GRAND RAPIDS FUEL COMPANY *and* JAMES REDNER, Petitioner. Case No. 7-RD-162. February 26, 1954

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Emil C. Farkas and Herbert C. Kane, hearing officers. The hearing officers' 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 Petitioner seeks a decertification election in a unit of the Employer's truckdrivers. The Intervenor, Local 406, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, contends that no election should be directed for the reason, among others, that the Employer is not engaged in commerce within the meaning of the Act. The Employer takes no position on the question of jurisdiction.

Grand Rapids Fuel Company is not a corporate entity but, according to the testimony of the Employer's officials, is a sales or branch office of Webb Coal Company, a Michigan corporation engaged in the retail coal business, with principal offices in Port Huron, Michigan. Webb Coal Company has 24 such sales or branch offices, 2 of which are located in Ohio, 2 in Indiana, and 20 in Michigan. The Employer is 1 of 2 branches located in Grand Rapids, Michigan.

Each branch sells and delivers coal principally to householders but also to a few commercial enterprises in its immediate vicinity. Each branch orders its coal from the Port Huron office, which then buys the coal from mines located in Illinois, Indiana, Ohio, Kentucky, West Virginia, and Virginia, and has it shipped directly to the branch. A total of $1,600,000 worth of coal was shipped from other States to Michigan branches last year, of which coal valued at $74,400 was shipped to the Employer.

The manager of the Employer is responsible to the supervisor of the Webb Coal Company's western district. The position of district supervisor is held by the manager of the other branch office located in Grand Rapids. He in turn is responsible to the assistant general manager in the Port Huron office. The latter testified that he is in complete charge of operations.

The Port Huron office pays the mines for coal shipped to the branches, pays for all equipment used by the branches, and pays the wages of branch employees. The manager of the Employer deposits cash from sales in a bank account in the branch name but makes no withdrawals from this account. The price of coal sold is set by the branch manager and the Port Huron office. The branch office sends daily sales reports to the Port Huron office. The latter files joint income- and sales-tax returns for all branches.

Each branch operates under its own license and keeps its own payroll records. There is little or no interchange of employees or equipment among branches. Branch managers do the hiring and firing for their branches. They have authority to negotiate and sign collective-bargaining agreements, but company officials testified that branch managers cannot agree to any contract provision without approval of the Port Huron office, that all contracts are submitted to that office for approval before signing, and that upon approval it is the branch manager's duty to sign without change.

As the Employer is a part of Webb Coal Company, a single multistate enterprise with integrated operational and labor policies, and as the combined direct inflow from outside the State of Michigan to the 20 retail coal outlets maintained by Webb in Michigan amounted to $1,600,000, we find that the Employer is engaged in commerce and that it will effectuate the policies of the Act to assert jurisdiction in this case.[1]

2. The labor organization involved claims to represent employees of the Employer.

3. No 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, for the following reasons:

The Petitioner requests a decertification election in a unit of all retail truckdrivers of the Employer. The Intervenor contends that the bargaining history establishes that only a unit of drivers of all retail coal dealers in Grand Rapids is appropriate. The Employer contends that the unit petitioned for is appropriate.

The Intervenor has been the recognized representative of the Employer's drivers under successive yearly contracts since approximately 1949. These contracts have been jointly negotiated by a representative of each retail coal dealer in Grand Rapids whose employees have been organized by the Intervenor, including both branches of Webb Coal Company located in Grand Rapids, a representative of the employees of each such dealer, and the Intervenor's business agent. As a result of these negotiations, separate but identical contracts have been executed with each dealer.[2] The dealers so associated in bargaining hold meetings to decide points of disagreement before negotiating such points with the Intervenor. Occasionally the dealer group appoints a committee of 1 or 2 to negotiate specific issues.

In the negotiations preceding the most recent contracts, which were conducted during the summer of 1953 on the

[1] The Borden Company, 91 NLRB 628; Federal Dairy Co., Inc., 91 NLRB 638. In asserting jurisdiction Chairman Farmer is not to be deemed thereby as agreeing with the Board's present jurisdictional standards.

[2] On one occasion, the contracts for the Webb Coal Company branches differed from those of the other local dealers in one respect.

customary multiemployer basis, both local branches of Webb Coal Company, including the Employer, were represented by the district supervisor. Although the manager of the Employer signed the resultant contract for his branch,[3] he attended none of the negotiations.[4]

On these facts, and on the record as a whole, we find the pattern of bargaining described above controlling in determining the appropriate unit in this proceeding. We therefore find a unit limited to the employees of the Employer too limited in scope and consequently inappropriate.[5] Accordingly, we shall dismiss the petition.[6]

[The Board dismissed the petition.]

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

[3] The manager testified that when the Intervenor's representative presented him with the contract for signature and informed him that it had been approved by the Webb Coal Company's Port Huron office, the manager telephoned his district supervisor and "asked him if it was all right if I read the contract through before I signed it," because "I had not attended the labor negotiations and wasn't exactly fully informed as to the exact text of the contract."

[4] The manager testified that he was present during negotiations of the preceding contract, but "I did not say a word in the whole proceedings."

[5] Des Moines Packing Company, 106 NLRB 206.

[6] In view of our disposition of this issue, we find it unnecessary to rule on the propriety of the Employer's role in the filing of the petition, or on the question of contract bar.

SEA BEAVER CORPORATION *and* INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, CIO, Petitioner. Case No. 2-RC-6308. February 26, 1954

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 Louis A. Schneider, 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, a Delaware corporation with its sole place of business in Greenwich, Connecticut, is engaged in the manufacture and repair of boats and the manufacture of special wood containers. Since January 1952, the Employer has been engaged primarily in the construction of minesweepers and personnel boats under contract with the United States Navy. This contract, in the amount of $798,000, exclusive of certain Government-furnished supplies, is to be completed sometime in 1954. In 1953 the Employer received progress payments of about 25-35 percent of the value of the contract.

The Employer also shipped material valued at $10,000 to Wright Aeronautical Corp. in New Jersey, delivered to New