

In the Matter of AMERICAN TELEPHONE AND TELEGRAPH COMPANY and
AMERICAN COMMUNICATIONS ASSOCIATION (ACA-CIO)

Case No. 7-R-1608.—Decided March 9, 1944

Mr. Max Rotenberg, for the Board.

Messrs. Walter G. Merritt and *S. Whitney Landon*, of New York City, for the Company.

Newberger, Shapiro, and Rabinowitz, by *Mr. Victor Rabinowitz*, of New York City, and *Messrs. James Barnett* and *S. G. Deck*, for the ACA.

Messrs. Henry Mayer, J. J. Moran, and Fred Sweeney, of New York City, for the Federation.

Mr. William Feldesman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by American Communications Association (ACA-CIO), herein called the ACA, alleging that a question affecting commerce had arisen concerning the representation of employees of American Telephone and Telegraph Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Walter Wilbur, Trial Examiner. Said hearing was held at Detroit, Michigan, on January 18, 19, and 20, 1944. The Company, the ACA, and Federation of Long Lines Telephone Workers, herein called the Federation, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. Subsequent to the hearing, the ACA moved to reopen the record for the purpose of introducing evidence it offered at the hearing which the Trial Examiner rejected.¹ The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Accordingly, the ACA's motion is denied. All parties were afforded and availed themselves of the op-

¹ The offered evidence is mentioned in footnote 3, *infra*.

portunity to file briefs with the Board. Inasmuch as the briefs adequately discuss the issues, all requests for oral argument are denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

American Telephone and Telegraph Company is a New York corporation having its principal office in the City of New York. Its Long Lines Department, herein called the Department, is involved in this proceeding. The Department is a separate operating unit providing interstate telephone toll facilities and services, sometimes described as long distance telephone services, necessary to connect the territories of independent companies and companies associated with the American Telephone and Telegraph Company located throughout the United States of America. Other interstate services and foreign communication services are also provided by the Department. During 1943 the gross operating revenues of the Department exceeded \$180,000,000. The Company admits that it is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

American Communications Association, affiliated with the Congress of Industrial Organizations, and Federation of Long Lines Telephone Workers, affiliated with the National Federation of Telephone Workers, are labor organizations admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

It is the ACA's contention that certain of the Company's non-supervisory employees engaged in District 65 of the Department constitute an appropriate unit.² Both the Company and the Federation insist, however, that all the Department's non-supervisory employees, without regard to District lines, comprise a unit appropriate for collective bargaining purposes.

Geographically, the Department is virtually Nation-wide. District 65, one of 34 in the Department, embraces offices situated in Detroit and Kalamazoo, Michigan, and Fort Wayne, La Grange, and South

² Specifically, the ACA claims the following unit to be appropriate:

All the outside maintenance employees, Central Office employees and Administration employees (excluding supervisory and executive employees) of District 65 of the Long Lines Plant Department (including Detroit and Kalamazoo, Michigan, and Fort Wayne, La Grange and South Bend, Indiana).

In addition to Plant employees there are Traffic Commercial, and other workers

Bend, Indiana. That the Department as a whole is a highly integrated operating unit of the Company is unmistakably clear from the record. All the Districts, District 65 included, perform parallel functions, and they are interrelated and interdependent.

Since 1940 the Company and the Federation have been bound almost continuously by written agreements which they executed according to the Federation recognition as the exclusive collective bargaining representative of all non-supervisory workers employed in the Department. The ACA urges that, despite the Department-wide unit established by these contracts, collective bargaining between the Company and the Federation has been conducted on a local basis. In practice, the contracting parties negotiated local matters which arose on local levels. If their local representatives reached an accord, the approval of their respective national representatives was required before the accord was deemed to be operative. In cases where local negotiations were not successfully concluded, however, continued bargaining was engaged in by their central representatives in an attempt to come to terms. Moreover, annual contracts and other matters of concern to the mass of the Department's employees were negotiated in the first instance by the contracting parties' national representatives, without any recourse to local bargaining machinery. Contrary to the ACA's position, we find that these relations disclose a distinct pattern of Department-wide bargaining.

Asserting that the Federation is in the "process of disintegration," the ACA argues that a Department-wide unit is consequently inappropriate for the purposes of collective bargaining, and that the unit it seeks is a proper one. Although the record reveals that a number of the Federation's members were dissatisfied with their organization's ability to secure from the Company more favorable terms and conditions of employment, there is no evidence of a relevant nature indicating that a Department-wide unit is inappropriate for collective bargaining purposes. We consider the ACA's argument to be without merit.³

³ In support of its argument the ACA offered to prove at the hearing the following facts: "a substantial number of locals of the Federation have disaffiliated, and that in many other cases, substantial numbers of members have left the organization and have stopped paying dues so that at the present time ACA represents a majority of members in at least three Districts"; other locals are weighing the possibility of withdrawing from the Federation; a substantial number of locals considering the question of withdrawal are actually on the verge of severing their ties with the Federation and the Federation has not "disintegrated" completely solely because its officers have publicized the Board's refusal in similar cases to carve smaller units from an established unit as extensive as the Department, and have stated that seceding locals lose all rights to collective bargaining. These facts, if proved, would show no more than discontentment with the Federation rather than dissatisfaction with or inappropriateness of a Department-wide unit. See *Matter of Rayoner Incorporated, Grays Harbor Division*, 52 N L R B 1269. We note, furthermore, with respect to the first matter of the offer of proof, that there are as many as 34 Districts in the Department. Concerning the remaining matters of the ACA's offer, they are in any case remote and speculative.

From the foregoing facts, particularly the history of collective bargaining on a Department-wide basis and the integrated nature of the Department's operations, we find that the unit sought by the ACA, restricted in coverage to District 65, is inappropriate.⁴

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since the unit sought by the ACA is inappropriate, we find that no question affecting commerce has arisen concerning the representation of employees of the Company.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of American Telephone and Telegraph Company, Detroit, Michigan, filed by American Communications Association (ACA-CIO), be, and it hereby is, dismissed.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Order.

⁴ *Matter of Pennsylvania Power & Light Company*, 54 N. L. R. B. 1189.