

In the Matter of PITTSBURGH PLATE GLASS COMPANY and DISTRICT 50,
UNITED MINE WORKERS OF AMERICA

In the Matter of PITTSBURGH PLATE GLASS COMPANY and CHEMICAL
WORKERS UNION No. 23514 OF AMERICAN FEDERATION OF LABOR

In the Matter of PITTSBURGH PLATE GLASS COMPANY and CHEMICAL
PLANT GUARDS UNION OF AMERICAN FEDERATION OF LABOR, LOCAL
23536

*Cases Nos. 6-R-803, 6-R-810 and 6-R-838 respectively—Decided
December 6, 1943*

*Messrs. Harold W. Hawes, Clarence Moser, J. A. Neubauer, and
T. R. Donaghue, all of Pittsburgh, Pa., for the Company.*

*Messrs. W. O. Donahue and Joseph Distefano, of Bellaire, Ohio, for
the U. M. W.*

*Mr. H. J. Paar, of New Martinsville, W. Va., for the Chemical
Workers and the Chemical Plant Guards.*

*Mr. John F. Victozzone, of Neff, Ohio, Mr. Frank Lasick, of Pitts-
burgh, Pa., and Mr. John Grady, for the C. I. O.*

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by District 50, United Mine Workers of America, herein called the U. M. W., Chemical Workers Union No. 23514, A. F. L., herein called the Chemical Workers, Chemical Plant Guards Union of the American Federation of Labor, Local 23536, herein called the Chemical Plant Guards,¹ alleging that questions affecting commerce had arisen concerning the representation of employees of Pittsburgh Plate Glass Company, New Martinsville, West Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due

¹ Incorrectly referred to in the petition and other formal papers as Chemical Plant Guards Union of the American Federation of Labor, and corrected by stipulation at the hearing.

notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at New Martinsville, West Virginia, on November 4, 1943. The Company, the U. M. W., the Chemical Workers, the Chemical Plate Guards, and the Congress of Industrial Organizations, herein called the C. I. O., appeared, participated, and 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 the 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

Pittsburgh Plate Glass Company, a Pennsylvania corporation, has its principal place of business in Pittsburgh, Pennsylvania, and is engaged in the manufacture, sale, and distribution of various types of chemicals, varnishes, paints, lacquers and many types of glass. The Company operates and maintains many plants throughout the United States, including a plant known as the Natrium plant, the only one involved in this proceeding and situated near New Martinsville, West Virginia. The Natrium plant is owned by the Defense Plant Corporation of the United States Government and has been operated by the Company since July 1943 for the manufacture of chlorine gas, liquid chlorine and liquid caustic soda. During the months of July and August, 1943, the Company purchased and shipped to its Natrium plant from points outside the State of West Virginia raw material having a value of approximately \$10,400. During the month of August 1943, the Company sold and shipped from its Natrium plant finished products having a value of approximately \$14,400. Of the Company's total production, about 80 percent is devoted either directly or indirectly to the National War Effort. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

District 50 is a labor organization affiliated with the United Mine Workers of America, admitting to membership employees of the Company.

Chemical Workers Union No. 23514, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Chemical Plant Guards Union of the American Federation of Labor Local 23536, is a labor organization admitting to membership employees of the Company.

The Congress of Industrial Organizations is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 27, 1943, the U. M. W., claiming to represent a majority of the employees at the Company's Natrium plant, requested in writing that the Company arrange a meeting for the purpose of collective bargaining. The Company replied that the U. M. W. would have to prove its claim to majority representation before the Company could enter into negotiation with the U. M. W.

On August 24, 1943, the C. I. O. advised the Company that it was in the process of organizing the employees of the Company's Natrium plant and that it claimed an interest in any proceedings regarding the, aforesaid employees.

On or about September 2, 1943, the Chemical Workers and the Chemical Plant Guards requested exclusive recognition as the collective bargaining agents for separate units of the production and maintenance employees, and plant guards, respectively, employed at the Company's Natrium plant. The Company declined to bargain with either organization until certified by the Board.

A statement of the Regional Director introduced in evidence at the hearing, indicates that the U. M. W., the C. I. O., the Chemical Workers, and the Chemical Plant Guards, each represents a substantial number of employees of the Company in the unit which it claims to be appropriate.²

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 National Labor Relations Act.

IV. THE APPROPRIATE UNITS

The U. M. W., the C. I. O., and the Chemical Workers are in agreement and contend that the appropriate industrial unit should consist of all production and maintenance employees at the Company's

² With respect to the production and maintenance unit, which according to the Company's pay roll of September 10, 1943, contains approximately 161 employees, the Regional Director reported that the U. M. W. had submitted 74 membership cards dated between July and September 1943, of which 71 bore the apparently genuine signatures of persons whose names appear on the said pay roll of the Company; that the Chemical Workers Union had submitted 141 application for membership cards dated during August and September 1943, of which 127 bore the apparently genuine original signatures of persons whose names appear on the said pay roll; that the C. I. O. had submitted 22 membership cards dated during September 1943, of which 20 bore the apparently genuine signatures of persons whose names appear on the said pay roll.

With respect to the plant guard unit, the Regional Director reported that the Chemical Plant Guards had submitted 23 membership cards dated during September 1943, all of which cards bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of October 8, 1943, containing approximately 24 names in the claimed appropriate unit of plant guard employees.

Natrium plant including janitors, cleaners and laboratory employees (analysts), but excluding foremen, office clerical employees, chemists, and plant-protection guards 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. The Company does not oppose the general classifications of the unit as agreed upon by the unions, but contends that analysts should be excluded therefrom as confidential employees.

The Chemical Plant Guards, which alone of the unions is interested in the Company's militarized guards, contends that the appropriate guard unit should consist of all guards, including corporals, but excluding all other employees 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. The Company's only objection to the proposed guard unit is that corporals should be excluded therefrom as supervisory employees.

With respect to the disputed category of analysts,³ it appears that analysts, who are predominately female employees, are not scientifically trained chemists, but are merely required to have a high school education or its equivalent. They are trained by the Company in a short period of time to make limited routine tests of raw materials and products for the purpose of maintaining quality production.⁴ As a group, analysts are incapable of doing research and could not analyze any new product that might be brought to their attention for testing purposes. By comparison with the Chief chemist who has knowledge of all the Company's formulas, the group of analysts know only the formulas with which they are working, and do not receive reports of tests on their completion. They also have no access to the files or correspondence of the Company and keep no permanent files in connection with their work. While they are salaried employees, their salaries are in the lower brackets and are comparable to the wages received by the ordinary production and maintenance employees. About the same initial qualifications are required for analysts and production and maintenance employees, the qualifications in each case being a fair amount of intelligence and education. Analysts have apparently no supervisory duties and work under the direction of the more experienced chemical engineers. Not only do the U. M. W., the

³ Under the classification of analysts are two female employees who are known under the designation of sample carrier and bottle washer, and whose duties consist of carrying pint bottles of chemicals from the production room to the laboratory. While their present duties are purely physical, it appears that they are in training for future positions as analysts.

⁴ After an analyst makes a routine test of a bottle of chemical material, she lists the results of the test in a note book in the laboratory and this information is passed on to the clerks in other offices who make typewritten reports of the results of her analysis. It appears that the analyst is never advised concerning the result of her reports.

Chemical Workers and the C. I. O. all admit analysts to membership, but the U. M. W., the C. I. O., and the Chemical Workers have in many instances included analysts under collective bargaining agreements covering plants similar to that involved in the present instance.⁵ The Board has frequently found that employees with similar status and duties should be included in a production unit.⁶ Accordingly, we find that the analysts in question are neither supervisory nor confidential employees; we shall include these nonprofessional laboratory workers within the appropriate unit of production and maintenance employees.

There remains for consideration the question of including or excluding corporals from the unit of plant-protection employees. This group consists of 19 guards and 4 corporals, all of whom are armed, wear prescribed uniforms, and are militarized through having taken the oath prescribed by the Fifth Service Command of the United States Army. The guards hereinabove referred to as "corporals" are in charge of the other guards on their respective turns, there being at the present time no higher ranking guard officers or supervisors other than the Fire Chief and Personnel Director, who share the function of supervision with respect to guards.⁷ Corporals issue orders to the guards, supplementing and explaining the general orders and instructions issued by the Company. Corporals also assign the guards to specific posts, transfer them from one post to another, and on occasion prevent them from going to work when they report in a condition unfit for duty. While corporals do not have the power to hire or discharge employees or the guards, they apparently have duties usually performed by a captain or sergeant of the guards, such as patrolling and inspecting the work and alertness of the guards, together with the making of reports and recommendations with respect to the discipline, hiring and discharge of guards, which recommendations carry considerable weight with the Company. During the night shifts, corporals are in complete charge with respect to the protection of the plant. We are of the opinion and find that the corporals in question are supervisory employees within our usual definition of the term.⁸

⁵ While the U. M. W. and the Company have an agreement covering the workers at its Barberton, Ohio, plant, which apparently excludes the analysts from the appropriate unit, this unit was arrived at because of the Company's arbitrary classification and treatment of the analysts as salaried workers, which classification was apparently accepted by the U. M. W. for the purpose of determining the unit which their contract would cover. There has, however, been no determination by the Board with respect to the unit at the Barberton plant. There is also no prior determination by the Board or history of collective bargaining with respect to the Natrium plant involved herein.

⁶ See *Matter of Mathieson Alkali Works*, 38 N. L. R. B. 1084, 1089; *Matter of Commercial Solvents Corporation*, 45 N. L. R. B. 141; *Matter of The Barrett Division Allied Chemical & Dye Corporation*, 46 N. L. R. B. 95; *Matter of Lord Manufacturing Company*, 49 N. L. R. B. 278.

⁷ The Company formerly included "sergeants" in its plant protection force but has dispensed with the services of sergeants since the filing of the present petition relating to guards.

⁸ See *Matter of Jones & Laughlin Steel Corporation*, 52 N. L. R. B. 975.

They will, accordingly, be excluded from the appropriate unit of militarized guards.

We find that (1) all production and maintenance employees employed at the Company's Natrium plant, including janitors, cleaners, laboratory employees (analysts), but excluding foremen, office clerical employees, chemists, and plant-protection guards 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, and (2) all guards employed at the Company's Natrium plant, excluding corporals 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 separate units 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 elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

The Chemical Workers requests that its name appear on the ballot as Chemical Workers Union No. 23514, American Federation of Labor. The Chemical Plant Guards and the C. I. O. request that they appear on the ballot as Chemical Plant Guards Union, No. 23536, American Federation of Labor, and as Gas By-Product, Coke and Chemical Workers, C. I. O., respectively. We hereby grant these requests.

DIRECTION OF ELECTIONS

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, separate elections 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 Sixth 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 units 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 and have not been rehired or reinstated prior to the date of the election, to determine: (1) whether the employees in the production and maintenance unit desire to be represented by District 50, United Mine Workers of America, or by Chemical Workers Union No. 23514, American Federation of Labor, or by Gas, By-Product, Coke and Chemical Workers, C. I. O., or by none of these organizations; and (2) to determine whether or not the employees in the plant guard unit desire to be represented by Chemical Plant Guards Union No. 23536, American Federation of Labor, for the purposes of collective bargaining.