

While we do not depart from the policy of asserting jurisdiction over enterprises which furnish services valued at \$50,000 or more to direct instrumentalities of interstate commerce, we find that the construction of county roads is too remote an extension of that policy to warrant our taking jurisdiction here.<sup>3</sup> Accordingly, we shall dismiss the petition.

[The Board dismissed the petition.]

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<sup>3</sup>Camp Concrete Company, 94 NLRB 296, cited by the Petitioner as authority for assertion by the Board of jurisdiction herein, is inapposite. In that case the materials sold to the State Road Department of Florida were for use "in necessary maintenance of the State's highway system," and not, as is the case here, for county roads.

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WESTINGHOUSE ELECTRIC CORPORATION *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, C.I.O., Petitioner *and* FEDERATION OF WESTINGHOUSE INDEPENDENT SALARIED UNIONS, Petitioner. Cases Nos. 2-RC-6028 and 2-RC-6040.<sup>1</sup> October 13, 1953

### DECISION AND DIRECTION OF ELECTIONS

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Leonard S. Kimmell, 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 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. Questions affecting commerce exist 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.<sup>2</sup>
4. International Union of Electrical, Radio & Machine Workers, CIO, herein called the IUE, seeks to represent the salaried unit for which the UE is the presently certified bargaining representative.<sup>3</sup> The Federation of Westinghouse

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<sup>1</sup>On August 14, 1953, the Regional Director for the Second Region consolidated Cases Nos. 2-RC-6027, 2-RC-6028, and 2-RC-6040. After the consolidated hearing the parties to Case No. 2-RC-6027 entered a stipulation for certification upon consent election. Accordingly, the Board on September 9, 1953, severed that case from the instant proceeding and remanded it to the Regional Director for further proceedings in accordance with the agreement of the parties.

<sup>2</sup>For the reasons stated in our recent Decision in Westinghouse Electric Corporation, 106 NLRB 1349, we reject the contention advanced by United Electrical, Radio & Machine Workers of America, Local 426, U.E., herein called the UE, that its contract with the Employer of November 1, 1950, as extended, constitutes a bar to a present determination of representatives.

<sup>3</sup>See Westinghouse Electric Corporation, 89 NLRB 812.

Independent Salaried Unions, herein called the Federation, seeks to sever from the salaried unit a technical group composed of draftsmen, tool designers, and laboratory technicians.<sup>4</sup> Like the IUE, the UE and the Employer oppose any change in the existing salaried unit.

Draftsmen and tool designers: These employees prepare tracings and drawings for the Employer's engineers. The draftsmen work with the engineers producing plans for new designs and new products. When these plans are perfected the tool designers, working in close cooperation with the engineers, complete the plans and drawings required to produce the tools necessary in the manufacture of the new product. Although the two groups are separately located and separately supervised, the education and special skills required of the draftsmen and tool designers are substantially the same. It is clear therefore that they constitute highly skilled technical employees who may, if they so desire, be a part of a separate bargaining unit of technical employees.<sup>5</sup> On the other hand, they may also continue to be represented as a part of the existing salaried unit.

Laboratory technicians: These employees, like the draftsmen and tool designers, work closely with the Employer's engineers. In the seven laboratories connected with the Newark works they perform mechanical, chemical, or electrical tests to assure the uniformity of the manufactured product and to assist in the development of new products. They are required to have a high school education and 2 years of college or the equivalent technical education. As highly skilled technical employees they may, if they so desire, constitute a separate unit of technical employees together with the Employer's other technical employees, the draftsmen and tool designers.<sup>6</sup> On the other hand, they may also continue to be represented as a part of the existing salaried unit.

We shall at this time make no final determination with respect to the unit or units appropriate, but shall first ascertain the desires of the employees as reflected in the separate elections which we shall direct be held among the employees in the following voting groups:

(a) All draftsmen, tool designers, and laboratory technicians employed at the 95 Orange Street, Plane Street, and Raymond Boulevard, Newark, New Jersey, works of the Employer, excluding all other employees and supervisors as defined in the Act.

(b) All salaried employees employed at the 95 Orange Street, Plane Street, and Raymond Boulevard, Newark, New Jersey, works of the Employer, including the telephone operators and the general duty clerks and the file clerks in the industrial relations department, but excluding all other employees in the

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<sup>4</sup>At the hearing the Federation also indicated that it desired a place on the ballot in the overall salaried unit sought by the IUE.

<sup>5</sup>Bethlehem Steel Company, 95 NLRB 1508.

<sup>6</sup>Cf. Standard Coil Company, 98 NLRB 1296.

industrial relations department, all employees in the medical department, staff assistants to department managers and the plant manager, the suggestion interviewer, secretaries, assistant secretaries to the manager of accounting, the buyer, the audit clerk A, manufacturing and general engineers, time and motion analysts, design, metallurgical, and chemical engineers in the engineering department, sales engineers in the sales department, the test engineer in the manufacturing department, all employees in voting group (a), guards, professional employees, and supervisors as defined in the Act.<sup>7</sup>

If a majority of the employees in each of the voting groups select the same labor organization, the employees in voting group (a) will be taken to have indicated their desire to remain part of the overall salaried unit and the Regional Director conducting the elections is instructed to issue a certification of representatives to the labor organization selected by the employees in such groups, which the Board in such circumstances finds to be a single unit appropriate for the purposes of collective bargaining. If the majority of the employees in voting group (a) select a labor organization which is not selected by the employees in voting group (b), the employees in voting group (a) will be taken to have indicated their desire to constitute a separate appropriate unit and the Regional Director conducting the elections is instructed to issue a certification of representatives to the labor organization selected by the employees in such group, which the Board in such circumstances finds to be a separate unit appropriate for the purposes of collective bargaining. If a majority of the employees in voting group (b) also select a labor organization the Regional Director conducting the elections is instructed to issue a certification of representatives to the labor organization selected by the employees in such group, which the Board in such circumstances also finds to be a separate unit appropriate for the purposes of collective bargaining. If the employees in either or both of the voting groups do not select a labor organization the Regional Director conducting the elections is instructed to issue a certification of results of elections with respect to such group or groups.

[Text of Direction of Elections omitted from publication.]

Chairman Farmer took no part in the consideration of the above Decision and Direction of Elections.

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<sup>7</sup>Except for the employees in voting group (a), voting group (b) is the same as the salaried unit for which the UE is the presently certified bargaining representative.