

In the Matter of MICHIGAN BELL TELEPHONE COMPANY and MICHIGAN TELEPHONE EMPLOYEES' FEDERATION, INC., AFFILIATED WITH THE NATIONAL FEDERATION OF TELEPHONE WORKERS (INDEPENDENT)

*Case No. 7-R-1782.—Decided September 28, 1944*

*Mr. James Morgan Smith*, of Detroit, Mich., for the Company.

*Mr. Leon A. Cousens*, of Detroit, Mich., for the Union.

*Mr. Paul Bisgyer*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Michigan Telephone Employees' Federation, Inc., affiliated with the National Federation of Telephone Workers (Independent), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Michigan Bell Telephone Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on August 15 and 16, 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

Michigan Bell Telephone Company, a Michigan corporation, has its principal office and general headquarters in Detroit, Michigan. It is engaged in the business of furnishing telephone service to its subscribers in the State of Michigan. It also acts as an agency for

initiating, receiving and completing interstate telephone calls. The Company's annual business exceeds \$1,000,000.

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

## II. THE ORGANIZATION INVOLVED

Michigan Telephone Employees Federation, Inc., affiliated with the National Federation of Telephone Workers, (Independent), is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING RE-REPRESENTATION

The parties stipulated that the Company has refused to grant recognition to the Union as the exclusive bargaining representative of the employees involved herein.<sup>1</sup>

A statement of the Trial Examiner, made on the record at the hearing, indicates that the Union represents a substantial number of employees in the voting group hereinafter established.<sup>2</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 DETERMINATION OF REPRESENTATIVES

Pursuant to written agreements, the Company, for the past several years, has recognized the Union as the collective bargaining representative of its Traffic Department Central Office clerical and operating, service observing, and dining service employees. The current contract expires in April, 1945. The Union now seeks to enlarge the scope of its present bargaining unit, by adding thereto all the non-supervisory clerical employees of the Traffic Department in the Company's District, Division, and General Offices. Thus, it appears that the Union desires to represent all non-supervisory employees of the Traffic Department in a single unit. The Company, acknowledging the propriety of a separate unit of the employees sought to be added, except those whose exclusion it urges, opposes an expanded unit. It argues that the dissimilarity of interests of the two groups, the different nature and conditions of their work, and the geographical separation of their places of employment, militate against the advisability of forming a single unit.

<sup>1</sup> As noted in Section IV, *infra*, the Union, currently recognized as the bargaining representative of certain of the Company's Traffic Department employees seeks to consolidate with this group, the non-supervisory clerical employees of the Traffic Department in the District, Division, and General Offices.

<sup>2</sup> The Trial Examiner stated on the record that the Union submitted 125 authorization cards bearing the names of persons appearing on a pay-roll list of employees dated July 1, 1944, furnished by the Company which contained the names of 306 employees whom the Union would add to the existing unit-in which it is now recognized.

For operational purposes, the Company has three large departments, namely, Traffic, Commercial, and Plant, and one small department, the Engineering Department. The function of the Traffic Department, with whose employees we are solely concerned, is to establish telephone connections for its subscribers.

The territory served by the Company is divided into four divisions, each of which is under the administration of a Division Traffic Superintendent. The Divisions are subdivided into Districts, each of which is under the supervision of a District Traffic Superintendent. The Districts, in turn, are comprised of several exchanges which are communities served by one or more Central Offices.

As mentioned above, the employees who are included in the Union's contract with the Company, work in the Central Offices of the Traffic Department. It is with this group that the Union endeavors to have the remaining employees in the Traffic Department merge, thus forming a single unit of employees paralleling the Company's departmental organization. The record and briefs of counsel indicate that the Company, in other instances, has had bargaining relations along departmental lines. The Company now has separate contracts for its employees in its Commercial Department and Plant Department.

Viewing all the facts and circumstances in the case, we fail to see such divergent interests between the Traffic Department employees in the established bargaining unit and those sought to be incorporated therein. On the contrary, the highly integrated character of the Company's operations, the community of interest of both groups in the rendition of service to the public,<sup>3</sup> and the nature and extent of collective bargaining between the Company and its employees, impel the conclusion that a single unit of all the Traffic Department employees may be appropriate.

We shall, accordingly, direct an election only among the Traffic Department non-supervisory clerical employees in the District, Division, and General Offices so that they may indicate their desires as to whether or not they should be added to the established bargaining unit represented by the Union.<sup>4</sup>

There remains for consideration the composition of the voting group. Both parties agree to the inclusion of the employees in the classifications listed in "Appendix A" and to the exclusion of the employees in the classifications listed in "Appendix B." However, controversy centers about the following categories which the Union would include and the Company would exclude:

<sup>3</sup> *Matter of Southern Bell Telephone and Telegraph Company*, 55 N. L. R. B. 1058.

<sup>4</sup> *Matter of Armour and Company*, 40 N. L. R. B. 1333.

*Assistants to various supervisory officials:* There are a number of Traffic Department employees whose titles bear the word "Assistant." Several of these "Assistants" have been excluded by stipulation of the parties because of their confidential position with respect to the Company's labor relations and personnel matters. The "Assistants," concerning whom there is a dispute, are the Assistant to P. B. X. Traffic Engineer, Assistant to Traffic Engineer, Assistant to Supervisor of Traffic Results, Local Operators Practices Assistant, Toll Operators Practices Assistant, Operators Quarters Assistant, Traffic Office Supplies Assistant, and Traffic Department Instructions Assistant. The Company would exclude them primarily because they are management personnel, although it also asserts, not too strongly, that they are supervisory and confidential employees. Without discussing the precise nature of the respective duties of the "Assistants," suffice it to say, they are generally engaged in planning, checking, analyzing, and preparing studies of the Company's methods, practices and technique of operation, and related clerical work. While it may be true that the work of these employees requires broad knowledge and experience, and gives them access to certain of the Company's confidential business affairs, as distinguished from labor relations matters, this is insufficient to impute to them a managerial status. Moreover, the record fails satisfactorily to demonstrate that they possess either supervisory functions, or are in a position to acquire confidential information regarding the Company's labor relations. We shall include them in the voting group.

*T. W. X. and P. B. X. Service Representatives:* They are service representatives who deal with the Company's customers. They consult with and advise the Company's customers in order to improve their telephone or teletypewriter service, and coach, train, and instruct their employees who actually operate the equipment. We find no evidence in the record to support the Company's contention that the T. W. X. and P. B. X. Service Representatives are "arms of management." Since they do not come within our definition of supervisory or confidential employees, we shall include them.

*Chief P. B. X. Instructor:* She directs the operation of the P. B. X. training department, which is primarily concerned with the training of employees of the Company's customers in the operation of a switchboard. Her duties entail scheduling of classes, checking in students and assigning them to P. B. X. instructors, and instructing students herself. The Company argues that she is a supervisory employee. However, the record discloses that she does not possess any power to hire or discharge any employee; nor does it contain sufficient evidence to warrant the conclusion that she is a supervisory employee within the meaning of our customary definition. She will be included.

*Supervising Clerks:* Essentially, their duties involve checking and examining for accuracy the work of the clerks under their respective supervision, and reporting to their own supervisors upon the performance of these clerks. Admittedly, the supervising clerks do not possess the power to make effective recommendations for changes in the status of the clerks assigned to them, although on rare occasions, when there are more than one classification of clerks reporting to them and there exists a vacancy in a higher classification, they may recommend one of their subordinate clerks to fill that position.<sup>5</sup> Moreover, no persuasive proof has been submitted showing that the supervisory clerks may make, and have made, effective recommendations for pay increases, especially in view of the fact that the Company operates under wage-merit guides. We shall include the supervising clerks.

*Time Reporting Clerks:* Olive Armitage, a Time Reporting Clerk called as a witness by the Union, testified, in substance, that her work consisted of processing and maintaining records of leaves of absence and pay-roll changes. In each instance, she followed prescribed routines and instructions, which required no decision on her part. Her testimony indicates, and the brief of counsel for the Union points out, that the only pay-roll changes she worked on were those involving automatic pay increases of employees covered by the existing contract between the Union and the Company, and that increases of all other employees which were not automatic, were handled by her supervisor. She also testified that the duties of the other Time Reporting Clerks were the same as hers. Further, the parties stipulated that Time Reporting Clerks generally do the same type of work.

G. P. Rese, General Traffic Employment Supervisor, called as a witness by the Company, testified that Time Reporting Clerks, in the performance of their duties, would learn of contemplated pay-roll changes before they were approved by higher company officials. Apparently, these pay-roll changes would be limited to those employees who are not covered by the existing contract between the Company and the Union. Reconciling the testimony of Armitage and Rese, we are of the opinion that the Time Reporting Clerks do not acquire such advance knowledge of contemplated pay increases which would warrant their exclusion from the bargaining unit. We shall include them.

*Three General Clerks:* The Company has agreed to the inclusion of all the employees classified as General Clerk, with the exception of three clerks<sup>6</sup> who, it contends, are confidential employees and should therefore be excluded. Since, however, there is no evidence to show that they are, in fact, confidential employees within the meaning of

<sup>5</sup> One Supervising Clerk testified that she made such recommendations, but that they were not always followed.

<sup>6</sup> Melba MacGillivray, A. V. McKillop and D. M. Renaud.

our usual definition, we shall include them with the other general clerks.

*Clerks to Division Staff or General Staff Supervisors:* According to the uncontroverted testimony of Reese, these clerks generally are in a position to learn the Company's attitude regarding grievances and other labor relations matters affecting the employees under the supervision of their respective supervisors, and proposed changes in pay or classification of such employees.<sup>7</sup> It appears that some of these clerks are located directly outside of their supervisors' offices and might inadvertently overhear conversations taking place inside, particularly since some of the office partitions do not reach the ceiling. In any event the clerks carry correspondence containing confidential information relating to labor relations to and from their supervisors. We shall exclude these clerks,<sup>8</sup> subject however, to the qualification that certain clerks within this classification who apparently do not function as such and are consequently not similarly situated with respect to acquiring the confidential information mentioned above, shall be included.<sup>9</sup>

*Stenographers in the Detroit Division Office and General Office:* The Company's supervisory staff in the Detroit Division Office and General Office do not have private secretaries. Instead, they are furnished with stenographic services from two pools. There is no evidence to indicate that these pools are drawn upon by any persons other than the supervisory officials in the Detroit Division Office and General Office. It appears from the record that the stenographers in these pools occasionally take dictation from the Company's officials in the offices mentioned above, or receive their handwritten letters for transcription, pertaining to the Company's policies and practices involving labor relations. Generally, this work is marked "confidential." Since their duties are comparable to those of private secretaries, we shall exclude them.<sup>10</sup>

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees of the Company in the following voting group 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:

<sup>7</sup> The Union, in its brief, conceded that the witness, Alice Kerridge, clerk to the P. B. X. Superintendent, should be excluded, since she had supervisory functions

<sup>8</sup> *Matter of Chrysler Corporation*, 36 N. L. R. B. 157

<sup>9</sup> A witness, Louise Brooks, whose title is Clerk to Supervisor of Traffic Results, testified that, in fact, she does not act as such a clerk. The Company, in its brief, admits that she is erroneously titled and asserts that her duties are not adequate criteria of the duties performed by the other clerks in this classification. Her unchallenged testimony indicates that her work is purely clerical and that she has no access to confidential information respecting labor relations

<sup>10</sup> *Matter of Chrysler Corporation*, *supra*

All clerical employees in the Company's Traffic Department in the District, Division, and General Offices, including the employees in the classifications listed in "Appendix A," attached hereto, the Assistant to P. B. X. Traffic Engineer, Assistant to Traffic Engineer, Assistant to Supervisor of Traffic Results, Local Operators Practices Assistant, Toll Operators Practices Assistant, Operators Quarters Assistant, Traffic Office Supplies Assistant, Traffic Department Instructions Assistant, T. W. X. and P. B. X. Service Representatives, Chief P. B. X. Instructor, Supervising Clerks, Time Reporting Clerks, and all the General Clerks, but excluding the employees in the classifications listed in "Appendix B," attached hereto, the Clerks to Division Staff or General Staff Supervisors (except clerks in that classification who do not function as such), stenographers in the Detroit Division Office and General Office, 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. In the event a majority of the employees select the Union as their bargaining representative, they thereby will have indicated their desire to be merged with the employees of the Traffic Department now represented by the Union.

The Regional Director is hereby authorized to conduct the election in whole or in part by mail.

#### 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 Michigan Bell Telephone Company, Detroit, Michigan, 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 Seventh 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 voting group described 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 the 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 deter-

mine whether or not they desire to be represented by Michigan Telephone Employees' Federation, Inc., affiliated with the National Federation of Telephone Workers, (Independent), for the purposes of collective bargaining.

## APPENDIX A

Force Adjustment Clerk.	P. B. X. Instructor.
General Clerk (except for three claimed by the Company to be confidential employees).	Service Observing Clerk.
Messenger.	Traffic Assignment Clerk.
Operators Quarters Clerk.	Traffic Engineering Clerk.
	Traffic Results Clerk.
	Typist.

## APPENDIX B

Clerk to District Superintendent.	Secretary to General Traffic Manager.
Chief Stenographer.	
Clerk to Division Superintendent.	Division Force and Cost Assistant.
Division Traffic Personnel Assistant.	Division Operators' Quarters Supervisor.
General Traffic Personnel Assistant.	Division Traffic Instructor.
P. B. X. Employment Interviewer.	Division Traffic Training Supervisor.
Traffic Employment Interviewer.	Division Traffic Recruiting Assistant.
Traffic Employment Methods Assistant.	Clerk to General Staff Head.
Traffic Wage Studies Assistant.	