

under those standards the Employer's operations are substantial enough to warrant our asserting jurisdiction. Accordingly, the petition is dismissed.

### Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

MEMBERS HOUSTON and STYLES, dissenting.

We believe that the operations of the Employer satisfy the requisites for asserting jurisdiction over taxicab companies as adopted by the Board in the *Cambridge Taxi Company* case.<sup>6</sup> We would therefore assert jurisdiction in this case.

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<sup>6</sup> Footnote 5, *supra*.

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YELLOW CAB COMPANY and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL No. 667, A. F. L., PETITIONER. *Case No. 32-RC-541. March 6, 1953*

### Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before John Cienki, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

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

1. The Yellow Cab Company, a Tennessee corporation, with its main office and principal place of business in Memphis, owns and operates a fleet of taxicabs under a certificate of public convenience and necessity from the city of Memphis. It normally operates between 130 and 135 cabs, but because of the steel and manpower shortages it presently operates 106 cabs.

The Employer has written agreements with Union Station and Greyhound Bus Lines for parking facilities at the respective stations. It also has an exclusive agreement with the Grand Central Station for off-the-street parking.<sup>2</sup> In consideration of the privileges granted, the agreements provide for the payment of a rental fee or a percentage of revenue obtained as a result of these agreements, whichever is

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<sup>1</sup> The hearing officer rejected an offer of proof by the Intervenor wherein the Intervenor offered to prove that at a meeting of the mechanics it was voted that the employees did not wish to be represented by the Petitioner. As a Union's showing of interest is not litigable at any stage of the proceedings, in accordance with well-established Board policy, we affirm the ruling of the hearing officer. Cf. *Phelps Dodge Corp.*, 98 NLRB 726.

<sup>2</sup> The Employer, however, contends and the record reveals that, despite its exclusive agreement, other cab companies, in fact, serve this terminal.

greater. Although the Employer has no written agreements with the Missouri Pacific and Continental Bus Lines, or with the airport, it does have parking stands on the public streets at or near these interstate carriers.

During the fiscal year ending March 31, 1952, the Employer derived fares originating from these stations amounting to \$94,297.85, or approximately 7.96 percent of its total revenue.<sup>3</sup> Of this figure of \$94,297.85, \$47,202.35, or approximately 3.85 percent, was earned as a result of the trips made from the Union and Grand Central Stations, with which it had written agreements.<sup>4</sup> During the same period, its taxis under special contract with passengers made approximately between 70 and 96 trips per week, out of approximately 14,000 fares to points outside the State of Tennessee.<sup>5</sup> The Employer receives an additional \$250 to \$300 per month from the James Wolley Advertising Company, a national advertising company, located in Louisville, Kentucky.

The Employer purchased 12 cabs during the current fiscal year from a local distributor, at a cost of \$1,800 each.<sup>6</sup> These cabs were manufactured outside the State of Tennessee. The Employer also purchased from a local dealer between \$30,000 and \$40,000 worth of replacements and repair parts manufactured outside the State, and 600,000 gallons of gasoline from the Standard Oil Company.

Although the operations of the Employer may partially meet the Board's recently adopted standards for asserting jurisdiction over taxicab companies,<sup>7</sup> we do not find that under those standards the Employer's operations are substantial enough to warrant our asserting jurisdiction. Accordingly, we shall dismiss the petition.

### Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

MEMBERS HOUSTON and STYLES, dissenting:

We believe that the operations of the Employer satisfy the requisites for asserting jurisdiction over taxicab companies as adopted by the Board in the *Cambridge Taxi Company* case.<sup>8</sup> We would therefore assert jurisdiction in this case.

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<sup>3</sup> According to the testimony of the Employer it was impossible to estimate the total revenue received from passengers transported to these stations

<sup>4</sup> The amount received from Greyhound Bus Lines, with which the Employer also had a written agreement, is not ascertainable from the record. A total of \$44,803.50, or approximately 3.7 percent, was earned as a result of trips made from all of the bus stations

<sup>5</sup> The record does not reveal how much revenue was received from transportation outside the State

<sup>6</sup> The Employer normally orders from 40 to 50 cabs a year.

<sup>7</sup> *Cambridge Taxi Company*, 101 NLRB 1328.

<sup>8</sup> *Supra*, footnote 7.