

In the Matter of CONLON BAKING COMPANY, EMPLOYER *and* CHAUFFEURS, TEAMSTERS & HELPERS, LOCAL UNION No. 175 of THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. L., PETITIONER *and* UNITED CONSTRUCTION WORKERS, UNITED MINE WORKERS OF AMERICA, UNION

*Case No. 9-RD-34.—Decided February 23, 1949*

## DECISION

AND

## ORDER

Upon a decertification petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

### THE BUSINESS OF THE EMPLOYER

The Employer is a bakery which as its only plant at Charleston, West Virginia, where it is engaged in the baking and wholesale distribution of bread, and the purchase and wholesale distribution of other bakery products.

During the most recent 12-month period, the Employer's purchases of raw materials and goods for resale exceeded \$1,000,000, approximately 60 percent of which were used in the baking of bread. Approximately 70 percent of the total purchases (80 percent of the raw materials and 50 percent of the goods for resale) were made outside of West Virginia. The record is not explicit as to what proportion, if any, of such out-of-State purchases were shipped to the Employer directly across State lines. Included in the purchases made within West Virginia is an unspecified amount of raw materials purchased from local branch houses of national concerns.

The Employer also purchases, for use in its business, trucks, tires, gasoline, and oil. All such purchases are made locally. The trucks and tires are nationally known makes.

During the most recent 12-month period, the Employer's sales exceeded \$1,500,000. All such sales were made to customers located within West Virginia. All deliveries were made in the Employer's

trucks, which travel only within West Virginia, and do not have interstate licenses. Sales in the amount of approximately \$500 per month were made to each of three coal companies,<sup>1</sup> and in the amount of approximately \$300 per month to the local hospital. The balance of the sales are made to independent grocery stores, restaurants, and a local hotel.

The Employer asserts that its operations do not affect commerce within the meaning of the Act. While we do not agree with the Employer's contention, we do not believe it would effectuate the policies of the Act to assert jurisdiction in this case, in view of the essentially local nature of the Employer's operations. Accordingly, we shall dismiss the petition.<sup>2</sup>

### ORDER

IT IS HEREBY ORDERED that the petition herein be, and it hereby is, dismissed.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Order.

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<sup>1</sup> The record does not reflect whether or not these coal companies are engaged in interstate commerce.

<sup>2</sup> *Matter of Sta-Kleen Bakery, Inc.*, 78 N. L. R. B. 798. Members Houston and Reynolds would assert jurisdiction in this case, but consider themselves bound by the decision in the *Sta-Kleen* case.