

In the Matter of PUBLIC SERVICE ELECTRIC AND GAS COMPANY and
UNITED ASSOCIATION OF JOURNEYMEN, PLUMBERS, AND STEAMFITTERS
OF U. S. AND CANADA, LOCAL 274B, AFL

In the Matter of PUBLIC SERVICE ELECTION AND GAS COMPANY and
CAMDEN GAS DISTRIBUTION ASSOCIATION

*Cases Nos. 4 R-1245 and 4-R-1257 respectively.—Decided
February 19, 1944*

*Messrs. Charles H. Spoehrer and Edward F. Neff, of St. Louis, Mo.,
for the Company.*

*Messrs. Jacob Friedland and Frank DeNike, of Jersey City, N. J.,
for the A. F. of L.*

*Messrs. Charles Hill and Morris Condon, of Camden, N. J., for the
Independent.*

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION
DIRECTION OF ELECTION
AND
ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by United Association of Journey-
men, Plumbers, and Steamfitters of U. S. and Canada, Local 274B,
affiliated with the American Federation of Labor, herein called the
A. F. of L., and by Camden Gas Distribution Association, an un-
affiliated organization, herein called the Independent, each alleging
that a question affecting commerce had arisen concerning the repre-
sentation of employees of Public Service Electric and Gas Company,
Newark, New Jersey, herein called the Company, the National Labor
Relations Board provided for an appropriate consolidated hearing
upon due notice before Herman Lazarus, Trial Examiner. Said hear-
ing was held at Camden, New Jersey, on January 14, 1944. The
Company, the A. F. of L., and the Independent appeared, partici-
pated, and were afforded full opportunity to be heard, to examine and
cross-examine witnesses, and to introduce evidence bearing on the

issues.¹ 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.²

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Public Service Electric and Gas Company is engaged in the production, purchase, distribution, and sale of electricity and gas in New Jersey. During the year ending September 30, 1943, the Company purchased raw materials, consisting principally of anthracite coal, bituminous coal, coke, Bunker C fuel oil, gas and enrichment oil, city water, chlorine, soda ash, mercury, and lubricants, valued in excess of \$15,000,000, of which approximately 94 percent was shipped to the Company's plants from points outside New Jersey. During the same period, the Company operated a transmission line which connected with lines of other concerns in adjoining States. The Company furnished gas and electricity to more than 3,000,000 persons, to railroads which are common carriers in interstate commerce, and to numerous companies whose products move in interstate commerce. The Company furnishes gas and electricity to branches of the United States Post Office and other Government buildings, to Western Union Telegraph Company, to New Jersey Bell Telephone Company, and to radio stations. During the year ending December 31, 1942, the Company's gross operating revenues exceeded \$100,000,000.

We find that the Company is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Association of Journeymen, Plumbers, and Steamfitters of U. S. and Canada, Local 274B, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Camden Gas Distribution Association is an unaffiliated labor organization, admitting to membership employees of the Company.

¹ During the course of the hearing, the petitions and other formal papers were amended to disclose the correct names of the Company and the A. F. of L., respectively.

² Subsequent to the close of the hearing, the parties stipulated that a certain correction should be made in the transcript of the record made at the hearing. Later, the Company moved that certain other changes be made and served copies of its motion upon the parties. No objections to the Company's motion have been received. We grant the motion and direct that the corrections be made as indicated by the stipulation and by the Company's motion. The stipulation is hereby made and is part of the official record in these proceedings.

III. THE QUESTION CONCERNING REPRESENTATION

The A. F. of L. on or about September 9, 1943, and the Independent on or about September 23, 1943, asked the Company for recognition as bargaining representative of employees in units which they respectively alleged were appropriate for bargaining. The Company refused to recognize either of the organizations until the Board should determine what unit was appropriate for the employees concerned and which organization, if either, represented a majority of employees therein. The A. F. of L., on September 13, 1943, and the Independent, on September 23, 1943, filed the respective petitions in these proceedings.

A statement prepared by the Field Examiner and introduced into evidence at the hearing indicates that the A. F. of L. represents a substantial number of employees in the unit herein found appropriate for bargaining.³

We find that a question 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 Company is engaged in the generation, distribution, and sale of gas and electricity in New Jersey. It divides its activity into two main separate administrative departments, covering employees in its gas and electric services, respectively. The Company manufactures gas in eight plants located at different points throughout the State.⁴ The Company divides the geographical area through which it distributes gas into six territorial gas divisions known as the Bergen, Passaic, Essex, Hudson, Central, and Southern Divisions, respectively. Each gas division is in turn subdivided into three or more local operating districts. The Southern Division, which covers Mercer, Burlington, and Camden Counties, and part of Gloucester County, which is the only division involved in this proceeding, is subdivided into three operating districts known as the Trenton, Burlington, and Camden Districts, respectively. The A. F. of L. contends that gas distribution employees in the Company's Southern Division constitute a separate appropriate bargaining unit. The Independent contends that gas distribution employees in the Camden District of the Southern Di-

³The A. F. of L. submitted 107 authorization cards, of which 7 were undated and the remaining dated between August and November 1943, all of which bear names of employees in the Company's Southern Division on the October 13, 1943, pay roll.

There are approximately 150 employees in the appropriate unit.

The Association submitted a petition, undated, bearing the names of 50 employees in the Company's Camden District on the October 13, 1943, pay roll. There are approximately 50 employees of the Company in the Camden District.

⁴Several unaffiliated and independent labor organizations represent the Company's employees at the several gas generating plants in New Jersey.

vision constitute an appropriate bargaining unit. The Company takes no position with respect to the scope of the bargaining unit for these employees.

Each of the six administrative divisions of the gas department is in charge of a supervising engineer. Each operating district within the division is in charge of a district supervisor under the control of the supervising engineer of his division. A distribution shop within each district constitutes district headquarters. The distribution shop of the Camden Division at Camden is also the headquarters of the Company's Southern Division, where the supervising engineer of the Southern Division has his office.

The supervising engineer in each division has a considerable degree of independence in directing the work of the distribution districts within his division. There is some permanent transfer of employees from one division of the Company's operation to another. The Company depends in part upon seniority in making promotions. Employees do not lose their seniority by transfer. One welder is employed for the distribution shops in the three districts in the Southern Division and he is transferred from one shop to the other, as welding work may be required. Otherwise, there is little interchange of employees among the three districts within the Southern Division. Each district makes out its own pay rolls, but these pay rolls are approved by the supervising engineer of the Southern Division before they are honored at the Company's Newark office, from which checks are issued to all employees of the Company. District supervisors have authority to make decisions with respect to lay-off, but employees may appeal from their decisions to the supervising engineer of the division. Wages, hours, and working conditions of employees in the three districts of the Southern Division are uniform.

As noted above, the Company divides its gas distribution geographically into six separate territorial divisions. The Company recognizes the A. F. of L. as exclusive bargaining representative of employees of the Bergen and Central Divisions, respectively. A consent election has lately been held among the employees of the Passaic Division. The Company has recently consented to sign an agreement for a consent election covering employees in the Hudson Division. The Company has thus recognized that distribution division lines appropriately defined the scope of bargaining units with respect to its gas distribution employees.⁵

The Company's electric department consists of four main generating plants and a number of distribution divisions. Distribution employees in the Company's electric department have also been organ-

⁵ The record does not disclose that employees in the Essex Division have been organized at this time.

ized on divisional lines. There is somewhat greater centralization of authority in the Company's main office at Newark over employees in the electrical department than over employees in the gas department. The same labor organization has been certified as the exclusive bargaining representative for employees in each one of the electric distribution divisions and has bargained with the Company with respect to these employees and has executed one over-all contract on their behalf.

The A. F. of L. admits to membership all distribution employees in the Company's Southern Division within its proposed bargaining unit. The Independent restricts its membership to distribution employees in the Camden District of the Southern Division. The Independent is barred by its constitution from receiving into membership other employees of the Company. If the organization of the Company's employees were in an initial stage and were limited to the Camden District, we might properly find that, under such circumstances, this small administrative section of the Company's operations could constitute an appropriate bargaining unit. This is not the case. Organization among the Company's gas employees is well advanced. Organization of the Company's employees in both the gas and electric departments has proceeded along divisional lines. We note that the Independent did not make any demand upon the Company for recognition as bargaining representative of employees in the Camden District until after the A. F. of L. had filed its petition in these proceedings. Under these circumstances, we find that employees in the Southern Division of the Company's gas department constitute an appropriate bargaining unit and that a unit restricted to the Camden District is not appropriate for bargaining at this time. For this reason, we will dismiss the petition filed by the Independent herein.

The A. F. of L. would include within the bargaining unit all distribution employees in the Company's Southern Division, including working foremen and inspectors, but excluding all supervisory employees within the Board's usual definition of that term. The proposed unit includes employees in the categories included in other bargaining units covering employees in the Company's divisions for which the A. F. and L. is the recognized bargaining representative. Working foremen accompany and supervise street gangs with whom they work. They perform manual work. They have authority upon occasion to hire day laborers who ask them for work on the street, but as a group, they do not have supervisory authority within the Board's usual definition of that term over the employees with whom they regularly work. We shall therefore include them as a group in the bargaining unit and shall exclude all supervisory employees within our usual definition of that term.

We find that all distribution employees in the Southern Division of the Company's gas department, including working foremen and inspectors, but excluding 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 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 find that the question concerning the representation of the Company's employees can best be resolved by an election by secret ballot.

The record indicates that the Independent represents a substantial number of employees in the Company's Camden District, and thereby some considerable number of employees in the Company's Southern Division. The record, however, clearly indicates that the Independent does not desire to represent employees of the Company who work outside the Camden District. Since we have determined that the Southern Division of the Company's gas department defines the scope of the bargaining unit of the employees therein, we shall make no provision for the participation of the Independent in the election among such employees, which we shall now direct.

Those eligible to vote in the election shall be all employees of the Company within the unit found appropriate in Section IV, above, 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 Public Service Electric and Gas Company, Newark, New Jersey, 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 Fourth 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 any 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 or not they desire to be represented by United Association of Journeymen, Plumbers, and Steamfitters of U. S. and Canada, Local 274B, A. F. L., for the purposes of collective bargaining.

ORDER

Upon the basis of the above findings of fact and the entire record in this proceeding, the National Labor Relations Board hereby orders that Case No. 4-R-1257 be served from Case No. 4-R-1245, and that the petition for investigation and certification of representatives of employees of Public Service Electric and Gas Company, Newark, New Jersey, filed by Camden Gas Distribution Association, in Case No. 4-R-1257 be, and it hereby is, dismissed.