

In the Matter of PACIFIC GAS AND ELECTRIC COMPANY *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL B-1245, AFL

Case No. 20-R-1295.—Decided April 14, 1945

Mr. Thomas J. Straub, Miss Anne McDonald, and Mr. J. Paul St. Sure, of San Francisco, Calif., for the Company.

Mr. Charles W. Mason and Mr. Alfred M. Hansen, of San Francisco, Calif., for the I. B. E. W.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Electrical Workers, Local B-1245, AFL, herein called the I. B. E. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Pacific Gas and Electric Company, San Francisco, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at San Francisco, California, on February 21, 1945. The Company and the I. B. E. W. appeared and participated.¹ Both parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Pacific Gas and Electric Company is engaged in the business of generating, buying, transmitting, selling, and distributing electric energy,

¹ Utility Workers Organizing Committee, also served with notice, advised the Trial Examiner, prior to the hearing, that it did not desire to participate in this proceeding and did not appear.

of buying, transporting, selling, and distributing natural gas, and of manufacturing, transporting, selling, and distributing manufactured gas. All such gas and electricity are used for light, heat, and power purposes in central and northern California. As an incident to its gas and electric business, the Company sells gas and electric appliances at retail. It distributes and sells water in certain small cities and towns in rural areas for domestic irrigation purposes. It produces and sells steam in Oakland and San Francisco, California.

The Company is the third largest electric power company in the United States. It is the sole commercial source of electric energy and the only practical commercial source of natural and manufactured gas in the central and northern portion of California. The San Francisco-Oakland area, which is entirely dependent on the Company for electric energy and gas, is one of the foremost industrial and commercial centers in the United States. San Francisco is the distribution center of the West Coast, and as a port ranks second in the United States in the value of water-borne commerce.

The Company owns and operates 49 hydroelectric generating plants and 12 steam electric generating plants, all of which are situated in California. In 1944 its total electrical load, consisting of all electric energy generated, purchased and received on consignment, was 9,549,129,109 kilowatt hours, of which amount 210,973,569 kilowatt hours were purchased from California-Oregon Power Company, which maintains generating plants in both Oregon and California, and delivered to the Company at Delta, California, approximately 70 miles south of the California-Oregon State line. The entire electrical load of the Company is sold and delivered in California. In 1944 it delivered 43,818,205 kilowatt hours, chiefly for use in Nevada, to Sierra-Pacific Power Company, which generates and distributes electric energy in both Nevada and California. The energy is delivered in the Company's transmission lines to Summit, California, 20 miles west of the Nevada-California State line. There the Company's transmission lines connect with the transmission lines of Sierra-Pacific Company, which carry the energy into Nevada.

The Company owns and operates in California a transmission pipeline system, including a large gas compressor station, for the transportation of natural gas in central and northern California. It owns and operates 14 gas manufacturing plants, all of which are situated in California. Ten are stand-by plants reserved against the interruption of natural gas service. All the plants are operated by fuel oil or butane produced or purchased in California. Its total sales of gas in 1944 were 153,052,868,000 cubic feet.

A large number of manufacturing industries, including war industries, situated in the area served by the Company and engaged in shipping and receiving commodities in interstate or foreign commerce, are wholly dependent on the Company for gas and electric power which are essential to the operation of their plants. The United States Government purchases large quantities of electricity and gas from the Company for the purpose, among others, of operating its numerous post offices and military installations situated in the area served by the Company. The Company also supplies power to all the newspapers located in the area which it serves, to the Associated Press, to the San Francisco and Oakland airports, to the Dow-Jones and Company ticker service, to oil refineries, to shipbuilding and repair concerns, to steamship lines, to navigation aids, and to interstate railways, telegraph and telephone companies and radio broadcasting stations.

II. THE ORGANIZATION INVOLVED

International Brotherhood of Electrical Workers, Local B-1245, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Prior to filing the petition herein, the I. B. E. W. asked the Company for recognition as bargaining representative of clerical employees in the Stockton Division of the Company's operations. The Company refused recognition, taking the position that the unit proposed by the I. B. E. W. is not an appropriate bargaining unit.

A statement prepared by the Field Examiner and introduced into evidence at the hearing indicates that the I. B. E. W. represents a substantial number of employees in the unit herein found appropriate for bargaining.²

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 National Labor Relations Act.

IV. THE APPROPRIATE UNIT

The I. B. E. W. contends that office and clerical employees in the Stockton Division of the Company's operations constitute an appropriate bargaining unit. The Company takes the position

²The I. B. E. W. submitted 53 applications for membership all undated, of which 47 bear apparently genuine signatures of employees on the Company's pay-roll records. There are approximately 122 employees in the appropriate unit.

that the only appropriate unit for these employees is a system-wide unit, coextensive with its public utility operations. In a prior representation proceeding³ we found that employees in the outside forces of the Stockton Division constitute an appropriate bargaining unit. For reasons which we have fully set forth in other cases dealing with the scope of bargaining units for office and clerical employees in the several administrative divisions and operating departments of the Company's utility system,⁴ we find that a unit limited to office and clerical employees in the Stockton Division is an appropriate unit for bargaining purposes.

The Company and the I. B. E. W. agree that supervisory employees within the Board's usual definition of the term be excluded from the bargaining unit and there is no dispute between the parties as to the identity of supervisory employees. The parties further agree that confidential employees be excluded from the unit, and they agree that the secretaries of certain administrative and supervisory employees fall within this classification. They disagree as to pay-roll clerks. The Company contends that they are "confidential" employees and should be excluded. The I. B. E. W. disagrees.

The Stockton Division of the Company is similar, except for size, to other geographical divisions of the Company. Pay-roll clerks in the Stockton Division, of whom there are six, perform the duties usually associated with their employment classification. They prepare and maintain pay-roll and employment records. From time cards they compute the amounts to be paid employees, making appropriate deductions for tax, insurance, and other purposes. From time to time, pay-roll clerks prepare miscellaneous financial reports, segregating time charges to various accounts. They check employment records of individuals to see that occupational histories are properly maintained in the filing cases kept in the particular section of the large general office room where they work. These ordinary duties, having to do primarily with mathematical computations of wages earned, based upon established pay scales (which are, for the most part, a result of collective bargaining), the preparation of the pay roll, and maintenance of pay-roll records are not the basis of the Company's contention that pay-roll clerks be excluded from the bargaining unit of office and clerical employees in the Stockton Division, and it is now generally established that work of this nature does not constitute a ground for the exclusion of pay-roll clerks from bargaining units

³ 45 N. L. R. B. 536.

⁴ 49 N. L. R. B. 810; 51 N. L. R. B. 301; 52 N. L. R. B. 1204; 55 N. L. R. B. 427; 57 N. L. R. B. 1129, and 61 N. L. R. B. 468.

of general office and clerical employees otherwise found appropriate by the Board.⁵

In addition, however, to the usual duties indicated above, pay-roll clerks in the Stockton Division, under the direction of the chief pay-roll clerk, receive occasional assignments of work requiring their access to the general employment files, containing both pay-roll and personnel matters. These files are lodged in a separate room under the custody of a chief file clerk, who exercises her discretion as to access to the files. These general record files of executive, supervisory, and non-supervisory employees contain not only matters relating to pay-roll material but also matters which in larger offices would be found in a personnel or labor relations department—such as the history and procedure of any disciplinary action taken with respect to an employee, investigations and reports of a supervisor on a worker's ability and the quality and quantity of work performed, details involving demotions, promotions, and transfers, records of physical disability, routine physical examinations, and medical reports considered of more intimate and confidential nature, and data pertaining to work accidents and claims against the employer. Letters sent to and from the personnel department (an executive department in the Company's headquarters in San Francisco) and the administrative office of the Stockton Division, relating to individual employees working therein, are included in these files.

Under the express direction of the chief pay-roll clerk, designated pay-roll clerks from time to time gather and prepare data for the Company's use from matter contained in the general files. Even pay-roll data they may be required to assemble is interspersed with personnel matter contained in the same general file. On occasion a pay-roll clerk may be assigned a particular file in order that she may compile a report based on the data contained therein. New untested clerks are never given these assignments and the record is not specific as to the frequency of instances when experienced pay-roll clerks receive them.

We have excluded from bargaining units, as confidential employees, employees whose regular work gives them such freedom of access to personnel files as affords them opportunity to gain information as to their employer's position on issues properly the subject of bargaining in advance of conferences with the duly accredited representative of its employees. If the pay-roll clerks whose inclusion in the unit is here in issue spent any fixed and appreciable part of their working time as personnel clerks, we should, despite their official classification

⁵ *Matter of Chrysler Corporation, Chrysler Motor Division*, 58 N. L. R. B. 239, and cases cited therein.

as pay-roll clerks, seriously question the desirability of their inclusion in the bargaining unit. However, pay-roll clerks in other small geographical divisions of the Company receive similar assignments and have been included in office and clerical units limited to their respective departments. No specific evidence discloses that the results have not been satisfactory. Since assignments to pay-roll clerks to work with personnel files are special and discretionary, since they are admittedly irregular and are not extended to all pay-roll clerks as a class, we see no justification to make them the basis for denying to pay-roll clerks the right of collective bargaining guaranteed by the Act.⁹ We shall include pay-roll clerks in the appropriate unit.

We find that all office and clerical employees of the Company in the Stockton Division, including pay-roll clerks, but excluding confidential employees 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 employees of the Company in the unit found appropriate in Section IV, above, 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 Relations 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 Pacific Gas and Electric Company, San Francisco, California, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twentieth 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 of the Company within the unit found

⁹ *Matter of South Bend Lathe Works*, 59 N. L. R. B. 562 cf. *Matter of General Motors Corporation*, 39 N. L. R. B. 1108

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 employees 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 or not they desire to be represented by International Brotherhood of Electrical Workers, Local B-1245, AFL, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.