ITT Federal Electric Corporation, Western Test Range Project and International Brotherhood of Electrical Workers, AFL-CIO, Petitioner. Case 31-RC-539

September 7, 1967

DECISION AND DIRECTION OF ELECTION

By Chairman McCulloch and Members Fanning and Brown

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hearings were held before Hearing Officer John Prough of the National Labor Relations Board.

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.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

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. A 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.

4. The Petitioner and Intervenor seek a unit of: All operation and maintenance employees of the Employer, including the classification of carpenter, communication controller "A," "B," and "Jr," work load controller, telemetry data coordinator, courier, machinist, facilities mechanic, electrician mechanic, maintenance helper, senior computer operator, computer operator, heavy equipment operator, senior keypunch operator, keypunch operator, senior reproduction operator, reproduction operator, teletype operator, painter, antenna rigger helper, sandblaster, sheetmetal worker, operations specialist, stockman, stockmandriver, senior technician, technician, junior technician, utilityman, warehouseman, welder, senior teletype operator, intermediate teletype operator, junior teletype operator, line assigner, computer specialist, tool crib attendant, trouble deskman, quality control inspector, corrosion technician, material control specialist, instrumentation controller, and air controller, employed by the Employer at Vandenburg Air Force Base, Pillar Point, and Big Sur, California, but excluding all other em-

¹ The Employer's request for oral argument is hereby denied as, in our opinion, the record and briefs adequately present the issues and the positions of the parties

ployees, including engineering aides, analysts, analyst aides, dispatchers, coordinators, draftsmen, draftsmen checkers, expeditors, librarians, group leaders, varitypers, schedulers, identifiers, property control specialists, technical writers, administrative assistants, firemen, watchmen, guards, professional employees, foremen, office clerical employees, and supervisors as defined by the Act.

The Employer contends that the only appropriate unit must also include its employees at Patrick Air Force Base in Florida, Wheeler Air Force Base at Hawaii, Eniwetok, and on Range Instrumentation Ships, and Apollo Instrumentation Ships based at Port Hueneme, California, and Recovery Ships based in Hawaii.

For some years prior to 1965 the United States Government was engaged in a ballistic missile and space vehicle testing program at various locations including California, Hawaii, and the Western Pacific Ocean. The Employer, herein sometimes called FEC, a subsidiary of International Telephone and Telegraph Corporation (ITT), operated under contract with the United States Navy to provide tracking services in connection with the program at Point Arguello and Pillar Point. California, and on Range Ships operating out of Port Hueneme, California. ITT Kellogg (Kellogg), another subsidiary of ITT, held contracts with the United States Air Force to perform services involving designing, providing, installing, operating, and maintaining various electronic equipment used in the program at Vandenburg Air Force Base, California (VAFB), and subcontracted the installation, operation, and maintenance portions of these contracts to Base Services, Inc. (BSI), another subsidiary of ITT. In November 1963 the Secretary of Defense assigned sole responsibility for managing all national missile ranges to the Air Force. On February 1, 1965, the Air Force established the Western Test Range Division of the Air Force Systems Command and took over control of the Pacific Missile Range from the Navy. Late in 1964, the Air Force had directed ITT to submit a proposal for centralizing the operational control of services supplied to the Air Force in support of operations on the Western Test Range (Range) under one subsidiary, and pursuant to such direction ITT consolidated its contracts with the Government under FEC. FEC assumed managerial control over BSI on July 1, 1965, and on January 1, 1966, after Kellogg ceased operations at the Range in December 1965, became the sole prime contractor for all Range contracts. Under these contracts, FEC provides tracking services in connection with the ballistic missile and space vehicle program conducted on the Range. The Range encompasses VAFB, Pillar Point, and Big Sur, California; Patrick Air Force Base, Flor-

² Teamsters Union, Local 381, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, was permitted to intervene at the hearing.

ida; Wheeler Air Force Base, Hawaii; Eniwetok; and Apollo Ships and Range Instrumentation Ships operating out of Port Hueneme, California, and

Recovery Ships operating from Hawaii.

At the time of the hearing herein, May 2-3, 1967, FEC had some 833 employees in the unit classifications employed in the Range. Of these, 376 were assigned to VAFB, 12 to Pillar Point, 1 to Big Sur, 6 to Port Hueneme, 4 to Patrick Air Force Base, 25 to Wheeler Air Force Base, 44 to Eniwetok, 295 to the Apollo Ships, 17 to the Recovery Ships, and 53 to the Range Instrumentation Ships. The Range is divided into three divisions. Both the Maintenance Division and the Range Operations Division have employees who are listed in the unit classifications. The Engineering Division does not. The Range Operations Division is further divided into the Range Data Department, the Range Telemetry Department, and the Mainland Department, all located at VAFB; the Range Ships Department, with headquarters at VAFB, which supervises the operation of the Apollo Ships and the Range Instrumentation Ships; and the Downrange Department, which supervises the operations at Eniwetok and of the Recovery Ships operating from Hawaii. Pillar Point and Big Sur, both supervised by the Mainland Department and both included in the unit requested, are 225 and 220 miles, respectively, from VAFB. Although Port Hueneme is 100 miles from VAFB, it is under the operational control of the Range Ships Department and appears more closely allied to the operations of that Department. Hawaii is about 2,500 miles from VAFB while Eniwetok is about 5,000 miles from VAFB.

The Board has found that the electronic technicians working aboard ships of the Range Ships Department constitute a separate appropriate unit for the purpose of collective bargaining.³ There is no question that the employees of the Recovery Ships work under conditions virtually identical to those which the Board found existed in the earlier case. As for the employees at Eniwetok, the conditions there are similar to those found on board ship. Thus, these employees are a geographically and organizationally separate group, with separate immediate supervision; they receive free room and board; and, they have minimum contact with mainland based employees.

The Employer contends that the only appropriate unit of its employees in the unit classifications is an employerwide unit. It was conceded that the duties performed by the unit classifications were practically the same whether on land or afloat. The Employer introduced evidence which was not refuted showing extensive interchange of employees on a temporary basis between VAFB and the Ships or Eniwetok. There were also about 73 permanent transfers between locations included in the petition and the rest of the Range.

Under all the circumstances of this case, we find no merit in the Employer's contention that a unit composed solely of the classifications listed working at the Employer's mainland locations is inappropriate. Section 9(b) of the Act directs the Board to make appropriate unit determinations which will "assure to employees the fullest freedom in exercising rights guaranteed by this Act," i.e., the rights of self-organization and collective bargaining. In effectuating this mandate, the Board has emphasized that the Act does not compel labor organizations to seek representation in the most comprehensive grouping of employees unless such grouping constitutes the only appropriate unit. Although it is apparent in this case that there are some factors (e.g., interchange of personnel and similarity of equipment operated, for example) to support a finding that a unit encompassing all locations in the Range is appropriate, it is equally clear that the employees in unit classifications who work at VAFB, Pillar Point, and Big Sur have a sufficient separate community of interest to justify their establishment in a bargaining unit apart from employees who are assigned to the Range Ship Department and the Downrange Department. In support of our finding of a separate community of interest for the employees at VAFB, Pillar Point, and Big Sur, we rely on the following factors: (1) the requested emconstitute a geographically separate, identifiable group; (2) the Employer treats this group both in its organizational framework and in fact as a separate group; (3) they have separate immediate supervision; (4) the shipboard employees receive free room and board and a sea allowance while the ship is underway and the Eniwetok employees receive free room and board and a remote area allowance at a different rate than that allowed employees at Pillar Point and Big Sur; (5) the shipboard employees are not subject to the Workmen's Compensation Act of the State of California while underway, and the Eniwetok employees are not covered unless they elect to be covered by the Workmen's Compensation Act of the State of Hawaii; and (6) no labor organization is seeking to

represent all locations on the Range.

The Employer contends that the air controllers and instrumentation controllers are supervisors. There are approximately nine air controllers and five or six instrumentation controllers employed by the Employer on the Range. The record shows that the air controllers work closely with the Missile Flight Safety Officer (MFSO) and report any unauthorized ships, aircraft, or other objects which may constitute a hazard to, or be endangered by, the launch. After such report the MFSO or the Range Control Officer (RCO) will decide whether to proceed with the launch. There is nothing to indicate that an air controller has the authority to hire, fire, or effectively recommend same, or that he

³ Federal Electric Corporation, 157 NLRB 1130

directs other employees except to assign them to routine stations for the launch. The instrumentation controllers work with the RCO before and during a launch and keep the RCO informed as to the status of equipment to be used for the launch. This equipment is predetermined by the Air Force and listed in its operational directive for the launch. In the event a piece of equipment becomes inoperative, the equipment operator reports this to the instrumentation controller and also to maintenance control. The instrumentation controller then reports the inoperable equipment to the RCO with an estimate of the time required to make it operable. Where necessary, he also directs that backup equipment as designated by the Air Force operational directive be substituted. There is nothing in the record to indicate that instrumentation controllers are authorized to hire or fire, or to effectively recommend same. Their direction of personnel appears limited to substituting backup equipment as required during a launch, and these changes are made in accordance with the Air Force operational directive for the launch. For the reasons set forth above, we find that neither the air controllers nor instrumentation controllers are supervisors and shall include them in the unit.

Accordingly, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(a) of the Act:

All operation and maintenance employees of the Employer, including the classification of carpenter,

communication controller "A," "B," and "Jr," work load controller, telemetry data coordinator, courier, machinist, facilities mechanic, electrician mechanic, maintenance helper, senior computer operator, computer operator, heavy equipment operator, senior keypunch operator, keypunch operator, senior reproduction operator, reproduction operator, teletype operator, painter, antenna rigger, rigger helper, sandblaster, sheetmetal worker, operations specialist, stockman, stockmandriver, senior technician, technician, junior technician, utilityman, warehouseman, welder, senior teletype operator, intermediate teletype operator, junior teletype operator, line assigner, computer specialist, tool crib attendant, trouble deskman, quality control inspector, corrosion technician, material control specialist, instrumentation controller, and air controller employed by the Employer at Vandenburg Air Force Base, Pillar Point, and Big Sur, California, but excluding all other employees, including engineering aides, analysts, analyst aides, dispatchers, coordinators, draftsmen, draftsmen checkers, expeditors, librarigroup leaders, varitypers, schedulers. identifiers, property control specialists, technical administrative assistants, firemen, writers. professional watchmen. guards, employees, foremen, office clerical employees, and supervisors as defined by the Act.

[Direction of Election4 omitted from publication.]

granted by the Regional Director except in extraordinary circumstances Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed *Excelsior Underwear Inc*, 156 NLRB 1236

⁴ An election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 31 within 7 days after the date of this Decision and Direction of Election The Regional Director shall make the list available to all parties to the election No extension of time to file this list shall be