

In the Matter of OREGON ELECTRIC STEEL ROLLING MILLS and UNITED
STEELWORKERS OF AMERICA, LOCAL No. 3010, C. I. O.

Case No. 19-R-1169.—Decided October 22, 1943

Mr. Leon D. Margosian, of Portland, Oreg., for the Company.

Mr. James L. Menzie, of Portland, Oreg., for the USA.

Mr. Edwin D. Hicks, of Portland, Oreg., for the AFL.

Mr. Robert Silagi, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, Local No. 3010, C. I. O., herein called the USA, alleging that a question affecting commerce had arisen concerning the representation of employees of Oregon Electric Steel Rolling Mills, Portland, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Portland, Oregon, on September 10, 1943. The Company, the USA, and Steel & Chemical Workers Council of Portland and Vicinity, affiliated with the A. F. of L., herein called the AFL, 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.

At the hearing the AFL filed a written protest to the holding of the hearing. Its objections were that (a) it had not received sufficient time in which to prepare for the hearing, and (b) that a charge of unfair labor practices had been filed against the Company. The Trial Examiner overruled these protests. The record shows that some weeks prior to the date of the hearing the AFL participated in several conferences relating to this proceeding; that the executive director of the AFL had participated in at least one such conference; and that counsel for the AFL had knowledge of the matters relating to the case. As to the second objection, the record shows that the day

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before the hearing the AFL filed charges alleging violations of Section 8 (1) and (3) of the Act by the Company. On October 5, 1943, a settlement agreement, entered into between the AFL and the Company disposing of the charges, was approved by the Acting Regional Director.

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

Oregon Electric Steel Rolling Mills is an Oregon corporation engaged in the rolling of steel bars. The Company has been but recently organized and its plant in Portland just completed. As of the date of the hearing the plant had not yet embarked upon its regular production schedule. The Company secures its raw products, consisting chiefly of scrap metal, from local shipyards which in turn receive all their steel from sources outside the State of Oregon. According to agreements which the Company has with the United States Maritime Commission and several industrial concerns on the Pacific Coast, it is anticipated that about half of its finished products will be shipped to purchasers located outside the State of Oregon. The Company's products will be used almost entirely in war production, and mainly in the manufacture of ships and ship equipment.

The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, Local No. 3010, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Steel & Chemical Workers Council of Portland and Vicinity, affiliated with the Metal Trades Council of Portland and Vicinity, and affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During April or May 1943, representatives of the Metal Trades Council demanded recognition as the collective bargaining representative of the employees of the Company and requested that the Company

sign a union contract. The Company refused this request. Thereafter, on June 23, the USA notified the Company that it represented a majority of the Company's production and maintenance employees and requested a meeting for the purposes of collective bargaining. The Company informed the USA that it would not negotiate until a duly authorized collective bargaining representative had been determined by the Board.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that each union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 USA seeks a unit comprised of all production and maintenance employees, excluding supervisory employees, temporary construction workers, and office and clerical employees. The Company agrees to the appropriateness of this unit but the AFL would include the temporary construction workers.

As stated above, construction of the Company's plant has been recently completed. During the course of the construction and the installation of machinery, the Company employed numerous construction employees, but as of the date of the hearing, no such employees appeared on its pay roll. A Company executive testified that the plant was in the process of adjustment and that its regular maintenance crew would install all machinery subsequently acquired by the Company. It therefore is apparent that the problem of including construction employees needs no solution and accordingly, we find that all production and maintenance employees of the Company, but excluding office and clerical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend

¹ The Field Examiner reported that the USA submitted 55 designation cards, all of which bore apparently genuine original signatures; that the names of 39 persons appearing on the cards were listed on the Company's pay roll of September 1, 1943, which contained the names of 65 employees in the appropriate unit; and that the cards were dated between March and August 1943.

The AFL submitted 51 designation cards, all of which bore apparently genuine original signatures. The names of 15 persons appearing on the cards were listed on the Company's pay roll of September 1, 1943, which contained the names of 65 employees in the appropriate unit. The cards were dated between April and August 1943.

At the hearing the USA submitted 2 additional cards, and the AFL submitted 4 additional cards. Both USA cards bore apparently genuine signatures which were the names of persons listed on the Company's pay roll of September 1, 1943. All the AFL cards bore apparently genuine original signatures, but only 1 contained the name of a person listed on the Company's pay roll of September 1, 1943.

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

The AFL contends that a present election would be premature because of the newness of the Company. In view of the uncontradicted evidence that the production and maintenance unit of approximately 65 employees is expected to be increased by only 15 persons, or at most by 30 persons in the event another furnace is installed, we find no merit in this contention. The settlement agreement, referred to before, provides for the posting of notices by the Company for a period of 60 days. We shall therefore not adhere to our normal practice of directing elections to be held within 30 days from the date of the direction of election but shall allow a 60-day period for that purpose. Similarly, we shall determine the date of eligibility to vote by the pay-roll period immediately preceding the election instead of the Direction of Election.

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 pay-roll period immediately preceding the date of the election herein, subject to the limitations and additions set forth in the Direction.

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 Oregon Electric Steel Rolling Mills, Portland, Oregon, an election by secret ballot shall be conducted under the direction and supervision of the Regional Director for the Nineteenth 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, at such time as the Regional Director deems appropriate but not later than sixty (60) days from the date of this Direction, 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 the election, 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, and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Steelworkers of America, Local No. 3010, affiliated with the Congress of Industrial Organizations, or by Steel & Chemical Workers Council of Portland and Vicinity, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.