

In the Matter of THE PACIFIC TELEPHONE & TELEGRAPH COMPANY AND
ITS WHOLLY OWNED SUBSIDIARY, BELL TELEPHONE COMPANY OF NEVADA
and UNITED BROTHERHOOD OF TELEPHONE WORKERS

Case No. 20-R-918.—Decided April 17, 1944

Mr. Norbert Korte, of San Francisco, Calif., for the Companies.

Mr. A. N. Hall, of San Francisco, Calif., for the U. B. T. W.

Cushing, Cushing, Cullinan, Trowbridge & Gorrill, by *Mr. Delger Trowbridge* and *Mr. John H. Murray*, of San Francisco, Calif., for the Intervenor.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon amended petition duly filed by United Brotherhood of Telephone Workers, herein called the U. B. T. W., alleging that a question affecting commerce had arisen concerning the representation of employees of The Pacific Telephone & Telegraph Company, San Francisco, California, and of Bell Telephone Company of Nevada, its wholly owned subsidiary, herein collectively called the Companies, the National Labor Relations Board provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at San Francisco, California, on January 20, 21, and 25, 1944. The Companies, the U. B. T. W., and Organization of Plant, Clerical and Office Forces for Northern California-Nevada Area of The Pacific Telephone & Telegraph Company and Bell Telephone Company of Nevada, herein called the Intervenor, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing, the Companies and the Intervenor each moved that the amended petition be dismissed, on the ground that the proposed unit was not an appropriate bargaining unit. For reasons which appear in Section III, below, we shall grant the motion. 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 COMPANIES

The Pacific Telephone & Telegraph Company and Bell Telephone Company of Nevada, its wholly owned subsidiary, are engaged in the business of receiving and transmitting by telephone and telegraph interstate and intrastate communications in California and Nevada. For administrative purposes, the Companies divide the territory which they serve into four areas, known as (1) the Oregon Area, covering the State of Oregon; (2) the Washington-Idaho Area, covering the State of Washington and Northern Idaho; (3) the Southern Area, covering part of Arizona and the part of California south of the Tehachapi Mountains; and (4) the Northern California-Nevada Area, including the State of Nevada and the part of California north of the Tehachapi Mountains. The Companies' Northern California-Nevada Area, herein called the Area, is the only geographical sector of the Companies' operations involved in this proceeding. The Pacific Telephone & Telegraph Company serves the portion in California and Bell Telephone Company of Nevada serves the portion in Nevada. The entire Area is under the direction of an officer of the Pacific Telephone & Telegraph Company, who bears the title of Vice President-General Manager of the Area and Vice President-General Manager of Bell Telephone Company of Nevada. The president and vice president of the parent corporation serve the subsidiary in the same respective capacities. In the Area the Companies own and operate approximately 1,000,000 telephones, approximately 11,000 miles of pole lines, and approximately 5,000,000 miles of wire, excluding drop and block wire and wire in the Central Offices.¹

The Companies admit that they are engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Brotherhood of Telephone Workers is an unaffiliated labor organization, admitting to membership employees of the Companies.

Organization of Plant, Clerical and Office Forces for Northern California-Nevada Area of The Pacific Telephone & Telegraph Company and Bell Telephone Company of Nevada is an unaffiliated labor organization, admitting to membership employees of the Companies.

¹ See *Matter of The Pacific Telephone & Telegraph Company*, 23 N. L. R. B. 280

III. THE ALLEGED APPROPRIATE UNIT

As noted in Section I, above, the Northern California-Nevada Area, herein called the Area, is the only geographical sector of the Companies' operations involved in this proceeding. For administrative purposes, the Companies subdivide the Area into 4 geographical divisions known as the San Francisco, East Bay, Coast, and Inland Divisions, respectively. Each division is in turn further subdivided into districts, with 3 districts each in the San Francisco and East Bay Divisions, 4 in the Coast Division, and 6 in the Inland Division. This administrative plan results in 4 division, and 16 district, offices in the Area, housing the appropriate administrative officers and their staffs. The Companies also divide the Area functionally into operating departments, known as the Commercial, Traffic, and Plant Departments, respectively. The instant proceeding directly concerns employees in the Plant Department, particularly the so-called plant occupational forces and certain clerical employees working therein, who are more particularly described below.

On or about September 1, 1943, the U. B. T. W. asked the Companies for recognition as exclusive bargaining representative of occupational employees in the Plant Department and certain clerical employees working the Central Office Exchanges, who it presently contends constitute an appropriate bargaining unit. The Companies refused such recognition, contending that the proposed unit of craft and clerical employees was not an appropriate bargaining unit and that the clerical employees included therein were covered by a contract between the Companies and the Intervenor which constituted a bar to such recognition.

On August 30, 1937, the Companies entered into a collective bargaining agreement with the U. B. T. W., covering skilled craft and other unskilled employees in the Plant Department in certain named occupational classifications² and, on September 27, 1942, entered into a further agreement covering the same employees, subject to termination upon 30 days' written notice, subsequent to September 28, 1943. On November 5, 1943, subsequent to the petition filed herein, the same parties entered into a new contract, covering these same employees, which by its terms extends to September 1, 1944, and is renewable thereafter, subject to 30 days' written notice by either party. The

² This contract includes employees in the following work categories: Cable Tester, Central Office Repairman, Deskman, Equipment Installer, PBX Installer, PBX Repairman, Powerman, Splicer, Switchman, Combinationman, Line Assigner, Installer-Repairman, Garage Mechanic, Groundman, Painter, Yardman, Supplyman, Driver, Station Installer, Station Repairman, Toll Repairman, Frameman, Lineman, Splicer's Helper, Carpenter, Conduitman, Elevator Dispatcher (woman), Elevator Operator (woman), Garageman, Apparatus Serviceman, Building Serviceman, Building Mechanic, Building Servicewoman, and Cableman. Except as indicated, employees in these categories are men.

occupational employees covered by these contracts are included in the bargaining unit presently proposed by the U. B. T. W.

On October 28, 1937, the Companies and the Intervenor entered into a recognition agreement wherein the Companies recognized the Intervenor as exclusive bargaining representative of all clerical and office employees in the Area within certain specified categories.³ On May 19, 1943, on behalf of these employees, the same parties entered into a written bargaining contract terminable on 90 days' written notice, subsequent to September 24, 1943. On September 22, 1943, the same parties entered into a supplemental agreement terminable on 90 days' notice, subsequent to August 31, 1944.

The Companies and the Intervenor presently contend that these contractual relations between them constitute a bar to an investigation and determination of representatives at this time. For reasons which we have fully set forth in prior representation proceedings, we find no merit in these contentions.⁴ The bearing of this past bargaining history upon the appropriateness of the bargaining unit presently proposed by the U. B. T. W. is, however, an entirely different matter, which we shall discuss below.

The U. B. T. W. presently contends that certain of the clerical employees for whom the Intervenor has been the recognized bargaining representative in an Area-wide unit since 1937 should be joined in a single bargaining unit with the occupational forces in the Plant Department of the Area, whom the U. B. T. W. has represented on a department-wide unit since 1937. The clerical employees included in the proposed unit, herein called the disputed group, are limited by the petitioner to employees in the Central Office Exchanges of the Companies who fall within the following categories: repair, assignment, order desk, time and material, receiving, records, central office record, information, plant reports, and service order clerks, respectively, and typists.⁵

³ This contract includes employees in the following work categories: Clerk, Central Office Record Clerk, District Office Clerk, Drafting Clerk, Draftsman, Duplicating Machine Clerk, File Clerk, Force Data Clerk, General Clerk, Information Clerk, Junior Stenographer, Mail Clerk, Mail Distribution Clerk, Messenger, Office Service Clerk, Order Desk Clerk, Plant Reports Clerk, Receiving Clerk, Records Clerk, Repair Clerk, Reports Clerk, Senior Clerk, Service Observing Clerk, Service Order Clerk, Specialized Records Clerk, Staff Clerk, Statistical Clerk, Statistical Typist, Stenographer, Supervising Draftsman, Time and Material Clerk, Typist, and Verification Clerk.

⁴ The recognition agreement of October 28, 1937, has already been in existence for over 6 years and is of indefinite duration. The contract of May 19, 1943, is subject to termination on 90 days' notice at any time after September 24, 1943. The supplemental agreement of September 22, 1943, was entered into after the U. B. T. W. had requested recognition of the Companies and after it had filed the petition herein. *Matter of The Trailer Company of America*, 51 N. L. R. B. 1106, and cases cited therein; *Matter of California Door Company*, 52 N. L. R. B. 68, and cases cited therein; and *Matter of Evi-Klean Seat Pad Company*, 54 N. L. R. B. 666.

⁵ As of January 22, 1944, typists were restricted to the San Francisco District Office and information clerks were restricted to the San Francisco and East Bay Offices.

The Central Office Exchange Buildings house the Central Office Exchange, which includes switchboards or dial equipment required for the local calls of the Companies' customers, and craft, clerical, and maintenance employees necessary to furnish the service. The Exchange equipment is installed, repaired, maintained, and tested by the so-called occupational employees of the Plant Department, but is operated by employees of the Traffic Department.⁶ Plant Department employees who normally work within the Central Office Exchange Building perform their work within the equipment room, sometimes referred to as the switchroom, and in the test center which is either part of the equipment room or a separate room adjacent to it.⁷ They are craft employees who have for the most part acquired their skill in outside plant work. The clerical employees who constitute the disputed group are women. They work with few exceptions in the test centers, where customers' orders for installation or repair of the Companies' equipment are received and the completed work is tested. They receive from customers orders for such installation and repair, and communicate by telephone or loud speaker with the craft employees who perform and test the necessary work. They make original records, and process records, relating to these matters. Clerical employees in the disputed group thus come into contact with inside and outside occupational forces. In the Exchange they work for convenience in the presence of the inside craft employees. For this reason, they are subject to common supervision in the test center. In the larger offices the lowest level of such supervision is the chief deskman. In the smaller offices the common supervisor may be a wire chief.⁸ In the smaller offices some of the clerical work performed by employees in the disputed group is performed by the craftsmen. In the larger offices formerly craftsmen regularly included, as part of their craft work, clerical work incidental to it. For example, line assigners formerly included in their work certain clerical duties now performed in the larger offices by assignment clerks. Now, in cases

⁶ In some districts, the Companies maintain in their Central Office Exchange Buildings toll equipment for long distance service. In other districts the toll equipment is housed elsewhere. All toll equipment is operated and maintained by a separate group of employees within the Plant Department, known as the toll employees. Toll employees and employees in the Traffic Department of the Companies' utility service are represented for the purposes of collective bargaining by other labor organizations in separate units respectively limited to these employees.

In order to make use of all space available at any given time, the Companies use space in their Central Office Exchange Buildings not required for switchroom, test center, traffic, and toll purposes for housing district offices. Of approximately 50 district office clerical employees, however, only 11 work in Central Office Exchange Buildings, and those employees, like traffic and toll employees, work outside the test centers, and in adjacent or nearby offices. Their work includes clerical duties incident to district administration.

⁷ If facilities permit, the test center is placed in a separate room in order that tests may be made in the absence of the noise common in the switchroom.

⁸ The wire chief includes under his supervision inside and outside occupational plant forces.

of overflow, at different times of the day, such craftsmen presently take over some of the clerical work. Likewise in some circumstances, assignment clerks may, under direction, handle simple work of the sort normally done by line assigners. Similar situations arise in the case of certain other clerical employees who are sufficiently experienced. All such work performed by clerks, however, is simple routine directed work, for clerks are not skilled craftsmen nor are they capable of filling craftsmen's jobs. There is no interchange and no promotion between clerical employees in the disputed group and craft employees in the occupational forces with whom they work in the Exchange.

Clerical employees in the disputed group, in common with other clerks, work daytime hours. Craftsmen in the Plant Department work on three shifts. When the clerks go off duty, the work of order clerks and repair clerks is shifted to, and handled by, clerical employees in the Traffic Department and it is not retained in the test center to be handled by other clerical forces or by the craft employees working therein. Employees in the Traffic Department formerly regularly performed this work, and it was transferred to the test room for regular daytime hours to eliminate messenger or telephone service between the two departments. The salaries of employees in the disputed group are substantially lower than the salaries of the craft or occupational forces with whom they work, but are uniform with salaries paid to other clerical employees in the Area with similar classification and seniority. Clerks in the disputed group are sometimes interchanged with other clerical employees who work in the Central Office Exchange Buildings and they relieve one another in the cases of sickness and other absences. Moreover, while there is a line of promotion for all clerical employees to higher paid clerical positions wherever they may occur in the Area, clerical employees working in the Exchange are not promoted to vacancies occurring in the craft occupational forces of the Plant Department.

The U. B. T. W. contends that its proposed bargaining unit is appropriate because clerical employees in the disputed group work in the presence of certain employees in the plant occupational forces, share common supervision with them, and have more direct work contacts with them than with other clerical employees in the Area. These are considerations bearing on the appropriateness of its proposed unit. There are, however, approximately 2,500 occupational employees in the Plant Department for whom the petitioner has been bargaining representative since 1937. The record does not disclose how many work within the Central Office Exchanges. There are approximately 616 clerical employees in the Area covered by the contract between the Intervenor and the Companies. Of these, we note, 349 clerical employees are listed in the categories of employment included in the proposed

combination unit. Of this number 227 work in Central Office Exchange Buildings, of whom 216, including the disputed group,⁹ work in Central Office Exchanges and 11 in district offices therein. The 122 remaining clerks in the same job classifications work in district offices not housed in Central Office Exchange Buildings, and in building and construction offices, garages, and supply houses, where they likewise work more or less closely with the occupational forces in the Plant Department represented by the U. B. T. W.¹⁰ The U. B. T. W. would exclude these employees from its proposed unit. There is no substantial difference in the work performed by clerical employees in the same categories, wherever their work may be performed. None of such work is confidential.

As noted above, the work of the clerical employees within the disputed group is clerical rather than craft work; their wages, hours, and skills are those of clerical rather than craft employees; and there is no interchange or opportunity of promotion between employees in the craft forces and employees in the disputed group. Over a long period of time inside and outside occupational employees in the Companies' Plant Department have bargained collectively with their employers in a bargaining unit from which clerical employees have been excluded. Subsequent to the filing of the petition herein, the U. B. T. W. affirmed the appropriateness of the unit limited to the occupational forces in the Plant Department by entering into a new exclusive bargaining contract limited to these employees. Over a similar period of time clerical employees in the entire Area have likewise bargained in a unit from which craft employees have been excluded. Clerical employees have lately, especially in the larger Exchanges, relieved certain craft employees of much of the clerical work incidental and necessary to their craft employment. Nevertheless, we see no reason at this time to disturb the separate units which the self-organization among these craft and clerical employees, respectively, has established and maintained over a substantial period of time.¹¹ Upon the entire record in

⁹The U B T W contends that approximately 110 clerical employees fall within its proposed bargaining unit, the limitations of which it changed from time to time during the hearing. The U B T W expressly excludes from the unit clerical employees in the Central Office Exchanges who do not work "with" or "in the presence of" the craft employees for whom it is presently the exclusive bargaining representative.

¹⁰Clerical employees in categories not named for inclusion in the petition number approximately 267, and they work in the Companies' division, district, engineering, and general offices in the Area.

¹¹The form which self-organization has taken among the employees involved in a proceeding, or among workers similarly situated, is one of the most significant factors in determining the appropriate unit. Self-organization which has resulted in successful collective bargaining in the past can be relied on as a guide for future collective bargaining. Similarly, the form of self-organization presently existing, and the rules governing eligibility to membership in the labor organizations which have engaged in organization in the field, aid in determining the most effective method of collective bargaining. In taking these factors into consideration the Board utilizes the experienced judgment of the workers themselves as to the existence of the mutual interest in working conditions which must exist among the members of an appropriate unit. *Third Annual Report*, p. 160

this proceeding, we find that the unit proposed by the U. B. T. W. is not an appropriate bargaining unit.

The Companies recognize the U. B. T. W. as the exclusive bargaining representative of all the craft occupational employees whom it includes in its presently proposed bargaining unit. No other labor organization claims to represent any of these employees. The U. B. T. W. does not claim or desire to represent the clerical employees in the area-wide unit for whom the Intervenor is the recognized bargaining representative. Thus, so far as the record discloses, there is no question concerning the representation of employees of the Companies in any appropriate bargaining unit. Under these circumstances, we shall dismiss the petition filed herein.

ORDER

Upon the basis of the above findings of fact, and upon the entire record in this proceeding, the National Labor Relations Board hereby orders that the petition filed by United Brotherhood of Telephone Workers for the investigation and certification of representatives of employees of The Pacific Telephone & Telegraph Company, San Francisco, California, and Bell Telephone Company of Nevada, its wholly owned subsidiary, be, and it hereby is, dismissed.