

Southwestern Bell Telephone Company and Communications Workers of America, AFL-CIO, Petitioner. Case 17-UC-95

January 14, 1981

**DECISION ON REVIEW AND ORDER
CLARIFYING UNIT**

**BY MEMBERS JENKINS, PENELLO, AND
TRUESDALE**

On May 6, 1980, the Regional Director issued a Decision and Order in the above-entitled proceeding in which he dismissed the unit clarification petition filed herein on the ground that the classification of employees sought to be clarified into the unit had historically been excluded from the unit and that these employees were thus entitled to a self-determination election before being added to the existing unit. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a request for review of the Regional Director's decision in which it argued that the decision raised a substantial question of law or policy based on Board precedent. By telegraphic order, dated July 9, 1980, the Board granted the Petitioner's request for review. Since our grant of review, the Petitioner has submitted a brief in support of its position.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this case,¹ the Board makes the following findings.

The Employer is one of 23 companies associated with American Telephone and Telegraph and is engaged in the business of providing telecommunications services to five States in the central southwestern United States—Texas, Arkansas, Oklahoma, Kansas, and Missouri. It has its principal offices in St. Louis, Missouri, and has various other facilities located throughout the States in which it does business.

The Employer has recognized the Petitioner as the collective-bargaining representative of certain of its employees, including clerical employees, for a considerable period of time; the exact dates do not appear in the record. The companywide unit consists of approximately 65,000 employees, and the most recent collective-bargaining agreement between the parties ran from August 7, 1977, to

August 9, 1980. The Petitioner, by its amended unit clarification petition, sought to include in the unit employees in the job classifications formerly known under the generic title of "engineering clerks," in the State of Arkansas, Kansas, Missouri, and Oklahoma.² Employees in these job classifications are not represented for purposes of collective-bargaining by any other labor organization.³ There are approximately 500 employees who fill these several job classifications at the Employer's administrative offices in Little Rock, Arkansas; Topeka, Kansas; Kansas City and St. Louis, Missouri; and Oklahoma City, Oklahoma.

This petition arises because of a reorganization by the Employer. Prior to reorganization, the Employer was organized along departmental lines which included separate departments of accounting, commercial, plant, traffic, and engineering. All of the engineering clerks were employed in the engineering department. On July 1, 1979, the Employer reorganized into segmental lines of business, residence, and network.⁴ As a result of the Employer's reorganization, the engineering department ceased to exist, as such, and approximately 90 percent of the engineering clerks were included in the network segment.⁵ Of the approximately 19,500 nonmanagement employees in the network segment, the engineering clerks are the only unrepresented employees with the exception of certain employees traditionally excluded from the unit because of their stipulated "confidential and/or sensitive" work.⁶

The parties stipulated that as a result of the reorganization there is a substantial community of interest between those employees sought in the petition and those already in the bargaining unit. Thus, the two groups of employees share the same working conditions and benefits entitlement (including but not limited to pay, vacations, holidays, and insurance benefits) common supervision, common work locations, and common job duties. The parties themselves stipulated to certain examples of the substantial community of interest between the engineering clerks and employees in the unit. Thus, for

² The specific job titles under the heading "engineering clerks" include intermediate clerk, clerk typists, clerical drafter, records and compilation clerk, clerical stenographer, reports and studies clerk, special stenographer, analysis clerk and clerical assistant.

³ In the State of Texas, however, engineering clerks have been represented by the Petitioner in the existing unit since 1975 when they were included by way of certification in Case 23-RC 4286.

⁴ The subject of including the engineering clerks in the bargaining unit was not discussed by the Employer and the Petitioner during their most recent 1977 collective-bargaining negotiations as reorganization was not then known to the Petitioner and was not in issue at the time.

⁵ Others were assigned to the business segment or into centralized services.

⁶ These are the categories of confidential stenographer, senior confidential stenographer, and employment tester.

¹ On April 18, 1980, in lieu of a hearing before a hearing officer, the parties agreed to submit the case to the Regional Director for a decision based on a stipulation of facts, with attached exhibits, entered into by the parties.

example, when the network segment was created, engineering clerks from the former engineering department were merged into that segment with many bargaining unit employees from the traffic, plant, and commercial departments. Many of the engineering clerks' work location changed as did their supervision. Hence, an engineering clerk would now be working alongside a unit employee with a different job title but with a substantially similar job description and with common supervision. In many situations where the work location of the engineering clerk did not change, the work location of the unit employees changed so that the two categories now work side by side. Additionally, prior to reorganization, engineering clerks did not share first level supervision with bargaining unit personnel. According to the stipulation, at times, it was not until "the 5th level of management" that the two groups shared supervision. Now, as a result of the reorganization, all engineering clerks share first-level or second-level supervision with bargaining unit personnel. With respect to the former engineering clerks who are now network segment workers, the parties stipulated that as a result of the reorganization this category does "not share a separate community of interest amongst themselves and are not . . . separately identifiable by job function, supervision, location, work group, worksites, wages and working conditions, and could only now be identified by the job title they now carry." Before the reorganization, the engineering department had its own centralized personnel administration which no longer exists. Instead, the network segment has its own centralized personnel administration. The parties did stipulate, however, that the engineering clerks' job titles have been in existence for approximately 20 years and that their job duties did not change as a result of the reorganization.

In his decision, the Regional Director concluded that the engineering clerks do appear to share a community of interest with unit clericals as a result

of the 1979 reorganization. Nonetheless, he found the engineering clerks' job titles and duties had not changed in a 20-year period and, applying Board precedent that indicates that classifications of employees who have been historically excluded from a unit are not normally accreted into a unit,⁷ the Regional Director concluded that accretion was improper and that the engineering clerks were instead entitled to a self-determination election. We find the precedent cited by the Regional Director inapplicable here. As a result of the Employer's reorganization, the apparent reason for the engineering clerks' exclusion from the unit, i.e., a separate engineering department, has ceased to exist. The engineering clerks now appear to be indistinguishable on the bases of job function, supervision, work objective, work location, or anything other than the continued existence of a separate job title. In these narrow circumstances, we think accretion of these employees into the unit is appropriate,⁸ and we shall accordingly clarify the existing unit consistent with our conclusion.

ORDER

It is hereby ordered that the collective-bargaining agreement covering the employees of Southwestern Bell Telephone Company represented by Communications Workers of America, AFL-CIO, at its locations in Little Rock, Arkansas; Topeka, Kansas; Kansas City and St. Louis, Missouri; and Oklahoma City, Oklahoma, be, and it hereby is, clarified by including all employees with the following job titles at those locations: intermediate clerk, clerk typists, clerical drafter, records and compilation clerk, clerical stenographer, reports and studies clerk, special stenographer, analysis clerk, clerical assistant.

⁷ See, e.g., *Union Electric Company*, 217 NLRB 666, 668, fn. 10 (1975).

⁸ Cf. *CF&I Steel Corporation*, 196 NLRB 470-471 (1972), re: "Credit Department."