

In the Matter of WISCONSIN POWER AND LIGHT Co. and UNITED GAS,
COKE & CHEMICAL WORKERS OF AMERICA, C. I. O.

In the Matter of WISCONSIN POWER AND LIGHT Co. and INTERNATIONAL
CHEMICAL WORKERS UNION, A. F. OF L.

In the Matter of WISCONSIN POWER AND LIGHT Co. and INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL B-965, A. F. OF L.

Cases Nos. 13-R-3209, 13-R-3232, and 13-R-3249, respectively.—
Decided May 7, 1946

Mr. William Ryan, of Madison, Wis., for the Company.

Messrs. W. O. Sonnemann and *Chester Malczak*, both of Milwaukee,
Wis., for the C. I. O.

Mr. H. A. Harpold, of Baraboo, Wis., for the IBEW.

Mr. H. J. Parr, of Waterloo, Iowa, for the Chemical Workers.

Mrs. Margaret Patterson, of counsel to the Board.

DECISION
DIRECTION OF ELECTION
AND
ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by United Gas, Coke & Chemical Workers of America, C. I. O., International Chemical Workers Union, A. F. of L., and International Brotherhood of Electrical Workers, Local B-965, A. F. of L., herein respectively called the C. I. O., Chemical Workers, and IBEW, each alleging that a question affecting commerce had arisen concerning the representation of employees of Wisconsin Power and Light Co., Madison, Wisconsin, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. The hearing was held at Madison, Wisconsin, on January 10 and January 21, 1946. The Company, the C. I. O., the Chemical Workers, and the IBEW appeared and participated.¹ All parties were afforded full opportunity to be

¹ Notice of Hearing, petition and Trial Examiner's Statement in "R" cases were served on Division 1150 of the Amalgamated Association of Street Railway and Motor Coach Employees of America (AFL), herein called the Amalgamated. This organization did not appear

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

Wisconsin Power and Light Co. is a public utility corporation organized under the laws of Wisconsin with its principal office at Madison, Wisconsin. The Company is engaged principally in providing electricity, gas, and water in an area in Wisconsin approximately 300 miles long and 150 miles wide.

The Company purchases coal at a cost of about \$700,000 annually, a small portion of which is bought outside the State of Wisconsin, although all the coal is mined out of Wisconsin. The Company purchases annually about \$3,000,000 worth of materials and supplies for operation and construction, more than one-half of which is shipped to the Company from points outside the State of Wisconsin. The Company buys from \$50,000 to \$75,000 worth of fuel oil outside the State of Wisconsin annually. Approximately 99 percent of the revenue of the Company comes from services rendered in Wisconsin and 1 to 2 percent from services rendered by a subsidiary in an adjoining territory in Illinois.

The Company admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Gas, Coke & Chemical Workers of America is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

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

International Brotherhood of Electrical Workers, Local B-965, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The C. I. O. filed its petition on August 2, 1945, the Chemical Workers filed its petition on August 23, 1945, and the IBEW filed its petition on September 8, 1945. The parties take conflicting positions with respect to the composition of the unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O., Chemical Workers, and IBEW represent a substantial number of employees affected by the various petitions.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 Act.

IV. THE APPROPRIATE UNIT

The IBEW and the Company both desire a system-wide unit of all production and maintenance employees throughout the Company's 14 districts. The Chemical Workers seeks a unit of all production and maintenance employees at the Company's gas plants, and gas substations, and employees engaged in the servicing of gas lines. The C. I. O. requests a smaller unit of the Company's gas employees, that is, those who are not already covered by a contract between the IBEW and the Company, and who are working in gas plants which operate full time (as distinguished from stand-by gas plants).

The Company's physical properties consist of electric generating plants, transmission lines connecting the electrical properties, gas plants, stand-by gas plants, high pressure gas lines, and water systems. The Company's operations are broken down into 14 districts, each headed by a district manager who reports to the vice president in charge of all operations. For a number of years, the Company owned and operated certain transportation facilities throughout the 14 districts. By the end of 1945, however, the Company had disposed of these facilities and is now completely out of the transportation business.

For several years prior to 1937, the Company's production, maintenance, and clerical employees in all 14 districts were represented by 1 independent union on a system-wide basis. The IBEW and the Amalgamated³ then began organizational activities among the employees of the Company culminating in 2 agreements, each on a system-wide basis. These agreements were signed on December 17, 1937. Just prior to the signing of these agreements, the C. I. O. petitioned⁴ the Board for a unit composed only of employees in the Beloit district.

² The Field Examiner reported that the C I O submitted 19 authorization cards, the Chemical Workers submitted 13 cards and the IBEW submitted 14 cards, bearing the names of employees appearing on the Company's pay roll of September 28, 1945. The Field Examiner further reported that the IBEW represents 669 employees of the Company covered by its contract which expires on December 1, 1946.

There are approximately 34 employees in the unit claimed by the C I O. There are approximately 83 employees in the unit claimed by the Chemical Workers, and there are approximately 703 employees in the unit claimed by the IBEW.

³ Amalgamated Association of Street, Electrical Railway and Motor Coach Employees of America, herein called the Amalgamated

⁴ *Matter of Wisconsin Power & Light Company*, 6 N L R B 320.

The IBEW and the Amalgamated intervened, both contending that the bargaining unit or units should be composed of employees in all 14 districts. The hearing was held after the Company had signed agreements with the IBEW and the Amalgamated. Rejecting the C. I. O.'s contention, the Board held that in view of the closely integrated nature of the Company's business, and because of the similarity and close relationship existing between the functions and interests of all the Company's employees, a unit of employees from only 1 district would be inappropriate "if any lawful labor organization or organizations represent the employees in all districts as one unit." The Board accordingly dismissed the C. I. O.'s petition, and inasmuch as the only petition filed in that proceeding related solely to employees in the Beloit district, it was not necessary to determine what would be the appropriate unit if the petition had been broader in scope.

From December 1937 until the end of 1945, the Amalgamated and the IBEW continued to bargain for substantially the same classifications of employees as were covered by their original contracts. The IBEW represented a much larger group of employees, including all of the electrical workers. The Amalgamated represented all the transportation employees of the Company. Both unions had secured membership among the gas plant employees, janitors, building service employees, garage men, and laborers throughout the 14 districts. During 1945, the Company completely disposed of all its transportation facilities and the transportation employees no longer work for the Company. The Amalgamated has informed the Company that it does not claim jurisdiction over any of the Company's employees. At the present time, therefore, the following group of employees who were covered by the Amalgamated contract are unrepresented by any labor organization: the gas plant employees at Fond du Lac and at Beloit (excluding the gas distribution employees who have always been represented by the IBEW); some janitors and building service employees; certain of the garage men and laborers.

Apparently, it was generally known that the Amalgamated was withdrawing its representation from the Company's employees, and late in 1944, the C. I. O. petitioned⁵ the Board for a unit to include those employees covered by the Amalgamated contract. The Chemical Workers intervened in this proceeding and on February 24, 1945, the petition was dismissed by the Regional Director of the Thirteenth Region. On May 29, 1945, this case was finally closed when the Board denied the C. I. O.'s appeal and affirmed the action of the Regional Director.

At the time of the hearing in the present case, a large majority of the employees of the Company were represented by the IBEW under

⁵ *Matter of Wisconsin Power & Light Company*, 13-R-2747.

a contract which automatically renewed on December 1, 1945, for the following year.⁶ In this agreement, the IBEW is recognized as the sole bargaining agent for all employees in the different classifications⁷ covered by the contract.

The IBEW is now requesting a unit of all operating employees of the Company throughout its system in the State of Wisconsin, including all classifications covered by its present contract, all those classifications covered by the Amalgamated contract (except for transportation employees), and a group of full-time watchmen who were not represented by either the IBEW or the Amalgamated. The proposed unit would, if approved, enlarge the unit now bargained for by the IBEW (consisting of about 669 employees) by approximately 56 persons. The 56 persons in question work in job classifications which are already covered by the system-wide contract between the IBEW and the Company with the exception of the full-time watchman.

The C. I. O. is requesting a unit composed only of the Company's gas plant employees who are not covered by the IBEW contract. In other words, the C. I. O. is asking to represent the gas plant employees formerly covered by the Amalgamated contract, but has no interest in the other employees covered by the Amalgamated contract and presently unrepresented. The unit sought does not even include all the Company's gas employees.

The Chemical Workers requests a unit of all production and maintenance employees at the Company's gas plants and gas sub-stations, including employees engaged in the servicing of gas lines. In a sense, this unit is system-wide embracing all the Company's gas employees. It overlaps the unit sought by the C. I. O., and includes the gas plant employees already represented by the IBEW and covered by its current contract. Like the C. I. O., the Chemical Workers does not ask to represent those employees covered by the old Amalgamated contract who were not gas employees and are now unrepresented. Neither the C. I. O. nor the Chemical Workers has asked to represent the full-time watchmen.

It appears from the record that the Company supplies gas and electric service to small cities and rural communities with the result that versatility among the employees is of greater importance than a high degree of specialization. There is evidence of a certain amount

⁶ On October 10, 1945, the IBEW, Local B-965, won a consent election among a unit of all the Company's office and clerical employees throughout the system in the State of Wisconsin. *Matter of Wisconsin Power and Light Company*, 13-R-3223.

⁷ In general, the classifications covered by the IBEW contract are: all electrical employees, apprentices and working foremen; all gas plant employees (except gas plant employees inside the plants at Fond du Lac and Beloit) including distribution employees, meter readers, meter testers, servicemen and repairmen; foresters; janitors; building service employees; garage men and mechanics; laborers, local service representatives, customers representatives, part-time employees working over 50 percent of regular full time; combined (gas and electric) service men.

of interchange between gas and electric employees. The Company appears to operate as a single integrated unit. All matters of general policy including wages, hours of work, standards of employment, and job evaluation are determined at the Company's main office. The breakdown of the Company into 14 districts is solely for the purpose of efficient operation and in order to have an arm of management close to the customers. The Company maintains a company-wide group insurance plan, hospitalization insurance plan, and a system-wide pension plan for all employees. The history of the Company's collective bargaining with its employees, beginning with the employees' independent labor organization, has all been on a system-wide basis. Since 1937, the IBEW has represented the vast majority of all the production and maintenance employees of the Company on a company-wide basis. It is apparent that the much smaller but still system-wide unit of employees, other than transportation employees, represented by the Amalgamated, was more a matter of fortuity than of design. The IBEW was primarily interested in the electrical workers, and the Amalgamated's chief concern was with the transportation employees. The gas workers and other non-supervisory employees of the Company (except for clerical and office employees) were organized by both groups and without recourse to the processes of this Board.

We have frequently found that the high degree of integration existing in this type of public utility is best served by a system-wide unit or units.⁸ In view of the long bargaining history on a system-wide basis and because of the close interrelation and interdependence in the work and interests of the gas and electric employees of the Company, there seems to be no justification for segregating the gas employees in one unit as requested by the Chemical Workers, or carving out the small unit of a few gas workers requested by the C. I. O. We have further held that a system-wide unit of a public utility is appropriate whenever there is a labor organization in a position to represent employees throughout the system.⁹

We shall accordingly dismiss the petitions of the C. I. O. and the Chemical Workers. We find, in accordance with the request of the IBEW, our foregoing conclusions, and the entire record, that all operating employees of the Company, including apprentices, working foremen, building service employees, garage men, local service repre-

⁸ *Matter of Pennsylvania Electric Company*, 56 N. L. R. B. 625; *Matter of Union Electric Company of Missouri*, 59 N. L. R. B. 276; *Matter of Pennsylvania Power & Light Company*, 64 N. L. R. B. 874; *Matter of Florida Power & Light Company*, 63 N. L. R. B. 484.

⁹ *Matter of Gulf States Utilities Company*, 31 N. L. R. B. 123; *Matter of Tennessee Electric Power Company*, 7 N. L. R. B. 24; *Matter of Northern States Power Company of Wisconsin*, 37 N. L. R. B. 991; *Matter of Wisconsin Gas & Electric Company*, 57 N. L. R. B. 285.

sentative, customers' representatives, janitors, full-time watchmen, laborers, meter readers, meter testers, and foresters, but excluding engineers, office and clerical employees, service managers, assistants to the superintendents in gas plants, collecting agents, and 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 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.

In view of the agreement of the parties that part-time employees working over 50 percent of the time should be included in the "unit," we hold that such employees shall be eligible to vote in the election hereinafter directed. In accordance with the agreement of the parties, "pensioners" will be ineligible to vote.

Neither the C. I. O. nor the Chemical Workers expressed a desire to participate in an election if the Board found a system-wide unit appropriate for bargaining. If either the C. I. O. or the Chemical Workers desires to participate in the election, it may have its name placed upon the ballot provided it notifies the Regional Director within ten (10) days from the date of the issuance of this Decision and Direction of Election, that it wishes to participate in the election.

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 Wisconsin Power and Light Company, Madison, Wisconsin, 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 Thirteenth 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 International Brotherhood of Electrical Workers, Local B-965, A. F. of L., for the purposes of collective bargaining.

ORDER

IT IS HEREBY ORDERED that the petitions for investigation and certification of representative of employees of Wisconsin Power and Light Company, Madison, Wisconsin, filed herein by the United Gas, Coke & Chemical Workers of America, C. I. O., and by the International Chemical Workers Union, A. F. of L., be, and they hereby are, dismissed.