

**Copperweld Specialty Steel Company and United Steelworkers of America, AFL-CIO, Petitioner.**  
Case 8-UC-79

June 12, 1973

**DECISION AND ORDER DENYING PETITION**

BY MEMBERS JENKINS, KENNEDY, AND PENELLO

On February 6, 1973, Petitioner, the representative of a unit of the Employer's employees since it was certified by the National Labor Relations Board in 1970, filed a petition requesting clarification of the unit. Hearings were held on February 21, 27, and 28, and March 5, 1973, before Hearing Officer Paul Weingarten. All parties appeared and participated at the hearings. On March 23, 1973, the Acting Regional Director for Region 8 issued an order transferring the case to the Board. Thereafter a brief was filed by the Employer.

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 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 Petitioner involved herein is a labor organization within the meaning of the Act and claims to represent certain employees of the Employer.
3. Petitioner was certified in 1970 as the representative of a unit of "All office clerical employees employed by the Employer at its Warren, Ohio plant, excluding all employees covered by any other labor agreements, mill clerks, technical employees, confidential employees, nurses, and all professional employees, guards and supervisors as defined in the Act." By virtue of the petition for unit clarification, the Petitioner is now seeking a further accretion to its bargaining unit of a group of five sales order correspondents, four scheduling coordinators, and one of each of the following classifications: supervisor-mill scheduling, supervisor-primary inventory, supervisor-cost control, spare parts supervisor, and cost analyst.

The position of the Petitioner is that the seven classifications were mistakenly excluded from the bargaining unit because the Employer failed to list the individuals occupying the jobs in those classifications on the eligibility list at the time the election was conducted. Consequently, the Petitioner was unaware of any issue regarding inclusion of these classifications in the unit at that time. None of the employees in

those classifications voted or attempted to vote in the election. The Employer argues that the individuals occupying the jobs in the seven classifications at the time of the Board election were supervisory or managerial employees, and, therefore, it did not include their names on the eligibility list. After the certification was issued, the parties realized that there were employees whose status might be in dispute and agreed that the term "employee" in the collective-bargaining agreement should not prevent the Union from seeking an opinion from the Board regarding the appropriateness of including certain jobs within the bargaining unit. Thus, the Petitioner asserts that this agreement is yet another reason for the Board to decide the status of the seven classifications. The Petitioner also claims that the classifications are basically unchanged from those in existence at the time of the Board election. The employer took the position that the duties of the employees in the seven classifications have changed since the election. The Employer contends that the jobs evolved to include increased responsibilities and therefore support its argument that the employees in these classifications should remain excluded from the bargaining unit on the basis that they function in either a supervisory or managerial capacity.

A unit clarification may be in order where a new employee classification has been created, or an employer's operations have been expanded subsequent to a certification, and the employees involved are normal accretions to the certified unit. Here, however, the seven disputed classifications are not new, since they were in existence at the time of the Board election which resulted in certification. Furthermore, the Petitioner does not allege that the duties of the employees involved have undergone such change as would be tantamount to the creation of new classifications. In these circumstances, we find that the petition raises a question concerning the representation of the employees in the classifications mentioned above which, under settled precedent,<sup>1</sup> cannot be resolved in the clarification proceeding. Thus, even if the seven classifications were mistakenly excluded from the bargaining unit, a question we need not decide, we believe that they do not constitute an accretion to the existing unit. The proper procedure for accomplishing Petitioner's purpose in the instant matter is a petition filed pursuant to Section 9(c) of the Act, seeking an election, rather than a petition for unit clarification. Accordingly, we shall dismiss the petition herein.

**ORDER**

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

<sup>1</sup> *AMF Electro Systems Division, AMF Incorporated*, 193 NLRB 1113; *Gould-National Batteries, Inc.*, 157 NLRB 679.