

In the Matter of KANSAS CITY POWER AND LIGHT COMPANY *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFFILIATED WITH THE A. F. of L.

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Cases Nos. 17-R-659 to 17-R-661 inclusive, respectively.—Decided January 18, 1944

Mr. Irvin Fane, of Kansas City, Mo., for the Company.

Messrs. Clif Langsdale and John J. Manning, of Kansas City, Mo., for the I. B. E. W.

Mr. Fred Ruark, of Kansas City, Mo., for the Independent.

Miss Melvern R. Krelow, of Counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petitions duly filed by International Brotherhood of Electrical Workers, affiliated with the A. F. of L., herein called the I. B. E. W., alleging that questions affecting commerce had arisen concerning the representation of employees of Kansas City Power and Light Company, Kansas City, Missouri, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Robert S. Fousek, Trial Examiner. Said hearing was held at Kansas City, Missouri, on November 1, 2, 8, 9, 10, and 11, 1943. The Company, the I. B. E. W., and Independent Union of Utility Employees, affiliated with the United Utilities Union of America, herein called the Independent, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues. During the hearing, the Independent

moved to dismiss the petitions. The Trial Examiner reserved ruling to the Board. For reasons hereinafter set forth, the motions are hereby granted. 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.

Subsequent to the hearing, the parties jointly requested permission to argue orally before the Board. The request is hereby denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Kansas City Power and Light Company, a Missouri corporation having its principal office and place of business in Kansas City, Missouri, is engaged principally in the production, transmission, and distribution of electrical current to domestic, commercial, and industrial consumers in Missouri and Kansas. It is also engaged in the production, distribution, and sale of steam heat in Kansas City, Missouri, and the sale of water in several communities in Missouri and Kansas. It engages in the retail sale of electrical appliances in all communities in which it operates. It owns and operates two electric generating plants in Kansas City, Missouri, and two stand-by plants, one in Missouri and one in Kansas. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

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

Independent Union of Utility Employees is a labor organization affiliated with the United States Utilities Union of America, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT; THE ALLEGED QUESTIONS CONCERNING REPRESENTATION

The I. B. E. W. contends, in general, that (1) all employees in the steam distribution department, exclusive of clerical and supervisory employees, (2) all employees in the meter operating department, exclusive of clerical and supervisory employees, and (3) all groundmen, linemen, apprentice and journeymen linemen, and tree trimmers in the Company's overhead system department in Kansas City, Missouri, and rural Jackson, Clay, and Cass Counties, exclusive of clerical

and supervisory employees, constitute separate appropriate units. The Independent contends that all of the Company's non-supervisory employees other than employees in the Production Department, and including the steam distribution, meter operating, and overhead system departments,¹ constitute an appropriate unit. The Company contends that all of its employees, excluding supervisory employees, constitute an appropriate unit.

On May 31, 1939, the Board directed an election in a unit consisting of the non-supervisory employees in the Company's Production Department.² As a result thereof, Local Union B-412, International Brotherhood of Electrical Workers was certified on August 5, 1940,³ as the collective bargaining representative for the employees in such unit, and has since that time continuously bargained on their behalf under written contract with the Company. In July 1940, the Company recognized the Independent as the collective bargaining representative for all employees other than the Production Department employees, and thereafter executed a collective bargaining contract with the Independent covering such employees, including those in the steam distribution, meter operating, and overhead system departments.⁴

The I. B. E. W. here seeks as separate appropriate bargaining units, 3 of the approximately 12 subdivisions of the Distribution Department, which department, together with various other departments, constitutes the unit now represented by the Independent. While the Board has on occasion found appropriate separate units limited to departments or other subdivisions of integrated enterprises, as a rule it has done so only in the absence of a history of collective bargaining on a broader appropriate basis and in order to avoid depriving the employees of their bargaining rights under the Act pending organization on the broader basis. Here, the Independent has for 4 years bargained for a unit which is much wider in scope than, and which includes, the 3 departmental units sought by the I. B. E. W. Under these circumstances, we are of the opinion that at the present time the full benefit of their right to self-organization and to collective bargaining will be more effectively secured to the employees if the 3 subdivisions of the Distribution Department here in question are not severed from the unit which has formed the basis of a 4-year history of contractual relations. Accordingly, we find that the departmental units urged by the

¹ These three departments are subdivision of the Distribution Department.

² 12 N. L. R. B. 1461.

³ 26 N. L. R. B. 123

⁴ The record indicates that while the Independent and the Company suspended operation of the provisions of their recently executed renewal contract of October 1, 1943, with respect to the employees involved in the three departmental units requested by the I. B. E. W., this suspension was effected solely because of the pendency of the instant proceeding.

I. B. E. W. are not appropriate for the purposes of collective bargaining. We shall therefore dismiss the petitions of the I. B. E. W.

Since the bargaining units sought to be established by the petitions are inappropriate, we find that no questions affecting commerce have arisen concerning the representation of employees of the Company in appropriate bargaining units.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petitions for investigation and certification of employees of Kansas City Power and Light Company, Kansas City, Missouri, filed by International Brotherhood of Electrical Workers, A. F. of L., be, and they hereby are, dismissed.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Order.