

OTIS ELEVATOR COMPANY, *and* LOCAL #6, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL *and* LOCAL LODGES 68, 1327, 1176, 1330, 284, 824, 1566, 1518 and 1173, DISTRICT 115, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL. Case No. 20-RM-135. June 15, 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 Robert V. Magor, 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.<sup>1</sup>

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 requests a determination of representatives in a unit which it alleges as consisting of the electrical production workers in the electrical department of its San Francisco plant.

The Employer manufactures elevators in the works department of its San Francisco plant. This department comprises six operating units, i.e., shipping department, stockroom, machine shop, welding shop, carpenter shop, and electrical department. Prior to October 1953, the electrical department consisted of a foreman, two journeymen electricians, and an apprentice, and was located, together with the other departments, on the first floor of the plant. These electricians are responsible for maintenance of the plant's electrical equipment, perform wiring, and repair and rebuild the electrical parts of elevators. They also spend a substantial portion of their time performing the purely production task of assembling elevator controllers.<sup>2</sup>

In October 1953, in furtherance of a plan to expand production of elevator controllers, the Employer moved the electrical department into a larger area on the second floor of the plant. Since that time, the Employer has added four employees in a new employee category, "controller assembler," to the

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<sup>1</sup> The Unions, Local #6, International Brotherhood of Electrical Workers, AFL, and the local lodges of District 115, International Association of Machinists, AFL, are hereinafter referred to as the IBEW and the IAM respectively.

<sup>2</sup> An elevator controller is an elaborate, custom made, electrical mechanism which controls the operation of an elevator. The construction of each controller is performed by a single employee, who spends from 40 to 60 working hours in its completion.

department's employee complement. All the employees in the new category have had prior experience in the electrical industry.<sup>3</sup> They are not, however, required to possess the knowledge or skill of a journeyman electrician. Although it is possible for employees to progress from the classification of controller assembler to journeyman electrician, they are not required to undergo any formalized training nor is there any such program provided for them as there is in the case of the Employer's one apprentice electrician. The controller assemblers work side by side with and perform the same duties as the journeymen electricians in the assembly of elevator controllers, but perform none of the other duties of the electricians. From these facts it is apparent that the controller assemblers, though possessing some degree of electrical skill, are not craftsmen.

Most of the Employer's production employees are covered by an associationwide contract with the IAM.<sup>4</sup> Employees in the electrical department have been covered since 1946 by a contract between the Employer and the IBEW. On October 1, 1953, the Employer and the IBEW amended their current contract specifically to include the category of controller assemblers, and thereafter the Employer procured the personnel to fill these new positions through the IBEW. The conditions of employment provided by the IBEW contract, including its pension plan, have since that time been applied to the controller assemblers. The IAM, however, asserts that because the controller assemblers are solely engaged in production tasks, they are therefore part of the production unit covered by its contract.<sup>5</sup>

The facts above set forth show that the issues in this case arise from the creation of the new employee category of controller assembler and the rival claims of the two incumbent Unions to represent the employees hired to fill this position.<sup>6</sup> It is clear that, on the one hand, as the controller assemblers perform solely production tasks they may properly be included within the unit of production employees represented by the IAM. On the other hand, there is evidence in the record to indicate that the unit represented by the IBEW since 1946 has been co-

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<sup>3</sup> The Employer estimates that it would take 2 years to train a person to perform intelligently the duties of a controller assembler.

<sup>4</sup> The IAM contract does not cover two carpenters and a truckdriver, as to whom the Employer follows the Carpenter's and Teamster's area practice. It also provides for the exclusion of employees specifically represented by other unions.

<sup>5</sup> The IAM also asserts that its current contract, which became effective on May 16, 1953, is a bar to this proceeding. The category of controller assembler, however, was not in existence when the contract was executed, and there is no evidence that the parties contemplated the addition of this classification at that time. Under these circumstances, we find that the IAM's contract is not a bar to this proceeding. *International Harvester Company*, 94 NLRB 907 at 908; *Victor Electric Products, Inc.*, 79 NLRB 373, footnote 1.

<sup>6</sup> There appears to be no question as to the representation by the IBEW of the journeymen electricians and apprentice within the unit covered by its contract.

extensive with the electrical department,<sup>7</sup> and there are certain factors which tend to show that the controller assemblers possess a substantial community of interest with the other employees in the electrical department.<sup>8</sup> Under all the circumstances, we find that the controller assemblers may appropriately be represented either as part of the production unit represented by the IAM or as part of a unit comprising the electrical department represented by the IBEW.<sup>9</sup> We shall make no determination at this time but shall first ascertain the desires of the controller assemblers in the election hereinafter directed.

We therefore direct an election in a voting group composed of the controller assemblers. If a majority vote for the IAM, they will be taken to have indicated their desire to be a part of the production unit, and the IAM may bargain for them as part of its existing unit. If a majority vote for the IBEW, they will be taken to have indicated their desire to be a part of the electrical department unit, and the IBEW may bargain for them as part of its existing unit.

[Text of Direction of Election omitted from publication.]

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<sup>7</sup>The IBEW contracts, though not clearly disclosing whether the unit intended to be covered has been craft or departmentwide in scope, nevertheless have listed among the included categories not only the journeymen electricians and apprentices but also the apparently less skilled or unskilled categories in the department, such as coil winders and shop laborers. Although for 2 years or more, the Employer has not employed coil winders or shop laborers, such categories have in fact been employed by the Employer in the electrical department during its representation by the IBEW.

<sup>8</sup>In addition to the facts mentioned before, the record shows that the controller assemblers and the rest of the employees in the electrical department are separately supervised, separately located, perform a type of work not performed elsewhere in the plant, have separate facilities, and carry out almost all of their duties within the confines of the electrical department.

<sup>9</sup>Board Member Murdock would find that the controller assemblers may appropriately be included in the production unit represented by the IAM but not in the unit currently represented by the IBEW, for the following reasons: (1) The unit currently represented by the IBEW includes only craftsmen and their apprentices, (2) the controller assemblers are not craftsmen but perform the purely production task of assembling elevator controllers. In these circumstances Member Murdock would find that the controller assemblers may not be added to the craft unit represented by the IBEW and would direct an election only to determine whether or not these employees desire to be represented as part of the production unit currently represented by the IAM.

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HUNT HEATER CORPORATION *and* INTERNATIONAL UNION,  
UNITED AUTOMOBILE WORKERS OF AMERICA, A. F. OF  
L. Cases Nos. 10-CA-1616 and 10-CA-1749. June 18, 1954

### DECISION AND ORDER

On March 15, 1954, Trial Examiner John H. Eadie issued his Intermediate Report in the above-entitled proceeding,