

Denver, Salt Lake and Pacific Stages, Inc.; Denver, Colorado Springs & Pueblo Motorways, Inc., Northern Division; Rocky Mountain Lines Division of Continental Bus Systems, Inc., Rocky Mountain Lines Division, d/b/a Temple Square Bus Center and Amalgamated Transit Union, Local 1468, AFL-CIO, Petitioner. Case 27-AC-23

September 5, 1972

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS JENKINS
AND KENNEDY

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer J. Donald Meyer. All parties appeared at the hearing and were given full opportunity to participate therein. On June 19, 1972, the Regional Director for Region 27 issued an order transferring the case to the National Labor Relations Board. The Employers and the Petitioner thereafter filed briefs with 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 authority in this proceeding 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, the Board finds:

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

2. The Petitioner, by means of a petition for amendment of certification, seeks to combine into one bargaining unit four of its separate units existing at each Employer where it was previously certified.¹ The Employer seeks dismissal of the petition, contending, *inter alia*, that the unit sought by the Petitioner is inappropriate.

The thrust of the Petitioner's argument is that it

should be allowed to represent the employees of the four Employers in one combined unit, despite prior certifications in separate units, because of the unified management of the four Employers.²

From their inception, the four units have been involved in separate negotiations for each unit, resulting in four separate contracts. The members of each unit have separate rates of pay, separate hours, separate employment benefits, and separate seniority lists. The employees of the units involved in this case are subject to separate immediate supervision. With respect to time off and the handling of grievances, the employees of the three bus companies contact their own Employer's dispatchers about such matters. There is virtually no interchange of employees among the various Employers.³ Operating equipment is held separately by each Employer; personnel files are separately maintained by each Employer; each Employer files separate reports to state and federal authorities; and the Employers do not combine their revenues.

On the basis of the foregoing considerations, we are of the opinion that the record affords a wholly insufficient basis for finding that the combined unit sought by the Petitioner would be an appropriate one.

Accordingly, we shall dismiss the petition.⁴

ORDER

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

CHAIRMAN MILLER, concurring:

While the majority opinion appears to treat as separate employers companies which I believe constitute subsidiary components of a single employer,⁵ I agree nonetheless that the unit sought is inappropriate, as it would consist of a heterogeneous grouping of employees who have no interests in

¹ The units represented by the Petitioner are as follows
Denver, Salt Lake and Pacific Stages, Inc. The Petitioner was certified by the Board as the representative of the bus operators in 1952; the last contract the Petitioner had with the Employer expired on January 31, 1972.

Denver, Colorado Springs & Pueblo Motorways, Inc. The Petitioner was certified by the Board as the representative of bus operators and maintenance and terminal employees in 1962, the last contract the Petitioner had with the Employer expired on December 16, 1971
Rocky Mountain Lines Division of Continental Bus Systems, Inc. The Petitioner was certified by the Board as the representative of the bus operators in 1953, the last contract the Petitioner had with the Employer expired on January 16, 1972

Temple Square Bus Center The Petitioner was certified by the Board as the representative of the terminal employees, ticket clerks, information clerks, express clerks, porters, and baggage handlers in 1955, the current contract the Petitioner has with the Employer will expire on May 31, 1973

² Ralph Berndt is the general manager of each of the Employers, and serves as a member of the collective-bargaining committee for each of the Employers during its negotiations with the Petitioner

³ The Petitioner presented evidence of interchange of employees between the various Employers only with respect to the consolidated extra board which functions as a pool of drivers from six carriers who do not have sufficient seniority to bid on regular established routes; these employees may work for any one of the various Employers, but receive no more benefits than those provided by their Employer and are paid only by that Employer

⁴ Member Jenkins concurs in the result. The other issues raised by the Employers need not be reached in view of our disposition of this case.

⁵ See *Transcontinental Bus System, Inc.*, 178 NLRB 712. As reflected in that decision, Denver, Salt Lake and Pacific Stages, Inc., Denver, Colorado Springs & Pueblo Motorways, Inc., Northern Division, and Rocky Mountain Lines Division of Continental Bus Systems, Inc., are but three of the numerous divisions and subsidiaries of the parent nationwide transportation system

common which are not shared by other employees excluded from such unit.⁶ More importantly, however, as I stated in my concurring opinions in the recent *Libbey-Owens-Ford* cases,⁷ the merger of existing appropriate single-plant units into multiplant units is

⁶ Cf my dissenting opinion in *Central Power & Light Company*, 195 NLRB No 139

a matter to be decided on a consensual basis by the parties to the bargaining relationship. No consensual basis for merger exists here.

Accordingly, I concur in the dismissal of this petition.

⁷ *Libbey-Owens-Ford Company*, 189 NLRB No. 138, and 189 NLRB No. 139.