p. 616)

Other than these exclusions, the ADPX pilots work in the same job classification in the same administrative unit of the employer, CAS. They perform similar job duties, relating to the education of pilots regarding the safe operation of Boeing airplanes and the compliance with standards to achieve the same result. In performing those duties, they provide educational materials for, instruct, and evaluate the performance of pilots, both internally and externally.
They work at the same location, on the third floor in the 25-01 Building and in the facility housing the simulators in the same building complex.

However, the Regional Director expressed concern in his Order Reopening Record that the originally petitioned for ADPX Pilots may not form a distinct and identifiable voting group by themselves, based upon the close resemblance between their job duties and those of the Simulator-only Instructors. The Petitioner addressed that concern directly by amending the Petition to include the latter group, thereby dispelling any argument that the ADPX pilots by themselves constitute an “arbitrary segment of a broader group of unrepresented employees who performed similar duties.” (St. Vincent supra at n. 10)

Undeniably, the principal job duties of the Simulator-only Instructors - to instruct and evaluate the performance of pilots in the simulators for each model of Boeing airplane - overlap considerably with duties performed by pilots in the ADPX job code. Of the 38 Simulator-only Instructors, approximately 15 are TCEs. (Tr. p. 527 and Petitioner’s Exhibit 30) While all Simulator-only Instructors perform the same instructional functions as the Standards Pilots in the ADPX job code, 15 or so TCEs perform identical instructional and evaluation functions as the Standards Pilots. Accordingly, the addition of the Simulator-only Instructors into the voting group eliminates the potential inadequacy of the ADPX pilots by themselves as a distinct and identifiable group by including in that group all employee instructors who perform the essential functions of training and evaluating pilots in the simulators at the FAA approved Training Center in Renton, Washington. With the addition of the Simulator-only Instructors, the record shows that no Boeing employees perform these functions outside those in the proposed voting group
and the existing unit. (Tr. p. 58-59; 61-62; 232-233; 350)\(^3\) Due to these similarities in job duties, the ARD should conclude that the Amended Petition describes an identifiable and distinct voting group.

C. **THE OVERALL UNIT SOUGHT BY PETITIONER FORMS A READILY IDENTIFIABLE GROUP SATISFYING ANY APPLICABLE REQUIREMENT OF SPECIALTY HEALTHCARE.**

At this point in the analysis, the Board’s ruling in *St Vincent* requires the ARD to proceed to an examination of whether the distinct and identifiable segment of the workforce described in the Amended Petition shares a community of interest with the existing bargaining unit. If so, the ARD should direct a self-determination election. *St Vincent* and the long standing Board law it confirms, only specifies two prerequisites – that of a distinct and identifiable segment and a community of interest with the existing unit - for an *Armour-Globe* election. Under that law, the overall unit formed by the amalgamation of a distinct and identifiable segment which shares a community of interest with an existing unit is by force of logic an appropriate one. This conclusion flows naturally from the unassailable proposition that the combination of a distinct and identifiable segment that shares a community of interest with a successfully functioning bargaining unit forms a newly defined unit which would have qualified as appropriate in the first place.

However, in its brief in this case, the Employer argues that *Specialty Healthcare* imposes additional requirements on a petitioner seeking a self-determination election not already enumerated in *St. Vincent*. In this regard, the ARD should note that the Board decided both of

\[^3\] The Employer conceded that no employees outside the voting group and the existing unit share an “overwhelming community of interest” with the Simulator-only Instructors. (Tr. p. 511)
the cases at issue on the same day, August 26, 2011, and that neither case cites the other or relies upon the analysis of the other. On their faces, the two cases apply in different situations. *St. Vincent* reaffirms long standing Board requirements for obtaining an *Armour-Globe* election. *Specialty Healthcare* reverses the previously applied special rules for the establishment of new units in nursing homes and applies traditional community of interest standards instead. Since in this case Petitioner seeks an *Armour-Globe* election, *St. Vincent* applies and *Specialty Healthcare* does not.

However, even if the ARD applies the principles enunciated in *Specialty Healthcare* in this case, he should still order the *Armour-Globe* election sought in the Amended Petition. According to the Employer, *Specialty Healthcare* requires a petitioner to show that the overall unit it seeks constitutes a readily identifiable group “within an employer’s administrative or organizational structure.”

5 (Employer’s Brief, p. 20) That case parallels closely *St. Vincent*. While *St. Vincent* reiterates the requirement that a petition for an *Armour-Globe* election must designate a voting group constituting a “distinct and identifiable segment,” *Specialty Healthcare* requires a petition for a new unit to propose a “readily identifiable group.” The word “identifiable” appears in both prescriptions. Thus, in both cases, petitioner cannot seek to represent an arbitrary or random fragment which is not “identifiable.”

In the present case, the very same common job duties which render the voting group sought in the Amended Petition “identifiable” also help “identify” the overall unit formed by the

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4 The full Board at the time, including Chairman Liebman and Members Becker, Pierce and Hayes decided *Specialty Healthcare*. A three member panel, excluding the Chairman but including the three named Members, decided *St. Vincent*. Therefore, if the three Members who decided *St. Vincent* had intended *Specialty Healthcare* to apply in *Armour-Globe* cases, they would have said so.

5 The quoted phrase appears only as a requirement in the Employer’s brief, and not in *Specialty Healthcare*. It adds nothing to the requirements which Petitioner must meet to obtain an *Armour-Globe* election.
combination of the voting group and the existing unit. The ARD reopened the record in this case to assure that the parties did not omit from the voting group a potential fragment (the Simulator-only Instructors) who perform highly similar job duties to the ADPX pilots, an important contingent of whom (the Standards Pilots) instruct and evaluate pilots in the simulator. Of course, the ADPX pilots and the Simulator-only Instructors also share those important job duties with the existing unit of Instructor Pilots, all of whom instruct in the simulators and roughly six of whom also evaluate in the simulators as TCEs. Thus, the overall unit includes all employees of Boeing who instruct and evaluate in the simulators at the Boeing Training Center in Renton, Washington, contributing to its “readily identifiable” character.

That voting group also includes pilots in the ADPX job code who perform functions relating to simulator training and evaluation. As Petitioner will discuss in detail below, the ADPX Technical Pilots have responsibility for the training manuals used to train pilots both in the simulators and elsewhere. Furthermore, the safety pilots have responsibilities to perform accident investigations and conduct the FOSPs which relate closely to the education of pilots on the safe operation of Boeing airplanes. Of course, both the Technical Pilots and the Safety Pilots must undergo periodic training and evaluation in the simulators to maintain their currency on their assigned Boeing airplane models.

The Board in Specialty Healthcare explains that a unit of employees may qualify as readily identifiable based upon “job classifications, departments, functions, work locations, skills, or similar factors.” (Specialty Healthcare supra p. 12) These factors to a large degree resemble the community of interest factors discussed below. However, the Instructor Pilots, the included ADPX Pilots and the Simulator-only Instructors clearly satisfy the “readily identifiable”
prong of the test to obtain an election under *Specialty Healthcare*. They occupy three readily identifiable job classifications, in the same department (CAS), performing highly similar job functions, at the same work locations, where they apply similar skills relating to the education of pilots on the safe operation of Boeing airplanes. The ARD should find that they meet the “identifiable” requirements of both *Specialty Healthcare* and *St. Vincent*.

D. **THE REPRESENTED INSTRUCTOR PILOTS SHARE A COMMUNITY OF INTEREST WITH THE EMPLOYEES IN THE PROPOSED VOTING GROUP.**

1. The Employees in the Existing Unit and the Proposed Voting Group Perform Similar or Identical Jobs.

The unit employees and the proposed voting group share a preeminent characteristic essential to their jobs: They all aid in the process of educating pilots on the safe operation of Boeing airplanes. Most of them, including the Instructor Pilots, the Standards Pilots and the Simulator-only Instructors spend much of their time in the flight simulators in the Boeing 25-01 building on the Longacres campus in Renton, Washington. The Technical and Safety Pilots take instruction and submit to evaluation in those same simulators, perform simulator observation on FOSPs and perform duties with the ultimate purpose of creating, supporting and improving that instruction. (Tr. p. 138) In executing their role educating Boeing and customer pilots on the safe operation of Boeing airplanes, they all must demonstrate their expertise on flight operations. The application of that expertise binds them together in similar jobs.
All of the Instructor Pilots and ADPX Pilots (except, currently, the five Standards Pilots) actually fly Boeing aircraft. The Instructor Pilots do line assists in which they fly the airplane with pilots employed by customers new to that airplane to provide those pilots with instruction in an initial operating experience with that customer. (Tr. p. 319) Instructor Pilots spend approximately 30% of their time performing these line assists, piloting Boeing airplanes. (Tr. p. 338)

The Instructor Pilots, Technical Pilots and Safety Pilots all perform “ferry flights” in which they similarly pilot planes, transporting empty aircraft. (Tr. p. 93) If the Employer needs to have an airplane flown to a completion center for a custom interior finish, the pilots used for this purpose engage in a ferry flight. Pilots both in the unit and in the proposed voting group ferry airplanes to park them in storage or to deliver them to customers who do not want to pick them up. (Tr. p. 93) Since at least two pilots must fly on every Boeing flight, Instructor Pilots and Technical Pilots do these flights together. (Tr. p. 94) Safety Pilots also conduct ferry flights regularly. (Tr. p. 239, 434) They also do the flights in the same airplanes with bargaining unit Instructor Pilots. (Tr. p. 339) When the various categories of pilots fly together they switch off performing the duties of Captain. (Tr. p. 407)

The Instructor Pilots, Simulator-only Instructors, and Standards Pilots engage in direct instruction of other pilots. As Brad Byrd, Assistant Chief Pilot for Flight Technical and Safety,

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6 The Standards Pilots have not recently flown airplanes, although they are fully qualified to do so. (Tr. p. 112; 370) Additionally, as TCEs they are all fully qualified as instructors. (Tr. p. 309) Also, due to the AMPA contract, the Technical and Safety Pilots have not recently performed certain instructor duties which they would otherwise have in common with the Instructor Pilots (Tr. p. 221) The record demonstrates that business needs did not motivate the Employer to impose these recent restrictions on duties, but management made these artificial distinctions in response to the work jurisdiction clause of the AMPA collective bargaining agreement. (Joint Exhibit 1; Tr. p. 221; 307; 399)

7 Instructor Pilot Jon Sites explained that he flies ferry flights with Technical Pilots. (Tr. p. 445-446)
explained, these pilots constitute a “pool of simulator qualified instructor pilots.” (Tr. p. 59) In addition to performing line assists with customers new to an airplane, all AMPA pilots must qualify as simulator instructors under FAA regulations. (Tr. p. 349) Simulator instruction is a substantial part of the AMPA and Simulator-only Instructors’ jobs. It is the main function of the Simulator-only Instructors. Instructor Pilot Lisa Clark, who previously occupied the position of Simulator-only Instructor, testified that she spent 60-70% of her time in the Full Flight Simulator in both positions. (Tr. p. 568; 570-71) When instructing in the simulator, the AMPA pilots teach the identical course as the Simulator-only Instructors as well as the ADPX Standards Pilots, all of whom also instruct in the simulator. (Tr. p. 61, 110, 349, 526-27) Al Thompson, Chief Pilot Flight Training Simulator, explained, “our goal is to have the training no matter where it is in the world and no matter who delivers it to be seamless and the same.” (Tr. p. 545) Captain Clark asserted, “both sim instructors and FTA instructors will conduct the exact same training.” (Tr. p. 573)

Standards Pilots, Simulator-only Instructors, and Instructor Pilots administer instruction in different simulators simultaneously in the 25-01 building at least weekly, and as much as two or three times per week. (Tr. p. 310 – 311, 535-37, 570-72) Al Thompson explained, “For the recurrent training, we might train a flight training airplane pilot and a flight training simulator pilot at the same time, using one or the other group as an instructor.” (Tr. p. 525)

Similarly, the FAA has designated all Standards Pilots, at least six of the AMPA-represented pilots and about 15 of the Simulator-only Instructors as TCEs. (Tr. p. 64; 110; 308; 393; 526-27) TCEs administer check rides in the simulator during which pilots undergo evaluations to obtain or maintain their FAA licenses to operate the various Boeing airplane
models. (Tr. p. 110) The TCEs in the AMPA bargaining unit administer the same evaluations, with the same certifications, under the same federal regulations, in the same simulators as do the ADPX Standards Pilots and the TCE qualified Simulator-only Instructors. (Tr. p. 232, 307, 350, 526-27) Indeed, Standards Pilots, Simulator-only Instructors, and AMPA pilots have administered check rides in the simulator room at the 25-01 building at the same time in different simulators. (Tr. p. 312) Al Thompson explained that Flight Training Simulator and Flight Training Airplane coordinate in determining who will become a TCE, regardless whether they are in a Standards Pilot, Instructor Pilot, or Simulator-only Instructor. (Tr. p. 542-43)

All of the flying pilots involved in this case from time to time participate in Boeing’s Flight Operations Support Program for customers of new aircraft. An FOSP consists of a visit with a customer. A Safety Pilot acts as the lead, but it often involves other pilots, including some from the bargaining unit. FOSPs include an in-briefing with management, some simulator observations, some actual airplane observations, an out-briefing, a workshop presenting some topics, and a final report prepared by the participating pilots, and given to the customer. (Tr. p. 84 – 85; 138; 143 -148; 231; 342 - 344; 355 - 356) AMPA represented Instructor Pilot, Dave Whitacre, testified that he participated in an FOSP for a customer in Ireland in the fall of 2009 for a period of two weeks. (Tr. p. 349) The team of pilots on the visit to Ireland, led by a Safety Pilot, also included Technical Pilots and other AMPA-represented pilots. (Tr. p. 343) Captain Whitacre participated for the initial two weeks of the FOSP, and another group of pilots, including two additional Instructor Pilots, completed the final two weeks of the four week long FOSP. Id. During an FOSP, the Instructor Pilots perform precisely the same duties as the Technical and Safety Pilots. (Tr. p. 355-356) The common participation of the AMPA-
represented pilots with the relevant categories of ADPX pilots demonstrates the close relationship among their jobs and their job duties.

The fact that the Standards Pilots do not currently fly and the Safety and Technical pilots do not currently instruct should not militate against a finding of community of interest among all pilots concerned in this case. Some of the distinctions are a function of the division between bargained and non-bargained positions, and should not drive the outcome of whether the ADPX pilots can join in bargaining. Thus, the Technical and Safety Pilots cannot instruct only because Article I in the AMPA collective bargaining agreement recognizes AMPA as the exclusive bargaining representative of 1) pilots in Instructor Pilot positions 2) with flying duties 3) employed at the Longacres Training Center. (Tr. p. 308; Joint Exhibit 1, p. 2) Safety and Technical Pilots satisfy two of the three requirements for AMPA representation under that recognition clause, since they fly and have their headquarters at Longacres. If they satisfied the third, the Employer would have had to include them in the existing unit or risk a grievance filed by Petitioner. Likewise, the Standards Pilots do not currently fly, so that they also will not fall within the confines of the existing bargaining unit, but they do instruct and work primarily out of Longacres. Accordingly, all of the pilots in both the existing unit and the proposed voting group have the qualifications to instruct other pilots and to fly, and their failure to do so results from artificial considerations regarding the makeup of the existing unit and not from the nature of their jobs.

Similarly, the fact that the Simulator-only Instructors do not fly, but instruct only in the simulator, is a distinction but not a significant one. Assistant Chief Pilot Flight Technical and Safety Brad Byrd acknowledged that Simulator-only Instructors need not have the capability to
actually fly to test the validity of procedures in technical manuals in the simulator effectively. (Tr. p. 95-96) All of these employees are engaged in the same enterprise of ensuring that pilots operate Boeing airplanes safely and properly. Captain Lisa Clark testified that only Instructor Pilots and Simulator-only Instructors do “ground school” training. (Tr. p. 566-67) The pilots in the existing unit and the employees in the proposed voting group participate together in numerous efforts to promote the overall goal of instructing pilots. In a process described in more detail below, all employees pertinent to the Amended Petition work together on creating and revising the technical manuals that explain and guide the operation of Boeing’s planes.

Likewise, the Instructor Pilots, ADPX Pilots, and Simulator-only Instructors collaborate on the creation of curriculum courseware for student pilots. (Tr. p. 292, 523, 546, 571) Currently Instructor Pilot Ridenour, is working with ADPX Standards Pilot Bob Botnick and ADPX Technical Pilot Ted Grady to develop a course to teach the differences in the operation of the 777 and the 787 so that customer pilots can learn to operate both airplanes if they already qualify on the 787. (Tr. p. 294-296) On this project, the pilots from the voting group and existing unit sometimes communicate five or six times per day, both face to face and virtually. (Tr. p. 293)

Instructor pilots and ADPX Technical Pilots also share responsibilities for testing simulators to certify that the simulators meet FAA standards. (Tr. p. 453) Instructor pilots certify Boeing owned simulators and Technical Pilots certify customer owned simulators (Tr. p. 455) The task is identical whether performed on a Boeing or customer simulator. Id. In addition, Instructor Pilots, Standards Pilots, and Technical Pilot Ted Grady attend a weekly Pilot Instructor Trainer (PIT) meeting designed to achieve uniformity in the teaching methods on the Boeing aircraft. (Tr. p. 315-316) The participants at these meetings decide on
proper techniques to present to students or to individuals who are going to become Instructor Pilots in the organization. *Id.* PIT meetings ensure that instructors have a narrow focus on all of the training and that the Instructor Pilots understand what Boeing has in mind specifically for the training. *Id.* These meetings focus on the 787 currently, because of the newness of that airplane. *Id.* Simulator-only Instructors also act as PITs. (Tr. p. 531)

Thus, the Instructor Pilots, ADPX pilots and Simulator-only Instructors share numerous job responsibilities and functions. This fact militates strongly for a finding of community of interest between the two groups.

2. **The Employees in the Existing Unit and the Proposed Voting Group Interchange With One Another Temporarily and Permanently.**

Since the job functions of the Instructor Pilots, the ADPX pilots and the Simulator-only Instructors relate so closely, interchange between the groups naturally follows. The record reveals that AMPA pilots regularly and consistently move into positions in the ADPX voting group, and that those in the ADPX job code regularly perform the duties of Instructor Pilots as well.

A careful examination of Joint Exhibit 3 and Petitioner’s Exhibit 5 reveals the high degree of permanent interchange from the represented Instructor Pilots to the ADPX job code. Joint Exhibit 3 lists the current ADPX Pilots in the proposed voting group as well as all current pilots represented by AMPA. Petitioner’s Exhibit 5, a single spread sheet divided into two pages because of its length, shows the AMPA pilots who transferred out of that classification from January 1, 2006, to present. A total of 32 entries appear on Petitioner’s Exhibit 5, but nine
names appear twice. Thus, that exhibit provides information on only 23 individuals. Of the 23 persons listed, 17 of them – 74% -- transferred into job code ADPX. This continuous flow of employees demonstrates a regular job progression from Instructor Pilot to the ADPX group.

Further, of the 17 employees on Joint Exhibit 3 who transferred to the ADPX job code, 10 of them currently occupy positions in the voting group as shown on Petitioner’s Exhibit 5. Safety Pilot Mike Coker does not appear on Petitioner’s Exhibit 5 because he transferred out of the bargaining unit before January 1, 2006, to become a manager over that unit. (Tr. p. 209) Accordingly, out of the 29 ADPX pilots in the proposed voting group listed on Petitioner’s Exhibit 5, eleven of them (including Mike Coker) -- 38% -- previously had worked in the AMPA unit. This high incidence of permanent interchange demonstrates the similar characteristics among all concerned pilots and an irrefutable community of interest among them.

The record also contains evidence of temporary interchange between the ADPX and Instructor Pilot groups: Technical Pilot Ted Grady, worked temporarily in that capacity while still employed as an Instructor Pilot in the bargaining unit. (Tr. p. 264 – 265) His temporary service as a Technical Pilot lasted six or seven months before he permanently assumed the role of a Technical Pilot in the spring of 2010. (Tr. p. 265) Instructor Pilot Jon Sites recounted an occasion where he was asked to fill in for a Technical Pilot and attend a trip to an American Airlines convention in Dallas with Boeing Technical Pilots. (Tr. p. 447; Petitioner’s Exhibit 21) Captain Sites testified, “I was doing exactly what they [the Technical Pilots] were doing.” Id. He described that he interacted and traveled with the Technical Pilots in addition to doing the job of a Technical Pilot at this event. Id. He also explained that he charged his expenses to an account associated with the Flight Technical Safety Department. (Tr. p. 450)
In many of the instances cited above to show similarity of job functions, pilots from the existing unit interchanged with pilots in the proposed voting group. For example, Instructor Pilot David Whitacre went to Ireland in the fall of 2009 to work with a team of pilots performing an FOSP. Technical and Safety Pilots performed the identical duties. (Tr. p. 355-356) Captain Whitacre felt completely comfortable performing those duties. (Tr. p. 346)

At the reopened hearing, the parties introduced evidence showing interchange between these groups and the Simulator-only Instructor group added to the voting group in the Amended Petition. Al Thompson recalled that a couple of Standards Pilots came from the Simulator-only Instructor group. (Tr. p. 548-49) He also remembered at least one Simulator-only Instructor who became an Instructor Pilot. (Tr. p. 549)

Captain Lisa Clark testified that she first started as a contractor instructor with Boeing, and later became a Simulator-only Instructor. (Tr. p. 561-62) She testified that she was fully qualified to advance to Instructor Pilot after her time as a Simulator-only Instructor, with very minimal additional requirements. (Tr. p. 577-78, 588-89, 592-93, 595-600) Captain Clark explained that when she made the transition, she moved to a different desk only seven to eight feet away. (Tr. p. 581)

Captain Clark also testified that about six other Simulator-only Instructors had become Instructor Pilots besides herself. (Tr. p. 579) She also recalled that two Instructor Pilots transferred to the Simulator-only Instructor group because of the age limit imposed on flying pilots. (Tr. p. 580-81) Captain Clark also recalled that Simulator-only Instructors Hunter and Roberts transferred to roles within the ADPX code. (Tr. p. 582-83) Captain Mike Coker testified that Captain Roberts eventually occupied two roles within that job code, first as a
Technical Pilot and then as a Standards Pilot. (Tr. p. 623) Captain Coker also testified that former Simulator-only Instructor Tarabochia also transferred to become first a Technical Pilot and then a Standards Pilot. (Tr. p. 624)

The case of Captain Wiley Moore demonstrates the ease with which pilots in the proposed voting group can perform positions in the existing unit interchangeably. He currently functions as the regular Instructor Pilot on the out of production Boeing 717 model, while performing Safety Pilot duties during the remainder of his time. (Tr. p. 263; 400)

At the reopened hearing, the parties explained that AMPA had subpoenaed records from the Employer which would show precisely how many instances of interchange had occurred between the Simulator-only Instructors and Instructor Pilot and ADPX groups, but the Employer had been unable to produce this information despite its best efforts. (Tr. p. 628-30) Therefore, the anecdotal testimony regarding this interchange offered by the witnesses at the hearing represents the best evidence currently available and demonstrates only the minimum amount of interchange which has occurred between the employees in the proposed voting group and the bargaining unit FTA Pilots. The existing records demonstrate abundant interchange among all of the groups involved in the Amended Petition to show that all of them share a robust community of interest.

3. **The Instructor Pilots And Those In The Proposed Voting Group Have Frequent Contacts With Each Other.**

The record reflects constant contacts between the AMPA pilots and the employees in the proposed voting group. All of the germane pilots except the five Standards Pilots officially work
on the third floor of the 25-01 Building on the Longacres campus.\(^8\) (Tr. p. 159, 242, 398, 522) The Instructor Pilot desks sit about 75 yards down the hall from those of the Technical and Safety Pilots on the third floor of that building. (Tr. p. 242) The Instructor Pilots sit even closer to the Simulator-only Instructors. (Tr. p. 522-23) While the Standards Pilots have their official headquarters in the 10-18 building, about three miles from the 25-01 building in Renton, Washington, the Standards Pilots spend only a small percentage of their actual work time at the 10-18 building. (Tr. p. 229, 373) They have a desk with a phone and a computer docking station at the 10-18 building, but perform substantially all their work in the 25-01 building at Longacres where the simulators reside. (Tr. p. 373) The Standards Department even holds its staff meetings in the 25-01 building. \textit{Id.} The check rides, the evaluations, training and development, and all work on the 787 performed by the Standards Pilots occur in the 25-01 building. \textit{Id.} Of course, the pilots all routinely use the same simulators in the 25-01 building, which operate on a 24 hour per day seven day per week schedule. (Tr. p. 525-26, 534-36, 570-72)

The physical proximity of all of the employees involved in the Amended Petition and their overlapping and functionally integrated job duties result in frequent contacts between and among them. (Tr. p. 272, 535-36, 571-72) A typical example of those contacts occurs on a daily basis in the 25-01 cafeteria at lunch time. (Tr. p. 348) The pilots regularly sit at the same table, congregating with the other pilots. \textit{Id.} Instructor, Safety and Technical Pilots, Simulator-only Instructors, and Standards Pilots, meet at the lunch table at a prescribed time daily to interact casually and communicate with one another. (Tr. p. 424, 428, 571, 581-82, 590-91) For those

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\(^8\) Although Management changed the official work location in September of 2011 of Standards Pilots, as a practical matter they still work largely at Longacres, often sitting at their old desks. (Tr. p. 375-376.)
who do not eat in the cafeteria, some congregate in the common break room where Simulator-
only Instructors and Instructor Pilots challenge each other on systems knowledge while eating
lunch. (Tr. p. 582)

The constant meetings among pilots in the various roles emphasize the importance of
continuous contacts among them in carrying out their mission of instructing and evaluating other
Boeing and customer pilots on the operation of Boeing airplanes. For example, Safety Pilot Bill
Reed described the monthly “all aircrew meetings” attended by both Instructor Pilots and ADPX
pilots:

All aircrew meeting is a meeting that””s held over at the 3-800 building at Boeing
field that is inclusive of production pilots, the Technical Pilots, Instructor Pilots,
Safety Pilots, and it””s basically a meeting in which we discuss operational issues,
flying production airplanes.

Tr. p. 432. Captain Reed also explained that the Instructor Pilots, Technical Pilots, Safety Pilots,
and Standards Pilots all attend a “technical excellence hour” meeting. (Tr. p. 433)

Instructor Pilot Jon Sites also explained that he attends meetings with Safety Pilots. He
testified, “One example would be just recently in January, we had our annual safety stand down
and the safety group gives a briefing concerning safety issues related to Boeing airplanes.” (Tr.
p. 443-44)

Technical, Safety and Standards Pilots also attend annual meetings with Instructor Pilots
for refresher training on the airplanes that each flies. The FAA requires those meetings for all
pilots qualified to operate each of the Boeing airplanes. (Tr. p. 299) The pilots at such meetings
share information on topics such as hazardous equipment, icing, and cockpit resource
management, since all such matters equally concern the pilots responsible for each airplane. Id.
Without repeating them in detail, it suffices to point out that the job functions of the pilots entail daily meetings to share information and to develop programs and consistency in educating pilots on the operation of Boeing airplanes. They contact each other at their desks, in conference rooms, in the simulator training center and in the cafeteria. The Employer adduced no rebuttal to the overwhelming evidence that the pilots in the existing unit and the voting group engage in constant contacts essential to their overall mission.

4. All of the Relevant Employees Share Common Terms and Conditions of Employment.

a) Training, skills, and certification

One criterion for determining if a community of interest exists between different groups of employees is whether skills and training, and the certifications that are associated with skills and training, are common to the groups. See United Operations, Inc., 338 NLRB 123 (2002); Agri Processor Co. v. NLRB, 514 F.3d 1, 8 (D.C. Cir. 2008). In this case, the record demonstrates that the skills, training, and certification of the Instructor Pilots, ADPX pilots, and Simulator-only Instructors are very similar.

All Boeing pilots must qualify to fly under FAA regulations, and as such they undergo recurrent training and a recurrent check rides in the simulator approximately every six months to be type rated on at least one Boeing aircraft. (Tr. p. 97-98) The training itself takes three days preceding each check ride in addition to the computer training which the pilot does on his own. (Tr. p. 99) Thus, as a requirement of the job, each pilot spends a significant amount of time performing exactly the same duties to maintain currency on the airplanes for which they have
responsibilities. As Brad Byrd, Assistant Chief Pilot for Flight Technical and Safety, explained, “every Boeing pilot maintains a currency in one or more airplanes and every time that currency comes up ready to be expired, they have to have a re-currency course.” (Tr. p. 59)

Bill Reed, a Safety Pilot who recently transferred from his former position as an Instructor Pilot, (Petitioner’s Exhibit 5, p. 1; Tr. p. 422), noted that both Instructor Pilots and ADPX pilots have the same FAA licensing:

Those regulations are designated by the FAA, Federal Aviation Administration, for all pilots, not just Boeing pilots.... We will go through exactly the same training, both as a Safety Pilot that a flight training airplane pilot would go through. Those regulations are, like I said, regulated – or designated by the FAA.

Tr. p. 425. Captain Reed also explained that although Instructor Pilots are required to go through an extra day of Line Oriented Flight Training (“LOFT”), and ADPX pilots are not strictly required to do so:

[M]any times our recurrent training is either with another Safety Pilot, Technical Pilot, it can be an FTA pilot. And many times because the FTA pilots have that extra requirement to do a LOFT, instead of them looking for another pilot to fill that seat on the fourth day, very often we”ll just stay and do the LOFT also.

Id.

Although the Simulator-only Instructors do not operate aircraft as part of their jobs and are not required to have current FAA medical certifications, the Simulator-only Full Flight Instructors must meet all other qualifications actually to fly an airplane. (Tr. p. 529-531) The Employer’s witness Al Thompson explained, “To be full flight instructor, we require that they have an airline transport pilot’s license, a type rating on the airplane type they’re going to instruct on, and be current.” Id. He also stated that the Simulator-only Instructors “go through an

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9 Instructor Pilot Ridenour explained that pilots in the different groups have similar qualifications as Subject Matter Experts on different Boeing airplane models. (Tr. p. 298)
initial qualification when they start with us on a particular airplane type to become qualified as an instructor. And then yearly, they go through the same recurrent training program as pilots, and that’s generally done once a year.” (Tr. p. 533-34) Thompson also explained that Simulator-only Instructors, Standards Pilots, and Instructor Pilots are “Pilot Instructor Trainers” (PITs) – “someone who… is an instructor who is able to take a new instructor candidate and take them through the practice instructing and tell us when that new instructor candidate is ready to be evaluated as an instructor….” (Tr. p. 531-32)

Commonality in skills and training is also demonstrated by the fact that originally, many of the Instructor Pilots and ADPX pilots were part of the same integrated group of “Instructor Pilots.” Captain Mike Coker explained: “They were all called Instructor Pilots, we were all qualified as Instructor Pilots and we had different specialties within the group that we kind of concentrated on, on a day-to-day basis.” (Tr. p. 214-28)

Members of the Instructor Pilot, Simulator-only Instructor, and Standards Pilot groups are certified as TCEs under the governing federal regulations, the Federal Aviation Regulations (F.A.R.s) (Tr. p. 306, 313, 392, 526-27) A pilot “cannot be a TCE under the rules of Part 142 unless I am an Instructor Pilot….” (Tr. p. 307-309; Petitioner’s Exhibits 15, 16 & 18.)

Instructor Pilots and Technical Pilots perform the exact same Simulator Certification tasks. (Tr. p. 454)

Similarity in skills is also demonstrated by the fact that pilots from the ADPX and Instructor Pilot groups freely interchange roles, even when they are not (as set forth above) exchanging actual job categories. (Tr. p. 263; 400) (Wiley Moore performs the roles of both

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10 Instructor Pilot Ridenour and Standards Pilot Botnick have exactly the same TCE certification from the FAA.
Instructor Pilot and Safety Pilot); (Tr. p. 263-64) (Ted Grady acted as both an Instructor Pilot and Technical Pilot); (Tr. p. 407) (Instructor Pilot and Technical Pilot switched off as Captain during a test flight); (Tr. p. 447) (Instructor Pilot and Technical Pilot switch roles for American Airlines conference and ferry flight to Hamburg). Captain Clark testified that she only had to undergo minimal testing to make the transition from her previous position as a Simulator-only Instructor to Instructor Pilot, also demonstrating the similar training and qualifications between those two classifications. (Tr. p. 577-78)

The fact that the Instructor Pilots and ADPX pilots have fundamentally common skills is also highlighted by the fact that all of these pilots have a common Skills Manager, Suzanna Darcy-Henneman. (Tr. p. 471, Petitioner’s Exhibits 22 – 26)

b) Wages

The salaries paid to AMPA pilots and the employees in the proposed voting group closely resemble one another. Petitioner’s Exhibit 14 and the corresponding testimony from Matt Kempf, SPEEA benefits director, demonstrates that the salary in the existing unit averages $138,378 annually and that in the ADPX group averages $131,470 annually. (Tr. p. 247) The average ages of the pilots in the two groups coincides at 49.5 years. Id. At the reopened hearing, Kempf testified that the 36 Simulator-only Instructors for which he had data made an average of about $95,200 annually. (Tr. p. 618-19) Accordingly, all of the relevant groups are well compensated, and the differences between and among the groups should not vitiate the strong community of interest between and among them.
c) Benefits

The parties entered into a stipulation regarding the benefits of the AMPA-represented and ADPX employees in the proposed voting group, establishing a highly similar array of benefits. (Joint Exhibit 2) The employees share access to the employee incentive pay plans. They have similar health insurance, early retiree medical coverage, dental and short and long term disability plans. They also share identical life insurance, accidental death and dismemberment and business travel accident insurance plans. They enjoy common access to Boeing’s Pilot Early Leave program. Finally, the represented Instructor Pilots and the members of the proposed voting group have similar, though not identical, pension plans. At the reopened hearing, the parties further stipulated that with the exception of the Pilot Early Leave Program, the Simulator-only Instructors have the same benefits as the ADPX pilots as described in Joint Exhibit 2. (Tr. p. 558-59) Therefore, they share the same community of interest with the Instructor Pilots as the ADPX Pilots do.

d) Hours of employment

The pilots and the Simulator-only Instructors all work a basic 40 hour work week. (Tr. p. 356-357, 538-39, 584-85) The Instructor Pilots, Simulator-only Instructors, and the Standards Pilots work flexible hours, because the simulators operate 24 hours per day seven days per week. (Tr. p. 310, 538-39, 584-85) The Employer may therefore call upon the instructors and the TCEs to work at any time of the day or night to perform instruction or evaluations or both. The same scheduler schedules the Simulator-only Instructors and the Instructor Pilots to do the identical work in the simulator. (Tr. p. 584-585) Additionally, all flying pilots fly whenever scheduling
requires. Safety Pilots must be available 24 hours per day seven days per week for accident investigations. (Tr. p. 435) The similarity in hours favors a community of interest finding by the ARD.

5. The record demonstrates overwhelming functional integration between the petitioned-for voting group and the existing bargaining unit.

The petitioned-for voting group and the existing bargaining unit integrate as parts of a distinct, specific operation: They are all involved in developing procedures for, and then educating Boeing customers (both “external” and “internal”) in, properly and safely operating Boeing commercial aircraft. Their job is to provide flight operations, safety and technical support to Boeing internal and external customers. The petitioned-for voting group and the existing bargaining unit is comprised of employees constantly interacting, working together, and supporting each other to deliver their department’s procedures, safety and training package to Boeing customers. The extensive functional integration among all groups involved in the Amended Petition strongly supports a finding of community of interest by the ARD. As described by Boeing, the Instructor Pilots and the employees in the proposed voting group make up Boeing’s “Highly experienced integrated training, flight operations and safety team.” [Emphasis supplied] (Petitioner’s Exhibit 13, p. 10)

   a) Standards Pilots’ work is fully integrated with that of the Instructor Pilots

In the case of each of the category of pilot at issue in this case, their titles reflect their primary functions. Thus, the Standards Pilots, often collaborating with Instructor Pilots, develop
the standards for flying the airplanes. (Tr. p. 104; 367; 374) The Standards Pilots distribute a newsletter informing the other pilots, and particularly the Instructor Pilots, of new or important information relating to flight operation standards. Petitioner’s Exhibits 7, 8. The newsletter also informs the pilots of successes in the integrated pilot-education enterprise. Id. Instructor Pilots are “required to read that [newsletter] and be familiar with the contents of it.” (Tr. p. 350) If Instructor Pilots “need a clarification… or if there’s a question” raised by the newsletter the Instructor Pilot consults with the model pilot for that aircraft. Id.

Standards Pilot Bob Botnick demonstrated the substantial integration of his work with that of Technical Pilots and Instructor Pilots:

I’ll have a 787 instructor stop by my old cubicle, which is where I still sit most of the time. And they’ll come by and say, “Bob, you know, there’s something that you said in a newsletter awhile back and I want some clarification. It doesn’t match the manual.” We’ll have some discussion and I’ll do some research for him and I’ll go over to technical and get confirmation from Ted Grady, who’s an ADPX pilot. We’ll confirm my understanding on it, then he’ll get an email back from me maybe in a few days.

Tr. p. 375.

b) The proposed voting group and AMPA-represented pilots work together in a fully integrated process to produce, correct, update and utilize Boeing airplane operating manuals.

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11 See e.g. Petitioner’s Exhibit 7, p. 1, in which the Chief Standards Pilot welcomes readers to the inaugural issue of the newsletter, and states, “[t]he purpose of this quarterly publication is to provide a venue for delivering the latest information from our office to you, the company pilot and/or instructor.” Id.

12 See e.g. Petitioner’s Exhibit 7, p. 2, where Standards Pilot Joe Bracken explains that the Standards Pilots’ new “No Notice Evaluation Program” is intended to “provide a systematic approach to evaluate, on a recurring basis, the standardization of the Instructor staff and to establish a process to enhance the instructor experience through the improvement of training courseware and instructional skills.” Id. Captain Bracken explains that the “initial focus is on Training Center Evaluators (TCEs), conducting training or practical examinations. As the program develops, we will broaden the scope to include all instructors.” Id. [Emphasis supplied]
The Technical Pilots draft the manuals that explain how to operate Boeing airplanes according to the standards established by the Standards Pilots. Those who instruct in the simulators use these manuals to teach the correct operation of the aircraft. (Tr. p. 24; 351; 397; 405) This process requires testing the procedures that go into the manuals, done some of the time by Instructor Pilots and other times by simulator only instructors. (Tr. p. 94-96) Technical Pilot Doug Allington described that he worked with Instructor Pilots and Simulator-only Instructors to test pilots’ reactions to a fuel mismanagement scenario. (Tr. p. 404-408)

Captain Allington gave another example in which he asked an Instructor Pilot to run a test for him while the Instructor Pilot was teaching a class in a simulator. *Id.* Captain Allington explained:

We had a question about the effects of a hydraulic system failure on a gear retraction time. I knew an Instructor Pilot was teaching a class in the 767 simulator. I called him and said, “Hey, would [you] try this? If you can work it into your lesson, would you try this and let me know, does the simulator react this way?” He did it, called me back, said it did. I said great, now I can answer the customer question and I’ll double check with engineering to make sure that that’s expected.

*Id.* Captain Allington also testified about an occasion where he teamed up with an Instructor Pilot to perform some turbulence testing on 747 airplanes. *Id.* He explained that he spent three weeks performing tests in 747 models alongside Captain Wilkerson, an Instructor Pilot, and that they “switched off being captain” as he tested the turbulence. *Id.*

Instructor Pilot Dave Whitacre also explained that Instructor Pilots are called upon to test procedures in the simulators for Technical Pilots: “I have been in the simulator when a Technical
Pilot called me because he knew I was in the simulator and said, „Can you try this for me and send me a picture of how the displays respond to particular scenarios?” (Tr. p. 352)

Revisions to the technical manuals are deliberated and decided upon in a series of meetings in which Instructor and APDX pilots participate. Instructor Pilot Wayne Ridenour testified that he regularly attends Technical Review Board meetings to discuss proposed changes in the technical manuals used by operators of Boeing airplanes, including the Flight Crew Operations Manuals (FCOM), the Flight Crew Technical Manual (FCTM) and the Quick Reference Handbook (QRH). (Tr. p. 286-287) One of the Technical Pilots and a Standards Pilot is also present at those meetings. (Tr. p. 287 - 291) Captain Allington described a Technical Review Board meeting in which Flight Training Simulator was also involved. (Tr. p. 405) The meetings last approximately 90 minutes and typically take place at least monthly, if not more often. (Tr. p. 287) The pilots document these meetings on a Technical Review form which calls for the signatures of a Flight Technical and Safety Pilot, a pilot from Flight Training Airplanes (an AMPA represented pilot) and a Flight Standards Pilot. (Petitioner’s Exhibits 17 and 20).

Proposed changes to the manuals then proceed to a Flight Operations Review Board (FORB), which Instructor Pilot Ridenour usually attends as designee for his supervisor, Darren Champlain. (Tr. p. 289) Those meetings follow the Technical Review Board meetings by one week. Id. As with the Technical Review Board Meetings, the managers who supervise the ADPX pilots can designate one of those pilots to attend in his or her stead, and those pilots participate actively in these meetings. (Tr. p. 291)
When the Instructor Pilots or customers have questions about the procedures, they consult the Technical Pilots. (Tr. p. 347; 396; 447; 449) Instructor Pilot Dave Whitacre described how “[u]sually if I have a question or need for clarification on a publication, I would call the appropriate Technical Pilot for that type of aircraft. I also see them quite frequently in the hallways and at lunch.” (Tr. p. 347) Captain Allington also described how he assists Instructor Pilots in interpreting the flight manuals (Tr. p. 396; 408) and answers questions for Instructor Pilots when they are doing a “line assist.” (Tr. p. 402) Instructor Pilot Jon Sites testified that he consults with ADPX pilots when he has questions: “It depends on the question, but if it’s technical in nature, mostly it will go to the fleet model Technical Pilot. Or if it’s procedural related to a training issue, it might go to the standards department to get a clarification.” (Tr. p. 449)

c) Instruction in the operation of Boeing airplanes arises from, and involves, a process that fully integrates the work of the proposed voting group and the Instructor Pilots.

The Instructor Pilots use the manuals and the standards developed in conjunction with the ADPX pilots to instruct customers in simulators and while flying Boeing airplanes. (Tr. p. 309; 351) The Instructor Pilots and the Simulator-only Instructors share the task of initial instruction for external customers purchasing new airplanes. (Tr. p. 319; 219, 523-27, 535-37, 544-45, 562-63) The Instructor Pilots also do training for Boeing “internal” as well as external pilots. (Tr. p. 309, 524-29) Simulator-only Instructors do instruction for ADPX Pilots and Instructor Pilots. (Tr. p. 524-25)
Instructor Pilot Sites gave an example of a time when he was going to provide training to a 787 customer, and was asked to work with Technical Pilots to give technical advice to the customer:

I was asked by the flight training airplane management to go to the 787 technical group and sit down with them and discuss issues that this customer had already presented to Boeing concerning the 787 so that when I went and flew with them, if any of these issues occurred in the airplane, I could discuss with them what was happening the same way the technical department had already discussed with the customer.


Instructing the Instructors is itself an integrated task. Safety Pilot Bill Reed gave an example:

Personally – very oftentimes, we’ll have FTA pilots come down and visit us, asking safety-related questions that have to do with training, that have to do with industry initiatives that are taking place. Also, most recently, due to an accident investigation that I’ve been a part of with a 747 that went down last year, I’ve been involved in an ongoing program to design some fire main deck procedures for the 747.

In building that program, I’ve worked with – very closely with technical, both Mr. Allington and another 747 Technical Pilot, Howard Au. I also, in – involved two of the flight training airplane instructors to help validate the maneuvers that we were- in procedures we were putting together. And then also Captain Botnick in standards to evaluate the procedures that we had designed. So really, it was a complete collaborative effort among everyone….

I employed two AMPA Instructor Pilots to validate the procedure once we had the framework of it put together to make sure that we were going down the right path. So I, as the sim operator, went in and did a little bit of instruction with them and then had them fly the maneuver for me a couple of times as 747 pilots.

Tr. p. 427-428  Instructor Pilot Whitacre testified that he collaborated with Standards Pilots and Simulator-only Instructors to develop a program to standardize the Instructor Pilots’ grading
procedures. (Tr. p. 354-55) Instructor Pilot Ridenour attends the weekly 787 PIT meetings which are attended by Standards and Technical Pilots as well as Instructor Pilots. (Tr. p. 315; 446)(Instructor Pilot Sites describes attending PIT meetings with Standards and Technical Pilots.) The purpose of the PIT meeting is to coordinate Instructor Pilot training to “make sure all the Instructor Pilots understand what we want that training to be.” (Tr. p. 315) Safety Pilot Reed testified that he teaches a safety module to Instructor and Standards Pilots as part of their TCE recurrency training. (Tr. p. 434) Simulator-only Instructors also act as PITs. (Tr. p. 531)

The ADPX and Instructor Pilots work together to develop the training materials used in this highly integrated instruction process. (Tr. p. 382) Instructor Pilot Ridenour described that he collaborates with Standards and Technical Pilots to develop courseware for 777 and 787 training. (Tr. p. 292-296) Captain Ridenour stated “sometimes we will communicate five or six times a day on what’s going on. We’ll have meetings to look at the courseware. Some of them are virtual, oftentimes they’re face-to-face, just to make sure that the tasks and the timelines and everything are correct in the courseware.” (Tr. p. 293) Captain Botnick explained that he brought in Instructor Pilots including Captains Sites and Whitacre to assist with developing videos and scenarios. (Tr. p. 370, 382)

Instructor Pilot Sites also gave an example of several meetings he attended with a Standards Pilot to develop a transition course for the 767. (Tr. p. 453) At the reopened hearing, witnesses testified about how Instructor Pilots, Simulator-only Instructors, and Technical Pilots all worked on a project to test the suitability of using iPads in simulators and in training. (Tr. p. 13 Captain Whitacre also testified about this interaction. (Tr. p. 354-55)
Al Thompson asserted that Technical Pilots are also involved in these “special projects” in a quality control role. (Tr. p. 547)

d) The process of evaluation of compliance with mandated procedures in operating Boeing’s planes requires collaboration among and between the proposed voting group and Instructor Pilots.

The Standards Pilots’ main task is to observe and evaluate compliance with the procedures in the manuals drafted by the Technical Pilots and taught by the Instructor Pilots. (Tr. p. 104; 374) The Standards Pilots and the Instructor Pilots and Simulator-only Instructors with TCE credentials share the task of certifying pilots to fly Boeing commercial airplanes, under a designation from the FAA. (Tr. p. 300, 232, 314, 423,527) These TCE-credentialed employees conduct the certification tests for all pilots. For example, Doug Allington, a Technical Pilot, explained that he has received his “check rides” from Standards Pilots as well as Instructor Pilots and Simulator-only Instructors. (Tr. p. 417) Standards Pilots, and Instructor Pilots and Simulator-only Instructors who are TCEs often conduct these certifications for each other. (Tr. p. 379; 314, 574-76) For example, Standards Pilot Botnick explained that he could be either the instructor or the trainee on a Line Oriented Flight Training (LOFT), and Instructor Pilots could also be either the instructor or the trainee on a LOFT. (Tr. p. 383) Instructor Pilot Lisa Clark testified she recently received a check ride from a Simulator-only Instructor. (Tr. p. 575-76)

The evidence presented at the hearing demonstrates that the Instructor Pilots, Simulator-only Instructors, and ADPX pilots work closely together to perform a functionally integrated service – training, safety support, and education for pilots who fly Boeing aircraft. This
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functional integration supports a finding of a community of interest between the Instructor Pilots and the proposed voting group. *See Publix Super Markets, Inc.*, 343 NLRB 1023 (2004) (Board found milk plant employees worked together and supported each other’s tasks, and were functionally integrated in milk processing and distributing operation).

6. **Common supervisors oversee the petitioned-for voting group and the existing unit.**

The NLRB considers common supervision one of the important community of interest factors. *S. S. Pierce Co.*, 82 NLRB 1260 (1949). In this case, first level common supervision between the proposed voting group and the existing bargaining unit dominates the complex supervisory arrangements implemented by the Employer. All of the employees relevant to the Amended Petition work under common supervisors while in the simulator performing functions as instructors or TCEs.

When Standards Pilots, Instructor Pilots, or Simulator-only Instructors instruct in a simulator on a particular model, they work under the supervision of the Fleet Manager for that model, within the Flight Training Simulator group, under the supervision of Al Thompson. (Tr. p. 378-79, 528, 539-42, 573, 593-94, 625) Captain Botnick explained that “if I’m doing instructor duties, I’m actually working for the fleet manager in that particular model. In other words, they may have a decision if they want to use me or how I do things, so you know, figuratively speaking, they’re my instructors during that time period.” (Tr. p. 379) Al Thompson himself confirmed that testimony as follows:
. . . [A]ll work that’s done in the simulator, regardless of who does it, falls under my organization. So even a flight training airplane pilot, when they’re instructing in the simulator, falls under my organization.

Tr. 528

Similarly, as Instructor Pilot Ridenouer pointed out, when he performs his role as a TCE, “I work under the purview and guidance of the chief pilot for standards when I do those…. It would be through Ray Roberts, the Standards Pilot.” [Emphasis supplied] (Tr. p. 300; See also p. 392) When Simulator-only Instructors perform their TCE function, they are also under the management of Roberts. (Tr. p. 528, 543-44, 626) Mr. Thompson confirmed that Instructor Pilots and Simulator-only Instructors as well as the Standards Pilots work under the control of the standards organization when performing check rides as TCEs. (Tr. p. 528) Thus, these employees, who spend a considerable portion of their time acting as instructors or evaluators work under the same first level supervisors while doing so.

Additionally, the Instructor Pilots in the Flight Training Airplane group, the Technical and Safety Pilots in the Flight Technical and Safety group, and the Simulator-only Instructors in the Flight Training Simulator Group, are all found in the same branch of the Employer’s supervisory structure, under the supervision of Suzanna Darcy-Hennemann. (Employer’s Ex. 1) At the reopened hearing, Mike Coker testified that he has interchanged in being the supervisor for both groups. (Tr. p. 622-23)¹⁴

¹⁴ The Employer recently moved the five Standards Pilots under the direct supervision of Ray Roberts in the Office of Independent Affairs. They constitute the only exception to the common general supervision under Darcy-Hennemann. (Tr. p. 104; 392-393) However, the separate supervision depicted on the organizational charts does not reflect the true common supervision the Standards Pilots share with the other employees involved in the Amended Petition. As discussed above, when they perform as instructors, the Standards Pilots work for the applicable fleet manager for the airplane model on which they instruct, who in turn reports to Al Thompson. When they administer check rides, the Standards Pilots share their supervisor, Ray Roberts, with the TCEs from FTA and Flight Training
The Boeing Staffing Policy Handbook explains that the Skills Manager is the “[s]enior-level functional management responsible for managing employees within their function, discipline, or skill area for purposes of acquisition, redeployment, or career development.” (Petitioner’s Exhibit 27) All of the Instructor Pilots and all ADPX pilots have the same Skills Manager, Suzanna Darcy-Henneman. (Tr. p. 471; Petitioner’s Exhibits 22-26; Employer’s Exhibit 1)

The collective bargaining agreement between the parties to this case preserves the ultimate supervisory authority of Chief Pilot Darcy-Hennemann as the skills manager for both the ADPS and FTA Pilots. Article III, Section 2 of the AMPA CBA with Boeing provides:

Reductions in force will be determined by seniority, those with less seniority being laid off first. Seniority is based on the most recent hire date as a Boeing Instructor Pilot within this bargaining unit. Notwithstanding that rule, the Company’s Chief Pilot, Flight Training – Operations, may determine, based on reasonable business considerations, that an individual who would be designated for layoff pursuant to the rule will be bypassed, and a more senior employee designated for layoff. The Company will advise the Union when and why such a determination has been made. [Emphasis supplied]

Joint Exhibit 1, p. 5. Thus, the Chief Pilot has the ultimate discretion to determine which Instructor Pilots as well as ADPX pilots will be laid off. (Tr. p. 476-477)

In addition to “common supervision,” the Board sometimes refers to a related community of interest factor, “centralized control over personnel and labor relations policies.” Waste Management of Washington, Inc., 331 NLRB 309 (2000). This factor is also satisfied in this case. The parties orally stipulated during the hearing:

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Simulator performing the same task. Thus, the five Standards Pilots share considerable common first level supervision with the employees in the existing bargaining unit and the proposed voting group.
the employees in the existing AMPA Instructor Pilot unit share a common human resources personnel representative with employees in the technical and safety group, which we have been referring to as Technical Pilots and Safety Pilots, but that the employees in the flight standards group of the proposed voting group do not share a common human resources personnel representative with either of those two groups.

Tr. p. 439. Thus, with the exception of the five Standards Pilots, all of the Instructor Pilots and ADPX pilots have a common Human Resources Personnel representative.

At the next level above Darcy-Hennemann, all of the ADPX pilots, Simulator-only Instructors, and Instructor Pilots are under the common supervision of Leonard P. Weber, the Chief Operating Officer of Training and Flight Services. (Employer’s Exhibit 1) All of the employees in the proposed voting group and the Instructor Pilots are also under the common supervision of Sherry Carbary, Vice President of Flight Services. Id.

Additionally, Captain Ridenour testified that pilots from the ADPX and Instructor Pilot groups work together and are commonly managed when doing course development work. (Tr. p. 295) The high degree of common supervision among the relevant employees militates strongly for a community of interest finding.

III. CONCLUSION

The petitioned-for employees form an identifiable and distinct segment of the workforce to qualify as a voting group in an Armour-Globe election. Together with the Instructor Pilots in the existing unit, they comprise a readily identifiable group for an overall bargaining unit. Additionally they have a strong community of interest with the Instructor Pilots with whom they
share common training, skills, certifications, job functions, supervision, wages, benefits, and working conditions, and with whom they work in a functionally integrated enterprise, experiencing frequent contact and extensive interchange. The ARD should permit the proposed voting group described in the Amended Petition to vote in an Armour-Globe election.

Dated this March 1, 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this March 1, 2012, I electronically filed the PETITIONER’S BRIEF through the National Labor Relations Board website system and I hereby certify that I have served the document to the following as indicated:

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