

In the Matter of OWENS-CORNING FIBERGLAS CORP. and TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 8-R-1433.—Decided July 14, 1944

Marshall, Melhorn, Wall & Bloch, by Messrs. *Henry R. Bloch*, *Richard A. O'Neill*, and *John D. Black*, of Toledo, Ohio, for the Company.

Mrs. Clara Kanun, of Newark, Ohio, *Mr. Herbert W. Payne*, of New York City, and *Mr. Charles Bubb*, of Columbus, Ohio, for the Textile Workers.

Mr. Wm. G. Muhlean, of Toledo, Ohio, *Mr. Harvey H. Harshman*, of Dunkirk, Ind., and Messrs. *Frank H. Dunlap* and *Carl R. Fields*, of Newark, Ohio, for the Glass Workers.

Mr. Edgar E. Baker, of Newark, Ohio, and *Mr. D. D. Sharp*, of Cleveland, Ohio, for the I. B. E. W.

Messrs. *Carl Cederquist* and *William A. Adams*, of Cincinnati, Ohio, for the I. A. M.

Mr. Robert E. Tillman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by Textile Workers Union of America, C. I. O., herein called the Textile Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Owens-Corning Fiberglas Corp., Newark, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Newark, Ohio, on March 31, 1944. The Company, the Textile Workers, and American Flint Glass Workers Union of North America, A. F. L., herein called the Glass Workers, and International Brotherhood of Electrical Workers, A. F. L., herein called the I. B. E. W., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine

witnesses, and to introduce evidence bearing on the issues.¹ On May 27, 1944, the Board issued an Order granting the motion to intervene filed by International Association of Machinists, Local No. 463, herein called the I. A. M., and directing that the record be reopened. Pursuant to the Order, further hearing upon due notice was held in Newark, Ohio, on June 8, 1944, before Frank L. Danello, Trial Examiner. The parties heretofore mentioned and the I.A.M. 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 rulings of the Trial Examiners made at the hearings 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

Owens-Corning Fiberglas Corp., a Delaware corporation, has its principal office at Toledo, Ohio. It operates plants in the States of Ohio, Pennsylvania, and Rhode Island. Only its plant located in Newark, Ohio, is involved in the present proceeding. At this plant, the Company is engaged in the manufacture of fibrous glass products. The principal raw materials used in the manufacture of such products are sand, soda ash, lime, and oil, of which at least 50 percent is shipped to the plant from points outside the State of Ohio. During the year 1943, the Company manufactured at its Newark plant finished products having a value in excess of \$500,000, of which 90 percent was sold to customers located outside the State of Ohio.

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

II. THE ORGANIZATIONS INVOLVED

Textile Workers Union of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

American Flint Glass Workers Union of North America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Brotherhood of Electrical Workers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

¹ Bricklayers, Masons and Plasterers International Union entered an appearance at the opening of the hearing, but subsequently withdrew when apprised that the other parties were not seeking to represent employees whom it claimed to represent.

International Association of Machinists, Local No. 463, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On February 8, 1944, the Textile Workers notified the Company by mail that it represented a majority of the latter's employees and requested recognition as the exclusive bargaining representative of such employees. On February 12, 1944, the Company advised the Textile Workers to use the processes of the Board.

Statements of Field Examiners of the Board, introduced into evidence at the hearing, and a statement of the Trial Examiner made at the hearing, have been compiled in a table below.² These statements indicate that each of the labor organizations represents a substantial number of employees in the unit it contends to be appropriate.

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 UNITS

A. *The contentions of the parties*

The Company, the Textile Workers, and the Glass Workers stipulated that a single unit of production and maintenance employees at the Company's Newark, Ohio, plant is appropriate for purposes of collective bargaining.

The I. B. E. W. contends that all electrical employees at the plant constitute a separate unit.

The I. A. M. would separate from the proposed production and maintenance unit all machinists, helpers, apprentices, tool and die makers,³ and welders in the laboratory machine shop of the plant, ex-

² See the following table

Proposed units	Number of employees in units	Representation showing in units			
		Textile Workers	Glass Workers	I. B. E. W.	I. A. M.
Prod and maint employees.....	3,083	923	142		
Electrical employees.....	33			19	
Laboratory machine shop.....	*110				33

²This figure represents the total number of machinists employed by the Company. The number of machinists in the unit alleged to be appropriate by the I. A. M. is approximately 52. In addition, there are 7 or 8 welders.

³Those engaged in tool and die making at the Newark plant are classified as machinists by the Company.

cluding clerical employees, laborers, sweepers, janitors, and supervisory employees.

B. The proposed production and maintenance unit

The Company's plant consists of the following divisions, all located within a single fenced-in area: the research laboratories, the wool division, the textile division, and the marble division. The record is clear that there is a high degree of integration both in the management and in the operation of the four divisions. The Company has no history of collective bargaining at its Newark plant. These facts would clearly support a finding that a single production and maintenance unit is appropriate, as contended by the Company, the Textile Workers, and the Glass Workers. The Board, however, has frequently postponed its determination of the appropriate unit pending a reflection of the desires of employees sought to be set off in separate craft units, where counterbalancing considerations were present indicating the appropriateness of such separate units. As noted hereinafter, the instant case presents such factors in favor of two separate craft units. Accordingly, no final determination as to the appropriateness of a single production and maintenance unit will be made at this time.

The Company, the Textile Workers, and the Glass Workers are in disagreement only as to the supervisory status of group leaders, the Company contending that they should be excluded from the unit, and the Textile Workers and Glass Workers contending that they should be included. The Company has 75 group leaders distributed throughout its several production and maintenance departments who are responsible to shift foremen and departmental foremen. They each direct the work of from 5 to 22 employees, devoting from 25 percent to more than 50 percent of their time in work of a supervisory nature. They receive more pay than the employees whom they supervise and have the power to recommend their promotion, discharge, discipline, and demotion. We find that group leaders are supervisory employees within the meaning of our customary definition, and we shall exclude them from the voting groups hereinafter established.

C. The unit proposed by the I. B. E. W.

The unit proposed by the I. B. E. W. would comprise all electrical employees of the Company in its Newark plant. The Company has a total of 32 such employees divided evenly between two central headquarters, one in the laboratory division, under the supervision of an electrical foreman, the other as part of the maintenance department where they are under the plant engineer. All 32 employees are engaged exclusively in electrical repair and maintenance work throughout the plant, working out of their central headquarters, where they

report to work daily and are given job assignments. The immediate supervisors of the electrical employees are group leaders. The above evidence indicates that the Company's electrical employees constitute a clearly identifiable, skilled craft group. We are, therefore, of the opinion, in the absence of any history of collective bargaining, that the considerations in favor of a separate unit of electrical employees balance those tending to favor an industrial unit, so that the electrical employees could function as a separate unit for the purposes of collective bargaining or be included in a production and maintenance unit.

D: The unit proposed by the I. A. M.

The I. A. M. seeks a unit confined to the laboratory machine shop of the Company's Newark plant, consisting of machinists and welders. The plant has 3 departments where machinists are employed, namely, the laboratory machine shop, the wool division machine shop, and the textile division machine shop. Each of the shops has a separate location and separate supervision. There are no machinists in the maintenance department, although there are 4 or 5 welders, and no machinists are engaged in production. In all, there are 110 machinists, of whom 52 are assigned to the laboratory. The machinists in the laboratory machine shop are engaged primarily in the building of new machines, and incidentally in the maintenance of machines in the laboratory building. The machinists in the other 2 machine shops, on the other hand, are concerned almost entirely with maintenance work in their respective divisions, which requires their presence throughout the production departments of their divisions. The Company's personnel director testified that there is a certain degree of specialization in each of the 3 shops which would require that employees interchanged among the shops undergo additional training. It thus appears that the laboratory machinists are performing work distinctive from that in which the remainder of the Company's machinists are engaged.

There is ordinarily no interchange of machinists among the three machine shops. Occasionally, machinists from one shop will use machines in another shop in connection with their work. Accordingly, there is little contact among the employees of the three shops.

There are seven or eight welders in the laboratory machine shop who work in conjunction with the machinists in building new equipment and maintaining laboratory equipment. Consequently, they are readily distinguishable from the welders in the maintenance department who are engaged in construction work. Moreover, there is seldom any interchange of welders.

In view of the distinctive character of the work in which the machinists and welders of the laboratory machine shop are engaged, their

segregation and comparative isolation from other machinists and welders employed by the Company, the skills required of them, and the absence of any history of collective bargaining, we conclude that they could function as a separate unit apart from the other machinists and welders, and apart from other production and maintenance employees. On the other hand, we are of the opinion that they could properly be included in a unit of production and maintenance employees.

E. The jurisdictional disputes

The unit which the Glass Workers requests conflicts with those sought by the I. B. E. W. and the I. A. M. Since all three unions are affiliated with the American Federation of Labor, it is evident that the Board is faced with the problem of jurisdictional disputes. While we have, on occasion, dismissed proceedings involving jurisdictional disputes between two or more unions on the theory that an issue was raised which the parent organization was competent to decide, we have never done so where a union not a party to the jurisdictional dispute was also seeking to represent the employees over whom the dispute had arisen.⁴ Here, the Textile Workers is not a party to the jurisdictional dispute and seeks to represent the employees involved in the dispute. We shall, therefore, determine the question concerning representation despite the jurisdictional disputes between the Glass Workers, on the one hand, and the I. B. E. W. and the I. A. M., on the other. The names of both the I. B. E. W. and the Glass workers shall be placed on the ballot in the election hereinafter ordered among the electrical employees, and the names of both the I. A. M. and the Glass Workers shall be placed on the ballot in the election hereinafter directed among the machinists and welders in the laboratory machine shop.⁵

F. Concluding findings

In view of our findings with respect to the electrical employees and with respect to the machinists and welders in the laboratory machine shop, we shall make no final determination at this time of the appropriate unit, or units. Such determination will depend, in part, on the results of the elections hereinafter directed.

We shall direct that the question concerning representation which has arisen be resolved by separate elections by secret ballot among the

⁴ See *Matter of Long-Bell Lumber Company*, 16 N. L. R. B. 892; *Matter of Weuerhaeuser Timber Company, Klamath Falls Branch*, 42 N. L. R. B. 499; and *Matter of Buffalo Tank Corporation*, 56 N. L. R. B. 829.

⁵ If, as a result of the elections ordered in this proceeding, the Glass Workers, or the I. B. E. W., or the I. A. M. is certified as the representative of employees of the Company, our certification will not be a determination that such A. F. of L. affiliate is the union authorized by the A. F. of L. to assert jurisdiction over such employees. It will merely be a holding that such A. F. of L. affiliate is the exclusive representative of employees of the Company in an appropriate unit for the purposes of collective bargaining.

employees in the following voting groups who were employed during the pay-roll period immediately preceding the date of our Direction of Elections, subject to the limitations and additions set forth therein: (1) all electrical employees of the Company in its Newark plant, excluding group leaders 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, to determine whether they desire to be represented by the I. B. E. W., the Textile Workers, the Glass Workers, or none; (2) all machinists, helpers, apprentices, tool and die makers, and welders in the laboratory machine shop, excluding clerical employees, laborers, sweepers, janitors, group leaders, 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, to determine whether they desire to be represented by the I. A. M., the Textile Workers, the Glass Workers, or none; and (3) all remaining production and maintenance employees of the Newark plant and its research laboratories, including section leaders (or utility men and utility women), but excluding office and clerical employees, salaried employees (it being understood that the Company will not deviate from its usual practice in placing people on the salaried pay roll), laboratory technicians and employees doing confidential work in the research laboratories, temporary and part-time employees, department heads, department foremen, shift foremen, chief shift inspectors, group leaders, 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, to determine whether they desire to be represented by the Textile Workers, the Glass Workers, or neither.⁶

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 Owens-Corning Fiberglas Corp., Newark, Ohio, separate elections by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and

⁶ The composition of Group (3) conforms substantially to a stipulation of the Company, the Textile Workers, and the Glass Workers.

subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the following employees who were employed by the Company during the pay-roll period immediately preceding the date of this Direction of Elections, 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 elections:

1. All electrical employees, excluding group leaders 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, to determine whether they desire to be represented by International Brotherhood of Electrical Workers, A. F. L., or by Textile Workers Union of America, C. I. O., or by American Flint Glass Workers Union of North America, A. F. L., for the purposes of collective bargaining, or by none;

2. All machinists, helpers, apprentices, tool and die makers, and welders in the laboratory machine shop, excluding clerical employees, laborers, sweepers, janitors, group leaders, 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, to determine whether they desire to be represented by International Association of Machinists, Local No. 463, or by Textile Workers Union of America, C. I. O., or by American Flint Glass Workers Union of North America, A. F. L., for the purposes of collective bargaining, or by none; and

3. All production and maintenance employees of the Newark plant and its research laboratories, including section leaders (or utility men and utility women), but excluding all employees included in Groups 1 and 2 above, office and clerical employees, salaried employees (it being understood that the Company will not deviate from its usual practice in placing people on the salaried pay roll), laboratory technicians and employees doing confidential work in the research laboratories, temporary and part-time employees, department heads, department foremen, shift foremen, chief shift inspectors, group leaders, 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, to determine whether they desire to be represented by Textile Workers Union of America, C. I. O., or by American Flint Glass Workers Union of North America, A. F. L., for the purposes of collective bargaining, or by neither.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.