

Alaska Steamship Company, Petitioner and International Longshoremen's and Warehousemen's Union Local 62, Independent and United Industrial Workers of North America, Pacific District, SIU, AFL-CIO.¹ Case 19-UC-32

July 17, 1968

DECISION AND ORDER GRANTING PETITION TO CLARIFY NONCERTIFIED BARGAINING UNIT

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING AND ZAGORIA

Upon a petition of Alaska Steamship Company for clarification of unit duly filed on November 22, 1967, under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held on March 18, 1968, before Hearing Officer John N. Zimmerman. On April 9, 1968, the Regional Director for Region 19 issued an order transferring the case to the Board. Thereafter, briefs were timely filed by the Employer and the Unions.

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, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. Both Unions are labor organizations within the meaning of the Act, and both claim to represent certain employees of the Employer.

3. The Employer-Petitioner, Alaska Steamship Company, has requested clarification as to whether its contractual bargaining unit with ILWU should include all longshoremen engaged in the barge loading and unloading and the warehouse operation at the Employer-Petitioner's newly leased facility in Saxman, Alaska.

The Employer-Petitioner is a State of Washing-

ton corporation engaged in the transportation of cargo by water between Seattle, Washington, and State of Alaska ports. Prior to the fall of 1967, the Employer-Petitioner operated two ships in southeast Alaska which made regular calls at the port of Ketchikan. Both ships used the Ketchikan Wharf Company terminal in downtown Ketchikan. In the fall of 1967 the Employer-Petitioner discontinued the operation of one of its ships and replaced it with a barge. While the remaining ship still uses the Ketchikan facility,² this facility does not lend itself to loading and unloading barges, and it became necessary for the Employer-Petitioner to find a new facility to handle its barge operation. Initially, temporary use was made of the State of Alaska ferry terminal approximately 4 miles north of the Ketchikan terminal. Thereafter, the Employer-Petitioner entered into an agreement with the receiver of the Saxman terminal, William Moran, for the use of that facility.

The Employer-Petitioner is a member of the Alaska Longshore Employer's Association. This association has a current multipoint collective-bargaining contract, the All-Alaska Longshore Agreement, with certain ILWU locals, including Local 62.³ The agreement broadly covers the "handling of cargo and its transfer from vessel to first place of rest, and vice versa. . . ."⁴ Longshoremen from ILWU Local 62⁵ handled the loading and unloading of the Employer-Petitioner's ships at the Ketchikan facility. When the Employer-Petitioner's barge operation was initiated at the State of Alaska ferry terminal, longshoremen from the ILWU were utilized and paid according to the All-Alaska Longshore contract. In anticipation of the transfer of the barge operation to the Saxman facility the Employer-Petitioner and the ILWU signed an addendum to the All-Alaska Longshore Agreement on November 22, 1967, which sets forth certain terms and conditions which are applicable to loading and unloading of the barge at Saxman terminal, as well as certain terms and conditions applicable to the warehousing operation at Saxman. This agreement was ratified in early February 1968. Since the inception of the barge operation at the Saxman terminal, ILWU longshoremen have performed the loading and unloading of the Employer-Petitioner's barge at the Saxman facility.

Saxman terminal was constructed in 1962-63 on

¹ Hereinafter referred to as SIU. SIU was allowed to take part in the proceeding on the basis of its claim to represent employees who have previously done longshore work at the Saxman terminal.

² The Employer eventually plans to replace the remaining ship with a barge.

³ Other Locals include Juneau Local 16, Seward Local 60, Haines Local 65, Cordova Local 66, Pelican Local 83, Sitka Local 84, and Wrangell Local 87. The agreement does not specify the jurisdictional limits of any

of the locals.

⁴ More specifically, the agreement covers the "movement of outbound cargo from the time it enters a dock and comes under the control of any terminal, stevedore, agent or vessel operator covered by this agreement and covers movement of inbound cargo only so long as it is at a dock and under the control of any vessel operator, agent, stevedore, or terminal covered by this agreement."

⁵ Hereinafter referred to as ILWU.

land which was acquired and owned by the city of Saxman. The terminal was financed by the sale of revenue bonds issued by the city of Saxman and which were underwritten by the United States Government through the Area Redevelopment Administration. The evidence reveals that one of the major purposes in constructing the facility was to provide employment and give an economic boost to the residents of Saxman. The city of Saxman leased the terminal to the Ketchikan and Northern Terminal Co. as a rail-barge facility. The Ketchikan and Northern Terminal Co. hired residents of Saxman to perform the work of loading and unloading cargo onto and from barges, even though by the terms of the lease, the company was not restricted in any way to the persons to be employed by the company in the operation of the terminal. On August 5, 1964, the Ketchikan and Northern Terminal Co. entered into a collective-bargaining agreement with the SIU effective from August 1, 1964, to August 1, 1967, covering certain work performed at the Saxman facility. During the term of this agreement with SIU, in September 1965, Ketchikan and Northern Terminal Co. ceased operating the Saxman terminal. The city of Saxman was unable to make payments to the Federal Government as required by the indenture with the Government and the District Court for the District of Alaska appointed William Moran as receiver of the Saxman terminal. Moran entered into a collective-bargaining agreement, dated October 20, 1967, with the SIU, even though at that time and at all times since September 1965, the terminal had been inoperative. The lease which Moran thereafter signed with the Employer-Petitioner, on November 26, 1967, does not in any way restrict the Employer-Petitioner with regard to the hiring of personnel.

The present petition for unit clarification was filed by the Employer-Petitioner as required by its lease with Moran. Both the Employer and the ILWU contend that the Employer's employees performing longshore work at the Saxman terminal are properly represented by the ILWU pursuant to the current All-Alaska Longshore Agreement. The position of the SIU is that longshore work at the Saxman terminal was not included in the All-Alaska Longshore Agreement, nor should the contract be extended to cover the work. To support its contention, the SIU relies on the fact that Saxman is a separate and independent municipality which is not named in the All-Alaska Longshore Agreement. Also, the SIU alleges that the work at Saxman is significantly different from the work formerly done at Ketchikan.

The record reveals that the town of Saxman is only 2.8 miles from Ketchikan. Furthermore, it is not unusual for longshoremen from Local 62 to work at locations outside the city limits of Ketchikan, since longshoremen perform their work wherever the particular job is located. Thus, Local 62 longshoremen perform work at the Ketchikan Pulp Company which is 7 miles outside Ketchikan; at Ward cove, which is 6 miles outside of Ketchikan; and at Ometlakatla, located on Annette Island, 28 to 30 miles from Ketchikan. They also formerly performed work at the George Inlet Cannery which is located 14 miles from Ketchikan; and, as noted, they performed the longshore work for the Employer-Petitioner when the specific barge operation in question was located at the State of Alaska ferry terminal, 4 miles north of Ketchikan. Since the agreement between the Employer-Petitioner and the ILWU is not limited to any specific geographical area but covers the handling of cargo at a terminal whenever the Employer has control over any inbound or outbound cargo, we do not view the fact that Saxman is a separate municipality not mentioned in the All-Alaska agreement as barring a finding that the work at Saxman is within the terms of that agreement.

The barge operation at Saxman is a roll-on, roll-off procedure while the Ketchikan ship operation utilizes a lift-on, lift-off method. The same pool of longshoremen from the ILWU that does the lift-on, lift-off operation at Ketchikan also does the roll-on, roll-off operation at Saxman. While the roll-on, roll-off barge operation requires a smaller work force and is a faster operation, the skills required of the longshoremen are essentially the same; and, once the cargo is hauled off the barge, the work is almost exactly the same. The work at Saxman is identical to the work ILWU longshoremen performed at the Employer-Petitioner's prior barge operation at the State of Alaska ferry terminal.

Thus, the Employer-Petitioner's operation at Saxman was within the geographical area where ILWU longshoremen performed work under the All-Alaska Longshore Agreement; the same pool of ILWU longshoremen used by the Petitioner-Employer at Ketchikan is also performing the longshore operations at Saxman; and the work performed at Saxman utilizes essentially the same skills as the Employer-Petitioner's operation at Ketchikan. In these circumstances, we find that the Employer-Petitioner's Saxman operation should be included in the purview of the unit established between the Employer-Petitioner and the ILWU.⁶

The SIU would seem to argue that, aside from

⁶ *Martin-Burns Sportables, Inc.*, 129 NLRB 364

other considerations, the Board should not clarify the existing contractual unit because public interest indicates that the residents of Saxman should be given the longshore work at the Saxman terminal. The argument proceeds as follows: There is chronic unemployment at Saxman, the purpose in building the federally financed terminal at Saxman was to relieve this unemployment, and therefore residents of Saxman and not ILWU longshoremen should do the longshore work at the Saxman terminal. The argument, however, fails to note that employment of Saxman residents may create unemployment among ILWU longshoremen who had previously done the Employer-Petitioner's work at Ketchikan and at the State of Alaska ferry terminal, and who presently do the work at Saxman. Moreover, a dispute over who should do the longshore work at the Saxman terminal is not within the scope of the petition for

unit clarification.⁷ As we have found that the Employer-Petitioner's Saxman operation is within the purview of its contractual unit with the ILWU, we shall, accordingly, clarify the parties' contractual collective-bargaining unit as including the Saxman terminal operation.⁸

ORDER

It is hereby ordered that the existing contractual collective-bargaining unit represented by International Longshoremen's and Warehousemen's Union Local 62, Independent, be, and hereby is, clarified by specifically including all longshoremen engaged in the barge loading and unloading and the warehouse operation of Alaska Steamship Company at Saxman terminal.

⁷ *Ingersoll Products Division (Chicago Works) of the Borg-Warner Corporation*, 150 NLRB 912

⁸ Although the ILWU has not been certified by the Board for the existing

unit, the Board does have the authority to clarify a unit represented by an uncertified union *Brotherhood of Locomotive Firemen and Enginemen*, 145 NLRB 1521