

priate.³ Nor does the remote and sporadic history of multiemployer bargaining for the salesmen on a members-only basis render the unit sought inappropriate. Accordingly we find that all salesmen⁴ of the Employer, excluding all other employees, guards, and supervisors⁵ as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

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

³ See *Joseph E. Seagram & Sons, Inc.*, 101 NLRB 101; *Miller & Miller Motor Freight Lines*, 101 NLRB 581.

⁴ The Employer has one "service salesman" whom the Petitioner would exclude from the unit. The Employer takes no position. Although this employee is primarily employed in the service department, where he sells repair jobs to the Employer's customers, he also occasionally negotiates the sale of a car or truck. Like the other salesmen, he is paid, at least in part, on a commission basis. Under these circumstances, and in view of the fact that he would otherwise be unrepresented, we shall include him in the unit. See *New York Steam Laundry, Inc.*, 80 NLRB 1597, 1599.

⁵ The record shows that the sales leader, whom the Petitioner would exclude, can effectively recommend the hiring and firing of salesmen. We find that he is a supervisor within the meaning of the Act, and we shall therefore exclude him from the unit.

JACK COOPER TRANSPORT COMPANY, INC., PETITIONER, and INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE No. 778, A. F. L., and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AUTOMOTIVE PETROLEUM AND ALLIED INDUSTRIES, LOCAL No. 552, A. F. L., JOINTLY. *Case No. 17-RM-66. December 31, 1962*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Margaret L. Fassig, 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 [Chairman Herzog and Members Houston 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 organizations involved claim to represent certain employees of the Employer.

3. 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.¹

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

All maintenance employees, including porters, car washers, grease men, parts men, machinists, welders, mechanics, and painters at the Employer's place of business located in Kansas City, Missouri, but excluding truck drivers, foremen, office clerical employees, and supervisors as defined in the Act.²

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

¹ The record shows that the Unions jointly requested exclusive recognition from the Employer on several occasions, picketed the Employer's place of business to gain such recognition, and at the hearing expressly claimed a majority of the employees in the unit. Although the Unions also expressed a desire against holding an election at the present time, they made no disclaimer of any right to recognition. Accordingly, we find that a question of representation exists within the meaning of Section 9 (c) (1) (B) of the Act. Cf. *General Paint Corporation*, 95 NLRB 539; *Hamilton's Ltd.*, 93 NLRB 1076.

² The parties are in agreement as to the unit.

WILSON & Co., INC. and AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL, PETITIONER. *Case No. 13-RC-2933.*¹ December 31, 1952

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Raymond A. Jacobson, 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, Murdock, and Styles].

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 organizations involved claim to represent certain employees of the Employer.

¹ Although the petition in Case No. 13-RC-2951 was consolidated with the instant case, the Chicago Journeymen Plumbers Local Union 130, U. A., A. F. of L., submitted a request for withdrawal of the petition in the former case. Before the hearing, the withdrawal request was approved by the Regional Director, and an order severing cases was served upon the parties.