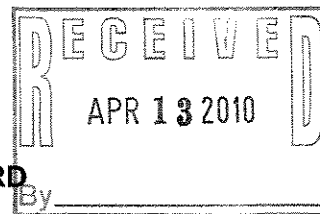


UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29



AFFILIATED COMPUTER SERVICES, INC.

and

Case Nos. 29-CA-29771
29-CA-29884
29-CA-30035

COMMUNICATION WORKERS OF
AMERICA, AFL-CIO

**ORDER FURTHER CONSOLIDATING CASES,
SECOND CONSOLIDATED AMENDED COMPLAINT AND NOTICE OF HEARING**

On January 13, 2010, an Order Consolidating Cases, Consolidated Amended Complaint and Notice of Hearing issued in Case Nos. 29-CA-29771 and 29-CA-29884 alleging that Affiliated Computer Services, Inc., herein called Respondent, engaged in certain unfair labor practices affecting commerce as set forth in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151 *et seq.*, herein called the Act. On January 22, 2010, Communication Workers of America, AFL-CIO, herein called the Union, charged in Case No. 29-CA-30035 that Respondent has engaged in further unfair labor practices. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, **ORDERS** that these cases are further consolidated.

These cases having been further consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Further Consolidating Cases, Second Consolidated Amended Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in Case No. 29-CA-29771 was filed by the Union on about on August 14, 2009, and served by regular mail upon Respondent on or about August 25, 2009.

(b) The charge in Case No. 29-CA-30035 was filed by the Union on about on November 2, 2009, and served by regular mail upon Respondent on or about November 9, 2009.

(c) The charge in Case No. 29-CA-29884 was filed by the Union on about on January 22, 2010, and served by regular mail upon Respondent on or about February 4, 2010.

2. At all material times, Respondent, a domestic corporation, with its principal office and place of business located at 1 Edgewater Plaza, Staten Island, New York, herein called the Staten Island facility, has been engaged in the business of providing transportation management and toll collection for the New York State Thruway Authority.

3. During the past year, which period is representative of its annual operations generally, Respondent, in the course and conduct of its business operations described above, provided services valued in excess of \$50,000 to the New York State Thruway Authority, an entity directly engaged in interstate commerce.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, Wanda Diaz, has held the position of Respondent's supervisor, and has been a supervisor within the meaning of Section 2(11) of the Act and an agent of Respondent acting on its behalf.

7. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time customer service representatives ("CSRs") and clerks employed by Respondent in its tag processing department, violations department and correspondence department, all CSRs employed in Respondent's Staten Island walk-in center and the Staten Island call center, receptionists and facilities clerks employed in the facilities department, monitor clerks employed at the Staten Island call center, refund coordinators, NSF coordinators, charge back collections coordinators, reconciliation coordinators, deposit coordinators, accounts payable coordinators, payroll coordinators, junior reciprocity analysts, work leaders, correspondence department analysts, PA class mismatch transaction analysts, Port Authority violations bus analysts, Port Authority violations collections analysts, generic violations analysts, violations business account analysts, Port Authority accounts analysts, all employed by Respondent at its facility located at 1150 South Avenue, Staten Island, New York, herein called the Staten Island facility, but excluding all other employees, managers, executives, supervisors as defined in Section 2(11) of the Act, confidential employees, guards, trainers, junior systems analysts, performance monitoring analysts, Vector system test administrators, junior LAN administrators, junior and senior quality assurance analysts, junior business analysts, workforce analysts, senior systems analysts, report production leads, senior LAN administrators, deposit clerks employed at Respondent's facilities located at Yonkers, Queens, Spring Valley, Albany, Grand Island and Syracuse, New York, and all other employees employed by Respondent in locations other than Staten Island.

8. On or about May 28, 2009, in a secret ballot election held by Region 29 of the Board, a majority of the employees in the Unit selected the Union as their exclusive collective bargaining representative.

9. On or about August 6, 2009, the Union was certified by the undersigned as the exclusive collective bargaining representative of the Unit.

10. At all material times, the Union, by virtue of Section 9(a) of the Act, has been the exclusive representative of the Unit, for the purposes of collective bargaining.

11. On or about June 23, 2009, Respondent transferred to an entity known as PRWT or "People Really Working Together," overtime work previously performed by Unit employees.

12. On or about July 11, 2009 Respondent implemented its Activity Based Compensation Plan, herein called the ABC Plan.

13. The subjects set forth above in paragraphs 11 and 12, relate to wages, hours and other terms and conditions of employment of the Unit and are mandatory subjects for the purpose of collective bargaining.

14. Respondent engaged in the conduct described above in paragraph 11, without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to its decision to transfer the overtime work and the effects of that conduct.

15. On or about August 7, 2009, Respondent, by Diaz, at its Staten Island facility, engaged in the following conduct:

(a) interrogated employees regarding their protected concerted activities; and

(b) gave employees the impression that their protected concerted activities were under surveillance.

16. On or about a date in late August 2009, Respondent distributed to employees a document entitled Activity Based Compensation Plan and Guidebook and directed employees to sign the "Employee Acknowledgement of ABC," herein called the Acknowledgement.

17. The Acknowledgement provided, *inter alia*, the following:

(a) Unit employees must report all payroll discrepancies to Payroll or Human Resources within 45 days of the paycheck and use the Guidebook's payroll dispute resolution process; and

(b) Respondent reserves the right to adjust its pay rates when appropriate.

18. By requesting that the Unit employees individually sign the Acknowledgement and agree to its provisions, Respondent bypassed the Union and dealt directly with Unit employees.

19. On or about September 30, 2009, the Union, by letter, requested that Respondent recognize the Union as the exclusive collective bargaining representative of employees in the Unit, and bargain collectively with the Union over the effects of Respondent's implementation of its ABC Plan.

20. On or about October 19, 2009, Respondent, by letter, refused to recognize the Union as the exclusive collective bargaining representative of the Unit, and refused to bargain collectively with the Union over the effects of Respondent's implementation of its ABC Plan.

21. Since on or about October 19, 2009, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective bargaining representative of the Unit and has refused to bargain with the Union over the effects of Respondent's implementation of its ABC Plan.

22. (a) On or about September 30, 2009, the Union, by letter to Respondent, attached hereto as Exhibit A, requested that Respondent provide it with certain information.

(b) On or about December 9, 2009, the Union, by letter to Respondent, attached hereto as Exhibit B, specifically informed Respondent why it needed the requested information, described above in subparagraph (a).

(c) Since on or about December 9, 2009, Respondent has failed and refused to furnish the Union with the requested information described above in Exhibit A.

23. The information requested by the Union, described above in paragraph 22, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

24. At all material times, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 22.

25. By the conduct described above in paragraph 15, Respondent has been interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

26. By the conduct described above in paragraphs 11, 13, 14, 16 through 18, 20, 21 and 24, Respondent has failed and refused to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the Unit, has undermined the Union's status as Section 9(a) representative and thereby has been engaging in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the Act.

27. The unfair labor practices of Respondent, described above, affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 11, the General Counsel seeks an Order which includes the standard make whole remedy, but that in addition thereto, that interest on any monetary compensation owed to the discriminatees be computed on a compounded quarterly basis. The General Counsel further seeks an Order requiring that Respondent, in addition to any standard notice-posting remedy ordered, post any notice to employees via its internet, e-mail, or other electronic procedures. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

RESPONDENT is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an Answer to the Consolidated Second Amended Complaint. The Answer must be **received by this office on or before April 26, 2010, or postmarked on or before April 23, 2010.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

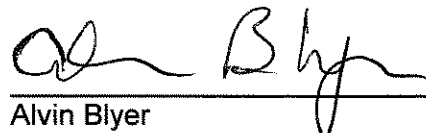
Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and

Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the Consolidated Second Amended Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date to be determined at 9:30 a.m., at 2 MetroTech Center, 5th Floor, Brooklyn, New York, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Second Consolidated Amended Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Brooklyn, New York, April 12, 2010.



Alvin Blyer
Regional Director, Region 29
National Labor Relations Board
Two MetroTech Center, Suite 5100
Brooklyn, New York 11201

**Communications
Workers of America**
AFL-CIO, DISTRICT 1

80 Pine Street, 37th Floor
New York, New York 10005
212-344-7332
Fax: 212-363-7010

Lawrence R. Cohen
President

Christopher M. Shelton
Vice President
District 1



ELISA RIORDAN
Downstate NY-CT Area Director

September 30, 2009

Anne Marie Bressler
Program Manager
Affiliated Computer Services
1150 South Avenue
Staten Island, NY 10314

Re: **Bargaining Regarding ABC**

Dear Ms. Bressler:

By this letter, CWA, the certified collective bargaining representatives of your employees, demands bargaining regarding the effects of the implementation of ABC. Please call me as soon as possible to arrange dates for bargaining.

In preparation for bargaining, please supply me with (i) copies of all current agreements with all public authorities that are part of New York EZPass; (ii) copies of all documents regarding the ABC pay system provided or shown to bargaining unit employees in 2008 and 2009; and (iii) copies of all documents concerning ACS's decision to implement ABC in the Staten Island facility.

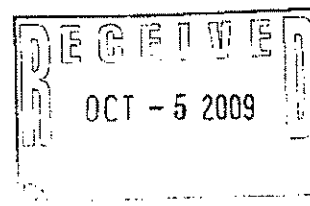
Please provide this information on or before October 16, 2009. If all of the information is not available by that date, CWA is willing to accept what is available without prejudice to our right to acquire a fully satisfactory response. CWA reserves the right to make additional, relevant information requests.

Very truly yours,

Elisa Riordan
Downstate NY Area Director
District 1

ER/mb
OPEIU/AFL-CIO

cc: Edward J. Baxter, CWA Staff Representative - District 1
Richard M. Martini, CWA Staff Representative - District 1
Amy S. Young, Esq. - District One Counsel



**Communications
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Lawrence R. Cohen
President

Christopher M. Shelton
Vice President
District 1



ELISA RIORDAN
Downstate NY-CT Area Director

December 9, 2009

Anne Marie Bressler
Program Manager
Affiliated Computer Services
1150 South Avenue
Staten Island NY 10314

Re: **Bargaining Regarding ABC**

Dear Ms. Bressler:

On September 30, 2009, I wrote you requesting certain information for bargaining. You responded by letter dated October 19, 2009, in which you essentially refused to provide information and/or to schedule bargaining.

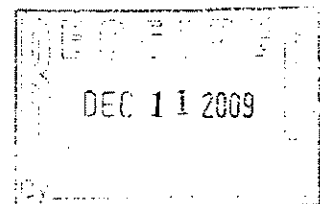
I want to make clear why I requested the information I did and why it is relevant to our bargaining. First, I need to see all of the contracts with the public authorities in order to discern what agreements ACS has with the authorities regarding how employees will be paid, given that these are public works contracts. The Union's second request should be self-explanatory; if you do not understand the relevance of that request please let me know. Third, the Union requires the documents concerning how ABC is being implemented in order to understand what ABC is, what is expected of employees, and how employees will be paid (or not paid) under ABC. CWA needs to understand how ABC is being implemented in the different Staten Island departments because the workers perform different types of tasks.

Thank you for your prompt attention to this matter. I anticipate receiving this information on or before January 4, 2010. CWA looks forward to meeting with you at the bargaining table as soon as possible.

Very truly yours,


Elisa Riordan

ER/mb
OPEIU, 153/AFL-CIO



cc: Edward J. Baxter, CWA Staff Representative – District 1
Richard M. Martini, CWA Staff Representative – District 1
Amy S. Young, District One Counsel – District 1

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.