

engineering assistants who have been excluded from the unit as technical employees. Although in the past certain of the instrument craftsmen have performed a limited amount of instrument repair work, this activity did not require their full time, as in the case of the specialists—instrument development. Moreover, the nature of the work thus performed was neither so highly complex nor did it require the advanced degree of knowledge or creative ability and effort as does the work of the specialists here in question.

The three specialists—instrument development, who formerly performed the duties of instrument craftsmen, were hired at the entrance salary of \$7,440 per year, with a range up to \$9,990 per year, whereas the basic wage schedule of instrument craftsmen is from \$82.94 weekly in the lowest grade to \$136.44 weekly in the highest grade. Thus, they were not only hired at a salary range substantially higher than that of the instrument craftsmen, but also higher than that of several engineers employed within the instrument development group.

It is clear from the foregoing that the three specialists—instrument development in dispute perform highly complex technical duties, and are technical employees who are not included within the unit of which the Council is the certified representative. Contrary to the contention of the Council, we find that the fact that the three specialists—instrument development performed a certain amount of instrument modification work when they were classified as instrument craftsmen and included within the certified unit, does not militate against our finding herein. As indicated above, while the three disputed employees were in the lower classification they performed development work only as an incident to their primary duty of repair and maintenance work. Moreover, such development work performed by them was not as complex nor required the degree of originality of design and concept as is true of their present positions. Accordingly, we find it unnecessary in this proceeding to determine whether or not specialists—instrument development are professional employees within the meaning of the Act, as urged by the Employer.

**Weis Markets, Inc. and Retail Clerks International Association,
AFL-CIO, Petitioner**

**Weis Markets and Amalgamated Meat Cutters and Butcher
Workmen of North America, AFL-CIO, Petitioner.** *Cases
Nos 6-RC-2366, 6-RC-2372, 6-RC-2367, and 6-RC-2373* *November 16, 1959*

DECISION AND ORDER

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, a hearing on these consolidated cases was held before
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Alfred C. Dybeck, hearing officer. The hearing officer's 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 these cases to a three-member panel [Chairman Leedom and Members Bean and Fanning].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. No 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, for the following reasons:

The Employer operates a chain of 34 supermarkets, which are located in 14 counties of Pennsylvania. All these stores are within an 85-mile radius of the Employer's main office in Sunbury, Pennsylvania. This chain is divided into four wage areas, in order to establish wage rates comparable to those prevailing in the geographical locations in which the stores are situated.

The Petitioner in Cases Nos. 6-RC-2366 and 6-RC-2372 seeks single store units of grocery and produce employees at the Employer's Lewistown and State College stores, located in the Williamsport wage area. Petitioner in Cases Nos. 6-RC-2367 and 6-RC-2373 seeks single store units of meat department employees at these same two stores. In the alternative, Petitioners seek separate units of grocery and produce employees, and meat department employees, in all of the nine stores comprising the Williamsport wage area, and including the Renova store, adjacent thereto, if the Board finds such inclusion appropriate. The Employer contends that only chainwide units are appropriate. There is no prior bargaining history.

The Employer's main office in Sunbury, Pennsylvania, is the headquarters for the managerial hierarchy, including the president, the vice president, the general superintendent, the assistant general superintendent, the personnel director, the advertising director, the head merchandiser, and the buyers and supervisors for the meat, produce, and grocery departments in all of the 34 stores. The ordering and pricing of the goods for the grocery, produce, and meat departments in the entire chain is determined by the board of directors, after consideration of the recommendations of the head merchandiser and the buyers for the respective departments. Advertising policy is centrally determined, and the material in connection therewith is furnished for the entire chain by the print shop in Sunbury. Leaves of absences, transfers, and promotions for all employees are approved

by the personnel director. The Employer also operates, at Sunbury, a warehouse, a carpenter shop, and a garage which services the entire chain. The payroll originates in Sunbury, and all personnel records are kept there.

Petitioners, in support of their single-store unit requests, contend that the store managers have local autonomy, and that the employees therein have a mutuality of interests. The record shows, however, that the authority over the grocery, produce, and meat department employees resides not in the store managers, but in the 10 grocery, produce, and meat department supervisors who, from the main office in Sunbury, circulate among the stores in the areas assigned to them. The record further shows that, in the majority of instances, these supervisors, rather than the store managers, recommend merit increases for the grocery, produce, and meat department employees. For all disbursements over \$5, the store managers must request permission from the main office. The store manager's general supervision of his store appears to be limited to coordinating the departments, and to hiring with permission from the main office. In all other matters, such as pricing, labor relations, and advertising, he merely carries out policies which have been centrally determined.

As examples of mutuality of interest among the employees in the Lewistown and State College stores, Petitioners allude to the fact that these stores have self-service meat departments, and that the employees at State College have social functions apart from the other stores. However, the record shows that there is an annual picnic for the male employees of all 34 stores, and that 26 other stores in the chain also have self-service meat departments. The two stores do not constitute a separate geographical district. Although the wages and working hours vary, there is a uniformity of operations among all the stores, and the training program and fringe benefits are the same for all employees. It is clear, from the foregoing, that there is a lack of any special interests among the employees in the Lewistown and State College stores which set them apart from the employees in the entire chain. We find, accordingly, that the single-store units sought by the Petitioners are inappropriate.¹

With respect to the alternative requests for units of all stores in the Williamsport wage area, the record establishes, as noted above, that the Employer maintains certain wage areas for the purpose of establishing wage rates comparable to those prevailing in the various areas. Administratively, however, the Employer operates through various supervisors, each of whom supervises the grocery, produce, or meat departments in a specific group of stores; although the store groupings remain constant, the supervisors assigned thereto do not.

¹ *Paxton's Wholesale Grocery Company*, 123 NLRB 316; *Great Atlantic and Pacific Tea Company*, 99 NLRB 1500.

There is, however, no correlation between the store groupings established for purposes of supervision and the wage areas, as each store grouping contains stores from more than one wage area, and each wage area contains stores from more than one group. It is clear, therefore, and we find, that the alternative units sought by the Petitioners do not conform to any administrative subdivision of the Employer's operations; nor would the addition of the Renova store result in such conformity. These stores do not, moreover, constitute any well-defined geographic area, as the stores at Williamsport and Mount Union, at the opposite ends of the wage area, are about 75 miles apart, whereas stores at Montgomery and Milton, outside the wage area, are only about 10 and 15 miles, respectively, from stores within that area. We find, accordingly, that the alternative units sought are also inappropriate.² In these circumstances, and as the Petitioners do not seek elections in any other units which might be appropriate, we shall dismiss the petition.³

[The Board dismissed the petitions.]

² *Father & Son Shoe Stores, Inc.*, 117 NLRB 1479; *Kroger Company (St. Louis Branch Office)*, 88 NLRB 194; *C. Pappas Company, Inc.*, 80 NLRB 1272.

³ As it is unnecessary to our decision, we have not considered whether only chainwide units are appropriate, as the Employer contends, or whether smaller units not sought herein might also be appropriate.

Mike Trama (F/V Sandy Boy) and Fishermen's Union, Local 33, ILWU. *Case No. 21-CA-2904. November 17, 1959*

DECISION AND ORDER

On May 28, 1959, Trial Examiner Wallace E. Royster issued his Intermediate Report in this case, finding that the Respondent had engaged in and was engaging in unfair labor practices in violation of Section 8(a)(1) and (3) of the Act, and recommending that the Respondent cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

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 Jenkins].

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner as modified herein.