

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER  
and FEDERATION OF WESTINGHOUSE INDEPENDENT SALARIED UNIONS,  
PETITIONER

*Cases Nos. 4-RC-804 and 4-RC-805.—Decided November 22, 1950*

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before John Wood, 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 Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims 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 in Case No. 4-RC-804 seeks a unit of salaried professional employees to be included in a unit of salaried office, clerical, and technical employees petitioned for in Case No. 4-RC-805. The parties are in substantial agreement as to the scope of the professional and clerical units. They differ, however, on the question of inclusion or exclusion of certain time and motion analysts.

Although the Petitioner contends that the time and motion analysts are not professional employees, and therefore should properly be included in the clerical unit, it is nevertheless willing to accept their inclusion in a professional unit if the Board so determines. The Employer, however, contends that the time and motion analysts, although concededly professional in character, should nonetheless be excluded from any unit found appropriate on the ground that they serve in a managerial capacity. It urges that in other respects their interests and activities are essentially dissimilar to and different from

the interests of the other employees in the proposed units.<sup>1</sup> Apparently there is no history of collective bargaining for any of the employees involved in this proceeding.

The parties agree that the functions of the time and motion analysts involved herein are identical in all respects with the function of the time-study employees involved in an earlier case affecting this Employer.<sup>2</sup> There the Board found time-study employees to be professional employees within the meaning of the Act, and included them in a unit of professional employees therein found to be appropriate. The Petitioner in effect asks for a reconsideration of this issue; and without presenting any additional facts, argues that upon the record in the earlier case the Board should have reached a different conclusion. We do not agree. We find, on the basis of the present record, and the record in the earlier case, and without restating the reasons therein clearly set forth, that the time and motion analysts herein involved are professional employees within the meaning of the Act.

We find the Employer's contention that the time and motion analysts should be excluded from both units on the ground that as management representatives they participate in the grievance procedure, to be without merit. The record discloses that the time and motion analysts participate in the grievance procedure only in its initial stage, and only to the extent of undertaking to justify the results of any time studies which they conduct. Except for obvious clerical errors, they have no authority to alter in any respect the results of their time studies. Such authority is lodged only in their supervisor. Although we believe that the precise issue raised by the Employer's contention was in fact considered and decided by the Board in the earlier case, we now conclude, on the basis of the record as a whole, that the time and motion analysts are not managerial employees, for they do not to any substantial degree formulate, determine, or effectuate management policy.<sup>3</sup> Moreover, as professional employees, we find, contrary to the contention of the Employer, that the interests of the time and motion analysts in their terms and conditions of employment differ in no important respect from the interests of the other professional employees included in the unit the appropriateness of which was the subject of stipulation by the parties. Accordingly, we

<sup>1</sup> The Employer also contends that, in passing on the issue of the inclusion or exclusion of the time and motion analysts, some weight should be accorded to the express desire of these employees, as manifested by their letter addressed to a Board agent, to be excluded from the unit. We find no merit in this contention.

<sup>2</sup> *Westinghouse Electric Corporation*, 89 NLRB 8.

<sup>3</sup> *General Electric Company*, 89 NLRB 726; *Ford Motor Company (Chicago Branch)*, 66 NLRB 1317. See also *Wise, Smith & Company, Inc.*, 83 NLRB 1019.

shall include the time and motion analysts in the voting group of professional employees.<sup>4</sup>

As noted above, the Petitioner has requested that the professional employees be included in a single unit with the office, clerical, and technical employees. Except for its objection to the inclusion of time and motion analysts in any unit of employees, the Employer does not specifically oppose the Petitioner's request for a single unit. Nor, for that matter, are the interests of the professional group under the circumstances of this case so divergent from the interests of the other employees as to preclude their inclusion in a unit of office, clerical, and technical employees.<sup>5</sup>

However, under Section 9 (b) (1) of the Act the Board is precluded from including professional employees in a unit of nonprofessional employees unless a majority of such professional employees vote for inclusion in the nonprofessional unit. Therefore, in order to ascertain the desires of the professional employees as to such inclusion, and to determine the issues with respect to representation for all employees concerned, we shall direct separate elections in the following voting groups<sup>6</sup> of employees:

1. All office employees, clerical employees, and technical employees, who are paid by salary, employed at the Employer's home radio division plant at 1354 Susquehanna Avenue, Sunbury, Pennsylvania, excluding production clerks and helpers, secretaries to the plant or division manager, the manager of manufacturing and the manager of industrial relations, buyers, employees in the industrial relations department, expeditors, internal auditors, paymaster cashiers, stylists, all other professional employees, guards, and supervisors as defined in the Act.

2. All salaried professional employees of the Employer at its home radio division plant at 1354 Susquehanna Avenue, Sunbury, Pennsylvania, including time and motion analysts, all design engineers, plant layout engineers, headquarters equipment engineers, nurses, and junior engineers, but excluding field service engineers, stylists, doctors, attorneys, guards, and supervisors as defined in the Act.

The employees in voting group 1 will be asked simply whether or not they desire to be represented for purposes of collective bargaining by the Petitioner. The employees in group 2 will be asked whether or not they desire to be included in a single unit with the office, clerical, and technical employees, and whether or not for pur-

<sup>4</sup> See *F. W. Sickles Company*, 81 NLRB 390, 400.

<sup>5</sup> *General Electric Company*, *supra*.

<sup>6</sup> Apart from the inclusion of the time and motion analysts, the parties stipulated generally to the composition of the voting groups as appropriate units.

poses of collective bargaining they desire to be represented by the Petitioner.

If a majority of the professional employees vote for inclusion in a unit of office, clerical, and technical employees, they will be so included. Their votes on the second question will then be counted together with those of the employees in voting group 1 for the purpose of deciding whether or not all of the employees in the single combined unit desire to be represented for purposes of collective bargaining by the Petitioner. If, on the other hand, a majority of the professional employees in voting group 2 vote against inclusion in a unit of office, clerical, and technical employees, they will not be included. Their votes on the second question then will be separately counted in order to determine whether or not as a separate professional unit they desire to be represented for purposes of collective bargaining by the Petitioner.<sup>7</sup>

Our unit determination, therefore, is based, in part, upon the results of the election among the professional employees. However, we now make the following findings in regard to the appropriate unit:

(a) If a majority of the professional employees vote for inclusion in the same unit with the office, clerical, and technical employees, we find that all office employees, clerical employees, and technical employees, who are paid by salary, and all salaried professional employees of the Employer employed at its home radio division plant at 1354 Susquehanna Avenue, Sunbury, Pennsylvania, including time and motion analysts, all design engineers, plant layout engineers, headquarters equipment engineers, nurses, and junior engineers, but excluding field service engineers, stylists, doctors, attorneys, and also excluding production clerks and helpers, secretaries to the plant or division manager, the manager of manufacturing and the manager of industrial relations, buyers, employees in the industrial relations department, expeditors, internal auditors, paymaster cashiers, stylists, all other professional employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for collective bargaining purposes within the meaning of Section 9 (b) of the Act.

(b) If a majority of the professional employees do not vote for inclusion in the same unit with the office, clerical, and technical employees, we find that the following groups of employees at the Employer's home radio division plant at 1354 Susquehanna Avenue, Sunbury, Pennsylvania, constitute separate units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

<sup>7</sup> *Sonotone Corporation*, 90 NLRB 1236.

(1) All office employees, clerical employees, and technical employees, who are paid by salary, excluding production clerks and helpers, secretaries to the plant or division manager, the manager of manufacturing and the manager of industrial relations, buyers, employees in the industrial relations department, expeditors, internal auditors, paymaster cashiers, stylists, all other professional employees, guards, and supervisors as defined in the Act.

(2) All salaried professional employees, including time and motion analysts, all design engineers, plant layout engineers, headquarters equipment engineers, nurses, and junior engineers, but excluding field service engineers, stylists, doctors, attorneys, guards, and supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication in this volume.]