

does not wish to participate in an election in such unit, we shall permit it to withdraw its petition upon notice to the Regional Director within 10 days from the date of issuance of this Direction, and shall thereupon vacate the Direction of Election.

[Text of Direction of Election omitted from publication.]

---

**The Ohio Valley Gas Company and William C. Rapp, Petitioner and Kenova Local 10-372 Oil Chemical and Atomic Workers International Union, AFL-CIO.** *Case No. 9-RD-218. August 18, 1959*

### 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 Harry David Camp, 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 Petitioner asserts that the Union is no longer the bargaining representative, as defined in Section 9(a) of the Act, of the employees involved. The Union is a labor organization currently recognized by the Employer as the exclusive bargaining representative of such employees.

3. The Petitioner seeks a decertification election in a unit of production and maintenance employees in the Employer's Ironton, Ohio, natural gas service district. The Union contends that its current contract covering these employees operates as a bar to the petition herein, which was filed on February 24, 1959. The Employer is neutral as to the contract-bar issue. The contract was executed on November 13, 1957, and is effective to October 1, 1959, with a 60-day automatic renewal clause. The Petitioner asserts that the contract is not a bar, urging that the checkoff clause on its face contains an ambiguity permitting irrevocable dues deduction authorizations which exceed the time limitations set forth in Section 302(c) (4) of the Act. We find it unnecessary to pass upon the latter contention. In the recent *Deluxe Metal* case<sup>1</sup> which, *inter alia*, announced the new contract-bar rules relating to the timeliness of petitions, the Board stated:

Henceforth, where there is a subsisting contract, a petition filed more than 150 days before the terminal date of a contract will be regarded as premature and will be dismissed *unless a hearing is*

---

<sup>1</sup> *Deluxe Metal Furniture Company*, 121 NLRB 995.

*directed despite the prematurity of the petition and the Board's decision issues on or after the 90th day preceding the expiration date of the contract.* [Emphasis supplied.]

As a hearing was held despite the premature filing of the petition, and as this decision will issue after the 90th day preceding the terminal date of the contract, we find that the latter agreement is no bar to a present determination of representatives.<sup>2</sup>

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 Section 2(6) and (7) of the Act.

4. We find, in accord with a stipulation of the parties, 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:<sup>3</sup>

All production and maintenance employees of the Employer in its Ironton District, which is headquartered at 311 South Third Street, Ironton, Ohio, excluding all clerical, executive, administrative, professional and temporary employees, supervisors as defined by the Act, and all others excluded by law.

[Text of Direction of Election omitted from publication.]

MEMBER JENKINS took no part in the consideration of the above Decision and Direction of Election.

<sup>2</sup> *Deluxe Metal Furniture Company, supra.* See, also, *St. Louis Independent Packing Company, a Division of Swift and Company*, 122 NLRB 887.

<sup>3</sup> This is the unit for which the Union is recognized as the exclusive bargaining representative under the existing contract.

**Masters-Lake Success, Inc. and Jack Berg and Metal, Plastic, Miscellaneous Sales, Novelty and Production Workers, Local No. 222, Independent, Party to the Contract**

**Metal, Plastic, Miscellaneous Sales, Novelty and Production Workers, Local No. 222, Independent and Jack Berg and Masters-Lake Success, Inc., Party to the Contract.** *Cases Nos. 2-CA-5838 and 2-CB-2213. August 19, 1959*

#### DECISION AND ORDER

On May 7, 1959, Trial Examiner Louis Libbin issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices, and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Inter-