

tained or was attempting to obtain economic discrimination against particular employees, we have found such conduct proscribed by Section 8 (b) (1) (A)."

By engaging in the acts and conduct found above, the Union thereby committed and is committing unfair labor practices in violation of Section 8 (b) (1) (A) of 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 activities of the Company 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

Having found that the Respondent has violated Section 8 (b) (1) (A) of the Act, it is recommended that it be ordered to cease and desist therefrom, and that it take certain affirmative action designed to effectuate the policies of the Act.

The nature and variety of the unfair labor practices committed by the Respondent indicate a general purpose to limit the lawful rights of employees and persuade the Trial Examiner that such practices are potentially related to similar unfair labor practices, the future commission of which may be reasonably anticipated from the Respondent's past course of conduct. The preventive purposes of the Act will be thwarted unless the recommended order is coextensive with the threat. It is therefore recommended that a broad cease and desist order issue against the Respondent.

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

CONCLUSIONS OF LAW

1. United Mine Workers, District 50, Local 12824, is a labor organization within the meaning of Section 2 (5) of the Act.
2. Eagle Manufacturing Corporation is engaged in commerce as defined in Section 2 (6) and (7) of the Act.
3. By restraining and coercing the employees of Eagle Manufacturing Corporation in the exercise of their rights guaranteed by Section 7 of the Act, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

A. D. T. Company,¹ and International Brotherhood of Electrical Workers, Local 369, AFL, Petitioner. Case No. 9-RC-2328.
April 12, 1955

DECISION AND ORDER

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

Upon the entire record in this case, the Board finds:

1. The Employer, a Kentucky corporation with its principal office in Louisville, Kentucky, is the wholly owned subsidiary of the American District Telegraph Company, a New Jersey corporation. The American District Telegraph Company is also the parent of a number of wholly owned subsidiary corporations incorporated in and operat-

¹ Name of Employer appears as amended at the hearing.

ing in other States throughout the United States. The Employer and all the subsidiary corporations except one are engaged in the same business: the furnishing to customers of protection service against fires and unlawful entry to premises by means of electrical devices.

During 1954, the Employer furnished services in Kentucky valued at more than \$200,000 to 69 customers. The direct outflow of each of the 69 customers was sufficient, under the recently announced *Jonesboro* standard,² to warrant the assertion of the Board's jurisdiction over all of them. Accordingly, we find that the Employer is engaged in commerce within the meaning of the Act, that the jurisdictional standards of the Board have been satisfied, and that it will effectuate the purposes of the Act to assert jurisdiction herein.³

2. The labor organization involved claims to represent certain employees of the Employer.

3. No 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.

The Petitioner seeks to represent a unit of all employees in the Employer's plant department. The Employer contends, among other things, that these employees are guards, and that the Petitioner is therefore barred by the Act from representing them because the Petitioner admits to membership employees other than guards. That the Petitioner admits to membership employees other than guards is not disputed.

As indicated above, the Employer supplies to its customers protection against fire and unlawful entry by means of electrical devices. These devices are installed and maintained on a customer's property by the Employer. Signals originating from the devices are transmitted to the Employer's central station. When a signal is received by the Employer indicating a fire or a possible break in, an employee is dispatched to the customer's premises, and depending on the type of alarm, either the police or fire department is also notified. To operate and maintain this type of protective service, the Employer's operations have been divided into three departments: operating, plant, and commercial.

The Employer's operating department functions on a 24-hour basis. The guard-operators who are assigned to this department are uniformed and armed. Their basic job function is to man the Employer's central station and answer emergency alarms. In answering

² *Jonesboro Grain Drying Cooperative*, 110 NLRB 481.

³ *Jonesboro Grain Drying Cooperative*, *supra*

In view of our findings in the text, it is unnecessary for jurisdictional purposes to determine whether the Employer is an integral part of a multistate enterprise. See *N L R B. v. American District Telegraph Company*, 205 F. 2d 86 (C. A. 3), and *A. D. T. Company*, 73 NLRB 265, where it was found that individual subsidiaries of the A. D. T. system were integral parts of a coordinated operation.

an alarm the guard-operators make what is technically described as a "run" in an emergency type vehicle. Upon arrival at the establishment where the alarm originated, they are required to conduct an investigation to determine the cause of the alarm and to restore as quickly as possible the electrical, protective service. In his investigation the guard-operator is accompanied by either a policeman or a fireman. If a watchman is missing from his post or is incapacitated for duty, or if the electrical service cannot be immediately restored, the guard-operator will patrol the customer's premises until another watchman is obtained or the electrical service is restored. During the period September 1, 1953, to August 31, 1954, the personnel in the operating department made 6,116 "runs." From the foregoing facts it is apparent that the guard-operators have as their primary function the protection of customer's property from fire and unlawful entry. They are, therefore, guards within the meaning of Section 9 (b) (3) of the Act.⁴

The Employer's plant department is operated during the hours of 8 a. m. to 5:30 p. m. However, all employees in the plant department are subject to emergency calls at anytime during the day or night. One employee regularly works until 9 p. m. The basic job function of the plant department employees is to install, test, and repair or replace electrical signaling devices. They are not armed or uniformed. However, in addition to these primary duties they also operate emergency vehicles and answer emergency alarms. During the period September 1, 1953, to August 31, 1954, the personnel in the plant department made 2,797 "runs." These "runs" were similar in all respects to those made by the guard-operators. Plant department personnel made these "runs" either because they were in close proximity to the place where the alarm originated, or because all guard-operators were out on other "runs" at the time. When making a "run" plant department personnel are expected to perform all the duties of a guard-operator and, as in the case of a guard-operator answering an emergency alarm, they are accompanied during their investigation by either a policeman or a fireman.

Although the plant department personnel are not armed or uniformed and their primary function is the installation and maintenance of electrical signaling devices, it is apparent from the above facts that they also operate as guard-operators a substantial portion of their time. Thus, of the 8,913 emergency "runs" during the period September 1, 1953, to August 31, 1954, 2,797, or approximately 31 percent, were made by plant department personnel. And most important, while on these runs, the plant department personnel perform the same duties as guard-operators. We find, therefore, that the plant depart-

⁴ *N. L. R. B. v. American District Telegraph Company, supra; Armored Motor Service Company, Inc.*, 106 NLRB 1139.

ment personnel, inasmuch as they are required to protect property a portion of their time, are also guards within the meaning of the Act.⁵

Accordingly, as the Petitioner admits to membership employees other than guards, we find that the Petitioner is barred by the Act from representing the Employer's plant department employees. We shall, therefore, dismiss the instant petition.

[The Board dismissed the petition.]

MEMBER LEEDOM took no part in the consideration of the above Decision and Order.

⁵ *Waltham Manufacturing Corporation*, 106 NLRB 1383; *American Lawn Mower Co.*, 108 NLRB 1589; *Armored Motor Service Company, Inc.*, *supra*.

Insofar as *American District Telegraph Company*, Case No. 13-RC-3584 (not reported in printed volumes of Board Decisions and Orders), is inconsistent with this case it is hereby overruled.

Simmons Company and Truck Drivers Union, Local No. 413, Affiliated With International Brotherhood of Teamsters, Chauffeurs Warehousemen and Helpers of America, AFL, Petitioner
Simmons Company and United Furniture Workers of America, CIO, Petitioner. *Cases Nos. 9-RC-2387 and 9-RC-2395. April 12, 1955*

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Clifford L. Hardy, 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.¹
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 United Furniture Workers of America, CIO (hereinafter referred to as Furniture Workers), seeks a unit of production and maintenance employees including truckdrivers, and shipping and receiving department employees. The Machinists would represent a unit of the maintenance department employees, while the Truck

¹ District 52, International Association of Machinists, AFL (hereinafter referred to as Machinists), and the Upholsterers' International Union, AFL (hereinafter referred to as Upholsterers), intervened in Case No. 9-RC-2395 on the basis of a showing of interest.