it did. Standing alone, I do not believe that the facts are sufficient to sustain the General Counsel's contention Accordingly, I find that by its insistence on the Union's certification by the Board the Respondent did not unlawfully refuse to bargain within the meaning of Section 8 (a) (5) of the Act.

It is found that by offering jobs to the striking employees and by granting merit and general wage increases on March 26, 1952, without advising or consulting with the Union, the Respondent did not engage in unfair labor practices within the meaning of Section 8 (a) (5) and (1) of the Act. If the Respondent had the right to demand certification by the Board before recognizing the Union, it follows that it was not obligated to bargain or consult with the Union until that condition had been met. Further, with respect to its good faith insofar as the granting of the wage increases is concerned, Hershel Thornburg, Respondent's manager of wage and salary administration, testified credibly and without contradiction to the effect that the Respondent, in September 1951, filed a petition with the Wage Stabilization Board for increased wage-rate ranges covering its sales operations throughout the United States; and that the proposed rate increases were approved on March 19, 1952.

[Recommendations omitted from publication]

AMERICAN GILSONITE COMPANY *and* H. K. FRONTZ, JR., Petitioner *and* UNITED STEELWORKERS OF AMERICA, LOCAL NO. 4261, CIO. Case No. 30-RD-41. August 14, 1953

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 Eugene Hoffman, 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, Styles, and Peterson].

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. [1]

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.

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[1] The Petitioner, an employee of the Employer, asserts that the Intervenor is no longer the bargaining representative of the employees in the proposed unit, as defined in Section 9 (a) of the Act. It was stipulated at the hearing that the Intervenor is currently recognized by the Employer as the exclusive representative of such employees. The Intervenor's most recent contract with the Employer, which terminated on June 30, 1953, covers, in addition to the employees in the proposed unit, all employees at the Employer's Bonanza, Utah, mine.

4. The Petitioner seeks a decertification election in a unit of over-the-road truckdrivers and shop employees of the Employer at its Craig, Colorado, plant. The Intervenor contends that the proposed unit is inappropriate because it does not include the employees at the Employer's Bonanza, Utah, mine. The Employer does not oppose the petition.

The Craig plant is approximately 125 miles from the Bonanza mine. The employees at Craig are engaged in hauling the ore from Bonanza to the railroad shipping point at Craig. They are separately supervised and consist of over-the-road truckdrivers, mechanics who service the trucks, a laborer who performs janitorial duties in the garage, and an electrician who spends a substantial portion of his time in repairing the trucks. As the over-the-road truckdrivers at Craig are the only such drivers in the Employer's employ, we find that they may constitute a separate appropriate unit. However, as the other employees sought have duties and skills similar to those of employees at Bonanza, they may not be severed from the existing contract unit. We find, accordingly, that all over-the-road truckdrivers of the Employer, excluding shop employees, office and plant clerical employees, and supervisors as defined in the Act, may constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

We shall direct that an election by secret ballot be held in the foregoing voting group. If the employees in the voting group do not select the Intervenor, the Intervenor will be decertified as to them; if, on the other hand, they select the Intervenor, they will be taken to have indicated their desire to remain in the unit with the other employees of the Employer now represented by the Intervenor.

[Text of Direction of Election omitted from publication.]

Member Peterson, concurring:

The drivers involved herein have been a part of a plantwide unit for only 3 years. In view of this short bargaining history of inclusion in a broader unit,[2] and the recognition which the Board has accorded to the highly divergent interests and conditions of employment to over-the-road truckdrivers,[3] I agree with the conclusion of my colleagues that these drivers should be given an opportunity to indicate whether they desire to continue being represented by the Intervenor. Accordingly, I concur in directing a self-determination election among them.

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[2] See my dissent in W. C. Hamilton and Sons, 104 NLRB 627.

[3] Woodlin Metal Products Company, 106 NLRB No. 50, and cases cited therein.