Alpha Corporation of Texas *and* Lodge 952, International Association of Machinists, AFL–CIO,[1] Petitioner. *Cases Nos. 16–RC–2765 and 16–RC–2766. March 13, 1961*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, hearings were held before Thomas P. Sheridan, hearing officer. The hearing officer's rulings made at the hearings 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, Leedom, 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 organizations involved claim to represent certain employees of the Employer.[2]

3. The IUE contends that the employees of Alpha, at the Richardson plant, which the IAM seeks to represent, are an accretion to the unit which it represents at Richardson and that a contract between it and Alpha's parent, Collins, effective from July 1, 1960, to August 31, 1961, is a bar to this proceeding, and at the hearing, moved to dismiss the petition.

As stated previously [3] IUE represents Collins production and maintenance employees at Richardson. IAM and the Employer deny that the contract is a bar.

On January 16, 1960, Collins, Alpha, and IUE signed an agreement in which the parties agreed that Alpha, as successor to a portion of Collins' business, was a party to the agreement between Collins and IUE and recognized that IUE was entitled to represent employees of Alpha engaged in fabrication and installation of systems in convey-

[1] The Employer and Petitioner are hereinafter referred to as Alpha and IAM.

[2] At the hearing, International Union of Electrical, Radio and Machine Workers of America, AFL–CIO, and its Local 787, herein called IUE, was permitted to intervene on the basis of an alleged card showing and contract interest. The IAM objected to and moved to revoke the intervention, contending that the cards presented by IUE are fraudulent and that the contract on which IUE relies does not cover the employees involved. We have been administratively advised that the IUE has no valid showing of interest. However, the record shows that during 1959, Alpha decided to move part of its manufacturing plant from Addison, Texas, to leased space in a plant owned by its parent, Collins Radio Company, herein called Collins, at Richardson, Texas. In December 1959, IUE, which represented some Collins employees at Richardson, notified Collins and Alpha that it considered the work to be performed by Alpha at Richardson, covered by the Collins–IUE contract. On January 16, 1960, Collins, Alpha, and IUE signed an agreement in which, *inter alia,* Alpha agreed that "the above named union [IUE] is entitled to represent employees of the corporation." On the basis of the foregoing, we find that IUE was properly permitted to intervene to protect its interest, if any, in the unit sought.

[3] See footnote 2, *supra.*

ances other than aircraft at Richardson.[4] On July 1, 1960, Collins and IUE executed the contract here asserted as a bar.[5] On July 22, 1960, Alpha, Collins, and IUE signed an agreement superseding the January 16, 1960, agreements between the same parties. The new agreement stated that the parties would be bound by the Board decision in a case pending before it[6] with regard to the unit placement of Alpha employees at the Richardson plant. This agreement contains the following contingencies:

> 1. The parties will abide by the National Labor Relations Board's decision in Case Number 16–RC–2660 now pending before the Board.
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> 2. In the event the Board decides said Case 16–RC–2660 to the effect that the work involved in said case and the subject of said letter is to be done by the International Association of Machinists, the letter and agreement will be mutually rescinded.
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> 3. In the event the Board decides said Case 16–RC–2660 that the work involved is to be done by the I.U.E., then and in that event:
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> (a) If Collins Radio Company, Texas Division, does said work, then and in that event the work will come under the collective bargaining agreement between Collins Radio Company and the I.U.E. dated July 1, 1960.
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> (b) In the event said work, or any portion thereof, is done by Alpha Corporation, then and in that event Alpha Corporation is not a party to the Collins Radio I.U.E. agreement and a separate collective bargaining agreement covering employees so engaged will be entered into between Alpha and I.U.E. on substantially the same terms and conditions as the Collins Radio Bargaining Agreement. It is understood that any such agreement shall become effective only after the date on which all of such work is relocated from Alpha's Addison Airport facility to its Richardson plant, which date must remain indefinite. Alpha will in good faith and with reasonable diligence provide for this relocation giving first consideration to its performance obligations under outstanding commitments to customers.

As, at the time of the hearing in the *Alpha* case referred to in the agreement, Alpha had no employees at Richardson, the Board did not determine the unit placement of Alpha employees at Richardson.[7]

The record shows that on July 11, 1960, certain Alpha employees who worked at the Alpha, Addison, Texas, plant, were transferred to

[4] This is a unit which IAM seeks to represent herein.

[5] The contract is not signed by any representative of Alpha, Alpha is not referred to in the agreement, and no reference is made to Alpha employees.

[6] *Alpha Corporation, Transportable Systems Division,* 128 NLRB 309.

[7] *Alpha Corporation, supra,* footnotes 13, 14.

Richardson. Since that time Alpha has supplemented its Richardson labor force with other Addison employees and new hires. No Collins employees have been hired by Alpha or transferred from Collins to Alpha. At Richardson, in the unit sought by Petitioner IAM, Alpha manufactures and assembles prototype transportable huts containing electronic equipment. Collins employees at Richardson assemble printed circuits, electrical subassemblies, electrical and mechanical assemblies, and perform inspection, testing, and stock activities. Collins is separated from Alpha by a fence. Each operation has its own supervisory hierarchy, each maintains its own payroll and bookkeeping records, and there is no employee interchange between the two corporations.

On the basis of the foregoing we find that Alpha's Richardson plant is not an accretion to the Collins plant, and that, consequently, the IUE contract with Collins is inapplicable to the operation sought by the Petitioner. As there is no other basis absent a finding of an accretion for holding the contract or agreement to be applicable to the employees sought by the Petitioner,[8] we find that neither the July 1, 1960, contract nor the July 22, 1960, agreement are a bar and that 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. Furthermore, as the IUE's contract does not cover any of the employees in the requested unit, and as it has made no other valid showing of interest among these employees, we find that it has no standing to challenge the appropriateness of the requested unit nor to appear on the ballot in the election directed below.[9]

4. The IAM seeks to represent only the employees of the transportable systems division of the Employer at its Richardson, Texas, plant. The Employer, in requesting an immediate election, did not question the appropriateness of the unit.[10] The Employees sought comprise one of the Employer's eight divisions and are separately supervised. They perform substantially the same type of work as those in the Petitioner's certified unit at the Employer's Addison, Texas, plant, and, unlike other employees engaged only in production manufacturing work, are engaged in preproduction or prototype model work.

[8] Thus, the July 1 contract does not apply to Alpha or its employees as neither is referred to in the contract. As for the July 22 agreement, its coverage of Alpha employees was predicated upon a Board determination that certain work should be done by IUE—a determination the Board never made. Consequently, neither of the agreements was by its terms intended to apply to Alpha employees at the Richardson establishment.

[9] Cf. *Essex Wire Corporation,* 130 NLRB 450; *A.M. & F. Products,* 106 NLRB 1074, footnote 2.

[10] Further, it should be noted that following the original hearing in this proceeding, the Employer entered into a consent-election agreement with the Petitioner for an election among the employees in the requested unit. No such election was held, however, in view of the IUE's claim, herein found to be without substance, that the requested employees were an accretion to its existing contractual unit.

Under these circumstances, we find that the following employees constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act: [11]

All electricians and mechanics, stockmen, and other employees in the transportable systems division of the Employer's Richardson, Texas, plant, engaged in the fabrication and installation of electronic systems in transportable systems, excluding office clerical employees, draftsmen, radio technicians, laboratory technicians, janitors, building maintenance employees, professional employees, guards and watchmen, and supervisors as defined in the Act.[12]

[Text of Direction of Election omitted from publication.]

[11] In view of our finding herein we deem it unnecessary to pass upon the alternate request of IAM that its certification in Case No. 16–RC–2660 be clarified by extending it to the employees sought herein.

[12] At the hearing, the manager of the installations division of the transportable division referred to the electricians and mechanics included in the unit as electrical technicians and mechanical technicians. The Employer's director of industrial relations testified, however, that the Company had not established a classification for any of the employees involved. In any event, though the record shows that the included employees are skilled workers, there is no showing that they are technical employees within the meaning of the Board's definition of that term. See *Litton Industries of Maryland, Incorporated*, 125 NLRB 722.

The Youngstown Sheet and Tube Company *and* United Steelworkers of America, Local 1011 *and* Sidney A. O'Neill. *Cases Nos. 13–CA–3490 and 13–CB–846. March 14, 1961*

DECISION AND ORDER

On October 14, 1960, Trial Examiner Thomas F. Maher issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had not engaged in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel filed exceptions to the Intermediate Report and a brief in support thereof. Exceptions were also filed by the Respondent Company together with a brief in support thereof and in support of other findings, conclusions, and recommendations of the Trial Examiner. The Respondent Union has filed a brief in support of the Intermediate Report.

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, Leedom, and Jenkins].

The Board has reviewed the rulings of the Trial Examiner made 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 briefs, and the entire record