

In the Matter of ARKANSAS-MISSOURI POWER CORPORATION and
UTILITY WORKERS ORGANIZING COMMITTEE, AFFILIATED WITH CONGRESS
OF INDUSTRIAL ORGANIZATIONS

Case No. 15-R-1138.—Decided October 9, 1944

Mr. P. H. Lasley, of Little Rock, Ark., and *Mr. C. M. Buck*, of
Blytheville, Ark., for the Company. -

Mr. W. R. Henderson, of Little Rock, Ark., for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Utility Workers Organizing Committee, affiliated with Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Arkansas-Missouri Power Corporation, Blytheville, Arkansas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner.¹ Said hearing was held at Blytheville, Arkansas, on September 1, 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

Arkansas-Missouri Power Corporation is a Delaware corporation having its principal offices and places of business in Blytheville, Arkan-

¹ International Brotherhood of Electrical Workers, affiliated with American Federation of Labor, was duly served with Notice of Hearing, such service being acknowledged, but was not represented at the hearing.

sas. The Company operates a system for the distribution of electric power to various points in northeast Arkansas and southwest Missouri, and incidentally operates seven ice plants. The Company generates or purchases about 87 percent of its power in Arkansas, and about 13 percent in Missouri. It distributes approximately 60 percent in Arkansas, and approximately 40 percent in Missouri. During 1943, its purchases amounted to \$639,184, and its sales amounted to approximately \$1,917,262. The Company sells electricity to numerous manufacturing plants which are engaged in interstate commerce.

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

II. THE ORGANIZATION INVOLVED

Utility Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, 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 Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 Company and the Union are in agreement that all plant operators, plant helpers, linemen, linemen's helpers, servicemen, maintenance men and helpers, meter testers and repairmen, and storekeepers and store clerks of the Company, engaged in the production and maintenance of electric power,³ constitute a unit appropriate for purposes of collective bargaining. The Union, however, seeks to exclude chief plant operators, line foremen, combination local manager-servicemen, the maintenance foreman, and one storekeeper, on the ground that

² The Board agent reported that the Union submitted 37 application cards, and that the names of 34 persons appearing on the cards were on the Company's pay roll of June 30, 1944. On August 15, 1944, the Company's pay roll contained the names of 89 employees in the appropriate unit.

³ The parties agreed that plant operators and plant helpers who work part time on the ice operation and part time on the electricity operation, should be included.

these employees are supervisory. The Company would include the foregoing employees.

Chief plant operators, line foremen, and the maintenance foreman have crews of from 3 to 12 men working under their respective supervision. Each supervisor receives a higher rate of pay than the employees under him, and each has the authority effectively to recommend the hire or discharge of the employees for whose work he is responsible. Since these employees come within the Board's customary definition of supervisory employees, we shall exclude them.

Combination local manager-servicemen. In three of its smaller communities, the Company maintains an office staffed by a local manager-serviceman and a clerk-stenographer. The local manager is in charge of the office, and in the performance of his multiple duties reads and sets meters, collects service charges, and does general repair work. Under his direction, the clerk-stenographer prepares bills and does the necessary bookkeeping for the office. The local manager has the authority to recommend the hire or discharge of the clerk-stenographer. Because their duties are of a managerial and supervisory nature, we shall exclude the local manager-servicemen.

C. B. Kettinger is a storekeeper, whom the Union seeks to exclude on the ground that he is a supervisor over all of the Company's warehouses. The record discloses, however, that one George D. Pollack, Jr., is in charge of the warehouses and that the only duty that Kettinger performs, other than those performed generally by the storekeepers and store clerks, is the taking of annual inventories at the various warehouses. We shall include him in the unit.

We find that all plant operators, plant helpers, linemen, linemen's helpers, servicemen, maintenance men and helpers, meter testers and repairmen, and storekeepers and store clerks of the Company, excluding chief plant operators, line foremen, maintenance foreman, and combination local managers and servicemen, and all 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴ The Company urges that its employees now in the armed

⁴The Union requested to appear on the ballot as "C. I. O., Local 306." This request is hereby granted.

services be allowed to vote by mail. However, for reasons stated in the *Mine Safety Appliances* case,⁵ we shall provide that only those persons in the armed forces who present themselves at the polls may vote in the election.⁶

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 Arkansas-Missouri Power Corporation, Blytheville, Arkansas, 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 Fifteenth 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 or not they desire to be represented by Utility Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.

⁵ See *Matter of Mine Safety Appliances Co., Callery Plant*, 55 N. L. R. B. 1190

⁶ Although there was discussion at the hearing concerning the possible use of a mail ballot in the conduct of the election, the parties signified their opposition thereto, and we see no reason for authorizing this method of balloting in the present proceeding