

In the Matter of GUIBERSON CORPORATION and UNITED STEELWORKERS
OF AMERICA, C. I. O.

Case No. 16-R-1092.—Decided December 16, 1944

Hamilton, Turner & Hutchinson by *Mr. Raymond W. Weber* and
Mr. J. Glenn Turner, of Dallas, Tex., for the Company.

*Messrs. Lawrence Bench, Irwin Keasler, Thomas Peasner, Jimmie
L. Webb and Joe L. Kalick*, of Dallas, Tex., for the C. I. O.

Messrs. W. J. Cow and F. C. Ford, of Dallas, Tex., for the A. F. L.

Mr. Harry Nathanson, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers 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 the Guiberson Corporation, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earl Saunders, Trial Examiner. Said hearing was held at Dallas, Texas, on November 8, 1944. The Company, the C. I. O. and the International Brotherhood of Electrical Workers, Local 1272, A. F. L., herein called the A. F. L., 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. 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

The Guiberson Corporation, a Delaware corporation with its principal office at 1000 Forest Avenue, Dallas, Texas, is presently engaged

¹The International Association of Machinists was duly served with Notice of Hearing, but failed to appear.

in the manufacture of mortar shells and oil well supplies. During the past 6 months, the Company used at its Forest Avenue plant raw materials valued at approximately \$1,500,000, over 90 percent of which was received from points located outside the State of Texas. During the same period the Company manufactured finished products at its Forest Avenue plant valued in excess of \$3,000,000, of which the greater part was shipped to points outside the State of Texas.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local 1272, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to bargain with any labor organization until it is certified by the Board as the exclusive bargaining representative of the Company's employees in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. and the A. F. L., respectively, each represents a substantial number of employees in the unit it alleges to be 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 DETERMINATION OF REPRESENTATIVES

The C. I. O. seeks a unit of all regularly employed production and maintenance employees at the Company's Forest Avenue plant, including electrical maintenance employees and cafeteria employees, but excluding inspectors, set-up men, clerical, technical, plant-protection, and supervisory employees. However, the A. F. L. asserts that the electrical maintenance employees comprise a separate appropriate

² The Field Examiner reported that the C. I. O. submitted 488 authorization cards bearing apparently genuine signatures, 324 of which bore names of employees appearing on the Company's pay roll of October 25, 1944, which contained the names of approximately 1,067 employees in the unit alleged by the C. I. O. to be appropriate. He further reported that the A. F. L. submitted 8 authorization cards bearing apparently genuine signatures, all of which bore names of employees appearing on the same pay roll, which contained the names of 10 employees in the unit which it alleges to be appropriate.

unit. The Company takes no affirmative position with respect to the appropriate unit, except to contend that there should be a single unit including electrical maintenance employees, inspectors, and set-up men.

In addition to discussing the categories of employees in dispute, we shall also consider timekeepers and factory clerks, classifications concerning whom the C. I. O. did not clearly state its position.

Inspectors: These employees examine materials coming into the plant. They also examine parts during and after fabrication to determine whether or not specifications are being met. They exercise no supervisory functions and are responsible to the inspector foreman who in turn is responsible to the chief inspector. We shall include these employees.³

Set-up men: These employees tool and set up machines for operation in accordance with blueprint specifications. They keep them in proper working order and instruct and assist operators. They do not operate the machines, but observe the quantity and quality of the work. Although they may shut down a machine if work is below standard, they have no power to hire, demote, or discharge employees or to recommend such action. Their authority in this regard is limited to reporting to their foremen the inefficiency of employees within their respective groups.⁴ The number of machines assigned to them varies between two and seven, the average being four. They are paid on an hourly basis and receive a slightly higher wage than machine operators. The Company formerly classified certain of its employees as leadmen. However, these men have been reclassified as set-up men, assistant foremen, and foremen, it being the intention of the Company to separate the supervisory from the non-supervisory leadmen by designating the latter as set-up men. In view of all the foregoing facts, we are of the opinion that set-up men are not supervisory employees within the meaning of our usual definition, and we shall include them.⁵

Timekeepers: Their duties are to record the time spent by employees on the various jobs designated by work order or job number. They also examine time cards used by the employees to record their entrance into and exit from the plant. These employees form part of the accounting department. We shall exclude them.

Factory clerks: The clerical force is composed of office clerks and factory clerks. The latter are primarily under the same supervision as are the production and maintenance employees. Among the varied

³ *Matter of American Can Company*, 55 N. L. R. B. 530.

⁴ While there is testimony that serious consideration is given to the recommendations of set-up men that employees be transferred from operating particular machines, it appears that a "thorough trial" is first afforded employees before any action is taken.

⁵ *Matter of Ranco, Inc.*, 57 N. L. R. B. 282.

duties of factory clericals are the keeping of material and production records, stenographic work, and the performance of electrical work in the planning department. Since their interests are similar to those of production and maintenance employees, we shall include them.⁶

Electrical maintenance employees: As noted above, contrary to the wishes of the C. I. O. and the Company, the A. F. L. seeks a separate unit of electrical maintenance employees. The Company's plant is divided into two divisions, shell and oil tool. The maintenance department services both divisions which are under the supervision of a plant manager. In order to keep a constant flow of production and flexibility of operation, there is some interchange of employees between divisions. Maintenance electricians constitute part of the maintenance department whose headquarters are within the main building of the plant. They are under the supervision of their own foreman. Their duties are primarily to repair and maintain electrical equipment throughout the plant and to perform any collateral work. They are the only employees who perform this type of work.

The Company points to the fact that the work of these employees is integrated with the operations of the entire plant. On the other hand, it is clear that they comprise a distinct and identifiable group having special skills. Under these circumstances, we are of the opinion that the maintenance electricians may either function as a separate unit, as requested by the A. F. L., or as part of a larger unit, as urged by the C. I. O. and the Company.⁷ Accordingly, we shall make no final determination of the appropriate unit or units at this time, but shall permit such determination to depend, in part, upon the results of the elections hereinafter directed.

We shall direct that separate elections by secret ballot be held among the employees in each of the voting groups set forth below who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction. The respective voting groups shall be as follows:

(1) All electrical maintenance employees at the Company's Forest Avenue plant, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees of the Company, to determine whether they desire to

⁶ Apparently the C. I. O. would exclude office clericals. In accordance with our customary practice we shall exclude them.

⁷ Although the A. F. L. asks that gang foremen be included with the electrical maintenance workers, the record does not reveal whether they are supervisory employees. If they fall within the meaning of our customary definition, they shall be excluded from the electrical maintenance employees' voting group hereinafter established, otherwise they shall be included therein.

be represented by the A. F. L. or by the C. I. O., for the purposes of collective bargaining, or by neither; and

(2) All remaining production and maintenance employees at the Company's Forest Avenue plant, including cafeteria employees, inspectors, set-up men and factory clerks, but excluding timekeepers, office clerical employees, technical employees, plant-protection employees, 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, to determine whether or not they desire to be represented by the C. I. O. for the purposes of collective bargaining.

DIRECTION OF ELECTIONS

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 Guiberson Corporation, Dallas, Texas, separate elections 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 Sixteenth 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 groups of employees of the Company, set forth below, 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 elections, to determine:

(1) With respect to the employees described in voting group (1) of Section IV, above, whether they desire to be represented by the International Brotherhood of Electrical Workers, Local Union 1272, A. F. L., or by the United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither of said organizations; and

(2) With respect to the employees described in voting group (2) of Section IV, above, whether or not they desire to be represented by United Steelworkers of America, C. I. O., for the purposes of collective bargaining.