

2. As indicated above, substantially in excess of 50 percent of the Employer's revenue is derived from intrastate transportation of school children and substantially more than 50 percent of the Employer's operating time and of the working time of its employees is spent in connection with the operation and servicing of such local transportation. While the Employer's bus service is available to others by charter, the revenue derived therefrom is a relatively minor part of the Employer's total revenue. Further, the transportation of children outside New York, on the occasions when the school districts require it, would not appear materially to change the substantially local nature of the Employer's operations. It thus appears that the Employer is a local bus enterprise engaged primarily in the intrastate transportation of school children. In these circumstances, the *Camp Baumann* and *Raybern* precedents would be controlling herein, and the Board would decline to assert jurisdiction because it would not effectuate the policies of the Act to assert jurisdiction over local bus transportation companies, such as the Employer herein, which are substantially local in character and which operate primarily in aid of local communities in the field of education.

Accordingly, the parties are advised under Section 102.103 of the Board's Rules and Regulations, Series 8, as amended, that, on the allegations present herein, the Board would not assert jurisdiction over the Employer's operations with respect to labor disputes cognizable under Sections 8, 9, and 10 of the Act.

Ets-Hokin Corporation, Employer-Petitioner and IBEW Local Union 769, AFL-CIO¹ and Laborers' District Council in the State of Arizona, Including Locals 479, 383, 556, Construction Locals in the State of Arizona of the United Brotherhood of Carpenters and Joiners of America, Including Locals 1089, 2402, 906, 1216, 1538, 1100, 1914, 471, 857, 2096, 1153, 1061, 445, 326, and 2763; Locals 83 and 310 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and Operative Plasterers and Cement Masons International Association, Local Union No. 395, and Operating Engineers, Local 428.² Case No. 28-RM-146. May 17, 1966

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before Hearing Officer Roy H. Garner, of the National Labor Relations Board. The

¹ Intervenor IBEW Local 769, AFL-CIO, was permitted to intervene on the basis of its current contract which covers the unit being sought.

² Intervenor Operating Engineers, Local 428 and the Basic Crafts unions were permitted to intervene at the hearing based on contracts with the Employer-Petitioner which contain classifications which overlap with the unit sought and the contract between IBEW Local 769 and the Employer-Petitioner. Neither the Operating Engineers, Local 428 nor the Basic Crafts desired to be included on a ballot in an election directed by the Board.

Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Thereafter, Intervenor IBEW Local 769 and Intervenors Operating Engineers Local 428 and the Basic Crafts each filed briefs which the Board has considered.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Fanning and Jenkins].

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

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organizations involved claim to represent employees of the Employer.
3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c) (1) and 2(6) and (7) of the Act, for the following reasons:

Both the Employer-Petitioner and Intervenor IBEW Local 769 state that the appropriate unit is "all employees of Ets-Hokin Corporation engaged in outside electrical construction work employed within its operation within the State of Arizona, including cable splicers, linemen, technicians, equipment operators, welders, equipment mechanics, powdermen, jackhammer operators, ground men and linemen apprentices; excluding casual employees such as right-of-way clearance employees, teamsters, cement masons, carpenters, iron workers and their apprentices and helpers, office clerical employees, guards, watchmen, supervisors as defined in the Act." Intervenor Operating Engineers, Local 428 and the four Basic Crafts contend that the requested unit is inappropriate because it consists of an arbitrary segment of construction employees without overriding special interest.³

The Employer-Petitioner, a California corporation, is engaged as a general and electrical contractor in the construction and erection of a 345 kv. electric power transmission line from Glen Canyon Dam, Arizona, to Flagstaff, Arizona (known as line 2), pursuant to a contract between the Employer-Petitioner and the Bureau of Reclama-

³ The Intervenor Operating Engineers, Local 428 and the four Basic Crafts also contend that the unit is inappropriate because (1) the employees excluded as casual employees are not casual or temporary but just as permanent as employees included in the unit; and (2) if this petition were granted, it would remove the representation of the Operating Engineers, Local 428 and the four Basic Crafts and would have the effect of decertifying the Operating Engineers, Local 428 and the four Basic Crafts. In view of our dismissal of the petition on other grounds stated in the Decision, we deem it unnecessary to consider these contentions.

tion, an agency of the U.S. Government.⁴ The construction work on an electrical transmission line consists of four basic consecutive phases: (1) the clearing of the right-of-way and the building of access roads; (2) the footing operation which involves (a) excavating holes for tower foundations, (b) trimming, (c) transportation of templar bars and pins to the construction site, (d) driving pins and setting templars and cross-bars, (e) pouring the concrete tower foundation and footing, (f) stripping, and (g) backfill operations; (3) the erection of steel towers; and (4) the attachment of insulators to, and the stringing of wires from, the towers. The unit sought by the Employer-Petitioner is composed of all employees engaged in phases 3 and 4 and those employees engaged in hauling, drilling and excavation, backfilling, tamping, and cleanup work in connection with the preparation of the tower footing of phase 2. The Employer-Petitioner would exclude all employees engaged in operations involving phase 1 and those remaining operations involving phase 2.⁵ Employees presently on the job are completing phases 3 and 4. Normally, electricians will be assigned almost all work on phases 3 and 4, while Operating Engineers and the four Basic Crafts will be assigned all work on phase 1. As for phase 2, the footing operation, there does not appear to be any clear cut pattern of assignment. Thus, on line 2, the work was divided between the Operating Engineers and four Basic Crafts on one segment (trimming, transportation, setting, pouring, and stripping) and the IBEW the remainder (drilling, excavating, backfilling, tamping, and cleanup work), but on line 1 that part of the footing work performed by IBEW on line 2, was performed by the Operating Engineers. Thus, on phase 2 of the operation, if electricians are used, they work at a time when the Operating Engineers and four Basic Crafts are also present although in different crews.

The Employer-Petitioner, although naming employees sought in this petition as cable splicers, linemen, technicians, equipment operators, welders, equipment mechanics, powdermen, and linemen appren-

⁴ As part of its contract, the Employer-Petitioner has completed work on a powerhouse and switchyard at Glen Canyon, Arizona, and on a 345 kv. electrical transmission line from Glen Canyon, Arizona, to Pinnacle Peak, Arizona (known as line 1). At present there are no contracts for additional work, and the work in this case is expected to be completed by July 1966.

⁵ The Employer-Petitioner would also exclude employees employed in the Flagstaff work shop, the batch plant, the powerhouse and waterline construction. The record is unclear as to the inclusion or exclusion of employees operating the borrow pit or performing hand tamping and maintenance work.

tices, actually classifies its employees only as linemen, equipment operators, and ground men. Many of these functions are performed by employees other than IBEW members, e.g., rough grading work which precedes the right-of-way work and involves the use of heavy equipment, jackhammers, and blasting, is performed by the Operating Engineers and the four Basic Crafts. Some functions, such as maintenance and repair, are performed by a mixed crew consisting of employees represented by Electricians, Operating Engineers, and Teamsters. Thus, some of the employees sought appear to be engaged in work which is similar in nature to that performed by other employees who are not sought. There is nothing in the record to indicate that employees of the proposed unit work under conditions which are substantially different from those worked by employees sought to be excluded from the unit.

Here the Employer-Petitioner and IBEW Local 769 seek a unit which is not limited to employees performing the traditional work of electricians, but would include those performing work normally associated with a variety of other jobs and crafts. The appropriateness of such a unit depends on whether these employees constitute a distinctive working force with a separate community of interest such as to warrant its representation separate from other employees performing similar functions. If the operation has become so integrated that historical distinctions between the crafts have become blurred, perhaps no unit other than an overall unit consisting of all construction employees is entitled to representation, but on the other hand, if the various phases of the operations are so distinctive, then perhaps something less than an overall unit might be appropriate. The present record does not permit us to make that determination. Moreover, based on this record, we find that the employees presently employed do not perform much of the operation comprising outside electrical work, and, therefore, the employees working do not constitute a representative complement of the total work force. A direction of election at this time would disenfranchise a substantial number of employees. Accordingly, we shall dismiss the petition.⁶

[The Board dismissed the petition.]

⁶ In so dismissing, we are not deciding the merits of the proposed unit, but will leave this issue for consideration at a time when a petition is filed, based on a record demonstrating that a representative number of employees fulfilling other functions normally performed on the jobsite are then currently employed.