

time employees as that term is used by the Board. We shall therefore amend our Decision and Direction of Election to exclude them from the unit.

Order

IT IS HEREBY ORDERED that the Decision and Direction of Election herein be amended by striking footnote 1, and by amending the description of the appropriate unit to read as follows:

All grocery employees employed at the Employer's retail stores in Montgomery County, Ohio, including part-time clerks who have worked during at least 18 separate weeks preceding the Decision and Direction of Election, but excluding part-time clerks who have worked for the Employer less than 18 weeks, meat department employees, guards, professional employees, store managers, assistant store managers, perishable food managers, and all other supervisors as defined in the Act.

MEMBERS RODGERS and BEESON took no part in the consideration of the above Order Amending Decision and Direction of Election.

WESTINGHOUSE ELECTRIC CORPORATION¹ and INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, PETITIONER.²
Cases Nos. 4-RC-2391 and 4-RC-2449. October 25, 1954

Decision and Direction of Election

Upon consolidated petitions duly filed under Section 9 (c) of the National Labor Relations Act,³ a hearing was held before Eugene M. Levine, hearing officer. 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 case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

¹ The name of the Employer appears as amended at the hearing.

² Herein referred to as I. U. E

³ At the hearing, over the Employer's objection, the hearing officer correctly permitted the I. U. E. to amend its unit request

Section 4 (b) of the petition (4-RC-2391) was amended at the hearing to read "lamps" in lieu of "electronics"

⁴ Prior to, and throughout the hearing, it appeared that the parties might agree to a consent election, but due to the fact that they were unable to resolve their differences as to the appropriate unit and the time for holding such an election, no agreement was forthcoming. Based upon an alleged attempt by the Petitioner to stall a consent election by shifting its unit request at the hearing (as noted hereinafter), and refusing to agree to an election date, the Intervenor moved to dismiss the proceeding on the ground that the Petitioner filed its petition in bad faith, and, thus, abused the Board's processes. However, as the record shows that the negotiations for a consent election failed, at least in part, because of the inability of the parties to agree on the composition of the unit, we are not satisfied that the Petitioner has shown bad faith. Accordingly, the Intervenor's motion is hereby denied.

2. The labor organizations involved claim to represent certain employees of the Employer.⁵

3. The U. E. urges its 1950 contract, as amended by a 1953 supplement containing a June 30, 1954, termination date, as a bar to this proceeding. It contends that, since neither party gave notice to terminate pursuant to the 60-day automatic renewal clause, the contract was automatically renewed. The record discloses, however, that the Petitioner notified the Employer of its claim on April 30, 1954, and filed its petition with the Board on May 7, 1954. Accordingly, as the claim herein was made prior to the Mill-B date, and the petition was thereafter timely filed, we find that the contract is not a bar to a present determination of representatives.⁶

We therefore find that 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. Since 1940, the production, maintenance, and warehouse employees employed at the Employer's Trenton, New Jersey, plant and warehouse, including group leaders, the lead wire clerks, and the coil clerk, have been represented and bargained for in a production and maintenance unit by the intervening U. E.⁷ The Petitioner herein seeks, pursuant to its amended unit request, to represent, with the usual exclusions, these same employees, plus office and clerical employees of the Employer "at its Trenton, New Jersey, plants." This request was interpreted by the Petitioner to mean "all factory employees and warehouse employees who are now in the bargaining unit, and, in addition, all white collared employees in both the warehouse and the main plant on Pennington Avenue, and the same unit in any future plants that may be erected by the Company or operated by the Company within Trenton, New Jersey." The U. E. and the Employer contend that only the production and maintenance contractual unit is appropriate. The I. U. E. stated that, as an alternate, it would accept this unit.⁸

In view of the fact that the Board has consistently held that office clerical employees should not properly be included in a production and maintenance unit,⁹ and as we find nothing in this case that war-

⁵ Local 443, United Electrical, Radio and Machine Workers of America, herein referred to as U. E., was permitted intervention based upon its contractual relations with the Employer

⁶ See *Little Rock Furniture Manufacturing Company*, 80 NLRB 65

⁷ The record discloses that plant clerical employees have been included in this unit, although not specifically referred to as such, and that this unit was found appropriate and subsequently certified by the Board in 1950. See *Westinghouse Electric Corporation*, 89 NLRB 8 at 26

⁸ As noted hereinafter, we are not directing an election in the amended unit. We therefore deem it unnecessary to pass upon the Employer's motion to dismiss the petition based upon the "unrealistic" nature of the Petitioner's amendment.

⁹ *Western Electric Company, Inc.*, 85 NLRB 227.

rants a departure from this rule, we shall, accordingly, exclude office clerical employees from the unit.

In connection with the Petitioner's request that employees in any future plants erected by the Employer in the Trenton area be included in the unit, we note that no evidence was adduced at the hearing with respect to any prospective company expansion. However, even if the Employer was anticipating new locations in the Trenton area, we are of the opinion that the propriety of including in the unit employees of any such plants should be decided in future proceedings for clarification of the certification or redetermination of the appropriate unit.¹⁰ We shall, therefore, confine the unit here found appropriate to the Employer's present Trenton, New Jersey, plant.

We find that all production, maintenance, and warehouse employees of the Employer at its Trenton works, 400 Pennington Avenue, Trenton, New Jersey, including group leaders, the lead wire clerks, and the coil clerk, but excluding all office clerical employees, technical employees, guards, professional employees, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication.]

¹⁰ See *The Conner Lumber and Land Company*, 90 NLRB 283.

THE HITCHCOCK CORPORATION *and* INTERNATIONAL CHEMICAL WORKERS UNION OF AMERICA, A. F. OF L., PETITIONER. *Case No. 11-RC-605. October 25, 1954.*

Supplemental Decision and Certification of Representatives

Pursuant to a Decision and Direction of Election issued by the Board on July 6, 1954,¹ an election by secret ballot was conducted on July 23, 1954, under the supervision of the Regional Director for the Eleventh Region among the employees in the appropriate unit at the Employer's operations in Murphy, North Carolina. Upon the conclusion of the election, the parties were furnished with a tally of ballots, which showed that, of approximately 40 eligible voters, 26 voted for, and 7 against, the Petitioner and 23 ballots were challenged. The number of challenged ballots was sufficient to affect the results of the election.

The Employer filed timely objections to conduct of the Petitioner allegedly affecting the results of the election. In accordance with the

¹ Not reported in printed volumes of Board Decisions and Orders.