

**American Bridge Division, United States Steel Corporation and United Steelworkers of America, AFL-CIO, Petitioner. Case 6-AC-16**

September 21, 1970

**DECISION AND AMENDMENT OF  
CERTIFICATION**

BY MEMBERS FANNING, BROWN, AND JENKINS

On May 2, 1946, in Case 6-RC-1264, the predecessor<sup>1</sup> of the Association of Technical and Clerical Employees, American Bridge Division, Ambridge Plant<sup>2</sup> (Association), was certified as the bargaining representative of an appropriate unit of salaried and clerical employees, Ambridge plant. On November 6, 1969, the Petitioner filed its petition (an attachment to the Petition was filed on November 12, 1969) in this proceeding seeking to amend the certification and substitute itself as the certified representative. The Regional Director for Region 6, on January 26, 1970, issued a notice of hearing, and thereafter, on January 29, 1970, an order rescheduling hearing.

A hearing was held on February 16, 17, and 18, 1970, before Hearing Officer Samuel S. Blaufeld. Subsequent to the hearing, the Petitioner, Intervenor,<sup>3</sup> and Employer filed briefs with the Regional Director. Thereafter, the Regional Director transferred the case to the Board for decision.

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 Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

After its certification in 1946, the matter of affiliation between the Association and the Petitioner had been considered in several meetings between Association officers and Petitioner before 1969.

<sup>1</sup> Technical & Clerical Employees, American Bridge Company of Ambridge Plant affiliated with National Federation of Salaried Unions

<sup>2</sup> The name appears as amended at the hearing

<sup>3</sup> Patricia J. MacDonald, an employee, was permitted to participate in the hearing. Mrs. MacDonald sought to intervene in behalf of the Association, but the Petitioner objected to such intervention although it did not object to her intervention as an interested third party. The Hearing Officer referred the matter to the Regional Director for ruling. In our view, as MacDonald was neither a past nor present officer of the Association, and as there is no evidence that she was designated or authorized to represent any group of employees claiming the continued existence of the Association, MacDonald's intervention is properly recognized as that of an interested party and not as representative of the Association.

On August 25, 1969 (all dates hereinafter are 1969 unless otherwise specified) members of the executive committee of the Association met with John Pastin, director of the office and technical department of Petitioner, and with other officers of Petitioner, concerning affiliation. They were advised that if affiliation were done in accordance with Association bylaws at a legally held meeting, the Petitioner would accept the affiliation, that the Steelworkers would continue to administer the Association contract until it expired in 1971; and that after the affiliation the Petitioner's dues structure would take effect. At a subsequent meeting, September 12, between Pastin and the executive committee, similar information was imparted. Pastin then left the room and on return was informed that the executive committee had voted unanimously to proceed with the affiliation.

The committee did not officially inform members of the Association about these meetings while they were taking place, but on September 22, Carmen L. Sylvester, the secretary-treasurer of the Association, mailed a notice of a special membership meeting to be held on October 5 at 3 p.m. for the purpose of taking a secret ballot vote on the matter of affiliation with the Petitioner. The notice, which was also posted in the plant, also stated that "we [presumably the Executive Committee] hope" to present all the facts necessary for an intelligent vote on the subject, and that representatives of the Petitioner would be present.

On September 25, Robert Matascik, a former officer of the Association, presented a petition, signed by 100 members (including the Intervenor, MacDonald), to Sylvester requesting that, in accordance with section 3 of article 6 of the constitution,<sup>4</sup> a special meeting be held at a designated time prior to October 5 for the purpose of "debating with the entire Executive Committee" on the issue of affiliation. After seeking advice of counsel, Sylvester sent out a letter to the members informing them of the petition, but indicating that the committee fully intended to provide time for discussion and debate at the special meeting which had already been called for October 5. Thereafter, Matascik posted a notice stating the petition had been denied on a "legal technicality of duplication." The Employer circulated a notice suggesting some of the problems which it believed might be caused by affiliation and urging the employees to weigh carefully the factors involved.

The October 5 meeting was held, as scheduled, at the Polish National Alliance hall. A table was set up at the entrance to the hall and members of the Association were required to sign sheets as

<sup>4</sup> Sec. 3 Special meetings of the members may be held at any time upon call of the President or by call of the majority of the Executive Committee or any time that 30 percent of the members of the Association shall make a demand in writing upon the Secretary for such a meeting.

they entered. As they were doubling and tripling up in the doorway, another table for signing in was set up in such a way that persons entering would have to come in between the tables. Members of the executive committee, including First Vice President Bichey and Second Vice President Tyro, were at the desks as members signed in. Although cards of the members were available, they were not checked against the names or signatures of those signing in, as all the signers were identified as members of the Association by members of the committee. Of the 304<sup>5</sup> members of the bargaining unit as of that date, 198 signed the entrance list. There is no evidence that any persons, other than members and invited representatives of the Petitioner, entered the meeting.

The meeting<sup>6</sup> was opened by President Janicki and then turned over to District Representative Hartig of the Association, who reported the views of the executive committee in favor of affiliation. Thereafter, Pastin made a short address. Among other items, Pastin indicated that the Petitioner would continue to honor the existing contract, and that if the members voted for affiliation they would come under Petitioner's constitution and bylaws and that they would become a local of the Petitioner. After some period of questioning, the Petitioner's representatives were asked to leave the meeting. After further discussion, a motion was made and passed that a vote be taken. President Janicki appointed a committee of six; three of whom were to hand out ballots, and three of whom were to sit at the table with the ballot box. The ballots were a printed form marked "Ballot" and stated they were for the purpose of voting "to affiliate or not to affiliate with the United Steelworkers of America, Office and Technical Division." Two squares were on the ballot, one to be marked if "I am in favor of affiliating with . . ."; the other to be marked if "I am not in favor of affiliating with . . ." The ballots were not marked by number, nor were names checked against membership cards or the signed entrance lists before being handed out. No special place, such as a voting booth, was provided for marking the ballots, and ballots were marked on tables, against the wall, etc. There was testimony that persons could, and actually did, see how others voted. Ballots were then folded and deposited in the wooden ballot box. The ballots were tallied by

two members of the volunteer election committee and showed a vote of 111 to 85 in favor of affiliation.<sup>7</sup>

On October 15, President Janicki wrote Petitioner's secretary-treasurer, informing him of the affiliation vote and subsequently a Charter of Affiliation, dated October 28, was issued to "United Steelworkers of America, Local Union Number 7637." The officers are, with the exception of one who died, the same as before the affiliation vote and the bank and checking accounts have been transferred from the Association to a new account. Old stationery was used by the Union but new stationery was ordered. The Employer has refused to recognize Petitioner's staff representatives in dealing with the unit, citing the certification to the Association.

In arriving at our decision to grant the petition we have carefully examined the circumstances surrounding the vote to affiliate to ascertain whether it reflects the true desires of the two-thirds of the membership who participated in the decision. Notice of the meeting was given 2 weeks before it was held, and all who wished to participate were encouraged to do so. While the actual voting procedures did not follow the format employed in Board-conducted elections, it is evident that inexperience in conducting votes of this nature (elections of officers have been by mail ballot) contributed to the lack of some safeguards. However, there was no challenge at the time of the election or, thereafter until the hearing, of the procedures used, the voluntary committee which distributed and counted ballots included individuals apparently opposed to affiliation, and there is no evidence of manipulation in the distribution of ballots, or of coercion in the voting. Therefore, the vote is, in our judgment, an accurate reflection of the desires of the participating membership. Moreover, we note that since the vote no separate group claiming to be the Association has been established (the Intervenor's position apparently is that the vote was ineffective and that affiliation will change the Union's ability to control its destiny), the officers of the Association have continued to operate and represent the membership, and there has been continuity of representation through Local 7637 of Petitioner.<sup>8</sup>

We are mindful of the Employer's contention that if Petitioner "take(s) over" the union, these employees would come under the Employer's basic labor agreement with Petitioner resulting in changes in terms

<sup>5</sup> President Frank Janicki testified that as of October 5, there were 304 people on the checkoff list and that all employees in the bargaining unit were members of the Association. Among those who voted was E. H. Kindelberger who may have been ineligible as he had been transferred out of the unit October 1. However, notification of the transfer was not received by the Association until after the October 5 meeting.

<sup>6</sup> No minutes were kept of the meeting although the bylaws require the secretary-treasurer to keep a proper record of all minutes.

<sup>7</sup> Janicki testified that he extended the voting period for 15 minutes and tried to contact the two people who did not vote, but understood they had already left.

<sup>8</sup> Although the Petition was not filed in the name of Local 7637, we note that Pastin stated at the October 5 meeting that a charter designating the group as a local would be issued, and that such a charter was issued. We believe that the employees vote reflected a desire to become a local of Petitioner. Cf. *Equipment Manufacturing, Inc.*, 174 NLRB No. 74, fn. 6.

and conditions of employment, thus presenting a question concerning representation. The Employer's contention is based on section 2-A-1 of its basic labor agreement with Petitioner, which provides that the term "employee" applies to all employees (salaried clerical and technical) for whom the Petitioner is or may be "*certified*" (emphasis supplied) by the Board as bargaining representative during the life of the basic agreement. The Employer contends that if we amend the certification, the basic agreement and not the Association contract will apply to these employees. If the present procedure were indeed a certification, problems of this nature might be presented. However, not only has Petitioner pledged to administer the existing contract until its expiration, but the Board has long held that an amendment of certification is not a new certification or a recertification.<sup>9</sup>

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<sup>9</sup> *Safeway Steel Scaffolds Company*, 173 NLRB No 52, *Baton Rouge Water Works Company*, 163 NLRB 1070, *Emery Industries, Inc (Dice Road)*, 148 NLRB 51

Accordingly, and regardless of interpretations of the meaning of section 2-A-1, it would not appear to apply to the instant case.

For the reasons set forth above, we conclude that there does not exist a question concerning representation, and we shall therefore grant the petition.

#### ORDER

It is hereby ordered that the petition to amend the certification filed by the United Steelworkers of America, AFL-CIO, be, and it hereby is, granted and that the Certification of Representative issued in Case 6-RC-1264 be amended by substituting "United Steelworkers of America, Local Union Number 7637," for "Association of Technical and Clerical Employees, American Bridge Division, Ambridge Plant."