

Solar, Division of International Harvester Company, Employer-Petitioner and International Association of Machinists and Aerospace Workers, Silvergate District Lodge No. 50 and Aeronautical Mechanics Lodge No. 685, AFL-CIO,¹ and International Brotherhood of Electrical Workers, Local Union 569, AFL-CIO-CLC.² Case 21-UC-38

January 7, 1971

**DECISION AND ORDER CLARIFYING
CERTIFICATION**

**BY CHAIRMAN MILLER AND MEMBERS
FANNING AND JENKINS**

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held on July 28, 1970, before Hearing Officer Carl Abrams. On July 30, 1970, the Regional Director for Region 21 transferred the case to the National Labor Relations Board for decision.

Thereafter, the International Brotherhood of Electrical Workers, Local Union 569, AFL-CIO-CLC, herein called the IBEW, and the International Association of Machinists and Aerospace Workers, Silvergate District Lodge No. 50 and Aeronautical Machinists Lodge No. 685, AFL-CIO, herein called the IAM, filed briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, 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.
3. Solar, Division of International Harvester Company, herein called the Employer, is engaged in the manufacture of gas turbine engines and aerospace components at its San Diego, California, plant.

The Employer has filed the petition herein, requesting that the Board issue a clarification of the certification of either the IAM or IBEW with regard to certain employees who perform high-voltage testing (over 50 volts) on its gas turbine engines. Although the Employer has for approximately 15 years assigned this work to employees represented by the IBEW, it has taken no position in the instant proceeding as to whether the IBEW or IAM is entitled to represent the employees who currently perform the

work of high-voltage testing. The IBEW claims these employees under its 1948 certification primarily because, pursuant to the Employer's assignment, its members have performed the work for some 15 years. The IAM, on the other hand, contends that it is entitled to represent these employees, asserting that the work is essentially production work and therefore within its 1943 certification.

The facts leading up to the present controversy are as follows:

In 1943, the Board certified the IAM as the exclusive bargaining representative in the following unit:

All production, maintenance, spot welding machine operators, tool design employees, timekeepers, direct and indirect stores employees, inspection and shipping department employees, and production planning department employees. . . .

Thereafter, in 1948, the Board certified the IBEW for a unit composed of "[a]ll maintenance electricians, and their apprentices and helpers. . . ."

Prior to 1952, the Employer was engaged in the manufacture of aircraft engine parts which did not involve any electrical work. In 1952, however, the Employer developed a series of gas turbine engines which did use electrical systems. The Employer initially assigned to employees represented by the IAM the testing of the electrical wiring, which at that time did not involve a capacity of greater than 24 volts. Thereafter, the turbine engines became more complex and the concomitant voltage of the electrical systems increased. After the Employer had lost several turbine packages due to faulty wiring, and following discussions with the IAM and the IBEW, the Employer decided to divide the testing between employees represented by the IAM and IBEW. Thus, starting in the late 1950's, the Employer assigned to employees represented by the IBEW the high-voltage testing of over 50 volts, and assigned to employees represented by the IAM that testing which involved less voltage. In 1963, the Employer formalized this practice by advising the IBEW by letter dated November 21, 1963, that the electricians represented by the IBEW would continue to test electrical systems of over 50 volts. The IAM received no notice of this letter.

Six years later, in 1969, the IAM filed a grievance which asserted that the Employer had violated their collective-bargaining agreement by not assigning all work performed on the turbines to employees within the IAM bargaining unit. The Employer and the IAM thereafter discussed the grievance in their 1969 collective-bargaining negotiations, but were unable to resolve the matter. As a result, they agreed to take up

¹ As corrected at the hearing

² As corrected at the hearing

the issue with all the parties, including the IBEW, after the contract negotiations were completed. A second grievance was filed by an IAM member in 1970 protesting the Employer's assignment of the high-voltage testing to employees represented by the IBEW. Both grievances were processed through the initial steps of the grievance procedure without being resolved. Accordingly, the IAM requested that the grievances be submitted to binding arbitration. The Employer is reluctant to submit the grievances to arbitration because the IBEW has refused to be bound by the arbitrator's award. Instead, the Employer has filed the petition herein, requesting that the Board clarify either the IBEW or IAM certification to include the employees who perform the work in question. The IAM has indicated its willingness to have the Board decide the question, as has the IBEW.

As to the disputed work, the record establishes that the turbines are tested in a test cell prior to delivery to customers. This procedure involves connecting the turbine package to an electrical measuring system which measures the amount of electricity produced by the package. Employees represented by the IBEW hook up the turbine's generator to heavy-duty cables of over 50 volts which are attached to a circuit breaker. The cables are connected to the generator by either sliding them into slots or attaching them to lugs on the generator. Although the cables are readily identifiable, the employees must be careful not to cross them, in order to avoid a cross-phase relationship which can lead to a blowout. In order to carry electrical power away from the generator when the generator is operating at full load, the cables are then attached to switches which are located on the plant roof. The particular switches used vary, depending upon the type of turbine and the turbine's voltage. The electrical output is thereafter connected to a circuit breaker and then to probes which are lowered into salt water brine tanks. After the generator is accelerated by a test cell mechanic, represented by the IAM, electricians represented by the IBEW measure the generator's electrical output by means of an ammeter. If the engine malfunctions at this point, the test cell mechanic is called in.

The disputed employees who perform the aforementioned high-voltage testing are classified as "Journeyman Industrial Electricians." Of the approximately 43 employees who are currently represented by the IBEW,³ about 12 have performed the work in issue. Presently, approximately six employees perform this work, two on each of the Employer's three production shifts. The record does not disclose the amount of time normally spent on each shift by the IBEW electricians in performing the high-voltage

testing. When these employees work in the test cell area, they are supervised by the same individual who also supervises the test cell mechanics who perform voltage testing of less than 50 volts and who are represented by the IAM. In the event that the high-voltage testing work in the test cell area is slack, the employees normally assigned to this work perform the same routine plant maintenance electrical work which is usually performed by their fellow electricians. When they are performing these plant electrical tasks, they are under the direction of a leadman represented by the IBEW.

Before we may reach the merits of the controversy, we must first determine whether the issue raised in the Employer's petition constitutes an accretion question over which we have jurisdiction. Although all of the parties to the instant proceeding agree that the Board should assert jurisdiction, the Board, of course, must make its own independent determination as to whether it has the authority under Section 9(b) to clarify either of the two certifications before us. The record evidence establishes that the controversy comprehends the unit placement of the employees who perform the high-voltage testing work, and is not merely an effort to effect a transfer of disputed work itself. Thus, when questioned at the hearing as to the IAM's position regarding the unit placement of the six employees who perform the high-voltage testing, an IAM representative replied that any employee who performed such work belonged in the IAM bargaining unit. If these employees were to be placed in the IAM bargaining unit, the same representative asserted, the IAM would do its best to credit the seniority accrued by these employees when they were in the IBEW bargaining unit. Accordingly, as the issue raised herein concerns the unit placement of employees, and not simply the assignment of disputed work, we find that the question presented is properly before the Board for determination as a matter of unit clarification.⁴

Turning to the merits of the accretion question itself, we note that, in support of its claim, the IAM asserts that the work performed by the disputed employees is an integral part of the Employer's production process and that, therefore, the employees should be included within the IAM's production and maintenance certification. Although the record establishes that the high-voltage testing would normally be classified as part of the Employer's production process, we do not view this fact to be controlling, in light of other factors which support the IBEW's contention that it should be permitted to continue to represent the employees in question. Thus, as discussed above, the work performed by these employees

³ The IAM represents about 1 900 employees in its unit.

⁴ *Kennecott Copper Corporation Chino Mines Division* 176 NLRB No

arose from the introduction of the gas turbine engines in 1952, after both unions were certified. Even though employees represented by IAM initially performed the low-voltage testing, the Employer thereafter assigned to employees represented by the IBEW the voltage work of over 50 volts, and it does not appear that employees represented by the IAM ever performed such high-voltage work. As a result of this assignment, made some 15 years ago, employees represented by the IBEW have since that time performed this work in a satisfactory manner. During that period, the IAM neither challenged the Employer's assignment nor attempted to bargain for these employees until 1969, when it finally filed a grievance over the assignment and raised the matter in the then-pending collective-bargaining negotiations. In view of the fact that the work in dispute arose after both unions were certified and that the employees represented by the IBEW have performed the work in question for approximately 15 years, without any protest from the IAM,⁵ we conclude that the resolution of the representational question made by the parties themselves is an acceptable one, and that

the interests of industrial stability would best be served by construing the certifications as the parties have long construed them. Accordingly, we find that the employees who perform the disputed work are an accretion to, and should be included in, the unit represented by the IBEW, and we shall clarify the certification of the IBEW to include these employees.

ORDER

It is hereby ordered that the certification in Case 21-RC-204 heretofore issued to the International Brotherhood of Electrical Workers, Local Union 569, AFL-CIO-CLC, be, and it hereby is, clarified by specifically including therein the testing of electrical wiring on turbine engines involving high potential (over 50 volts).

MEMBER JENKINS, dissenting:

I view the instant proceeding as a work assignment dispute rather than a representational matter and would dismiss the unit clarification petition filed by the Employer. *McDonnell Company*, 173 NLRB No. 31; *Carey v. Westinghouse*, 375 U.S. 261.

⁵ Cf. *Bethlehem Steel Corporation*, 172 NLRB No. 32, and *Worthington Corporation, Compressor and Engine Division*, 155 NLRB 222