

fits of the employees. Although the treasurer of the Employer holds the same office in The Richardson Company, and three officers of The Richardson Company are on the Employer's board of directors, the general operations of the Employer are directed by its president. The Employer maintains its own accounts and files its tax returns in its own name. It performs services for The Richardson Company in the same manner that it does for several other companies. However, only a small portion of its business is with The Richardson Company. There is no transfer of personnel between the two companies.

In view of the foregoing and upon the entire record, we find that the Employer is not such an integral part of The Richardson Company as to warrant finding them to be a single employer within the meaning of the Act. As the Employer's operations do not meet the jurisdictional standards announced by the Board, it would not effectuate the policies of the Act to assert jurisdiction in this case. Accordingly, we shall dismiss the petition.

[The Board dismissed the petition.]

**Triangle Publications, Inc. (Radio and Television Broadcasting Stations WFIL, WFIL-FM, and WFIL-TV),<sup>1</sup> Petitioner and Philadelphia Local, American Federation of Television and Radio Artists, AFL-CIO. Case No. 4-RM-165. March 27, 1956**

#### DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Julius Topol, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>2</sup>

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

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The Union contends that this proceeding does not lie in that (1) the petition contains no allegation of a claim for recognition; (2) contract negotiations subsequent to a certification cannot constitute such a claim; and (3) no labor organization seeks representation in the unit urged by the Employer to be appropriate.

With regard to (1), the petition was amended at the hearing to include an allegation that the Union had claimed recognition, thus rectifying this nonjurisdictional defect.<sup>3</sup>

Concerning (2), we find on the basis of the bargaining history set forth below that there was a sufficient claim for recognition in the

<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The hearing officer referred to the Board the Union's motion to dismiss the petition. For the reasons stated in paragraph 3, the motion is granted.

<sup>3</sup> *Calcasieu Paper Company, Inc.*, 109 NLRB 1186.

Union's continuing request for a contract covering, *inter alia*, the employees designated in the petition. The Act imposes no limitation with respect to whether a union claiming recognition has at some previous time been certified by the Board.<sup>4</sup>

Moreover, the Union's third contention lacks merit for the unit it claims to represent is broader in scope than the one sought by the Employer and encompasses that unit.<sup>5</sup> Accordingly, we find that the labor organization involved claims to represent 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, for the following reasons:

The Employer in its amended petition requests the Board to find appropriate a unit of all staff talent employees at its Philadelphia, Pennsylvania, stations, comprising specialists and singers regularly or frequently appearing before the microphone, excluding staff announcers and certain other specified classifications. In the alternative, the Employer urges a self-determination election among the above-described employees. The Union urges dismissal of the petition on the ground that the only appropriate unit consists of both announcers and talent employees and the Employer is seeking herein to sever a segment of an existing certified unit.

The bargaining history of the Employer and the Union dates back to 1948, when the Union's predecessor was certified, following a consent election, in a unit of staff announcers. Thereafter, the Employer and the Union entered into a contract covering these employees. In 1953, the Employer and the Union executed another consent-election agreement which established a unit of all employees regularly or frequently appearing before the microphone (announcers and talent employees), but providing that only talent employees were eligible to vote.<sup>6</sup> A majority of these employees voted for the Union, thereby signifying their desire to be represented by the Union in the enlarged stipulated unit. On November 27, 1953, a certification to that effect was issued. Thereafter, the Union submitted a contract to the Employer covering both groups of employees as a single unit but during

<sup>4</sup> *Ibid*

<sup>5</sup> *New York Shipping Association and its Members*, 107 NLRB 364, 374, footnote 3

<sup>6</sup> The agreement specifically provided that the appropriate collective-bargaining unit was one of:

All employees of the Employer appearing frequently or regularly before the microphone or camera at the Employer's radio and TV stations, including but not limited to staff and free lance announcers, actors, singers and specialists but excluding instrumental musicians performing as such, hill billies performing as such, clergymen appearing as such, all other employees, guards and supervisors within the definition of the Act.

The agreement further provided:

It is understood that staff announcers who are represented by the Petitioner shall not be eligible to vote in this election but such representation shall continue regardless of the outcome of the election.

the ensuing negotiations no agreement was ever reached. In December 1954, the Employer questioned the Union's majority status among the talent employees and refused to continue bargaining concerning them. On January 6, 1955, the Employer filed the instant petition. At all material times, the Union was seeking a contract for a single unit of announcers and talent employees as defined in the consent election agreement, and bargaining negotiations were conducted by both parties toward that end.

As a predicate for its petition the Employer urges us to disregard the consent-election agreement and the election which resulted in a merger of the two groups of employees into a single appropriate unit. We find no warrant for such action. It is clear that the existing unit, which was established by agreement of the parties and pursuant to a Board conducted election and for which the parties have bargained for more than a year, includes both announcers and talent employees. Apart from other considerations, the propriety of this unit is well-established by Board precedent.<sup>7</sup>

In support of its petition that a separate unit of talent employees is appropriate, the Employer points to certain differences in duties and working conditions between the talent employees and the announcers. However, these same circumstances were also present in the cited cases where, in considering this identical issue, we held that such circumstances did not overbalance the strong community of interest among all employees appearing regularly or frequently before the microphone. No circumstances appear in this case which warrant a different holding.

Nor do we find merit in the Employer's alternative request that the talent employees again be polled separately to determine if they desire to be "added" to the existing "contractual unit." As we have stated above, by virtue of the prior consent election they have already been "added" to the original contractual unit of staff announcers. In these circumstances, to grant the Employer's request would permit by indirection what could not be done directly, namely, the decertification of a segment of an established unit.<sup>8</sup>

Under all the circumstances, we find that the Employer's petition does not raise a question concerning representation in an appropriate unit and we accordingly grant the Union's motion to dismiss the petition.

Our determination herein makes it unnecessary to consider the other contentions raised by the parties.

[The Board dismissed the petition.]

<sup>7</sup> *Hampton Roads Broadcasting Corporation (WGH)*, 100 NLRB 238; *Neptune Broadcasting Company*, 94 NLRB 1052; *Miami Valley Broadcasting Corp.*, 70 NLRB 1015.

<sup>8</sup> *Campbell Soup Company*, 111 NLRB 234.