

In the Matter of OWENS-CORNING FIBERGLAS CORPORATION and
TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 6-R-985.—Decided October 3, 1944

Messrs. Henry P. Bloch, J. D. Black, and Richard A. O'Neill, of Toledo, Ohio, for the Company.

Mr. W. H. Payne, of New York City, for the C. I. O.

Mr. Paul M. Northern, of Huntingdon, Pa., for District 50.

Mr. Thomas A. Ricci, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Textile Workers Union of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Owens-Corning Fiberglas Corporation, Huntingdon, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Huntingdon, Pennsylvania, on August 31, 1944. The Company, the C. I. O., and United Construction Workers, Division of District 50, United Mine Workers of America, herein called District 50, 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 moved to dismiss the petition. The Trial Examiner referred the motion to the Board for determination. For reasons set forth in Section III, *infra*, the motion is denied. The Trial Examiner's ruling 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:

¹ Although duly served with Notice of Hearing, the Glass Bottle Blowers Association of the United States and Canada, AFL, failed to appear.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Owens-Corning Fiberglas Corporation is a Delaware Corporation with its principal place of business at Toledo, Ohio. The Company is engaged in the manufacture, sale, and distribution of fibrous glass products, and maintains plants in Rhode Island, Ohio, and Pennsylvania. This proceeding solely concerns the employees of the Huntingdon, Pennsylvania, plant. Since October 1, 1943, the Company has purchased for use at its Huntingdon, Pennsylvania, plant, raw materials valued in excess of \$100,000, of which in excess of 55 percent was shipped from points outside the Commonwealth of Pennsylvania. During the same period the Company has shipped from the said plant finished products valued in excess of \$250,000, over 90 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

United Construction Workers, Division of District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of certain of its employees until the C. I. O. has been certified by the Board in an appropriate unit.

On March 15, 1944, pursuant to a Decision and Direction of Election issued by the Board,² an election was held among the Company's employees in substantially the same unit hereinafter found appropriate. The results of the election were inconclusive. Thereafter, on April 19, 1944, the Regional Director of the Sixth Region conducted a run-off election, in which the C. I. O. was the only participating labor organization. The C. I. O. lost that election, 336 of the eligible employees voting in favor of the C. I. O. and 360 of them voting against the C. I. O.

² 54 N. L. R. B. 1371.

The Company contends that no election should be held at this time and that the petition should be dismissed because of the short time which has elapsed since the April 19, 1944, election. The record discloses that the C. I. O. submitted new evidence of a substantial representation among the Company's employees in the appropriate unit, obtained since the April election, and that, at present, the C. I. O. apparently represents approximately 53 percent of the employees in this unit.³ In view of the foregoing facts, we are of the opinion that, for reasons stated in the *Wagner Electric* case,⁴ the contention of the Company is without merit.

A statement of a Board agent, introduced into evidence at the hearing, and a statement made on the record by the Trial Examiner, indicate that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.⁵

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

We find, in accordance with the stipulation of the parties, that all production and maintenance employees of the Company at its Huntingdon, Pennsylvania, plant, including cafeteria employees, but excluding office and clerical employees, all salaried employees, technicians, employees doing confidential work, production clerks, guards, watchmen, plant protection employees, supervisory employees consisting of department heads, supervisors, department foremen, shift foremen, chief shift inspectors, group leaders who act as direct heads of shifts or sections of a department, 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

³ See footnote 5, *infra*.

⁴ *Matter of Wagner Electric Corporation*, 53 N. L. R. B. 543. See *Matter of Brown Shoe Company, Inc.*, 55 N. L. R. B. 1411.

⁵ The Acting Regional Director reported that the C. I. O. submitted 485 authorization cards, that the names of 335 persons appearing on the cards were listed on the Company's pay roll of July 15, 1944, which contained the names of 769 employees in the appropriate unit, and that at least 273 of the said cards were dated subsequent to May 1, 1944.

The Trial Examiner stated on the record that, at the hearing, the C. I. O. submitted 131 additional membership cards, dated between July 1, 1944, and August 31, 1944, and that the names of 70 persons appearing on those cards were listed on the aforesaid pay roll.

The Acting Regional Director further reported that District 50 submitted 154 applications for membership cards, and that the names of 96 persons appearing on the cards were contained in the aforesaid pay roll.

action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.⁶

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.

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 Owens-Corning Fiberglas Corporation, Huntingdon, Pennsylvania, 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 Sixth 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 those employees 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 Textile Workers Union of America, C. I. O., or by United Construction Workers, Division of District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither.

⁶ This is the same unit as that found appropriate in the Board's previous Decision and Direction of Election, except that cafeteria employees are now included pursuant to the stipulation of all parties.