

**United Hydraulics Corporation and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, Local 411, Petitioner.** Case 18-AC-27

July 26, 1973

DECISION ON REVIEW AND ORDER

BY CHAIRMAN MILLER AND MEMBERS KENNEDY  
AND PENELLO

On October 3, 1972, the Acting Regional Director for Region 18 issued a Decision and Order Granting Petition for Amendment of Certification in the above-entitled proceeding, amending a previously issued certification by substituting the name of the Petitioner for that of Independent Employees Union of United Hydraulics Corporation, herein referred to as the Independent. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations and Statements of Procedure, Series 8, as amended, the Employer filed a timely request for review of the Acting Regional Director's Decision on the grounds that he made factual findings which are clearly erroneous, that he departed from officially reported precedents, and that the National Labor Relations Board should reconsider the policy which the Acting Regional Director applied in this case. The Employer also requested oral argument.

By telegraphic order dated March 7, 1973, the Board granted the Employer's request for review. The Employer thereafter filed a brief on review.

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 entire record in this case with respect to the issues under review, including the brief on review, and makes the following findings:<sup>1</sup>

Upon separate petitions in Cases 18-RC-8647 and 18-RC-8652, filed by the Independent and the Petitioner's parent, referred to herein as the UAW, the

cases were consolidated and an election held on June 16, 1971, in a unit of the Employer's production and maintenance employees at the Waverly, Iowa, operation. The UAW received the least number of votes in the election and as no choice on the ballot received a majority of the valid votes cast, a runoff election became necessary. In the runoff election held on July 19, the Independent received a majority and was certified on August 5, 1971, as the exclusive representative of the employees in the unit. Subsequently, the Employer and the Independent entered into a 3-year collective-bargaining agreement which has an expiration date of September 20, 1974.

Without detailing all of the facts found by the Acting Regional Director, of critical significance to our decision on review is that the Independent voted to affiliate with the UAW at a special membership meeting held on May 30, 1972, and the instant petition was filed on June 28, 1972, less than a year after the runoff election resulting in the Independent's certification.

The Employer contends that the Acting Regional Director's amendment of the certification is unwarranted, and it urges the Board to adopt the views of the Third Circuit Court of Appeals in *American Bridge Division, United States Steel Corporation v. N.L.R.B.*, 457 F.2d 660 (1972), under which the instant petition would be dismissed.

However, we find it unnecessary to reach the Employer's arguments, as we believe the requested amendment is barred under the rule of the Board's Decision in *Gulf Oil Corporation*, 109 NLRB 861. Were we to grant the amendment in the circumstances of this case we would, for all practical purposes, be overturning the results of the recent 1971 Board election proceeding in which the UAW, the Petitioner's parent organization, was rejected by a majority of the Employer's employees in a secret ballot. Such a decision would in our opinion subvert the policies of the Act.<sup>2</sup>

Accordingly, we shall dismiss the petition.

ORDER

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

<sup>1</sup> Employer's request for oral argument is hereby denied, since the record and brief adequately present the issue under review

<sup>2</sup> *Gulf Oil Corporation, supra, Bedford Gear & Machine Products, Inc.*, 150 NLRB 1, and *The Bunker Hill Company*, 197 NLRB 334