In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER *and* UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O., PETITIONER

Case No. 6-R-1503.—Decided December 12, 1946

Mr. Job Taylor, of Pittsburgh, Pa., and *Mr. Bayard M. Pawson*, of Fairmont, W. Va., for the Employer.

Miss Irene Berman and *Mr. Charles Newell*, of Pittsburgh, Pa., for the Petitioner.

Mr. Edward Shay, of Star City, W. Va., for the Intervenor.

Miss Irene R. Shriber, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Fairmont, West Virginia, on August 28, 1946, before W. G. Stuart Sherman, hearing officer. The hearing officer'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

Westinghouse Electric Corporation is a Pennsylvania corporation with executive offices in Pittsburgh, Pennsylvania, and plants and offices throughout the United States. This proceeding is concerned with the Glass Division of the Employer's plant in Fairmont, West Virginia. The afore-mentioned Glass Division, hereinafter referred to as the Glass Plant, manufactures glass tubing for the various electrical products which the Employer manufactures at the Fairmont plant.

During the year ending July 30, 1946, the Employer purchased over $112,000 worth of raw material for the Glass Plant, of which more than 43 percent was shipped to the plant from points outside the State of West Virginia. During the same period, the Employer sold $462,000 worth of finished products manufactured at the Fairmont plant, of which more than 24 percent was shipped to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

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

American Flint Glass Workers' Union of North America, herein called the Intervenor, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

On June 25, 1946, the Petitioner requested the Employer to recognize it as the exclusive bargaining representative of the production and maintenance employees of the Employer's Glass Plant, and on June 28, 1946, filed its petition with the Board. On July 9, 1946, the Employer notified the Petitioner that it would not comply with the Petitioner's request until the Petitioner had been certified by the Board in an appropriate unit.

The Intervenor contends that a collective bargaining agreement entered into with the Employer on August 1, 1945, is a bar to this proceeding. The duration clause of this contract provides that it is to continue in existence for 1 year and be renewable automatically from year to year thereafter unless either party notifies the other of an intention to terminate or revise the agreement at least 30 days before the annual expiration date. No notice of such desire to terminate has been served by either of the contracting parties. However, inasmuch as the Petitioner filed its petition with the Board before the operative date of the automatic renewal clause, we find that the 1945 contract is not a bar to this proceeding.[1]

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

IV. THE APPROPRIATE UNIT

We find, substantially in accordance with an agreement of the parties, that all production and maintenance employees of the Employer's Glass Plant, at Fairmont, West Virginia, including employees listed in Appendix A attached hereto and group leaders, but excluding employees in the hand shop or German Shop, office clerical employees, 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

[1] *Matter of Crossett Lumber Company*, 71 N L R B 653

a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.[2]

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric Corporation, Fairmont, West Virginia, 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 Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, among the 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 United Electrical, Radio & Machine Workers of America, C. I. O., or by American Flint Glass Workers' Union of North America, A. F. L., for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.

APPENDIX A

Glazing and clipping operators
Neck forming (shoulders)
Glass gaugers, M. O.
Base line gaugers
Inspectors, gauging
Material deliverymen
Maintenance mechanics
Batchmixers
Storeroom attendants
Laborers
Furnace operators
Electricians
Bulb inspectors
Mandril furnace operators
Packers
Janitors
Warehousemen, M. H.
Machinists 1/c
Drawing machine operators
Machine attendants
Quality checkers
Storekeepers, general stores
Furnace repairmen
Matrons
Bulb handlers

[2] The composition of the present unit is substantially similar to a unit previously found appropriate by the Board in this plant. *Matter of Westinghouse Electric & Manufacturing Company*, 56 N. L. R. B. 1012.