

A. H. Belo Corporation¹ and Dallas Mailers Union #20, affiliated with International Typographical Union, AFL-CIO, Petitioner. Case 16-RC-6039

November 10, 1972

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MILLER AND MEMBERS FANNING AND PENELLO

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer T. Lowry Whittaker of the National Labor Relations Board. Following the close of the hearing the Regional Director for Region 16 transferred this case to the Board for decision. Thereafter, the Employer and the Petitioner filed briefs in support of their respective positions.

Pursuant to the provisions of Section 3(b) of the Act, the 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 in this proceeding, 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 labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Employer publishes the Dallas Morning News, and operates radio station WFAA and television station WFAA-TV in Dallas, Texas. The Petitioner seeks an election in a unit of all mailroom employees of the Employer at its newspaper plant, Dallas, Texas, including all regular part-time employees, but excluding office clerical employees, irregular part-time employees, professional employees, guards, watchmen, and supervisors as defined in the Act. The parties are in agreement that the requested unit is appropriate with the exception of the definition of regular part-time employees.

¹ The name of the Employer appears as amended at the hearing.
² For the reasons stated herein, the Employer's motion to dismiss is denied as without merit.

³ The Employer also contends that in a prior proceeding involving its mailroom employees there was no indication that any of the part-time employees in the mailroom were excluded from the scope of the decision, 165 NLRB 22. In its decision, the Board found that Respondent Employer violated Sec. 8(a)(1) of the Act by discharging and refusing to reinstate 68 mailroom employees who had engaged in protected concerted activity.

At the hearing, the Employer moved to dismiss the petition as amended on the ground, *inter alia*, that it does not describe a unit that is appropriate because of the reference to regular part-time employees in the inclusion, and the reference to irregular part-time employees in the exclusions.² In its brief, the Employer contends that either all part-time employees or none of them should be eligible for representation.³ In the alternative, the Employer contends that the only fair alternative to the all or none approach would be to use the broadest possible segment of time and the lowest reasonable number of hours to determine eligibility, so as to arrive at a formula that would enfranchise as many part-time employees as possible.

The Petitioner proposes the following eligibility formula: (1) The employee must have worked in more than 8 of 28 work periods indicated on the Employer's computer printout list received in evidence in this proceeding.⁴ (2) The employee must have worked in excess of 134.7 hours in the 28 work periods indicated therein. (3) The employee must have done some work in each of 7 of the last 14 work periods indicated therein. To be eligible, all these standards would have to be satisfied.

The record shows that the mailroom receives the newspapers from the pressroom, and that the mailroom employees add material printed elsewhere, package, bundle, and address the papers, and convey them outside the mailroom ready to be picked up for distribution or delivered to the post office for mailing. The mailroom operates 7 days a week and is under the supervision of a chief foreman and eight assistant foremen. There are approximately 21 journeymen, 15 apprentices, a mechanic, a TV machine operator, and a TV machine feeder who work a 38-hour workweek. Working with these full-time employees are part-time or so-called "extra" employees who usually work 3 or 4 days per week. As the papers are heavier on Thursday and Sunday than on other days, there are approximately 18 part-time employees employed on the Wednesday day shift and 27-30 on the night shift. There are approximately 90-100 part-time employees at peak daytime production on Saturday and 30 on Saturday night. If a part-time employee does not work on Saturday, he is not eligible to work on Sunday,

Because material matters relating to a bargaining order, which would include the appropriate unit, were neither alleged nor litigated in that proceeding, the Board did not adopt the Trial Examiner's recommended order that Respondent bargain upon request with "whatever bargaining agent is designated as the exclusive representative of all the employees in the appropriate unit in the mailing room." Accordingly, the issue presented herein was not before the Board in that proceeding and no inferences to the contrary should be drawn from the Board's findings therein.

⁴ Employer's Exh. 10.

Monday, or Tuesday, which are the lightest work-days.

Part-time employees take the papers from the conveyor belt as they come from the pressroom into the mailroom and stack them on skids, where they remain until time to place them on another conveyor to be fed into the stuffing machine which collates preprinted materials and inserts with the various parts of the paper. The papers are then bundled by machines and stacked by part-time employees as they come off the conveyor. Next, they are transported outside the mailroom where they are picked up by truckers for delivery. Papers to be mailed are wrapped and labeled ready for delivery to the post office.

Journeyman and apprentices usually perform the machine operating duties, while part-time employees do loading and unloading, feeding, and stacking duties. Sometimes, however, journeymen and apprentices perform the same kind of work as part-time employees. Unlike full-time employees, part-time employees are hired on a day-to-day basis and are hourly paid. They have a scheduled starting time only. When a part-time employee is hired, he fills out a card which is retained as a resource for hiring purposes. The normal practice is that part-time employees already working are hired for the next workweek by the foreman's asking them if they are going to work, or to notify him if they are not. Sometimes a notice is posted on the bulletin board that there is going to be "extra" work.

Richard D. Blum, vice president of labor relations, testified that part-time work is always available, that part-time employees are considered for employment until they say they no longer desire to be considered, and, in hiring, some consideration is given to regularity of their past employment.

The record shows that there is a high turnover among part-time employees. High school and college students are employed as part-time employees but the parties agreed that their status as students made no difference as to their eligibility to vote. The parties agreed to the inclusion of certain regular part-time employees because they share common vacation benefits with full-time employees. If a part-time employee works 1,000 hours a year, he receives a 1-week vacation and if he works 2,000 hours, he earns 2 weeks' vacation. Full-time journeymen and apprentices receive 2 weeks' vacation after 1 year, or approximately 2,000 hours of work. Part-time employees also have the same supervision and work under the same conditions as full-time mailroom employees.

⁵ We have used the 28-week period described above as a representative base period for the purpose of measuring the average number of weeks and hours to be worked by such part-time employees for them to qualify for

The Employer's computer printout data received in evidence shows the weeks worked by part-time mailroom employees, total weekly hours worked, and total weekly wages from January 1, 1972, through July 9, 1972. This data reveals that during this period approximately 500 part-time employees did some work for the Employer in the mailroom. The average total number of hours worked by an employee was in excess of 130, and some 150 worked more than 130 hours. The average number of weeks worked by an employee was approximately 9 and some 180 worked more than 9 weeks. The record also shows that the average number of part-time employees ranges from 30 to 100 employees per day during the 3- or 4-day workweek of part-time employees. Thus, the record clearly demonstrates that, while the number and identity of part-time mailroom employees fluctuates from week to week, a substantial number of these employees reported and worked fairly regularly over a period of several months preceding the hearing herein, and that a substantial number met or worked in excess of the average time worked per employee during the 28-week period used as a base for the above computation.

Accordingly, we find that those part-time mailroom employees who worked the average number of hours and weeks during the 13-week period preceding the payroll eligibility date set forth in the direction of election herein have a substantial and continuing interest in the terms and conditions of employment of unit employees. In choosing an eligibility formula based on a quarterly period rather than the 28 work periods ending with July 9, 1972, as proposed by the Petitioner, we find that the shorter, later period will be more indicative of regularity as well as currency of employment than the longer one urged by the latter party. It will insure the qualification as eligible voters of a more recent and representative complement of part-time mailroom employees in determining the representation question at hand. We find, therefore, that those employees who worked in each of 4 of the 13 workweeks preceding the payroll eligibility date set forth in the direction of election herein and who worked a total of at least 60 hours during that period have sufficient community of interest with full-time mailroom employees to be included in the same unit.⁵ We further find that such eligibility requirements encompass the Employer's alternate proposal that the method used to determine eligibility be based on the broadest possible segment of time and the lowest reasonable number of hours, and that this formula will reasonably insure that all part-time mailroom employees having a community

voting eligibility. The weekly and hourly standards set forth in our formula were arrived at by proportionally reducing the approximate averages computed therein to a quarterly period (13 weeks).

of interest with full-time employees will be afforded representation.

We conclude, therefore, that part-time mailroom employees who worked in each of 4 of the 13 workweeks preceding the payroll eligibility date set forth in the direction of election herein and who

worked at least 60 hours during that period have a substantial and continuing interest in their terms and conditions of employment and we shall include them in the unit.⁶

[Direction of Election and *Excelsior* footnote omitted from publication.]

⁶ Cf. *The Suburban Newspaper Group—Moorestown News, Inc.*, 195 NLRB No. 87.