



No, Thank You: Boeing Declines Union's Invitation To Bargain, Setting Up Micro-Unit Appeal

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Earlier this month, 180 technicians at a [Boeing plant in South Carolina](#) voted to have the International Association of Machinists and Aerospace Workers [become their bargaining representative](#). There are approximately 7,000 employees at the facility, and the union failed on two prior occasions in previous, recent years to have all employees at the site be represented. Not to be deterred, the union then targeted this smaller subgroup (i.e., micro-unit) and now has a foothold at the facility.

The fact that a subset of workers is now represented by a union could result in a fracturing of the workforce and having employees at the facility being subjected to different terms and conditions of employment. It is now being [reported](#) that Boeing is declining to negotiate with the micro-unit, as it intends to appeal the National Labor Relations Board's (NLRB) decision to allow the vote to proceed. Boeing has stated from the outset that it does not believe a micro-unit is appropriate, but the full NLRB in Washington, D.C., has not yet formally weighed in on the issue. The company's refusal to bargain is a step toward a formal appeal of the issue.

For those unfamiliar with micro-units, when filing an election petition with the NLRB, a union must identify a legally appropriate group of employees (i.e., the "bargaining unit") it seeks to organize. Historically, all-inclusive "wall-to-wall units" (e.g., production and maintenance employee units) were favored by the NLRB. In contrast, micro-units are fractional. Generally, they

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seek to decrease the size of the unit and make organizing easier. For example, a union could believe it has ample support in a manufacturing plant among maintenance employees, but not production employees, so it could seek to only represent the maintenance workers – in which case the employer would be left dealing with a labor agreement only applying to half of the workforce and likely resulting in inequities among its employees.

The NLRB previously often disapproved of micro-units, but the board's 2011 *Specialty Healthcare* decision altered the NLRB's legal standard regarding bargaining units and made it easier for unions to seek such units. Specifically, the NLRB held in *Specialty Healthcare* that an employer opposing a micro-unit had to show the "larger" unit desired by the company shared an "overwhelming community of interest" with the smaller unit sought by a union – an almost impossibly high standard. *Specialty Healthcare* resulted in fractured units around the country and many headaches for employers.

Employers breathed a collective sigh of relief at the end of last year when the NLRB [announced](#) that it had overruled the onerous standard set forth by the agency's *Specialty Healthcare* decision, but the ongoing issues at Boeing serve as an important reminder that micro-units still pose a threat on the union organizing front and remain an important issue to watch. Further, based on all of this, employers should continue to evaluate how to stave off potential micro-unit determinations at any sites where they may be vulnerable to union organizing attempts.