

IN THE MATTER OF ELECTRICAL UTILITIES COMPANY and DISTRICT 50,  
UNITED MINE WORKERS OF AMERICA

*Case No. 13-R-2237.—Decided March 13, 1944*

*Mr. D. J. Campeggio*, of La Salle, Ill., for the Company.

*Mr. Joseph Marchesi*, and *Mr. James Casassa*, of Peru, Ill., and *Mrs. Arneita Dicken* and *Mr. Arthur Hocking*, of Peru, Ill., for District 50.

*Mr. M. F. Darling*, of Chicago, Ill., and *Mr. Everett M. Strout*, of La Salle, Ill., for the I. B. E. W.

*Mr. William Strong*, of counsel to the Board

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of Electric Utilities Company, La Salle, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John R. Hill, Trial Examiner. Said hearing was held at La Salle, Illinois, on February 1, 1944. The Company, District 50, and Local B-321, International Brotherhood of Electrical Workers, herein called the I. B. E. W., appeared and participated.<sup>1</sup> 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

Electrical Utilities Company, an Illinois corporation, operates plants in Chicago and La Salle, Illinois. We are concerned only with the

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<sup>1</sup> Notice of Hearing was also served on the United Mine, Mill & Smelter Workers of America, CIO, which indicated that it would not participate in this proceeding.

La Salle plant, at which the Company manufactures electrical condensers. During 1943, about 75 percent of the raw materials used at the La Salle plant, totally valued at more than \$400,000, came from points outside the State of Illinois, and about 90 percent of the products of that plant, totally valued at more than \$1,000,000, was shipped to points outside that State.

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

#### II. THE ORGANIZATIONS INVOLVED

District 50, United Mine Workers of America, and Local B-321, International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to District 50 as the exclusive bargaining representative of certain of the Company's employees until District 50 has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing indicates that District 50 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

The parties agree that an appropriate unit should consist of all production and maintenance employees, including the stock receiving clerk and watchmen, at the La Salle plant, but excluding executives, the general superintendent, assistant superintendent, chief engineer, sales expediter, chief draftsman, and office and clerical employees. The parties disagree as to certain other categories of employees, which we shall discuss below.

The Company would include, and District 50 and I. B. E. W. would exclude foremen, foreladies, the assistant forelady and the shipping clerk. It is clear that the foremen, of whom there are nine, and the shipping clerk possess and exercise authority to effectively recommend transfers, discharges, promotions, and demotions of employees. They

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<sup>2</sup> The Field Examiner reported that District 50 submitted 63 membership application cards and that 150 employees are in the alleged appropriate unit. At the hearing, the I. B. E. W. submitted 17 designation cards. The representations showing made by the I. B. E. W. is sufficient to allow it a place on the ballot.

fall, consequently, within our usual definition of supervisory employees. We shall exclude them from the unit.

The duties of the foreladies, so designated on the Company's pay roll, are somewhat obscure. However, the record does reveal that persons thus classified instruct other employees, set up machines, and assist operators "in case of trouble,"<sup>3</sup> give orders to the employees under them, make reports concerning the employees' work, assign work to employees, and "are consulted in making necessary change-overs." The personnel department consults the foreladies, as it does the foremen, when it wishes to ascertain whether ordinary employees have arrived late for work. At least one forelady admittedly makes recommendations as to demotions, transfers, and disciplining of employees, and an ordinary employee attributed various supervisory functions to another of the foreladies. The number of employees under the supervision of each of the foreladies is about six or seven.<sup>4</sup>

The functions and authority of the assistant forelady are not clear. While she is thus designated on the Company's pay roll, the Company's president testified that he would classify her as a "set-up girl," and further testified that she does set-up work three-fourths of her time and production work the balance of her time. He denied that she had authority to recommend transfers, demotions, promotions, disciplining, or discharges; however, he also gave like testimony concerning the foreladies.

It is apparent that the foreladies and the assistant forelady exercise certain supervisory functions. Both labor organizations involved in this proceeding desire the exclusion of the foreladies and the assistant forelady on the ground that they are supervisors. We shall exclude them from the unit.

District 50 and the I. B. E. W. seek to include in the unit the junior draftsman and the laboratory assistant; the Company asks that they be excluded on the ground that they come within the category of office and clerical employees.<sup>5</sup> The junior draftsman makes drawings. He is under the supervision of, and assists the chief draftsman, who prepares lay-out specifications, establishes bills of materials, checks materials, and drafts. The laboratory assistant tests incoming materials for size and other factors, and makes sample condensers. It is clear that the laboratory assistant is neither an office nor a clerical employee. We shall include him in the unit. While the status of the junior draftsman is not so clear, since both unions desire his inclusion, we shall include him in the unit.<sup>6</sup>

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<sup>3</sup> Estimates as to the amount of time foreladies spend on production work vary, the highest figure being 95 percent.

<sup>4</sup> Foremen supervise from 4 to 25 employees.

<sup>5</sup> The Company has agreed to the inclusion in the unit of the stock receiving clerk and sought the inclusion of the shipping clerk.

<sup>6</sup> See *Matter of Monarch Aluminum Mfg. Co.*, 53 N. L. R. B. 756.

All parties agree to include the watchmen, who are armed and deputized. These watchmen are not members of the Auxiliary Military Police. We shall include them in the unit.

We find that all production and maintenance employees of the Company at its La Salle, Illinois, plant, including the stock receiving clerk, the junior draftsman, the laboratory assistant, and watchmen, but excluding executives, the general superintendent, assistant superintendent, chief engineer, sales expediter, chief draftsman, office and clerical employees, the shipping clerk, foremen, foreladies, the assistant forelady, and all other 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.<sup>7</sup>

#### 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 Electrical Utilities Company, La Salle, Illinois, 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said payroll period because they were ill or on vacation or temporarily

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<sup>7</sup> The unions wish to be named on the ballot as "Electrical Utilities Workers Local No. 12765, District 50" and "Electrical Workers, AFL." The request is granted.

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 they desire to be represented by Electrical Utilities Workers, Local Union No. 12765, District 50, or by Electrical Workers, AFL, for the purposes of collective bargaining, or by neither.

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

[See *infra*, 55 N. L. R. B. 1004 for Amendment to Direction of Election.]