

In the Matter of SOUTHERN CALIFORNIA EDISON COMPANY, LTD., and
BUILDING SERVICE EMPLOYEES' INTERNATIONAL UNION, LOCAL NO. 99

Case No. 21-R-2292.—Decided June 2, 1944

Gibson, Dunn & Crutcher, by Messrs. *F. O. Field* and *R. G. Kenyon*,
of Los Angeles, Calif., for the Company.

Messrs. *John C. Stevenson* and *Frank Green*, of Los Angeles, Calif.,
for the Union.

Mr. John A. Weiss, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Building Service Employees' International Union, Local No. 99, affiliated with the A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Southern California Edison Company, Ltd., Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Los Angeles, California, on May 4, 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 Trial Examiner's rulings made at the hearing are free from prejudicial error and 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

Southern California Edison Company, Ltd., a California corporation, is engaged in the business of generating, distributing, and selling
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electric power. During 1942, the Company purchased supplies, material, equipment, and machinery valued in excess of \$3,400,000, of which in excess of \$2,200,000 represented purchases from points outside the State of California. During the same period, the total sales of the Company amounted to more than \$50,000,000. No electric power is directly sold or shipped outside the State of California. The Company delivers wholesale electric power to other cities and companies, including specifically the Pacific Gas and Electric Company, to which the Company delivered in excess of \$2,500,000 worth of electric power during 1942. The total wholesale electric power so delivered to the cities and the companies is in excess of \$3,400,000.

The Company stipulated that its operations in commerce were as set out above, and admitted that while in its operation as a whole, it is engaged in interstate commerce, the operation of its 13-story office building in Los Angeles, California, is not a part of its interstate commerce activities, and that consequently the janitorial employees hereinafter described are not within the jurisdiction and purview of the Act. The Company in the past has used various amounts of space in the building for the conduct of its operations and business and presently occupies 40 percent of the available space for executive offices, conference rooms, and libraries, leasing the remainder of the building to other commercial tenants. The employees sought by petitioner are all janitorial employees, including porters and maids, elevator operators, and starters, employed by the Company to clean and maintain the building and annex, and to operate the elevators. These employees perform only part of the maintenance work required, the Company contracting with the Los Angeles Building Maintenance Company, not involved in this proceeding, for the remainder.

We cannot agree that the work of these employees is local and without substantial relation to traffic, trade, and commerce, for the building houses a part of the Company's operations which are not separable from the business of supplying electrical energy and power. Here are located the executive, medical, comptrollers, legal, investment, commercial, and other departments and staffs necessary for the conduct and maintenance of its operations. A disturbance among these employees would interfere with the operation of its office building and the performance of the duties and work of these departments which we view as an integral and necessary part of its enterprise. It is well established, and we find, that such employees are within the purview of the Act.¹

¹ See *Matter of The Texas Company and Building Service Employees' Local Union No. 75*, 21 N. L. R. B. 110; and *Butler Brothers v. N. L. R. B.*, 134 Fed. (2d) 981 (C. C. A. 7), cert denied 320 U. S. 789.

II. THE ORGANIZATION INVOLVED

Building Service Employees' International Union, Local No. 99, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant the Union's requested recognition as the exclusive representative of the janitorial employees and elevator operators until there has been a determination of whether or not these employees are engaged in interstate commerce.

A statement prepared by the Field Examiner and introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.²

IV. THE APPROPRIATE UNIT

The parties agree that janitorial employees, including porters and maids, and the elevator operators, should comprise the unit, if any, found appropriate by the Board. They disagree, however, with respect to the inclusion of the elevator starter. The unrefuted testimony of the Building Superintendent of the Company is that the elevator starter has supervision over the elevator operators with authority to recommend their hire and discharge. It appears that the authority and duties of the elevator starter are such as to bring him within our definition of a supervisory employee; we shall exclude him.

We find, therefore, that all janitors, porters, maids, and elevator operators employed by the Company at its Los Angeles building and Annex, but excluding the elevator starter 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 Elec-

² The Field Examiner reported that the Union submitted 13 applications for membership of persons whose names appear on the Company's pay roll of March 21, 1944, in a unit of 16 persons alleged by the Union to be appropriate.

tion 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 Southern California Edison Company, Ltd., Los Angeles, California, 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 Twenty-first 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 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 or not they desire to be represented by Building Service Employees' Union, Local No. 99, for the purposes of collective bargaining.