

In the Matter of MOUNTAIN STATES POWER COMPANY *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION No. 659, A. F. of L.

*Case No. 19-R-1274.—Decided September 7, 1944*

*Messrs. J. Ford and L. C. Sipe, of Albany, Oreg., for the Company.*  
*Mr. C. W. Crary, of Medford, Oreg., for the I. B. E. W.*  
*Mr. C. W. Owen, of Portland, Oreg., for the Engineers.*  
*Mr. Louis Cokin, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon petition duly filed by International Brotherhood of Electrical Workers, Local Union No. 659, A. F. of L., herein called the I. B. E. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Mountain States Power Company, Albany, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Albany, Oregon, on August 10, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Union of Operating Engineers, Local No. 87, A. F. of L., herein called the Engineers, to intervene. The Company, the I. B. E. W., and the Engineers 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 counsel for the Engineers moved to dismiss the petition. The Trial Examiner reserved ruling thereon. The motion is hereby denied. 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 COMPANY

Mountain States Power Company is a Delaware corporation furnishing electric, gas, steam heat, telephone, and water services in the States of Oregon, Washington, Idaho, Montana, and Wyoming. We are here concerned with its hydroelectric generating plant at Albany, Oregon, which is in the Company's Willamette Division. The Company is engaged in furnishing only electric and water service in its Willamette Division. During 1943, the Albany hydroelectric generating plant received 39.5 percent of the Company's entire total water revenue, and produced 1.28 percent of the Company's total output of electric energy. The Company's power lines cross the Washington-Idaho boundary line, and most of the power distributed by the Company in the State of Idaho is imported from the State of Washington. The Company's telephone lines connect with the Bell System and project long distance calls to all parts of the United States. Almost the entire output of the Company's Willamette Division is used by companies engaged in war work.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers, Local Union No. 659, and International Union of Operating Engineers, Local No. 87, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

During December 1943, the I. B. E. W. requested the Company to recognize it as the exclusive collective bargaining representative of the employees involved herein. The Company refused this request on the ground that the Engineers also claimed to represent such employees.

The Engineers contends that the petition should be dismissed because it and the I. B. E. W. are both affiliated with the American Federation of Labor. In the past the Board has, as a matter of policy, refused to permit rival unions affiliated with the same parent organization to resort to the administrative processes of the Act for settlement of their representation disputes were adequate and appropriate machinery was available to them under the procedures of the

parent organization.<sup>1</sup> In the instant case the record indicates that the dispute between the I. B. E. W. and the Engineers is of long standing and universal in scope. Thus it is apparent that effective resolution of the existing conflict cannot be had without resort to the administrative processes of the Act.<sup>2</sup>

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the I. B. E. W. and the Engineers each represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>3</sup>

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 I. B. E. W. and the Company contend that the operators and dispatchers at the Albany, Oregon, hydroelectric generating plant of the Company, excluding supervisory employees, constitute an appropriate bargaining unit. The only controversy with respect to the unit concerns dispatchers. The Engineers would exclude them from the unit.

The dispatchers are classified by the Company as power plant foremen and load dispatchers. They have charge of the dispatching of power loads throughout the Company's entire system and give orders to various plants and to plants supplying purchased energy. It further appears that they have the authority to effectively recommend the hire and discharge of any employee at the Albany, Oregon, hydroelectric generating plant. We find that the dispatchers are supervisory employees, and as such, we shall exclude them from the unit.

We find that all operators at the Albany, Oregon, hydroelectric generating plant of the Company, excluding dispatchers and any 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 means of an election by secret ballot among

<sup>1</sup> *Matter of Weyerhaeuser Timber Company*, 16 N. L. R. B. 902.

<sup>2</sup> *Matter of W. H. Kistler Stationery Company*, 51 N. L. R. B. 978.

<sup>3</sup> The Regional Director reported that the I. B. E. W. and the Engineers presented 3 and 4 authorization cards respectively, bearing the names of persons who appear on the Company's pay roll for the period ending February 3, 1944. There are approximately 5 employees in the appropriate unit.

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, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Mountain States Power Company, Albany, Oregon, 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 Nineteenth 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 they desire to be represented by International Brotherhood of Electrical Workers, Local Union No. 659, A. F. of L., or by International Union of Operating Engineers, Local No. 87, A. F. of L., for the purposes of collective bargaining, or by neither.