

In the Matter of FARNSWORTH TELEVISION & RADIO CORPORATION and  
UNITED ELECTRICAL RADIO & MACHINE WORKERS OF AMERICA—  
CIO

*Case No. 13-R-2096.—Decided January 22, 1944*

*Mr. Edwin M. Martin*, of Fort Wayne, Ind., for the Company.

*Mr. D. L. Zinn*, of Fort Wayne, Ind., for the UE.

*Messrs. Francis O'Rourke* and *John L. McCarthy*, of Indianapolis, Ind., for the IBEW.

*Miss Frances Lopinsky*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical Radio & Machine Workers of America—CIO, herein called the UE, alleging that a question affecting commerce had arisen concerning the representation of employees of Farnsworth Television & Radio Corporation, Bluffton, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Bernard Cushman, Trial Examiner. Said hearing was held at Bluffton, Indiana, on December 1, 1943. The Company, the UE, and International Brotherhood of Electrical Workers, A. F. of L., herein called the IBEW, appeared and participated. All parties 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 an 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

Farnsworth Television & Radio Corporation is a Delaware corporation having its principal place of business at Fort Wayne, Indiana.

54 N. L. R. B., No. 120.

It maintains and operates plants at Fort Wayne, Marion, and Bluffton, Indiana, where it is engaged in the manufacture of electronic apparatus, and in research. During the year 1942 the Company purchased materials of a value of more than \$1,000,000, almost all of which was purchased from points outside the State of Indiana. During the same year the sales of the Company amounted to many millions of dollars; 100 percent of the finished products manufactured by it was shipped to points outside the State of Indiana. No materials are received directly by or are shipped out of the State from the Bluffton plant which receives its materials from Marion and ships its products to the Marion plant for distribution.

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, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Company commenced operations at Bluffton on September 4, 1943. Soon thereafter the IBEW and the UE each requested recognition as exclusive bargaining representative of the Company's hourly paid production and maintenance employees at the Bluffton plant. The Company has recognized neither union.

The IBEW contends that its contract with the Company as representative of the Company's employees at Marion, Indiana, is a bar to a present determination of representatives. Since we hereinafter find that the employees of the Bluffton plant are not and have never been covered by the said contract, it can be no bar to a determination of representatives for the Bluffton employees. Even aside from this fact, there is no merit in the IBEW's contention because the contract which it asserts as a bar is about to expire.<sup>1</sup>

<sup>1</sup> The contract, dated February 24, 1941, states that it shall continue in force from year to year unless terminated by written notice given 90 days prior to the anniversary date. The UE's notice was given prior to the automatic renewal date. See *Matter of James Doak, Jr., Co.*, 52 N. L. R. B. 378.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the UE represents a substantial number of employees in the unit hereinafter found 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

Since 1941, the UE has represented the Company's employees at Fort Wayne and the IBEW has represented those at Marion. In this proceeding, the UE requests a separate unit of the production and maintenance employees at the Company's Bluffton plant. The IBEW contends that the Bluffton plant is but an extension of the Marion plant and that employees at the Bluffton plant should be represented in a unit with the Marion employees.

The Bluffton plant was established by transplanting a part of Department 197 of the Marion plant to Bluffton for the purpose of obtaining a new labor supply. When the Bluffton plant was opened, a number of Marion employees, members of IBEW, went to Bluffton to get work started and to train new employees. All but 10 of these have returned to Marion. Some of the equipment for the new plant was brought over from Marion. Prior to the opening of the Bluffton plant, Department 197 at Marion performed assembly, testing, aligning, and packing operations. At present, fabricated parts are sent from Marion to Bluffton for assembling, after which they are returned to Department 197 at Marion, for testing, aligning, and packing. Fabricated materials are also sent by the Marion plant to Fort Wayne but the products of the Fort Wayne plant are not returned to Marion for inspection or distribution. Each plant has its own superintendent. The Bluffton superintendent reports to the Marion superintendent and all 3 report to a general superintendent, who has offices in all 3 plants. The pay roll and clerical work for Bluffton is done at Marion. Each plant, however, has a separate hiring office and hires separately. The distance between Bluffton and Marion is 42 miles.

Although many of the facts above stated support the IBEW's contention, it is our opinion that these are outweighed by other considerations. The employees of the Bluffton plant have never been

<sup>2</sup> The Regional Director reported that the UE submitted 85 application for membership cards, all of which bore apparently genuine original signatures; that the names of 80 persons appearing on the cards were listed on the Company's pay roll of October 8, 1943, which contained the names of 222 employees in the appropriate unit; that 24 of the cards were dated in September 1943, and 56 in October 1943.

The IBEW relied upon the card check to show its interest in the matter. See footnote 3, *infra*.

given the opportunity to choose a bargaining representative. With the exception of a very small minority, they have never before worked for the Company nor come into contact with other employees of the Company. Moreover, no interchange of employees between the Marion and Bluffton plants is contemplated. The separateness of the plants in hiring and the diversity of supervision further differentiates them for purposes of collective bargaining. Finally, the IBEW, itself, treated the Bluffton plant as a separate unit and not as an extension of the Marion plant unit when it made its request for recognition.<sup>3</sup> We find, therefore, that the employees of the Bluffton plant can best be represented in a separate unit.<sup>4</sup>

The parties are in agreement that the unit should consist of all production and maintenance employees, excluding clerical and supervisory employees. The following categories are in dispute:

*Guards:* The UE would include and the IBEW and the Company would exclude guards. The guards are armed, uniformed, and militarized. In accordance with our usual practice we shall exclude guards from the unit.<sup>5</sup>

*Supervisors and group leaders:* The UE would include and the IBEW and the Company would exclude these employees. The group leaders direct the work of, and have the right to recommend hire, discharge, and discipline of from 1 to 20 employees working under them. They spend about 90 percent of their time performing supervisory duties. The supervisors have similar duties, and authority over groups of 50 to 100 employees. We find that supervisors and group leaders are supervisory employees and shall exclude them from the unit.

*Fireman:* The fireman at the Bluffton plant maintains and fires the boilers. The UE and the Company request his exclusion from, and the IBEW would include him in the unit. The fireman at the Fort Wayne plant is included in the bargaining unit there. As he is a maintenance employee, we shall include the firemen in the unit.

We find that all maintenance and production employees of the Company at its Bluffton, Indiana, plant, including the fireman but excluding armed guards, clerical employees, group leaders, supervisors, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status

<sup>3</sup> The IBEW, instead of contending that its closed-shop contract at Marion covered the Bluffton plant, on September 13, 1943 demanded recognition as exclusive representative of employees at Bluffton. A cross-check of the IBEW's membership cards against the pay roll for the Bluffton plant, conducted by two accountants on September 20, 1943, over the protest of the UE, showed that the IBEW represented a majority of the employees at Bluffton. The IBEW does not rely upon the cross-check as a bar to the present proceeding.

<sup>4</sup> See *Matter of Menasha Wooden Ware Corp.*, 48 N. L. R. B. 345; *Matter of Sardsk Wood Products Corporation*, 46 N. L. R. B. 894

<sup>5</sup> *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of Bethlehem Steel Company, Hoboken Yards*, 52 N. L. R. B. 1265.

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 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 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Farnsworth Television & Radio Corporation, Bluffton, Indiana, 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 Thirteenth 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 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 United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations or by International Brotherhood of Electrical Workers affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.