

In the circumstances, we find it would not be consistent with the provisions and policies of the Act to direct an immediate election which might result in the certification of a union not truly the choice of the employees of the new business operation to commence in September 1960.

[The Board dismissed the petition.]

Alpha Corporation, Transportable Systems Division and Local Lodge 952, International Association of Machinists, AFL-CIO, Petitioner. *Case No. 16-RC-2660. July 25, 1960*

**DECISION, ORDER, AND CLARIFICATION
OF CERTIFICATION**

Upon a petition duly filed Section 9(c) of the National Labor Relations Act, a hearing was held before John C. Crawford, 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 Employer¹ is engaged in commerce within the meaning of the Act.²
2. The labor organizations involved herein claim to represent certain employees of the Employer.³

¹ Alpha Corporation was organized on March 31, 1959, as a successor to the Systems Division of Collins Radio Company, and became an operating entity on February 1, 1960, when Collins Radio Company transferred employees and assets to Alpha Corporation. Alpha Corporation is at present a wholly owned subsidiary of Collins Radio Company. Alpha and Collins have the same directors, substantially the same officers, and the same persons in charge of their labor relations policies. Upon occasion, Collins decides whether a particular order calling for the production of goods should be allocated to Alpha or to another of its subsidiaries. In view of these facts, we find that for jurisdictional and unit purposes, Collins and Alpha constitute a single employer within the meaning of the Act. (*Gibbs Oil Company*, 120 NLRB 1783.) Collins was permitted to intervene at the hearing on the basis of its relationship to the employees involved herein. Alpha and Collins are sometimes referred to herein as the Employer and sometimes as Alpha and Collins, respectively.

² The plants of Alpha and Collins involved in this proceeding are located in the State of Texas. The parties stipulated that, during the year preceding the hearing, Collins shipped in excess of \$50,000 worth of goods and materials from these plants to points outside Texas and received in excess of \$50,000 worth of goods and materials to these plants from points outside Texas. As Alpha and Collins are manufacturing enterprises and are, for jurisdictional purposes, a single employer, we find that both Alpha and Collins meet our jurisdictional standards. *Siemens Mailing Service*, 122 NLRB 81.

³ International Union of Electrical, Radio, and Machine Workers, AFL-CIO, and its Local 787, hereinafter referred to as IUE, was permitted to intervene at the hearing on the basis of its certifications as representative of employees sought herein and on the basis of its contractual interest in these employees. Petitioner, hereinafter referred to as the IAM, objected to the intervention on the ground that the IUE had no showing of interest in the unit sought in the petition. As the IUE has contractual relations with, and is currently recognized by, the Employer, we find that the IUE has a colorable claim to representation sufficient for purposes of intervention. *Hardboard Fabricators Corp.*, 117 NLRB 823.

3. No question affecting commerce exists concerning representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act. However, the IAM indicated that it was willing to have the Board treat its petition as a motion to clarify its existing certification as representative of certain employees of the Employer. As the Board will consider and decide requests for clarification of certified units, the following decision is issued even though no question concerning representation exists.⁴

Alpha is a Texas corporation engaged in the design, construction, installation, and operation of electronic systems. Alpha operates a facility at Addison Airport located in Dallas County, Texas, approximately 3 miles north of the city of Dallas, where its production workers are employed, and a building at Richardson, Texas, which is also located in Dallas County, 3 miles north of Dallas, where it employs clerical, technical, and professional employees. Addison Airport is located approximately 5 miles west of Richardson. Collins owns and operates seven production plants in the so-called Trinity Industrial District in the city of Dallas, and it also operates a research, development, and office building at Richardson, across the street from the Alpha Building.⁵ The Trinity Industrial District is located approximately 13 miles from Richardson and approximately 10 miles from the Addison Airport. On January 13, 1954,⁶ the IUE was certified, after a Board-directed election, as representative of all production and maintenance employees at Collins', Dallas, Texas, electronic equipment plants. At that time, Collins owned and operated only two production plants in the Dallas area. Subsequently, on February 3, 1955, as the result of a consent election,⁷ the IUE was certified to represent a unit of production, test, equipment, construction, and maintenance employees at Collins', Dallas, Texas, electronic equipment plants. Under the terms of the consent agreement, this unit of employees became part of the IUE unit certified in the earlier case. As Collins opened new plants in Dallas, it extended recognition to the IUE as representative of the employees in these plants. The IUE is currently recognized as the representative of the production and maintenance employees of Collins' seven plants in Dallas and also of the building maintenance employees of the Employer at Richardson and Addison.⁸ The most recent contract between Collins and the IUE, dated May 1, 1959, is to remain in effect for 1 year and, unless 60 days' notice of termination is given by either of the parties, from

⁴ *Mississippi Lime Company*, 124 NLRB 884

⁵ Although Collins owns and operates plants in other parts of the United States (e.g., Cedar Rapids, Iowa), these are its only plants in the Dallas area.

⁶ Case No. 16-RC-1390 (unpublished)

⁷ Case No. 16-RC-1584 (unpublished).

⁸ The record indicates, however, that Alpha has subcontracted its building maintenance work and does not presently employ maintenance workers either at Addison or at Richardson.

year to year thereafter.⁹ In this agreement, Collins recognizes the IUE as a representative of a unit of "all production and maintenance employees in the Employer's Dallas, Texas, electronic equipment plants."

At the time of these certifications, Collins maintained an aircraft installation facility at Redbird Airport, near Dallas. However, the certifications did not expressly cover the employees at Redbird nor, with the exception of building maintenance employees, did the contracts between the IUE and Collins cover any of these employees. Sometime before 1959, Collins transferred its aircraft installation facility to Addison Airport. On February 11, 1959,¹⁰ as the result of a consent election, the IAM was certified to represent a unit composed of all employees of Collins at its Addison Aircraft Modifications Center "engaged in aircraft modification and installation," and excluding, among others, radio technicians and building maintenance employees. Thereafter, on June 1, 1959, the Employer entered into a contract recognizing the IAM as the representative of the employees in the above-described unit. This contract was to continue for 1 year and, unless either of the parties gave 60 days' notice of termination, from year to year thereafter. So far as appears, no such notice of termination has been given.

When the IAM was certified in February 1959 as representative of the employees at Addison, 95.9 percent of these employees were engaged in aircraft work. In June 1959, when the IAM signed its contract with Collins, the nonaircraft work at Addison had grown to 40.3 percent of the total. By January 1960, 87.6 percent of the employees at Addison were engaged in nonaircraft work. Aircraft employees fabricate electronic systems and install them in airplanes. Nonaircraft employees fabricate and install these electronic systems in transportable units such as trailers, consoles, and huts.¹¹ During the period following June 1959, the Employer dealt with the IAM as representative of all the production employees at Addison, including nonaircraft workers. In December 1959, the IUE, on learning of the increase in nonaircraft work being performed at Addison, wrote to Collins objecting, in substance, to the fact that this nonaircraft work was being performed without reference to the IUE agreement with Collins. After several meetings, the IUE and Collins entered into a supplementary agreement on January 15, 1960, which provided, among other things, that the IUE was entitled to represent the employees of Alpha engaged in the fabrication and installation of systems in units other than aircraft, but postponing specific performance

⁹ So far as appears, no such notice of termination has been given.

¹⁰ Case No. 16-RC-2452 (unpublished).

¹¹ In October 1959, the name of the facility at Addison Airport, which had previously been known as the Addison Aircraft Modification Center, was changed to Transportable Systems Division to reflect the change in the type of work which was taking place there.

of this portion of the agreement until this work could be transferred to the Employer's proposed new facility at Richardson, Texas.¹²

On January 18, 1960, the IAM filed a motion with the Regional Director for the Sixteenth Region to amend and clarify its certification in Case No. 16-RC-2452 in view of the change of name of the subsidiary of Collins from the Aircraft Modification Center to the Transportable Systems Division and the change in the character of the work being performed at Addison. In its motion, the IAM asked the Regional Director to amend and clarify its certification to include, with certain exclusions, all production and maintenance employees of the Transportable Systems Division of Collins Radio Company. On January 20, 1960, the Regional Director denied the motion of the IAM on the ground that it raised a question concerning representation, but stated that he would entertain a petition at an appropriate time. The instant amended petition and motion for clarification were filed on February 5, 1960.

We must determine whether the Board, in certifying the IAM in 1959 to represent "aircraft" employees at Addison, intended to include nonaircraft employees in the certified unit. If the certificate was not intended to include nonaircraft employees, the IAM here is petitioning for a more comprehensive unit than that for which it was certified and a question concerning representation may exist. If, on the contrary, the IAM certificate was intended to cover within the unit nonaircraft employees, the petition does not raise a question concerning representation and the IAM certificate should be clarified to include nonaircraft as well as aircraft employees at Addison.

In our view, the IAM certification was intended to include in its coverage nonaircraft employees. When the IAM was certified in 1959, approximately 5 percent of the employees at Addison were engaged in nonaircraft work. The certificate of the IAM, while referring *expressly* only to aircraft employees, did not *expressly* exclude nonaircraft employees. We also consider it significant in this connection that the Employer, between June and December 1959, dealt with the IAM as the representative of the nonaircraft employees on the apparent assumption that they were also covered by the certificate and contract. In view of these facts, we deem the use of the phrase "aircraft workers" in the IAM certificate to be merely descriptive of the work being done by the large majority of production employees at Addison at the time of the certification rather than as a term of limitation. Accordingly, we find that the IAM certification in Case No.

¹² At the hearing, a representative of the Employer testified that the Employer expects to complete a new facility at Richardson about June 1, 1960, and that it plans to transfer the nonaircraft fabrication and installation work now taking place at Addison to this new facility. In accordance with established Board policy, we shall make our findings herein on the basis of present operations of the Employer *Sidney Blumenthal & Co. (Caromount and Wilson Divisions)*, 113 NLRB 791, 794, footnote 8

16-RC-2452 embraces within the certified unit all employees at Addison engaged in the fabrication and installation of electronic systems. As the IAM petition in the instant case does not raise a question concerning representation, we shall dismiss the petition.¹³

Accordingly, the certification of the IAM in Case No. 16-RC-2452 is hereby clarified to include in the unit all employees at the Addison Airport engaged in the fabrication and installation of electronic systems in both aircraft and in transportable systems other than aircraft.¹⁴

[The Board dismissed the petition.]

MEMBERS BEAN and JENKINS took no part in the consideration of the above Decision, Order, and Clarification of Certification.

¹³ In its petition, the IAM also sought to represent maintenance employees of Alpha and production employees of Alpha in all of Dallas County. The record indicates, however, that Alpha currently employs no maintenance employees and no production employees other than at Addison. In accordance with Board policy, we shall make no determination with respect to categories of employees who are not currently employed by the Employer (*Westinghouse Electric Corporation*, 110 NLRB 475, 477.) The IAM also sought to represent radio technicians employed at Addison. The radio technicians were expressly excluded from the 1959 certification of the IAM. Assuming that the radio technicians may appropriately be included in the IAM unit, it would be necessary to ascertain by means of a self-determination election whether the radio technicians wished to be included in the IAM unit (*The Zia Company*, 108 NLRB 1134) However, to warrant a self-determination election among previously unrepresented employees, the union seeking such an election must make a separate showing of interest among these employees (*Pennington Bros., Inc.*, 124 NLRB 935). The Board has been administratively advised that the IAM has made no separate showing of interest among radio technicians. On the basis of the foregoing, we shall dismiss the IAM petition in its entirety.

¹⁴ We make no determination as to whether the IAM certification covers nonaircraft employees, or any other employees of the Employer, who may be transferred from Addison Airport to any other facility of the Employer.

Aerojet General Corporation and International Union, United Welders, Petitioner.¹ *Case No. 21-RC-6192. July 25, 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 Wilford W. Johansen, 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 Rodgers and Fanning].

¹ The name of the Petitioner appears as amended after the close of the hearing by agreement of the parties.