

In the Matter of WESTERN GATEWAY BROADCASTING CORPORATION,<sup>1</sup>  
EMPLOYER and NATIONAL ASSOCIATION OF BROADCAST ENGINEERS &  
TECHNICIANS (INDEPENDENT), PETITIONER

*Case No. 2-RC-6.—Decided April 12, 1948*

*Mr. Winslow Leighton*, of Schenectady, N. Y., for the Employer.

*Mr. Donald P. Morey*, of Albany, N. Y., and *Mr. G. L. Gorsuch*, of Brooklyn, N. Y., for the Petitioner.

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Schenectady, New York, on October 30, 1947, before Benjamin B. Naumoff, 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<sup>2</sup> makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Western Gateway Broadcasting Corporation, a New York corporation, owns and operates a radio station in Schenectady, New York, under the call letters WSNY, with an assigned wave length of 1240 kilocycles and a power output of 250 watts. The operation of Station WSNY is licensed by the Federal Communications Commission.<sup>3</sup>

The Employer is not affiliated with a national broadcasting system. However, from time to time it broadcasts, by specific arrangement with a national broadcasting system, or network, individual programs which are fed to it by direct transmission.<sup>4</sup> In addition, it rebroad-

<sup>1</sup> As amended at the hearing.

<sup>2</sup> Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of Chairman Herzog and Board Members Reynolds and Murdock.

<sup>3</sup> The station is designated as a "local channel" and normally is heard only in the State of New York.

<sup>4</sup> A minimum of 3 such programs is carried each week.

casts commercial programs, advertising various products, which have previously been broadcast over national networks. These are both transcriptions and "live" programs. The contract in some cases is directly with the manufacturer and in other cases with a radio advertising agency. In most instances the recordings are shipped to it from sources outside the State of New York. The Employer also obtains its news ticker service through the Press Association, a radio subsidiary of the Associated Press, which gathers news on a Nation-wide basis and has transmission outlets in various states throughout the United States.

For the 1-year period preceding the date of the hearing the Employer's revenue amounted to about \$150,000, of which approximately 20 percent derived from advertising of nationally distributed products.

We find, contrary to the contention of the Employer, that it is engaged in commerce within the meaning of the National Labor Relations Act.<sup>5</sup>

#### II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization 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 employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Petitioner seeks a unit of employees at the Employer's WSNY radio station comprising all transmitter engineers and control operator-announcers. While agreeing that the unit described by the Petitioner is otherwise appropriate, the Employer would expand it to include employees classified as announcer-control operators.

The Board has previously found appropriate units of employees in the broadcasting industry referred to as transmitter engineers and control operators,<sup>6</sup> even where the latter spend a certain portion of their time in announcing duties.<sup>7</sup> In the instant case the Employer

<sup>5</sup> See *Matter of Federated Publications, Inc*, 74 N. L. R. B. 1054.

<sup>6</sup> *Matter of Great Trails Broadcasting Company*, 73 N. L. R. B. 396

<sup>7</sup> *Matter of Louis G. Baltimore*, 57 N. L. R. B. 1611; *Matter of Muscle Shoals Broadcasting Company*, 74 N. L. R. B. 171.

for economic reasons does not hire any employees solely as announcers. Although the announcer-control operators, whom the Employer would include in the unit, are engaged primarily in announcing, they perform, in addition to their announcing duties, other duties such as selecting recordings to be played on phonographs or transcription turntables, checking program schedules and, to a lesser extent, operating the radio control equipment. The control operator-announcers, on the other hand, spend about 50 percent of their time in technical radio control work. However, the remainder of their time is devoted to duties the same as or similar to those performed by the announcer-control operators. Both groups of employees work under the supervision of either the Chief Engineer or the Program Director.<sup>8</sup> The Employer does not distinguish between the two groups with regard to salary, and vacation policy is the same for all employees.

From the foregoing it appears that the transmitter engineers, the control operator-announcers and the announcer-control operators form a small, closely integrated group, working under similar conditions of employment and with substantially the same community of interest. Under these circumstances, and especially in view of the inter-related nature of their duties, we are of the opinion that the announcer-control operators should be represented in the same bargaining unit with the other radio station employees involved herein. Accordingly, we shall include them.<sup>9</sup>

We find that all transmitter engineers, control operator-announcers and announcer-control operators at the Employer's WSNY radio station in Schenectady, New York, excluding the Chief Engineer, the Program Director, the Advertising and Publicity Manager, office clericals, the janitor, and all supervisors, 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 Western Gateway Broadcasting Corporation, Schenectady, New York, 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 Second Region, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regu-

<sup>8</sup> The Chief Engineer supervises all work relating to the operation of radio equipment while the Program Director is in charge of announcing and program activities

<sup>9</sup> At the hearing the Petitioner indicated that it would admit to membership employees in the category of announcer-control operators should the Board include them in the appropriate unit.

lations—Series 5, 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, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented by National Association of Broadcast Engineers & Technicians (Independent), for the purposes of collective bargaining.

MEMBER REYNOLDS took no part in the consideration of the above Decision and Direction of Election.