

IN the Matter of ARMOUR FERTILIZER WORKS, DIVISION OF ARMOUR & COMPANY, ATLANTA PLANT and UNITED GAS, COKE AND CHEMICAL WORKERS (CIO)

Case No. 10-R-1141.—Decided April 14, 1944

Mr. Charles J. Rehero, of Jacksonville, Fla., for the Company.

Mr. Tom Jones, of Atlanta, Ga., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a second amended petition duly filed by United Gas, Coke and Chemical Workers (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour Fertilizer Works, Division of Armour & Company, Atlanta Plant, Atlanta, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. Said hearing was held at Atlanta, Georgia, on March 27, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Company moved at the hearing for a dismissal of the petition on the ground that the Company is not engaged in interstate commerce. The Trial Examiner referred the motion to the Board. In view of our findings in Section I, *infra*, the motion is denied. 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

Armour & Company, an Illinois corporation, operates 23 plants located in various parts of the United States. We are solely con-

cerned with the Armour Fertilizer Works, Division of Armour & Company, Atlanta Plant, herein called the Atlanta plant. The Atlanta plant is engaged in the manufacture of commercial fertilizer, sulphuric acid, and allied products. During the 12-month period ending March 27, 1944, the Company purchased for use at the Atlanta plant approximately 60,700 tons of raw materials, consisting of sulphur, sulphate, ammonia, potash, phosphate rock, and other raw chemicals, of which approximately 90 percent originated from points outside the State of Georgia. During the same period the Atlanta plant manufactured products amounting to approximately 88,700 tons, of which approximately 8 percent was shipped to points located outside the State of Georgia. All finished products of the Atlanta plant are used in connection with the national war effort, and approximately 3½ percent of said products was sold to agencies of the Federal Government. In view of the foregoing, we find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Gas, Coke and Chemical Workers is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated March 1, 1944, the Union requested that the Company grant it a conference for the purpose of negotiating a collective bargaining agreement covering certain of the Company's employees. On or about March 6, 1944, a representative of the Company informed an agent of the Union that the Company would not recognize the Union until it had been certified by the National Labor Relations Board.

A statement of a Board Field Examiner, 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

Substantially in accordance with the stipulation of the parties made at the hearing, we find that all production and maintenance employees of the Atlanta plant of the Company, including electrical helpers and

¹ The Field Examiner reported that the Union submitted 132 application cards, and that the unit proposed by the Union contained 200 employees

mechanical helpers, but excluding the head electrician, the head machinist, chemists, timekeepers, stockroom clerks, and other technical and clerical employees, watchmen, executives, 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 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 Armour Fertilizer Works Division of Armour & Company, Atlanta Plant, Atlanta, Georgia, 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 Tenth 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 United Gas, Coke and Chemical Workers (CIO), for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.