

employee. It will be recommended further that the Company and the Union, jointly and severally, make whole Shibley A. Hider for any loss of earnings he may have suffered by reason of the discrimination against him, computed in accordance with the formula stated by the Board in *F. W. Woolworth Company*, 90 NLRB 289. This requires that the Company and the Union, jointly and severally, make whole Hider for the following periods of unemployment: (1) Friday and Saturday, weekend May 20; (2) Thursday, Friday, and Saturday, weekend May 27; (3) Friday and Saturday, weekend June 24; (4) the vacation period (6 weeks) while the 3 full-time butchers employed at the Gravois store were on vacation; (5) Friday and Saturday, weekend June 24; and (6) Friday and Saturday of all weekends from the weekend of June 24, 1955, until Hider's reinstatement to the Gravois store as required above, and until the Union furnishes the Company with the notice required above. Reimbursement is ordered in these terms because I find that Hider was a regular part-time employee, employed on a weekend basis Friday and Saturday each week. It will also be recommended that the Company make available to the Board upon request, payroll and other records to facilitate the checking of the amount due the above-named employee.

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

CONCLUSIONS OF LAW

1. Amalgamated Meat Cutters and Butcher Workmen of North America, Local 88, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By entering into and enforcing an agreement or understanding with the Union which requires that applicants for employment, or employees, obtain the approval, clearance, or workcard of the Union, or retain such, as a condition of employment, the Company has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

3. By interfering with, restraining, and coercing employees in the exercise of rights guaranteed in Section 7 of the Act, the Company has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

4. By causing the Company to discriminate against employees in violation of Section 8 (a) (3) of the Act, the Union has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b) (2) of the Act.

5. By restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, the Union has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

6. By abusing and threatening Shibley A. Hider, an employee, thereby restraining and coercing him in the exercise of the rights guaranteed in Section 7 of the Act, the Union, by August Gieseke, has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

7. 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.]

International General Electric, S. A., Inc. and International Union of Electrical, Radio and Machine Workers, AFL-CIO, Petitioner. *Case No. 24-RC-977. May 13, 1957*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, as amended, a hearing was held before H. Stephen Gordon, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed, with the modification noted below.¹

¹ Petitioner's international representative testified at the hearing that Local 499, International Union of Electrical, Radio and Machine Workers, AFL-CIO, herein referred to 117 NLRB No. 202.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom, Murdock, and Rodgers].

Upon the entire record in this case, the Board finds:²

1. The Employer, a subsidiary of International General Electric Company, a New York corporation, is engaged in the wholesale distribution and service and repair of General Electric products in Puerto Rico and the Virgin Islands. The Employer contends that the Board lacks jurisdiction in the case at bar because the employees in the unit sought are engaged in rendering purely local services that produce an annual volume of business of approximately \$72,000, which amount does not meet any of the Board's current jurisdictional standards which are applicable. We find no merit in this contention. The Board's policy is that, for purposes of determining jurisdiction, it will consider the aggregate volume of business of an employer, rather than merely the volume attributable to the unit of employees requested in a petition.³ The record shows that, during the 12-month period preceding the date of the hearing, the Employer caused to be shipped to its Puerto Rico operation from the United States products and materials valued in excess of \$1,000,000. Accordingly, we find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction in this case.⁴

2. The Employer refused to stipulate at the hearing that Petitioner is a labor organization within the meaning of the Act. Petitioner's international representative testified without contradiction, however,

as Local 499, is Petitioner's affiliated local union in Puerto Rico. The hearing officer then refused to permit the Employer to elicit further testimony relating to whether Local 499 would participate in any manner in representing the Employer's employees in the event that the Petitioner was certified by the Board. We find that this constituted error on the part of the hearing officer. Although the Board will not permit parties to a representation proceeding to litigate the question of compliance at a hearing (*Adams Packing Association, Inc.*, 116 NLRB 1645, *Desautlers and Company*, 115 NLRB 1025), they may nevertheless show on the record the fact that a petitioner or intervenor has a local affiliate not a party to the proceeding which has an interest in the representation of the employees sought and, where that fact is established to the Board's satisfaction, the Board will then require an administrative determination that the local affiliate is in compliance with Section 9 of the Act before it will permit the parent labor organization to appear on the ballot in a representation election. See *Continental Electric Co., Inc.*, 110 NLRB 1062 and *Axelson Manufacturing Co.*, 110 NLRB 624. However, this error was not prejudicial inasmuch as Board records show that Local 499 is in full compliance with the filing requirements of Section 9 (f), (g), and (h) of the Act.

² In its brief, the Employer requests the Board to dismiss the petition because of lack of jurisdiction, inappropriate unit, and defective interest showing. These motions are hereby denied for reasons stated in the text, *infra*. The Employer requests oral argument before the Board in the event that its motions to dismiss the petition are denied. However, in our opinion, the record and the Employer's brief adequately present the issues and the positions of the parties. Accordingly, the Employer's request for oral argument is hereby denied.

³ Cf. *The Columbus Show Case Company*, 111 NLRB 206. *Electrical Contractors of Troy and Vicinity*, 116 NLRB 354

⁴ *Jonesboro Grain Drying Cooperative*, 110 NLRB 481

that Petitioner exists for the purpose of negotiating with employers concerning the wages, hours, and other working conditions of their employees. We find, therefore, that the Petitioner is a labor organization within the meaning of Section 2 (5) of the Act.

3. The Employer contends that no question concerning representation exists because Petitioner's showing of interest constitutes a fraud on the Employer and an abuse of the Board's processes. In support of its position, the Employer alleges that the authorization cards submitted by Petitioner (1) designated the Petitioner to represent them with a different employer and (2) were in English rather than in English and Spanish, thus making it impossible for the employees who cannot read English to understand what they were signing. We reject this contention as being without merit, as the showing of interest is a matter for the Board's administrative determination and is not a subject which is litigable by the parties.⁵ Moreover, we are administratively satisfied that Petitioner has made a substantial and valid showing of interest.⁶ Accordingly, we find that a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c) (1) and 2 (6) and (7) of the Act.

4. The Employer is engaged in the local wholesale distribution, installation, service, and repair of various electrical appliances such as refrigerators, air conditioners, ranges, radios, television sets, small electrical appliances, and different types of electronic communication systems. The Employer has main offices, a product service department building, an electronics service shop and four warehouse facilities, all of which are located in the metropolitan area of San Juan, Puerto Rico.

The Petitioner seeks a unit of all service and repair employees, including warehouse employees, at the Employer's facilities located in the metropolitan area of San Juan. The Employer takes the position that the unit requested by Petitioner is inappropriate for bargaining purposes because it ". . . is not a homogenous group but a hodge-podge of totally unrelated classifications. . . ." The Employer concedes, however, that a production and maintenance unit might be appropriate, and we find that Petitioner, in effect, is seeking such a unit, subject to the usual statutory and policy exclusions. The Employer's

⁵ *Minute Maid Corporation*, 117 NLRB 68

⁶ As to Employer's objection (1), the authorization cards submitted by the Petitioner referred to the Employer as the "General Electric Company" rather than to its correct corporate name. With respect to objection (2), the record contains evidence that a minimum of 70 percent of the Employer's employees can read and understand the English language. Furthermore, the Employer submitted a claim of fraud and misrepresentation in the obtaining of authorization cards to the Regional Director following the close of the hearing but, although repeatedly requested to do so, never submitted any evidence in support of these allegations to the Board or its agents. We are administratively satisfied that these objections lack substance and are not meritorious.

objections with respect to the unit issue relate to the composition of the unit rather than to its scope, and are dealt with below. As the Employer refused to stipulate to the inclusion of any of the categories of employees sought by Petitioner, testimony was taken at the hearing as to the functions and duties of practically all classifications employed by the Employer. We turn now, therefore, to a consideration of the composition of the unit.

Warehouse Employees

The Employer's four warehouse operations are under the supervision of a warehouse supervisor, who makes regular visits to each of them and is responsible for the work of helpers, storekeepers, carpenters, and forklift operators who work in the warehouses. He also does the actual hiring of warehouse employees, who all share the same working conditions. The storekeepers fill out warehouse forms and receipts, check orders scheduled to be shipped out from the warehouses, and perform some manual work in connection with the storing of incoming shipments of merchandise. At each warehouse, the warehouse supervisor designates one storekeeper to act as the storekeeper in charge who is responsible for seeing that work is done in the absence of the supervisor. These employees are selected from the storekeepers, however, and the assignments are rotated at periodic intervals so that all storekeepers at one time or another act as storekeepers in charge. As such, they have no authority to hire, discharge, or discipline other employees or effectively to recommend such action, or even to grant them time off. Rather, the control exercised by the storekeepers in charge is routine in nature and requires the use of no independent judgment.

The helpers perform duties such as to stack and store incoming merchandise and to open and store boxes and crates of merchandise. The carpenter crates merchandise and engages in general maintenance work in the warehouses. The forklift operator runs a small forklift truck which is used in the warehouses for lifting and moving heavy crates of merchandise.

We find that the warehouse supervisor is a supervisor within the meaning of the Act, and we shall exclude him from the unit. We further find that the storekeepers, including the storekeepers in charge, are plant clerical employees and we shall include them, along with the helpers, carpenters, and forklift operators in the unit hereinafter found appropriate.

Product Service Department

The overall supervision of this department is the responsibility of the product service department manager. A secretary, a receptionist,

a special assignment clerk, and a switchboard operator are directly responsible to the department manager. These employees perform the functions normally performed by office and office clerical employees and, in accord with the position of the Petitioner, we find that they are office or office clerical employees and we shall exclude them from the unit.

Petitioner would exclude as a professional employee an employee classified as technical advisor and would include an individual classified as director of training, both of whom work directly under the product service department manager.

The technical advisor is a college graduate with a degree in electrical engineering, and he receives a salary substantially in excess of that paid the average employee. He advises management on varied technical problems concerned with the servicing of equipment and also works directly with customers in the capacity of a consultant. The director of training's primary function is to coordinate the scheduled training program for new employees, dealers, and point IV students. This program lasts from 3 to 4 days to a week, and the personnel undergoing the training program are under the director of training's supervision during this period. Although he does not possess the authority to hire or discharge employees, he does have the power to make effective recommendations to the department manager concerning the classification and retention of new employees. Without passing on his professional status, we find that the technical advisor is at least a technical employee and as one of the parties opposes his inclusion in the unit, we shall exclude him. We also find, contrary to the Petitioner's contention, that the director of training is a supervisor within the statutory definition and we shall exclude him from the unit.

There are also the classifications of mechanic and carpenter in the product service department. The mechanic services the automobiles used by the outside servicemen, while the carpenter packs and crates merchandise for shipment and performs general maintenance carpentry within the building. As these are classifications normally included in plantwide units, we shall include them in the unit.

The remainder of the product service department is subdivided into three major sections, the order service section, the refrigeration and appliance service section, and the radio and television service section. Each of these sections is headed by a section supervisor who is directly responsible to the product service department manager for the employees in his section. They have power to effect, or effectively recommend, changes in employee status. The Petitioner agrees that the three section supervisors should be excluded from the unit as supervisors, and we shall exclude them as such.

The Order Service Section

There are employees classified as order service clerks who work under the supervisor of this section. These employees receive complaints from service personnel, prepare reports on faulty equipment and prepare various other reports dealing with merchandise, and are required to type and take dictation. Although they are not located in the Employer's general offices, they do work in an area in the product service department building which is apart from the shop areas. The Employer considers these employees to be office clericals and Petitioner requests their exclusion from the unit on that basis. Accordingly, we find that the order service clerks are office clerical employees and we shall exclude them.

The Refrigeration and Appliance Service Section

The supervisor of this section has a secretary and a cashier under his immediate supervision. The secretary performs usual office clerical duties such as answering the telephone, typing, taking dictation, and maintaining files. The cashier receives all payments for services performed in the product service department, either from the customers themselves or from outside servicemen who have collected the charges for work performed in the field. The cashier frequently interchanges for short periods of time with one of the small appliance servicemen; and, as both these employees handle the Employer's cash receipts, they are both bonded. We find, that the cashier's interests and working conditions are closely allied with those of other employees in the unit and we shall include him.⁷ We further find, in agreement with Petitioner, that the secretary is an office clerical employee and we shall exclude her.

The service functions of this section are performed by three groups of service personnel, the small appliance servicemen, the major appliance servicemen, and the refrigeration and appliance servicemen. The requirements to qualify for these three classifications are the same—high school graduates with mechanical backgrounds are preferred, but applicants who are literate and demonstrate that they possess some mechanical aptitude have been accepted.

The small appliance servicemen work in a shop in the product service department building and make no outside service calls. They inspect, test, repair, and maintain small appliances such as irons, toasters, coffeemakers, vacuum cleaners, and fans. The major appliance servicemen work on large appliances such as ranges, water heaters, dishwashers, and washing machines in dealers' stores and at customers' homes as well as in the shop. The refrigeration and appliance service-

⁷ *O. Z. Hall Motors, Inc.*, 94 NLRB 1180.

men likewise work at the premises of customers and dealers as well as in the shop, but these employees specialize in refrigeration equipment service. None of these employees possesses supervisory powers and the Employer does not contend that they are technical employees. Accordingly, we shall include them in the unit.

The refrigeration and appliance chief technician must be a high school graduate who has had considerable industrial training, and he receives a salary approximately 40 percent greater than the wages paid to the servicemen. He is responsible for seeing that the work of both shop and field servicemen is done properly, instructs them as to the correct procedures to be followed in performing their duties, and relays service orders to them which he receives from the section supervisor and from the service counselor. Although he does not have the authority to hire or discharge employees, the record shows that he may effectively recommend disciplinary action against them. Accordingly, we find that the refrigeration and appliance chief technician is a supervisor within the meaning of the Act and we shall exclude him from the unit.

Working directly under the chief technician in the service shop office is a service clerk (not to be confused with the category of "service clerks" discussed below) who keeps inventories of appliances and parts which are stored in the shop, takes service calls over the shop telephone, and deals with customers who come to the shop from time to time for information. The parties agree, and we find, that this service clerk is a plant clerical employee and we shall include him, as such, in the unit.

The refrigeration and appliance service counselor, mentioned above, works directly under the section supervisor and, in turn, directs the work of service clerks located in his office, which is adjacent to the production area. The service clerks receive and record service calls from customers. The service counselor handles complaints and service requests which the service clerks are not qualified to deal with and spends approximately 75 percent of his time in talking with customers and dealers concerning unusual problems which arise with respect to the Employer's merchandise. He is also responsible for seeing that service calls are prepared on forms which are then sent to the chief technician for assignment to shop and field servicemen. The Employer prefers a college graduate for the position of service counselor, but will accept a high school graduate with a technical background. For the classification of service clerk, the Employer prefers a high school graduate, but will accept a 1- or 2-year commercial course background in lieu thereof. Petitioner would include the service counselor in the unit sought, but would exclude the service clerks as office clericals. We find that both categories lack sufficient community of inter-

est with the other employees sought to warrant their inclusion and we shall exclude them.⁸

The final classification in this section is that of dispatcher. The dispatcher is located at the entrance of the service shop and receives all damaged merchandise sent to the shop from the warehouses, customers, and dealers. He tags and records this merchandise and refers it to the chief technician for assignment to servicemen for repair work. We find that the dispatcher is a plant clerical and we shall include him in the unit.

The Radio and Television Service Section

The section supervisor has a secretary who performs the same office clerical duties as does the secretary to the refrigeration and appliance service supervisor, *supra*, whom we found to be an office clerical employee. Accordingly, we shall exclude the secretary here for the same reason.

Directly responsible to the section supervisor is the radio and television field supervisor. This individual directs and controls the work of the field technicians and is also responsible for the work of the radio and television service counselor and his service clerks. The field supervisor cannot hire, discharge, or discipline employees, but he does have the authority effectively to recommend such action. In these circumstances, we find that the radio and television field supervisor is a supervisor within the statutory definition and we shall, therefore, exclude him from the unit.

The parties stipulated at the hearing that the qualifications for, and the duties and functions of, the classifications of radio and television service counselor and radio and television service clerk are the same as those above described for their counterparts in the refrigeration and appliance service section, except that these employees deal with radio and television service rather than with appliance and refrigeration service. Accordingly, for the reasons already stated, we shall exclude the radio and television service counselor and the radio and television service clerks.

The radio and television field technicians inspect, test, maintain, service, and repair radio and television equipment in customers' homes and in dealers' stores. The qualifications for this category of employee are the same as for the servicemen in the refrigeration and appliance service section and, as in their case, the record discloses no basis for excluding these employees as either technical or supervisory personnel. Accordingly, we shall include them in the unit as requested by Petitioner.

A radio and television technical supervisor, directly responsible to the section supervisor, is responsible, *inter alia*, for the work of the

⁸ *Ozark Manufacturing and Supply Company*, 108 NLRB 1476, 1478.

radio technicians, the laboratory technicians, and the television reconditioners. In addition to exercising independent judgment in the operation of the laboratory, the technical supervisor has the authority to effectively recommend the hire and discharge of employees. We find that the radio and television technical supervisor is a supervisor within the meaning of the Act and we shall exclude him from the unit.

The radio technicians service, maintain and repair radio sets, while the television reconditioners perform the same functions on damaged television sets received from the warehouses, customers, and dealers as do the field technicians except that they do not make outside calls. The laboratory technicians also perform a similar type of work upon other merchandise which, for some reason, could not be repaired or serviced upon the premises of customers and dealers by the field technicians. The educational qualifications and background requirements for these three classifications are the same as those for the field technicians and the refrigeration and appliance servicemen already discussed and, because of the reasons there stated, we shall include them in the unit.

The radio and television technical supervisor, discussed above, also supervises the work of a service clerk, a stock clerk, and an inspector. The service clerk's duties and functions are the same in this section as those of the service clerk under the refrigeration and appliance service chief technician. The stock clerk stores all radio and television parts received and issues them to the technicians as they are required, and is responsible for the shipment of parts requested by dealers. The inspector checks radio and television sets received at the warehouses from the United States and is responsible for seeing to it that they are properly adjusted before they are delivered to dealers. The educational qualifications and background requirements for the classification of stock clerk and inspector are the same as those for the field technicians and other product service repairmen noted above. We find that the service clerk and the stock clerk are plant clerical employees and that the inspector is the same general type of repair and serviceman as we have already included in the unit. Accordingly, we shall include these categories of employees.

Evidence introduced at the hearing shows that there is also a classification of radio and television chief technician directly under the section supervisor. However, there is no testimony with respect to this classification. We shall permit him to vote under challenge in the election hereinafter directed.

Electronics Service Shop

The primary function of the electronics service shop is to install communications systems throughout Puerto Rico and the Virgin Islands. It also provides technical and consultation services to radio and tele-

vision stations and general communication installations in these territories. The electronics service shop supervisor is responsible for all activities carried on by its personnel, is directly under the manager of the electronics department, and may effectively recommend the hire and discharge of employees. The parties stipulate, and we find, that he is a supervisor and we shall exclude him. Classifications of employees supervised by him are communication specialist, communication technician, intercommunication technician, and technician trainee.

The communication specialist acts as a systems engineer. He is responsible for the installation of communications systems which cover large areas and which may cover an entire island, and is also responsible for the installation of interisland communication systems which contain multiple units. The Employer prefers a college graduate for this position, although this requirement will be waived if the applicant has had many years of actual experience in this work; in either case, however, a first class Federal Communications Commission radio-telephone license is required as well as complete familiarity with both communication theory and practical knowledge of installation methods. The communication specialist works away from the plant approximately 95 percent of the time, and at such times is completely independent and must rely upon his own judgment. He has no regularly assigned employees working under him but, when he is working on a job away from the plant, employees are assigned to work under him and he is responsible for their work during these periods.

The duties of the communication technician are basically the same as those of the specialist. He is required to possess a first class Federal Communications Commission radio-telephone license, but the amount of experience required for this position is less with the result that the technician is usually assigned less complicated communication system installation jobs and is not ordinarily sent outside Puerto Rico on jobs, because he would not then have ready communication with the electronic shop supervisor. As a consequence, the communications technician exercises less independent judgment than the specialist. However, he spends almost as much time working on jobs away from the plant as does the specialist and, at such times, he also is assigned employees for whose work he is responsible.

The primary function of the intercommunication technician is to supervise the installation of intercommunication systems, which differs from the work performed by the communication specialist and technician in that the intercommunication systems are installed in the interior of buildings in localized areas. The intercommunication technician exercises less independent judgment than the communication technician and is not required to possess a radio-telephone license. However, like the communication specialist and technician, he spends

over 90 percent of his time away from the plant and is responsible for the work of employees assigned to install equipment under his direction. Intercommunication technicians are promoted from the ranks of technician trainees and, in addition to the training received as trainees, are sent back to the United States for approximately 3 weeks each year to undergo an extensive technical training program in a General Electric factory.

The technician trainees are required to have either a high school education or a vocational background in electronics. Trainees are not required to possess a radio-telephone license and are not required to use independent judgment in their work, although they may do so at times. The trainees undergo a formalized training program which includes attending classes conducted by specialists brought to the plant for that purpose, and participating in roundtable discussions with the shop supervisor where new developments in the field of electronics are analyzed and explained. The trainees also receive on-the-job training where they perform the general duties of servicemen such as the assembly of high fidelity systems, and are under the immediate supervision of the electronic service shop supervisor. They remain trainees until they demonstrate the ability to install an intercommunication system or until they obtain a first class Federal Communications Commission radio-telephone license, at which time they are promoted to the classifications of either intercommunication technician or communication technician.

Petitioner contends that employees in the foregoing classifications should be included in the unit. We disagree. The record shows that these individuals responsibly direct and control the work of other employees at periodic intervals for substantial periods of time, and that varying degrees of independent judgment are exercised by them in the discharge of their duties. Accordingly, we find that employees classified as communication specialist, communication technician, and intercommunication technician are supervisors within the meaning of the Act and we shall exclude them as such from the unit.⁹

The technician trainees do not presently possess the qualifications required by the Board to find them technical employees, and it is clear that upon the completion of their training program they will be promoted to classifications which we have already found to be supervisory. However, as the trainees are neither technical nor supervisory employees at the present time, we find that their interests and working conditions are sufficiently related to those of the servicemen in the classifications already considered to warrant their inclusion in the bargaining unit and we shall include them.¹⁰

⁹ *Brunswick Quich Freezer, Inc*, 117 NLRB 662.

¹⁰ *United States Rubber Company*, 113 NLRB 746

Other Employee Categories

The parties agree that all employees in the Employer's major appliances, radio, television and hardwares, X-ray, advertising and sales promotion, electronics and finance departments, with the exception of the warehouse employees and the electronic service shop personnel, already discussed, and janitors, are either office, office clerical or administrative employees. Accordingly, we shall exclude them from the unit.

Petitioner requests the inclusion of all plant and office janitors in the unit and, in accord with our usual policy, we shall include them.¹¹

Finally, the Employer at times has point IV personnel assigned to it by the State and Labor Departments for periods of training ranging from 2 weeks to 2 months. These employees are not paid by the Employer and have no expectancy of future employment by the Employer. We shall, therefore, exclude them from the unit.

We find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All product service department employees and warehouse employees at the Employer's facilities located in the metropolitan area of San Juan, Puerto Rico, and at its Ponce Branch,¹² including storekeepers, storekeepers in charge, helpers, small appliance servicemen, major appliance servicemen, refrigeration and appliance servicemen, field technicians, radio technicians, laboratory technicians, television reconditioners, technician trainees, the cashier, service clerks under the supervision of the refrigeration and appliance chief technician and the radio and television technical supervisor, stock clerks, inspectors, dispatchers, carpenters, mechanics, forklift truck operators, and janitors, but excluding all office and office clerical employees and administrative personnel, secretaries to the product service department manager, to the refrigeration and appliance service section supervisor, and to the radio and television service section supervisor, order service section clerks, the refrigeration and appliance service counselor and refrigeration and appliance service clerks, the radio and television service counselor and radio and television service clerks, the product service department receptionist, switchboard operator and special assignment clerk, the technical advisor, professional employees, point IV trainees, watchmen, guards, the warehouse supervisor, the product service department manager, the director of training, the order service section supervisor, the refrigeration and appliance service section supervisor, the refrigeration and appliance chief technician, the radio and

¹¹ *Humble Oil & Refining Company*, 115 NLRB 1485 at 1493

¹² The parties agreed to include employees at the Employer's "Ponce Branch" in the unit should the Board find that any of the above-discussed employees constituted an appropriate bargaining unit. The record indicates only that the "Ponce Branch" is located outside the metropolitan area of San Juan. In view of the parties' stipulation, we shall include these employees in the unit

television service section supervisor, the radio and television field supervisor, the radio and television technical supervisor, the electronics department manager, the electronics service shop supervisor, communication specialists, communication technicians, intercommunication technicians, and all other supervisors as defined in the Act.¹³

[Text of Direction of Election omitted from publication.]

¹³ As noted *supra*, the radio and television chief technician will be permitted to vote under challenge

Dixie Lou Frocks, Inc. and June Melton and Eleanor Burdge, Petitioners and Local 290, International Ladies Garment Workers Union, AFL-CIO. Case No. 35-UD-2. May 13, 1957

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (e) of the National Labor Relations Act, a hearing was held before John W. Hines, 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 organization involved claims to represent employees of the Employer.
3. A question exists concerning the Union's authority to make a union-security agreement within the meaning of Section 9 (e) of the Act.

On February 11, 1956, the Employer and the Union executed a 4-year collective-bargaining agreement which contains a union-security provision. The petition in this case, which was filed on September 17, 1956, seeks an election to rescind the Union's authority to make a union-security agreement.

The Union asks for dismissal of the petition on the asserted ground that the Employer, primarily through the activities of one Koontz, is responsible for the election request in this case. It is true that Koontz, who is regularly engaged in production work, actively participated in the movement aimed at bringing about the petition. Contrary to the Union's contention, however, the record does not support the assertion that she is a supervisor. There is no evidence to indicate, nor is it claimed, that Koontz is otherwise a representative of management.¹ The supervisory contention rests entirely upon the fact that on a

¹ On the contrary the Board's records indicate that this employee has filed with the Thirty-fifth Subregional Office a non-Communist affidavit in her capacity of sergeant-at-arms of Local 290, ILGWU, AFL-CIO, the union involved in these proceedings.