

In the Matter of INTER-CITY ADVERTISING CO., INC., OPERATORS OF
WAYS, CHARLOTTE, N. C. and INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 1229, AFFILIATED WITH AMERI-
CAN FEDERATION OF LABOR

Case No. 5-R-1476.—Decided April 18, 1944

Mr. Whiteford S. Blakeney, of Charlotte, N. C., for the Company.

Mr. Lawson Wimberly, of Washington, D. C. and *Mr. John A. Thompson*, of Montgomery, Ala., for the Union.

Mrs. Catherine W. Goldman, 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 1229, affiliated with the American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Inter-City Advertising Co., Inc., Operators of WAYS, Charlotte, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sidney J. Barban, Trial Examiner. Said hearing was held at Charlotte, North Carolina, on March 17, 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

Inter-City Advertising Co., Inc., a North Carolina corporation, is engaged, with permission of the Federal Communications Commission, 55 N. I. R. B., No. 256.

in the operation of a radio station at Charlotte, North Carolina, under the call letters WAYS. The Company is an affiliate of the Mutual Broadcasting System and of the Blue Network, national broadcasting organizations. Commercial programs of local origin and of the two national systems, constitute about 42 percent of the total broadcasting time; and the remaining 58 percent of the total time is devoted to sustaining programs. The Company's gross income for 1943, derived solely from the sale of time on the air, was in excess of \$40,000. The reception range of WAYS extends outside the State of North Carolina.

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 1229, 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 employees 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 Union requests a unit composed of technicians employed at the Company's transmitter, exclusive of the chief engineer and studio employees. The Company contends that such a unit is inappropriate, and that the unit should cover both transmitter technicians and studio control room operators, including the chief engineer.

In the conduct of its business the Company maintains offices, two studios, and a control room within the city of Charlotte, and a broadcasting transmitter about 7 miles outside the city. At the control room the operators have charge of the technical processes of transferring programs to the transmitter. These employees, who are hired by the station manager, are not required to have previous experience nor licenses from the Federal Communications Commission. Two of the

¹ The Field Examiner reported that the Union submitted four authorizations, dated November 18, 1943; and that there were five employees in the unit requested.

Company's control operators are engaged exclusively in this work; the other four operators spend only about one-third of their time at the control board. During the remainder of their working hours they engage in announcing, program producing, continuity writing, and station promoting. The control operators communicate with the transmitter technicians by telephone, but they perform no work at the transmitter.

The transmitter technicians, who are hired by the chief engineer, are required to be licensed by the Federal Communications Commission. The Company employs two technicians having first-class licenses, one technician having a second-class license, and one technician having a third-class license. These employees make repairs and perform maintenance work on the transmitter, the type of work performed depending upon the type of license they hold. One of the first-class technicians goes to the studio on occasion to assist the chief engineer in maintenance work of a technical nature which the control operators are not capable of performing. The third-class technician also cares for most of the remote control broadcasts of the station, which function is akin to that of the control operators, but he spends only a minor portion of his time in such activity.

The chief engineer supervises the work of the control room and the transmitter. He receives higher wages than the transmitter technicians and is paid on a salary basis whereas they are paid on an hourly basis. The chief engineer has authority to hire and discharge the transmitter technicians, and determines their classification and conditions of work. He has authority to effectively recommend discipline of the control room operators.

The Company grounds its unit contentions upon the integration and interdependence of its operations at the studio control room and at the transmitter. We are of the opinion, however, that the physical separation of the transmitter technicians, the requirements they must fulfill before they are employed, and the technical nature of their functions, indicate a diversity of interest between the transmitter technicians and the control room operators, and the feasibility of a separate unit confined to transmitter technicians.² We are also of the opinion that the chief engineer falls within our customary definition of supervisory employees, and, accordingly, we shall exclude him from the appropriate unit.

We find that all technicians employed at the Company's transmitter, excluding employees at the studio, the chief engineer, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or

² See *Matter of Colorado Radio Corporation*, 55 N L R B. 423.

- 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 Inter-City Advertising Co., Inc., Operators of WAYS, Charlotte, North Carolina, 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 Fifth 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 1229, affiliated with the American Federation of Labor, for the purposes of collective bargaining.