

ballot. If, however, the International Longshoremen's Association, Independent, or the American Federation of Labor, International Longshoremen's Association, between the date of this Second Direction of Election and the date of the election, engages in conduct which the Board administratively determines to be designed to thwart or abuse the processes of the Board, the Board reserves the right to deny such labor organization a place on the ballot.

In order to effectuate the purposes implicit in the Board's Supplemental Decision, and Order issued April 1, 1954, to avoid a multiplicity of challenges, to provide reasonably adequate safeguards for the holding of a fair election, and to obviate potential sources of objectionable conduct in this proceeding, the Board further directs that: (a) The Regional Director mail to each eligible voter, who is required to register under the regulations of the Bi-State Waterfront Commission, a nontransferable International Business Machine card bearing the seal of that Commission and the address and social-security number of the voter as based on the said Commission's records, to be used as a voting card; (b) eligible voters surrender said voting cards to Board agents at the time of voting; (c) eligible voters be required to exhibit to the Board agents at the time of voting their Bi-State Waterfront Commission cards; (d) each party, at least 4 days prior to the date of the election, be required to furnish to the Regional Office of the Board, for its approval, a list of its designated observers and alternates; (e) transportation of voters to the polls by chartered buses or other vehicles for hire be prohibited; and (f) the Regional Director forthwith promulgate such other necessary rules for the conduct of the election and make appropriate arrangements with the State and municipal authorities to assure reasonably adequate conditions for the holding of the election, consistent with Board policy, that will assure the voters a free and uninhibited choice of collective-bargaining representatives.

Member Murdock took no part in the consideration of the above Second Direction of Election

WESTINGHOUSE ELECTRIC CORPORATION *and* THE INTERNATIONAL UNION OF OPERATING ENGINEERS, A.F.L., LOCAL 89,¹ Petitioner

WESTINGHOUSE ELECTRIC CORPORATION *and* DISTRICT LODGE NO. 52, INTERNATIONAL ASSOCIATION OF MACHINISTS, A.F.L.,² Petitioner

¹ Hereinafter referred to as the Operating Engineers.

² Hereinafter referred to as the IAM.

WESTINGHOUSE ELECTRIC CORPORATION *and* THE INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, C.I.O.,³ Petitioner

WESTINGHOUSE ELECTRIC CORPORATION *and* DISTRICT LODGE NO. 52, INTERNATIONAL ASSOCIATION OF MACHINISTS, A.F.L., Petitioner. Cases Nos. 9-RC-2126, 9-RC-2141, 9-RC-2142, and 9-RC-2149. April 27, 1954

DECISION AND DIRECTION OF ELECTIONS

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, as amended, a hearing was held on December 21, 1953, in Case No. 9-RC-2126 before Harold M. Kennedy, hearing officer. The hearing was adjourned on the same day without date. On January 5, 1954, that case was consolidated with Cases Nos. 9-RC-2141, 9-RC-2142, and 9-RC-2149, by order of the Regional Director for the Ninth Region, and the hearing was continued on January 18, 1954, before Harold M. Kennedy, hearing officer, upon the consolidated cases. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.⁴

Upon the entire record in this proceeding, 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.⁵

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 Employer is engaged in the production of household electrical appliance at its Columbus, Ohio, plant, which is alone involved in this proceeding. There is no history of collective bargaining at this plant.

In Case No. 9-RC-2126, the Operating Engineers seeks a unit of powerhouse employees. The IAM requests a separate unit of maintenance employees in Case No. 9-RC-2141, and of tool-room employees in Case No. 9-RC-2149. In its petition in Case No. 9-RC-2142, the IUE seeks a production and main-

³Hereinafter referred to as the IUE.

⁴United Electrical, Radio and Machine Workers of America (UE) (hereinafter called the UE) intervened at the hearing. After the close of the hearing, the UE filed a motion with the Board to reopen the hearing and take additional evidence as to whether an election should be directed at this time in view of the alleged anticipated expansion of the Employer's operations. The Employer and the IUE oppose this motion. The Employer asserts that it now has a representative and substantial complement, and that an election should be directed forthwith. The UE's motion contains no showing that the evidence proposed to be adduced was not available to the UE at the time of the hearing herein. Consequently, we find no merit in the UE's motion and it is hereby denied.

⁵The International Brotherhood of Electrical Workers, AFL (hereinafter called the IBEW) intervened at the hearing.

tenance unit, including those groups of employees which the other Petitioners wish to represent as separate units. The Employer, the IUE, and the two Intervenors (IBEW and UE) contend that the overall production and maintenance unit is alone appropriate.⁶ The IAM, though conceding that the overall unit is appropriate, argues that the smaller groups it seeks are also appropriate and entitled to separate representation. The Operating Engineers contends only that, irrespective of other unit findings, its requested unit is entitled to separate representation if the powerhouse employees so desire.

Case No. 9-RC-2142

The IUE seeks in its petition, as amended at the hearing, a unit of production and maintenance employees. In the absence of any objection to the appropriateness of this unit and in accord with our usual policy, we find that this overall unit constitutes an appropriate unit for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

Case No. 9-RC-2126

The Operating Engineers contends that the unit it seeks is a typical powerhouse unit, entitled under past Board decisions to separate representation. There are assigned to the powerhouse 7 licensed engineers and 7 helpers who operate the powerhouse equipment, which consists primarily of steam boilers and air compressors. These employees are not interchanged with any other employees in the plant and are under separate immediate supervision. Their work area is physically separated from other work areas. In view of the foregoing, we find that the powerhouse employees may constitute a separate appropriate unit if they so desire.⁷ They may also, if they so desire, appropriately be included in the plantwide unit.

Case No. 9-RC-2149

The IAM seeks a unit of all employees in the Employer's toolroom or tool department, including tool and die makers, tool and die repairmen, machine operators, welders, die storage keepers, storekeeper, trucker-janitor, and heat treater and tool welder.⁸ Except for occasional visits by the tool and die repairmen to production areas of the plant in order to repair broken dies and tools, all these employees work in the toolroom which, although not physically enclosed, is a separate area in the plant. They have separate immediate supervision. The tool

⁶ The IBEW, however, concedes the appropriateness of the powerhouse unit sought by the Operating Engineers.

⁷ Schering Corporation, 107 NLRB 1540.

⁸ "Heat treater and tool welder" is one classification.

and die makers and repairmen perform the skilled work usually associated with their classifications. The machine operators work with such equipment as milling machines, boring mills, grinders, shapers, and other metal-working equipment. The welder does welding on tools, dies, jigs, and fixtures for the toolroom, while the heat treater and tool welder tempers steel for the building and repair of dies, tools, or fixtures and does some welding of such equipment. The storekeeper sharpens and grinds drills and handles tool steel, while the die storage man looks after the storing of dies and handles them in and out of bins. The trucker-janitor moves dies from the storage depot to the presses and back to storage. In his spare time he performs janitorial work in the toolroom. It is clear from the foregoing that the toolroom employees compose a functionally distinct and separate group. Accordingly, we find that if they desire they may constitute a separate appropriate unit,⁹ or may appropriately be included in the plantwide unit.

Case No. 9-RC-2141

In addition to its proposed toolroom unit, the IAM seeks a separate unit of maintenance employees classified as millwrights, millwright helpers, oilers, yardmen, janitors, elevator operators, welders, electricians, carpenters, storekeepers, pipefitters, sheet-metal men, hand tool repairmen, and shop clerks. These employees are in the Employer's works engineering department and are under the separate immediate supervision of the maintenance supervisor. They are responsible for plant maintenance generally and work throughout the plant doing such work as painting, electrical repair, and pipefitting. Certain classifications of these employees such as the millwrights, electricians, pipefitters, and carpenters spend part of their time in work shops assigned to them in the separate plant maintenance area.¹⁰

Where, as here, there is no collective-bargaining history on a broader basis, the Board has found that an identifiable, homogeneous group of maintenance employees, similar to those involved herein, possess a sufficient community of interest, apart from that of production employees, to warrant their separate representation, if they so desire.¹¹ Accordingly, we find that if they so desire all the maintenance employees sought in this case by the IAM may constitute a separate

⁹ John Deere Planter Works of Deere & Company, 107 NLRB 1497; Lee Brothers Foundry, Inc., 106 NLRB 212; Landis Machine Company, 101 NLRB 629.

¹⁰ There is no evidence that the Employer has any employees who do maintenance work other than the employees in the works engineering department, the toolroom, and the powerhouse.

¹¹ Schering Corporation, supra; National Carbon Company, 107 NLRB 1486.

appropriate unit,¹² or may appropriately be included in the plantwide unit.

In view of the foregoing, we shall make no final unit determinations at this time, but shall direct that the questions concerning representation be resolved by separate elections by secret ballot among the employees in the following groups of employees at the Employer's Columbus, Ohio, plant, excluding from each group all office and office clerical employees,¹³ professional employees, guards, and all supervisors as defined in the Act:

Group (a): All powerhouse employees.

Group (b): All toolroom (tool department) employees.

Group (c): All maintenance employees, including the zone maintenance men, but excluding those employees in voting groups (a) and (b), above.

Group (d): All production employees.

If a majority of the employees in voting group (a) vote for the Operating Engineers or if a majority in voting groups (b) or (c) vote for the IAM, they will be taken to have indicated their desire to constitute a separate appropriate unit or units, and the Regional Director conducting the elections herein is instructed to issue a certification of representatives to such labor organization or organizations for such unit or units, which the Board under the circumstances finds to be appropriate for purposes of collective bargaining. If the employees in voting groups (a) through (c) vote in each instance for the union seeking to represent them separately and if a majority of the employees in voting group (d) also elect to be represented by a union, then the Regional Director is instructed to issue a certification of representatives to such union for a separate unit of production employees, which the Board under the circumstances finds to be appropriate for purposes of collective bargaining.

However, if a majority of the employees in any of the voting groups (a) to (c) do not vote for the union seeking to represent them in a separate unit, such group or groups will be appro-

¹²In addition to the maintenance employees listed above who report to the maintenance supervisor, there are certain zone maintenance repairmen who work in a particular production zone or area of the plant doing relatively unskilled maintenance work. These maintenance employees report directly to the production supervisors. The fact that they are assigned to work in production areas and work with the production employees does not require their exclusion from the maintenance unit. See *National Carbon Company, supra*. In fact, as these employees do maintenance work only, we find that their interests are more closely allied to those of the other maintenance employees than to those of the production employees. Accordingly, we shall include them in the voting group (c) set forth below.

¹³The parties stipulated that the employees in the following classifications are office clerical employees: General duty clerks, plant area clerks, stenographers, general typists, time clerks, routine clerks, posting machine operators, secretary-stenographers, file clerks, production clerks, tool estimators, accounting time clerks, order clerks, accounting clerks, senior accounting clerks, traffic clerks, and all special-duty clerks.

privately included in the same unit with the employees in voting group (d) and their votes will be pooled with those in voting group (d).¹⁴ The Regional Director conducting the elections is instructed to issue a certification of representatives to the labor organization selected by a majority of the 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 Elections¹⁵ omitted from publication.]

Member Beeson took no part in the consideration of the above Decision and Direction of Elections.

¹⁴Following the hearing in this proceeding, the Board determined to apply in cases such as these the pooling method of tallying ballots which was adopted in American Potash & Chemical Corporation, 107 NLRB 1418, Schering Corporation, Cases Nos. 2-RC-6397, order amending Decision and Direction of Election, dated April 6, 1954 (not reported in printed volumes of Board Decisions and Orders.)

If the votes are pooled, they are to be tallied in the following manner: The votes for the Operating Engineers, which seeks a separate unit only, 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 by a union seeking the comprehensive unit or for no union.

¹⁵With the exception of the Operating Engineers, which desires to be on the ballot for voting group (a) only, all unions wish to appear on the ballots for voting groups (b), (c), and (d). At the hearing, the IAM, the IBEW, and the UE stated that they did not desire to be placed on the ballot for voting group (a), the powerhouse group. The IUE, however, wishes to compete for these employees. Contrary to the situation at the time of the hearing in this proceeding, the results of the election for the powerhouse group may now, under the recently adopted pooling method of tallying ballots, affect the results of the election for the production group for which the IAM, the IBEW, and the UE, as well as the IUE, wish to compete. Consequently, we shall place the IAM, the IBEW, and the UE on the ballot for voting group (a). However, as these unions originally requested that they not be placed on the powerhouse group ballots, we shall permit them, upon prompt request to the Regional Director, to have their names removed from these ballots.

J. W. DICKEY AND R. L. ROUND, doing business as OHIO HOIST AND MANUFACTURING COMPANY, A PARTNERSHIP, AND OHIO HOIST & MFG. CO., INC., A CORPORATION and INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL. Case No. 8-CA-856. April 28, 1954

DECISION AND ORDER

On January 11, 1954, Trial Examiner Arthur E. Reyman issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent Partnership and its successor, the Respondent Corporation, had engaged in certain unfair labor practices and recommending that the Respondent Corporation cease and desist therefrom and that both Respond-