

In the Matter of SOUTHERN UNITED ICE COMPANY, DOING BUSINESS AS BLUFF CITY DELIVERY COMPANY, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL 667, A. F. L.

Case No. 15-R-1067.—Decided September 27, 1944

Messrs. Henry J. Livingston and Newell N. Fowler, of Memphis, Tenn., for the Company.

Messrs. John L. Biggers, James A. Swearingen, and Dester Goings, of Memphis, Tenn., for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon an amended petition duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 667, A. F. L.; herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Southern United Ice Company, doing business as Bluff City Delivery Company, Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence N. Whitlow, Trial Examiner. Said hearing was held at Memphis, Tennessee, on August 17 and 18, 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. At the hearing the Company moved to dismiss the petition on the grounds that (1) the Company is not engaged in commerce within the meaning of the Act, and (2) the Union, at the hearing, did not make a sufficient showing of representation among the Company's employees. The motion was referred to the Board by the Trial Examiner. For reasons stated in Section III, *infra*, the motion is granted. Subsequent to the hearing, the Union filed with the Board a motion to correct the record in certain respects, and the Company,

having been apprised by the Board of the Union's motion consented thereto. The motion is granted and the record is corrected accordingly. 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

Southern United Ice Company is a New Jersey corporation with its principal offices in Jackson, Mississippi. Under the trade name of Bluff City Delivery Company it operates, in various parts of the city of Memphis, Tennessee, four ice manufacturing plants, a coal yard, a cold storage plant, and several retail stores, which sell, in addition to ice, beer, groceries, and dairy products. During 1943, the Company's sales, through all of its operations in Memphis, Tennessee, amounted to approximately \$700,000. During that time, the Company sold ice valued at approximately \$71,136, which it manufactured at all its Memphis ice plants, to the Memphis Union Station, Railway Express Company, and Fruit Growers Express Company, all of which used the ice to refrigerate railroad cars apparently engaged in the transportation of persons and goods to and from points outside the State of Tennessee. During the same period, it also sold ice valued at approximately \$19,613, which it manufactured at all its Memphis ice plants, to various meat packing houses apparently engaged in receiving meats from and shipping meats to, points outside the State of Tennessee. During the calendar year 1943, the Company bought ammonia and salt valued at \$3,600, most of which was shipped from points outside the State of Tennessee.

The Company admits that it operates its coal yard in conjunction with one of its ice plants located at Olsted Avenue, Memphis, Tennessee. During 1943, the Company sold coal valued at approximately \$40,000, all of which was shipped to it from points outside the State of Tennessee.

The Company's cold storage plant is housed in a building located near one of its ice plants. The refrigerating machinery which serves to produce ice in that ice plant also refrigerates the cold storage plant. All foods stored in the cold storage plant belong to packers which receive merchandise from points outside the State of Tennessee, and thereafter ship them to points outside that State. The Company admits that the activities of the cold storage plant affect commerce within the meaning of the Act.

The Company's retail stores are used as outlets for some of the ice produced by the Company.

All the Company's operations in Memphis, Tennessee, are under the supervision and direction of a general manager, who approves the pay rolls for all its employees.

In view of the integrated nature of the Company's Memphis operations and upon all the facts above set forth, contrary to the Company's contention, we find that its activities at its ice plants, coal yard, cold storage plant, and retail stores in Memphis, Tennessee, affect commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 667, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about December 28, 1943, the Union requested recognition as the exclusive collective bargaining representative of all the Company's employees, with certain specified exclusions. The Company refused to accord such recognition until the Board certifies the Union in an appropriate unit.

An examination of the evidence upon which the Union's representation claim rests leads us to conclude that no sufficient showing has been made of representation among the employees whom the Union seeks to represent to warrant an investigation and certification of representatives at the present time. The Trial Examiner stated on the record that the Union submitted 45 authorization cards, of which 20 contained names of persons appearing on the Company's pay roll of July 20, 1944, listing the names of 132 employees in the alleged appropriate unit. Under these circumstances, we find that no 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, and shall direct that the petition herein be dismissed.¹

ORDER

Upon the basis of the above findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Southern United Ice Company, doing business as Bluff City Delivery Company, Memphis, Tennessee, filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 667, A. F. L., be, and it hereby is, dismissed.

¹ See *Matter of American Manufacturing Company*, 41 N. L. R. B. 995.