

In the Matter of A. D. T. COMPANY, EMPLOYER and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION B-58, AFL, PETITIONER

Case No. 7-R-2292.—Decided April 9, 1947

Lewis and Watkins, by Mr. Leonard A. Keller, of Detroit, Mich., for the Employer.

Messrs. Robert A. Wilson and Joseph A. Padway, both of Washington, D. C., for the Petitioner.

Mr. David C. Sachs, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Detroit, Michigan, on October 29, 1946, before Robert J. Wiener, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Ruling upon the Employer's motion to dismiss was reserved by the hearing officer for the consideration of the Board. The Employer's request for oral argument is also denied, inasmuch as the record and the briefs, in our opinion, adequately present the issues and the positions of the parties.

Upon the entire record in the case,¹ the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

A. D. T. Company is a corporation organized under the laws of the State of Michigan and maintains offices in 8 Michigan cities. These proceedings concern the employees at its Detroit office where it employs more than 114 employees. The Employer confines its operations to the State of Michigan.

The Employer is engaged in the business of supplying various forms of protection against fire and unlawful entry by means of electric de-

¹ The Employer's request to correct the record in a minor respect is granted.

vices.² Signals originating on the customer's property are transmitted to the Employer's central station over wires leased from the Michigan Bell Telephone Company, Western Union Telegraph Company and other wire-using companies. Upon receipt of such signals, an investigation is made either by the Employer's employees, by the employees of the customer, or by the fire or police department of the municipality. In addition, the Employer also installs and maintains various forms of automatic alarm devices, both visual and audible, which are not connected with a central station. Ownership of the electric equipment installed upon the customer's premises is retained by the Employer.

The Employer is a wholly owned subsidiary of American District Telegraph Company, a corporation organized under the laws of the State of New Jersey, hereinafter referred to as the New Jersey Company. The Western Union Telegraph Company, in turn, owns 71.4 percent of the stock of the New Jersey Company. All of the officers of the Employer are officers of the New Jersey Company. The New Jersey Company is the parent of other wholly owned subsidiary corporations, bearing similar names, all of which are engaged in the same business as that of the Employer, but in different States.³ Each subsidiary is incorporated under the laws of the State to which it confines its operations. One of the wholly owned subsidiaries is American District Telegraph Company, Inc., a New York corporation, hereinafter referred to as the New York Company. The New York Company, among other things, manufactures, buys, and sells the electrical equipment used by the operating companies of the system. Its sales within the United States are made exclusively to the other subsidiaries of the New Jersey Company at cost. Of the out-of-State purchases made by the Employer in 1945 amounting to \$67,750, purchases valued at \$59,826 were made from the New York Company. The Employer does not undertake to perform certain specialized functions for itself such as administrative, accounting, auditing, advertising, engineering, financial, and legal services, but instead these services are performed for it by the New York Company. For these services the Employer

²The services rendered by the Employer consist of the following: "A. D. T. patrol supervision for watchmen, guards, and manual fire alarm service;" "automatic sprinkler supervisory and water flow service;" "aero automatic fire alarm service;" "burglary protection;" "sound detection system for bank vaults," "A. D. T. holdup system," "industrial process and heating system supervision," and "automatic fire control for ventilating and air duct systems."

³The number of such subsidiaries is not contained in the record. A registration form filed by the Western Union Telegraph Company with the Securities and Exchange Commission, a copy of which has been introduced into evidence, states that the New Jersey Company "has 63 direct or indirect subsidiaries; all of which, except 5, are 100 percent owned." Sweet's Catalog, also introduced into evidence, contains the following description of the operations of the A. D. T. system: "The company operates central stations in 116 principal cities which provide protection service in some 350 municipalities to approximately 32,000 subscribers. The property values protected by A. D. T., of which industrial establishments represent the major portion, exceed 22 billion dollars."

paid the New Jersey Company the sum of \$78,567 in 1945. In the same year, the Western Union Telegraph Company received from the New Jersey Company and its subsidiaries the sum of \$172,126 for the use of leased wire and telegraph service, and \$45,917 for various management services.

Advertisements are inserted by the New Jersey Company in magazines having a circulation in business circles over the signature of "Controlled Companies of America District Telegraph Co." These advertisements extol the protection services offered by the "A. D. T. system," describing it as "the only nation-wide organization specializing in electric protection services." The New Jersey Company also publishes a monthly magazine, "The A. D. T. Transmitter," which is distributed to employees and customers throughout the country.

The Employer's gross investment in equipment, both on its own and its customers' property, amounts to \$1,180,750. Its gross income for the year 1945 was \$775,819. During the same year, it purchased equipment and other materials valued at \$74,666, of which purchases valued at \$67,750,⁴ or 90.7 percent, were shipped from points outside the State of Michigan. In the same year it paid approximately \$30,000 to Michigan Bell Telephone Company and approximately \$10,000 to the Western Union Telegraph Company for leased wires. Its office in Detroit is rented from the Western Union Telegraph Company.

The Employer supplies its services to factories (including plants of General Motors Corporation, Chrysler Corporation, Packard Motor Car Company and other manufacturers), retail and wholesale establishments, warehouses, office buildings, banks and other financial institutions, and other miscellaneous customers. It also services certain premises of public utility corporations such as the Detroit Street Railway, the Michigan Consolidated Gas Company, the Detroit Edison Company and two railroads. Of its gross income derived from the Detroit area in 1945, amounting to approximately \$575,000, approximately \$209,875, or 36.5 percent, was received from factories and approximately \$12,650, or 2.2 percent, was received from public utilities.

The Employer contends that its operations do not affect commerce within the meaning of the Act. It is apparent, however, from the foregoing that the A. D. T. system comprises a single, closely interwoven enterprise, nation-wide in character, that the Employer is an integral part of this coordinated operation,⁵ and that the Employer performs services essential to the operations of numerous enterprises whose activities affect commerce. Upon consideration of all the facts, we find,

⁴ This sum included purchases valued at \$59,826 which, as noted above, were made from the New York Company.

⁵ *N. L. R. B. v. Schmidt Baking Co., Inc.*, 122 F. (2d) 162 (C. C. A. 4); *Matter of Atlantic Company*, 65 N. L. R. B. 1274; *Matter of National Transitsads, Inc.*, 67 N. L. R. B. 511; *Matter of Pangburn Company, Inc.*, 64 N. L. R. B. 1551.

contrary to the contention of the Employer, that it is engaged in interstate commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the American Federation of Labor, 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 certain of its employees upon the ground that it is not subject to the jurisdiction of the Board.

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

We find, in accordance with the stipulation of the parties, that all employees of the Employer in the Detroit Metropolitan area, excluding office and clerical employees, part-time employees, resident guards, 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.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with A. D. T. Company, Detroit, Michigan, 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 Seventh 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 or not they desire to be represented by International Brotherhood of Electrical Workers, Local Union B-58, AFL, for the purposes of collective bargaining.

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