

In the Matter of WODAAM CORPORATION (RADIO STATION WOV), EMPLOYER and RADIO & TELEVISION BROADCAST ENGINEERS UNION, LOCAL 1212, IBEW, AFL, PETITIONER

Case No. 2-RC-743.—Decided May 2, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held before Warren H. Leland, hearing officer. 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 is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations named below claim to represent employees of the Employer.

3. A question affecting commerce 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.¹

4. The Petitioner seeks certification as the exclusive bargaining representative of all radio technicians, including control room and transmitter technicians, employed at the Employer's radio station, WOV. The Intervenor, American Communications Association, CIO, urges that the petition be dismissed on the ground that the employees in the proposed unit do not constitute a homogeneous grouping of craft employees, and on the further ground that the history of collective bargaining since December 1946 between the Intervenor and the Employer covering a broader unit of employees renders a separate unit of radio technicians inappropriate.

There are 14 employees in the proposed unit. Five work at the transmitter and 9 work in the control room at the studio. The trans-

¹The Intervenor urges that the petition, filed on October 1, 1948, be dismissed on the ground that it was prematurely filed with respect to the contract between the Intervenor and the Employer, which was dated August 12, 1948, and which by its terms expired on March 15, 1949. Because the expiration date of the agreement has now passed, we find that the contract is not a bar to a present determination of representatives. *Matter of Pfeiffer Manufacturing Company*, 77 N. L. R. B. 1190.

mitter technicians operate the equipment associated with the transmitter and assume responsibility for compliance with Federal regulations. In addition, they do the maintenance work on the transmitter equipment. Transmitter technicians must have considerable radio engineering experience and are required to hold a license from the Federal Communications Commission. The transmitter technicians are technical employees engaged in work of a highly skilled nature.²

The control room technicians are responsible for the operation of the radio equipment in the control room at the studio. Their work is of the same general character as that of the transmitter technicians, but they do not require the same degree of technical knowledge and skill. Thus, it is not necessary for the control room technicians to be licensed by the Federal Communications Commission. However, four of the nine control room technicians at the Employer's radio station hold licenses from the Federal Communications Commission. The Employer's general policy has been to hire experienced control room technicians. Although, as a general rule, the maintenance work on the control room equipment is done by the maintenance technician or the control room supervisor, the other seven control room technicians are capable of making emergency repairs.

Both the control room and the transmitter technicians are in a separate department under the supervision of the chief engineer. All the technicians receive the same base pay. There is some interchange of technicians between the studio and the transmitter. There is no interchange of duties or functions between the technicians and other employees. We find that the control room technicians and the transmitter technicians together constitute a homogeneous departmental group of technical employees.³ The Board has recognized that technical employees because of their special interests, background, and functions, are entitled to separate bargaining representation, despite prior inclusion in broader units.⁴ Consistent with this practice, the Board has usually found that separate units of radio technicians are appropriate for purposes of collective bargaining.⁵ Accordingly, since the unit petitioned for is a homogeneous, functionally coherent,

² See *Matter of Radio Stations WIAC et al.*, 80 N. L. R. B. 1395; *Matter of Colorado Radio Corporation*, 55 N. L. R. B. 423; *Matter of Marcus Loew Booking Agency*, 3 N. L. R. B. 380, 385

³ The Board, on many occasions, has found that control room and transmitter technicians together constitute an appropriate bargaining unit. *Matter of General Broadcasting Co.*, 81 N. L. R. B. 442; *Matter of Associated Electronic Enterprises, Inc.*, 80 N. L. R. B. 295; *Matter of Western Gateway Broadcasting Corporation*, 77 N. L. R. B. 49; *Matter of Radio Station WSB*, 70 N. L. R. B. 1168.

⁴ *Matter of American Smelting and Refining Company*, 80 N. L. R. B. 68; *Matter of Continental Motors Corporation*, 73 N. L. R. B. 888; *Matter of E. I. duPont de Nemours & Company*, 69 N. L. R. B. 509; *Matter of Edward G. Budd Manufacturing Company*, 68 N. L. R. B. 153.

⁵ Footnote 3, *supra*.

departmental group of technical employees, we shall permit the employees in the proposed unit an opportunity to express their desires with respect to separate representation, notwithstanding the history of collective bargaining on a broader basis.

An issue was raised as to whether the so-called control room supervisor and transmitter supervisor should be excluded from the unit as supervisors. It was stipulated that the supervisory authority of these two employees is the same. These employees are in charge of operation and maintenance of the radio equipment at their respective stations and preparation of duty schedules for the technicians. There was evidence indicating that within the past 1½ years the control room supervisor recommended the hiring and discharge of two employees. However, the control room supervisor testified that his authority is limited to supervision of equipment and does not extend to the supervision of personnel. The evidence considered as a whole indicates that the exercise of supervisory authority by these employees is, at most, sporadic in nature. We find that these employees are not supervisors within the meaning of the Act.

We find that all the radio technicians, including the control room supervisor and the transmitter supervisor, employed at the employer's radio studio at 730 Fifth Avenue, New York City, and at its radio transmitter in Carlstadt, New Jersey, but excluding the chief engineer and other supervisors as defined in the Act, may constitute a unit appropriate for the purposes of collective bargaining 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 bargaining unit.

DIRECTION OF ELECTION ⁶

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 described in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the

⁶ Since American Communications Association, CIO, has not complied with the registration and filing requirements of Section 9 (f), (g), and (h) of the amended Act, we shall not place its name on the ballot.

date of this Direction of Election, 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 reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Radio & Television Broadcast Engineers Union, Local 1212, IBEW, AFL.