

In the Matter of PACIFIC GAS AND ELECTRIC COMPANY and UTILITY
WORKERS UNION OF AMERICA, LOCAL 133, CIO

Case No. 20-R-1419.—Decided April 25, 1946

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

Gladstein, Grossman, Sawyer & Edises, by Mr. Bertram Edises, of Oakland, Calif., for Local 133 of the U. W. U. A.

Mrs. Edith Cross, of San Francisco, Calif., for Local B-1245 of the I. B. E. W.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Utility Workers Union of America, Local 133, CIO, herein called Local 133 of the U. W. U. A.,¹ 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 Wallace E. Royster, Trial Examiner. The hearing was held at San Francisco, California, on September 20, 1945. The Company, Local 133 of the U. W. U. A., and International Brotherhood of Electrical Workers, Local B-1245, herein called Local B-1245 of the I. B. E. W., 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 are hereby affirmed.

On January 24, 1946, the Board, having duly considered the matter, ordered that the record be reopened and the case remanded to the

¹ The original petition was filed by Local 133 of Utility Workers Organizing Committee Utility Workers Organizing Committee subsequently changed its name to Utility Workers Union of America. The petition and other formal papers are hereby amended to show the present name of the petitioning union.

Regional Director for further hearing on the scope of the unit appropriate for employees covered by the petition. Pursuant to the Board's order, further hearing was held upon due notice at San Francisco, California, on February 14 and 18 before Wallace E. Royster, and on February 27, 1946, before John Paul Jennings, Trial Examiners. All parties appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiners' rulings made at the reopened 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, a public utility corporation, is principally engaged in the production, purchase, sale, and distribution of gas and electricity in central and northern California.

The Company stipulated at the hearing that findings made by the Board with respect to its operations and set forth in the Decision and Direction of Elections issued by the Board in Cases Nos. R-5894 and 5895, prior representation proceedings concerning the Company's employees, substantially describe its operations at the present time. We, therefore, find, and incorporate by reference herein, all facts found within the section entitled "The business of the Company" in said Decision and Direction of Elections.²

II. THE ORGANIZATIONS INVOLVED

Utility Workers Union of America, Local 133, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

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

The Company on request refused to grant recognition to Local 133 of the U. W. U. A. as bargaining representative of employees in its proposed bargaining unit.

A statement of a Board agent, introduced into evidence at the

² *Matter of Pacific Gas and Electric Company*, 52 N. L. R. B. 1204, at pages 1205 and 1206.

hearing, indicates that Local 133 of the U. W. U. A. represents a substantial number of employees in the unit hereinafter found appropriate.³

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

Local 133 of the U. W. U. A. contends that office and clerical employees of the Company who perform multi-division functions at San Francisco, as distinguished from General Offices and San Francisco Division functions, constitute an appropriate separate bargaining unit. Subject to its general position that a system-wide unit is the appropriate bargaining unit for its employees, the Company agrees that the proposed unit is appropriate for bargaining purposes. The I. B. E. W. takes no contrary position.

The Company is a public utility, furnishing gas and electrical power to customers in central and northern California. At the Company's headquarters in San Francisco, commonly known as the General Offices, are housed executive officers of the Company and administrative heads of offices and over-all departments and their clerical staffs.⁴ For its operating convenience, the Company divides the wide area covered by its services into 13 geographical divisions, named from the principal counties of California respectively included therein, each of which is under the immediate charge of a local division manager. Independent of these geographical lines, the Company operates, as functions of its General Offices, the following over-all services: (1) the Central Supply Department with headquarters at Emeryville, a warehouse facility in general charge of the Company's storage and supply bases; (2) the General Construction Department, with headquarters at San Francisco, a field construction facility equipped to move about and handle repairs more extensive than the manpower in any geographical region can comfortably handle alone; and (3) the Natural Gas Division, with headquarters at San Francisco, a facility for handling gas distribution by pipe line.

The Company's employees are generally classified as the outside "physical" employees and the inside "office and clerical" employees, respectively. In the earliest representation proceeding instituted on

³ The Field Examiner reported that Local 133 of the U W U. A. submitted 185 designations. Local B-1245 of the I. B. E. W. submitted no showing of representation among these employees.

There are approximately 250 employees in the appropriate unit

⁴ The term "General Offices" in the record denotes the central administration of the Company's extensive operations or the principal building at San Francisco, in which the chief executive and administrative staffs are housed

their behalf, the Board found that the Company's physical employees constituted a single appropriate bargaining unit and directed an election among them in a system-wide unit.⁵ When it appeared that there was no immediate prospect of obtaining collective bargaining on a system-wide basis, the Board found appropriate a unit limited to physical employees in the Company's East Bay Division, tracing a unit for bargaining purposes along the broad lines drawn by the Company for its administrative purposes.⁶ Following this pattern, the Board successively found appropriate units of the Company's physical employees limited to each one of the Company's 13 geographical divisions.⁷ Upon subsequent petitions filed, separate units of office and clerical employees working in several geographical divisions were respectively found appropriate, including office and clerical employees working in the San Francisco Division.⁸

Following further the plan of making separate bargaining units coextensive with the Company's administrative sectors, the Board also found appropriate separate units of physical employees serving in the General Offices Building at San Francisco,⁹ and in the separate facilities emanating from the General Offices, namely, the General Construction Department,¹⁰ the Natural Gas Division,¹¹ and the Central Supply Department,¹² respectively.

Since office and clerical employees in the Central Supply Department, though strictly of the General Offices staffs, are housed at Emeryville and not at San Francisco and enjoy some autonomy, the Board found a unit limited to these employees an appropriate bargaining unit.¹³ Subsequent to these several unit findings, the Board held separate elections and certified as bargaining representative of the employees in each unit the labor organization selected by the majority of voters therein.¹⁴

Apart from the office and clerical employees assigned to and working in the several geographical divisions of the Company's operations, who have been found to constitute separate bargaining units along strictly geographical lines, and apart from the office and clerical employees who serve in the several administrative, executive, and operating departments of the Company's General Offices at San Francisco,

⁵ 3 N. L. R. B. 835.

⁶ 40 N. L. R. B. 591; 41 N. L. R. B. 1182.

⁷ 44 N. L. R. B. 665; 45 N. L. R. B. 536; and 49 N. L. R. B. 810.

⁸ 49 N. L. R. B. 810; 51 N. L. R. B. 301; 52 N. L. R. B. 1204; 55 N. L. R. B. 427; 61 N. L. R. B. 468; and 61 N. L. R. B. 564.

⁹ 46 N. L. R. B. 1191. The unit of physical employees in the General Offices is made up of maintenance and building service employees in the main building and annex.

¹⁰ 44 N. L. R. B. 665.

¹¹ 48 N. L. R. B. 1176.

¹² 44 N. L. R. B. 665.

¹³ 52 N. L. R. B. 1204; 57 N. L. R. B. 1129.

¹⁴ Office and clerical employees in all geographical divisions may not be organized but the scope of the units appropriate for these employees is not directly raised herein.

who are not yet organized for bargaining purposes, is a group of approximately 250 office and clerical employees, whom the Company has centralized and placed at San Francisco—and therefore physically within the confines of the San Francisco Division though not subject to its division manager—for the economical and efficient handling of certain record and accounting work for the four geographical divisions located in the Bay Region, namely, the San Francisco, San Jose, East Bay, and North Bay Divisions. Employees doing comparable work for other geographical divisions presently perform such work locally within their respective divisions and now form an integral part of the several office and clerical bargaining units drawn along strictly geographical lines. The multi-division office and clerical employees at San Francisco, recently somewhat scattered, have now all been assigned to working space at 445 Sutter Street, San Francisco, the annex to the Company's main office building at 245 Market Street.¹⁵

The office and clerical workers performing the multi-division work at San Francisco, and covered by the amended petition herein, thus fall into a special group of clerical workers readily distinguishable both from employees in the San Francisco Division, whose work is confined to this division of the Company's geographical area, and from employees in the General Offices, who serve in the Company's over-all administrative, executive, and operating offices. Since Local 133 of the U. W. U. A. has confined its immediate organizational efforts to this multi-division group, and these employees constitute a well defined functional group with common problems and interests, we believe that, in view of the bargaining pattern established among the Company's employees, they may constitute a separate appropriate bargaining unit. The parties agree that supervisory employees be excluded from the bargaining unit, and they do not disagree with respect to the employees within such classifications.

We find that all office and clerical employees of the Company who perform multi-division functions at San Francisco, as distinguished from General Offices and San Francisco Division functions, excluding 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.

¹⁵ At the time of the original hearing in this proceeding the multi-division group, housed in part in the main office building, were incorrectly identified as employees assigned to General Offices functions

Local B-1245 of the I. B. E. W. desires to participate in the election. Local 133 of the U. W. U. A. opposes its participation, on the ground that Local B-1245 has shown no specific representation among employees in this unit. Since the I. B. E. W. represents both physical and clerical employees of the Company in units previously found to be appropriate, we believe that it has a sufficient interest in the Company's employees to have a place on the ballot. We will provide that Local B-1245 of the I. B. E. W. and Local 133 of the U. W. U. A. appear on the ballot.

Those eligible to participate in the election shall be all 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 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 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 Utility Workers Union of America, Local 133, CIO, or by International Brotherhood of Electrical Workers, Local B-1245, A. F. of L., for the purposes of collective bargaining, or by neither.