

In the Matter of THE ELECTRIC AUTO-LITE COMPANY (SPARK PLUG DIVISION) and AMERICAN FEDERATION OF LABOR

Case No. 8-R-1296.—Decided January 24, 1944

Messrs. James P. Falvey and William D. Driscoll, of Toledo, Ohio, for the Company.

Mr. Isadore Kohler, of Toledo, Ohio, for the A. F. of L.

Mr. Edward T. Lamb, by Mr. Donald G. Guberman, of Toledo, Ohio, for the U. A. W.-C. I. O.

Mr. Max M. Goldman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Labor, herein called A. F. of L., alleging that a question affecting commerce had arisen concerning the representation of employees of The Electric Auto-Lite Company (Spark Plug Division), Fostoria, 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 Fostoria, Ohio, on December 3, 1943. At the hearing the Trial Examiner granted a motion of United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the U. A. W., to intervene. The Company, the A. F. of L., and the U. A. W., 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

The Electric Auto-Lite Company, an Ohio corporation, is engaged in the manufacture of spark plugs for military and civilian use in
54 N. L. R. B., No. 125.

its Spark Plug Division at Fostoria, Ohio, the only plant with which this proceeding is concerned. The raw materials used are steel, copper, nickel wire, asbestos, and ceramic material. The annual value of these materials will exceed \$1,000,000, approximately 90 percent of which will come from sources outside the State of Ohio. The annual value of the finished product will exceed \$5,000,000, approximately 90 percent of which will be 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

American Federation of Labor is a labor organization admitting to membership employees of the Company.

United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the A. F. of L. as the exclusive bargaining agent of the employees in the Spark Plug Division at Fostoria, Ohio, until it has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the A. F. of L. and the U. A. W. each represents a substantial number of employees in the unit hereinafter found appropriate.¹

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

Both labor organizations seek a unit comprising all maintenance and production employees, excluding office employees, plant-protection employees, and supervisory employees having the right to

¹The Field Examiner reported that the A. F. of L. submitted 388 authorization cards which bore apparently genuine signatures; that the names of 342 persons appearing on the cards were listed on the Company's pay roll of November 17, 1943, which contained the names of 968 employees in the appropriate unit; and that the cards were dated on the 21st, 22nd, or 23rd of September 1943. He also reported that the U. A. W. submitted 246 authorization cards of which 240 bore apparently genuine signatures; that 210 of the apparently genuine signatures are the names of persons listed on the Company's pay roll of November 17, 1943, which contained the names of 968 employees in the appropriate unit; and that the cards were dated during the period of July through November 1943.

hire and discharge, but including assistant foremen or supervisors, checkers, and factory clerical employees. The Company is in agreement with the labor organizations except that it desires the exclusion from the unit of assistant foremen or supervisors, checkers, and factory clerical employees.

Assistant foremen or supervisors: The Company employs 13 assistant foremen; 10 are on the night shift, and 3 on the day shift. Their duties and functions are substantially similar. They spend a considerable amount of their time in supervising the work of others, and on occasion, engage in manual labor. Their recommendations as to promotions, transfers, and discharges, carry weight. The pay they receive is higher than that of the production workers. We find that these employees are supervisory employees, and accordingly we shall exclude them.

Checkers: The principal function of this group of employees is to supply the accounting department with information as to the distribution of employees' working time which forms the basis for allocation of costs to different jobs. The checkers are in contact with the employees as they gather the information from the time cards and the production records. Some of the data thus compiled is posted in the department weekly. There is nothing to indicate that the information with which the checkers are concerned relates to labor relations. The work of the checkers is not entirely clerical, in that they weigh materials and follow merchandise from department to department. Their rate of pay is comparable to that of the production workers. We find, therefore, that the checkers should be included in the unit.

Factory clerical employees: The parties agreed at the hearing to exclude foremen's clerks. There appears to be no reason for departing from this agreement. There are three employees who perform clerical functions in the shipping department and are located in an office near the loading docks. Their rate of pay and other privileges are comparable to that of the other employees in the shipping department. In the past they had been covered by a collective bargaining contract between the Company and Spark Plug Workers' Union of Fostoria, Ohio.² We find that the shipping department clerical employees should be included in the unit.

We find that all maintenance and production employees including checkers and shipping department clerical employees, but excluding office employees, plant-protection employees, assistant foremen or supervisors, foremen's clerks, and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively

² The organization had notice of the hearing, but failed to appear.

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 The Electric Auto-Lite Company (Spark Plug Division), Fostoria, 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 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 American Federation of Labor, or by United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.