

IN the Matter of PACIFIC GAS AND ELECTRIC COMPANY, EMPLOYER and
UTILITY WORKERS UNION OF AMERICA, LOCAL 134, CIO, PETI-
TIONER

Case No. 20-R-1549.—Decided July 2, 1946

Mr. Robert H. Gerdes, Mrs. Anne McDonald Christenson, and Mr. J. Paul St. Sure, of San Francisco, Calif., for the Employer.

Gladstein, Andersen, Resner, Sawyer & Edises, by Mr. Bertram Edises, of Oakland, Calif., for the Petitioner.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at San Francisco, California, on May 10, 1946, before Robert E. Tillman, Trial Examiner. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Pacific Gas and Electric Company, a public utility corporation organized under the laws of California, is 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. It sells gas and electric power to a large number of manufacturing industries engaged in interstate and foreign commerce and to the United States Government, which operates post offices and military installations located in the area served. The Employer 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 Employer is engaged in commerce within the meaning of the National Labor Relations Act.¹

¹ 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.

69 N. L. R. B., No. 29.

II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of the employees concerned, contending that the unit proposed by the Petitioner is not an appropriate bargaining unit.

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

IV. THE APPROPRIATE UNIT

The Petitioner contends that system dispatchers in the Employer's central load dispatching office at Oakland, California, excluding the chief system dispatcher and the assistant chief system dispatcher, constitute an appropriate bargaining group, either to be joined with the already existing unit established for physical employees in the East Bay Division² or to be set up as a separate unit apart from other employees of the Employer. Reiterating its general contention that a system-wide unit is the only appropriate unit for its employees, the Employer urges (1) that system dispatchers are managerial employees and therefore should not be included in any bargaining unit; (2) that the inclusion of system dispatchers in the unit already established for physical forces in the East Bay Division would be contrary to the unit pattern established for its employees in prior representation cases; and (3) that the system-wide duties of system dispatchers makes it inadvisable that they be represented by either of the two labor organizations³ which presently represents employees in the Employer's several divisions and departments with whom system dispatchers necessarily have work contacts.

The Employer is a public utility serving the central and northern portions of California with gas and electricity. For administrative purposes the Employer's electric operations are divided among 13 geographical areas known as divisions, each with an administrative head. In addition to the operations carried on locally, through these geographical areas, the Employer maintains certain over-all facilities through its General Offices, which have their headquarters for

² *Matter of Pacific Gas and Electric Company*, 40 N. L. R. B. 591, 41 N. L. R. B. 1182

³ The Petitioner and International Brotherhood of Electrical Workers, herein called the I. B. E. W., have been certified by the Board as bargaining representative of employees in the several respective divisions and departments of the Employer's extensive utility system

the most part in San Francisco and render services throughout the Employer's system.

The Department of Electrical Operations and Maintenance is a general or over-all department of the General Offices, functioning on behalf of all the geographical divisions and operating departments of the Employer under the supervision and management of the engineer of electrical operations. The department is subdivided into two parts, one dealing with operations and one with production, with a head man in immediate charge of each part of the work. The operations subdivision is broken down into three sections, known as load statistics, analysis of operating equipment, and system dispatching.

Load statistics is chiefly concerned with the accumulation, correction, and posting of production records of the Employer's power plants, the keeping of daily reports which show the load growth and demand upon the plants, and the setting of patterns for estimating the amount of water release at the hydroelectric plants. Analysis of operating equipment is chiefly concerned with the designing, checking, and testing of protective devices on transmission lines and the operating efficiency of the telephone communications system, on which dispatchers necessarily depend for their operations. The system dispatching section, employees of which are particularly concerned in this proceeding, is the nerve center of the entire system of the Employer. This section determines the electrical output of all power plants, governs the water supplies of hydro-electric plants, and controls the flow of current over the transmission lines.

System dispatchers, or load dispatchers as they were formerly called, occupy a room in the Employer's East Bay office building at Oakland, California. There are nine regular dispatchers and two relief dispatchers. Regular dispatchers work in three rotating shifts with two to three operators on a shift. They wear head phones during the greater part of their working hours and, by telephonic contact with power plants and substations throughout the system, they control the production of electric energy at the power plants and the flow of current over the transmission lines. They are notified of trouble occurring throughout the system and receive requests to clear lines. In response to these requests, they issue the necessary instructions. They direct the routing of power over the various circuits and the re-routing of loads. Their directions are carried out by operators in power houses and dispatchers in the switching centers over the Employer's entire system. System dispatchers type a running account of all telephone conversations held during the course of the day, which thus provides for their Employer a written record showing the nature of the trouble reported to them, the instruction given by them to

whom, where, and when. System dispatchers base the instructions which they issue other employees upon written operating instructions which are prepared for their use under the guidance of the head of their department. They are trained specialists. No other employees of the Employer do comparable work.

The two relief dispatchers serve during sick and vacation leave of the regular operators. The relief work does not occupy their entire time and they are given clerical work to be performed in either the Oakland or the San Francisco office of their Employer.⁴

System dispatchers are not supervisory employees and make no recommendations affecting the status of any other employees. The daily operating report which they type in the course of their work necessarily records errors made by other employees in carrying out their instructions, of the employee's explanations of the error, and the results that the error may have caused in the Employer's operations. The records of errors so made are the basis of an independent investigation which may result in the transfer or discharge of the employee responsible for the error. The nature of the Employer's operations and the importance of the work done requires the utmost reliance upon the dependability of employees.

It is clear that system dispatchers perform specialized technical functions which are in a sense administrative in nature. The instructions which they transmit, however, are based upon an elaborate set of rules meticulously compiled. System dispatchers serve as conduits through which these instructions are relayed to employees in the field. They exercise skill. They do not determine policies. The duties which system dispatchers perform with respect to reporting errors are monitorial in kind, comparable to those performed by guards and watchmen, whom the Board has found properly constitute appropriate bargaining units. For this reason we reject the Employer's contention that system dispatchers are allied with management and may not be included in any bargaining unit.⁵

The Petitioner would add system dispatchers to the unit already established for employees of the East Bay Division, on the theory that these employees are physically within this geographical division of the Employer's operations and work in the building which houses these divisional employees. While it is true that system dispatchers work physically within the East Bay Division, they are administratively independent of the East Bay Division and serve the Employer's

⁴ Certain employees in load statistics and in the analysis sections are available as relief dispatchers in emergencies, but there is no policy of inter-transfer among the three sections of the operating division.

⁵ *Matter of West Penn Power Company*, 55 N L R B 1356 *Matter of Union Electric Company of Missouri*, 59 N L R B 276

system as a whole. In accordance with the scheme which we have adopted in establishing separate units for homogeneous groups of employees in separate administrative sectors of the Employer's operations, we will place system dispatchers in a unit apart from employees in the East Bay Division.⁶

The Employer contends that strife and contention among its employees will necessarily result if system dispatchers are represented by either the Petitioner or the I. B. E. W., since these two organizations, vying with each other in gaining recognition as bargaining representatives of employees in the several sectors of its operations, variously represent the physical employees, with whom system dispatchers necessarily have most frequent contacts. In the instant case, however, we do not believe that this would justify excluding system dispatchers from the provisions of Section 9 (c) of the Act.

The Employer and the Petitioner agree that the chief system dispatcher and the assistant chief system dispatcher are supervisory employees and should be excluded from the bargaining unit. We shall exclude them.

We find that all system dispatchers in the central load dispatching office of the Employer at Oakland, California, excluding the chief system dispatcher, assistant chief system dispatcher, and all other 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

The I. B. E. W., the labor organization presently representing other employees in units heretofore found to be appropriate for bargaining, as noted in footnote 3, *supra*, submitted proof of its interest among employees in the appropriate unit. Although served with notice of hearing in this proceeding, it did not appear. For this reason, we will make no provision that the I. B. E. W. participate in the election which we will now direct. If, however, the I. B. E. W. notify the Regional Director, within 5 days of the date of the issuance of this Decision and Direction of Election, that it desires to participate with the Petitioner in the election, it may appear upon the ballot.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot, subject to the limitations and additions set forth in the Direction.

⁶ *Matter of Pacific Gas and Electric Company*, 44 N. L. R. B. 665.

DIRECTION OF ELECTION

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 National Labor Relations Board Rules and Regulations—Series 3, as amended, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-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 or not they desire to be represented by Utility Workers Union of America, Local 134, CIO, for the purposes of collective bargaining.