

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER
and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. L.,
PETITIONER

Case No. 6-RC-362.—Decided December 8, 1949

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Emil E. Narick, hearing officer. The hearing officer's ruling made at the hearing are free from prejudicial error and are hereby affirmed.¹

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 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 certain employees of the Employer.
3. The question concerning representation:

United Electrical, Radio & Machine Workers of America, C. I. O., and its Local No. 601, hereinafter designated collectively as the Intervenor, contend that the petition in this case is barred by the Intervenor's contract with the Employer. The petition in this case was filed on April 6, 1949, seeking a unit of maintenance employees at the Employer's Irwin, Pennsylvania, plant. On April 1, 1947, the Intervenor and the Employer had executed a contract covering plants of

¹ We hereby affirm the hearing officer's ruling permitting the United Electrical, Radio & Machine Workers of America, C. I. O., and its Local No. 601 to intervene at the hearing herein despite noncompliance with the filing requirements of Section 9 of the Act. The hearing officer properly relied on the alleged contractual interest of the intervening unions in the unit sought by the Petitioner. *General Electric Company*, 85 NLRB 150.

The hearing officer referred to the Board a motion by the intervening unions to dismiss the petition because it failed to indicate that the Respondent had declined to recognize the Petitioner as the representative of the employees in the unit sought. For the reasons set forth in *Advance Pattern Company*, 80 NLRB 29, this motion is hereby denied.

After the hearing the Employer filed with the Board a "Motion for Correction of Errors in Transcript of Testimony." As none of the parties have objected thereto, this Motion is hereby granted, and the record is hereby amended to conform to the Motion.

the Employer at 64 locations. One of these locations was described as "East Pittsburgh Works," and the unit was defined as including employees of the Employer "at its East Pittsburgh plant (including its plants in East Pittsburgh, Trafford, and Homewood Service Works, including Linhart and Copper Mill)." ² A supplement to this contract was executed on June 20, 1948, effective from April 1, 1948, to March 31, 1950.

The East Pittsburgh Works consists of a main plant at East Pittsburgh, the Homewood plant in Pittsburgh, and the Trafford plant at Trafford, Pennsylvania, comprising altogether about 18,000 employees. These plants constitute the Employer's "Transportation and Generator" Division which is a separate administrative division of the Employer's operations. About 200 of the employees at the main East Pittsburgh plant are engaged in the manufacture of mica. On May 4, 1948, the Employer acquired from the Jersey Cereal Company, the Irwin plant, about 11 miles from the main plant at East Pittsburgh, with a view to transferring to Irwin from East Pittsburgh its mica manufacturing operations. At the time of the hearing, production had not commenced at the Irwin plant and no definite date had been set for beginning production. ³ However, 18 maintenance employees (and 4 watchmen) were already employed at Irwin to install machinery and do other work in connection with the conversion of the plant to the manufacture of mica; these employees were also engaged in storing at the Irwin plant, and shipping to East Pittsburgh, raw materials used by the Employer in the manufacture of mica at East Pittsburgh. Seven of these 18 employees were hired before the execution of the 1948 supplement to the Intervenor's contract with the Employer; the balance were hired thereafter.

Part, but not all, of the machinery to be installed at the Irwin plant will come from East Pittsburgh. None of the maintenance employees at Irwin was recruited from East Pittsburgh and there is no interchange between such employees and the East Pittsburgh employees. At the time of the hearing, the Irwin plant was subject to the over-all supervision of the superintendent of manufacturing at the East Pittsburgh plant who reports in turn to the manager of the "Transportation and Generator" division at East Pittsburgh.

The 1948 contract, cited above, contains no reference to the Irwin plant, although that plant had been acquired by the Employer before the execution of the contract. It is significant, moreover, that the con-

² This was the unit certified by the Board on July 9, 1937, 3 NLRB 1.

³ There was evidence, however, that subject to certain contingencies, partial production would begin at the end of 1949 and full production would be attained 3 months later. At peak production, the expected complement will comprise about 300 production, 70 clerical and supervisory, and 30 maintenance employees.

tract does expressly include in the East Pittsburgh unit the Trafford and Homewood plants, which, like the Irwin plant, are physically separate from the main East Pittsburgh plant. Under these circumstances, we are impelled to the view that if the Employer and Intervenor had intended to include the Irwin plant in the East Pittsburgh unit, they would have so provided expressly in the contract as was done in the case of Trafford and Homewood.⁴ Absent such a provision, we find that the contract does not apply to the Irwin plant and, therefore, is not a bar to the petition in this case.

Moreover, under all the circumstances of this case, including the fact that the mica manufacturing operation to be transferred to Irwin represents only a small part of the entire operation at East Pittsburgh, that there has been no transfer of personnel to Irwin from East Pittsburgh, and that there is no evidence that such a transfer is contemplated, we are satisfied that the Irwin plant constitutes a new operation, separate and distinct from the East Pittsburgh operation.⁵ Accordingly, even if the 1948 contract applied to Irwin, such contract having been executed before the commencement of production in a new operation and before the majority of the present maintenance complement was hired, the contract would not operate as a bar to the petition.⁶

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 appropriate unit:

The Petitioner seeks a unit of all maintenance employees, including boiler room attendants, truck drivers, and storekeepers at the Respondent's plant at Irwin, Pennsylvania, but excluding office clerical employees, watchmen and guards, professional employees, and supervisors.

The Intervenor contends that the unit sought is inappropriate because it is not a true craft group but consists of a variety of crafts. The Employer contends that the separate unit of maintenance employees sought by the Petitioner is inappropriate because inconsistent

⁴ The Employer rejected demands made by the Intervenor in April 1949, that the terms of Intervenor's contract be applied to the Irwin employees. The wage rates at Irwin are different from those at East Pittsburgh.

⁵ See *General Electric Company*, 85 NLRB 150. Cf. *Yale Rubber Manufacturing Company*, 85 NLRB 131.

⁶ See *St. Regis Paper Company*, 84 NLRB 454. See also, *Sardik Food Products Corporation*, 46 NLRB 894, where, in holding that a contract executed before the commencement of production at a new plant, which expressly covered that plant, could not bar the petition in that case, the Board pointed out that the contracting union could not have represented a majority in the new plant when the contract was executed. So, in the instant case, the Intervenor could not have represented a majority of the maintenance crew at Irwin when its supplementary contract was executed.

with the established bargaining pattern among employees of the Employer and among employees in the same industry.

At the time of the hearing, the plant complement, exclusive of watchmen, consisted of 18 employees, including electricians, pipe fitters, boiler room attendants, truck drivers, and helpers. These employees report to a maintenance foreman who assigns them to work throughout the plant. Their duties consist in maintaining the plant facilities, installing new machinery, supplying heat, and storing and shipping materials. When the plant achieves full production, there will be added to the maintenance crew 12 new employees, and the following new maintenance classifications will be set up: repairman,⁷ storeroom attendant, janitor and janitress.

The unit sought by the Petitioner is essentially a multi-craft unit of maintenance employees. The Board has in the past found such a unit to be appropriate, absent any prior bargaining history on a broader basis.⁸ The employees in the unit here sought have had no prior bargaining history.⁹ We do not deem controlling the fact, if it be a fact, that no similar unit has been established among the other employees of the Employer or in the same industry.¹⁰ In any case, it appears that a unit similar to that here sought has, in fact, been established by the Board in the same industry.¹¹

Accordingly, we find that all maintenance employees at the Employer's Irwin, Pennsylvania, plant, including boiler room attendants, truck drivers, and storeroom attendants,¹² but excluding office clerical employees, watchmen and guards, professional employees, and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

5. The determination of representatives:

The Intervenor and the Employer contend that the petition is premature because of the contemplated expansion in the size of the proposed unit from the present complement of 18 to an expected complement of 30 employees. However, the record shows that the present complement of the maintenance crew at the Irwin plant constitutes a substantial and essentially representative proportion of the

⁷ It is contemplated that persons heretofore engaged in installing machinery will be transferred to this classification after production begins.

⁸ *Armstrong Cork Company*, 80 NLRB 1328.

⁹ As already indicated, the Employer has refused to recognize the Intervenor as the representative of the employees at Irwin, and the terms of the Intervenor's contract have not been extended to them.

¹⁰ See *Weyerhaeuser Timber Co.*, 82 NLRB 820.

¹¹ *General Electric Company*, 71 NLRB 1192.

¹² The petition refers to "storekeepers." However, no such category is presently employed. Presumably, reference is intended to the proposed classification of "storeroom attendants," discussed above.

expected full complement of that crew.¹³ Under these circumstances, we see no reason for departing from our usual policy of directing an immediate election.

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 4, 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 or not they desire to be represented, for purposes of collective bargaining, by International Brotherhood of Electrical Workers, A. F. L.¹⁴

¹³ *General Motors Corporation*, 82 NLRB 876.

¹⁴ We do not place the Intervenor on the ballot because of the noncompliance by Local 601 with the filing requirements of Section 9 of the Act.