

In the Matter of THE LORAIN TELEPHONE COMPANY and OHIO
FEDERATION OF TELEPHONE WORKERS, INC.

Case No. 8-R-1625.—Decided September 22, 1944

Mr. William P. Clyne, of Cleveland, Ohio, and *Mr. G. A. Resek*, of Lorain, Ohio, for the Company.

Messrs. Robert G. Pollock and *George Knable*, of Cleveland, Ohio, and *Messrs. Willard Dobbeck* and *Walter Marlow*, of Lorain, Ohio, for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Ohio Federation of Telephone Workers, Inc., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Lorain Telephone Company, Lorain, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Cleveland, Ohio, on August 25, 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 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

The Lorain Telephone Company is an Ohio corporation with its principal place of business at Lorain, Ohio, where it furnishes telephone communication facilities. During the 6-month period preceding the date of the hearing the Company purchased equipment, material, and supplies valued at about \$15,000, 50 percent of which was

shipped to it from points outside the State of Ohio. The Company is the only one operating telephone facilities in and around Lorain, Ohio, and handles long distance telephone service over its own lines and over the lines of the Ohio Bell Telephone Company and American Telephone and Telegraph Company. It is impossible to make or receive a long distance call in the territory serviced by the Company unless the Company's facilities are used.

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

II. THE ORGANIZATION INVOLVED

Ohio Federation of Telephone Workers, Inc., is a labor organization affiliated with the National Federation of Telephone Workers, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive bargaining representative of its employees until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union urges that all employees of the Company, excluding managerial and supervisory employees, constitute an appropriate bargaining unit. The Company would, in addition, exclude all clerical employees from the unit. The parties are also in disagreement with respect to the supervisory status of several named positions.

The Company's operations are divided into three departments, namely office, traffic, and plant. All employees are housed in the same building. The Union has organized all departments of the Company and the record indicates that there is a strong community of interest between the clerical employees and the traffic department employees. The latter are mainly telephone operators. Under all the circumstances, we conclude that an employer-wide unit, consisting of office, traffic, and plant departments, is appropriate in this case.

We find, in agreement with the parties, that the telephone engineer,

¹The Field Examiner reported that the Union presented 53 membership application cards. There are approximately 71 employees in the appropriate unit.

assistant telephone engineer, the wire chief, the lineman, and the chief operator are supervisory employees, and as such, we shall exclude them from the unit.

The Company maintains a small district office in each of five towns outside of Lorain, Ohio. It employs a superintendent at each of the district offices who climbs poles, installs telephones, collects bills, makes contracts, makes contributions to charity on behalf of the Company, and performs other similar duties. Only three of the five superintendents have subordinates at present. However, it appears that on occasion they have actually hired and discharged employees. We find that the superintendents of district-offices are managerial and/or supervisory employees, and, as such, we shall exclude them from the unit.

The Company employs one person classified as an installer. All telephones are installed under his supervision and he has one helper. It appears that the relationship between the installer and his helper is that of journeyman to apprentice rather than that of supervisor to subordinate. Accordingly, we shall include him in the unit.

The Company would exclude its directory superintendent who prepares the subscriber lists. This employee has no subordinates. The Company contends that she has access to confidential information. It appears that although she might have access to confidential information, none of said information has to do with labor relations. We shall include the directory superintendent in the unit.

The Company employs six billing clerks and four cashiers all of whom it would exclude from the unit on the ground that they have access to confidential information. None of the information coming to the billing clerks and cashiers in the normal course of their duties deals with labor relations. We shall include the billing clerks and the cashiers in the unit.

The Company has two persons classified as supervisors. They act as chief operator on the shifts when the latter is not working. During those periods, they exercise the same degree of supervision as the chief operator, who is admittedly excluded from the unit. Under these circumstances, we shall exclude the supervisors from the unit.

The cable foreman has three to six subordinates and has the authority to hire and discharge. We find that the cable foreman is a supervisory employee, and as such, we shall exclude him from the unit.

The Company has one employee classified as a secretary-stenographer. In addition to her regular duties, this employee transcribes the minutes of meetings of the directors during the course of which she has access to confidential information relating to labor relations. We shall exclude her from the unit.

The Company seeks the exclusion of its two checking clerks. The record indicates that they perform no supervisory duties and that

their work is purely clerical in nature. Inasmuch as we have found hereinabove that clerical employees should be included in the unit, we shall include the checking clerks.

We find that all employees of the Company, including the installer, directory superintendent, billing clerks, cashiers, and checking clerks, but excluding the secretary-stenographer, the telephone engineer, assistant telephone engineer, wire chief, line foremen, chief operator, superintendents of district offices, supervisors, cable foreman, 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 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 The Lorain Telephone Company, Lorain, Ohio, 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 Eighth 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 election, to determine whether or not they desire to be represented by Ohio Federation of Telephone Workers, Inc., for the purposes of collective bargaining.