

IN the Matter of THE PEOPLE'S TELEPHONE CORPORATION and BUTLER TELEPHONE WORKERS ASSOCIATION, LOCAL 101 OF THE FEDERATION OF TELEPHONE WORKERS OF PENNSYLVANIA (NFTW)

Case No. 6-R-1371.—Decided July 16, 1946

Henninger, Shumaker and Kiester, by Mr. Zeno Henninger, of Butler, Pa., for the Company.

Mr. Henry Mayer, by Mr. Alexander Eltman, of New York City, for the Federation.

Marshall and McCandless, by Mr. James E. Marshall, of Butler, Pa., for the Association.

Mr. Bernard Dunau, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Butler Telephone Workers Association, Local 101 of the Federation of Telephone Workers of Pennsylvania (NFTW), herein called the Federation, alleging that a question affecting commerce had arisen concerning the representation of employees of The People's Telephone Corporation, Butler, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph Lepie, Trial Examiner. The hearing was held at Butler, Pennsylvania, on May 6, 1946. The Company, the Petitioner, and the Employees Association of People's Telephone Corporation, herein called the Association, appeared and participated. At the hearing the latter's motion to intervene was granted. 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:

69 N. L. R. B., No. 68.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The People's Telephone Corporation, a Pennsylvania corporation, is an independent public utility providing telephone service to the greater portion of Butler County, Pennsylvania. During the year 1945, the Company purchased equipment, material, and supplies valued at about \$134,943, of which about 42 percent consisted of purchases delivered to it from points outside the Commonwealth of Pennsylvania. During the same period of time, the gross revenue of the Company amounted to about \$588,754, of which about \$58,351 was derived from interstate toll calls.

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

Butler Telephone Workers' Association, Local 101 of the Federation of Telephone Workers of Pennsylvania, is a labor organization, affiliated with the National Federation of Telephone Workers, admitting to membership employees of the Company.

Employees Association of People's Telephone Corporation is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Federation as the exclusive bargaining representative of the Company's employees until the Federation 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 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Federation requests a unit consisting of all the non-supervisory employees of the Company's plant, traffic, commercial, accounting, and engineering departments. The Association seeks a unit comprising the non-supervisory employees of the commercial, accounting, and engineering departments. The Company desires two units composed, on the one hand, of the employees of the plant and traffic departments, and, on the other, of the employees of the commercial, accounting, and engineering departments. There is also disagreement concerning inclusions and exclusions of specific employees in the proposed units.

The physical properties of the Company are confined to a relatively narrow geographical area. Butler, the principal exchange, is an attended dial-type central office to which is attached Meridian, a non-attended sub-office. There are, in addition, 14 exchanges which are non-attended dial-type central offices, at which there are customarily no employees on duty. There is, lastly, the Emlenton exchange which is a manually operated, magneto central office, at which there are customarily 6 telephone operators and a chief operator.

In substantial conformity with the practice throughout the telephone industry, the Company is divided into five departments, plant, traffic, commercial, accounting, and engineering. The plant department constructs, removes, and maintains the physical equipment. The traffic department handles incoming and outgoing toll calls at the Butler central office and local calls at the Emlenton central office. The commercial department deals directly with the Company's customers and the general public, and, in addition, prepares subscriber's bills, and receives and records payment. The accounting department keeps the financial records. The engineering department prepares plans and estimates of changes in plant and equipment. The functions of each of the departments are necessarily interwoven in order to achieve an optimum efficiency.¹

There is no significant history of collective bargaining in the Company. The Federation was formally organized on February 8, 1946, after a 2-month period of organizational activity. The Association held informal organizational meetings in February 1946, tentatively adopted a constitution and by-laws on March 19, 1946, and concluded its formal organization on May 1, 1946. At the hearing, the Association stated that it admits to membership employees of the commercial, accounting, and engineering departments only.

The Company's personnel policies are centrally formulated by the general manager and the Board of Directors. Hiring is done by department heads after consultation with the general manager, and discharge may be effected with or without consultation depending on the situation. A uniform vacation, pension, and sick benefit policy is pursued throughout the Company regardless of departments. Practically all employees are paid on an hourly basis. There are variations in degree and types of skill required both within and between departments, and there are variations in an undisclosed amount in wages paid to employees. All the employees of the commercial, accounting, and engineering departments work at the Butler central office on a regular daytime schedule. Occasionally employees of the engineering depart-

¹ Exclusive of supervisory employees, the Company employs about 86 employees of which 39 are plant employees, 20 are traffic employees, 8 are commercial employees, 17 are accounting employees, and 2 are engineering employees.

ment are required to work in the field. All the traffic department employees work at the Butler central office with the exception of those employed at the Emlenton central office. The plant department employees work both at the Butler central office and in the field. Some of the plant and traffic department employees are required to work at night in order to provide round-the-clock telephone service.

The compact nature of the Company's organization and the close proximity in which its employees work give them a strong common bond. Each of them must conform to the same pattern of personnel policy laid down by the general manager. Such differences as exist amongst the various employees are characteristic of differences not only between departments but also within departments. They do not militate against the community of interest of all the employees in their common concern with wages, hours, and conditions of employment. It is this pervading homogeneity which impels the conclusion that the employees' right to self-organization and to collective bargaining can be most effectively achieved in a unit comprising all the non-supervisory employees of the Company. We find, therefore, that the company-wide unit, inclusive of all departments, is appropriate.²

There remains for consideration disputed categories of employees:

Supervisors (Traffic Department): These individuals are assistants to the Chief Operator, and, in her absence, act as the Chief Operator. They have authority to discipline subordinates by suspending them from work, and they can effectively recommend their discharge. They fall within our usual definition of supervisory employees and we shall exclude them from the unit.

Service Representative (Non-Director): This individual negotiates subscriber contracts, collects and adjusts bills, makes toll *pro rata* studies, and assists in maintaining commercial department records. He is not a policy-making official, nor does he act in a confidential capacity to persons exercising managerial functions in the field of labor relations. We shall include him in the unit.

Secretary to the Commercial Manager: This individual performs the usual secretarial duties incident to her position. The commercial manager acts in a supervisory capacity to the employees within his department. Accordingly, we shall exclude his secretary as one acting in a confidential capacity to a person exercising managerial functions in the field of labor relations.

We find that all employees in the Company's plant, traffic, commercial, accounting, and engineering departments, including the serv-

² See *Matter of West Coast Telephone Company*, 66 N. L. R. B. 1073; *Matter of Illinois Consolidated Telephone Company*, 61 N. L. R. B. 447; *Matter of The Lorain Telephone Company*, 58 N. L. R. B. 478; *Matter of Southern Bell Telephone Company*, 55 N. L. R. B. 1058.

ice representative (non-director), but excluding the service representative (director), secretary to the general manager, secretary to the commercial manager, and 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.³

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 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.

Since the Association has stated that it admits to membership employees of the commercial, accounting, and engineering departments only, we shall exclude it from a place on the ballot, provided that, the Association shall be accorded a place on the ballot if, within 10 days of its receipt of the Decision and Direction of Election herein, it shall express in writing to the Regional Director a desire to participate in the election and a readiness to bargain on behalf of all the employees in the appropriate unit designated in Section IV.

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 The People's Telephone Corporation, Butler, Pennsylvania, 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 Sixth 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

³ Among the individuals specifically excluded from the appropriate unit are: president, general manager, treasurer, chief accountant, commercial manager, acting engineer, chief operators, supervisors, general foreman, plant superintendent, and maintenance supervisor.

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 Butler Telephone Workers Association, Local 101 of the Federation of Telephone Workers of Pennsylvania (NFTW), for the purposes of collective bargaining.