

In the Matter of WHITE-RODGERS ELECTRIC COMPANY and BUILDING
SERVICE EMPLOYEES, LOCAL 50, AFL

Case No. 14-R-995.—Decided September 16, 1944

Fyffe & Clarke, by Mr. John Harrington, of Chicago, Ill., for the Company.

Mr. J. T. Latham, of St. Louis, Mo., for the AFL.

Mr. R. B. Logsdon, of St. Louis, Mo., for the CIO.

Mr. Paul Bisgyer, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Building Service Employees, Local 50, AFL, herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of White-Rodgers Electric Company, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner. Said hearing was held at St. Louis, Missouri, on August 8, 1944. The Company, the AFL, and United Electrical, Radio & Machine Workers of America, CIO, herein called the CIO, appeared and participated.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Company and the CIO moved to dismiss the petition on the ground that the unit sought by the AFL was inappropriate.² The Trial Examiner referred these

¹ Although duly served with Notice of Hearing, International Association of Machinists, AFL, herein called the IAM, did not appear.

² The CIO also contends that the AFL's petition should be dismissed, inasmuch as the Regional Director for the Fourteenth Region, St. Louis, Missouri, had previously declined to issue a Notice of Hearing on the CIO's petition for investigation and certification (Case No. 14-R-735) and its superseding petition (Case No. 14-R-791) involving units allegedly similar to that sought by the AFL. In the former petition, the CIO requested a unit of "All maintenance employees in the maintenance division, but excluding electricians, plant-protection employees, clean-up employees, charwomen, and supervisory employees . . ." In the latter petition, it sought a unit of "All charwomen and clean-up men in the maintenance division but excluding electricians, plant-protection employees, supervisory em-

motions to the Board for determination. For reasons hereinafter appearing, the motions are denied. 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

White-Rodgers Electric Company is a Delaware corporation normally engaged in the manufacture of temperature controls for refrigerators and heaters, but now engaged in the manufacture of secret automatic controls at its plant in St. Louis, Missouri. During 1943, the Company purchased for use in its processes raw materials valued in excess of \$500,000, of which more than 50 percent came from outside the State of Missouri. During the same period, the Company's finished products exceeded \$1,000,000 in value, 99 percent of which was sold under contract to the United States Army, Navy, and Air Corps.

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

II. THE ORGANIZATIONS INVOLVED

Building Service Employees, Local 50, affiliated with the American Federation of Labor, and United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company, disputing the propriety of the unit proposed by the AFL, has refused to grant recognition to the AFL as the exclusive bargaining representative of the employees involved herein until it has been certified by the Board in an appropriate unit.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the AFL represents a substantial number of employees in the unit hereinafter found appropriate.³

ployees . . ." As will be noted from our discussion in Section IV, *infra*, contrary to the CIO's assertion, the units which it sought were not as comprehensive as that now desired by the AFL.

³ The Field Examiner reported that the AFL submitted 24 application for membership cards, and that there were 40 employees in the alleged appropriate unit.

The Trial Examiner stated on the record that the CIO submitted 27 authorization cards, 14 of which bore the names of persons listed on the Company's pay roll of June 4, 1944.

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 AFL seeks a unit of all employees in the Company's Maintenance Section, including watchmen⁴ and maintenance electricians, but excluding "maintenance production employees," the master mechanic, and all supervisory personnel. Thus, the AFL would include in its unit the following job classifications in the Maintenance Section: maintenance man factory, maintenance man factory helper, maintenance carpenter, maintenance carpenter helper, scrap and salvage handler, stock man, clean-up man III, charwoman, and watchman. The Company and the CIO challenges the adequacy of the proposed unit and contend that all the Company's production and maintenance employees, exclusive of clerical and supervisory employees, constitute the only appropriate unit. Moreover, the Company argues that the maintenance electricians should be excluded on the ground that they are employees of an independent contractor, and that the master mechanic should be included since he is not a supervisory employee, as the AFL claims. The Company would also include the "maintenance production employees" because their duties are similar to those of the clean-up men and charwomen in the Maintenance Section.

The record discloses that the employees of the Maintenance Section are engaged in various phases of maintenance work, such as repairing, setting and building guards for the machines, carpentry, the issuance and care of maintenance supplies, scrap handling and salvage, plant cleanliness, and plant protection. The Section is under the exclusive supervision of the plant engineer, who is also the maintenance foreman, and is located in a specified part of one of the plant buildings. The time of the Maintenance Section employees is reported by their own timekeeper. Although these employees perform their duties throughout the plant, there is no interchange of personnel between the Maintenance Section and production sections. In view of the foregoing, we are of the opinion that the employees of the Maintenance Section constitute a well defined and identifiable unit. Since it also appears from the record that no labor union has successfully organized the Company's employees on the broad basis urged by the Company and the CIO,⁵ and that the AFL, for all practical purposes, has limited

⁴ The watchmen are uniformed, but are neither armed, militarized, nor deputized.

⁵ Pursuant to written contracts with the Company, the IAM has had 4 consecutive years of collective bargaining for the Company's tool and die workers. The contract now in effect expires on December 31, 1944, and embraces an independent, skilled, and homogeneous group not involved in the instant proceeding.

its organizing activities to the employees in the Maintenance Section,⁶ we find no plausible reason for withholding from this group of employees the benefits of the Act.⁷

There remains for consideration the inclusion or exclusion of employees in certain disputed categories.

The master mechanic: The uncontroverted testimony indicates that he is capable of performing all the maintenance, except electrical, work in the plant, and because of his skill and experience, is the highest paid employee in the Maintenance Section. He spends all his time in manual labor and, while he may lead the other maintenance men on a job, he does not possess authority to hire, discharge or change the status of any of them, or effectively to recommend such action. We shall include him.⁸

Maintenance electricians: They are under the separate supervision of an alleged independent contractor who does all the Company's electrical maintenance work under an oral agreement. This individual carries the necessary workmen's compensation insurance for these employees and has the power to hire and discharge them, although the Company retains a certain degree of control over them. They have been steadily employed at the plant for periods ranging from about 1 to 2½ years. In view of the fact that the maintenance electricians constitute a distinct, homogeneous group under separate supervision, are not assigned to the Maintenance Section, and apparently have interests which are not related to those of the Maintenance Section employees, they will be excluded from the unit.

"Maintenance production employees": They consist of clean-up men and charwomen, permanently assigned to various production sections, who work under the direct supervision of their respective production foremen. Their duties are similar in nature to those of the clean-up men and charwomen in the Maintenance Section, but are only performed in their respective production sections. Their time is checked by the time clerk who keeps the time of the production employees. It appears, therefore, that their interests are more closely allied with those of the production workers than with those of employees in the Maintenance Section. We shall exclude them.

Accordingly, we find that all employees in the Company's Maintenance Section, including watchmen and the master mechanic, but excluding maintenance electricians, "maintenance production employees," and 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 ap-

⁶ The AFL has also submitted two application for membership cards of two maintenance electricians hereinafter excluded.

⁷ *Matter of Electro Metallurgical Company*, 56 N. L. R. B. 1464.

⁸ *Matter of Mills Novelty Company*, 46 N. L. R. B. 1207.

propriate 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.⁹

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 White-Rodgers Electric Company, St. Louis, Missouri, 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 Fourteenth 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 Building Service Employees, Local 50, AFL, or by United Electrical, Radio & Machine Workers of America, CIO, for the purposes of collective bargaining, or by neither.

⁹ The CIO desires that its name be placed on the ballot in the event its motion to dismiss is denied. As indicated in footnote 3, *supra*, the CIO submitted 14 authorization cards signed by employees appearing on the Company's pay roll of June 4, 1944. Contrary to the claim of the AFL and the Company, we consider this showing sufficient to warrant placing the CIO on the ballot.