

In the Matter of THE ASHTABULA TELEPHONE COMPANY and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION B-899, A. F. OF L.

*Case No. 8-R-1247.—Decided October 23, 1943*

*Mr. A. T. Ullman and Mr. J. D. Bonnar, of Ashtabula, Ohio, for the Company.*

*Mr. James Preston, of Washington, D. C., and Mrs. Theresa Donahy, of Cleveland, Ohio, and Mrs. Francis McCoy, of Ashtabula, Ohio, for the I. B. E. W.*

*Mr. Joseph Corrigan, Mr. R. W. Day, and Mr. F. P. Sachs, of Cleveland, Ohio, for the Federation.*

*Mr. Louis Cokin, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Brotherhood of Electrical Workers, Local Union B-899, A. F. of L., herein called the I. B. E. W., alleging that a question affecting commerce had arisen concerning the representation of employees of The Ashtabula Telephone Company, Ashtabula, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Ashtabula, Ohio, on October 1, 1943. At the commencement of the hearing, the Trial Examiner granted a motion of The Ohio Federation of Telephone Workers, Inc., Local 108, herein called the Federation, to intervene. The Company, the I. B. E. W., and the Federation appeared at and participated in the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the Federation moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. The Trial Examiner's rulings made at the hearing are free

from prejudicial error and are hereby affirmed. All parties were afforded 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 Ashtabula Telephone Company is an Ohio corporation with its principal place of business at Ashtabula, Ohio, where it furnishes telephone communication facilities. During 1942, the Company purchased equipment, material, and supplies valued at about \$20,000, 58 percent of which was shipped to it from points outside the State of Ohio. The Company is the only one operating telephone facilities in Ashtabula, Ohio, and handles long distance telephone service over its own lines and over the lines of the Ohio Bell Telephone Company and American Telephone and Telegraph Company. It is impossible to make or receive a long distance call in the territory serviced by the Company unless the Company's facilities are used. During 1942, the Company's gross revenue amounted to about \$135,700, approximately 2.85 percent of which was derived from interstate messages. The Company furnishes exclusive telephone service in its territory to the New York Central System, the Nickle Plate Railroad Company, the Pennsylvania Railroad Company, the New York Central and Pennsylvania Coal and Ore Docks, the Ordnance Plant of American Fork and Hoe Company, and Electro-Metallurgical Company. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers, Local Union B-899, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

The Ohio Federation of Telephone Workers, Inc., Local 108, is a labor organization, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On July 24, 1943, the I. B. E. W. requested recognition of the Company as the exclusive bargaining representative of the telephone operators employed by the Company. The Company refused this request.

On September 1, 1942, the Company and the Federation entered into an exclusive collective bargaining contract. The contract provides that "it shall remain in force and effect for at least six months

and shall continue in force thereafter subject to 30 days' written notice of a desire to terminate" by either party thereto. Since the agreement by its terms may be terminated upon 30 days' notice by either party thereto after March 1, 1943, the agreement constitutes no bar to a determination of representatives at this time.<sup>1</sup>

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the I. B. E. W. represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>2</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

We find, in substantial agreement with a stipulation of the parties, that all employees at the Ashtabula plant of the Company known as telephone operators, excluding the chief operator in the traffic department, and any 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 means of 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 Direction of 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 The Ashtabula Telephone Company, Ashtabula, Ohio, an election by secret ballot

<sup>1</sup> See *Matter of Phelps-Dodge Refining Corporation*, 40 N. L. R. B. 1159.

<sup>2</sup> The Field Examiner reported that the I. B. E. W. presented 18 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of July 25, 1943. There are approximately 23 employees in the appropriate unit. The Federation did not present any evidence of representation but relies on its contract as evidence of its interest in the instant proceeding.

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 Eighth 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 any 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 International Brotherhood of Electrical Workers, Local Union B-899, affiliated with the American Federation of Labor, or by the Ohio Federation of Telephone Workers, Inc., Local 108, 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.