

In the Matter of WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY (LOUISVILLE ORDNANCE DIVISION) and ELECTRICAL WORKERS UNION, LOCAL #369, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. OF L.

*Case No. 9-R-1104.—Decided December 3, 1943*

*Messrs. John E. Garrant and James R. Howell, both of Louisville, Ky., and Mr. Gerald C. Moore, of Louisville, Ky., for the Company.*

*Mr. Lawrence F. Daly, of Washington, D. C., Messrs. H. H. Hudson and T. W. Nagel, both of Louisville, Ky., for the I. B. E. W.*

*Mr. Van B. Carter, of Louisville, Ky., for the I. A. M.*

*Mr. C. H. Van Tyne, of Louisville, Ky., and Mr. Waldo Stager, of Cincinnati, Ohio, for the U. E.*

*Mr. David V. Easton, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon petition duly filed by Electrical Workers Union, Local #369, International Brotherhood of Electrical Workers, 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 Westinghouse Electric & Manufacturing Company (Louisville Ordnance Division), Louisville, Kentucky, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Louisville, Kentucky, on September 29, 1943. The Company, the I. B. E. W., Naval Ordnance Local Lodge No. 830, International Association of Machinists, affiliated with the American Federation of Labor, herein called the I. A. M., and United Electrical, Radio & Machine Workers of America, affiliated with the CIO, herein called the U. E., 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 opportunity to file briefs

with the Board. At the hearing the Company filed a motion to dismiss the petition, which the Trial Examiner referred to the Board. This motion was granted, and the Board, on October 23, 1943, issued its Decision and Order dismissing the petition of the I. B. E. W. on the ground that the alternative units sought therein were inappropriate for the purposes of collective bargaining.

The Board, upon reexamination of the record, deemed it advisable to take the matter under reconsideration, and hereby vacates the Decision and Order previously issued and reinstates the petition herein.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Westinghouse Electric & Manufacturing Company, a Pennsylvania corporation with its principal offices and place of business located in Pittsburgh, Pennsylvania, is engaged in the manufacture of a wide variety of electrical machinery and equipment, and operates numerous plants in various States of the United States. One division of the Company is the United States Naval Ordnance Plant located in Louisville, Kentucky, with which we are concerned herein. The Louisville plant is engaged in the manufacture and assembly of ordnance for the United States Navy. Ninety-five percent of the raw materials used at said plant is obtained from points outside the State of Kentucky and substantially all of the products of the plant are shipped to points outside the State of Kentucky. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

### II. THE ORGANIZATIONS INVOLVED

Electrical Workers Union, Local #369, International Brotherhood of Electrical Workers, and Naval Ordnance Local Lodge No. 830, International Association of Machinists, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

### III. THE QUESTION CONCERNING REPRESENTATION

The I. B. E. W. requested recognition from the Company as representative of its employees engaged as electric crane operators; the Company refused such recognition unless and until the I. B. E. W. is certified by the Board as the representative of such employees.

A statement of the Trial Examiner, read into the record at the hearing, indicates that the I. B. E. W. and the U. E., each 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 DETERMINATION OF REPRESENTATIVES

In 1941 International Association of Machinists, affiliated with the American Federation of Labor, herein called the I. A. M., was certified as the collective bargaining representative for all production and maintenance employees of the Company, including maintenance electricians, gun wiremen, and crane operators.<sup>2</sup> Thereafter the I. B. E. W. filed a petition seeking to represent a unit consisting of maintenance electricians, gun wiremen, and electric crane operators; the I. A. M. offered no opposition to this petition. In its Decision,<sup>3</sup> the Board found that maintenance electricians and gun wiremen could properly constitute an appropriate craft unit, but that electric crane operators were not so skilled as to warrant being in such a craft unit. Thereafter the I. B. E. W. made a motion for review of the foregoing Decision, which the Board denied. Subsequently, the I. B. E. W. filed the petition in the instant case.

The I. B. E. W. again seeks to include within the unit of maintenance electricians and gun wiremen which it now represents all employees of the Company engaged as electric crane operators, or in the alternative, to bargain for these employees as a separate unit. The I. A. M., which presently represents the crane operators, offers no objection to the petition of the I. B. E. W. The U. E. contends that these employees should remain part of the industrial unit, but desires to participate in any election that might be directed among them. The Company offers no objection to bargaining with the I. A. M., the I. B. E. W., or any other labor organization on behalf of these employees, provided they are included within units previously found appropriate by the Board.

We iterate our previous finding<sup>4</sup> that these employees do not comprise

<sup>1</sup>The Trial Examiner reported that the I. B. E. W. submitted 78 designation cards, all of which bore apparently genuine original signatures; that 63 of these cards contain the names of persons appearing upon the Company's pay roll of September 27, 1943. There are approximately 83 employees within the unit sought by the I. B. E. W. He further reported that the U. E. submitted 61 designations of which 51 bore the apparently genuine original signatures of persons whose names appear upon the afore-mentioned pay roll.

<sup>2</sup>*Matter of Westinghouse Electric & Manufacturing Company (Louisville Ordnance Division)*, 39 N L R B 29

<sup>3</sup>*Matter of Westinghouse Electric & Manufacturing Company (Louisville Ordnance Division)*, 49 N L R B 445

<sup>4</sup>See footnote 3, *supra*.

a sufficiently skilled group to warrant their separation from the industrial unit. However, on reexamination of the record, we are of the opinion that while these employees may not be differentiated from the remaining production and maintenance workers upon the basis of skill, the evidence presented therein indicates that they nevertheless form a distinct and homogeneous group. Under these circumstances, we are of the opinion that they may properly constitute an appropriate unit if they so desire.<sup>5</sup> We shall, therefore, direct an election among those employees of the group engaged as electric cranemen<sup>6</sup> to determine whether they desire to be represented by the I. B. E. W., the U. E., or by neither. Upon the results of this election will depend, in part, our determination of the appropriate unit. If these employees select the I. B. E. W. or the U. E. as their bargaining representative, they shall constitute a separate appropriate unit; on the other hand, if they choose neither of these labor organizations, they shall remain part of the production and maintenance unit.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the group indicated in the Direction of Election below, who were employed during the pay-roll period immediately preceding the date of the Direction of Election, subject to the limitations and additions set forth therein.

#### 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 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric & Manufacturing Company (Louisville Ordnance Division), Louisville, Kentucky, 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 Ninth 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 all electric cranemen employed by the Company, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively rec-

<sup>5</sup> *Matter of American Locomotive Company*, 45 N L R B 1239

<sup>6</sup> The record indicates that some of these employees on occasion operate cranes other than electric cranes; it further indicates that cranemen who operate gasoline cranes, also operate electric cranes. Since both groups operate electric cranes, they fall within the above category

commend such action, who were employed during the pay-roll period, immediately preceding the date of this direction, including employees who did not work during such 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 Electrical Workers Union, Local #369, International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, or by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.