Rohm & Haas Company *and* **United Glass and Ceramic Workers of North America and its Local Unions Nos. 88 and 90, AFL-CIO-CLC,[1] Petitioners.** Case 4-UC-22

June 9, 1970

DECISION AND ORDER

BY MEMBERS FANNING, MCCULLOCH, AND JENKINS

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before Milton S. Maclasky, Hearing Officer. All parties appeared at the hearing and were given full opportunity to participate therein. On December 3, 1968, the Regional Director for Region 4 issued an order transferring the case to the National Labor Relations Board. Thereafter, the Employer and the Petitioner filed briefs with the Board.

Pursuant to the provisions of Section 3(b) of the Act, 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, the Board finds:

The Employer is a multidivision Delaware corporation with its headquarters in Philadelphia, Pennsylvania. The chemical division, involved herein, is engaged in the production of chemicals and chemical supplies at five plants in various States of the United States.[2]

The Petition seeks to combine into one bargaining unit three separate existing bargaining units of the Employer's employees which it represents. Thus, the Petitioner seeks an order combining into one multiplant unit the production and the maintenance units at the Bristol, Pennsylvania,[3] plant and the production and maintenance unit at the Knoxville, Tennessee,[4] plant. Alternatively, the Petitioner seeks an election among the employees in each of the separate units to determine the preference of these employees concerning their inclusion in one multiplant unit. The Employer contends that the petition should be dismissed because combining these units into a single unit either by order or by use of the Board's election process is beyond the Board's authority and because the unit sought is inappropriate.

The Bristol plant employs about 1,400 employees, while the Knoxville plant employs about 1,000. Both manufacture plexiglass, emulsions, and various other chemicals. The other plants in the division also manufacture chemicals, some similar to those made at Bristol and Knoxville. Some products and materials are shipped between Bristol and Knoxville, and to and from them and other division plants.

Since 1949, the Petitioner has made numerous proposals in contract negotiations requesting joint bargaining for the Bristol and Knoxville plants. Beginning in 1966 and continuing to date, the Employer engaged in "coalition" bargaining with the Petitioner for the Bristol and Knoxville units it represents, and Oil, Chemical and Atomic Workers, for the Houston employees it represents. That is, the Petitioner attended the Houston negotiations, and vice versa. In 1966, and again in 1968, these Unions also requested multiplant bargaining on fringes, without success. The Employer's position has always been to reject multiplant bargaining.

The Employer's labor relations policies are established at its main office in Philadelphia by the manager of industrial relations. Although he is responsible for the negotiations at each plant, he is assisted at each by a bargaining team of which the manager and personnel manager of the plant involved are members.

[1] The Petitioners are referred to herein as the Petitioner

[2] The chemical division plants and their representative status are as follows Note that in this tabulation the symbol M indicates maintenance and the symbol P indicates production

Location	Unit	Union Representing Employees
Bristol, Pa.	P	Petitioner
Bristol, Pa.	M	Petitioner
Knoxville, Tenn.	P&M	Petitioner
Houston, Texas	P&M	Oil, Chemical & Atomic Wkrs.
Louisville, Ky.	P	Unorganized
	M	Fireman's Oilers
Bridesburg, Pa.	P	Unorganized
	M	Operating Engineers

[3] The Bristol plant consists of two separately certified units In November 1946 the Board certified (Case 4-R-2200) the International Petitioner as the bargaining representative for the production and service employees The International Petitioner was certified by the Board (Case 4-RC-871) in October 1950 as the bargaining representative of the maintenance employees

[4] In November 1943 the Board certified (Case 10-R-1013) the International Petitioner as the bargaining agent for the production and maintenance employees

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The plant personnel manager administers the local contract; he is responsible to the plant manager, who in turn is responsible to the vice president of production. The manager of industrial relations decides at the final step of the grievance procedure whether to settle a grievance or go to arbitration.

Supervisors and executives have been promoted from one plant to another, but there has been virtually no interchange or transfers of unit employees. Moreover, there is no contract interplant seniority or transfer rights. There is one pension, life, and medical insurance plan for all employees in the chemical division.

The Petitioner herein is the same labor organization as that involved in *Libbey-Owens-Ford Glass Company*[5] and *PPG Industries, Inc.*,[6] and it seeks a type of relief similar to that which it sought in those cases. Thus, it would have the Board certify the three existing separate units as a multiplant unit, or conduct elections at the separate units to determine the wishes of these employees on this question, although there is no established multiplant unit and the Petitioner does not represent any employees at the three other chemical plants of this Employer, some of whom are represented by other unions and some are unrepresented.

In our view, the multiplant unit herein sought is one which the Board would not find appropriate on any basis except agreement of the parties. Thus, this array of units which the Petitioner would have us merge is not identifiable as an employer administrative division, as geographically related, or as related by a history of bargaining. As we explained in *PPG Industries, Inc., supra*, where, as here, these tests are not met, there must be some showing that the separate units belong "in the overall unit" by virtue of such factors as common terms and conditions of employment, substantial uniformity of wage systems and fringe benefits, substantial integration of operations, interchange of employees across unit lines, and the like. Such a showing has not been made in this case. There is no interchange of employees across unit lines and no interplant seniority or transfer rights. As revealed by the collective-bargaining agreement, the wage systems are markedly different. Local plant and personnel managers have substantial authority over labor relations at their plants, including contract administration and participation in negotiations and handling of grievances.

On the basis of the foregoing, we find that the record affords an inadequate basis for a finding that the three existing units have merged into a single overall two-plant unit.

In the *Libbey-Owens-Ford Glass Company* and *PPG Industries, Inc.*, cases, we set forth reasons why we believe the Board is without statutory authority to conduct elections in these circumstances. We adhere to those views. Accordingly, we shall dismiss the petition in its entirety.[7]

ORDER

It is hereby ordered that the petition herein be, and it hereby is, dismissed.

Member McCulloch, concurring:

While I agree that the petition herein should be dismissed, I do not entirely agree with the rationale upon which my colleagues reach the same conclusion. Rather, I find this case factually distinguishable from *Libbey-Owens-Ford, supra,* in which I joined in directing elections, and *PPG Industries, supra*, in which I dissented and would also have directed elections. In each of those cases, there was an established multiplant unit long adhered to by the parties in the conduct of their labor relations, and the elections directed therein could only have resulted in increasing the scope of the already existing multiplant unit into a larger appropriate multiplant bargaining unit. In this case, on the other hand, the parties have bargained solely on the basis of units of plantwide or narrower scope. Thus there is no history or pattern of multiplant bargaining, and the multiplant unit which the Petitioner seeks herein to have created, over the Employer's objections, would not be appropriate under the traditional objective standards applied by the Board. As there is therefore no basis for ordering the merger of the existing separate appropriate units, or for conducting elections, I concur in the dismissal of the petition.

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[5] 169 NLRB 126, Members Fanning and Jenkins dissenting

[6] 180 NLRB 477, Member Zagoria concurring, Chairman McCulloch and Member Brown dissenting

[7] At the hearing, the Employer introduced evidence concerning the guard status of certain employees in the Knoxville unit However, neither the Petitioner nor the Employer requests clarification of the status of these employees, and we shall make no determination as to them