

In the Matter of WESTINGHOUSE ELECTRIC CORP., EMPLOYER *and*
CHICAGO WESTINGHOUSE EMPLOYEES' ASSOCIATION, AFFILIATED
WITH THE FEDERATION OF WESTINGHOUSE INDEPENDENT SALARIED
UNIONS, PETITIONER

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*Cases Nos. 13-R-4215, 13-R-4238, and 13-R-4239, respectively.—
Decided June 13, 1947*

*Messrs. Job Taylor, II, and G. C. Moore, of Pittsburgh, Pa., and
Mr. S. H. Stevenson, of Chicago, Ill., for the Employer.*

*Mr. Harry C. Jones, of Pittsburgh, Pa., and Mr. Clarence F. Schutz,
of Elmwood Park, Ill., for the Petitioner.*

*Mr. David Scribner, of New York City, by Mr. Leo Turner, of Chi-
cago, Ill., for the Intervenor.*

Mr. Bernard L. Balicer, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

Upon petitions duly filed, hearing in these consolidated cases was held at Chicago, Illinois, on March 26, 1947, before Robert E. Ackerman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

Upon the entire record in the case, the National Labor Relations Board makes the following:

¹At the hearing the Petitioner moved, without objection, to withdraw its petition in Case No. 13-R-4239, in which it sought to represent the Employer's time-study employees in a separate unit. The hearing officer reserved for the Board ruling on the motion. The motion is hereby granted.

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

The Employer is a Pennsylvania corporation, with its principal offices located at Pittsburgh, Pennsylvania. It is engaged in the manufacture, sale, and repair of electrical equipment and other products which are sold throughout the United States. The Employer has manufacturing plants located in various States of the United States, including Pennsylvania, New York, New Jersey, Maryland, Ohio, West Virginia, Illinois, and California.

At its offices, plant, and warehouse at West Pershing Road, Chicago, Illinois, the only operations of the Employer involved in these proceedings, the Employer is engaged in the manufacture, repair, and warehousing of electrical equipment. The materials used and products warehoused at this plant are shipped from places in Illinois and other States. Shipments from points outside the State of Illinois annually exceed \$1,000,000 in value. Finished products are shipped from the plant to places in Illinois and other States, shipments to points outside Illinois being in excess of \$1,000,000 annually.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the Federation of Westinghouse Independent Salaried Unions, claiming to represent employees of the Employer.

United Electrical, Radio and Machine Workers of America, herein called the Intervenor, is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION ; THE DETERMINATION OF REPRESENTATIVES

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Petitioner desires a unit of all salaried clerical and technical employees, including mechanical and electrical engineers and time-

study engineers,² but excluding certain salaried pay-roll clerks, six confidential secretaries, and supervisory employees. Although the Petitioner urges that mechanical and electrical engineers be included in the over-all clerical and technical unit,³ in the alternative, it desires to represent them as a separate appropriate unit.⁴

The Employer agrees generally to the unit sought by the Petitioner, but contends that the mechanical and electrical engineers constitute a separate appropriate unit. In the alternative, it urges that a self-determination election be directed among the engineers to determine their desires as to inclusion in the over-all clerical and technical unit. The Employer also contends that the inclusion of time-study engineers in any unit is inappropriate, on the ground that they are confidential and managerial employees.

The Intervenor seeks a unit comprised of all salaried clerical and technical employees, excluding only four confidential secretaries.⁵

We turn now to a consideration of the units and the disputed categories of employees.

Pay-roll clerks: In the normal performance of their duties, two salaried pay-roll clerks in the accounting department have access to information concerning the salaries of all salaried employees in the Employer's Northwestern District, which comprises several States. These clerks work in a separate office, access to which is available only to the manager of the accounting department and the factory accountant who directly supervises their work. The Employer contends that these pay-roll clerks are confidential employees and should, therefore, be excluded from the unit. The Petitioner concurs in seeking their exclusion, whereas the Intervenor desires them to be included. Inasmuch as the pay-roll clerks in question do not act in a confidential capacity to persons exercising managerial functions in the field of labor relations, we find that they are not confidential within the Board's accepted definition. We shall include them.

Secretaries: The Intervenor would include in the unit the secretary to the shop superintendent and the secretary to the office manager of the West Pershing Road plant. Aside from the district manager, the shop superintendent is the principal management officer at the plant. He is a member of the grievance and negotiating committee for the hourly paid employees.⁶ As part of her normal duties, his secretary prepares memoranda setting forth the position to be taken by the Employer in labor negotiations. She acts as the official reporter for

² Upon the motion of Petitioner, the petition in Case No. 13-R-4215 was amended at the hearing to include time-study engineers.

³ Case No. 13-R-4215.

⁴ Case No. 13-R-4238.

⁵ There are approximately 130 employees in the alleged appropriate unit.

⁶ The hourly paid employees are now represented by the Intervenor.

meetings of the wage coordinating committee and frequently sits in on job and salary classification meetings.

The secretary to the office manager acts as the regular substitute for the secretary to the district manager and the supervisor of industrial relations. From time to time she is called upon to take dictation and to transcribe confidential memoranda relating to the Employer's position on labor relations matters.

We are of the opinion that the secretary to the shop superintendent and the secretary to the office manager are confidential employees within the Board's customary definition of that term, and, accordingly, we shall exclude them from the unit.

The parties agree that the respective secretaries to the industrial relations supervisor, the manager of the accounting division, the manager of the warehouse division, and the maintenance and repair district manager are confidential employees and should be excluded. We shall exclude them.

Time-study engineers: Inasmuch as their duties and interests usually differ, we have generally excluded time-study men from units of office and clerical, technical, and production employees. We see no reason to depart from our custom in the instant proceeding and, accordingly, shall exclude the time-study engineers from the unit sought.⁷

Mechanical and electrical engineers: There are approximately 11 employees in this category. They design equipment, compute job costs, and furnish all price quotations on material manufactured in the Employer's Northwestern District plants. The engineers then direct draftsmen in the engineering department in reducing the design to blueprints and drawings from the engineers' rough schematic diagrams or pencilled sketches. Although each engineer has from 1 to 6 draftsmen assigned to his direction, none of the parties contends that the engineers are supervisory employees within the Board's customary definition thereof. The engineers must have an engineering degree or its equivalent in experience and there is an average difference in pay of approximately 50 percent between the engineers and the draftsmen. The record shows that the duties of the engineers and draftsmen are technical in nature, that both classifications work in close association with one another, and that the work of one group complements that of the other. However, as indicated above, the record also shows that the qualifications, duties, and responsibilities of the engineers are substantially greater than those of the draftsmen. Under these circumstances, we are of the opinion that the electrical and mechanical engineers may properly comprise a separate unit or, on the other hand, they may

⁷ *Matter of Federal-Mogul Corporation*, 53 N. L. R. B. 359.

function effectively for collective bargaining purposes as part of the over-all clerical and technical unit. Under these circumstances, our unit determinations will depend, in part, upon the desires of the employees expressed in separate elections in the voting groups hereinafter set forth. Accordingly, we shall make no final determination of the appropriate unit at this time but shall defer such determination pending the outcome of the elections ordered hereinafter.⁸

We shall direct that separate elections by secret ballot be held among the employees of the Employer's West Pershing Road plant, Chicago, Illinois, in the voting groups described below, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

(1) All mechanical and electrical engineers.

(2) All salaried clerical and technical employees, including salaried pay-roll clerks, but excluding the respective secretaries to the industrial relations supervisor, the manager of the accounting division, the manager of the warehouse division, the maintenance and repair district manager, the office manager and the shop superintendent, time-study engineers, and mechanical and electrical engineers.

As stated above, there will be no final determination of the appropriate unit or units of engineers and clerical and technical employees pending the results of the elections.

DIRECTION OF ELECTIONS⁹

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric Corp., West Pershing Road, Chicago, Illinois, elections by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Thirteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, among the employees in the voting groups found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States

⁸ *Matter of Westaco Chlorine Products Corporation*, 63 N. L. R. B. 763, and cases cited therein

⁹ Any participant in the election herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot

who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Chicago Westinghouse Employees' Association, affiliated with the Federation of Westinghouse Independent Salaried Unions, or by United Electrical, Radio and Machine Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Elections.