

organization, to join or assist INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW-CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the National Labor Relations Act.

NEIL J. KUNST, LLOYD NORTON AND
LORETTA S. KUNST, Co-Partners, d/b/a
CONNOR FOUNDRY COMPANY, a co-partnership,
Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

THE AMERICAN DISTRICT TELEGRAPH COMPANY OF PENNSYLVANIA *and*
INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORK-
ERS, CIO. *Case No. 6-CA-515. July 14, 1952*

Decision and Order

On February 28, 1952, Trial Examiner C. W. Whittemore issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

The Board¹ has reviewed the rulings of the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed.² The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in this case,³ and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

¹ Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Styles and Peterson].

² The Trial Examiner rejected the Respondent's proffer of evidence pertaining to certain of the issues in this proceeding. As there is no contention or showing that such proffered evidence was not available to the Respondent at the time of the hearing in the earlier representation proceeding, this ruling is hereby affirmed. *N. L. R. B. v. West Kentucky Coal Company*, 152 F. 2d 198 (C. A. 6).

³ As the record and the exceptions and brief, in our opinion, adequately present the issues and the contentions of the parties, the Respondent's request for oral argument is hereby denied.

Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, The American District Telegraph Company of Pennsylvania, Pittsburgh, Pennsylvania, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Union of Electrical, Radio and Machine Workers, CIO, as the exclusive representative of all plant department and operating department employees employed by it at Pittsburgh, Pennsylvania, excluding office clerical and sales employees, and supervisors as defined in the Act, with respect to rates of pay, wages, hours of work, and other conditions of employment.

(b) In any manner interfering with the effort of International Union of Electrical, Radio and Machine Workers, CIO, to bargain collectively with the Respondent on behalf of the employees in the aforesaid appropriate unit.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with International Union of Electrical, Radio and Machine Workers, CIO, as the exclusive representative of the employees in the above-described appropriate unit, with respect to their rates of pay, wages, hours of work, and other conditions of employment, and embody in a signed agreement any understanding reached.

(b) Post at its place of business at Pittsburgh, Pennsylvania, copies of the notice attached to the Intermediate Report, marked "Appendix A."⁴ Copies of said notice, to be furnished by the Regional Director for the Sixth Region, shall, after being duly signed by the Respondent's representative, be posted by the Respondent immediately upon the receipt thereof, and maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for the Sixth Region, in writing, within ten (10) days from the date of this Order, what steps the Respondent has taken to comply herewith.

⁴This notice, however, shall be amended by striking therefrom the words "The Recommendations of a Trial Examiner" and substituting therefor the words "A Decision and Order." In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

Intermediate Report**STATEMENT OF THE CASE**

Charges having been duly filed and served, a complaint and notice of hearing thereon having been issued and served by the General Counsel of the National Labor Relations Board, and an answer having been filed by the above-named Company, herein called the Respondent, a hearing involving allegations of unfair labor practices in violation of Section 8 (a) (1) and (5) of the National Labor Relations Act, as amended, 61 Stat. 136, herein called the Act, by the Respondent, was held in Pittsburgh, Pennsylvania, on January 28, 1952, before the undersigned Trial Examiner.

In substance the complaint alleges that the Respondent, since October 26, 1951, has refused to bargain collectively with the Union as the exclusive representative of employees in an appropriate unit, and thereby has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed by the Act. In substance, the answer denies that the Board has jurisdiction, admits that the Respondent has refused to bargain, but avers that the unit found appropriate by the Board in September 1951, in its Decision and Direction of Election,¹ was in fact and law inappropriate.

At the hearing all parties were represented, were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence pertinent to the issues, to argue orally upon the record, and to file briefs and proposed findings and conclusions. A brief has been received from the Respondent.

Upon the entire record in the case and from his observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT**I. THE BUSINESS OF THE RESPONDENT**

The American District Telegraph Company of Pennsylvania, a Pennsylvania corporation, is a wholly owned subsidiary of American District Telegraph Company of New Jersey. It operates in Allentown, Erie, Philadelphia, Pittsburgh, Reading, and Scranton, all of Pennsylvania. It supplies various forms of electric protection services by means of which the premises of its customers are safeguarded against burglary and fire. Such services are furnished to a substantial number of manufacturing concerns, retail and wholesale establishments, warehouses, office buildings, banks and other financial institutions, and miscellaneous customers, many of which the Board has previously found to be engaged in commerce within the meaning of the Act. The Respondent's gross revenue in 1950 was \$936,430.

In accordance with the Board's finding in the above-cited case the Trial Examiner now finds, despite the Respondent's contention to the contrary, that it is engaged in commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

International Union of Electrical, Radio and Machine Workers, CIO, is a labor organization within the meaning of the Act.

III. THE UNFAIR LABOR PRACTICES

The complaint alleges, the Board has found, and in accordance with the Board's above-cited determination the Trial Examiner now finds that all plant depart-

¹ *The American District Telegraph Company of Pennsylvania*, 96 NLRB No. 3.

ment and operating department employees employed by the Respondent at Pittsburgh, Pennsylvania, excluding office clerical and sales employees, and supervisors as defined in the Act, constitute a unit appropriate for the the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

A Board election was conducted on September 27, 1951, the Union received a majority of the votes, and the Union was certified on October 5, 1951. In accordance with the certification the Trial Examiner finds that since September 27, 1951, the Union has been, and now is, the exclusive representative designated and selected by a majority of the employees in the appropriate unit, within the meaning of Section 9 (a) of the Act.

On October 22 and thereafter the Union requested the Respondent to bargain. On October 26, 1951, and at all times since, the Respondent admits in its answer, it has refused to bargain collectively with the Union.

The Respondent claims that it has refused and is refusing to bargain with the Union because the Board erred in finding it engaged in commerce and in its determination of the unit. The Trial Examiner does not consider that the merit of such claims is before him for determination but, instead, that he serves as a medium through whom the question of such merit may reach the Board for its consideration.

The Trial Examiner therefore concludes and finds that on October 26, 1951, and at all times since, the Respondent has refused to bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit, and that by such refusal the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed by the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent, set forth in section III, above, occurring in connection with the operations of the Respondent described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

It has been found that the Respondent has engaged in the unfair labor practice of refusing to bargain collectively with the chosen representative of its employees. It will therefore be recommended that it cease and desist therefrom and from like and related conduct. It will further be recommended that the Respondent bargain collectively, upon request, with the Union as the exclusive representative of its employees in the aforesaid appropriate unit.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Trial Examiner makes the following:

CONCLUSIONS OF LAW

1. International Union of Electrical, Radio and Machine Workers, CIO, is a labor organization within the meaning of Section 2 (5) of the Act.
2. All plant department and operating department employees employed by the Respondent at Pittsburgh, Pennsylvania, excluding office clerical and sales employees, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of the Act.
3. International Union of Electrical, Radio and Machine Workers, CIO, was, on September 27, 1951, and at all times since has been the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

4. By refusing on and after October 26, 1951, to bargain collectively with the aforesaid Union as the exclusive representative of the employees in the appropriate unit, the Respondent has engaged in and is engaging in an unfair labor practice within the meaning of Section 8 (a) (5) of the Act.

5. By the aforesaid unfair labor practice, the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act, thereby engaging in an unfair labor practice within the meaning of Section 8 (a) (1) of the Act.

6. The aforesaid unfair labor practices affect commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication in this volume.]

Appendix A

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL bargain collectively upon request with INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, as the exclusive representative of all employees in the bargaining unit described herein, with respect to grievances, labor disputes, wages rates of pay, hours of employment, and other conditions of employment, and if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All plant department and operating department employees employed at Pittsburgh, Pennsylvania, excluding office clerical and sales employees, and supervisors as defined in the Act.

WE WILL NOT in any manner interfere with the efforts of the above-named union to bargain collectively with us, or refuse to bargain with said union, as the exclusive representative of all our employees in the bargaining unit set forth above.

THE AMERICAN DISTRICT TELEGRAPH COMPANY OF PENNSYLVANIA,

Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

LADISH CO. and CUDAHY FORGERS LOCAL #509, INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS AND HELPERS, AFL, PETITIONER. *Case No. 13-RC-2591. July 14, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before William D. Boetticher, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.