

several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that the Employer has engaged in unfair labor practices, I shall recommend that it cease and desist therefrom and take certain affirmative action which will effectuate the purposes of the Act.

Having found that the Employer unlawfully assisted and rendered support to Local 868 in violation of Section 8(a)(2) of the Act and further that the Employer violated Section 8(a)(3) and (1) of the Act by executing, maintaining, and enforcing an agreement containing unlawful union-security provisions, I shall recommend that the Employer cease giving effect to the agreement signed on November 4, 1958, retroactive to October 14, 1958, and all subsequent agreements with Local 868, unless and until that Union shall have demonstrated its exclusive majority representative status pursuant to a Board-conducted election among the employees of the Employer. Nothing in this recommendation should be taken, however, to require the Employer to vary those wage, hour, and other substantive features of its relations with the employees themselves, if any, which the latter has established in the performance of this agreement.

I shall further recommend that the Employer reimburse its employees and former employees in the full amount of any dues or other moneys collected from them under the Employer's aforesaid agreement with Local 868.

In view of the nature of the unfair labor practices committed, I shall also recommend that the Employer cease and desist from infringing in any manner upon the rights guaranteed in Section 7 of the Act.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. The Employer is engaged in commerce and the Unions are labor organizations within the meaning of the Act.
2. By contributing assistance and support to Local 868, the Employer has engaged in unfair labor practices within the meaning of Section 8(a)(2) of the Act.
3. By discriminating with respect to terms and conditions of employment, the Employer has engaged in unfair labor practices within the meaning of Section 8(a)(3) of the Act.
4. By the foregoing conduct, the Employer has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act, thereby engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

[Recommendations omitted from publication.]

Allis-Chalmers Manufacturing Company—Pittsburgh Works and International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW), Local 107, AFL-CIO, Petitioner. *Case No. 6-RC-2568. July 18, 1960*

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 Herbert Schutzman, 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, 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 petition requests, and the Employer agrees to, a unit of all technical employees at the Employer's Pittsburgh Works, where the Employer is engaged in the development and production of electrical transformers. In its brief the Petitioner took the position that all of the employees in all of the job classifications to be reviewed herein-after, except the blueprint machine operator and the blueprint machine attendants, are technical employees. The Employer declined to take a position as to any particular classification, indicating only that it desired the Board to make a determination in this regard. The employees¹ involved are all employed in the engineering and manufacturing departments of the Employer's Pittsburgh Works and are presently unrepresented.²

Engineer's assistants: The engineer's assistants help the engineers in working out details of electrical design and insulation for transformers, and translate data supplied by the testing department into performance reports, which are submitted to customers. A basic understanding of electricity and a fluency in mathematics, generally acquired through specialized college or high school training, are required by the Employer as qualifications for these positions. We find that the engineer's assistants are technical employees.³

Senior designers, designers, draftsmen, senior draftsmen, detail draftsmen, and drafting standards coordinator—engineering department: All of the employees in these classifications except the drafting standards coordinator are engaged in the interpretation of engineer-

¹ The record does not indicate, nor does either party contend, that any of these individuals is a supervisor as defined by the Act.

² Subsequent to a stipulation for certification upon consent election, Petitioner was certified on March 22, 1957, as the collective-bargaining representative for certain technical employees (designers and draftsmen) involved herein. *Allis-Chalmers Manufacturing Company*, 117 NLRB 744. Thereafter, the Employer refused to bargain with the Petitioner in this unit. The Board, on April 28, 1958, found the Employer's conduct violative of Sections 8(a) (5) and 8(a) (1) of the Act and ordered it to bargain with the Petitioner. *Allis-Chalmers Manufacturing Company*, 120 NLRB 644. However, the Board's order was set aside by the court of appeals, based on the court's finding that certain statements by the Petitioner during the course of the preselection campaign were so misleading as to have prevented the employees from exercising a free choice in the election. *Allis-Chalmers Manufacturing Company v. NLRB.*, 261 F. 2d 613 (C.A. 7) Petitioner is also the certified bargaining representative of the Employer's production and maintenance employees. *Allis-Chalmers Manufacturing Company*, 84 NLRB 30

³ See *Minneapolis-Honeywell Regulator Co.*, 125 NLRB 1283 (T-rated employees in gyroscope laboratory).

ing specifications and outlines into shop drawings, although with varying degrees of responsibility, e.g., the senior designers make layouts in basic engineering design and the draftsmen make minor layouts which result in detail drawings. The Employer prefers to hire for these positions individuals who are in the process of obtaining an engineering degree, although some have received their requisite specialized training in mechanical drawing and simple mathematical calculations at trade schools, high schools, or directly from the Employer. All receive substantial training on the job. The drafting standards coordinator, who determines whether drawings produced for the shop conform to the Employer's drafting standards, must have a thorough familiarization with mechanical drawing and mechanical drawing procedures and have had experience as a draftsman. We find that the senior designers, designers, draftsmen, senior draftsmen, detail draftsmen, and drafting standards coordinator are technical employees.⁴

Laboratory technicians: The laboratory technicians, also referred to as laboratory assistants, work under the supervision of the development engineers whose ideas and drawings the laboratory technicians convert into working models. This operation, the parties agree, is highly specialized work. These employees also perform pressure and electrical tests to determine strength and suitability of materials. For this classification the Employer prefers to obtain the services of individuals who have had several years of engineering training in college. We find that the laboratory technicians are technical employees.⁵

Blueprint machine operator and blueprint machine attendants: The blueprint machine operator maintains and operates the blueprint machine which is used to make copies of blueprints. The blueprint machine attendants process the drawings of the draftsmen through the machine. No specialized training, other than that obtainable through experience on the job for a brief period, is required to attain proficiency as an operator or attendant. We find that the blueprint machine operator and attendants are not technical employees.⁶

Designer, draftsmen, detail draftsmen—manufacturing department: These employees, also referred to as maintenance draftsmen, design, redesign, and make layouts for jigs, fixtures, existing machines, drills, or other small equipment. They have received drafting training through specialized high school courses or in drafting schools. We find that the draftsmen, detail draftsmen, and designer are technical employees.⁷

⁴ See *Litton Industries of Maryland*, 125 NLRB 722.

⁵ See *Leland Electrical Company*, 126 NLRB 406.

⁶ *Beloit Eastern Corporation*, 119 NLRB 1407, 1409.

⁷ See *Litton Industries of Maryland*, *supra*.

Project leaders: The project leaders conduct investigations relative to manufacturing problems involving proposed changes in manufacturing procedures or product sizes. They gather data, develop specifications, and make rough designs of new layouts, machinery, jigs, and fixtures, which are drawn up in detail by the draftsmen. Their qualifications include extensive experience on the job as well as specialized college training. One is a graduate engineer and others are pursuing courses in engineering. We find that the project leaders are technical employees.⁸ The record does not support the Employer's contention that the project leaders are managerial employees.⁹

Time-study foremen: The time-study foremen are engaged in clocking employees at their work, developing the method of job performance, and determining the rate. Where a dispute arises about a specific rate, the time study foremen are called upon to verify the rate in question. The basic qualifications for this type of work are familiarity with the Employer's job processes and product and an understanding of time studies. Training in time study theory is ordinarily acquired in specialized technical schools or college, and one of the time study foremen has an engineering degree with a background in this subject. Like the project leaders the record does not support the Employer's contention that the time study foremen are managerial employees. In view of the nature of their work, their exercise of independent judgment in determining job methods and rates, the fact that training required for their work is of a type ordinarily acquired in college or specialized technical schools, and from the record as a whole, we find that they are technical employees.¹⁰

Project coordinators and welding supervisor: The project coordinators and the welding supervisor are assigned projects to develop new manufacturing methods and procedures from the point of inception to the point where their proposals may be incorporated into the manufacturing process. It was testified that the projects to which they are assigned are similar in nature to the projects assigned the project leaders whom we have found to be technical employees. Although both classifications (project leaders, and project coordinators or welding supervisor) have never been assigned to the same project, they may assist each other. The record, however, fails to indicate what, if any, specialized training qualifications the Employer requires for this type of employment. As with the project leaders, the record does not support the Employer's contention that they are managerial employees. Because the record is silent as to their specialized

⁸ See *General Electric Company*, 125 NLRB 145.

⁹ See *Westinghouse Air Brake Company, Union Switch & Signal Division*, 119 NLRB 1391, 1393

¹⁰ *Western Electric Company, Incorporated*, 126 NLRB 1346.

training qualifications, we do not make a determination as to whether or not the project coordinators or the welding supervisor are technical employees. However, inasmuch as their work is similar to that of the project leaders, whom we have found to be technical employees, and in view of the apparent necessity for the exercise of independent judgment in the development of new manufacturing methods, we permit the project coordinators and the welding supervisor to vote subject to challenge.¹¹

Planner, assistant engineer, and cost analyst: The planner plans the type of tooling required for a new part on a new product. The assistant engineer determines the estimated cost of the new part to be manufactured or designed. Although each has a college degree it was testified that each was qualified for his present position on the basis of experience rather than his education. The cost analyst develops and analyzes information as to costs of production after a job is in operation. He is a high school graduate with prior experience in the Employer's engineering department. Although the work of the planner, the assistant engineer, and the cost analyst may be considered allied to work which is technical in nature, none of the work of these individuals appears to require any specialized training of the type usually acquired in colleges, technical schools, or through special courses. Moreover, the work of these individuals does not appear to involve the exercise of independent judgment, but rather the exercise of such routine judgments as would be made by a skilled craftsman or an administrative office clerical employee. We find, contrary to the Petitioner, that the record does not affirmatively support the claim that the planner, the assistant engineer, and the cost analyst are technical employees.¹²

Inspector foremen: The inspector foremen perform the usual duties of inspectors, that is, examine work in progress for general appearance and for compliance with specifications and with the Employer's standards of workmanship. Their inspection is basically visual and includes the use of micrometers, calipers, and scales. Qualifications for the position are a general high school education and experience on the job. It requires several years of experience to perform the most difficult inspections. At the hearing the Employer contended that the inspectors are managerial employees because of their function. We find, however, that they are not managerial employees.¹³ Inasmuch as no specialized training is required for their type of work, and in

¹¹ See *Cherokee Textile Mills, Inc.*, 117 NLRB 350, 352.

¹² See *Litton Industries of Maryland*, *supra*; *Ladish Company*, 126 NLRB 555 (estimator-fitting, estimator-cost analysis, production analyst).

¹³ *Metal Products Corporation*, 107 NLRB 94, 96.

view of the fact that such work does not appear to require the exercise of independent judgment, we find, contrary to the Petitioner, that the inspectors are not technical employees.¹⁴

Lead testers, testers, assistant testers, and test helpers: The various categories of testers perform electrical tests as distinguished from the mechanical tests conducted by the inspector foreman. These electrical tests are performed with the use of meters and other instruments to ascertain whether a transformer or transformer part fulfills specified performance requirements. Although it was testified that only the lead testers can conduct the most involved electrical tests, there are no particular specialized training requirements for any class of tester except a high school education and a basic understanding of electricity, which latter is obtained on the job. The Employer contended at the hearing that the various categories of testers are managerial employees because of their function. We reject this contention.¹⁵ The work of the various categories of testers does not require any specialized training of the variety usually acquired in colleges, technical schools, or through special courses. Although some knowledge of electronics and experience in the use of testing devices is required, it does not appear that their work requires the exercise of independent judgment in view of the Employer's preestablished performance specifications to which they test its products. Accordingly, we find that the lead testers, testers, assistant testers, and test helpers are not technical employees.¹⁶

We find 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:

All technical employees at the Employer's Pittsburgh Works, Pittsburgh, Pennsylvania, including engineer's assistants; senior designers, designers, draftsmen, senior draftsmen, detail draftsmen, and drafting standards coordinator—engineering department; laboratory technicians; designers, draftsmen, and detail draftsmen—manufacturing department; project leaders, and time study foremen; but excluding the blueprint machine operator and blueprint machine attendants; planner, assistant engineer, cost analyst, inspector foremen, lead testers, testers, assistant testers, test helpers, all other employees, guards, and supervisors as defined by the Act.¹⁷

[Text of Direction of Election omitted from publication.]

¹⁴ *Combustion Engineering, Inc*, 117 NLRB 1589, 1593.

¹⁵ See *Metal Products Corporation*, *supra*.

¹⁶ *Ryan Aeronautical Co., Electronics Division*, 121 NLRB 1502, 1505; *Transformer Engineers*, 114 NLRB 1325, 1328.

¹⁷ The project coordinators and the welding supervisor shall vote subject to challenge.