

In the Matter of NATIONAL ELECTRIC PRODUCTS CORPORATION and
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA,
C. I. O.

Case No. 6-R-1167.—Decided October 19, 1945

Mr. James M. Houston, of Pittsburgh, Pa., for the Company.

Mr. Leo Turner, of Pittsburgh, Pa., for the UE.

Mr. George H. Poulson, of Erie, Pa., for the IBEW.

Mr. Joseph D. Manders, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the UE, alleging that a question affecting commerce had arisen concerning the representation of employees of National Electric Products Corporation, Ambridge, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. The hearing was held at Pittsburgh, Pennsylvania, on June 22, 1945. The Company, the UE, and International Brotherhood of Electrical Workers, A. F. L., herein called the IBEW, 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. The Trial Examiner's rulings made at the hearing are free from prejudicial error and 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

National Electric Products Corporation, a Delaware corporation, maintains its principal office and place of business in Pittsburgh, Pennsylvania. The sole plant involved in this proceeding is located at Ambridge, Pennsylvania, where the Company is engaged in the

manufacture of steel conduits, wire and cables, Navy cable and signal wire, outlet boxes and switch boxes, and various types of wiring systems and fittings. During 1944, the Company purchased raw and other materials for use at its Ambridge plant valued in excess of \$12,000,000, approximately 95 percent of which was shipped from points outside the Commonwealth of Pennsylvania. During the same period the Company sold and distributed finished products valued in excess of \$19,320,000, approximately 88 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

United Electrical Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

In the letters dated April 15, and May 5, 1945, the UE informed the Company that it represented a majority of its employees, and requested recognition as their exclusive bargaining representative. The Company failed to reply to these letters.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the UE represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 C. I. O. seeks a unit consisting of production and maintenance employees, including shop clericals, plant protection employees (watchmen),² inspectors and employees in the Junior Laboratory³

¹ The Field Examiner reported that the UE submitted 629 authorization cards, 600 of which bore the names of persons appearing on the Company's pay roll of May 1, 1945 which contained the names of 1,894 employees in the appropriate unit; and that the cards were dated in January 1943, March 1944, and April and May 1945; 22 cards were undated. The IBEW submitted its current contract as evidence of its representation in the proposed appropriate unit.

² These employees are not militarized or armed.

³ This laboratory is part of the inspection department.

and working foremen.⁴ The Company and the IBEW, agreeing with the petitioner that the unit should contain the employees in the above categories, contend that it should include, in addition, office clericals, engineers, and others hereinafter discussed, all of whom the petitioner would exclude.

In support of its position that the employees in the disputed categories should be included in a single appropriate unit with production and maintenance employees, the IBEW points to its history of collective bargaining. Following a Board certification in 1937,⁵ the IBEW has entered into a series of collective bargaining agreements with the Company covering all of the non-supervisory employees of the Company, including those in dispute. We do not attach decisive weight to this bargaining history for 2 reasons: (1) at least two of the disputed groups discussed below were specifically excluded from the unit found appropriate by the Board in the 1937 proceeding;⁶ (2) others in question, though not specifically passed upon by the Board in 1937, are classifications which we customarily decline, as a matter of policy, to commingle with production and maintenance workers for collective bargaining purposes.⁷

The employees in the disputed categories are as follows:

Office clerical employees. The office clerical group which was excluded from the 1937 unit,⁸ is comprised of such employees as ledger accountants, bookkeepers, traffic and cost clerks, secretaries, stenographers, and file clerks. They work in a two-story building which is separate from the Company's production buildings. These office clerical employees have interests and working conditions which are substantially different from those of production and maintenance employees, and they are under separate supervision. In accordance with our customary policy, we shall exclude the office clerical employees.⁹

Time-study man. This employee performs time-study analyses which directly affect the wages of the Company's other employees. The time-study man is responsible to the assistant to the president of the Company, and submits his reports to this executive. The time-study man, along with office clerical employees, was excluded from

⁴ The record shows that these employees do not possess supervisory authority.

⁵ *Matter of National Electric Products Corporation*, 3 N. L. R. B. 475

⁶ See *Matter of Matheson Alkali Works*, 55 N. L. R. B. 1100; *Matter of Indianapolis Power & Light Company*, 62 N. L. R. B. 1279

⁷ See *Matter of Boston Edison Company*, 51 N. L. R. B. 118

⁸ In its brief, the IBEW asserts that the office clericals and the time-study man were permitted to "participate in the selection of [a] bargaining [representative] * * *" in the 1937 election, and, therefore, they should be included in the present unit. Although certain employees who were apparently excluded from the 1937 unit were permitted to vote under challenge in the 1937 election, there is no evidence in the record that office clericals and the time-study man were among those permitted to vote.

⁹ See *Matter of Procter & Gamble Manufacturing Company*, 62 N. L. R. B. 1262.

the 1937 unit. In accordance with our usual policy, we shall exclude the time-study man.¹⁰

Technical employees. The Company employs mechanical and electrical engineers and draftsmen who work in the office building. The record indicates that they are professional and technical employees. The Company also employs chemists and laboratory attendants who are engaged in the testing and analysis of the diverse materials utilized in its manufacturing processes. Their operations are performed in the main laboratory which is adjacent to the Company's office building. The chemists are professionally trained and paid on a salary basis; the laboratory attendants, who are hourly paid, are apparently technical employees. We shall exclude these professional and technical employees from the unit.¹¹

We find that all production and maintenance employees at the Company's Ambridge plant, including shop clericals, plant protection employees (watchmen), inspectors and employees in the Junior Laboratory, and working foremen, but excluding office clerical employees in the general plant office, engineers, draftsmen, chemists and other technical 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.¹²

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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.¹³

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 the National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

¹⁰ See *Matter of Westinghouse Electric & Manufacturing Company*, 54 N. L. R. B. 272.

¹¹ See *Matter of Vermont Copper Company, Inc.*, 55 N. L. R. B. 1039; *Matter of American Cyanamid & Chemical Corporation*, 62 N. L. R. B. 925

¹² The maintenance employees, shop clericals and plant protection employees were excluded from the unit found appropriate by the Board in 1937, but in view of the agreement of the parties and present Board policies regarding these three categories of employees, we find no reason to disapprove their inclusion in the unit.

¹³ In a letter dated June 26, 1945, the UE requested that it be permitted to appear on the ballot as "UE-CIO, United Electrical, Radio & Machine Workers of America." The request of the UE to be designated on the ballot in the manner indicated is hereby referred to the Regional Director.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with National Electric Products Corporation, Ambridge, Pennsylvania, 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 Sixth 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 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, to determine whether they desire to be represented by United Electrical, Radio & Machine Workers of America, C. I. O., or by International Brotherhood of Electrical Workers, A. F. L., for the purposes of collective bargaining, or by neither.