

Pacific Northwest Bell Telephone Company, Employer-Petitioner and Order of Repeatermen and Toll Testboardmen, Local 1011, IBEW, AFL-CIO and Communication Workers of America, AFL-CIO. Case 19-UC-48

October 2, 1969

DECISION AND ORDER CLARIFYING CERTIFICATIONS

BY MEMBERS FANNING, BROWN, AND ZAGORIA

Upon a petition for clarification of unit duly filed by Pacific Northwest Bell Telephone Company on November 4, 1968, a hearing was held on January 2 and 3, 1969, before Wesley M. Wilson, Hearing Officer of the National Labor Relations Board. On January 13, 1969, the Acting Regional Director for Region 19 issued an Order transferring the case to the Board. Thereafter, briefs were timely filed by the Petitioner 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. The Unions involved herein are both labor organizations within the meaning of the Act, and both claim to represent certain employees of the Employer.

3. The Employer, successor in interest to the Pacific Telephone & Telegraph Company, is a public utility engaged in the business of furnishing telephone, teletypewriter, telegraph, radio, television, and other communications service. The Order of Repeatermen and Toll Testboardmen, Local 1011, IBEW, AFL-CIO (hereinafter ORTT) represents "all toll maintenance employees of the Company in the Washington-Idaho area, including PBX teletypewriter repairmen, but excluding supervisory employees." The Board found this unit appropriate in 1944.¹ All other plant department employees, including clericals, not represented by ORTT, are represented by the Communication Workers of America, AFL-CIO (hereinafter CWA).

In this proceeding, the Employer-Petitioner is seeking clarification of the bargaining units, since ORTT has asserted that, as part of its existing unit,

it should represent Complex Plant Assigners and Facility Assigners in the Circuit Layout Bureau, Room 1022 Exchange Building, Seattle, Washington. These employees are currently represented by CWA. ORTT claims that these employees spend at least 51 percent of their time working on toll circuits, and therefore should be included in its unit. Petitioner refused to bargain with ORTT concerning its right to represent these employees, but instead filed the petition for clarification.² CWA, allowed to intervene at the hearing, disputes ORTT's claim, but contends as a separate proposition that it is entitled to represent Supervisors' Assistants in the Circuit Layout Bureau, employees who are currently represented by ORTT.

Petitioner's Circuit Layout Bureau was originally established in 1930 for the purpose of executing the needs of customers for service. The Bureau currently has 93 employees under the supervision of the toll service supervisor. Of the 93 employees, 21 are management supervisors, 12 are supervisor's assistants (represented by ORTT), 8 are complex plant assigners, 10 are facility assigners, and the remainder are reports clerks (all represented by CWA).

In 1966, CWA bargained with the Petitioner to upgrade employees who held the title of "Line Assigner." A line assigner is engaged in assignment work at plant service centers and chooses the proper wire facilities and equipment to connect a customer's service with the switching system. On February 12, 1967, Petitioner agreed to establish the title of complex plant assigner for the complex portion of the line assigning job that involved the designing of very complex circuits and to pay top wages for this title. Petitioner also agreed to establish the title of facilities assigner for the mid-portion of the line assigning job, which requires judgement but not the skills necessary to design the circuit, and to pay mid-portion wages for this title. The change in titles did not result in any change in work for these employees historically represented by CWA.

The issue to be determined is whether or not complex plant assigners and facility assigners should be included in the unit of toll maintenance employees if they spend at least 51 percent of their time designing toll rather than local circuits.

In deciding that toll maintenance employees constituted an appropriate unit in 58 NLRB 1042, the Board described the duties of these employees in detail. Basically, it found that they tested, repaired, and maintained equipment used for long distance transmissions, physically set up telegraph and teletypewriter circuits, dealt with customers who purchased teletypewriter and telegraph service from

¹The Board found that this could be an appropriate craft unit and directed a self-determination election *Pacific Telephone & Telegraph Company*, 58 NLRB 1042, 1048, and 1050.

²We reject ORTT's contention that this is a question of contract interpretation that should be deferred to the arbitration provisions of the contract, and find that this proceeding is properly before the Board for resolution *Carey v Westinghouse Electric Corp.*, 375 U.S. 261.

the employer, made transmission tests, operated mobile emergency radio equipment, and kept records associated with their work. The Board found that the practice of the employer was to classify its employees as "toll" or "central office" depending upon the type of equipment on which each employee regularly spent 51 percent or more of his time. The Board considered as "toll maintenance" only those employees classified by the employer as such, and specifically excluded those employees whose combination work did not entitle them to the classification of "toll maintenance" by their employer.

The record indicates that toll maintenance employees perform the same duties now as in 1944 with a few minor exceptions.³ There has been no showing that the test used for determining which employees should be included in the toll maintenance unit in 1944 is no longer valid. Complex plant assigners and facility assigners do not and can not perform any of the duties performed by the toll maintenance employees. Neither are they classified as "toll maintenance" by their employer. Clearly they do not belong to the unit of toll maintenance employees found to be appropriate by the Board.

As to the supervisors' assistants, we find no merit in CWA's position. They have been included in ORTT's unit since the 1944 proceeding, formerly under the title of "Senior Man." The present designation was adopted in the September 1963, contract between the Employer and ORTT.⁴ As it appears that their duties have not changed in any

way, there is no basis for concluding that they should now be included within CWA's unit.

In view of the above, we find that complex plant assigners and facility assigners are properly within the unit represented by CWA and should not be included in the unit of employees represented by ORTT, and that supervisors' assistants are properly within the unit represented by ORTT and should not be included in the unit represented by CWA. We shall, therefore, clarify the units accordingly.

ORDER

It is hereby ordered that Petitioner's request for clarification be granted, and the unit represented by Communications Workers of America, AFL-CIO, is hereby clarified by specifically including the categories of complex plant assigner and facility assigner, and by specifically excluding the category of supervisor's assistant, while the unit represented by Order of Repeaters and Toll Testboardmen, Local 1011, IBEW, AFL-CIO, is hereby clarified by specifically including the category of supervisor's assistant and by specifically excluding the categories of complex plant assigner and facility assigner.

³In 1944 toll maintenance employees used the Morse Telegraph code for communication between toll offices. This is no longer the case. In addition they now maintain microwave equipment.

⁴The title "Supervisor's Assistant" was applied to transmission men performing certain work operations in the Circuit Layout Bureau, and the contract of 1966 gave official recognition to this fact by providing that "The title may also be used to provide assistance to a supervisor in staff functions or to perform circuit design work in the Circuit Layout Bureau."