

In the Matter of ALUMINUM COMPANY OF AMERICA AND CAROLINA ALUMINUM COMPANY and UNITED MINE WORKERS OF AMERICA,
DISTRICT 50

Case No. 10-R-1290.—Decided March 31, 1945

Messrs. R. R. Kramer and Porter Greenwood, of Knoxville, Tenn., for the Company.

Messrs. Fred L. Ruscoe and J. Carl Bunch, of Knoxville, Tenn., for District 50.

Mr. Philip N. Curran, of Pittsburgh, Pa., *Mr. W. H. Crawford*, of Atlanta, Ga., and *Mr. M. C. Weston*, of Maryville, Tenn., for the Steelworkers.

Messrs. R. O. Ross and C. C. Maples, of Knoxville, Tenn., for the AFL.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Mine Workers of America, District 50, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America and Carolina Aluminum Company, Alcoa, Tennessee, herein collectively called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Knoxville, Tennessee, on November 28, 1944. The Company, District 50, United Steelworkers of America, CIO, herein called the Steelworkers, and American Federation of Labor, herein called the AFL, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing the Steelworkers moved for the dismissal of the petition on the grounds (1) that District 50 has not presented a sufficient showing on cards to warrant the proceeding, and (2) that

the pendency before the National War Labor Board of certain issues involving employees of the Company at its Alcoa plant, is a bar to a present determination of representatives in this proceeding. For reasons hereinafter given the motion is denied. On December 14, 1944, the Steelworkers moved the Board to reopen the record herein to permit the introduction of further evidence on the issue of the appropriate unit. For reasons hereinafter given, the motion was denied by Board Order, dated March 10, 1944. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Aluminum Company of America, a Pennsylvania corporation, together with a number of subsidiaries, is engaged in the mining and refining of bauxite and in the smelting, manufacturing, and fabricating of aluminum. The Carolina Aluminum Company, a North Carolina corporation, is one of the subsidiaries of Aluminum Company of America. The Carolina Aluminum Company, Western Division, owns and operates power plants at Tapoco and Santeetlah, North Carolina, which supply power to the Alcoa Works in connection with the manufacture of aluminum. The present proceeding concerns the Company's employees at Alcoa, and Calderwood, Tennessee, and the power plants of the Carolina Aluminum Company, Western Division, at the two locations indicated.

The Alcoa plants¹ are engaged principally in the manufacture of carbon electrodes, smelting of aluminum, fabrication of sheet and plate aluminum, fabrication of aluminum ingots, and the manufacture of aluminum powder. The principal raw material used at Alcoa is alumina, which is shipped to Alcoa from points outside the State of Tennessee. The Company uses many other products, a majority of which comes from points outside the State of Tennessee. More than 90 percent of the products of the Alcoa plants is shipped to points outside the State of Tennessee.

The Company admits and we find that its operations affect commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Mine Workers of America, District 50, is an unaffiliated labor organization admitting to membership employees of the Company.

¹ Including Calderwood.

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

American Federation of Labor is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refused to recognize District 50 as exclusive bargaining representative for employees at its Alcoa plants on the ground that Aluminum Workers of America, CIO, herein called the AWA, has been certified by the Board as bargaining representative for the said employees.

On November 1, 1942, the Company and the AWA executed a contract, herein called the Master Agreement, covering employees of the Company at Alcoa and seven other of the Company's plant, wherein the AWA was recognized as exclusive bargaining representative. This Agreement was made effective for a term of 18 months and thereafter until modified after at least 30 days' notice. During the term of the Master Agreement the AWA made demands upon the Company for a general wage increase. On January 27, 1944, the setting of a retroactive date from which any wage increase granted should be effective, was referred to the National War Labor Board. On March 28, 1944, a second case was certified to the National War Labor Board involving wage demands covering all of the plants of the Company wherein employees were then represented by the AWA. On March 14, 1944, the AWA requested a conference for the purpose of negotiating a new master agreement to succeed the one which would terminate May 1, 1944. The Company entered into such negotiations and the parties agreed that the Master Agreement of 1942 should remain in effect until a new master agreement should be executed. On May 19, 1944, the parties certified to the National War Labor Board, 17 non-wage contract issues. On October 16, 1944, when District 50 filed its petition in the instant case, the 3 proceedings, above-mentioned, were pending before the National War Labor Board and neither the proposed master agreement nor a new local agreement for employees at Alcoa had been signed. In June 1944, the AWA merged with the Steelworkers and the Company recognized the Steelworkers as exclusive bargaining representative of its employees at all plants where the AWA had been certified. For purposes of convenience in the discussion which follows, the AWA and its successor, the Steelworkers, are indiscriminately referred to as the CIO.

The CIO contends that because it submitted disputes to the National War Labor Board, which have been pending before that Board for an unusual length of time, under the doctrine enunciated by the Board

in *Matter of Allis-Chalmers*, and related cases,² no present determination of representatives should be made. We find no merit in this contention inasmuch as the CIO enjoyed collective bargaining rights as exclusive representative of the employees at Alcoa for several years prior to the War Labor Board proceedings upon which the contention is based.³

A statement made by the Trial Examiner at the hearing indicates that District 50 and the AFL represent a substantial number of employees in the unit hereinafter found appropriate.⁴

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The parties stipulated that all production and maintenance employees of the Company at its Alcoa Works, including employees of the Carolina Aluminum Company, Western Division, at the Santeetlah powerhouse and the Cheoah powerhouse, including maintenance employees at the Santeetlah and Cheoah operations, but excluding office employees, watchmen, guards, office janitors, farm and dairy employees, bricklayers, employees of the brick and tile plant, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute an appropriate unit. District 50, the AFL, and the Company would confine such a unit to the named employees at Alcoa. The CIO contends, however, that all employees of the Company at all plants wherein the CIO is recognized as collective bargaining representative comprise a single unit, including employees at Alcoa. This contention was not raised at the hearing but was incorporated in a motion filed by the CIO subsequent to the hearing, requesting the Board to reopen the records in the instant

² *Matter of Allis-Chalmers Manufacturing Company*, 50 N. L. R. B. 306; *Matter of Taylor Forge and Pipe Works*, 58 N. L. R. B. 1375

³ *Matter of MacClatchie Manufacturing Company*, 53 N. L. R. B. 1268; *Matter of Fort Dodge Creamery Company*, 53 N. L. R. B. 928. District 50 contended that the employees at Alcoa have never ratified the merger of the AWA with the Steelworkers and that it is doubtful that they desire representation by the Steelworkers. Inasmuch as we find herein that a present determination of representatives is for other reasons desirable at this time, we shall not examine the merit of the AFL's contention.

⁴ The Trial Examiner reported that District 50 submitted authorization cards and petitions purporting to be signed by 1,506 employees of the Company, constituting approximately 16.1 percent of the employees within the appropriate unit, and that the AFL submitted cards apparently signed by 118 employees of the Company constituting 2 percent of the employees in the appropriate unit. A check of these cards was made against the Company's pay roll for October 20, 1944. Inasmuch as the CIO has a maintenance-of-membership contract we reject its contention that the showing thus made is insufficient to warrant this proceeding. The CIO relied upon its contract to show its interest in the proceeding.

case and in Case No. 8-R-1663, concerning employees at the Newark, Ohio, plant of the Company, to accept evidence which, the CIO said, would prove the existence of a multi-plant unit. In Case No. 19-R-1381, decided this day, the contention was raised at the hearing that employees at the Company's Troutdale, Oregon, plant, who had previously designated the CIO as their exclusive bargaining representative, constituted a part of the same multi-plant unit which the CIO contends encompasses employees at Alcoa. Evidence to support the contention was adduced at the hearing in Case No. 19-R-1381, but established no bargaining on a multi-plant basis, stabilized by agreement. Accordingly, the Board in that case rejected the contention that a multi-plant unit had been created and found appropriate a single plant unit of the Company's employees at Troutdale. Since the evidence which the CIO would present at a rehearing of the instant matter is presumably the same as that offered at the hearing in the *Troutdale* case, above-mentioned, we have heretofore denied the request for a rehearing.⁵

We find that all production and maintenance employees at the Alcoa, Tennessee, Works of the Company, including employees of the Carolina Aluminum Company, Western Division, at the Santeetlah powerhouse and the Cheoah powerhouse, including maintenance employees at the Santeetlah and Cheoah operations, but excluding office employees, watchmen, guards, office janitors, farm and dairy employees, bricklayers and employees at the brick and tile plant, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Rela-

⁵ Order dated March 10, 1944.

tions Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Aluminum Company of America and Carolina Aluminum Company, Alcoa, Tennessee, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Mine Workers of America, District 50, by American Federation of Labor (AFL), or by United Steelworkers of America (CIO), for the purposes of collective bargaining, or by no union.

[See *infra*, 61 N. L. R. B. 770 for Supplemental and Amended Decision.]