

In the Matter of WEST PENN POWER COMPANY and UTILITY WORKERS
ORGANIZING COMMITTEE, C. I. O.

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ORGANIZING COMMITTEE, C. I. O.

Cases Nos. 6-R-866 and 6-R-867 respectively.—Decided April 15, 1944

*Messrs. Edward O. Tabor, H. K. Breckenridge, C. L. McCormick, of
Pittsburgh, Pa., for the Company.*

Mr. Reginald Brown, of Brackenridge, Pa., for the Union.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Utility Workers Organizing Committee, C. I. O., herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of West Penn Power Company, Pittsburgh, Pennsylvania, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on January 27 and 28, 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 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

West Penn Power Company, a Pennsylvania corporation, is a direct subsidiary of West Penn Electric Company which is a sub-

subsidiary of American Water Workers and Electric Company. The Company supplies electric power to customers in 18 counties in Western Pennsylvania, including electric power to many war production plants. The Company is also affiliated with other electric power corporations in adjoining States and buys electricity from and sells electricity to them. During the year ending October 31, 1943, the Company sold electricity valued at \$29,648,856.31. During the same period, the Company sold electricity to Monongahela West Penn Public Service Company of Fairmont, West Virginia, valued at \$1,417,369.52, and to Potomac Edison Company of Maryland valued at \$6,080.00. During the same period the Company purchased electricity from Monongahela West Penn Public Service Company of Fairmont, West Virginia, valued at \$5,662.88 and from Potomac Edison Company of Maryland valued at \$9,420.71.

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

II. THE ORGANIZATION INVOLVED

Utility Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

In November 1943, the Union requested recognition from the Company as the exclusive bargaining representative for certain of the Company's load dispatchers and clerical employees. The Company has refused such request on the ground that the units sought herein are inappropriate.

A statement of the Regional Director introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the units hereinafter found appropriate.¹

We find that questions affecting commerce have 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.

¹ The Regional Director reported that the Union submitted 9 cards (Case No 6-R-866) all of which bore apparently genuine original signatures; that the names of 9 persons appearing on the cards were listed on the Company's pay roll of November 23, 1943, which contained the names of 10 employees in the appropriate unit; and that the cards were dated in September and October 1943.

The Regional Director further reported that the Union submitted 12 cards (Case No 6-R-867) all of which bore apparently genuine original signatures; that the names of 12 persons appearing on the cards were listed on the Company's pay roll of November 23, 1943, which contained the names of 16 employees in the appropriate unit; and that the cards were dated in September and October 1943.

IV. THE APPROPRIATE UNITS

The Union contends that all clerical employees of the Company in the general and departmental offices at the Springdale Power Station, excluding supervisory employees constitute an appropriate unit. The Company maintains that these employees are confidential employees who handle matters directly relating to labor relations and thus are able to obtain advance knowledge of the Company's position with respect to such labor relations. The Union further contends that all load dispatchers of the Company in the Springdale Power Station and the Charleroi Substation, excluding supervisory and all other employees constitute a separate appropriate unit. The Company maintains that dispatchers are supervisory, and therefore cannot constitute an appropriate bargaining unit.

The Company employs 10 clerical employees in its Springdale Power Station, who engage in duties normally associated with employees in that category. However, with respect to David A. Courson, Elizabeth Protz, Mildred J. Rowe, and Marian L. Crawford, the record indicates that these employees engage in duties which place them within our definition of confidential employees. Courson is classified as personnel clerk and prepares time reports, sick reports, accident reports, and memoranda with respect to proposed increases in pay for specific employees before such increases are approved. Protz and Rowe, classified as results clerk and stenographer, respectively, among their other duties, have taken dictation on the minutes of supervisors' meetings. Crawford, classified as clerk-stenographer, in addition to her other duties, types the reports prepared by Courson with respect to proposed increases in pay, and on occasion handles labor-management memoranda. Thus, it appears that the information to which these employees have access during the normal course of their duties involves personnel matters or problems directly related to labor relations. We find that Courson, Protz, Rowe, and Crawford are confidential employees, and, accordingly, we shall exclude them as such from the unit.

We find that all clerical employees of the Company in the general and departmental offices at the Springdale Power Station, excluding confidential employees, and 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.

The Company employs five first load dispatchers and five second load dispatchers, all of whom are stationed at the Charleroi Substation, and six load dispatchers, all of whom are stationed at the

Springdale Power Station. Their function is to determine and control the amount of electrical energy permitted to flow through the various lines throughout the system. It appears that these employees have very little, if any, direct supervision over other workers except to transmit orders and instructions from their superiors or in accordance with previously established rules. These employees possess no such authority as would bring them within our customary definition of supervisory employees.

We find that all load dispatchers of the Company in the Springdale Power Station and the Charleroi Substation, excluding all supervisory employees with the 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

The record discloses that Werlein P. Nelson, classified as "electrician's helper" properly belongs in the production and maintenance unit, since he is only temporarily assigned to clerical work in the electrical shop office. We find, therefore, that Nelson is not eligible to vote in the elections hereinafter directed.

DIRECTION OF ELECTIONS

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 West Penn Power Company, Pittsburgh, Pennsylvania, elections 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 Sixth 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 units 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 Utility Workers Organizing Committee, C. I. O., for the purposes of collective bargaining.