

In the Matter of CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF
BALTIMORE, EMPLOYER *and* E. K. GUNDERSDORFF, PETITIONER *and*
COMMUNICATION WORKERS OF AMERICA, C. I. O., DIVISION 34, UNION

Case No. 5-RD-34.—Decided April 6, 1950

DECISION

AND

ORDER

Upon a petition for certification duly filed, a hearing was held before John J. A. Reynolds, Jr., 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 Styles].

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, employed by the Company as an engineering assistant, filed a petition on behalf of himself and some 88 other engineering assistants, to decertify the Maryland Federation of Telephone Workers, and/or Division 34, CWA (CIO) as the bargaining agent for the engineering assistants, under Section 9 (b) of the National Labor Relations Act, as amended.

3. The alleged question concerning representation:

The Company and the Maryland Bell Telephone Plant Employees, Inc., signed a collective bargaining contract on August 4, 1937, for a 3-year term, covering the plant department employees, including the engineering assistants.¹ In 1940, the union changed its name to the Maryland Federation of Telephone Workers, Inc., and a second 3-year contract was executed in that year. Bargaining continued thereafter and the last contract was signed on July 1, 1948, also for a 3-year term. On October 4, 1949, the membership adopted a resolution to dissolve

¹ There are some 2,700 employees in the plant department, including the 89 engineering assistants.

the Maryland Federation of Telephone Workers, Inc., and to become a Division of the Communication Workers of America, affiliated with the CIO, and on October 12, the CWA issued a charter to the local as Division 34. The present petition for decertification was filed on October 25, 1949. On October 26, the next day, the Company and Division 34 signed an agreement continuing in force and effect the contract of 1948, which expires June 30, 1951.

The Petitioner contends that since the Maryland Federation of Telephone Workers, Inc., has been dissolved, the contract of 1948 entered into by it no longer has any legal existence and therefore is not a bar; furthermore that the engineering assistants are professional employees and are entitled to be represented in a separate unit under Section 9 (b) of the Act.

The CWA, Division 34, urges that the contract of 1948 is a bar. It contends that the predecessor, Maryland Federation of Telephone Workers, Inc., has been legally liquidated, in compliance with Maryland law, and that the bargaining unit, as well as the offices, officers, bylaws, and regulations governing the local union, have remained the same after affiliation with the CWA.

The Company's position is neutral but it was of the opinion that a question of representation exists.

We find no merit in the Petitioner's contention that since the predecessor local union was liquidated, the contract of 1948 became ineffective. We are of the opinion that the facts here are analogous to those in the *Michigan Bell Telephone* case.² The record here is devoid of evidence that the affiliation with the CWA (CIO) has had any effect upon the structure, functions, or membership of the local union. The only change which we note in the character and status of the local union is one of designation and affiliation. There is no question of its continuing and current representative position. Under these circumstances we are of the opinion that the contract of 1948 is a valid and subsisting agreement between Division 34, CWA (CIO) and the Employer.

Moreover, we find no merit in Petitioner's contention that the engineering assistants are professional employees. The Intervenor's contend that the assistants are not professionals because their work is routine in character and that practically all the information necessary to carry out their duties can be obtained from the Bell System Practices Manuals, which any one can learn to use while being trained on the job. They argue that the assistants do not satisfy the requirements of the statute for professional employees in any respect.

² 85 NLRB 303.

The Company would leave the determination of professional status to the Board but its representatives were of the opinion that the assistants were probably professional employees.

The record shows that the main duties of the engineering assistants are generally as follows: (1) To make a preliminary survey for the approval of the plant engineer, showing the location, size, and type of poles, wires, cables, circuit layouts, switchboards, and any other equipment required for a proposed project; (2) to make field surveys of existing and future facilities for new projects showing the areas to be covered, probable type of construction to be used, whether aerial or underground, location of routes to be followed, and the estimated cost of materials and labor involved; (3) on occasion, to obtain rights-of-way from private owners. Estimates of future growth in population are obtained for the assistants from other departments. Of the 89 engineering assistants, 12 are college graduates, 32 have had some college work, 9 completed some kind of post high school training in a night technical school, 21 are high school graduates, and 15 have had less than a high school education. The evidence does not show whether the assistants who have had college work took courses in engineering or related subjects, nor does it show how many, if any, are members of engineering societies. The Company stated that advanced education was not a prerequisite for the duties to be performed and that there was no specific job classification for this category of employees. The Company also stated that engineering assistants were in the main selected from other departments in the plant on the basis of their ability and potentialities to do the work and that they were trained on the job. In 1949, the Company introduced a theoretical course of study for the assistants consisting of 120 hours of attendance. Some 30 percent of the assistants have enrolled for this course. Previous contracts, which had always included the engineering assistants with the rank-and-file of plant department employees, indicate that the assistants are hourly paid for both their regular and overtime work.

We are of the opinion that employees who are generally recruited from the labor force in a plant and who are primarily trained on the job were not intended to be included in the category of professional employees as defined in Section 2 (12) (2) of the Act. Subsection (iv) of the cited section establishes as a general educational prerequisite to professional classification a requirement that such employees must have "knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or

from an apprenticeship or from training in the performance of routine mental, manual or physical processes." The record here establishes that the engineering assistants are not required to have obtained this type of education or to perform duties requiring such education.³

On the basis of all the foregoing facts, we find that the proposed unit is inappropriate. We shall therefore dismiss the petition.

ORDER

Upon the entire record in the case, the National Labor Relations Board hereby orders that the petition herein be, and it hereby is, dismissed.

³ *Inter-Mountain Telephone Company*, 79 NLRB 715. See also *Southern Bell Telephone Co.*, 78 NLRB 814, where the Board excluded engineering field men from a unit of professional engineers on the ground that they did not meet the requirements of the statute for professional classification. These men performed work comparable to the engineering assistants in the present case; they were, in the main, recruited from the other jobs and their work did not require advanced type of scientific knowledge. Cf. *Illinois Bell Telephone Company*, 77 NLRB 1073, where the Board held that four categories of engineers were professionals. The record there showed that 60 percent of the engineers were college graduates or had college education and where, in the Chicago area alone, 62 percent of the engineers are licensed under the State of Illinois Professional Engineering Act as Registered Professional Engineers.