

activity will increase shortly after the date of this Decision and as the Employer has agreed to reemploy Newton and Evans before it hires any new employees in their work classifications, and is still using employees in such classifications, we find that they have a reasonable expectation of reemployment in the near future and that they are therefore eligible to vote in the election.

[Text of Direction of Election omitted from publication.]

Member Rodgers took no part in the consideration of the above Decision and Direction of Election.

WISCONSIN ELECTRIC POWER COMPANY *and* LOCAL NO. 317, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL, Petitioner. Case No. 13-RC-3606. February 19, 1954

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 Robert G. Mayberry, 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.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.
4. The Petitioner seeks to supplant Division 998 as bargaining representative for a unit composed of three groups of employees of the Employer: Plant maintenance men; janitors, watchmen, elevator operators, and matrons; and the non-clerical employees in the central stores division. Division 998 agrees with the Petitioner that its present bargaining unit is appropriate. Local 2 seeks to add the storekeepers, stock disbursers and receivers, and appliance deliverymen of the

¹Division 998, Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, AFL, referred to herein as Division 998, intervened on the basis of its contract interest, Local 2, United Association of Office, Sales and Technical Employees, referred to herein as Local 2, was permitted to intervene on the basis of an interest showing over the objections of the Petitioner and Division 998. The authorization cards on which Local 2 relies were obtained between the date of the first hearing in this matter and the date of the continued hearing. Since they were acquired before the close of the hearing, we affirm the hearing officer's ruling permitting Local 2 to intervene. Virginia-Carolina Chemical Corporation, 101 NLRB 1336.

central stores division (all the nonclerical employees), who are currently part of Division 998's unit, to its own existing contract unit of clerical, sales, technical, stores, and appliance repair employees. The Employer agrees with Local 2 on the merger of these employees into Local 2's unit, but also contends that the other two groups in the Petitioner's proposed unit should be established as separate appropriate units.

The Employer is a public utility generating and supplying electric power in and around Milwaukee, Wisconsin. The plant maintenance employees, approximately 40 in number, do carpentry and masonry work, painting, and cleanup work at all the Employer's buildings and installations. They are part of the plant engineering department. Maintenance work on the steam and electrical equipment and machinery is performed by employees represented either by the Petitioner in a powerplant unit, or by International Brotherhood of Electrical Workers in an electrical system unit. The janitors, watchmen, elevator operators, and matrons, approximately 35 in number, work at the Employer's main office building, known as the Public Service Building, in Milwaukee. The nonclerical employees of the central stores division, approximately 5 in number, are engaged in receiving and shipping materials and supplies at the Public Service Building only. The 2 latter groups are part of the Employer's purchases and stores department.

The employees in the Petitioner's proposed unit have been represented since 1938 by Division 998, pursuant to a certification of the Wisconsin Employment Relations Board. There have been no substantial changes in the composition of the unit, or in the nature of the work performed by the constituent groups of employees since that date. Each of the three groups is under separate immediate supervision, although the supervisors of the central stores division and the service employees in the Public Service Building both report to the same official at the next higher stage of management. There is no interchange of employees among the three groups.

Despite the heterogeneous nature of the present unit, we believe that the long and uninterrupted bargaining history on behalf of all the employees in such unit establishes its appropriateness as a residual unit. We see no cogent reason for establishing separate units for each of the three groups of employees constituting the present residual unit. Although merger of these groups with other existing units is possible, the only request for such merger has been made with respect to the nonclerical employees in the central stores division. This issue is treated hereinafter.

The nonclerical employees of the central stores division handle all shipments received in or leaving the Public Service Building, keep stock of small electric appliances and appliance parts, check them out to the appliance repair or merchandise divisions, and deliver appliances to the Employer's customers. The storeroom where they work is close to the display space

where merchandise is sold, and to the appliance repair workshop. Their work requires close contact with the clerical employees in the central stores division, the appliance repairmen, and with sales personnel, all of whom are represented by Local 2 in a single unit. Similar handling and stores functions are performed by storekeepers at the powerplants and in the electrical distribution department who are also represented in the same unit by Local 2.

Under all the circumstances, and with particular regard to the advantages to the parties in bargaining for a unit in which are included all similar and related job classifications, we believe that the nonclerical employees of the central stores division may be represented as part of the unit for which Local 2 is the bargaining agent. However, in view of the historical pattern of bargaining for these employees, it would not be consistent with Board policy to permit the requested merger without first granting this group an opportunity, by means of a separate election, to express their desires on this question.²

We therefore direct separate elections in the following voting groups:

(A) All storekeepers, stock disbursers and receivers, and appliance deliverymen in the central stores division at the Employer's Public Service Building in Milwaukee, Wisconsin, excluding supervisors as defined in the Act.

(B) All building maintenance employees in the Employer's plant engineering department, and all building service employees in the purchases and stores department at the Employer's Public Service Building in Milwaukee, Wisconsin, excluding guards³ and supervisors as defined in the Act.

We have found that the employees in voting group (A) may appropriately be represented as part of the unit for which Local 2 is the bargaining agent or as part of the residual unit currently represented by Division 998. However, we have not found that these employees may constitute a separate appropriate unit. We find, therefore, that it is necessary in this case to modify the procedure for tallying the votes cast in Globe type elections.

If a majority of the employees in voting group (A) above vote for Local 2, they will be taken to have indicated their desire to be included in the unit now represented by Local 2, and the Regional Director conducting the election herein is instructed to issue a certification of results to that effect.

On the other hand, if a majority of the employees in voting group (A) do not vote for Local 2, that group will be appropriately included in the same unit with employees in voting group (B) and their votes will be pooled with those in voting

² The National Supply Company, 101 NLRB 73.

³ The two watchmen at the Public Service Building control entry to the building during non-office hours, and are responsible for enforcing rules of the Employer relating to protection of its property. We find that they are guards and exclude them from the unit.

group (B)⁴, and the Regional Director conducting the election herein shall issue a certification of representatives to the labor organization selected by a majority of employees in the pooled group, which the Board in such circumstances finds to be a single unit appropriate for purposes of collective-bargaining.

[Text of Direction of Elections omitted from publication.]

⁴If the votes are pooled, they are to be tallied in the following manner: the votes for Local 2 shall be counted among the valid votes cast but neither for nor against any union seeking to represent the more comprehensive unit; all other votes are to be accorded their face value, whether for representation in a union seeking the comprehensive unit or for no union. See the dissenting opinions of Board Members Murdock and Peterson in Pacific Intermountain Express Co., 105 NLRB 480.

PHILLIPS PETROLEUM COMPANY *and* EASTERN IDAHO METAL TRADES COUNCIL, AFL, Petitioner. Case No. 19-RC-1399. February 19, 1954

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 Howard E. Hilbun, 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 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.

Contentions of the Parties

The Petitioner, Eastern Idaho Metal Trades Council, AFL, seeks to represent in a single unit all operating and maintenance employees at the Employer's Arco, Idaho, atomic energy project operations, including heavy equipment repair shop employees, purchasing and warehouse department employees, transportation department employees, scientific assistants, experimental machine shop employees, and cafeteria employees, but excluding office clerical employees, technical employees, guards, and supervisors.

The Employer and Oil Workers International Union, CIO, herein called the Oil Workers, contend that a single unit which