

In the Matter of WESTERN CONDENSING COMPANY, EMPLOYER *and*
INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL No. 504,
AMERICAN FEDERATION OF LABOR, PETITIONER

In the Matter of WESTERN CONDENSING COMPANY, EMPLOYER *and*
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WARE-
HOUSEMEN AND HELPERS OF AMERICA, AFL, LOCAL No. 619,
PETITIONER

*Cases Nos. 13-RC-684 and 13-RC-725, respectively.—Decided August
29, 1949*

DECISION

AND

DIRECTION OF ELECTIONS

Upon separate petitions duly filed, an order of the Regional Director consolidating the above cases was filed on June 3, 1949. A hearing on the consolidated cases was held before Irving M. Friedman, 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-member panel [Members Reynolds, Murdock, and Gray].

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 involved 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.
4. The International Union of Engineers, hereinafter referred to as the Engineers, seeks a unit of boiler room employees. In the alternative the Engineers would accept the plant-wide unit, including the boiler room employees, proposed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America,

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AFL, hereinafter referred to as the Teamsters. The Teamsters and the Employer contend the long history of collective bargaining by the Employer,¹ the similar pattern of collective bargaining in the industry, and the integration of the work of the boiler room employees with that of other employees in the plant, require that only a plant-wide unit be found appropriate.

The Employer, a California corporation, with its principal office in San Francisco, is engaged in the processing and manufacture of whey powder and other milk products. It operates seven plants in the State of Wisconsin and additional plants in other States. Only the Kiel, Wisconsin, plant is involved in this proceeding. This plant, consisting of a single structure divided by a brick wall and door into a boiler room and an evaporating room, has been in operation about a year.² The Employer is engaged at this plant in condensing raw whey by an evaporation process which uses steam furnished by the boiler room.

The entire plant operates on the basis of three 8-hour shifts. Of a total of nine employees in the plant, four are employed as firemen in the boiler room, four as operators in the evaporating room, and a fifth as a clean-up man who devotes most of his time to the operations in the evaporating room. In each division, on each shift, only one employee is in attendance. A fourth employee in each group serves in a relief capacity. The duties of the employees in the boiler room are the customary duties of the fireman, that is, they fire boilers, look after the automatic stokers, maintain required steam pressures, make minor repairs to the equipment in the boiler room, and periodically prepare the boilers for inspection by the Employer's insurers. Although all the employees are under the common supervision of the plant manager, this fact has not led to any appreciable interchange between the two groups of employees.

In support of their contention that all activities in the plant are integrated, the Employer and the Teamsters urge not only the fact that the operation of the boiler room is part of an integrated production process, but also the fact that the plant-wide system of seniority tends to fuse the separate identities of the two groups of the employees.³ Apart from the fact that the interests of the boiler

¹ There is no history of collective bargaining at the Kiel plant. The Employer, however, has bargained collectively with one or more locals of the Teamsters since 1939 at its other plants.

² The record shows that the boiler room at the Kiel plant was constructed about July 1948 and placed in operation before the balance of the plant was completed. Its sole function at the time was to furnish steam for the use of an independent dairy cooperative, which now supplies the raw whey for the Employer's operations.

³ The seniority provisions are set forth in the joint agreement between the Employer and four Teamster locals representing the other six Wisconsin plants of the Employer.

room employees are distinguishable from those of the other employees by the obligation of the Employer to furnish steam to the independent dairy cooperative, we have held that the mere fact that a substantial amount of steam is consumed in the production process does not establish the degree of integration between the boiler room operations and the production process which would warrant denying separate representation to a group of boiler room employees.⁴ As to the effect of the plant-wide system of seniority, the record shows that such seniority rights are dependent, not only on the length of service, but also on such service in the particular classification, and is further affected by an employee's qualification for the job in question. We find that the transfers based upon the workings of the seniority system have had no appreciable effect in destroying the identity of the separate employee groups. Nor is the issue of separate representation determined by the history of collective bargaining on a plant-wide basis,⁵ or the pattern of collective bargaining in the industry, where, as here, we are dealing with a functional group which has traditionally been accorded separate representation.⁶

Upon the basis of the foregoing facts and upon the entire record in this case, we find that the boiler room employees may, if they so desire, constitute a separate unit. However, we shall make no final determination at this time, but shall first ascertain the desires of these employees as expressed in the election herein directed.

We shall direct that the question concerning representation which exists be resolved by separate elections by secret ballot among the employees at the Kiel, Wisconsin, plant of the Employer within the voting groups described below:

1. All employees employed by the Employer in its boiler room, excluding all other employees and supervisors as defined in the Act;

2. All remaining employees employed by the Employer, excluding non-working engineers, laboratory technicians, fieldmen, clerical workers, non-working foremen, and all other supervisors as defined in the Act.

DIRECTION OF ELECTIONS ⁷

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, elections 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 super-

⁴ *Matter of Aluminum Ore Company*, 85 N. L. R. B. 121, and cases cited therein.

⁵ *Matter of Aluminum Ore Company*, *supra*.

⁶ *Matter of Baugh and Sons Company*, 82 N. L. R. B. 1399.

⁷ Any participant in the election in the first voting group, may upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.

vision 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, among the employees in the voting groups indicated below, who were employed during the pay-roll period immediately preceding the 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:

1. Whether the employees in the first voting group described in paragraph numbered 4, above, desire to be represented, for purposes of collective bargaining, by International Union of Operating Engineers, Local No. 504, American Federation of Labor, or by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, Local No. 619, or by neither;

2. Whether or not the employees in the second voting group described in paragraph numbered 4, above, desire to be represented for purposes of collective bargaining, by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, Local No. 619.