

In the Matter of WEST VIRGINIA PULP AND PAPER COMPANY, EMPLOYER and INTERNATIONAL BROTHERHOOD OF FIREMEN AND OILERS UNION, AFL, PETITIONER

Case No. 5-RC-153.—Decided January 24, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Baltimore, Maryland, on September 20, 1948, before Howard A. McIntyre, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner and the United Paper Workers of America, CIO, hereinafter called the Intervenor, are labor organizations claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. The appropriate unit:

The Petitioner seeks a unit composed of all men employed in the powerhouse at the Employer's paper plants at Covington, Virginia; Luke, Maryland; and Williamsburg, Pennsylvania, including engineers, firemen, water tenders, ash handlers, coal passers, oilers and maintenance men within the powerhouse, but excluding all electricians, machinists, water filtermen, foremen, assistant and acting foremen, all production employees, office and clerical employees, timekeepers, and supervisors. At the hearing the Petitioner further defined the unit to exclude the coal handlers, the miscellaneous worker-water treater, and vacuum pump operators at the Covington plant and the

*Houston, Reynolds, and Murdock.

janitors at the Luke and Williamsburg plants. The Employer and the Intervenor, the latter being the present bargaining representative for all production and maintenance employees in a single unit comprising all three plants, contend that the unit is inappropriate because it is not homogeneous or clearly defined. They also point to the overall integration of functions at the Employer's plants.

The employees in the unit sought by Petitioner are engaged in the production of steam and power at the 3 plants. There are 2,200 employees in the existing plant-wide unit at Covington; 1,500 at Luke; and 435 at Williamsburg. Of these, about 64 employees at Covington, 52 at Luke, and 16 employees at Williamsburg, would be eligible for inclusion in the proposed unit. The work area of these men is largely within the powerhouses at the individual plants although some employees at the Covington plant are stationed elsewhere at the vacuum pump house, the central pump house, repair shop and the waste boilerhouse. The powerhouse department, in the case of each plant, is regarded as a separate operation and is carried on a separate pay roll. While in some instances employees other than those in the proposed unit are under the same supervision as those within the unit, the supervision of powerhouse employees remains substantially separate and distinct. There is some contact with other personnel. Electricians, pipe fitters, welders, mechanics, and painters from the plant are called upon to supplement the maintenance force permanently stationed in the powerhouse, and other employees, not in the proposed unit, work alongside the unit personnel at the pump houses, repair shop, and waste boilerhouse at the Covington plant.

The Employer contends that the integrated nature of the plants' operations makes inappropriate the severance of a departmental unit, such as requested herein. It is true that the paper and pulp making operations of the Employer are completely dependent upon the steam and power produced in this department for all phases of production. However, we have previously considered this question with respect to paper mills and have held that the functions of a powerhouse department are not of such nature as to preclude the severance of these employees from an existing production and maintenance unit.¹ We find that these employees are a distinct, homogeneous, and functionally coherent group similar to other powerhouse units to whom we have granted severance.²

¹ See *Matter of Crocker, Burbank and Co., Assn.*, 80 N. L. R. B. 774; *Matter of Worthy Paper Company Association*, 80 N. L. R. B. 19; cf. *Matter of Lynn-Gas Electric Company*, 78 N. L. R. B. 3 in which special factors existing in the public utility industry were held to be sufficient ground for denying severance to powerhouse employees therein concerned.

² See *Matter of Smith Paper, Incorporated*, 76 N. L. R. B. 1222; *Matter of American Sugar Refining Company*, 76 N. L. R. B. 1009; *Matter of E. W. Bliss Company*, 76 N. L. R. B.

The proposed unit basically consists of workers in the usual powerhouse and boilerhouse work classifications such as firemen, water tenders, ash handlers, metermen, waste heat burner operators, turbine operators, repairmen, mechanics, helpers in the various categories and coal labor. The duties of the employees in the positions named are essentially the same as those performed by powerhouse personnel in other plants. None of these employees work in any part of the production process with the exception of the metermen who follow up meters and charts and do minor repair work. Metermen are customarily included in powerhouse units and we shall include them in the unit hereinafter found appropriate.³ The Petitioner requested at the hearing that the original petition be amended to exclude water filtermen. These employees are listed as part of the boilerhouse and powerhouse departments. No evidence was presented which would indicate that their interests and working conditions differ from those of the other unit personnel. We shall therefore include the water filtermen. There are several other work classifications whose unit placement is in doubt, and it is as to these fringe groups that the Intervenor and the Employer contend that the requested unit contains arbitrary inclusions and exclusions.

The Petitioner asks that "*coal handlers*" at the Covington plant be excluded from the unit. The "*coal handler and mechanical foreman*" is apparently the employee referred to here.⁴ Although no reason was given by Petitioner for desiring the exclusion, there was testimony by a witness of the Employer that this employee has the power to make recommendations as to the hiring and discharge of employees. His duties are to supervise the coal unloading equipment making any adjustments and repairs necessary and to schedule the unloading of coal. Inasmuch as he appears to have the authority to make effective recommendations concerning changes in the employment status of other employees, we find the coal handler and mechanical foreman to be a supervisor within the meaning of the Act and we shall exclude him.

The *miscellaneous worker-water treaters* and the *water plant operators* at Covington, whom the Petitioner would exclude, are stationed

475; cf. *Matter of Corn Products Refining Company*, 80 N. L. R. B. 362, where a boiler and engine room unit was held to be inappropriate. In the *Corn Products* case, jobs in the units sought were filled from within the plant through plant-wide bidding, and there was an industrial bargaining history of plant-wide units. Neither of these factors is present in this case. Jobs within the unit are filled, for the most part, by a system of upgrading, and, as has been noted, severance of powerhouse units from existing plant-wide units has often been granted in the paper industry.

³ See *Matter of Kimberly-Clark Corporation*, 78 N. L. R. B. 478.

⁴ The classification list for the Covington plant names "coal unloaders," "coal sampler," and "coal handler and mechanical foreman."

at the central pump house with the metermen, repairmen, and helpers. As has been previously noted, the central pump house at Covington is at a separate location. The miscellaneous worker-water treater's duties are to take care of the chemical treatment of the water which is used in the plant. The four water plant operators operate pumps from the water filter plant, and their duties are substantially the same as those of the filter plant men. The Petitioner asks the exclusion of both these classifications. Inasmuch as no cogent reason was advanced for exclusion of these employees whose work location and assignment to the powerhouse department indicate their community of interests with other unit personnel, we shall include them.

The Petitioner also requests that the "*vacuum pump operators*" at the Covington plant be excluded. While there are no employees listed on the work classification sheets for that plant under that designation, Petitioner is apparently referring to the four workmen employed as "paper mill engineers." Employees doing similar work are classified as powerhouse operators at the Luke plant and as powerhouse engineers at the Williamsburg location. It appears, however, that Petitioner desires to exclude employees in this class only at Covington, where they are stationed at the vacuum pump house located apart from the main powerhouse building, and that it would include the operators at Luke and Williamsburg where they work in close proximity to the rest of the employees in the proposed unit. There is no adequate definition of the duties of these workers in the record or in the briefs other than that they operate pumps necessary for the flow of water in the plant. This function apparently allies them with the filtermen and water plant operators, whom we have included. As they are regularly assigned to the powerhouse department and work with powerhouse personnel, we shall include the papermill engineers, the powerhouse operators, and the powerhouse engineers at all three plants.

There are four *janitors* at the Luke plant and one at the Williamsburg plant who work inside the powerhouse and perform the usual janitorial tasks. At Covington, four employees are listed under the classification of "cleaner and general utility men." They clean the boilerhouse, do other cleaning work and assist in unloading coal and other unskilled laboring work in and around the boilerhouse. The Petitioner asks that the cleaners and general utility men be included in the unit and that the janitors at Luke and Williamsburg be excluded. The distinction upon which Petitioner bases this request is that the Covington employees' work includes duties, such as assistance in unloading coal, which are not primarily janitorial tasks but are a part of the operation of the powerhouse. Although the parties seem

agreed that the unskilled status of the janitors at Luke and Williamsburg precludes their inclusion in the unit, such a distinction seems hardly justified in view of the inclusion of ash handlers and coal labor performing work calling for the exercise of little or no skill. The janitors and the cleaners and general utility men apparently all work within the powerhouses. In view of their work location and the inclusion of other unskilled workers in the unit, we shall include these employees, as we have in other instances.⁵

We find that all employees in the Employer's powerhouse departments at Covington, Virginia; Luke, Maryland; and Williamsburg, Pennsylvania, including firemen and their helpers, metermen, waste heat burner operators, turbine operators, water tenders, ash handlers, coal passers, janitors, cleaners and general utility men, oilers and maintenance men within the powerhouses, water filtermen, the miscellaneous worker-water treater and the water plant operators at Covington, paper mill engineers, powerhouse operators, and powerhouse engineers, but excluding all electricians, machinists, the coal handler and mechanical foreman at Covington, and all foremen, assistant and acting foremen, all production employees, office and clerical employees, timekeepers and supervisors, may constitute an appropriate unit within the meaning of Section 9 (b) of the Act.

However, we shall make no final unit determination at this time, but shall first ascertain the desires of these employees as expressed in the election hereinafter directed. If a majority vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate unit.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the voting group described in paragraph numbered 4, 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, but excluding those employees who have since quit or been discharged for cause and have not been rehired or rein-

⁵ See *Matter of Crocker, Burbank and Co., Assn.*, 80 N. L. R. B. 774; *Matter of Mallinkrodt Chemical Works*, 76 N. L. R. B. 1055.

stated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether they desire to be represented by International Brotherhood of Firemen and Oilers Union, AFL, or by United Paper Workers of America, CIO, for the purposes of collective bargaining, or by neither.