In the Matter of GENERAL CHEMICAL COMPANY (DIVISION OF ALLIED CHEMICAL AND DYE CORPORATION), EMPLOYER *and* INTERNATIONAL BROTHERHOOD OF FIREMEN AND OILERS, LOCAL #32, A. F. OF L., PETITIONER

Case No. 7-RC-764.—Decided March 13, 1950

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Francis E. Burger, 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 [Chairman Herzog and Members Houston and Murdock].

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 Petitioner is a labor organization claiming to represent certain 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 Petitioner seeks to sever from a plant-wide unit [1] a unit composed of all the powerhouse employees at the Employer's River Rouge, Michigan, plant. The Employer contends that the proposed unit is inappropriate and should not be severed from the contractual bargaining unit because of: (1) the small size of the Employer's plant;

[1] In 1944, United Gas, Coke & Chemical Workers of America, CIO, in two separate proceedings, was certified as bargaining representative of the production and maintenance employees and of the powerhouse employees. Since that time its Local 219 has represented both groups of employees in a single bargaining unit. The latest contract expired in October 1949, and, at the time of the hearing, the negotiations for a new contract had not been completed. Although Local 219 was served with notice of hearing, it did not appear at the hearing.

(2) the interdependency of the powerhouse and the production process due to the use of a waste heat boiler in the process; (3) the history of collective bargaining on a broader basis; (4) common supervision of powerhouse and maintenance employees; and (5) the lack of craft status of the powerhouse employees.

The Employer is engaged in the production of sulphuric acid. Its plant consists of three main buildings, the powerhouse, the burner buildings, and the process building. All the steam for the operation of the powerhouse is salvaged as a step in the production process by means of a waste heat boiler located in the burner building. The steam is transferred to the powerhouse to produce all the electric power used in the plant.

There are about 27 employees in the production and maintenance unit. Of these, the 5 powerhouse engineers are eligible for inclusion in the proposed unit. These powerhouse employees work primarily in the powerhouse. The waste heat boiler is operated from the powerhouse; it is necessary, however, that the powerhouse engineer physically inspect the boiler in the burner building once or twice during each shift. The powerhouse employees are under the supervision of the master mechanic, as are the plant maintenance employees. Powerhouse employees do not interchange with any other employees, and do not perform any maintenance work outside the powerhouse. One of the powerhouse employees works as a maintenance man in the powerhouse 4 days a week. Members of the general maintenance crew are occasionally assigned to the powerhouse to assist in major repairs.

Upon the entire record, we believe that the powerhouse employees involved herein do not differ substantially from powerhouse employees in other cases, including waste heat boiler employees, whom the Board has repeatedly found to be distinct functional groups which may constitute separate bargaining units, despite the existence of the factors stressed by the Employer herein.[2] Accordingly, we shall direct an election among all powerhouse employees at the Employer's River Rouge, Michigan, plant, excluding all other employees and supervisors. If a majority of the employees vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate bargaining unit.

[2] *American Smelting and Refining Company,* 86 NLRB 1172, and cases cited therein.

DIRECTION OF ELECTION [3]

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 payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll 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 Firemen and Oilers, Local #32, A. F. of L.

[3] Although we should ordinarily accord Local 219 a place on the ballot in view of its contractual relationship with the Employer, it is omitted from the ballot because of its failure to comply with the filing requirements of the Act. In the event that Local 219 effects compliance with the filing requirements of the Act within 2 weeks from the date of this Direction, the Regional Director is instructed to accord it a place on the ballot.

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