

**ITT World Communications, Inc. and Communications
Workers of America, AFL-CIO, Petitioner. Case
2-UC-46**

January 3, 1973

DECISION AND ORDER

**BY CHAIRMAN MILLER AND MEMBERS JENKINS
AND KENNEDY**

Upon a petition duly filed under Section 9(b) and (c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officers Irwin M. Portnoy and Herzl S. Eisenstadt. The parties appeared and participated at the hearing. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, this proceeding was transferred to the National Labor Relations Board for decision by direction of the Regional Director for Region 2. Thereafter, briefs were filed by both parties.

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 rulings made by the Hearing Officers at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, including the briefs filed by the parties, 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 Union is a labor organization within the meaning of Section 2(5) of the Act and represents certain employees of the Employer.
3. The Employer is engaged in the operation of a nationwide and international telecommunications system.

The Petitioner was certified in 1953, in Case

¹ *American Cable & Radio Corporation*, 101 NLRB 1759

² In its petition, as amended at the commencement of the hearing, the Union sought the inclusion in its certified unit of employees in 11 named classifications. After the conclusion of the parties' testimony on the first of these disputed classifications—that of systems supervisor—Hearing Officer Eisenstadt closed the hearing over Petitioner's objection. This action of the Hearing Officer was grounded on his conclusion that Petitioner was not prepared, at that time, to go forward with a potentially meritorious and adequately prepared case with respect to the remaining classifications.

Subsequently, in its brief to the Board, Petitioner requested leave to withdraw that part of its petition as applies to classifications other than system supervisor, without prejudice to its position as stated in the record or to its right to reinstitute a further clarification proceeding at a later time. Petitioner's request is hereby granted.

³ The ADX is a public commercial message system which utilizes a high speed processing computer to store, transmit, and receive international telegram traffic to and from domestic and overseas stations throughout the world. The ARX is a similarly designed message handling system available

2-RC-4670, as the representative of a nationwide unit of "all live traffic employees."¹ In that case, the Board defined live traffic employees as being "those who are engaged in the transmission, reception, handling, and delivery of messages and those who maintain and service the equipment used in those operations."

In its petition for clarification, the Petitioner seeks to include as an accretion to its certified unit approximately 13 system supervisors employed by Respondent at its New York location.² Petitioner contends that the individuals employed in this classification should be added to the bargaining unit because they perform live traffic work formerly done by bargaining unit members. The Employer urges dismissal of the petition on the ground, *inter alia*, that the system supervisors are excludable from the unit because they are supervisors as defined by Section 2(11) of the Act.

During the 2-year period starting December 1965, the Employer automated its domestic and international communications facilities by placing into operation three high speed computerized message transmission and reception systems—the ADX, the ARX, and the WUMHS.³ The classification of system supervisor was created in conjunction with the installation of these message switching computers and the principal function of the system supervisors has been to supervise their operation.⁴ This is a round-the-clock job which involves constant monitoring of the systems for potential and actual operational and technical defects and errors affecting the transmission, reception, handling, and delivery of international message traffic.

Depending on the shift, either one or two system supervisors are in charge of each of the two principal computer systems at all times. They spend approximately 25 percent of their time reading error journals, computer printouts which advise as to conditions affecting a computer's ability to correctly process, transmit, or receive message traffic. When so informed, the system supervisors make a judgment as

to private subscribers who, after installation of necessary equipment in their offices, are able thereby to transmit and receive messages to and from domestic and overseas points on their own particular network. The WUMHS (Western Union Message Handling System) is a smaller computer which receives incoming Western Union telegrams destined for international transmission and converts their domestic Western Union format into an international format acceptable for transmission by the ADX. After the format conversion, the WUMHS computer automatically feeds its messages directly into the ADX for international transmission. As the ADX and WUMHS are closely allied with one another, the term "ADX" will be used hereinafter to refer to their joint operations.

⁴ Subsequent to the creation of the system supervisor classification, the parties entered into two collective-bargaining contracts. In both, the live traffic unit represented by Petitioner was defined as consisting only of classifications specifically listed therein. The system supervisor classification was not included in either agreement and there is no evidence or allegation that Petitioner ever sought such inclusion.

to whether reported defects or potential overload situations are operational or technical in origin and then take appropriate corrective action. This often entails utilization of the services of bargaining unit employees, principally, various categories of operators who process messages into and out of the computers, locate lost traffic, correct and reprocess messages containing typographical errors or erroneous routing codes, and perform tasks pertaining to the recording, storage, and retrieval of message data from the computers; and computer technicians who repair and adjust defects technical in origin, particularly malfunctioning computer hardware.

The above-noted operational personnel and technicians work under the direct day-to-day supervision of duty supervisors and technical supervisors, respectively, who are responsible for: scheduling of employees, insuring that scheduling requirements are met, making overtime assignments, and handling of grievances. Their status as supervisors within the meaning of the Act is undisputed.

However, when the work that these bargaining unit employees perform directly affects the operation of the ADX and ARX systems, the system supervisors exercise authority over them both directly and by way of instructions transmitted through the duty supervisors. Specifically, the systems supervisors have, and have exercised, authority to: order that tasks performed incorrectly be redone; give oral reprimands for errors made, unexcused absences from work stations, and inattention to duties; give commendations for exceptionally good work which are made part of an employee's record; alter, by

⁵ Considering our disposition of the petition herein, we find it unnecessary to reach the additional arguments asserted by the Employer to

signature, employees' timecards so as to change the number of working hours credited; order duty supervisors to assign overtime or to increase the number of employees working at a particular duty station; direct that employees change the priority of the tasks they are to perform; and send employees home for failure to obey orders given.

Unlike bargaining unit employees, the system supervisors are salaried, do not punch a timeclock, are allowed personal leave without loss of pay, attend meetings at which only managers and acknowledged supervisors are present, and receive a wide variety of superior insurance and other fringe benefits. Further, their salary range is from \$12,000 to \$17,300 per year, while the highest paid bargaining unit classification has an hourly wage-rate range that is equivalent to \$8,800 to \$12,600 per year. Also, the system supervisors are in a higher salary grade than are the duty supervisors—an admitted supervisory classification—and there was uncontradicted testimony that progression for purposes of promotion goes from duty supervisor to systems supervisor to departmental manager.

On the basis of the foregoing evidence, and in agreement with the position of the Employer, we find that the system supervisors are supervisors as defined in Section 2(11) of the Act.⁵ Accordingly, we shall dismiss the petition herein.

ORDER

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

support its contention that the petition should be dismissed.