

clerical employees, casual and seasonal employees, professional employees, guards, and supervisors as defined in the Act, employed at the Employer's Chicopee Falls and Willimansett, Massachusetts, stores, respectively.

2. In Cases 1-RC-8706 and 1-RC-8707: All meat department employees excluding all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act, employed at the Employer's Willimansett and Chicopee Falls, Massachusetts, stores respectively.

[Text of Direction of Election omitted from publication.]<sup>8</sup>

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<sup>8</sup> Election eligibility lists, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 1 within 7 days after the date of this Decision and Direction of Elections. The Regional Director shall make the lists available to all parties to the elections. No extension of time to file these lists shall be granted by the Regional Director, except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the elections whenever proper objections are filed. *Excelsior Underwear Inc.*, 156 NLRB 1236.

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**Rexach Construction Company, Inc. and Union Obreros de la Construccion, Petitioner.** *Case 24-RC-2872. November 21, 1966*

DECISION ON REVIEW AND ORDER

On May 18, 1966, the Regional Director for Region 24 issued a Decision and Direction of Election in the above-entitled proceeding, in which he found that the Employer's housing project at Barrio Sabanetas, Ponce, Puerto Rico, was a new operation, and that the existing contract between the Employer and Puerto Rico District Council of the United Brotherhood of Carpenters and Joiners of America (AFL-CIO), Intervenor, was not a bar to petition for a unit of the construction and maintenance employees, excluding heavy equipment operators,<sup>1</sup> at this project. Thereafter, in accordance with Section 102.67 of National Labor Relations Board Rules and Regulations, Series 8, as amended, the Intervenor filed with the National Labor Relations Board a timely request for review in which it alleged that the existing agreement with the Intervenor constitutes a bar to the petition. By telegraphic order dated June 13, 1966, the Board granted the Intervenor's request for review and stayed the election.

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 Brown and Zagoria].

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<sup>1</sup> Heavy equipment operators are represented by a labor organization not here involved. 161 NLRB No. 108.

The Board has considered the entire record in this case with respect to the Regional Director's determination under review and makes the following findings:

The Employer is engaged in general construction work at a number of locations in Puerto Rico, including four projects in the vicinity of the city of Ponce. One of these four projects, the Barrio Sabanetas project, came into existence with the signing of a contract with the Urban Renewal Corporation on October 25, 1965, and the first payroll of the project was dated November 8, 1965. The new project is expected to be completed in about 2 years.

The existing contract between the Employer and the Intervenor was executed on November 14, 1963, to be effective on November 15, 1963, until midnight on November 14, 1966. This contract by its terms covers "all construction employees who work for the Employer at all of its construction projects in the Commonwealth of Puerto Rico, excluding all employees of all subcontractors, all employees who work on the Employer's executive, administrative, and professional personnel, office clerical employees, field clerical employees, all employees covered by the collective-bargaining agreement with Sindicato de Empleados de Equipo Pesado, Construcción y Ramas Anexas de Puerto Rico, Local 925, UPWA-AFL-CIO, draftsmen, timekeepers, assistant timekeepers, storekeepers, foremen, watchmen, guards and supervisors as defined in the National Labor Relations Act, as amended." The contract requires that employees who are union members on the effective date of the agreement shall remain members in good standing; that employees who are nonmembers on the effective date of the agreement shall join the Union after the seventh day following the effective date of the agreement; and that employees covered by the agreement who are hired on or after its effective date shall join the Union after the seventh day following the beginning of such employment. The contract also provides that the Union will furnish duly executed checkoff authorization cards, and that the Employer will make such deductions.

The Intervenor stated in its request for review that the personnel policies for all of the Employer's island operations are centrally established, and that such policies, working conditions, skill requirements, job classifications, and wage rates for all the Employer's operations are the same. This statement is not contradicted by the other parties. The Employer's representative at the hearing, who has been with the Company for 16 years, testified that employees are interchanged among various projects of the Company as needed. Such interchange includes that of unskilled laborers, carpenters, masons, heavy equipment operators, greasers, oilers, and mechanics. We further find that the existing contract between the Employer and the

Intervenor has been applied to the employees at the Barrio Sabanetas housing project.<sup>2</sup>

In all the circumstances of this case, especially in view of the fact that the contract by its terms covers all construction projects of the Employer in Puerto Rico, that all such projects are centrally administered and controlled, that there is interchange of employees between the different projects, and that the contract has been applied to the employees there, we find that the employees at the new housing project at Barrio Sabanetas are a part of the unit covered by the existing contract.<sup>3</sup> Accordingly, the requested unit at the Barrio Sabanetas project is inappropriate, and for this reason we shall dismiss the petition.

[The Board dismissed the petition.]

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<sup>2</sup> This conclusion is based upon our interpretation of the record as a whole, especially the terms of the contract which indicate that benefits are applicable to all employees. We view as equivocal the isolated and unexplained statement of one witness that employees "start to enjoy the benefits of the collective-bargaining agreement as soon as they sign the check off." Moreover, it is noted that the Employer has applied the existing contract to other new projects as they were established. An example is the Ponce residential lots project, to which the contract has been applied since June 1965, the date when that project was begun.

<sup>3</sup> In *Raymond Construction Company of Puerto Rico*, 126 NLRB 268, where a separate project unit was found appropriate, there was no showing, as in this case, of employee interchange; and it affirmatively appeared, moreover, that at the time the petition was filed as well as for a substantial preceding period, the recognition accorded the intervening union did not encompass the employees at the specific project petitioned for. Without determining the extent to which we might otherwise adhere to *Raymond* as controlling precedent, we hold that the foregoing factual differences are such as to render *Raymond* inapplicable to the instant case.

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**The Borden Company and Local 657, General Drivers and Helpers Union, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case 23-CA-2141. November 22, 1966**

### DECISION AND ORDER

On July 1, 1966, Trial Examiner Laurence A. Knapp issued the Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom, and take certain affirmative action as set forth in the attached Trial Examiner's Decision. He also found that the Respondent had not engaged in other unfair labor practices alleged in the amended complaint and recommended dismissal of those allegations. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision, and a supporting brief. Neither the General Counsel nor the Charging Party filed exceptions in this case.