

South Carolina Electric & Gas Company and International Brotherhood of Electrical Workers, AFL-CIO, Local 398, Petitioner. Case 11-RC-4658

July 10, 1979

DECISION ON REVIEW AND DIRECTION OF ELECTION

BY CHAIRMAN FANNING AND MEMBERS JENKINS AND PENELLO

On March 21, 1979, the Regional Director for Region 11 issued a Decision and Direction of Election in the above-entitled proceeding in which he found the petitioned-for unit for "downstairs clerks" working in the Employer's Charleston electric distribution department an appropriate unit for purposes of collective bargaining. In so doing, the Regional Director rejected the Employer's position that any unit of clerks in its Charleston electric distribution department must include both "upstairs clerks" and "downstairs clerks." Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision. The National Labor Relations Board, by telegraphic order dated April 13, 1979, granted the Employer's request for review. Thereafter, the Employer filed a brief on review.

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.

The Board has considered the entire record in this case, including the Employer's brief on review, with respect to the issues under review, and makes the following findings:

The Employer, a South Carolina corporation, is engaged in the distribution of electricity and natural gas and in the operation of urban mass transit systems. This proceeding involves employees only in the Employer's Charleston electric distribution department, which is responsible for building, operating, and maintaining electric power distribution lines. Petitioner, which currently represents linemen at the Charleston facility, seeks to represent a unit of clerks at the same facility. It contends that the requested unit is composed of two downstairs clerks. The Employer conceded at the hearing that a unit of all clerks in its Charleston electric distribution department would be appropriate, but asserted that such a unit must include seven upstairs clerks in addition to the two downstairs clerks.

The record shows that the Employer's upstairs clerks work in an office in the main building of the

Employer's facility located at 642 Meeting Street, Charleston, South Carolina. This building is connected by a covered patio to a smaller building. The two downstairs clerks work in the smaller building.

The duties of upstairs and downstairs clerks vary, but are primarily clerical. Four of the upstairs clerks receive calls from customers regarding complaints or requests for service, in addition to performing other clerical duties. Two upstairs clerks are switchboard operators, and one upstairs clerk is classified as a stenographer and has responsibility for minor letterwriting for the department manager and for processing requisitions, purchase orders, and payroll records. The two downstairs clerks are primarily responsible for maintaining time and mileage records for the linemen. In addition, they handle the issuance of tools and safety equipment to linemen. One of the downstairs clerks may, on occasion, perform some loading and unloading work, but this occupies no more than about 3 percent of his time.

It appears that there is frequent contact, both face-to-face and via telephone, between upstairs and downstairs clerks. The Employer's personnel manager testified, for example, that "there would never be a day that passes [that downstairs clerks] wouldn't be [in the upstairs office] for some reason or other." These contacts involve, *inter alia*, the processing of records regarding the distribution by downstairs clerks of safety equipment and other supplies to the linemen. Additionally, downstairs and upstairs clerks use the same employee lounge, all clerks have essentially the same skills (the Employer requires only a high school diploma for employment in either office),¹ upstairs clerks frequently fill in for absent downstairs clerks, and, during the "summer storm months," downstairs clerks work upstairs to handle the telephones approximately 2 days per week. Finally, there is testimony that one employee transferred from the downstairs office to the upstairs office and later transferred back downstairs.

Upstairs clerks are supervised by Supervisor Benton, while downstairs clerks are supervised by Supervisor Cox, who also supervises linemen. Ordinarily, downstairs clerks do not report to Benton, and upstairs clerks do not report to Cox, except in those situations, described above, when there are temporary assignments between offices.

Wages and other working conditions for clerks are essentially the same. Thus, the record shows that all clerks, upstairs and downstairs, are salaried and receive the same fringe benefits. Downstairs clerks and

¹ One of the downstairs clerks apparently had been a utilityman. There is no evidence, nor is it contended, that this experience was a prerequisite to performing his duties as a downstairs clerk.

one of the upstairs clerks work 40 hours per week. The other upstairs clerks work 37-1/2 hours per week.

In view of the foregoing, we find merit in the Employer's exceptions to the Regional Director's conclusion that a unit limited to the two downstairs clerks is appropriate. In so concluding, the Regional Director relied on evidence that the downstairs clerks are separately supervised, work in another building separated from the upstairs office, and have different work schedules and different previous work experience. However, despite evidence of separate immediate supervision, slightly different work schedules, and physically separate work stations,² we are persuaded that an appropriate unit must include both upstairs and downstairs clerks. In this connection, we find it significant that upstairs clerks perform functions which are closely related to the functions of the downstairs clerks, that both groups of clerks are in the same administrative department, that there are significant instances of both temporary and permanent transfers between the upstairs and downstairs offices, and that all clerks are salaried and receive the same fringe benefits. Accordingly, we find that the two downstairs clerks do not share a community of interest sufficiently separate from the upstairs clerks to warrant their representation in a separate unit.

² As suggested above, there is no evidence, nor is it contended, that the fact that one of the downstairs clerks had been assigned to the field before he assumed his position in the downstairs office indicates that this field experience was prerequisite or even relevant to his position as a downstairs clerk.

Hence, contrary to the Regional Director, we conclude that the downstairs clerks do not comprise an appropriate unit.³ See *Atlanta Gas Light Company*, 158 NLRB 240 (1966); cf. *Connecticut Light and Power Company*, 222 NLRB 1243 (1976).

Accordingly, in light of the foregoing, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All upstairs and downstairs clerks employed by the Employer at its Charleston electric distribution department, excluding all production and field employees, technicians, pipe welders, pipe welders' assistants, guards and supervisors as defined in the Act.

[Direction of Election⁴ and *Excelsior* footnote omitted from publication.]

³ Moreover, the unit described in the Regional Director's decision, which includes downstairs clerks but excludes, *inter alia*, "all other office clerical employees" (emphasis supplied), is inappropriate on its face. See, e.g., *California Physicians' Services, d/b/a California Blue Shield*, 178 NLRB 716, 718 (1969).

⁴ At the hearing the Employer conceded that a unit consisting of both upstairs and downstairs clerks would be an appropriate unit. However, no evidence appears in the record as to whether Petitioner is willing to proceed to an election in such a larger unit. Accordingly, inasmuch as the unit found appropriate herein is larger than the unit sought by Petitioner, the Direction of Election is conditioned upon Petitioner's demonstrating, within 10 days from the date hereof, that it has an adequate showing of interest in the broader unit found appropriate.