

**Federal Telephone and Radio Company, a Division of International Telephone and Telegraph Corporation, Petitioner and Local 1703, International Union of Electrical, Radio and Machine Workers, AFL-CIO.** *Case No. 22-RM-16.*<sup>1</sup> *June 25, 1958*

### 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 Aaron Weissman and John J. Carmody, hearing officers. The hearing officers' rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

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 certain employees of the Employer.

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.

4. The Employer-Petitioner and the Union generally agree, and we find, that a unit of office-clerical and technical employees at the Employer's Clifton, New Jersey, plant, including those in the categories set forth in Appendix A, attached, but excluding those in the categories set forth in Appendix B, attached, is appropriate. They disagree, however, as to the unit placement of certain employees, discussed below, whom the Union would include, and whom the Petitioner would exclude as managerial employees.

Federal Telephone and Radio Company, herein referred to as FTR, a division of International Telephone and Telegraph Corporation, hereinafter called International, is engaged at its Clifton plant in the manufacture of electronic equipment for military use. FTR rents space at the Clifton plant to Federal Electric Corporation, herein called Federal Electric, a subsidiary of International, which is engaged in the sale of electrical parts; it also rents space to three other divisions of the Employer: (1) the Telephone Division, also called Kellogg Switchboard and Supply Company, which is engaged in the

<sup>1</sup>The original number of this case was 2-RM-868. On February 4, 1958, by order of the General Counsel, the case was transferred to, and continued in, the Twenty-second Region under the case number designated in the caption.

The instant case was previously consolidated with Cases Nos. 2-RD-362 and 2-RC-9130, both filed by the same petitioner, but during the course of the hearing, the Regional Director approved the requests of the petitioner in those cases to withdraw the petitions therein, and accordingly this case was severed from the others.

manufacture of switchboards and other telephone equipment; (2) the Components Division, engaged in the manufacture of small electrical products; and (3) the Industrial Products Division, engaged in the manufacture of electrical apparatus for commercial purposes. The disputed employees work for Federal Electric and all four divisions of International.<sup>2</sup>

The Employer has bargained for office-clerical and technical employees for a number of years, from about 1945 to about 1950, with International Federation of Architects, Engineers, Chemists & Technicians, Metropolitan Chapter 31, CIO, and thereafter with the Union involved in the instant proceeding. The units established in the contracts between the parties, including that in the current contract between the Petitioner and the Union, were based at least in part on certifications in previous Board cases,<sup>3</sup> and included certain specific categories which the Employer, contrary to the Union, now wishes to exclude. It appears, however, that the unit placement of these disputed categories was not litigated in those cases. Under these circumstances, we find that such certification and agreements are not controlling.<sup>4</sup> We shall, therefore, consider the unit placement of the disputed categories on their merits.

*Buyers A, buyers B, and buyers' assistants:* Both buyers A and buyers B purchase materials and equipment. In the course of their work, they may visit vendors' plants. Buyers' assistants do clerical work, may buy certain items, and serve as helpers to buyers. They are being trained to be buyers and normally progress to such positions. The record indicates that in the Telephone and Components Divisions, buyers order merchandise amounting to less than \$2,500 without any approval. While there was testimony that in the other 2 divisions, FTR and the Industrial Products Division, an assistant

<sup>2</sup> The Union moves to dismiss the petition on the ground, in substance, that FTR is not the employer of certain of the employees involved herein but that Federal Electric and the other three divisions of International are their employers and should therefore have been made parties to this proceeding. However, it is clear that the Employer of all the employees of the four divisions involved is International. Neither FTR nor the other 3 divisions are legal entities but merely administrative segments of International, and participation herein by that corporation through its representatives is legally sufficient insofar as this proceeding involves the employees of the 4 divisions. As for Federal Electric, it is a separate legal entity, as a corporate subsidiary of International. However, the record contains a document from Federal Electric delegating to FTR authority to handle all "union relations." We construe this as, in effect, an authorization to International to represent Federal Electric in dealing with unions, including representation of Federal Electric in this proceeding. As such representative, International has not objected to the failure to make Federal Electric a formal party herein or to serve it with notice of the instant hearing. Accordingly, we deny the Union's motion. Moreover, in view of the intercorporate relationship of Federal Electric and International, and the common control of labor relations of the 2 corporations, insofar as the employees involved are concerned, we find that for unit purposes herein the 2 corporations constitute a single employer.

<sup>3</sup> *Federal Telephone and Radio Corporation*, 63 NLRB 947, and Case No. 2-RC-2113 (not published).

<sup>4</sup> *Boeing Airplane Company*, 116 NLRB 1775, footnote 1; *Humble Oil and Refining Company*, 115 NLRB 1485, 1487.

purchasing agent or another supervisor must in all cases give advance approval of the purchase, the record shows that for a period of at least 5 months (October 1956 to March 1957) the buyers in those divisions purchased large quantities of merchandise without prior approval.

In view of the foregoing, we find that buyers in all four divisions effectively exercise a prerogative of, and are representatives of, management. We, therefore, find that their interests are allied with management and exclude them from the unit hereinafter found appropriate.<sup>5</sup> We shall also exclude their assistants in view of their trainee status.<sup>6</sup> As the record fails to disclose the duties or authority of the buyers in Federal Electric, we shall permit them to vote subject to challenge.

*Planners:* These employees receive sales orders from their supervisors showing, among other things, the items to be manufactured, the necessary components, and delivery dates; make preproduction planning charts; schedule the delivery of materials and parts; and, working from blueprints (which are generally coded "make" or "buy" as to components), prepare shop orders for parts to be made at the plant and requisitions for those to be purchased elsewhere.<sup>7</sup> Review of these requisitions by supervisors appears to be perfunctory. Planners may authorize some substitution of materials, and may occasionally deviate from the number of "reserve" items that they are allowed to order. They also keep records relating to the jobs with which they are concerned. They consult with buyers and engineers concerning various aspects of their work. Their wages range from about \$87.40 to about \$120 per week. We find that the planners are technical employees, rather than managerial employees, and have a sufficient community of interest with other technical employees in the unit to warrant their inclusion therein.<sup>8</sup>

*The planner-procurement-installation:* This employee does all the procurement and scheduling involved in the installation of telephone systems throughout the country. He handles correspondence with the installers, advising them as to the materials they need and dealing with problems which may arise at the site of installation. His wages are approximately \$108 per week. His duties are similar to those of other planners. In these circumstances, we find him to be a technical employee and include him in the unit.

*Processors A, B, and trainee-assembly and processors A, B, and trainee fabrication:*<sup>9</sup> Processors analyze production jobs and deter-

<sup>5</sup> *Plankinton Packing Company*, 116 NLRB 1225 at 1228.

<sup>6</sup> *Allstate Insurance Company*, 109 NLRB 578 at 581.

<sup>7</sup> If, as sometimes happens, the blueprints are not coded as indicated above, planners must themselves determine whether the components are to be manufactured or purchased. This is called "sourcing."

<sup>8</sup> *Chapman Valve Manufacturing Company*, 119 NLRB 935.

<sup>9</sup> Although the work done by processors A is somewhat more complex than that done by processors B, the work duties of all processors are substantially the same and they will, therefore, be considered together.

mine the production rates that must be maintained in order to complete them on time. They prepare operation sheets for shop employees, which are detailed written instructions showing, for example, the tools required for the job and the estimated periods of time of the various operations involved.<sup>10</sup> They determine what parts and equipment are necessary to do particular jobs, and, if they are not on hand, whether they can be made at the plant or have to be purchased elsewhere.<sup>11</sup> In either case, however, the record indicates that approval of a supervisor is necessary. Processors also make rough sketches of tools to be designed, and generally expedite their jobs. In addition, processors prepare "layouts," which are written instructions for adjusting operating areas to meet specific needs, and make estimates as to the space, power, machines, and other facilities necessary to do jobs for which the Employer intends to bid.

Considering the record in its entirety, we are not convinced that the interests of processors are so intimately allied with those of management as to prevent their inclusion in any bargaining unit; we shall include them as technical employees.<sup>12</sup> As processors-trainee normally progress to the processor classification in a year, we shall also include this category in the unit.<sup>13</sup>

*Processors-senior:* The parties agreed to exclude this category. However, as these employees admittedly have the same duties and responsibility as the processors discussed above, we shall include them.<sup>14</sup>

*Outside expeditors:* These employees secure materials from suppliers at their places of business; bring them items for further processing; and keep in touch with them to facilitate their deliveries to the Employer. Outside expeditors also do some recordkeeping and travel whenever and wherever necessary. As these expeditors appear to spend the greater part of their working time away from the Employer's plant, we find that they have different interests from the other employees in the unit and exclude them therefrom.

*Material suppliers-instruments:* The record does not contain sufficient evidence as to the work duties and interests of these employees for us to determine their unit placement. We shall, therefore, permit them to vote subject to challenge in the election directed herein.

*Operation sheet writers—radio:* These employees are no longer employed by the Employer. Their duties have been included in those of the processors, whose unit placement has been determined above. We, therefore, find it unnecessary to consider the unit placement of this category.

<sup>10</sup> These estimates are taken from standard data.

<sup>11</sup> This is known as "sourcing." See footnote 7, *supra*.

<sup>12</sup> *Peninsular Metal Products Corporation*, 116 NLRB 452 at 453; *Westinghouse Electric Corporation*, 113 NLRB 337 at 339; *Westinghouse Electric Corporation (Irwin Mica Works)*, 97 NLRB 1271.

<sup>13</sup> *Allstate Insurance Company*, *supra*.

<sup>14</sup> Cf. *Raybestos-Manhattan, Inc.*, 115 NLRB 1036, 1038-39.

Upon the entire record in this case, we find that the following employees of the Employer at its electrical products plant at Clifton, New Jersey, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All office-clerical and technical employees, including employees set forth in Appendix A, attached, planners, the planner-procurement-installation, processors A, B, and trainee-assembly, processors A, B, and trainee-fabrication, and processors-senior, but excluding the employees set forth in Appendix B, attached, buyers and their assistants and outside expeditors.

[Text of Direction of Election omitted from publication.]

## APPENDIX A

### CATEGORIES WHICH THE PARTIES AGREE TO INCLUDE

Accountant I	Designer—Radio, Sr. (Mech.)
Accountant I—Payroll	Designer—Radio "A" (Elec.)
Bookkeeping Mach. Oper.—A	Designer—Radio C (Mech.)
Bookkeeping Mach. Oper.—B	Designer—Tel. C (Elect.)
Bookkeeping Mach. Oper.—TR.	Designer—Tel. C (Mech.)
Calculating Mach. Oper.—A	Designer—Tool A
Calculating Mach. Oper.—B	Designer—Tool B
Clerk—Accounting A	Detailer A (Elect.)
Clerk—Accounting B	Detailer A (Mech.)
Clerk—Bill of Material	Detailer B
Clerk—Bookkeeping, Mach. Control	Dispatcher—Traffic
Clerk—Contract & Order Serv.—A	Document Control Registrar
Clerk—Contract & Order Serv.—B	Draftsman—Radio A (Elect.)
Clerk—Cost A	Draftsman—Radio A (Mech.)
Clerk—Cost B	Draftsman—Tel. A (Elect.)
Clerk—File A	Draftsman—Tel. A (Mech.)
Clerk—File B	Draftsman B (Elect.)
Clerk—General A	Draftsman B (Mech.)
Clerk—General B	Draftsman Plant Layout A
Clerk—Inventory Analysis	Draftsman Plant Layout B
Clerk—Labor Records	Expediter
Clerk—Mail	Industrial Artist
Clerk—Payroll A	Key Punch Operator
Clerk—Payroll B	Key Punch Operator—Tr.
Clerk—Plant Maintenance	Multilith Operator A
Clerk—Prod. Cont. Components	Multilith Operator B
Clerk—Production Control, Machine Shop	Paper Cutter—Hand
Clerk—Purchasing	Photographer
Clerk—Raw Mat. Analysis	Plate Maker
Clerk—Reproduction Serv.—A	Designer—Radio A
Clerk—Reproduction Serv.—B	Designer—Telephone A
Clerk—Shipping A	Designer—Radio B (Elect.)
Clerk—Shipping B	Designer—Radio B (Mech.)
Clerk—Storeroom A	Designer—Tel. B (Elect.)
Clerk—Storeroom B	Designer—Tel. B (Mech.)
Clerk—Technical A	Designer—Radio C (Elect.)
Clerk—Technical B	
Clerk—Tech. Tel. Sr.	
Clerk—Traffic	
Cost Accountant I	Tabulating Machine Oper.—Tr.

Technical Publisher A  
 Technical Publisher B  
 Technical Cost Analyst  
 Technical Editor  
 Telegraph Operator  
 Telephone Operator—Senior  
 Tracer  
 Typist A  
 Typist B  
 Typist—Statistical A  
 Typist—Statistical B  
 Vari-Typist A

Vari-Typist B  
 Receptionist  
 Secretary  
 Stenographer A  
 Stenographer B  
 Tabulating Mach. Oper. A  
 Tabulating Mach. Oper. B  
 Telephone Operator

## APPENDIX B

## CATEGORIES WHICH THE PARTIES AGREE TO EXCLUDE

Accountant	Representative—Sales, Sr. (may supervise)
Accountant—Cost	
Analyst—Labor	Executive Secretary, Senior
Analyst—Market Research, Sr. (may supervise)	Technician—Electrometrolog Lab.
Analyst—Market Research	Technician—Quality Control
Analyst—Sales Order	Physicist
Analyst—Cost Control	Warehouse Assistant
Analyst—Warehousing	
Senior Analyst—General Systems & Procedures	Accountant "A"—Confidential
Junior Analyst—General Systems & Procedures	Accountant "B"—Confidential
Analyst—IBM Method	Administrative Assistant
Auditor	Analysis—Market Research
Auditor—Senior (may supervise)	Assistant—Special
Auditor—Estimator Cost Control	Auditor—Assistant
Advertising Clerk	
	Butcher
Chef	Cashier
Cost Control Trainee	Cashier, Cafeteria
	Chef—Cafeteria
Engineer (may supervise)	Chief Draftsman—Assistant
Engineer, Assistant	Chief Nurse
Engineer, Electrical—Testing	Chief Telephone Operator
Engineer—Packaging (may supervise)	Chief Telephone Operator, Assistant
Engineer—Packaging, Assistant	
Engineer—Sales	Clerk, Industrial Relations "A"
Engineer—Sales, Senior (may supervise)	Clerk, Industrial Relations "B"
Engineer—Senior (may supervise)	Clerk, Personnel "A"
Engineer—Test	Clerk, Personnel "B"
Engineer—Time Study	Commissary Steward
Engineer—Plant (may supervise)	Cook, Second
Engineer—Plant, Assistant (may supervise)	Cost Accountant, Assistant
Engineer—Plant Layout (may supervise)	
Estimator—(may supervise)	Desk Clerk, Nutley Club
Estimator—Cost Control	Engineer, Intermediate
	Engineer, Junior
Laboratory Assistant	Engineer, Student
	Estimator, Assistant
Message and Procedures Clerk	Estimator, Correspondent
	Executive Secretary
Public Relations Representative	
Representative—Ind. Rel. Sr.	Field Process Man, Assistant
Representative—Sales	Fire Chief
	Fireman

General Accountant, Assistant	Supervisor, Production Control—Assistant
Industrial Relations Representative	Supervisor, Sales, Service, Selenium and Intelin
Industrial Relations Representative, Assistant	Supervisor, Stores
Installer, Field, Radio, Intermediate	Supervisor, Tabulating Assistant
Installer, Field, Radio, Junior	Supervisor, Telephone Engineer, Service
Interviewer "A"	Supervisor, Telephone Service
Interviewer "B"	Supervisor, Tool and Commodity Records
Lieutenant of Police	Sales Order Editor, Telephone
Message Accountant, Assistant	Tabulating Machine Operator—Confidential
Motor Vehicle Dispatcher	
Nurse	Technical Writer—Radio
	Telephone Engineer—Intermediate
Payroll Clerk, Confidential	Telephone Engineer—Jr.
Plant Layout Man, Assistant	Telephone Engineer—Student
Publicity Writer	Test Engineer—Intermediate
Purchasing Agent, Assistant	Test Engineer—Jr.
	Time Study Man, Sr.
Quality Control Engineer, Intermediate	Time Study Man, Intermediate
Quality Control Engineer, Junior	Time Study Man, Jr.
	Traffic Manager—Assistant
Rectifier Shop Chemist	Trainee Accountant
Restaurant Manager, Assistant	
Safety Inspector	Writer—Technical, Electronics, Sr.
Sales Assistant	Writer—Technical, Electronics, Jr.
Sales Order Analyst	Confidential Secretary <sup>1</sup>
Sales Representative, Assistant	
Section Supervisor	Guards
Supervisor, Clerk	All other managerial and executive personnel
Supervisor, Factory Porters	
Supervisor, Follow Up	General foremen
Supervisor, Ground Crew	
Supervisor, Mailroom	Foremen senior
Supervisor, Material Control—Assistant	All other supervisors as defined in the Act.
Supervisor, Plant Cafeteria	
Supervisor, Plant Protection	

<sup>1</sup> The parties agreed at the hearing, and we find, that the only persons in this category are B Kero, D. Stefaniak, H. Keller, and D. McSorley.

The Petitioner sought to exclude confidential stenographers and chauffeurs. However, since, at the time of the hearing, the Employer had no employees in the category of confidential stenographer and as the record fails to indicate whether it had any employees in the category of confidential chauffeur, we find it unnecessary to consider the unit placement of these categories.

**Local No. 511, United Brotherhood of Carpenters & Joiners of America, AFL-CIO; Local No. 475, Hod Carriers, Building & Common Laborers International Union, AFL-CIO and New Mexico Building Branch, Associated General Contractors of America. Case No. 33-CC-24. June 26, 1958**

### DECISION AND ORDER

On February 21, 1958, Trial Examiner Howard Myers issued his Intermediate Report in the above-entitled proceeding, finding that 120 NLRB No. 211.