

Testimony of John Dempsey, CWA Staff Representative

New York City Council Oversight Hearing on the USIC

Contract Negotiations -- December 12, 2017

Good afternoon Chairman Miller and Members of the Committee. Thank you very much for convening this very important hearing and for giving me the opportunity to testify before you this afternoon.

My name is John Dempsey and I am a CWA Staff Representative in our New York City office. Since February 1, 2016, I have led the bargaining between CWA Local 1101 and USIC for a first contract covering the company's 180 workers in New York City and Long Island.

Let me start by giving you a brief overview of the situation.

From Day 1, USIC has made it clear that they don't respect their employees – workers who provide a vital service ensuring that New Yorkers are safe when companies are digging near electric lines and gas mains. Since USIC workers voted to be represented by CWA Local 1101 in December 2015, the company has stonewalled our good-faith effort to negotiate fair wages, benefits, and working conditions. In the year following the NLRB vote, USIC refused to engage in serious bargaining. During that time period we had reached only one tentative

agreement, which was on Funeral Leave, and it contained no improvement to what USIC currently offers their employees. It took 14 months of negotiations for USIC to agree to agency fee shop and a payroll deduction of dues provision, which are basic articles in any Union contract, and they still have not agreed to a recognition article. Throughout 2016, instead of good-faith bargaining, USIC preferred to pin their hopes on instigating a decertification campaign aimed at getting rid of CWA as the workers' bargaining representative. But in February, 2017, the workers voted to keep CWA as their union, rejecting decertification.

Despite 11 bargaining sessions since the decertification vote and an overall total of 25 bargaining sessions, the company still refuses to budge on the critical issues which concern workers the most: paid time off, on-call scheduling, holidays, and compensation. The only conclusion we can draw is that because USIC is so deeply anti-union—which the chairperson of USIC's committee has conceded and has even touted their victories against the Union in Pennsylvania and North Carolina—they are obstinately refusing to grant any improvements in the wages and working conditions of its New York metro workforce in order to pre-empt interest in unionization among its 7300 other workers across the country. This is union-busting, pure and simple, and it is unacceptable in our city.

USIC workers perform important tasks that are vital to the health and safety of all New Yorkers. Before any company digs up a street in New York City and Long Island, USIC workers survey underground infrastructure like gas mains and electric lines. They then mark the street so that digging doesn't cause electrical outages or even worse, gas main explosions. If this work is not performed correctly, residents are put in grave danger.

Starting pay is \$15 an hour. And it is \$15 an hour only because of an agreement we negotiated with USIC right after the decert vote. When the workers joined CWA, the starting wage was between \$12.50 and \$13 per hour. As of May 2017 less than 5% of the locate technicians in the bargaining unit were earning more than \$25 an hour with the top earner making \$28.63 an hour. That means 95% of the bargaining unit is earning less than \$25 an hour, hardly an adequate wage in this area. There is tremendous turnover because wages and working conditions are so substandard. We have asked for guaranteed, across-the-board wage increases for all workers of less than 3% per year with an opportunity to earn more based on USIC's metrics. But USIC insists that all raises must be merit-based, not guaranteed.

The second major issue is Paid Time Off. In the first year of service, New York City and Long Island workers receive a TOTAL of 5 Paid Days off, vacation and sick leave combined. They get those days *ONLY* because the company is subject to the New York City Earned Sick Days law, the provisions of which the company extended to the Long Island workforce. Elsewhere in the country, unless it is required by law, first-year USIC workers receive *ZERO DAYS PAID TIME OFF*. In Year 2, USIC workers receive a total of 6 Paid Days Off, and in Years 3 to 9, they receive a total of 12 days off. We have demanded that workers with more than 12 months of service be able to accrue up to 3 additional paid days off each year, accrued in the same manner that PTO is currently accrued. The company has counter-proposed that workers with 12 to 24 months of service can accrue 2 Hours of Paid Time Off for every *100 hours of OVERTIME* they work. In other words, they would get 1 additional Paid Day Off for every 400 hours of overtime worked. That's 30 hours of overtime every week for three months, just to accrue one additional Paid Day off and there is no guarantee that you will be offered overtime.

The lack of Paid Time Off is compounded by the requirement that workers spend 24 hours "on-call", ready to report to work within 2 hours, on the weekends and are also required to be "on-call" overnight during the week. USIC offers no

additional compensation for being “on-call.” This requirement is extremely unfair. It is disruptive to workers’ family lives. It interferes with workers’ ability to get a good night’s sleep. It means that when workers do report, they may not be at their best—and that poses a danger to the residents of New York City. It appears that USIC does not care if workers report to the job when they’re sick or exhausted, which shows a real disregard for the well-being of our city.

Finally, USIC workers receive only 6 paid holidays. By way of contrast, when New York City municipal workers negotiated their very first citywide collective bargaining agreement in 1969—nearly half a century ago—they received 11 paid holidays. We have asked for one additional holiday, but USIC has flatly refused and has proposed to give an additional holiday only to employees who have not had any “at fault” damage in the prior 12 months.

The truth is, not a great deal separates us from reaching a settlement with USIC. We are not looking for enormous changes. We simply want to negotiate a measure of improved wages and working conditions for a group of workers who perform extremely important tasks in our city.

We recently became aware of one possible explanation for USIC’s determined anti-union behavior. It appears that the Partners Group, the private equity firm

which recently bought USIC, may be working with a firm connected to Trump Education Secretary Betsy DeVos. The DeVos family's private equity firm recently set up two holding companies that appear to be associated with the acquisition of USIC. DeVos' firm has a history of working with the Partners Group and Betsy DeVos has reported substantial income from Partners' investments.

We are very concerned that a Trump-associated, anti-union billionaire family appears to be part of this deal. The DeVos family is a conservative mega-donor that gave more than \$44 million to the Michigan Republican Party, GOP legislative committees, and Republican candidates between 1997 and 2014, largely with the goal of destroying unions.¹ Betsy DeVos has been at the helm of the family's conservative crusade with her husband Dick. In one case, she contributed \$125,000 to a campaign to block union rights in Michigan in 2012 and left that detail off her disclosure forms when she was nominated for Education Secretary.²

¹ Mother Jones, "Meet the New Kochs: The DeVos Clan's Plan to Defund the Left," January/February 2014. <http://www.motherjones.com/politics/2014/01/devos-michigan-labor-politics-gop/#>; Political Research Associates, "THE KOCH-LIKE FAMILY YOU'VE NEVER HEARD OF INFLUENCING STATE LEGISLATURES," December 22, 2015. <http://www.politicalresearch.org/tag/right-to-work/#sthash.cWd15aOn.dpbs>; Politico, "How Betsy DeVos Used God and Amway to Take Over Michigan Politics," January 15, 2017. <https://www.politico.com/magazine/story/2017/01/betsy-dick-devos-family-amway-michigan-politics-religion-214631>

² "Trump's education pick Betsy DeVos omitted \$125,000 anti-union donation from disclosure form," Chicago Tribune, Jan 13, 2017. <http://www.chicagotribune.com/news/nationworld/politics/ct-betsy-devos-anti-union-donation-senate-20170113-story.html>

We call on Partners to end any partnership with the DeVos family in the ownership or management of this company. Even more important, Partners itself should play a constructive role in reaching a positive resolution in bargaining that addresses workers' key concerns.

Not only Partners must be held accountable for the anti-union behavior of USIC. The primary companies that contract with USIC are two giants of the utility sector here in New York and nationally: Con Ed and National Grid. We urge you to pressure these regulated entities to ensure that they are only contracting with responsible employers who treat their workers with the respect and dignity those workers deserve. Con Ed and National Grid should not be contracting with companies that pay substandard wages, and which do not seem to care at all about the health and safety of their employees, let alone the public.

Members of the Council, we need your help in protecting the wages and working conditions of these workers. We deeply appreciate your willingness to call this hearing today to investigate what is happening in this dispute. And we are grateful that you have indicated to USIC management your willingness to consider legislation that addresses some of the key issues that I have discussed here today.

We need to send a message to USIC management today, loud and clear, that their treatment of workers is unacceptable in New York City. Management needs to understand that in New York City we have a commitment to fair collective bargaining and fair treatment of workers. This council, with its enactment of Earned Sick Days and Fair Work Week legislation, has signaled its clear commitment to these values. We need you to do this again in this instance. Thank you for your time, and I can answer any questions you may have.

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December 11, 2017

VIA E-MAIL (HEARINGS@COUNCIL.NYC.GOV)

Jonathan Ettricks
Director, Legislative Documents Unit
New York City Council
253 Broadway, 7th Floor
New York, NY 10007

Re: Civil Service & Labor Committee Hearing Notices

Dear Mr. Ettricks:

I am writing on behalf of Monta Bolles, Patrick Thompson, Julie Kirkpatrick and myself to inform you that we will be unable to attend the Civil Service & Labor Committee Hearing tomorrow afternoon due to other commitments. Moreover, your letter references "USIC Underground Safety Contractor Workers' *Unfair* Pay and Benefits." The fact that you have already determined USIC is "unfair" cannot help but lead us to determine that you have reached a conclusion and our testimony would be given little consideration.

Despite what the CWA has apparently communicated to you, I can assure you that USIC has been negotiating with CWA in good faith for the better part of two years. Communications from council members reference several topics including wages, sick time, vacation and on-call, all of which have been points of our extensive negotiations and all to which USIC has offered several creative solutions, which, to date, CWA has rejected.

We believe we have made significant progress towards reaching a contract, particularly over the last six months. Our next bargaining session is scheduled for January 16th, and this session (like the four preceding it) will be conducted with the assistance of an experienced federal mediator. We are hopeful that the mediator will be able to help both sides reach agreement on a fair and reasonable contract, which allows USIC to remain competitive while meeting the needs of its customers and its Locate Technicians in New York City and Long Island.

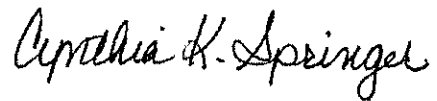
Jonathan Ettricks

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December 11, 2017

Very truly yours,

FAEGRE BAKER DANIELS LLP

A handwritten signature in cursive script that reads "Cynthia K. Springer". The signature is written in dark ink and is positioned above the printed name.

Cynthia K. Springer

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Appearance Card

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Date: 12/12/17

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Name: BOB MASTER

Address: 80 PINE ST 37th FLR

I represent: COMMUNICATIONS WORKERS OF AMERICA

Address: 80 PINE ST

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Date: _____

(PLEASE PRINT)

Name: Harold Perez

Address: 49 W 225th St 8G Bronx, NY 10463

I represent: CWA 1101

Address: 80 Pine st NY, NY

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