

\$500,000 standard chosen by the Board should, in its opinion, reasonably insure that jurisdiction will be asserted over all labor disputes involving retail enterprises which tend to exert a pronounced impact upon commerce.

In the present case, as it is clear that the Employer's gross volume of business of \$635,000 exceeds the minimum amount required under the new standard, the Board finds that it will best effectuate the policies of the Act to assert jurisdiction herein.

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. We find, in accordance with the agreement of the parties, that a unit of the Employer's warehousemen, truckdrivers, and helpers at Charleston, South Carolina, excluding clerical employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

[Text of Direction of Election omitted from publication.]

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**Raritan Valley Broadcasting Company, Inc.<sup>1</sup> and American Federation of Television and Radio Artists, New York Local, AFL-CIO, Petitioner.** *Case No. 22-RC-190. November 14, 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 Oscar Geltman, 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 a radio broadcasting company engaged in the operation of a radio station with call letters WCTC-AM and FM, serving the area of Middlesex and Somerset counties in New Jersey. During the calendar year preceding the hearing the Employer's gross revenues were approximately \$196,244.<sup>2</sup> It receives revenues generally from the sale of time for commercial advertising, from the sale of talent and the furnishing of material or services to advertisers.

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<sup>1</sup> The Employer's name appears as corrected at the hearing.

<sup>2</sup> In view of our disposition of this case, we need not determine whether the amount of \$6,119 which advertising agencies deducted prior to paying the Employer the amount charged them for use of time is properly attributable to the Employer as gross income, thus bringing the Employer's operations within the \$200,000 gross revenue standard of *Hanford Broadcasting Company*, 110 NLRB 1257.

Approximately 8 percent of time sold for advertising purposes is utilized by advertisers of national brand products. The Employer is a member of the Associated Press, and utilizes its wire services.

The Employer contends that it would not effectuate the policies of the Act for the Board to assert jurisdiction over it, because its gross revenue is less than \$200,000 and therefore its operations do not satisfy the test uniformly applied to radio stations by the Board since 1954.

Ever since the enactment of the National Labor Relations Act in 1935, the Board has consistently held to the position that it better effectuates the policies of the Act and promotes the prompt handling of cases not to exercise its jurisdiction to the fullest extent possible under the authority delegated to it by Congress. For the first 15 years the Board exercised its discretion in this area on a case-by-case basis. In 1950 the Board first adopted certain jurisdictional standards designed to aid it in determining where to draw the dividing line between exercised and unexercised jurisdiction. In 1954 the Board reexamined its jurisdictional policies in the light of its experience under the 1950 standards and revised its jurisdictional standards. At that time the Board noted that "further changes in circumstances may again require future alterations of our determinations one way or another."<sup>3</sup> Consistent with this practice of periodic review of its jurisdictional policies and a direct consequence of the Supreme Court's decision in *P. S. Guss, d/b/a Photo Sound Products v. Utah Labor Relations Board*<sup>4</sup> denying to the States authority to assert jurisdiction over enterprises as to which the Board declines to exercise its statutory jurisdiction, the Board reexamined its existing jurisdictional policies and the standards through which such policies were implemented. As a result the Board determined to revise its jurisdictional policies at this time so that more individuals, labor organizations and employers may invoke the rights and protections afforded by the statute. In *Siemons Mailing Service*<sup>5</sup> the Board fully set forth the general considerations which persuaded it that this could best be accomplished by the utilization of revised jurisdictional standards as an administrative aid in making its jurisdictional determinations. The Board has chosen this case to set forth the revised standard to be applied to enterprises operating communication systems.

The Board has decided that it will better effectuate the policies of the Act to assert jurisdiction in all future and pending cases involving enterprises engaged in the operation of radio or television broadcasting stations or telephone or telegraph systems which do a gross volume of business of at least \$100,000 per annum.

In adopting this standard the Board has given due consideration to all relevant budgetary factors bearing on its capability to handle an

<sup>3</sup> *Edwin D. Wemyss, an individual, d/b/a Coca-Cola Bottling Company of Stockton*, 110 NLRB 840, 842.

<sup>4</sup> 353 U.S. 1.

<sup>5</sup> 122 NLRB 81.

increased caseload, and to comments and briefs of interested parties received in response to its invitation contained in the Board's July 22, 1958, press announcement of its proposed changes in jurisdictional policies.<sup>6</sup> It is the Board's opinion that in the light of its current budgetary limitations and the volume of cases which may be expected under its other standards, the \$100,000 gross volume of business standard will extend the Board's jurisdiction over communications systems to the maximum possible extent at this time and will reasonably ensure that the Board will assert jurisdiction over all labor disputes involving such enterprises which tend to exert a pronounced impact on commerce.

Application of the \$100,000 gross volume of business test for radio stations to the facts in this case requires the Board to assert jurisdiction over the Employer. Accordingly, contrary to the Employer's contention, the Board finds that it will effectuate the policies of the Act to assert jurisdiction herein.

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 parties stipulated to the appropriate unit as follows:

All staff announcers, special program announcers, news and news-writer announcers, special program announcers, freelance announcers, and all other regular employees, including regular part-time employees who perform before the microphone, employed at the Employer's New Brunswick, New Jersey, radio station, but excluding engineers, salesmen, receptionists, clerical employees, guards, and supervisors as defined in the Act.

In view of the parties' stipulation the Board finds that the foregoing employees which they would include within the unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

[Text of Direction of Election omitted from publication.]

<sup>6</sup> (R-570.)

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**Sioux Valley Empire Electric Association and Local 426, International Brotherhood of Electrical Workers, AFL-CIO, Petitioner.** *Case No. 18-RC-3620. November 14, 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 William D. Boetticher, 122 NLRB No. 18.