DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,737; TA–W–50,737A and TA–W–50,737B]

Austin Powder Co., Bend, Oregon, Austin Powder Co., Roseburg, Oregon, and Austin Powder Co., Cleveland, Ohio; Notice of Negative Determination Regarding Application for Reconsideration

By application of April 18, 2003, a state agency representative requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of General Electric Industrial Systems, Drives and Controls, Inc., Salem, Virginia was signed on March 11, 2003, and published in the **Federal Register** on March 26, 2003 (68 FR 14706).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Austin Powder Company, Bend, Oregon engaged in storage and distribution services. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

In the initial decision, the Department did not acknowledge the state representative's petition filing on behalf of workers at two additional company facilities other than that of Austin Powder, Bend, Oregon. These two additional facilities are Austin Powder, Roseburg, Oregon, and Austin Powder, Cleveland, Ohio.

Upon further review and contact with a company official, it was revealed that workers at the Roseburg facility perform distribution services and the Cleveland, Ohio facility serves as the corporate headquarters. No production occurs at either facility.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 13th day of June, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–16890 Filed 7–3–03; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,489]

Corning, Inc., Photonic Technologies Division, Painted Post, New York; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 13, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 25, 2003, and published in the **Federal Register** on March 10, 2003 (68 FR 11408).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Corning, Inc., Photonic Technologies Division, Painted Post, New York was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported amplifiers, dispersion compensation modules, and fiber-based components. The investigation revealed that the subject firm did not import products like or directly competitive with amplifiers, dispersion compensation modules, and fiber-based components during the relevant period of 2001 to 2002, nor did it transfer production abroad.

The petitioner states layoffs are attributable to imports by the company and its customers of VOAs (variable optical attenuators), a type of fiber-based component, and couplers, both of which are components of optical amplifiers. In regard to the company specifically, the petitioner alleges that specific VOA and coupler imports came from Canada.

A company official was contacted regarding company import allegations. The official stated that in fact the company did import VOAs from Canada, but while the subject firm produced VOAs using mechanical technology, the imported VOAs incorporated MEMS technology, or Micro-Electro-Mechanical Systems, which is the integration of mechanical elements, sensors, actuators and electronics on a common substrate. As a result of this distinction, the MEMS VOAs are smaller and much more efficient; further, the imported VOAs are not interchangeable with the VOAs produced at Painted Post in that they cannot be inserted in the same optical amplifiers. In regard to imports of couplers, the company official confirmed that competitive imports did occur in the relevant period; however, couplers comprised of a very small portion of subject plant production.

The petitioner also alleges that customers of the subject firm imported competitive products in the relevant period.

A review of the initial investigation revealed that customers of the subject firm all reported competitive imports in the relevant period, however their trends of import purchases declined more sharply than their purchases from the Painted Post facility, thus they did not increase reliance on imports.

The petitioners also attached a copy of a ''Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance'' for the workers at Corning, Inc., Photonics Technologies/Monroe Photonic, West Henrietta, New York (NAFTA–6130).

A review of that decision shows the workers produced different products than the subject plant products and thus that decision is not relevant to the work performed at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 13th day of June, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–16889 Filed 7–3–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,085]

Fluor Daniel, Facility and Plant Services, Rochester, MN; Notice of Negative Determination Regarding Application for Reconsideration

By application of June 3, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Fluor Daniel, Rochester, Minnesota was signed on April 29, 2003, and published in the **Federal Register** on May 9, 2003 (68 FR 25060).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Fluor Daniel, Rochester, Minnesota engaged in activities related to facility management services for an unaffiliated firm. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

Having reviewed the initial investigation, it was established that the correct subsidiary of the affected worker group is Fluor Daniel, Facilities & Plant Services, Rochester, Minnesota.

The petitioner quotes a section of the petition instructions concerning ''Secondary Worker Impact'' that defines secondary workers as ''employed by firms that either supply components (emphasis provided by petitioner) to a trade affected firm, or assemble of finish products for a trade-affected firm.'' The petitioner also cites the certification of IBM Storage Technology Division, Rochester, Minnesota, for whom the subject firm workers performed facility management services on a contract basis. The petitioner appears to be implying that the petitioning worker group is eligible for TAA as a secondary supplier to a primary trade-certified firm.

In fact, eligibility on the basis of secondary supplier impact concerns production workers exclusively. However, as has already been noted, the petitioning worker group was not found to have produced a product. In addition, facility management services cannot be construed as a component part of the final product produced by the trade certified firm.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 13th day of June, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–16892 Filed 7–3–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,282]

Gateway Country Store LLC, Asheville, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked May 17, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Gateway Country Store LLC, Asheville, North Carolina was signed on April 29, 2003, and published in the **Federal Register** on April 24, 2003 (68 FR 20177).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Gateway Country Store LLC, Asheville, North Carolina engaged in activities related to computer sales and related retail services. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner asserts that the main competition for the Gateway computers sold by the petitioning worker group is a company that produces computers in China. Apparently, the allegation appears to be that this competition is affecting the downturn in production of Gateway computers, and consequently leading to layoffs of the retail workers selling these products.

In order to be eligible for trade adjustment assistance, the subject firm workers must produce an article within the meaning of section 222 of the Trade Act. Workers of Gateway Country Store LLC, Asheville, North Carolina do not produce an article and thus do not meet the eligibility requirements for TAA.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be