

also contends that Darlington did not engage in surveillance because there was no mention of the meeting made to any employee afterward. However, Darlington did in their presence observe the employees at the meeting, and did report the names of several employees to Gahris after leaving the meeting. Moreover, any impression that Darlington may have conveyed initially to the employees that his presence was due to an invitation was immediately dispelled when Darlington was told that he was not invited to this meeting and was asked to leave. As for Gahris, he may not have specifically urged the employees in his interviews with them to reject the Petitioner in the election, but he did tell them of the disadvantages of having a union, thereby clearly implying that they should vote against the Petitioner.⁷

In view of the foregoing, we shall set aside the election and direct the holding of a new election.⁸

[The Board set aside the election held on September 20, 1955.]

[Text of Direction of Second Election omitted from publication.]

MEMBER RODGERS took no part in the consideration of the above Decision, Order, and Direction of Second Election.

⁷ See *Economic Machinery Company, supra*.

⁸ In view of our findings herein, we find it unnecessary to hold a hearing, as requested by the Employer.

Westinghouse Electric Corporation and Westinghouse Salaried Employees Association affiliated with Federation of Westinghouse Independent Salaried Unions, Petitioner. Case No. 4-RC-2791. May 18, 1956

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before William Draper Lewis, Jr., 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 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 Petitioner seeks to sever from the salaried unit at the Employer's Lester, Pennsylvania, plant (South Philadelphia Works); currently represented by the Intervenor, Local 107, United Electrical, Radio & Machine Workers of America (Independent),¹ a technical group consisting of draftsmen, tool designers, technical assistants, and inspectors. The UE contends that these are not technical employees and also that the Petitioner is not a traditional representative of such employees within the purview of the *American Potash* decision.² The Employer and the International Association of Machinists,³ take no position with respect to the appropriate unit.

The Board's records and a stipulation of the parties at the hearing show that, as the result of several elections during the period from 1937 to 1945, the UE became the certified representative for various groups of hourly paid and salaried employees at the Employer's plant here involved, and from 1947 to 1950 bargained for all these employees on a single-unit basis. In 1950 the Employer filed representation petitions alleging as appropriate separate units of hourly paid employees, salaried employees, time-study men, and professional employees. The UE opposed the separation into hourly paid and salaried units, but the present Petitioner, represented as an Intervenor by its parent federation, supported the Employer's position and sought to represent the broad salaried group, including technicals, by appearing on the ballot in an election which the Board directed among the salaried employees.⁴ The Petitioner, however, was not successful in the election and the UE was certified as representative of the salaried unit. In 1952, the Petitioner itself filed a petition seeking to represent the salaried unit,⁵ but was again defeated in a consent election by the UE. On August 12, 1955, the Petitioner filed the present petition seeking to sever from the UE's salaried unit only the technical employees.

Although initially seeking, in this proceeding, only a unit of draftsmen, tool designers, and technical assistants, the Petitioner amended its petition at the hearing to add inspectors to its unit request. Alternatively, the Petitioner requests a single unit of inspectors and a single unit of draftsmen, tool designers, and technical assistants. If neither its primary nor its alternative requests meet the Board's approval, the Petitioner expresses its willingness to represent these categories in any unit the Board finds appropriate.

We believe that the entire record, including the history of representation as disclosed by this and prior cases, clearly indicates that the

¹ Hereinafter referred to as UE.

² *American Potash & Chemical Corporation*, 107 NLRB 1418. In view of our decision set forth hereinafter, we need not determine the technical status of each of the categories sought, nor the various other contentions raised by the parties.

³ The IAM was allowed to intervene on the basis of its showing of interest.

⁴ *Westinghouse Electric Corporation*, 89 NLRB 8.

⁵ Case No. 4-RC-1679.

Petitioner's unit request here is based essentially upon the extent of its organization, and that the Petitioner's purpose here is to obtain eventual representation of the broader salaried unit. Thus the Petitioner, which appears to have been established for the primary purpose of representing employees of this Employer in salaried units, has consistently asserted, in the representation proceedings above discussed, the appropriateness of a broad salaried unit in this plant and has sought to secure the representation of such a unit. Under all the circumstances present here, we conclude that the Petitioner, having failed to win the salaried unit on two previous occasions, is now seeking to gain it on a piecemeal basis. We do not believe that the purposes of the Act would be effectuated if the Petitioner were permitted to utilize the Board's severance policy to accomplish this result.

As we have concluded that the unit sought in this proceeding is based essentially upon the extent of the Petitioner's organization, we find that such unit is inappropriate and shall therefore dismiss the petition.

[The Board dismissed the petition.]

Texas Prudential Insurance Company and Office Employees International Union Local 27, AFL-CIO, Petitioner. *Case No. 39-RC-990. May 18, 1956*

SUPPLEMENTAL DECISION, DIRECTION, AND ORDER

Pursuant to a Decision and Direction of Election dated January 17, 1956, an election by secret ballot was conducted in this proceeding on February 9, 1956, under the direction and supervision of the Regional Director for the Sixteenth Region among employees of the Employer in the unit found appropriate by the Board. Following the election, a tally of ballots was furnished the parties. The tally shows that there was 1 void ballot; that 43 votes were cast for the Petitioner; that 40 votes were cast against the Petitioner; and that there were 11 challenged ballots.

Thereafter the Regional Director investigated the 11 challenged ballots, and, on March 14, 1956, issued and duly served on the parties a report on challenged ballots and recommendations to the Board. Both the Employer and the Petitioner thereafter filed exceptions to the Regional Director's report, and the Employer filed a supporting brief.

In his report the Regional Director made the findings and recommendations indicated below:

The Regional Director found that the Petitioner challenged the ballots of three employees, Anthony Scaperlanda, Jr., Julia Everett,