

coordinator, temporary employees, trainees, guards, and all other employees, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication in this volume.]

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

WESTINGHOUSE ELECTRIC CORP. and LOCAL 410, WESTINGHOUSE PLANT GUARDS, PETITIONER. *Case No. 2-RC-3583. September 21, 1951*

Decision and Direction of Elections

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Eugene M. Purver, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Reynolds, and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. The question concerning representation:

The Petitioner seeks two units of plant guards. The Employer alleges that the Petitioner is presently affiliated with the labor organization which currently represents the Employer's production and maintenance employees and that therefore under Section 9 (b) (3) of the Act, it is ineligible to be certified as the collective bargaining representative of the guards here requested.

The production and maintenance employees at the Employer's Belleville and Bloomfield, New Jersey, plants have been covered by collective bargaining agreements for a number of years, separate agreements having been executed for the employees in each plant. The contract unit in each plant included guards until sometime in 1950. On March 29, 1950, the Board issued a Decision and Direction of Elections in a case involving the Employer, in which it found, *inter alia*, that the production and maintenance employees at each of the aforementioned plants excluding guards constituted separate appropriate units.¹ The elections in each plant were won by Westinghouse Local

¹ 89 NLRB 8.

96 NLRB No. 50.

410, IUE-CIO, International Union of Electrical, Radio and Machine Workers, hereinafter called Local 410, IUE-CIO, which received its certificates on May 5, 1950.² Since that date, Local 410, IUE-CIO, has been acting as the bargaining agent of the production and maintenance employees at the Employer's Belleville and Bloomfield plants.

Shortly after the Board's Decision excluding them from bargaining units of which they had long been a part, the guards decided to form the Petitioner to represent them in their dealings with the Employer. During the organization of the Petitioner, the guards questioned the president of Local 410, IUE-CIO, as to the procedure to be followed for establishing an independent union and persuaded him to attend the Petitioner's first meeting.³ This meeting was held at IUE-CIO headquarters on February 27, 1950. About the same time, the Petitioner engaged as its legal adviser the attorney who handles the legal affairs of Local 410, IUE-CIO. The record also shows that a guard who currently acts as a steward for the Petitioner formerly served in the same capacity when the guards were part of the production and maintenance unit.

Since its first meeting, the Petitioner has not solicited nor obtained any advice or other assistance from Local 410, IUE-CIO. No officer or other representative of Local 410, IUE-CIO, has been present at the meetings, all of which have been conducted in a hall in Bloomfield, New Jersey, known as the Labor Lyceum. This hall is privately owned and it was rented to the Petitioner with the understanding that the Petitioner would pay for its use as soon as it began to collect dues from its membership.

The foregoing facts, in our opinion, do not justify the conclusion that the Petitioner is affiliated directly or indirectly with Local 410, IUE-CIO, or any other labor organization which admits to its membership persons other than guards.⁴

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.

4. The following employees of the Employer constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the amended Act:

(1) All plant guards employed at the Employer's Belleville, New Jersey, Works, excluding all other employees and all supervisors as defined in the Act.

² Before the election, the bargaining agent of the production and maintenance employees had been UE Local 410, United Electrical, Radio and Machine Workers of America (UE).

³ The record shows that the vice president of Local 410, IUE-CIO, also was present at this meeting.

⁴ *International Harvester Company*, 81 NLRB 374 and cases cited therein.

(2) All plant guards employed at the Employer's Bloomfield, New Jersey, Works, excluding all other employees and all supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication in this volume.]

WESTERN ELECTRIC COMPANY, INCORPORATED *and* COMMUNICATIONS WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 35-RC-528. September 21, 1951*

Decision and Direction

On June 19, 1951, pursuant to the terms and conditions of a Stipulation for Certification Upon Consent Election, the Regional Director conducted an election by secret ballot among certain employees of the Employer at its manufacturing division in Marion County, Indiana.

Upon the conclusion of the election, a tally of ballots was furnished the parties in accordance with the Rules and Regulations of the Board and in conformity with the Stipulation. The tally shows that of 4,378 eligible voters, 1,905 votes were cast for the Communications Workers of America, CIO, hereinafter referred to as the CWA, 1,725 votes were cast for the International Brotherhood of Electrical Workers, AFL, hereinafter referred to as the IBEW, and 144 votes were cast against the participating labor organizations, and that there were 58 challenged ballots.¹

Thereafter, on June 25, 1951, the IBEW filed timely objections to the conduct of the election and to conduct affecting the results of the election. In accordance with the Board's Rules and Regulations, the Regional Director investigated the objections. On July 20, 1951, the Regional Director issued and duly served upon the parties his report on challenged ballots and objections to election, in which he made certain recommendations concerning the objections and recommended that the Board find ineligible 17 of the challenged voters, find eligible 31 of the challenged voters, declare 3 challenged ballots void, and defer ruling on the disposition of 7 challenged ballots until the issuance of a supplemental tally of ballots. The IBEW filed exceptions to certain parts of the Regional Director's report.

¹ Of the 58 challenged ballots, 54 were challenged by the Board's agents, 3 ballots counted by the Board's agent in charge of the election as void were challenged by the CWA, and 1 ballot was challenged jointly by the CWA and the IBEW.