

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER  
and LOCAL 107, UNITED ELECTRICAL, RADIO & MACHINE WORKERS  
OF AMERICA, CIO, PETITIONER

*Case No. 4-R-2303.—Decided January 14, 1947*

*Mr. Robert D. Blasier*, of Pittsburgh, Pa., for the Employer.

*Mr. M. H. Goldstein*, of Philadelphia, Pa., for the Petitioner.

*Mr. Henry W. de Kozmian*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Philadelphia, Pennsylvania, on November 22, 1946, before Helen F. Humphrey, hearing officer. At the hearing the Employer moved to dismiss the petition. Ruling was reserved for the Board. For reasons hereinafter stated, the motion is denied. 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,<sup>1</sup> the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Westinghouse Electric Corporation is a Pennsylvania corporation having its principal office in Pittsburgh, Pennsylvania, and operating plants in various States of the United States. The Employer's plant in Lester, Pennsylvania, known as the South Philadelphia Works, is solely involved in this proceeding. At the South Philadelphia Works the Employer is engaged in the manufacture of steam turbines, reduction gears, steam condensers and other auxiliary apparatus for industrial and central station plants and ship propulsion. During 1945 the Employer purchased raw materials for the South Philadelphia Works valued in excess of \$1,000,000, approximately 50 percent of

<sup>1</sup> No objection having been made to the Employer's motion filed after the hearing, to correct the record in certain respects, this motion is granted and the record is corrected accordingly.

which was shipped from points outside the Commonwealth of Pennsylvania. During the same period the Employer sold products valued in excess of \$1,000,000, approximately 50 percent of which was shipped from the South Philadelphia Works to points outside the Commonwealth of Pennsylvania.

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

## 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 its police guards at the South Philadelphia Works until the Petitioner has been certified by the Board in an appropriate unit.<sup>2</sup> The Employer contends that the petition should be dismissed because (1) the police guards have monitorial duties and are not "employees" within the meaning of the Act; (2) that even if the police guards are "employees," they cannot be represented by the Petitioner inasmuch as the Petitioner is already the representative of the Employer's production and maintenance employees. Recently in the *Monsanto Chemical Company* case,<sup>3</sup> a majority of the Board reaffirmed prior unanimous holdings that guards are employees within the meaning of the Act,<sup>4</sup> and held further that the Board will not prohibit monitorial employees from being represented by the same labor organization which represents the production and maintenance employees over whom the monitorial functions are exercised. Accordingly, we reject the Employer's contentions.<sup>5</sup>

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.

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<sup>2</sup> On November 19, 1945, the Employer and the Petitioner executed an agreement covering the police guards at the Employer's South Philadelphia Works. On January 28, 1946, the Employer terminated this agreement, the termination having become effective March 31, 1946.

<sup>3</sup> 71 N L R B 11

<sup>4</sup> *Matter of Seeger-Sunbeam Corporation, Evansville Division*, 69 N L R B 985, *Matter of Diavo Corporation*, 52 N L R B 323

<sup>5</sup> See also *Matter of The Electric Auto-Lite Company, Spark Plug Division*, 71 N L R B 747. The Employer relies on *N L R B v. Atkins and Co.*, 155 F (2d) 567 (C C A. 7), and *N L R B v Jones & Laughlin Steel Corporation*, 154 F (2d) 932 (C C A 6). Since the Supreme Court granted certiorari in both cases on December 23, 1946, we see no reason to depart from Board precedents unless and until the Supreme Court directs us to do so.

## IV. THE APPROPRIATE UNIT

The Petitioner seeks to include the Employer's police guards at the South Philadelphia Works in the existing unit of production and maintenance employees which it already represents, or, in the alternative, to represent the guards in a separate unit. The Employer, without waiving its grounds for the motion to dismiss, urges that they should be established in a separate unit.

The record indicates that the police guards are charged with conventional plant-protection duties and are required to report infractions of the Employer's rules by rank and file employees to their supervisors. It is clear from the entire record that the police guards possess substantial monitorial duties with relation to other employees of the Employer. Accordingly, in view of our usual policy of not including plant-protection personnel who have monitorial functions in the same unit with production and maintenance employees, we shall place the police guards in a separate unit.<sup>6</sup>

We find that all police guards of the Employer's South Philadelphia Works, excluding sergeants, lieutenants, the captain, 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.

## DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric Corporation, South Philadelphia Works, Lester, 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 Fourth 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

<sup>6</sup> *Matter of The Electric Auto-Lite Company, Spark Plug Division*, 71 N. L. R. B. 747

election, to determine whether or not they desire to be represented by Local 107, United Electrical, Radio & Machine Workers of America, CIO, for the purposes of collective bargaining.

MR. JAMES J. REYNOLDS, JR., dissenting:

For the reasons stated in my dissenting opinion in the *Monsanto Chemical Company* case,<sup>7</sup> which I find equally applicable here, I would dismiss the present petition.

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<sup>7</sup> 71 N. L. R. B. 11.