

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Washington, D.C.

UTILITY WORKERS UNION OF AMERICA,  
AFL-CIO (UWUA); INTERNATIONAL CHEMICAL  
WORKERS UNION COUNCIL-UFCW (ICWUC); AND  
THE UWUA-ICWUC JOINT STEERING COMMITTEE

and

Case 21-CB-14820

SOUTHERN CALIFORNIA GAS COMPANY

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S  
BRIEF IN SUPPORT OF LIMITED EXCEPTIONS TO THE  
ADMINISTRATIVE LAW JUDGE'S DECISION**

**I. Issues Presented**

- A. Should the order include a requirement that in addition to physical posting of paper notices, Respondents distribute notices electronically, such as by email, posting on the intranet or an internet site, and/or other electronic means, if the Respondents customarily communicate with their members by such means?
- B. Should the order include a requirement that the Respondents post the appropriate Notice to Employees at each of their offices and union halls that represent bargaining unit members employed by Southern California Gas Company (the Employer)?
- C. Should the date “March 23, 2009” in the first paragraph of the recommended Notice to Employees be replaced with the date “March 23, 2010”?

**II. Procedural History**

This case was heard before Administrative Law Mary Miller Cracraft (ALJ) pursuant to an Amended Complaint and Notice of Hearing dated June 4, 2010. The ALJ issued her Decision on November 4, 2010, and found that Respondents violated Section 8(b)(3) of the Act by failing and refusing to sign the collective-bargaining agreement submitted to them on November 12, 2009, and by delaying the signing of the collective-bargaining agreement submitted to them on November 12, 2009, until March 23, 2010.

### **III. Facts and Discussion**

#### **A. The Recommended Order Should be Modified to include an electronic posting.**

It its decision in J. Picini Flooring, 356 NLRB No. 9 (October 22, 2010), the Board ruled that union respondents who customarily communicate with their members electronically, such as by e-mail, or posting on an internet or an intranet site, will be required to post remedial notices the same way, in addition to posting a paper notice on a bulletin board. The Board also stated that its new policies and standards apply “retroactively to all pending cases in whatever stage.” *Id.* slip op at 5. Therefore, the ALJ’s recommended order should be modified to include an order that requires the Respondents to distribute notices electronically, such as by email, posting on the intranet or an internet site, and/or other electronic means, if the Respondents customarily communicate with their members by such means.

#### **B. The Recommended Order Should be Modified to Require Respondents to Post at each of Respondents’ offices and union halls the appropriate Notice.**

The ALJ’s remedy only requires that Respondents post the Notice to Employees at their offices or union halls in Los Angeles, California. However, Respondents maintain offices and union halls in locations throughout California. (GCX 1(a) -1(c), 1(e), 1(g) -1(i), 1(k)).<sup>1</sup> In addition, Respondent Utility Workers Union of America, AFL-CIO (UWUA) has its main office in Washington, D.C., and Respondent Chemical Workers Union Council-UFCW (ICWUC) has its main office in Akron, Ohio. Also, the ALJ found that Respondent Joint Steering Committee (JSC) “is comprised of the presidents from each of the nearby area locals of UWUA and ICWUC including

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<sup>1</sup> GCX refers to the exhibits presented at trial by the Acting General Counsel.

UWUA Locals 132, 170, 483, and 522 as well as ICWUC Locals 48, 78, 350, and 995.” (ALJD: 3:16-18). The above-named locals maintain offices throughout California.

Therefore, the recommended order should be modified to require Respondents to post the appropriate Notice to Employees at their offices and union halls, including the following locations: (1) 815 16<sup>th</sup> Street, NW, Washington, D.C.; (2) 1799 Akron Peninsula Road, Akron, OH; (3) 7200 Greenleaf Avenue, Suite 380, Whittier, CA; (4) 3817 West Payson Avenue, Visalia, CA; (5) 1966 West Monte Court, Porterville, CA; (6) 11768 White Mountain Court, Rancho Cucamonga, CA; (7) 250 East Belmont Avenue, Rialto, CA; and (8) 113 West Commercial Street, San Dimas, CA.

**C. The Date “March 23, 2009” on the First Paragraph of the Notice Should be Replaced With the Date “March 23, 2010.”**

The ALJ’s recommended Notice to Employees inadvertently states that the delay in signing the agreement lasted from November 12, 2009, to March 23, 2009. However, the record shows that the Respondents delayed in signing the agreement from November 12, 2009, to March 23, 2010. (ALJD 12:7-12:17). Accordingly, the date “March 23, 2009” on the first paragraph of the notice should be replaced with the date “March 23, 2010.”

**IV. Conclusion**

Based on the foregoing, the record shows that the recommended order should be modified to accurately reflect the Board’s new policies, and to order the Respondents to post the appropriate Notice to Employees at their offices and union halls that represent employees in the bargaining unit. The Notice to Employees should also be corrected to accurately reflect the period of time of the delay in signing the agreement.

V. **Remedy**

It is respectfully submitted that the ALJ's recommended order be amended, as follows:

A. To the recommended order add the following language:

In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on the intranet or an internet site, and/or other electronic means, if the Respondents customarily communicate with their members by such means.

B. To the recommended order, modify the language as follows:

1. The current language in the third paragraph states:

“Within 14 days after service by the Region, post at their offices and union halls in Los Angeles, California, copies of the attached notice marked “Appendix.”

2. Amend the above-quoted language in the order to state:

“Within 14 days after service by the Region, post at Respondents' offices and union halls, including those located at: (1) 815 16<sup>th</sup> Street, NW, Washington, D.C.; (2) 1799 Akron Peninsula Road, Akron, OH; (3) 7200 Greenleaf Avenue, Suite 380, Whittier, CA; (4) 3817 West Payson Avenue, Visalia, CA; (5) 1966 West Monte Court, Porterville, CA; (6) 11768 White Mountain Court, Rancho Cucamonga, CA; (7) 250 East Belmont Avenue, Rialto, CA; and (8) 113 West Commercial Street, San Dimas, CA; copies of the attached notice marked “Appendix.”

## VI. Notice to Employees

It is respectfully submitted that the ALJ's recommended Notice to Employees be amended as follows:

1. The current language in the first paragraph of the notice states:

WE WILL NOT fail or refuse to bargain collectively with Southern California Gas Company by failing and refusing to sign the collective-bargaining agreement submitted to us by Southern California Gas Company on November 12, 2009, and by delaying signing the collective-bargaining agreement until March 23, 2009.

2. Amend the above-quoted language in the notice to state:

WE WILL NOT fail or refuse to bargain collectively with Southern California Gas Company by failing and refusing to sign the collective-bargaining agreement submitted to us by Southern California Gas Company on November 12, 2009, and by delaying signing the collective-bargaining agreement until March 23, 2010.<sup>2</sup>

Respectfully submitted,

  
Irma Hernández  
Counsel for the Acting General Counsel  
National Labor Relations Board  
Region 21

Dated at Los Angeles, California, this 2<sup>nd</sup> day of December, 2010.

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<sup>2</sup> Thus, the only requested change is to replace the date "March 23, 2009" with "March 23, 2010."

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Counsel for the Acting General Counsel's Brief in Support of Limited Exceptions to the Administrative Law Judge's Decision in Case 21-CB-14820 was submitted by E-filing to the Office of the Executive Secretary of the National Labor Relations Board, on December 2, 2010. The following parties were served with a copy of the same documents by electronic mail.

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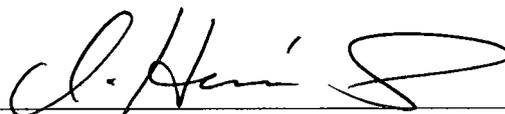
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Respectfully submitted,



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