

In the Matter of PACIFIC GAS AND ELECTRIC COMPANY *and* UTILITY  
WORKERS UNION OF AMERICA, LOCAL 134, C. I. O.

*Case No. 20-R-1537.—Decided June 19, 1946*

*Mr. Robert H. Gerdes, Mr. J. Paul St. Sure, and Miss Anne McDonald, of San Francisco, Calif., for the Company.*

*Gladstein, Anderson, Resner, Sawyer & Edises, by Mr. Bertram Edises, of Oakland, Calif., for the C. I. O.*

*Mr. Charles W. Mason, of San Francisco, Calif., for the A. F. L.*

*Mr. Phil E. Thompson, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Utility Workers Union of America, Local 134, C. I. O., herein called the C. I. O., 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 David Aaron, Trial Examiner. The hearing was held at San Francisco, California, on April 25, 1946. The Company, the C. I. O., and the International Brotherhood of Electrical Workers, A. F. L., herein called the A. F. L., 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. 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 is a public utility corporation, organized under the laws of California, engaged in the generation,

buying, transmitting, selling and distribution of electrical energy, natural gas, and manufactured gas in the central and northern portion of the State of California. The Company sells gas and electric power to a large number of manufacturing industries in the area which are engaged in interstate and foreign commerce. The United States government purchases large quantities of gas and electricity from the Company for use in its post offices and military installations located in the area served by the Company. The Company also supplies power to the San Francisco and Oakland airports, ship building and repair concerns, steamship lines, railroads, telephone and telegraph companies, and radio broadcasting stations.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

## II. THE ORGANIZATIONS INVOLVED

Utility Workers Union of America, Local 134, 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 has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of certain of its employees until the C. I. O. has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 2 (6) and (7) and Section 9 (c) of the National Labor Relations Act.

## IV. THE APPROPRIATE UNIT

The C. I. O. and the A. F. L. contend that the office and clerical employees in the East Bay Division of the Company, excluding confidential and supervisory employees, constitute an appropriate bargaining unit.

The Company contends that only a system-wide unit co-extensive with its public utility operations is appropriate. The Board has considered this issue in prior representation cases in which we have approved

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<sup>1</sup> See *Matter of Pacific Gas and Electric Company*, 61 N. L. R. B. 564; 61 N. L. R. B. 468; 57 N. L. R. B. 1129; 55 N. L. R. B. 427.

bargaining units of office and clerical employees in administrative divisions and operating departments of the Company similar to the East Bay Division involved herein.<sup>2</sup> We therefore reject the contention of the Company that only a system-wide unit is appropriate.

The parties are in further disagreement as to the inclusion of certain employees who the Company contends are either confidential or supervisory. The disputed employees are as follows: Carl Stehr, Ellen Abbott, Dorothy Nolan, Dorothy Lawson, Mary Huff, Mildred Hummel, E. M. Rasmussen, James L. Hancock, Harold Doyle, and Mirabelle West.

*Carl Stehr*: This employee is classified as A Clerk in the Pay-Roll Department. The Company contends that he is both supervisory and confidential. He makes up office pay rolls, computes pay checks and pay rate changes, and generally assists the chief clerk, relieving him in case of illness or temporary absence. Although he supervises the work of other pay-roll clerks, he has no authority to change or affect their employment status,<sup>3</sup> and we find that he is not a supervisory employee within the Board's customary definition thereof. Although he has access to the employment records of individual employees incident to the performance of the afore-mentioned duties, it is clear from the record that he does not assist or act in a confidential capacity to any person who exercises managerial functions. We therefore find that he is not a confidential employee within the Board's definition thereof. Accordingly, we shall include this employee in the unit.

*Ellen Abbott, Dorothy Nolan, Dorothy Lawson, and Mary Huff*: These employees are classified as B Clerks in the Pay-Roll Department. The Company contends that they are confidential employees. They perform substantially the same duties as the pay-roll clerks in the Company's Stockton Division, whose duties and status were considered at length in a prior Board decision<sup>4</sup> in which such employees were included in a bargaining unit similar to the one sought herein. The record in the instant case indicates that these employees, although they have access to individual employment records for pay-roll purposes, do not assist or act in a confidential capacity to any person who exercises managerial functions. We find, therefore, that they are not confidential within the Board's definition thereof, and we shall include them in the unit.

*Mildred Hummel, E. M. Rasmussen, and James L. Hancock*: These employees are classified as A Clerks in the Customer's Records Department. The Company contends that they are supervisory employees. We agree with this contention. They are section supervisors in this depart-

<sup>2</sup> See footnote 1, *supra*.

<sup>3</sup> The record shows that this employee may discuss the efficiency of other pay-roll clerks with the Chief Clerk and other supervisors. However, any comment or recommendation he makes concerning the employment status of other employees is purely advisory.

<sup>4</sup> *Matter of Pacific Gas and Electric Company*, 61 N. L. R. B. 564.

ment<sup>5</sup> and, as such, they are responsible for the operation of their respective sections, including the personal efficiency of the clerks they direct. Inasmuch as their efficiency reports and recommendations with regard to employees in their respective sections substantially affect the employment status of such employees, we find that they are supervisory employees within the Board's definition thereof; we shall exclude them from the unit.

*Harold Doyle* This employee is classified as Field Clerk A in the Collection Department. The Company contends that he is a supervisory employee. He spends most of his time in the field making surveys of the Division's meter routes, upon the basis of which new routes are established and existing routes are altered. He spends approximately 5 percent of his time accompanying new meter readers in the field, instructing them in their duties and reporting on their general aptitude for the job to the Division Credit Manager. It is admitted that he has no employee directly assigned to his supervision. Although his reports are considered by department heads incident to retaining on permanent status new employees whom he has instructed, such reports are purely advisory. We are of the opinion that the record does not establish that Doyle exercises supervisory authority over other employees of the Company within the Board's definition thereof. We shall include him in the unit.

*Mirabelle West*: This employee is classified as Clerk A in the Cashier's Office. The Company contends that she is a confidential employee because she handles employees' pay-roll checks and has access to financial data concerning the Company's receipts and disbursements. Mere access to confidential records not directly related to the Company's labor relations is not sufficient to constitute an employee "confidential." We shall include her in the unit.

We find that all office and clerical employees in the East Bay Division of the Company,<sup>6</sup> excluding confidential employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,<sup>7</sup> 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 employees

<sup>5</sup> Mildred Hummel is in charge of the Addressograph and Cash Stub Section, having 13 subordinate clerks; E. M. Rasmussen supervises the Power Account Section, having 8 subordinate clerks; James L. Hancock directs the Deposit and Meter Tag Section, having 5 subordinate clerks.

<sup>6</sup> Including Carl Stehr, Ellen Abbott, Dorothy Nolan, Dorothy Lawson, Mary Huff, Harold Doyle, and Mirabelle West.

<sup>7</sup> Mildred Hummel, E. M. Rasmussen, and James L. Hancock are excluded as falling within the above definition of supervisory 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 a 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 134, C. I. O., or by International Brotherhood of Electrical Workers, Local B-1254, A. F. L., for the purposes of collective bargaining, or by neither.