

employees, employees employed in the equipment division, truck-drivers, janitors, guards, watchmen, and supervisors as defined in the Act, and all other employees.

[Text of Direction of Election omitted from publication.]

Hooker Electrochemical Company, Petitioner and Niagara Hooker Employees Union, Independent and Oil, Chemical and Atomic Workers International Union, Local No. 15-12377, AFL-CIO. *Case No. 3-RM-122. October 18, 1956*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held on April 2, 1956, before Murray S. Freeman, 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.²

4. In November 1955, the Employer purchased the Niagara Alkali Company, a competitor chemical producer, located directly across the street from the Employer's Niagara Falls, New York, Buffalo Avenue plant. At the time of the purchase the Oil, Chemical and Atomic Workers Union, herein called Atomic Workers, had an unexpired contract covering Niagara Alkali's production and maintenance employees, to which the Employer gave continued effect. The Niagara Hooker Employees Union, Independent, herein called Independent, is the certified bargaining representative of the production and maintenance employees at the Employer's original Buffalo Avenue plant. On March 2, 1956, the Atomic Workers requested a conference with

¹ Although United Electrical, Radio and Machine Workers of America (UE) initially intervened, it indicated that it had no interest in representing the employees involved in this proceeding.

² Oil, Chemical and Atomic Workers International Union, Local No. 15-12377, AFL-CIO, herein called Atomic Workers, moved to dismiss the petition on the ground that the current contract between the Employer and Niagara Hooker Employees Union, Independent, herein called Independent, constituted a bar to a present determination of representatives. In view of our finding, *infra*, that the consolidation of the two plants is comparable to an entirely new operation, we find, in accordance with well established Board policy, that the contract is no bar *Greyhound Garage of Jacksonville, Inc.*, 95 NLRB 902; *L. B. Spear and Company*, 106 NLRB 687.

the Employer to negotiate a new contract on behalf of the employees at the former Niagara Alkali plant. On March 5, the Independent requested negotiations as the bargaining representative of all production and maintenance employees at the Employer's Buffalo Avenue plant, including the former Niagara Alkali plant. The Employer refused to recognize either Union's claim and filed the instant petition requesting an election in a single unit composed of all production, maintenance, and cafeteria employees at its new and old plants. The Atomic Workers contends that two units are appropriate: one composed of the original Hooker employees, and the other composed of the former Niagara Alkali employees.³

The Employer's original plant is located on the north side of Buffalo Avenue. The former Niagara Alkali plant is located close by on the south side of Buffalo Avenue. As a result of the purchase of the former Niagara Alkali plant in November 1955, a merger was effected whereby the entire operation became known as Hooker Electrochemical Company, with Niagara Alkali shares being converted into shares of Hooker and Niagara Alkali ceasing to exist. There are 1,203 production and maintenance employees at the original Hooker plant, including 80 who, pursuant to a 1-year contract with the Federal Government, are now assigned to a special project at the Atomic Energy Commission's Model City plant about 10 miles away. There are 385 production and maintenance employees at the former Niagara Alkali plant.

The chemicals produced at the former Niagara Alkali plant are essentially the same as those produced at the original Hooker Buffalo Avenue plant, consisting of chlorine, caustic soda, hydrogen, paradye, and muriatic acid. An identical electrolytic production method and similar brine preparation and chlorine compression processes are used in both plants. Each plant produces byproduct hydrogen which is delivered in identical shipping containers to customers in Niagara Falls. Both plants require large quantities of river water for cooling purposes, and both maintain similar steam generating facilities, under a single plant engineer. The employees in both plants possess com-

³The Atomic Workers further contends that because an earlier petition filed by the Independent requesting an election among the former Niagara Alkali employees was dismissed by the Regional Director for lack of an adequate showing of interest, the instant employer petition should likewise be dismissed. However, an employer petition does not require a showing of interest; all it requires is that one or more labor organizations present conflicting recognition claims to the employer.

The Atomic Workers moved to dismiss the petition on the ground that the Independent admits guards into membership. The Employer's plant protection force is made up partly of guards supplied by an outside detective agency and partly of guards directly employed by the Employer. However, the Independent does not admit any of these employees into membership and the unit named in the petition specifically excludes them. While there are two gatemen who appear from the record to be members of the Independent, their duties are confined to tending railroad crossings within the plant area and they, too, are specifically excluded from the unit. The motion is therefore denied. *McDonnell Aircraft Corporation*, 109 NLRB 967.

mon skills and have substantially the same job classifications. The vice president in charge of production coordinates all production of both plants under a single production superintendent.

The record further shows that as a result of the consolidation between the two companies, Niagara Alkali became a part of area 2 (the original Hooker plant being referred to as areas 1 and 2). Area 3 is now comprised of the former Niagara Alkali plant and the former Hooker buildings Nos. 5 and 6. Foremen in all three areas engage in joint conferences and exchange technical information. There is unified production scheduling for the three areas. The purchasing department purchases all supplies, chemicals, and equipment for the three areas. Likewise, the research departments have been consolidated. A single employment office for all three areas has been created, and is located in area 1. One engineering department services all areas and the sales administration and fiscal and administrative functions of the two companies have been integrated. The salaried payrolls of both were consolidated into a single payroll on April 1, 1956, and the two hourly payrolls will be consolidated on November 1, 1956. The vice president in charge of industrial relations is now vested with the responsibility of formulating and administering the labor relations policy for the three areas and the Model City plant. Since the merger, there has been a transfer of salaried employees from one area to the other. As production facilities are further integrated, the completion of which, except for one pipeline, is anticipated by October 1, 1956, work forces will likewise be integrated, including the transfer of production and maintenance employees between areas. Although different wage and shift schedules and fringe benefits for the two groups exist, it appears from the record that this is due to the effect of the different bargaining agreements which had become effective prior to the consolidation and which perforce had to be observed during their terms.

The Board has held that in situations such as the one here under consideration, where following a merger or consolidation of former separate corporate entities, operations of the several plants or enterprises become integrated under centralized managerial control and centralized control of labor relations and personnel policies, the resulting operation is comparable to an entirely new operation. In such circumstances, the Board regards the employees of the several plants or enterprises as constituting one overall unit appropriate for purposes of collective bargaining.⁴ Moreover, as the Board stated in the *Birdsboro* case,⁵ "the mere existence of a new plant does not constitute evidence of a self-contained and separate operation such as

⁴ *Industrial Stamping and Manufacturing Company*, 111 NLRB 1038; *Birdsboro Armormast, Inc*, 101 NLRB 22.

⁵ *Supra*.

would warrant a self-determination election on the issue of inclusion in a broader unit." Here there is a close geographical proximity of the plants, they manufacture identical products in identical manufacturing processes, utilizing substantially the same employee skills and classifications, under centralized managerial control and labor relations policies, all resulting from a process of plant integration brought about by the consolidation of the companies. Integration has already been achieved to a substantial degree and will be completed according to a precise schedule within the next month or two. We must necessarily therefore conclude that the consolidated operations are comparable to an entirely new operation, and that stable labor relations will best be served if the employees of both plants are included in a single collective-bargaining unit. We therefore find that the single bargaining unit requested in the petition is appropriate.⁶

Accordingly, we find that the following employees constitute an appropriate unit for purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All production and maintenance employees of the Employer at its Niagara Falls, New York, and Model City, New York, plants, including kitchen and cafeteria employees, but excluding all office clerical employees, gatemen, guards, professional employees, and supervisors as defined by the Act.

[Text of Direction of Election omitted from publication.]

⁶The Atomic Workers raises a contention in its brief with respect to the Model City operation, asserting that the Model City employees—apart from the issue arising in connection with the consolidation of Hooker and Niagara Alkali—should not be included in the unit as requested in the employer petition. The record discloses that the total complement of employees at Model City is 119, 80 of whom are production and maintenance employees. These employees originally were hired and worked at the Hooker Niagara Falls plant. There is some interchange between the two plants; the works manager is responsible for production at all plants, including Model City; hiring, discharge, and promotions are done centrally; and the Model City plant is regarded as a department of the Employer's operation. Model City is supervised by a department head who reports to an assistant production superintendent located at the Niagara Falls plants. Substantially, the same employees retain their seniority and are granted the same coverage under the contract with the Independent, which was extended to cover the Model City plant by mutual agreement. Under these circumstances, we find no merit in Atomic Workers' contention.

General Electric Company Aircraft Gas Turbine Division and Truck Drivers, Chauffeurs and Helpers Local Union No. 100, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, Petitioner. *Case No. 9-RC-2835. October 19, 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 G. Wilkerson, hearing officer, No. 191.