

to hire or tenure of employment against any employee because of membership in, or activity on behalf of, any labor organization.

GENE HYDE D/B/A HYDE'S SUPER MARKET,
Employer.

Dated..... By.....
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Subregional Office, 612 Lincoln Building, 208 SW. Fifth Avenue, Portland, Oregon, Telephone No. Capitol 2-1607, if they have any questions concerning this notice or compliance with its provisions.

Public Service Company of New Mexico and Chauffeurs, Teamsters and Helpers, Local 492 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and International Brotherhood of Electrical Workers, Local Union 611, AFL-CIO, Petitioners. Cases Nos. 28-RC-1101 and 28-RC-1111. January 27, 1964

DECISION, ORDER, AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held before Hearing Officer William B. Dickinson. 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 [Members Leedom, Fanning, and Brown].

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. 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 appropriate unit:

The Employer is a public utility company engaged in the transmission, distribution, and sale of electric power throughout the State of New Mexico. It is composed of five major divisions, which are located in Albuquerque, Belen, Deming, Las Vegas, and Santa Fe, New Mexico, and services approximately 100,000 consumers.

The Petitioners in both these cases have requested units of the Employer's currently unrepresented warehouse employees. In Case No. 28-RC-1101, the Teamsters petitioned for a unit of all warehousemen employed in the Employer's Albuquerque division, excluding all other employees. In Case No. 28-RC-1111, the IBEW, which has since 1946 represented production and maintenance employees of the Employer on a systemwide basis, seeks to add to the existing unit all the warehousemen located throughout the Employer's system. As an alternative, both the Teamsters and IBEW wish to appear on the ballot in any unit the Board finds to be appropriate. The Employer contends that both of the requested units are inappropriate and that the petitions should therefore be dismissed, because in neither case does the unit conform to any major subdivision or administrative division of the Company. In essence, the Employer's objection to the proposed units is based upon its contention that neither unit would include the employees who in addition to warehousemen make up the Employer's office management department.

The record shows that the Employer has only five employees who are classified as warehousemen, four of whom are employed at the Albuquerque division and one at the Santa Fe division. In addition, however, there are eight other employees located throughout the system who perform warehousing duties. In this category are a storekeeper and division store clerk at the Albuquerque division;¹ a part-time accounting clerk and a junior staker estimator at the Belen division; a customer accounting clerk and a part-time staker estimator at the Deming division; a storekeeper at the Las Vegas division; and a storekeeper at the Santa Fe division.² These warehouse employees are employed in the materials and supplies section which in turn is a part of the Employer's office management department. Although the warehouse employees are under the technical supervision of the office manager at each of the locations, there is no evidence that they share any community of interest with other employees in the office management department. On the other hand, the record does establish that the warehouse employees, unlike other employees in the office management

¹ The Employer contends that both petitions are defective because they would not include the classification of storeroom attendant at the Albuquerque division. However, as the record discloses that there are no employees presently employed in this classification, we find this contention to be without merit.

² The junior staker estimator at Belen and the part-time staker estimator at Deming are employed in the engineering section at the respective locations. However, they also perform warehousing duties on a regular part-time basis, spending at least 50 percent of their time in such a capacity. Accordingly, we shall include them in the voting group hereinafter established. See *Berea Publishing Company*, 140 NLRB 516

Although Member Leedom dissented in *Berea* insofar as that case reversed *Denver-Colorado Springs-Pueblo Motor Way*, 129 NLRB 1184, he nevertheless agrees with his colleagues as to the unit placement of these two individuals herein. In his view, *Berea* is inapplicable to situations where, as here, the employees involved spend exactly half their working time at jobs performed by others in the unit and the other half at jobs outside the unit.

department, perform physical work in close conjunction with other production and maintenance employees such as journeymen linemen, who are represented by the IBEW. Moreover, the warehousemen appear to be the only unrepresented employees whose duties are physical in nature. Under these circumstances, we find that a unit of warehouse employees may be appropriate for purposes of collective bargaining.³

While we have found that the warehouse employees may constitute an appropriate unit, there remains for consideration the question of whether an election should be directed among such employees in the Albuquerque division alone, as requested by the Teamsters, or among those in the overall system, as requested by the IBEW. The record shows that all labor relations and personnel policies are centrally controlled and uniformly applied through the system. All wages, hours of work, and other conditions of employment are uniform throughout the system. In the light of these facts, and the evidence that other employees of the Employer are represented on a systemwide basis, we find a systemwide grouping of warehouse employees appropriate for purposes of collective bargaining. Accordingly, we shall dismiss the petition in Case No. 28-RC-1101, and direct that a self-determination election be conducted among the employees in the following voting group:⁴

All warehouse employees, including the storekeeper and division store clerk at Albuquerque; the part-time accounting clerk and junior staker estimator at Belen; the customer accounting clerk and part-time staker estimator at Deming; the storekeeper at Las Vegas; and the storekeeper at Santa Fe employed at the Employer's establishments located in Albuquerque, Santa Fe, Belen, Deming, and Las Vegas, New Mexico, but excluding all other employees, guards, watchmen, and all supervisors as defined in the Act.⁵

5. If a majority of the employees in the voting group vote for IBEW, they will be taken to have expressed their desire to become part of IBEW's present systemwide unit of production and maintenance employees, and IBEW may bargain for them as part of such unit. If a majority of the employees in the voting group vote for Teamsters, they will be taken to have indicated their desire to constitute a separate appropriate unit, and the Regional Director is instructed to issue a certification of representatives for Teamsters for such unit, which the Board under the circumstances finds appropriate

³ Cf. *Equitable Gas Company*, 111 NLRB 453.

⁴ Cf. *The Houston Corporation*, 124 NLRB 810.

⁵ The Teamsters would exclude the storekeepers at Albuquerque and Santa Fe on the ground that they are supervisors. Neither the IBEW nor the Employer takes a position on this question. Because we find the present record insufficient to make a determination as to the supervisory status of these individuals, we shall allow them to vote subject to challenge.

for the purposes of collective bargaining. If a majority of the employees in the voting group vote for neither, they will be deemed to have expressed their desire to remain unrepresented.

[The Board dismissed the petition in Case No. 28-RC-1101.]

[Text of Direction of Election omitted from publication.]

Photype, Inc., Petitioner and Detroit Typographical Union No. 18, International Typographical Union, AFL-CIO.¹ *Case No. 7-RM-446. January 27, 1964*

DECISION AND DIRECTION OF ELECTION

Upon a petition filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Hearing Officer James R. McCormick. 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 Leedom, Fanning, and Jenkins].

Upon the entire record in the case the Board finds:

1. Photype, Inc., the Employer-Petitioner herein, was formed approximately 7 years ago. At that time, it occupied an addition to the George Willens & Company plant. George Willens & Company, herein called Willens, is a typographical establishment, employing approximately 100 persons. Unlike Willens, which produces traditional "hot metal" typography, Photype is engaged in a newer method of typesetting involving pasteup lettering and various photographic processes. The parties agree that Willens is engaged in interstate commerce, but the ITU refused to stipulate that Photype was likewise engaged in interstate commerce. The record discloses that Photype sells typesetting and reproduction services to various retail companies and that during the past year Photype purchased and received in excess of \$50,000 worth of goods and materials which originated outside the State of Michigan. As described more fully below Photype's and Willens' operations are integrated in a number of important respects. Moreover, the record discloses that Harvey Willens is president, a majority stockholder, and a director of both Photype and Willens, and that he is also engaged in the active management of both these integrated companies and handles their labor

¹ Herein called the ITU.