

Aluminum Company of America and Office Employees International Union, Local 180, AFL-CIO, Petitioner. Case No. 3-R-1310. April 17, 1964

DECISION AND ORDER DENYING MOTION TO CLARIFY BARGAINING UNIT

On September 5, 1946, the Petitioner was certified as the bargaining representative of the Employer's employees in the following unit:

All office and works clerical employees of the Company's Massena plant (including its subsidiary, The St. Lawrence River Power Company), including laboratory assistants and analysts in the chemical laboratory, and excluding personnel department employees, technical employees, plant protection employees, confidential employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action.

Since then, the parties have executed successive collective-bargaining agreements covering the employees in the unit, the most recent of which is currently in effect.

On October 9, 1963, the Petitioner filed a motion to clarify bargaining unit by including therein the positions of procedure analysts, or programers, alleging that the Company created such positions in 1955, and that the employees manning such jobs are doing work within the scope of the bargaining unit. Thereafter, the Employer filed an opposition to the Petitioner's motion, and requested that it be denied or, alternatively, that a hearing be directed thereon.

On November 14, 1963, the Board issued its order directing hearing, remanding the matter to the Regional Director for the purpose of taking testimony with respect to the issues raised by the Petitioner's motion and the Employer's opposition thereto. A hearing was held on January 14, 15, and 16, 1964, before Hearing Officer Arthur E. Neubauer. 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 [Chairman McCulloch and Members Leedom and Fanning].

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

At the time of the certification, at least one employee classified as an accountant was engaged at the Massena plant in revising and modernizing paperwork procedures and, where feasible, adapting

such work to various office machines, such as Burroughs key drive calculators, Burroughs Moons Hopkins posting and calculating machines, and Monroe high keyboard posting and calculating machines. This position was excluded by agreement from the certified unit. Thereafter, as this type of work has increased and become more complex, the number of employees engaged therein has been increased, and the name of the position has been designated at various times as accountant, accountant B, and administrative assistant. About April 1, 1957, the Employer created the classification designation of procedure analyst (sometimes called programmers) for this position, and at the time of the hearing there were seven employees in this classification. They spend by far the greater part of their time in devising new paperwork procedures and adapting them to data-processing office machines such as the IBM 1401 and the IBM 1410. None of the employees in the unit performs such work. Although procedure analysts occasionally operate the machines themselves, such operation appears to be limited almost entirely to making initial or test runs of procedures which they have devised. On the other hand, the employees in the bargaining unit who operate these machines do so on a production basis.

The record as a whole indicates that the procedure analysts perform essentially the same kind of duties—the devising of new paperwork procedures for data-processing machines—as have been performed at the plant since the time of the certification, when such employees were excluded from the unit. Even though more employees are engaged in adapting procedures to newer and more complicated office machinery, the nature of the job performed has not changed. None of the employees doing this kind of work has ever been included in the bargaining unit. Moreover, procedure analysts perform functions different from those performed by employees in the unit. The procedure analysts are therefore not an accretion to the existing unit. Accordingly, we find that a motion to clarify is not the proper method for adding procedure analysts to the certified unit, which can only be accomplished by filing a petition for an election pursuant to Section 9(c) of the Act. We shall therefore deny the Petitioner's motion to clarify the unit and dismiss the instant proceeding.¹

[The Board denied the motion to clarify bargaining unit and dismissed the instant proceeding.]

¹ *General Electric Company*, 144 NLRB 88. In view of our dismissal for the reasons indicated above, we find it unnecessary to consider other reasons advanced by the Employer for denying the Petitioner's motion.