

American Cyanamid Company and Textile Workers of America, AFL-CIO, CLC, Petitioner and International Chemical Workers Union, Petitioner.
Cases 15-RC-3862, 15-RC-3876, and 15-RC-3877

September 18, 1968

DECISION, ORDER, AND DIRECTION OF ELECTIONS

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Hearing Officer James M. Pratt of the National Labor Relations Board. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, these cases were transferred to the National Labor Relations Board for decision. The Employer and the International Chemical Workers Union (Chemical Workers) filed briefs which have been considered by the Board.

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 these cases, 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. Questions affecting commerce exist concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Chemical Workers seeks to represent a combined unit of production and maintenance employees and laboratory and technical employees at the Employer's Santa Rosa, Florida, plant. The Textile Workers of America, AFL-CIO, CLC (Textile Workers) petitions for a unit limited to the production and maintenance employees.¹ The Employer contends that the unit sought by the Chemical Workers is inappropriate and that only separate units of production and maintenance employees and laboratory and technical employees would be appropriate. There is no history of collective bargaining for any of the plant employees.²

The Employer manufactures acrylic fibers at its Santa Rosa plant. The plant is headed by a plant manager. The plant has seven departments: engineering, production, quality control, maintenance, personnel, accounting, and development. The department heads report directly to the plant manager. The production department contains all the production functions including the chemical area, fibers area, and utilities. The maintenance department covers area maintenance, central maintenance, maintenance engineering and planning. There are approximately 660 employees at the Employer's Santa Rosa plant, including 350 production and maintenance employees who are paid at an hourly rate, and approximately 120 employees who are employed in the "laboratory and technical" group. Twenty employees of this latter group are paid hourly while the remainder are salaried.

The Employer contends that the production and maintenance employees and the laboratory and technical employees comprise separate appropriate units, on the basis of differing working conditions, employee benefits, skills, and job functions, and the lack of common supervision, contact, or interchange. We find merit in the Employer's contention. The production and maintenance employees are physically separated from the laboratory and technical workers. The two groups of employees have different supervision and there is no interchange of employees between them. Only at the lowest level is there any transfer of employees from one group to the other. The production and main-

¹ Both unions stated their willingness and desire to participate in elections in whichever unit or units the Board finds to be appropriate.

² Prior Board proceedings involving the same plant and parties as those herein include: On February 2, 1961, the Board, at 130 NLRB 1, found that a unit of production and maintenance workers petitioned for by the Textile Workers to be appropriate and directed an election therein, and it found inappropriate a unit of maintenance employees petitioned for by Pensacola Building and Construction Trades Council. Thereafter, in March 1961, the Board granted a motion for reconsideration and after reconsideration of the issues vacated its previous Decision, Order, and Direction of Election and found that either a unit of production and maintenance employees or a unit of maintenance employees alone would be appropriate and directed self-determination elections in the two voting groups. See 131

NLRB 909. On March 18, 1966, the Textile Workers filed a petition claiming to represent the production and maintenance employees. The Chemical Workers intervened and an election was conducted, neither union receiving a majority of the votes cast. On April 29, 1966, the Chemical Workers petitioned for a unit of laboratory and technical workers and an election was subsequently held which the Chemical Workers did not win. On March 14, 1967, the Textile Workers and the Chemical Workers filed petitions to represent the production and maintenance employees. An election was held with neither union receiving a majority. On April 27, 1967, the Chemical Workers filed a petition claiming to represent a unit of laboratory and technical employees. Prior to an election being held the Petitioner withdrew its petition.

tenance employees are hourly paid while most of the laboratory and technical employees are nonexempt salaried.³ Hence, the production and maintenance employees are paid weekly while the laboratory and technical employees are paid semimonthly; the production and maintenance employees are covered by the hourly employees handbook while the laboratory and technical employees come under the nonexempt salaried employees handbook; and there are different rules pertaining to vacations, seniority, and layoffs for the production and maintenance employees than for the nonexempt salaried employees.

The production employees operate the equipment used to produce the chemicals and chemical fibers manufactured by the Employer. The maintenance employees perform the varied maintenance work for the entire plant. While the work performed by the production and maintenance employees requires no special scientific skill or experience, that performed by the laboratory and technical employees involves the use of complex testing equipment for which a higher educational standard and scientific background is required as well as greater initiative and personal responsibility than that exercised by the production and maintenance employees.⁴

On the basis of the foregoing, we find that the laboratory and technical employees are readily identifiable as a group of employees whose similarity of functions and skills create a community of interest separate from that possessed by the production and maintenance employees, and that the two groups of employees constitute separate units which are appropriate for purposes of collective bargaining.⁵

There is some question as to whether the head storeroom clerk, spares control clerk, storeroom clerk, receiving clerk, head warehouse and shipping clerk, and nonroutine product and inventory clerk, all of whom are nonexempt salaried, are plant clericals and should be excluded from the bargaining units in accordance with the parties stipulation to exclude plant clericals. The head storeroom clerk is located in an office adjacent to the stores warehouse and is responsible for the inventories,

control of stock, and the general operations of the stores warehouse. Approximately 80 to 90 percent of his time is spent in clerical duties which include making out and checking requisitions, purchase orders, and IBM cards pertaining to stores. He is also in charge of the spares control clerk, the storeroom clerk, and the receiving clerk. The spares control clerk is located in the same office as the head storeroom clerk, and his duties include cataloguing of spare and of obsolescent parts, composing spare parts lists from vendors catalogues, and assisting the storeroom clerk and the maintenance mechanics when a question of spare parts nomenclature arises. He will occasionally relieve the storeroom clerk and do some spot checking of stores, but approximately 80 to 90 percent of his time is spent performing clerical duties. The receiving clerk has an office located in the store warehouse and receives the material as it is delivered, makes up receiving and damage reports and IBM cards; he reports and compares materials received with the purchase requisitions and although he does some moving of materials in the stores warehouse approximately 50 percent of his time is spent at his desk performing clerical functions. The storeroom clerk is located at a counter in the stores warehouses. He issues stores and spare parts, assists mechanics in looking up parts in the catalogue, makes out IBM cards, fills bills of material and checks them for proper charges. Approximately 50 percent of his time is spent in clerical duties. The head warehouse and shipping clerk is located in the shipping warehouse in an office partitioned from the rest of the warehouse area. His duties include preparing packing lists and way bills for transfer of Employer's products. He supplies lists to the material loaders to load on particular trucks, trailers, and rail cars, and does all the paper work associated with the shipping operation. Approximately 95 percent of his time is spent on clerical duties. The nonroutine product and inventory clerk works in an office adjacent to the shipping warehouse. His duties, all of which are clerical, include assembling information on products that for one reason or another do not meet the Employer's commercial products specifications called from all

³ The term "nonexempt salaried" derives from the fact that these employees are covered by provisions of the Fair Labor Standards Act of 1938, as amended.

⁴ A substantial portion of the hearing in this case was devoted to developing a record of the responsibilities and skills of the approximately 44 job classifications in the "laboratory and technical" group and the training required of employees to satisfactorily perform the duties of those positions. The parties are agreed that none of the employees involved is a professional employee. We are satisfied on the basis of the entire record that the skills, education, and training possessed by employees in this group mark them as technical employees as that term is used in Board decisions. See for example *Litton Industries of Maryland, Incorporated*, 125 NLRB

722, *Sheffield Corporation*, 134 NLRB 1101.

⁵ Our conclusion herein is also based on the fact that both unions have heretofore recognized the separate community of interests of the two groups of employees involved herein by filing petitions for and participating in elections limited to one group or the other. See fn. 1, *supra*. We note further that though the Chemical Workers contends that an overall unit including both groups of employees is the most appropriate unit, it does not retreat from its earlier position that the laboratory and technical employees constitute a separate appropriate bargaining unit for it urges that the Board conduct "globe" elections to give these employees an opportunity to decide for themselves whether they wish to be represented in a unit with the production and maintenance employees.

parts of the plant and his own files. We find that work performed by the head storeroom clerk, spares control clerk, storeroom clerk, receiving clerk, head warehouse and shipping clerk, and the nonroutine product and inventory clerk is essentially clerical and therefore, in accordance with the parties stipulation that plant clericals be excluded, we find these employees to be plant clericals⁶ and will exclude them from both units.

In accordance with the foregoing, we shall direct elections in the following bargaining units which we find to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

(a) All hourly production employees, including utility employees, maintenance employees, and warehouse employees who are employed at the Employer's Santa Rosa, Florida plant, excluding office clerical employees, plant clerical employees, all laboratory and technical employees, including all of the quality control laboratory employees, textile evaluation employees, fibers application laboratory employees, analytical development employees,

chemical development employees, fiber development employees, pilot-plant employees, prepilot-plant employees, process and product improvement employees, professional employees, watchmen and/or guards, and supervisors as defined in the Act.

(b) All laboratory and technical employees at the Employer's Santa Rosa, Florida plant, including all of the quality control laboratory employees, textile evaluation employees, fibers application laboratory employees, analytical development employees, chemical development employees, fiber development employees, pilot-plant employees, prepilot-plant employees, process and improvement employees; excluding, production employees, utility employees, maintenance employees, warehouse employees, office clerical employees, plant clerical employees, professional employees, watchmen and/or guards, and supervisors as defined in the Act.⁷

[Direction of Election^{8,9} omitted from publication.]

⁶ *The May Department Stores Company, d/b/a Famous-Barr Company*, 153 NLRB 341, 344

⁷ Although there are approximately 20 laboratory workers who are hourly paid, the record discloses that their duties and skills are similar to the salaried laboratory employees, and we find that they share a community of interests with the other laboratory employees and will include them in this unit

⁸ 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 15 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. *Excelstor Underwear Inc.*, 156 NLRB 1236

⁹ The Textile Workers has not submitted a sufficient showing of interest to appear on the ballot herein, however, since it indicated at the hearing a willingness and capability of producing the necessary showing of interest, it is placed on the ballot contingent on his showing of interest being submitted to the Regional Director prior to the date of election