

limitation of its powers imposed by its own constitution to negotiate a binding contract.⁴

Under these circumstances, we find that the contract is a bar to a determination of representatives at this time and therefore that no 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. We shall dismiss the petition filed herein.

Order

IT IS HEREBY ORDERED that the petition herein be, and it hereby is, dismissed.

⁴ *Farrell-Cheek Steel Company*, 88 NLRB 303.

ILLINOIS BELL TELEPHONE COMPANY and J. A. ELENTEY, AN INDIVIDUAL ACTING ON BEHALF OF ALL COMMUNICATIONS ENGINEERS, PETITIONER and COMMERCIAL TELEPHONE WORKERS UNION, INTERVENOR. *Case No. 13-RD-86. April 9, 1951*

Decision and Order

Upon a decertification petition duly filed, a hearing was held before Irving M. Friedman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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 Houston and Reynolds].

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 Petitioner, an employee of the Employer, asserts that the Intervenor, although currently recognized as such, is no longer the representative of certain of the Employer's employees as defined in Section 9 (a) of the Act.

3. The alleged question concerning representation:

The Petitioner seeks to decertify the Intervenor as representative of a group of 92 employees, called communications engineers, who are

¹ We find that the exclusion of Petitioner's Exhibits 6 to 15 was not prejudicial. These exhibits purport to show, at most, that some employees in other parts of the telephone industry, resembling the communications engineers whom Petitioner seeks to sever from the unit, function on the management level. The Petitioner concedes in his brief, however, that the Employer's communications engineers are nonmanagerial. See *Northwestern Bell Telephone Company*, 79 NLRB 549, 555.

now included in a contract unit composed of all employees in the Employer's Chicago area commercial department. The Intervenor opposes the petition, asserting that this group may not constitute a unit appropriate for the purposes of collective bargaining and therefore may not be severed from the established unit, which is appropriate.² The Employer takes no position as to the merits of these conflicting claims.

The present unit was created in 1941 by the first of an uninterrupted series of voluntary collective bargaining agreements executed by the Employer and the Intervenor. The unit embraces all the employees in the commercial department, the Employer's sales organization. Other departments, with whose members we are not concerned, are responsible for accounting, and for design, installation, operation, and maintenance of the Employer's communications system.

There are more than 1,800 employees in the commercial department unit. Approximately 500 are clerks, office boys, typists, and tellers, whose functions and job skills are not unique to the communications industry. In addition, there are about 700 service representatives; 200 office assistants, observers, and instructors; 80 commercial representatives; 180 coin collectors; 50 communications representatives "A" and "B"; and the 92 communications engineers.

Service representatives, all of whom are women, are each responsible for 800 to 4,000 accounts, handling matters pertaining to billing, toll charges, records, and complaints. They accept and process orders dealing mainly with residential and one-telephone business installations, referring requests for more complicated equipment to the appropriate subdivision of the commercial department. They work exclusively in the Employer's offices, dealing with the subscribers, for the most part, by telephone. Commercial representatives do similar work outside of the offices, making all personal calls necessary in connection with the simple accounts.

More complicated equipment is the responsibility of communications representatives and communications engineers. Representatives "B" handle accounts of subscribers who have more than two lines, up to and including push-button and key equipment. Representatives "A" work with those subscribers who use key, one-position and two-position nonmultiple switchboards. *Communications engineers*, the most experienced nonsupervisory group in the unit, are assigned to all customers using such complex equipment as multiple switchboards, and dial and teletype systems. Unlike representatives "A" and "B," most communications engineers are permanently assigned to specific cus-

²The Intervenor also asserts that this petition is barred by its contract with the Employer. The petition was filed October 25, 1950, after cancellation of a preceding contract between the parties, and before the present contract was executed. Accordingly, we dismiss the contract bar contention.

tomers, and do not receive day-to-day assignments. Since the major task of these engineers is to enable the Employer to render satisfactory and efficient service to its subscribers, each engineer works primarily with subscribers within the same industrial groups. For example, some are assigned exclusively to railroad accounts, others to department stores, and still others to teletype accounts. Their work requires them to be completely familiar, not only with the various types of equipment used by the Employer, but also with communications problems common to subscribers within the industrial group to which they are assigned.

The Petitioner's assertion that the communications engineers should be allowed to sever from the established unit is founded on two alternative theories. He asserts, first, that they are professional employees and may not be included in a nonprofessional group without their consent; and, second, that in any event their interests are so "materially different" from those of the other employees in the unit that they should be given a self-determination election.

The record does not support either of these assertions. Although communications engineers must be thoroughly familiar with the use of complex communications equipment, and although their work is predominantly intellectual and cannot be standardized in relation to a given period of time, they do not meet the other criteria used to measure professional status.³ They are not engaged in work requiring knowledge of an advanced type customarily acquired by a prolonged course of instruction and study in an institution of higher learning, and the record shows that the formal classroom work required by the Employer has emphasized practical salesmanship, not mathematics, physics, or other subjects commonly associated with engineering training.⁴ Accordingly, we find that communications engineers are not professional employees within the meaning of the Act.

There remains the question whether communications engineers are to be severed from the existing unit because their interests and working conditions are so unlike those of the other employees in the commercial department as to entitle them to form a separate unit if they so desire. We find no such disparity. True, the engineers do much of their work off the Employer's premises, deal largely with managerial employees of the Employer's customers, and have little in common with *some* of the employees in the established unit. The record shows, however, that communications engineers are not a homogeneous group with interests and skills which set them apart from *all* others in the unit. They differ from many of the other employees in the unit

³ See, for example, *Jersey Publishing Company*, 76 NLRB 467. See also, *Sigmund Cohn Manufacturing Co., Inc.*, 75 NLRB 177; *Illinois Bell Telephone Company*, 77 NLRB 1073; *Southern Bell Telephone and Telegraph Company*, 78 NLRB 814.

⁴ See *Illinois Bell Telephone Company*, *supra*, at 1077.

only in degree, not in basic interests. Inasmuch as the unit sought thus, at the very least, fails to include all the employees currently represented by the Intervenor who have duties and interests in common, we find that it is not appropriate for decertification purposes.⁵

Accordingly, we must dismiss the petition.

Order

IT IS HEREBY ORDERED that the petition in this case be, and it hereby is, dismissed.

⁵ See *Douglas Aircraft Co., Inc.*, 92 NLRB 702.

BROWN EQUIPMENT & MANUFACTURING CO., INC. and DISTRICT 26,
INTERNATIONAL ASSOCIATION OF MACHINISTS, PETITIONER. *Case No.*
1-RC-1860. April 9, 1951

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Torbert H. MacDonald, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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 organizations involved claim 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 desires to be certified as the bargaining representative of all persons employed in repairing, servicing, and maintaining equipment at the Employer's Bradley Field, Windsor Locks, Connecticut, plant, excluding executives, office and clerical employees, guards, professional employees, and supervisors as defined in the Act. The Employer and Local 404, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL, the Intervenor herein, oppose the petition on the ground that the proposed bargaining unit is inappropriate because it does not include the employees at the Employer's West Springfield, Massachusetts, plant.

The Intervenor has represented employees at the Employer's West Springfield plant continuously since 1945, and during this period, has entered into successive annual collective bargaining agreements with