

In the Matter of THE CONNECTICUT POWER COMPANY (STAMFORD DIVISION) and LOCAL UNION B-468, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. OF L.

*Case No. 2-R-4139.—Decided October 7, 1943*

*Maguire, Walker & Middleton, by Messrs. Walter N. Maguire and Keith T. Middleton, of Stamford, Conn., for the Company.*

*Mr. William F. Steinmiller, of Hartford, Conn., and Mr. Robert Kerr, of Stamford, Conn., for the Union.*

*Miss Frances Lopinsky, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon a petition duly filed by Local Union B-468, International Brotherhood of Electrical Workers, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Connecticut Power Company (Stamford Division), Stamford, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James C. Paradise, Trial Examiner. Said hearing was held at Stamford, Connecticut, on September 13, 1943. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Connecticut Power Company is a Connecticut corporation engaged in the business of manufacturing and selling gas, and purchasing, generating and distributing electric current. That part of

the electricity which it distributes but does not generate is purchased from utilities operating outside the State of Connecticut. Ninety percent of the coal and oil and other raw materials used by it in the manufacture of gas and electricity is shipped to it from points outside the State. Fifty percent of the \$10,000 worth of repair parts used by it annually come from points outside the State. The Company supplies gas and electricity to five counties within the State of Connecticut, sells power to three utilities outside the State who accept delivery at the State line, furnishes power to the New Haven and Hartford Railroad for incidental use in connection with its operations, to many industrial plants whose products move in interstate commerce, and to government buildings, radio stations and telephone exchanges. Only the Company's electric generating station located at Stamford, Connecticut, is involved in this proceeding.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Local Union B-468, International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the employees of the Stamford Electric Station until the Union has been certified by the Board in an appropriate unit.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The Company and the Union agree that the employees of the Stamford Electric Station constitute a unit appropriate for the purposes of collective bargaining. The Union would include and the Company would exclude from this unit watch engineers and working foremen.

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<sup>1</sup> The Regional Director reported that the Union submitted 75 application-for-membership cards, 72 of which bore apparently genuine original signatures; that the names of 67 persons appearing on the cards were listed on the Company's pay roll of July 23, 1943, which contained the names of 102 employees in the appropriate unit; that the cards were dated 1 in April 1941, 59 in May, June, and July, 1943, and 13 undated.

There are 5 watch engineers<sup>2</sup> and 5 working foremen. The superintendent of power is in charge of the Station. The assistant superintendent of power is the immediate supervisor of the watch engineers. Each watch engineer is in control of the men in his shift, and on night and holiday shifts he is the ranking employee in the plant. The maintenance crew is in charge of a mechanical foreman and an assistant mechanical foreman who are the immediate supervisors of the working foremen. Each of the working foremen is in charge of a crew of from 2 to 11 men. The assistant superintendent of power and the mechanical foreman are each directly responsible to the superintendent of power. The relationship of the watch engineers to the men on their respective shifts and that of the working foremen to the men in their respective crews is so similar that we shall treat these two categories as one.

The Union bases its contention on its representation of similar employees in similar utilities and on the inclusion of line foremen in another unit of the Company's employees represented by it, the fact that watch engineers and working foremen do physical work whenever the need arises for an extra hand, and the fact that they have no authority to hire or discharge. It is clear, however, that the recommendations of these men are relied upon by the management in matters of promotion, demotion, transfer, and discharge, that they actively direct and supervise the work of the men working under them, receive higher pay than do those men and have a certain amount of discretion in the performance of their duties. We, accordingly, find watch engineers and working foremen to be supervisory employees and shall exclude them from the unit.<sup>3</sup>

We find that all employees of the Stamford Electric Station but excluding watch engineers and working foremen and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

<sup>2</sup> One for each shift, one for the relief shift and one in reserve.

<sup>3</sup> See *Matter of Schutte & Koerting Company*, 44 N. L. R. B. 528.

The Company contests the right of six men, Grimm, Cable, Costello, Zarr, Gale, and Anderson, to vote in this election on the ground that they are temporary employees. These employees formerly worked in other divisions of the Company and were transferred to the Electric Station because their previous positions had been abolished due to War conditions. The Company considers them temporary because they will be returned to their former positions as soon as practicable and they will also give way to returning service men whose positions they now hold. They are in no other way considered "temporary." They have been employed at their present positions for terms ranging from 5 months to a year and a half; they enjoy all of the privileges of permanent employees. Although their tenure is indefinite, they are sufficiently well established in their respective "temporary" jobs to have a vital interest in the working conditions in the unit to which they are now attached. They are, accordingly, entitled to vote in this election.<sup>4</sup>

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Connecticut Power Company (Stamford Division), Stamford, Connecticut, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11 of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by Local Union B-468, International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

<sup>4</sup> See *Matter of Northern Indiana Public Service Co.*, 51 N. L. R. B. 500.