

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION (KANSAS CITY, Mo.), EMPLOYER *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL No. 124, AFL, PETITIONER

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION (KANSAS CITY, Mo.), EMPLOYER *and* INTERNATIONAL BROTHERHOOD OF FIREMEN AND OILERS, LOCAL No. 1, AFL, PETITIONER

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION (KANSAS CITY, Mo.), EMPLOYER *and* INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL No. 6, AFL, PETITIONER

*Cases Nos. 17-RC-371, 17-RC-377, and 17-RC-398, respectively.—
Decided September 19, 1949*

DECISION
DIRECTION OF ELECTION
AND
ORDER

Upon separate petitions duly filed, a consolidated hearing¹ was held before Charles F. McCoy, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

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 [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case,³ the Board finds:

¹ During the hearing, Building Service Employees Union, Local No. 96, AFL, with the consent of the Regional Director, withdrew its petition in Case No. 17-RC-360.

² The hearing officer admitted in evidence a table of prior Board unit determinations involving the Employer and the history of this plant prior to the Employer's acquisition. Although the Board takes judicial notice of its own proceedings (*Matter of Celanese Corporation of America*, 84 N. L. R. B. 207), the admission of the summary of unit determination was not erroneous. The prior history of the plant was admissible as background. See *Matter of Sprague Electric Co.*, 81 N. L. R. B. 410.

³ After the hearing, the Employer filed a "Motion For Correction of Errors in Transcript of Testimony and Company's Exhibit 9." As none of the parties have objected thereto, this motion is hereby granted, and the record is hereby amended to conform to the motion.

1. The Employer is a Pennsylvania corporation over which the Board has frequently asserted jurisdiction.⁴ The present proceeding involves the Kansas City, Missouri, plant which the Employer leased from the Navy Department for the future production of jet aircraft engines for the United States Government. From December 31, 1948, when the Employer took possession, to June 1949, the Employer, as agent for the United States, made purchases of tools, equipment, and supplies for use in this plant, totaling \$6,589,901.02, all originating outside of the State of Missouri. In addition, the Employer, in its own name, purchased a total of \$101,965.48, of supplies, fuel, water, etc., for use by the Employer and its subtenants⁵ in the Kansas City plant. The largest purchases of this type were local. As noted below, the plant is still in the process of being equipped and production has not been started. Production will be integrated with the activities of the Employer's companion plant in South Philadelphia, Pennsylvania, where the experimental work and small-scale production of the type of engine ultimately to be produced at Kansas City are now being conducted.

As the operation involved in this case is part of the Employer's integrated enterprise, other plants of which have previously been determined to be subject to the Board's jurisdiction, we find, contrary to the Employer's contention, that it is engaged in commerce within the meaning of the National Labor Relations Act.⁶

2. The labor organizations involved claim to represent certain employees of the Employer.⁷

3. For the following reasons no question affecting commerce exists concerning the representation of the employees within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, in Case No. 17-RC-371. However, such a question exists in Cases Nos. 17-RC-377 and 17-RC-398.

The Petitioners seek craft or departmental units, discussed below. The employer and the UAW-CIO contend that only a production and

⁴ *Matter of Westinghouse Electric & Manufacturing Company*, 3 N. L. R. B. 1; 10 N. L. R. B. 794; 14 N. L. R. B. 263; 18 N. L. R. B. 115; *et seq.* See especially 38 N. L. R. B. 404, 412. The Employer's Exhibit No. 9 lists 71 Board unit determinations in 27 different plants.

⁵ The Employer has leased space to several tenants who use it chiefly for warehouse purposes.

⁶ *Matter of Pilotless Plane Division, Fairchild Engine & Airplane Corp.*, 72 N. L. R. B. 381, 382.

⁷ International Association of Machinists and its Local No. 314 (herein called IAM) and International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, CIO (herein called UAW-CIO), intervened for the limited purpose of filing briefs in support of the contention that only a plant-wide unit is appropriate. Under the circumstances, the hearing officer did not err in permitting such intervention. See *Matter of Celanese Corporation of America*, 84 N. L. R. B. 207, and cases cited there, in footnote 3.

maintenance unit is appropriate but that, because of the expanding nature of the operation, any unit determination is at present premature. The IAM agrees with the Employer and the UAW-CIO, except that it favors a present determination of representative within the powerhouse group.

The Employer took possession of the Kansas City plant on December 31, 1948. The plant was built during the war for use in the manufacture of reciprocating-type gasoline engines for military aircraft, but had subsequently been leased for use as a warehouse. When the Employer took possession, it found little equipment in the manufacturing area which could be used in its projected production of aviation-gas-turbine engines for military aircraft. The plant as acquired consisted of the building shell, electrical wiring, heating and ventilating equipment, air conditioning equipment, and a pipe system. Before the Employer can undertake production in accordance with the Navy Department's schedule, acquisition and installation of equipment is required. This task is not yet completed.

At present, the Employer's activities at the Kansas City plant consist in maintaining the plant and furnishing services, such as heat and light, for the company-occupied areas and the subleased sections; and in work preliminary to ultimate production, such as preparation of lay-outs, ordering machine tools and other equipment, installing such equipment, and procuring a nucleus of management personnel. There are approximately 143 employees presently employed in the performance of these limited operations. When the plant reaches the proposed capacity production, sometime in 1951, the Employer expects to employ between 4,000 and 5,000 persons, 80 percent of whom will be production workers. Recruiting for personnel is expected to begin in September 1949 and expand fairly rapidly with a training program to facilitate expanded production. The Employer estimates that there will be approximately 950 production employees, 130 to 140 maintenance employees, and 300 salaried employees by the end of 1949, when the first production work will begin.

The present number of employees (143) thus constitutes about 10 percent of the complement of employees projected by the Employer for December 1949 (1,390), and about 3 percent of its projected ultimate complement (4,500). On these facts we agree with the Employer's contention that a substantial and representative force of employees is not presently employed and we would regard an election in an over-all production and maintenance unit as inappropriate at this time. However, the Petitioners have not requested such a unit, and it is thus necessary to consider the effect, if any, of the proposed

expansion upon the particular craft and departmental units herein requested.

The Petitioner in Case No. 17-RC-371, the IBEW, requests a unit consisting of all maintenance electricians and helpers. At present 6 employees are working in this job classification; the Employer contemplates the addition of 14 to 19 more employees. The record further demonstrates that once production is reached at least 5 additional classifications of electrical workers will be required, ranging between the unskilled work of light cleaners and the highly skilled work of electronics and primary distribution specialists.

As new job classifications of electricians are contemplated and the present tasks appear to differ significantly from those which these employees may perform once the production stage is reached, we agree that any unit determination affecting these employees is at present premature.⁸ Accordingly we shall dismiss the petition in Case No. 17-RC-371, without prejudice.

The Petitioner in Case No. 17-RC-398, the Operating Engineers, requests a unit consisting of all operating engineers; and the Petitioner in Case No. 17-RC-377, the Firemen and Oilers, requests all firemen and "plant equipment oilers in or working out of the powerhouse."⁹ The powerhouse employees requested in these petitions constitute 50 percent of the complement projected for their classifications and the record establishes that they are performing substantially the same functions they will once production is under way. As the present employees constitute a representative group and no change is anticipated in the basic operation of the proposed unit, it is clear that these employees will not be greatly affected by the expansion of the plant.¹⁰ Accordingly, contrary to the Employer's contentions, the contemplated expansion does not warrant denying them the right to a determination of representatives at this time.

There remains for consideration the appropriateness of the unit, including the question of whether separate units of operating engineers as distinct from firemen and plant equipment oilers should be established. Both the Operating Engineers and the Firemen and Oilers have indicated that in the event the Board finds separate units inappropriate, they each desire to represent both groups of employees in a single unit. The powerhouse is physically separated from the rest

⁸ See *Matter of Coast Pacific Lumber Co.*, 78 N. L. R. B. 1245.

⁹ The requested plant equipment oilers have their headquarters in the powerhouse, although some of them work on equipment located outside the powerhouse.

¹⁰ See *Matter of United States Rubber Company*, 80 N. L. R. B. 1039; *Matter of Standard Steel Spring Company*, 75 N. L. R. B. 471. Cf. *Matter of Tucker Corporation*, 79 N. L. R. B. 1262.

of the plant. The powerhouse employees perform tasks which constitute them a homogeneous group, with interests distinguishable from those of the production and maintenance employees, such as we have frequently found constitute an appropriate unit.¹¹ The fact that the operating engineers and the plant equipment oilers work on equipment located outside as well as that located in the powerhouse does not destroy the distinctive community of their interests.¹² The operating engineers are unlicensed and work in close association with the other powerhouse employees with whom they share common supervision and working space. Moreover, there is considerable interchange among the three job classifications because of the Employer's practice of upgrading powerhouse employees in preference to hiring outside. On these facts we find that a single unit of operating engineers, firemen, and plant equipment oilers rather than separate units of these employees is appropriate.¹³

Accordingly we find that all operating engineers, firemen, and those plant equipment oilers with headquarters located in the powerhouse of the Employer's Kansas City, Missouri, plant, excluding all supervisors as defined in the amended Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

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, among the employees in the unit found appropriate in paragraph numbered 3, above, 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 whether they de-

¹¹ *Matter of Baugh and Sons Company*, 82 N. L. R. B. 1399, and cases cited therein.

¹² *Matter of Owens-Corning Fiberglas Corp.*, 81 N. L. R. B. 441.

¹³ *Matter of Washburn Wire Co., Inc.*, 79 N. L. R. B. 1479.

sire to be represented, for purposes of collective bargaining, by International Brotherhood of Firemen and Oilers, Local No. 1, AFL, or by International Union of Operating Engineers, Local No. 6, AFL, or by neither.

ORDER

Upon the basis of the foregoing facts, the National Labor Relations Board hereby orders that the petition in Case No. 17-RC-371 be, and it hereby is, dismissed without prejudice.