

In the Matter of WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY
and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA,
LOCAL 760, C. I. O.

Case No. 8-R-1251.—Decided November 8, 1943

Mr. Robert D. Blasier, of Pittsburgh, Pa., for the Company.

Mr. Henry Fiering, of Dayton, Ohio, and *Mr. Walter J. Pierce*,
of Lima, Ohio, for the U. E.

Mr. Robert J. Kuhn and *Mr. S. E. Swanson*, of Lima, Ohio, for
the Association.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio & Machine Workers of America, Local 760, C. I. O., herein called the U. E., alleging that a question affecting commerce had arisen concerning the representation of employees of Westinghouse Electric & Manufacturing Company, Lima, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Lima, Ohio, on October 26, 1943. At the commencement of the hearing the Trial Examiner granted a motion of Lima Westinghouse Salaried Employees Association, herein called the Association, to intervene. The Company, the U. E., and the Association appeared at and participated in the hearing and all parties 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 Association 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:

53 N. L. R. B., No. 90.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Westinghouse Electric & Manufacturing Company is a Pennsylvania corporation operating a plant at Lima, Ohio, with which we are here concerned, where it is engaged in the manufacture of fractional horsepower motors and miscellaneous electrical equipment. The Company purchases raw materials valued in excess of \$5,000,000 annually for use at its Lima plant, about 80 percent of which is shipped to it from points outside the State of Ohio. During the same period the Company sells finished products valued in excess of \$20,000,000, at least 75 percent of which is shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America, Local 760, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Lima Westinghouse Salaried Employees' Association is a labor organization affiliated with the Federation of Westinghouse Independent Unions, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the U. E. as the exclusive collective bargaining representative of certain employees at the Lima plant.

On August 15, 1942, the Company and the Association entered into an exclusive bargaining contract. The contract is terminable upon 30 days' notice of either party thereto. On September 10, 1943, the Company and the Association entered into a new agreement. This agreement also provides that it is terminable upon 30 days' notice of either party thereto. Inasmuch as the contract is subject to termination by either party thereto at any time, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the U. E. represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

¹ The Field Examiner reported that the U. E. presented 254 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of August 25, 1943. There are approximately 777 persons in the appropriate unit. The Association did not present any evidence of representation, but relies upon its contract as evidence of its interest in the instant proceeding.

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 salaried technical and clerical employees at the Lima plant of the Company, excluding shop production clerks, secretary to the plant manager, secretary to the manager of industrial relations, and all 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 Westinghouse Electric & Manufacturing Company, Lima, Ohio, 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 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 the 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 United Electrical, Radio & Machine Workers of America, Local 760, C. I. O., or by Lima Westinghouse Salaried Employees Association, affiliated with the Federation of Westinghouse Independent Unions, 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.