

**The Mountain States Telephone and Telegraph Company and Local Union Numbers 65, 122, 185, 200, 341, 393, 408, 416, 532, 552, 653, 758 and 1050, International Brotherhood of Electrical Workers, AFL-CIO, Petitioner. Case 19-UC-45**

April 24, 1969

**DECISION AND ORDER**

BY CHAIRMAN McCULLOCH AND MEMBERS  
JENKINS AND ZAGORIA

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before William W. Wertz, a Hearing Officer of the National Labor Relations Board. By order of the Acting Regional Director, following the close of the hearing this case was transferred for decision to the Board. Thereafter, the Employer and the Petitioner 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 Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record<sup>1</sup> 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. The Employer, an associated company within the Bell Telephone System, operates telephone utilities within eight far western states, including the State of Montana, the only portion of the Employer's operations involved in this proceeding. The Montana operations are directed from a central office at Helena, and are subdivided into five districts which function through 129 exchanges or subdivisions. On a statewide basis the Employer's operations are further subdivided into six separate departments, including the commercial, marketing, engineering, traffic, general personnel, and plant departments. Since 1911, the local unions petitioning herein have represented certain classifications of journeymen and apprentice electrical workers employed by the Employer in its plant department. These workers are engaged in the construction, installation, repair and maintenance of telephone equipment. Since approximately 1919 bargaining between the petitioning locals and the Employer has been conducted on a statewide basis, and the parties have entered into a series of collective-bargaining agreements, the most recent of which was entered

into on June 1, 1968, for a term of 3 years. The current contractual bargaining unit includes approximately 764 employees, but excludes, in addition to the clerical employees whose inclusion is here sought, other employees in the plant department (clerical employees, janitors, building maintenance employees, and garage mechanics).

On August 14, 1968, the petitioning locals filed the petition seeking to accrete into the existing statewide bargaining unit approximately 56 analytical clerks who are employed in 5 major and 12 minor test centers located in a total of 17 exchanges throughout the State of Montana. In support of the petition the petitioning locals contend that over a period of years the Employer has employed an ever increasing number of clerical employees, all of whom are females, who are classified as analytical clerks and whom the employer has allowed to usurp and encroach upon functions and duties previously performed solely by members of the contractual bargaining unit. With greater particularity the petitioning locals contend that under the guise of financial and technological considerations the Employer has assigned unit work to the analytical clerks to the extent that they now are engaged during a majority of their work time in duties and functions of testboardmen-local, assigners, and dispatchers. The Employer, on the contrary, contends that the analytical clerks perform functions essentially similar to those performed by other unrepresented clerical employees in its plant department, and that they neither perform, nor have the requisite skills and abilities to perform, work on the testboard or the functions of dispatching and assigning. The Employer additionally argues that based upon varying wages, employment benefits, and working conditions the analytical clerks lack a community of interest with the journeymen and apprentice electrical workers in the contractually agreed upon unit.

Under the circumstances of this case, we find it unnecessary to resolve the conflicts in the evidence elicited by the parties in support of their respective positions. As set forth above, the petitioning locals have represented the journeymen and apprentice electrical workers in the Employer's plant department since 1911, and since 1919 they have bargained for these employees on a statewide basis and have entered into a long series of collective bargaining agreements with the Employer. The record reveals that the Employer has engaged employees in the classification of analytical clerks since 1937. Although the number of employees engaged in this classification has increased markedly over the intervening years, with a resulting increase in the amount of total work performed, the duties and functions of the analytical clerks, which are essentially clerical in nature, have remained basically unchanged. At no time prior to the filing of the instant petition did the petitioning locals bargain, or attempt to bargain, for the analytical

<sup>1</sup>In view of the Decision and Order herein, and inasmuch as the record, including the briefs of the parties, adequately presents the issues and positions of the parties, the Employer's request for oral argument is denied.

clerks.<sup>2</sup> On the contrary, throughout the course of a long bargaining history the petitioning locals have steadfastly maintained the position, concurred in by the Employer, that the analytical clerks lacked the skilled functions appropriate to their inclusion in the unit, and that based upon their sex the analytical clerks were outside their jurisdiction. In 1966, in support of this position, the petitioning locals bargained for and obtained a clause in the collective-bargaining agreement which prohibited the assignment of unit work of dispatching or assigning work to any employees other than members of the local unions, and in 1968 this restrictive clause was carried forward into the current collective-bargaining agreement.<sup>3</sup>

Accordingly, and without considering or passing on the question of whether the analytical clerks might appropriately be included in the existing unit of journeymen and apprentice electrical workers, we

conclude that the existing contractually agreed-upon bargaining unit cannot be expanded to include the clerks by way of a petition for clarification. The petition raises a question concerning representation which cannot properly be resolved in the proceeding now before us, and must, therefore, be denied.<sup>4</sup>

#### ORDER

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

<sup>2</sup>See *Gould National Batteries, Inc.*, 157 NLRB 679, and *Industrial Siderurgica, Inc.*, 147 NLRB 975

<sup>3</sup>See *Sterlton Corporation*, 147 NLRB 219. Our Decision herein is not to be construed in any way as approval or condonation of the exclusion of employees from otherwise appropriate collective-bargaining units on the basis of sex.

<sup>4</sup>*The Bendix Corporation, Launch Support Division*, 168 NLRB No. 55