

In the Matter of PHILADELPHIA QUARTZ COMPANY and INTERNATIONAL
UNION OF OPERATING ENGINEERS, LOCAL 272, A. F. L.

Case No. 5-R-1578.—Decided July 27, 1944

Mr. Harold Evans, of Philadelphia, Pa., for the Company.
Messrs. Albert Weisbord and William S. Deaton, of Baltimore, Md.,
for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION
AND
CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

Upon petition duly filed by International Union of Operating Engineers, Local 272, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Philadelphia Quartz Company, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Goldberg, Trial Examiner. Said hearing was held at Baltimore, Maryland, on June 20, 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

Philadelphia Quartz Company, a Pennsylvania corporation, has its principal offices in Philadelphia, Pennsylvania, and numerous branch offices and factories throughout the United States. Its plant at Baltimore, Maryland, herein called the Baltimore Plant, with which this proceeding is concerned, is engaged in the manufacture of silicate of

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soda. During the past year the Company purchased raw materials, consisting of sand, soda ash, coal, fire brick, and some miscellaneous material, valued at \$180,000, substantially all of which came from points outside the State of Maryland. During the same period of time the Company's sales of its finished product were valued at \$340,000, of which approximately 25 percent was shipped to points outside the State of Maryland.

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

II. THE ORGANIZATION INVOLVED

International Union of Operating Engineers, Local 272, 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 the Regional Director, introduced into evidence at the hearing, indicates that the Union represents all of the 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 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union seeks a unit comprising all licensed operating engineers, classified by the Company as boiler producer operators. The Company contends that only a plant-wide unit is appropriate. The Baltimore Plant has 21 employees, 4 of whom are boiler producer operators. The main function of these boiler producer operators is to operate the auxiliary stoker-fired boiler, the waste heat boiler which makes steam for the processing of the silicate of soda, and the gas producer which manufactures the producer gas with which the furnace is heated. They are licensed by the City of Baltimore, under a municipal ordinance which requires licensing of all operating engineers. Before an individual can take an examination under the provisions of this ordinance he must have served a 2-year apprentice-

¹ The Regional Director reported that the Union submitted four application cards dated October 20, 1943; that there were four employees in the unit petitioned for; and that the Union's business representative stated that all the employees within the proposed unit are dues-paying members and have been since October 1943.

ship. None of the other employees in the plant is licensed, nor is any license required of them by any governmental agency. We have repeatedly held that licensed operating engineers are members of a traditional craft and may, therefore, constitute a separate unit appropriate for the purposes of collective bargaining.²

We find that all licensed operating engineers, called boiler producer operators by the Company at its Baltimore Plant, excluding 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.

V. THE DETERMINATION OF REPRESENTATIVES

Both parties have agreed that the Union be certified on the record in the event that the Board finds the unit sought by the Union is appropriate. Since the Union represents all the employees in the unit hereinbefore found appropriate, and in view of the agreement between the parties, we shall not direct an election in accordance with customary procedure, but shall certify the Union.³

CERTIFICATION OF REPRESENTATIVES

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended.,

IT IS HEREBY CERTIFIED that International Union of Operating Engineers, Local 272, affiliated with the American Federation of Labor, has been designated and selected by a majority of all licensed operating engineers, also referred to as boiler producer operators, employed by Philadelphia Quartz Company, Baltimore Plant, Baltimore, Maryland, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

² See *Matter of Superior Tanning Company*, 43 N. L. R. B. 734; *Matter of General Motors Corporation*, 28 N. L. R. B. 793; *Matter of Hygrade Food Products Company*, 20 N. L. R. B. 139.

³ See note 1, *supra*.