

**Sierra Electric, Inc. and Perry Lee Nielson, Petitioner, and United Rubber, Cork, Linoleum and Plastic Workers of America, AFL-CIO, Local Union No. 335. Case 21-UD-108**

June 9, 1969

**DECISION AND CERTIFICATION OF RESULTS**

BY MEMBERS FANNING, BROWN, AND ZAGORIA

Pursuant to a stipulation for certification upon consent election a deauthorization election by secret ballot was conducted on January 7, 1969, among the employees in an appropriate unit. The ballots were counted on January 17, 1969,<sup>1</sup> and the tally showed that of the 135 eligible unit employees only 75 cast ballots, 51 employees voting for withdrawing the union-shop authorization of the Union, 24 voting against the deauthorization. Thereafter, the Petitioner filed timely objections to conduct affecting the results of the election.

In accordance with the National Labor Relations Board Rules and Regulations, the Regional Director conducted an investigation and, on February 12, 1969, issued and duly served upon the parties his Report on Objections in which he recommended that the objections be sustained. Thereafter, the Union filed timely exceptions to the Regional Director's Report on Objections and a supporting brief.

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.

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 policies of the Act to assert jurisdiction herein.

2. The Petitioner asserts that employees in a bargaining unit covered by an agreement between their Employer and the Union, made pursuant to Section 8(a)(3) of the Act, desire that such union-shop authorization be rescinded.

3. The Petitioner's objections were directed principally at a notice which was mailed by the Union to unit employees on Friday, January 3, 1969, and was received by some of the voters on Saturday, January 4 and by the remainder on Monday, January 6. In this notice the Union requested the employees to vote "No" or, preferably, to refrain from voting in the deauthorization election. The notice stated that if

<sup>1</sup>Immediately after the election the ballots were impounded pending an appeal to the General Counsel regarding the Regional Director's refusal to issue a complaint upon charges filed by the Union. That case was closed on January 13, 1969.

the Union were to lose the deauthorization election, its International would withdraw its charter, there would be no union at the plant, and there would be no union contract. The Regional Director's investigation disclosed that the Union's representatives made oral statements to the employees to the same effect as the message conveyed in the notice mailed to their homes and, in addition, represented to the employees that after the Union left the plant and there was no contract the Employer could take any action it pleased, including changing the pay rates.

The Regional Director determined that the Union's preelection statements had the effect of presenting the employees with a choice different from that contemplated under Section 9(e)(1) of the Act, and thus would tend to defeat the purpose and intent of the right granted to employees under this section. He concluded, therefore, that the Union's conduct in distributing this letter constituted interference with the election and would have a coercive impact on the exercise of a free choice in the referendum. Accordingly, he recommended that the objections be sustained. We do not agree.

The Union in its exceptions had advanced the position that if the union-security provision were deleted from the contract, the membership of the Union would undoubtedly decline, and might, indeed, decline to such an extent that its International would no longer find it in its own best interest to service the Union and might very well withdraw the charter due to lack of membership. We note that the truthfulness of the possibilities advanced in these assertions has not been challenged by the Regional Director or the Petitioner. Under these circumstances, we view the Union's preelection statements as merely clarifying for the employees the actual issues in the election by pointing to a result which well might emerge from the contemplated deauthorization election. In our opinion, the preelection notice and statements of the Union to which Petitioner has objected contain customary and legally unobjectionable electioneering matter. We find, therefore, contrary to the Regional Director that the voters were not prevented from comprehending the question upon which they were voting, and that they were not precluded from expressing a free choice in the referendum.

Accordingly, as we find merit in the Union's exceptions, we do not adopt the recommendation of the Regional Director. Therefore, we hereby overrule the objections of the Petitioner, and we shall certify the results of the election.

**CERTIFICATION OF RESULTS**

Upon the basis of the tally of ballots, and the entire record in the case, the Board certifies that:

1. A majority of the employees eligible to vote in the unit described below have not voted to deauthorize the agreement made between the United

Rubber, Cork, Linoleum and Plastic Workers of America, AFL-CIO, Local Union No. 355 and Sierra Electric, Inc., Gardena, California, requiring membership in such labor organization as a condition of employment, in conformity with Section 8(a)(3) of the Act, as amended.

2. The appropriate bargaining unit in which the election was conducted under Section 9(e)(1) of the

Act comprises: All production and maintenance employees, leadmen, leadwomen, shipping and receiving employees, and truckdrivers, at Employer's plant, 15100 South Figuereia Street, Gardena, California; *excluding* office clerical employees, draftsmen and supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action.