

A. B. Dick Company of New England, Inc. and International Union of Electrical, Radio & Machine Workers, AFL-CIO, Petitioner. Case 1-RC-9780

April 4, 1968

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN McCULLOCH AND MEMBERS BROWN
AND JENKINS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held at Boston, Massachusetts, on November 1, 2, 13, and 14, 1967, before Hearing Officer John R. Coleman. Thereafter, only the Employer filed a brief herein.

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.

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, including the Employer's brief, the Board finds.

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner is a labor organization and claims 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 Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Employer maintains a distribution facility at Waltham, Massachusetts, where it sells and services its duplicating equipment and provides requisite supplies. There is no history of collective bargaining at this location.

The Petitioner seeks a unit of all services representatives and shipping and stockkeeping employees employed by the Employer at the above facility, excluding sales representatives. It would also exclude from the requested unit, as supervisors or managerial employees, two customer service representatives, whose principal duties are to install new offset duplicating equipment and instruct customer personnel in its proper operation. The Petitioner would also exclude from the unit, as supervisors, service representatives classified as service specialists. However, the Petitioner indicated that it wished to participate in an election in any unit found appropriate.

The Employer contends that all of its field representatives, sales representatives, service representatives, and customer service representatives, and also including the new classification of service specialist, as well as its stockkeeping and shipping employees, constitute a functionally integrated unit of sales and service employees which should be found appropriate.

The evidence discloses that the sales and service operations are functionally integrated to a high degree. Sales representatives and service representatives are hired by the same branch manager and receive the same basic training in both the technical aspects of the Employer's products and their sales features. They are required to have only a high school diploma, although actual industry experience is considered a valuable asset in their selection to serve in either a sales or service capacity. The categories have the same ultimate supervision.

Both sales and service representatives, for the most part, are assigned to particular geographical areas. They regularly perform overlapping duties within the Employer's overall sales-service program in order to assure to each customer an uninterrupted duplicating capacity. Sales representatives carry necessary parts and tools for checking, cleaning, mechanically adjusting, and repairing duplicating equipment, and actually spend 20 percent of their time performing these duties. Service representatives are advised of sales as they are made and make more complex repairs on duplicating equipment. However, they also carry sales literature and in turn are expected to analyze customer needs for new or more apt equipment and supplies, particularly such as might modernize and increase a customer's duplicating capability, and promptly communicate such sales information to sales supervisors and representatives. Both sales and service representatives are expected to install new and inspect old customer equipment and to instruct customer personnel in its proper use and deliver needed equipment and proper supplies to customers. Service representatives have regularly transferred to positions as sales representatives, and three such transferees are currently serving in this capacity.

The Petitioner contends that the fact that some recent sales trainees happen to have educational qualifications which exceed the high school diploma required of service representatives demonstrates the appropriateness of the separate service representative unit it seeks. We find no merit in this contention, particularly since it is clear that the Employer currently requires only a high school education for employment as either a sales or ser-

vice representative. In view of the closely interrelated duties of the Employer's sales and service representatives, including its shipping and stockkeeping employees, and the functional integration of its operations, we find that an overall unit is appropriate.¹

As set forth previously, the Petitioner contended that two customer service representatives, who install offset equipment, are supervisors or managerial employees who should be excluded from the overall unit if determined to be appropriate herein. As the record contains no evidence that these men exercise supervisory authority or perform managerial duties, we shall include them.

As indicated above, the Employer contends that the newly established classification of service specialist should be included. As the record contains only scant and incomplete evidence concerning the

duties of these men, we are unable at present to resolve the alleged supervisory status of service specialists. Accordingly, we shall permit any employee in this classification to vote subject to challenge.

In view of the above, we find that the following employees of the Employer constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act.

All sales representatives, service representatives, and shipping and stockkeeping employees, employed at the Employer's field sales office in Waltham, Massachusetts, including customer service representatives, but excluding clerical employees, professional employees, guards, and supervisors as defined in the Act.²

[Direction of Election³ omitted from publication.]

¹ Cf. *Joseph Crowden and Thomas Crowden, d/b/a Indiana Bottled Gas Company*, 128 NLRB 1441

² Since the unit we have found appropriate is larger than that sought, we shall direct an election therein, contingent upon the Petitioner making an adequate showing of interest in such unit

³ 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 1 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 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