

Relations Act, as amended, now known as the Labor-Management Relations Act, 1947, as amended.

3. The Board's standard for exercising jurisdiction over a nonretail enterprise is a minimum of \$50,000 outflow or inflow, direct or indirect (*Siemons Mailing Service*, 122 NLRB 81, 85; *Eau Claire and Vicinity Building and Construction Trades Council and Robert Bauer*, 122 NLRB 1341, 1343; *Frank Schafer, Inc.*, 127 NLRB 210, Case No. AO-8). Its standard for asserting jurisdiction over enterprises whose operations exert a substantial impact on the national defense is a showing that "the Board has statutory jurisdiction." *Ready Mixed Concrete & Materials, Inc.*, 122 NLRB 318, 320. Cf. *Mitchell v. Lublin*, 358 U.S. 207, 213.

Accordingly, the parties are advised, pursuant to Section 102.103 of the Board's Rules and Regulations, that the Board would assert jurisdiction over the operations of Miller, Midwest, and Fluor with respect to labor disputes cognizable by the Board under Sections 8, 9, or 10 of the Act. The Board expressly does not pass upon the question of whether the conduct involved is cognizable under said Sections 8, 9, or 10, and limits its opinion solely to the question of asserting jurisdiction over the operations of the employers mentioned herein.

Air Reduction Company, Incorporated¹ and General Drivers, Warehousemen, and Helpers, Local Union Number 89, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner.
Case No. 9-RC-3784. April 26, 1960

DECISION AND DIRECTION OF ELECTIONS

Upon a petition duly filed, a hearing was held before Daniel J. Smitas, 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 National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Jenkins and Fanning].

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

1. The Employer is engaged in commerce within the meaning of the National Labor Relations 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.

¹ The Employer's name appears as amended at the hearing.

4. The Employer is a New York corporation engaged in the wholesale and retail marketing of gases and welding apparatus. The establishment here involved consists of an office and warehouse of the Employer at Louisville, Kentucky, at which it stores and sells welding equipment, and maintains certain records for its area operations.²

Petitioner seeks to represent a unit composed of the order fillers, stock ledger clerk, and order typist at the aforementioned location, and is willing to include the order clerk, should the Board so find. The Employer would have the petition dismissed as requesting an inappropriate unit, but in any event would not include the stock ledger clerk, order clerk, or order typist, on the ground that the latter classifications represent only a segment of its office clerical staff at the office and warehouse.

Petitioner has been recognized as collective-bargaining representative for the order fillers since 1955, and is party to a current contract with the Employer covering these employees. All other employees at this location are unrepresented, with the exception of several repairmen assigned to another plant and not involved in this proceeding.

There are at present two employees classified as order fillers. These employees work on the first floor of the office and warehouse, in an open area containing storage bins and packing tables. Their duties consist of unpacking and shelving incoming merchandise, and preparing goods for delivery to customers.³

Approximately 8 feet from the packing tables are three desks, used by the order clerk, order typist, and stock ledger clerk, respectively. The order clerk receives written and telephone orders from customers, and notes such orders on printed order forms after obtaining certain data from a reference catalog. He then passes the completed forms to the order typist, who prepares additional forms concerning shipments and credits, and also maintains a file of customers' orders. The order clerk passes these forms to the stock ledger clerk, who utilizes them in the preparation of inventory and requisition records. Thereafter the order forms are given to the order fillers, who fill the orders as noted above.

The order typist and order clerk are nominally supervised by the sales office manager, while the storekeeper supervises the order fillers and stock ledger clerk.⁴ The work of these employees does not re-

²The Employer operates a plant several miles from the office and warehouse. This plant appears to be engaged in the distribution of the Employer's gas products, and has little contact with the office and warehouse, which handles only "hard goods." The Employer has another operation on Lampton Street, of undisclosed nature. Petitioner represents the Lampton Street mechanics, as well as drivers, drivers' helpers, and dockmen at the plant. Another union represents the production and maintenance employees at the plant.

³In accordance with Petitioner's current contract with the Employer, the order fillers are hourly paid. All other employees at the office and warehouse are salaried.

⁴The sales office manager was listed as supervisor of the order clerk and order typist on the Employer's organizational chart dated September 1, 1959. There is no indication

quire close supervision, however, and, as the sales office manager occupies an office on the second floor, his contact with the order clerk and order typist appears to be only sporadic.

It is clear from the record that the stock ledger clerk, the order clerk, and the order typist work as a team with the order fillers in processing and executing customers' orders for "hard goods." In view of the close working relationship between these employees, and their common work location, we find they are all essentially plant clerical employees, and may constitute an appropriate unit for collective-bargaining purposes.⁵

All other employees at the office and warehouse work on the second floor. In addition to certain managerial, supervisory, and confidential employees excluded by stipulation of the parties, there are three individuals alleged by the Employer to be necessarily a part of the unit sought by Petitioner. These individuals are the sales correspondent, sales mechanics clerk, and switchboard operator-receptionist.

The sales correspondent answers inquiries concerning the Employer's products and prices, maintains advertising and office supplies, and performs certain other miscellaneous tasks. The sales mechanics clerk makes up authorization and price cards from data contained in gas purchase contracts, and forwards this information to the Employer's tabulating center in Houston, Texas. This employee also types letters and memoranda from a dictating machine, and maintains customer account files. The switchboard operator-receptionist performs the usual duties associated with this classification, and also has typing and filing duties relating to general correspondence, freight arrival notices, and freight bills. All three employees are supervised by the sales office manager.

The sales correspondent, sales mechanics clerk, and switchboard operator-receptionist work in an area removed from the Employer's shipping and storage area. While their work to some extent concerns the "hard goods" shipping operation performed on the first floor, much of it relates to the Employer's overall area operations, including gas shipments from other locations. Their duties are entirely clerical in nature. In view of these facts, and the entire record, we find the sales correspondent, sales mechanics clerk, and switchboard operator-receptionist are office clericals. As Petitioner does not wish to include these employees in the unit, we shall, in accordance with the Board's usual practice, exclude them from the unit of plant clerical employees.⁶

As the stock ledger clerk, order clerk, and order typist are excluded from the existing bargaining unit of order fillers, in accordance with

that an earlier organizational chart existed. The present stock ledger clerk, who served as order typist prior to April 1, 1959, testified that during such time it was her impression the storekeeper was the "boss" of the three downstairs employees.

⁵ *Micromobile Manufacturers, Inc.*, 119 NLRB 1617, 1618; *Dependable Parts, Inc.*, 112 NLRB 581, 583.

⁶ *Interstate Supply Co.*, 117 NLRB 1062.

Board policy they are entitled to a self-determination election with respect to their inclusion in such unit.⁷ We shall, therefore, direct separate elections in the following voting groups of plant clerical employees at the Employer's office and warehouse at Louisville, Kentucky, excluding all other employees, the sales correspondent, sales mechanics clerk, switchboard operator-receptionist, manager's secretary, professional employees, guards, and all supervisors as defined in the Act.

A. The order fillers.

B. The stock ledger clerk, order clerk and order typist.

In conformity with the Board's decision in *Waikiki Biltmore, Inc., d/b/a The Waikiki Biltmore Hotel*,⁸ the votes shall be counted as follows: If a majority of the employees in each of the above voting groups votes for the Petitioner, both groups will be merged into a single overall unit, which, under the circumstances, we find to be appropriate. In the event a majority in voting group A selects the Petitioner, and a majority in voting group B votes against the Petitioner, the employees in group A shall constitute an appropriate unit and may continue to be represented by the Petitioner, and those in group B shall remain unrepresented. However, if a majority of the employees in voting group A do not select the Petitioner, and a majority in voting group B votes for the Petitioner, the latter shall not constitute an appropriate unit, and in this circumstance likewise shall remain unrepresented. The Regional Director is instructed to issue the appropriate certification or certifications as directed by the outcome of the elections.

[Text of Direction of Elections omitted from publication.]

⁷ *Lock Joint Pipe Co.*, 120 NLRB 1238.

⁸ 127 NLRB 82. For the reasons stated in his dissenting opinion in *Waikiki Biltmore, Inc. d/b/a The Waikiki Biltmore Hotel*, Member Fanning would follow the Board's previous practice of pooling in the present case.

Thermo King Corporation and National Union, United Welders of America (Independent), Petitioner. *Case No. 18-RC-4173.*
April 26, 1960

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before Charles J. Frisch, 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 this case to a three-member panel [Members Rodgers, Jenkins, and Fanning].