

In the Matter of BUSSARD TAXI AND BUS SERVICE,<sup>1</sup> EMPLOYER and  
GERALD HICKMAN, PETITIONER

*Case No. 30-RD-6.—Decided March 7, 1949*

DECISION

AND

ORDER

Upon a 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:

1. The Employer operates the only local bus company servicing Englewood, Lakewood, and Westwood, Colorado, all suburban residential communities adjacent to the City of Denver, and having population totals ranging between 9,000 and 13,000 inhabitants. In addition thereto the Employer provides the only local bus service for the more distant Colorado communities of Longmont and Trinidad, Colorado.<sup>2</sup>

The Employer annually transports 150,000 passengers in Englewood, 100,000 in Lakewood, and 110,000 in Westwood. In the performance of this service, the Employer has 7 scheduled routes which operate throughout these municipalities, and which terminate at, or have junction points with, the terminals of the Denver Trainway Company, which is the principal transit system in the city of Denver. The Employer also operates the only scheduled bus line between Englewood and Fort Logan, a veteran's hospital, with a stop at a railroad station en route.

In furtherance of its operations, the Employer uses 17 busses, 14 taxicabs, 3 rental cars, and 2 utility cars. During 1947, the Employer purchased busses and taxicabs valued at \$10,900, as well as replace-

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<sup>1</sup> On April 9, 1947, the Regional Director, as a result of a cross-check of cards, certified Local 435 of the Delivery and Taxicab Drivers as bargaining agent. The present action is a decertification case.

<sup>2</sup> While the only operations of the Employer directly involved herein are those in the communities of Englewood, Lakewood, and Westwood, Colorado, we shall, for purposes of jurisdiction, consider the operations of the Employer from an over-all point of view.

ment parts valued at \$10,000. All busses were purchased outside the State as were replacement parts for them, whereas all taxicabs and their replacement parts were purchased within the State.

In conjunction with its other operations, the Employer also operates the only fleet of taxicabs (14) in Westwood which haul in Westwood and Denver a total of approximately 9,000 passengers annually. Of this number, a substantial number are hauled from Westwood into Denver proper. In the course of its operations, the Company's taxis haul passengers to the railroad, bus, and air terminals, in the usual proportions for a community the size of Westwood.

The Employer also operates, independent of its other operations, the only local bus routes in Trinidad and Longmont, Colorado. Trinidad, with a population of 14,000, is approximately 120 miles south of Denver, and 10 miles north of the New Mexico border. It is the center of a coal mining and sheep and cattle raising region. The principal industries therein are factories which manufacture macaroni, cheese, upholstery, brooms, candles, beer, and metals. Longmont, with a population of 8,000, is approximately 30 miles north of Denver, and 70 miles south of the Wyoming border. It is a marketing center for irrigated sugar beet, and is principally a fruit and farm area; but it also has some manufacturing, including a sugar factory, canning plant, and flour mills.

The Employer admits, and we find, that it is engaged in, or its operations affect, commerce within the meaning of the Act. We further find that the effect of the Employer's operations upon commerce is immediate and substantial and that it will effectuate the policies of the Act to assert jurisdiction in this case involving the transportation industry.<sup>3</sup>

2. No question exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act for the following reasons:

Neither the Petitioner nor the Chauffeurs and Taxi Cab Drivers, Local 775, a successor to Local 435, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, herein called the Union, appeared at the formal hearing herein, although duly served with notice thereof. At the hearing, the evidence disclosed that the Petitioner is no longer an employee of the Employer. We construe the Petitioner's conduct in absenting himself from the hearing, and his failure, subsequently, to inform the Board of a valid reason therefor, as a disclaimer of in-

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<sup>3</sup> See *Matter of Gate City Transit Lines, Inc.*, 81 N. L. R. B. 79, and cases cited therein.

terest.<sup>4</sup> However, as the petition clearly shows that the Petitioner was acting as agent of certain employees who, in the absence of further notice, have had no opportunity to move that a qualified agent acting on their behalf be substituted for the Petitioner in this proceeding, we shall dismiss the petition without prejudice.

### ORDER

Upon the basis of the entire record in this case, the National Labor Relations Board hereby orders that the petition filed in the instant matter, be, and it hereby is, dismissed without prejudice.

MEMBERS HOUSTON and MURDOCK, dissenting:

Although we agree with the dismissal of this petition, because the Petitioner failed to appear at the hearing, and thus disclaimed any interest in the proceeding, we must note our dissent from the holding of the Board which asserts jurisdiction in this matter. We are convinced that the effect on commerce of the operations involved in this case is so insubstantial and remote, being entirely local in character, that it will not effectuate the policies of the Act to take jurisdiction here.

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<sup>4</sup> *Matter of Hartsville Manufacturing Company*, 79 N. L. R. B. 206.