

**United Telephone Company of Ohio, Employer-Petitioner and Communications Workers of America, AFL-CIO. Case 8-UC-75**

August 22, 1973

**DECISION AND ORDER**

BY MEMBERS FANNING, 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 Officer Vaughn Sterling. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, and by direction of the Regional Director for Region 8, this proceeding was transferred to the Board for decision. Thereafter, the Employer and Union filed briefs in support of their positions.

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 proceeding, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purpose of the Act to assert jurisdiction herein.
2. The labor organization involved claims to represent certain employees of the Employer.
3. The Employer, an Ohio corporation, operates and provides telephone service in various locations in the State of Ohio. The history of collective bargaining between the Union and the Employer's predecessors dates back to the early 1960's when the Union was certified in several individual units of various smaller or local telephone companies. In 1968, the predecessor companies merged to form the current corporate Employer. The first agreement between the Employer and the Union was executed in 1968 for a 3-year period and encompassed all of the theretofore separate units. The recognition clause in that agreement reads as follows:

The Company recognizes the Union as the exclusive bargaining representative with respect to wages, hours, and other conditions of employment for all of its traffic, plant, and plant clerical employees as one unit in the districts listed in Section 2 of this article (except the exclusions noted therein), but excluding office clerical em-

ployees, commercial employees, managerial employees, confidential employees, and guards as defined in the Labor-Management Relations Act, 1947, as amended and such other employees as are not represented by the Union.

In 1971, the Employer and the Union executed another 3-year contract basically covering the same unit. The recognition clause in this agreement reads as follows:

The company hereby recognizes the Union as the exclusive bargaining representative for all Plant, Traffic, and Commercial Department employees within those areas and departments of the Company's operations that the Union had been the recognized bargaining representative for as of July 1, 1971, with respect to wages, hours, and other conditions of employment but excluding Office Clerical employees, Managerial employees, Confidential employees and Guards as defined in the Labor Management Relations Act of 1947, as amended, and such other employees as are not represented by the Union.

The Employer-Petitioner seeks by its petition herein to have the bargaining unit clarified by having 22 employees with job titles of "clerk-typists" classified as office clerical employees. The Employer contends that the 22 positions involved herein are office clerical employees excluded from the unit. The Union contends that they are plant clerical employees that are included in the unit and covered by the 1968 and 1971 contracts.

The Employer, in support of its position, asserts that the employees in question are classified as clerk-typists, that the individuals involved function as secretaries for various management officials in the plant department, and that in the course of performing their duties for the various foremen they use typewriters, adding machines, duplicating machines, and other typical office equipment. The Employer also asserts that these individuals work in offices separated from the plant employees, have little or no contact with them, and receive different fringe benefits from those provided in the contract.

The Union contends that the employees involved work in the plant department, are supervised by the same foremen that supervise the other plant department employees, and perform work directly relating to the work of the plant department. The Union also contends that these employees have virtually no contact with the office clerical employees employed by the Employer in its administrative offices.

The record shows that all of the individual employees involved herein work in various locations through-

out the State of Ohio, other than at the Employer's administrative offices in Mansfield, Ohio. The record also shows that in most instances, at the various locations where these individuals work, they are the only employees in the classification clerk-typist.<sup>1</sup> In addition, the services they perform are done under the direction of and for the use of the various department foremen. In the course of their duties, they receive messages from the plant department employees for the foremen, they make up employee time reports, prepare daily activity reports and vehicle reports, and, depending upon the particular areas in which they work, some of the individuals prepare construction status reports, while one individual working for the warehouse foreman prepares various warehouse and inventory reports. In addition to the above, they also type up various reports of meetings between the foremen as well as the foreman's reply or answer to a filed grievance. As to the latter, upon completion of the typing of the answer to the grievance, the clerk-typist delivers it to the union representative handling the same. At the same time, with the exception of the Lima facility, there nothing in the record to indicate

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<sup>1</sup> The record shows that at one of the locations (Lima, Ohio) several clerk-typists work in the same office, while at most of the other locations there is but one clerk-typist, and no other nonunit personnel except the foremen or other managerial employees

that these employees interchange with or have work contacts with each other or with the office clerical employees employed at the Mansfield headquarters.

From the above, it is clear that a substantial portion of the efforts of the clerk-typists involved herein is directed toward the day-to-day operations of the particular departments to which they are assigned, and that the clerical work they perform is more in the nature of that performed by plant clerical employees. In these circumstances, we find the clerk-typists in the plant department to be plant clerical employees.<sup>2</sup> As these employees are plant clerical employees, who do not fall within the "office clerical" exclusion of the current collective-bargaining agreement as urged by the Employer, we shall, dismiss the petition.

### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Employer's petition herein be, and it hereby is, dismissed.

<sup>2</sup> We do not agree with the Employer that the type of equipment used by these employees or the fact that many of them have not been heretofore covered by the contract should be given controlling weight in this matter. While all of these employees use standard office type equipment, it is the nature of the work or the end result which is determinative. As to the question of their previous inclusion or exclusion from the unit, the record shows that several of the employee, prior to the change in their job title, considered themselves in the unit and were members of the Union