

In the Matter of COLORADO RADIO CORPORATION *and* INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION No. 1222

Case No. 17-R-787.—Decided March 11, 1944

Mr. Wilber M. Alter, of Denver, Colo., for the Company.

Mr. A. L. Smith, of Denver, Colo., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Electrical Workers, Local Union No. 1222, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Colorado Radio Corporation, Denver, Colorado, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John A. Weiss, Trial Examiner. Said hearing was held at Denver, Colorado, on January 19, 1944. The Company and the Union 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

Colorado Radio Corporation, a Colorado corporation, is engaged in operating a radio station at Denver, Colorado, under the call letters KVOD for the purpose of broadcasting radio programs. The Company is an affiliate of the Blue Network Company, a national broadcasting organization. Programs of that network which are broadcast on a national scale and handled locally by station KVOD constitute

approximately 60 percent of the operating broadcasting time of station KVID. Programs of that station are carried to points and places outside the State of Colorado. The income from advertising programs broadcast by the Company was, for the year 1943, in excess of \$75,000, more than 20 percent of which came from sources outside the State of Colorado.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Brotherhood of Electrical Workers, Local Union No. 1222, 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 has refused to grant recognition to the Union as the exclusive bargaining representative of its technicians until the Union 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 Union 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

The Company maintains a broadcasting studio and a transmitting station. At the studio it employs, *inter alia*, five announcer-technicians and at the transmitter station three transmitter technicians. The Union classifies the transmitter technicians and one of the announcer-technicians as radio technicians and requests a unit comprising these four employees. The Company insists that all of the announcer-technicians are radio technicians and that they should be included in the unit.

The technicians at the transmitter station are men of great experience, licensed by the Federal Communications Commission. They maintain and repair all equipment at the transmitter station, working with high voltage currents. They must know the rules and regulations of the Federal Communications Commission and are respon-

¹ The Field Examiner reported that the Union submitted three authorization cards all of which bore apparently genuine original signatures; that the names of all persons appearing on the cards were listed on the Company's pay roll of January 2, 1944, which contained the names of three employees in the appropriate unit.

sible for compliance with these rules and regulations in the operation of the transmitter. The announcer-technicians, with exception of Corbett, whom the Union would include in the bargaining unit, and Finch, who the Union claims is not an employee of the Company,² are men of little experience in handling radio equipment. They spend approximately 25 percent of their time in announcing,³ and 75 percent in such duties as making station breaks, integrating programs, operating recording devices which play recorded programs, setting up microphones, observing and adjusting instruments, dials, amplifiers and other equipment in the studio. The Company claims that they are capable of doing maintenance work and repair work but admits that the equipment at the studio needs little maintenance or repair.

It is clear that skill exercised by the transmitter technicians is much greater than that required of the announcer-technicians. The former must understand the theory behind the operation of the equipment, the latter need only to know how to operate it. Corbett possesses skill commensurate with that of the transmitter technicians, but he is not exercising that skill in the work he is now doing for the Company. Although his announcing time averages less than that of the other announcer-technicians, and he does more of the maintenance work than they do, his work more closely resembles theirs than that done by the transmitter technicians. Accordingly, we shall exclude Corbett together with the other announcer-technicians, from the unit.

We find that all radio technicians employed by the Company at its transmitter station, 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 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

² Finch works full time at another station and one day a week for the Company. Since we find that none of the announcer-technicians may be included in the unit, we find it unnecessary to discuss the status of Finch.

³ The Company employs no full-time announcer.

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 Colorado Radio Corporation, Denver, Colorado, 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 Seventeenth 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 or not they desire to be represented by International Brotherhood of Electrical Workers, Local Union No. 1222, affiliated with the American Federation of Labor, for the purposes of collective bargaining.