Woodward Iron Company *and* United Steelworkers of America, AFL–CIO, Local 1099, Petitioner. *Case No. X–R–23. November 26, 1956*

DECISION CLARIFYING CERTIFICATION OF REPRESENTATIVES

On May 11, 1937, the Acting Regional Director for the Tenth Region issued a certification in which the Petitioner's predecessor, Amalgamated Association of Iron, Steel and Tin Workers of North America, was certified as the bargaining representative of the employees of the Employer's blast furnace and transportation departments.

On June 19, 1956, the Employer filed a motion for clarification of certification in which it requested the Board to clarify, modify, or amend the 1937 certification by excluding employees designated as "trestle laborers" from the unit, or, in the alternative, by specifically including said employees in the unit. On June 25, 1956, the Employer filed a memorandum in support of its motion.

On June 27, 1956, the Petitioner filed a response to the Employer's motion for clarification requesting that the motion be denied, or, in the alternative, that the Board declare that the collective-bargaining *status quo* existing over many years be maintained.

On June 28, 1956, after duly considering the matter, the Board ordered a hearing to be held for the purpose of taking testimony with respect to the unit placement of "trestle laborers."

Pursuant to notice a hearing was held before Philip B. Cordes, hearing officer. All parties were represented, participated in the hearing, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence pertinent to the issues involved. 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:

The Employer is engaged in the manufacture of steel and coal byproducts in Woodward, Alabama. This proceeding concerns only three of the principal divisions of the Employer's operations, namely, the blast furnace plant (herein called the furnace plant); the transportation department; and the byproducts plant (herein called the coke plant). As indicated, the Petitioner's predecessor was certified in 1937 as the bargaining representative of employees in the furnace plant and transportation department, and since then either the Petitioner's predecessor or the Petitioner has represented these employees. District 50, United Mine Workers of America, herein called the UMW, has represented the employees of the coke plant for more than a dozen years.

The furnace plant is engaged in the steel manufacturing process. The coke plant is engaged in processing coal into coke, and in accumulating the resulting byproducts. The 2 plants are separated by about 1 mile. A private railroad runs between the coke plant and the furnace plant. The railroad is operated by employees of the transportation department.

Located within the boundaries of the coke plant are 3 coal bins, 1 of which is for fine coal. Raw coal is transported in coal cars from the Employer's coal mine to the raw coal bins. It is at this point that the employees here in question, the "trestle laborers," are engaged in the operation of transferring coal from the coal cars to the raw coal bins.

At the time of the 1937 certification there were no employees designated as "trestle laborers." It was then the duty of the switchman, a member of the train crew, to open the doors of a coal car to allow the coal to flow out. To empty the car completely, the locomotive would move back and forth, thus shaking the car and expediting the flow of coal.

In 1948, the Employer erected the fine coal bin referred to hereinabove. The Employer also installed a new "shake-out" device at this bin. The "shake-out" device is suspended on a monorail over the railroad tracks and, when operated, is lowered on to the coal cars by a crane; electric current is then turned on which causes the car to vibrate, thus shaking the coal from the car. This new equipment accordingly makes it unnecessary to use a locomotive in emptying the cars. After its installation the new equipment was operated by employees of the coke plant. However, the doors of the coal cars continued to be opened by the switchmen, and the operations at the other two bins were continued as before.

In 1952, at the request of the Petitioner, the Employer hired new employees who were given the duty of opening the doors of the coal cars at the bins, and thus the switchmen were relieved of such duties. These new employees were originally called "door winders," but are presently referred to as "trestle laborers."

In November 1954, the Employer installed additional "shake-out" equipment at the other two coke plant coal bins, and also installed a cable hoist which is used to move the cars from one bin to another. The need for the locomotive, except in spotting the cars initially, was thus eliminated. The Employer's officials testified that except in emergencies the cable hoist was used at all times to spot the cars over the bins and to move them along the trestle.[1] Also in 1954 the

[1] The Petitioner introduced evidence tending to contradict the testimony of the Employer's officials that the cable hoist was used "at all times." Such evidence was apparently introduced to show that the installation of the cable hoist did not materially alter the duties of the "trestle laborers."

operation of the "shake-out" equipment at all three bins, as well as the operation of the new cable hoist, was assigned to the "trestle laborers." Thus at the present time the entire operation of transferring coal from the coal cars to the bins at the coke plant is performed by "trestle laborers."

The record indicates that an unloading operation similar to that performed at the raw coal bins at the coke plant also occurs at the furnace plant. This operation, also, is performed by "trestle laborers." There are approximately 36 "trestle laborers" who perform the unloading operations at the coke and furnace plants. However, these employees are not permanently assigned to any particular location, but may be assigned to work at either of the two plants.

All "trestle laborers" are carried on the payroll of the transportation department. They report to work at the furnace plant gate where they punch their timecards. Their work schedules are also prepared by the transportation department. If they are assigned to work at the coke plant, they ride to work on a transportation department locomotive and return in the same manner. The supervision of the "trestle laborers" at the coke plant is not clear from the record. The Employer's officials testified that the "trestle laborers" are assigned to work at the coke plant by the yardmaster of the transportation department, who instructs them when necessary, but that they are directed "mostly" by the coal washer foreman who is present at their work location. There was other testimony, however, introduced by the Petitioner, that these "trestle laborers" at the coke plant are instructed by the conductor of the train and are not supervised by the coal washer foreman.

Since 1937, all employees, who have performed the function of unloading coal cars at the coke plant, whether deemed to be switchmen, door winders, or "trestle laborers," have been represented by the Petitioner's predecessor or the Petitioner.

There are certain transportation department employees whose duties require that they spend all, or most, of their working time within the limits of the coke plant. They are track repairmen, mobile crane operators, bulldozer operators, car inspectors, weight-masters, and car oilers. It also appears that certain transportation department employees, who are engaged in a so-called "coke run," and others engaged in a so-called "coal run," spend about 100 percent and 75 percent of their time, respectively, working in the coke plant. These transportation department employees are represented by the Petitioner.

The record shows that the unit placement of only those "trestle laborers" who work in the coke plant is here in issue, there being no dispute as to the representation of "trestle laborers" who work in the furnace plant.

The UMW contends that the "trestle laborers" who work in the coke plant are properly part of its coke plant unit because of the duties performed by these employees, the place in which they work, and because they do not have interests in common with other transportation department employees. The Petitioner contends that the "trestle laborers" here in question are now, and have always been, a part of its bargaining unit. The Employer stated that its position in this proceeding is neutral.

It is apparent from the foregoing, that the "trestle laborers" at the coke plant perform their duties within the boundaries of the coke plant and work with equipment permanently installed there. It is also clear that these employees are sometimes supervised by coke plant supervision. These factors are indicative of their exclusion from the certified unit.

However, there are other factors which, in our opinion, are more persuasive, and which indicate a contrary conclusion. These are: (1) The "trestle laborers" were originally added to the Employer's complement of employees upon the Petitioner's request; (2) the "trestle laborers" are a part of the Employer's transportation department and are carried as such on the payroll; (3) the frequent association of the "trestle laborers" with other employees of the transportation department; (4) the part-time supervision of the "trestle laborers" and the assignment of their work by transportation department personnel; (5) the fact that the duties presently performed by the "trestle laborers" are for the most part an extension of the duties performed in the past by the switchmen, who were within the original certified unit; (6) the fact that transportation department employees, other than "trestle laborers," work in the coke plant and are represented by the Petitioner; and (7) the very important fact that "trestle laborers" are not assigned permanently to the coke plant installation, but instead are rotated as a group between that installation and the furnace plant installation. In view of such factors we are constrained now to hold that the unit placement of the "trestle laborers" is properly within the unit currently represented by the Petitioner.

Westinghouse Electric Corporation *and* International Union of Electrical, Radio and Machine Workers, AFL–CIO, Petitioner.
Case No. 2–RC–8287. November 26, 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 before Clement P. Cull, hearing officer. The hearing officer's rulings made at the hearing are free