

Pacific Northwest Bell Telephone Company,¹ Employer-Petitioner and Communications Workers of America,² AFL-CIO and Order of Repeatermen and Toll Testboardmen, Local Union 1011, affiliated with International Brotherhood of Electrical Workers, AFL-CIO.³ Case 19-UC-102

November 7, 1973

DECISION AND ORDER

BY MEMBERS JENKINS, KENNEDY, AND
PENELLO

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, on May 4, 1973, a hearing was held before Hearing Officers Michael H. Beck and John D. Nelson on June 4, 5, 13, and 14, 1973, for the purpose of taking testimony with respect to the issues raised by the petition. On June 28, 1973, the Regional Director for Region 19 issued an order transferring this case to the National Labor Relations Board. Thereafter, all parties filed briefs.

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 considered the Hearing Officers' rulings made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.

Upon the entire record in this case,⁴ the Board finds:

The petitioner herein seeks clarification of two bargaining units currently represented by CWA and ORTT with regard to various operations at its newly proposed Multi-Functional Operating Centers (MOC-1 and MOC-2) and Special Service Control Center (SSCC) in both the Oregon area and the Washington-Idaho area. These operations were scheduled to commence in September 1973. The Employer requests a clarification which would find that the employees in each of the three centers in each area constitute an accretion to one or the other of the two bargaining units. It maintains that it is immaterial to the Employer which labor organization it recognizes as the bargaining agent for any one of the three centers, as long as it is required to recognize only one representative as bargaining agent for the employees in each center. As of the hearing, it had not made an assignment of the work to employees

represented by either Union. CWA maintains that the employees in the three centers should properly be represented by it as the majority of the work involved is associated with local circuitry. ORTT has moved to defer the case to arbitration, contending that the parties should be allowed to submit the question posed by the instant unit clarification petition to arbitration under the Unions' respective contracts, or to a tripartite arbitration proceeding upon agreement of the parties. The Employer and CWA oppose this motion. On the merits, ORTT contends that employees represented by it should be assigned the work in the three centers as these employees will spend a majority of their time on long-distance circuits.

Before reaching the merits, we must dispose of the procedural issue raised by ORTT. A decision in an arbitration proceeding between ORTT and the Employer would not bind CWA, which seeks to represent all the employees in all the centers and which refuses to participate in a tripartite arbitration proceeding. In similar fashion, a decision in an arbitration proceeding between CWA and the Employer would not bind ORTT. In *McDonnell Company*⁵ and *Crown Cork & Seal Company, Inc.*,⁶ the Board held that "it would better serve the purposes of the Act for it to clarify where all the parties had fully participated in the proceeding before it than to decline to assert jurisdiction and subject the parties to additional litigation, expense, and delay, and require the court to select one of two *ex parte* arbitration awards for enforcement without an independent analysis of the merits."⁷ On this basis, we shall entertain the instant petition and decide this case on its merits.

The Employer, successor in interest to the Pacific Telephone and Telegraph Company in Oregon, Washington, and northern Idaho, is a public utility engaged in the business of furnishing telephone, teletypewriter, telegraph, radio, television, and other communication services. For administrative purposes, the Employer is divided into two areas, one known as the Oregon area, comprising that State, and the other known as the Washington and Idaho area, comprising Washington and northern Idaho. The assignment of jobs involved in the two administrative units is presently spread between the existing bargaining units represented by CWA and ORTT. ORTT, under its current collective-bargaining agreement which expires July 21, 1974, represents all "toll maintenance employees in the Plant Departments in the Oregon Area and in the Washington-Idaho

this day grants the respective motions to the extent that they are consistent, unopposed, and deemed appropriate by the Board.

⁵ 173 NLRB 225.

⁶ 203 NLRB No. 29.

⁷ *Crown Cork, supra*, pp. 5-6 of sl. op

¹ Herein called the Employer.

² Herein called CWA.

³ Herein called ORTT.

⁴ The Employer and CWA have filed motions to correct transcript and comments on the respective motions. An order correcting transcript issued

area," including transmission men and PBX repairmen. CWA presently has a collective-bargaining contract with the Employer which expires July 17, 1974, in a multidepartment unit with certain exclusions. The CWA unit includes a variety of job classifications, including in the plant department, which is involved in the present case, both clerical and craft titles. These bargaining units have been the subject of numerous Board proceedings.⁸ In these decisions, the Board has held that an employee would be classified "toll maintenance" and represented by ORTT, or "central office" and represented by CWA, depending upon the type of equipment on which the employee spends 51 percent or more of his time.

As a result of technological developments resulting in four pieces of trunk-testing equipment, the Employer plans to consolidate certain trunk-testing functions heretofore performed by employees represented by both CWA and ORTT in three centers in both the Oregon area and the Washington-Idaho area. The centers are the Multi-Functional Operating Center combining toll message circuit functions (MOC-1), the Multi-Functional Operating Center combining restoration and maintenance functions (MOC-2), and the Special Services Control Center (SSCC). The trunk-testing functions involve toll-connecting trunks and intertoll trunks. Historically, CWA-represented employees have tested toll-connecting trunks and ORTT-represented employees have tested intertoll trunks. Toll-connecting trunks involve circuits within the exchange area, i.e., interlocal, intracity, or within the extended area (local circuits). Intertoll trunks involve circuits between toll centers, i.e., intercity (long-distance circuits).

Each consolidated center will be at one location, and operate on a single work schedule with a single schedule for overtime and vacations. The employees who will be assigned to MOC-1, MOC-2, and SSCC will come from the existing work force. The Employer will draw from CWA-represented central office equipment men and from ORTT-represented transmission men. Both the central office equipment men and the transmission men will require further training before being assigned to the three centers. The operational functions involved in the Employer's reorganization plan relate to the testing of both long-distance and local circuitry, restoration of services in

cases of trouble, maintenance of equipment, and a number of service functions having to do with the communications systems of special customers. The employees assigned to MOC-1, MOC-2, and SSCC will perform both local and toll maintenance work on a particular shift. There will be no specialization among these employees; they will all be functionally interchangeable. In fact, the newly developed equipment which has resulted in the formation of the three centers makes it possible for a single attendant from a single location to test the complete intertoll or toll-connecting circuits and the entire private-line circuit without requiring the assistance of any other employee or employees at other locations and without regard to jurisdictional lines. Clerical and nonclerical forces in each of the three centers will have common supervision.

In these circumstances, we find that the three centers are new operations that would constitute appropriate units either together or separately, rather than accretions to either of the bargaining units currently represented by CWA and ORTT. In arriving at this conclusion, we rely particularly upon the following: (1) the new equipment upon which the MOC and SSCC functions will be centered has not yet been installed and, as of the hearing, the consolidated operations had not commenced; (2) the employees of the three centers are subject to additional training; (3) the three centers will operate with completely new equipment and be staffed with a complement of all new employees who are separately supervised; (4) each center will be an integrated operation utilizing personnel with experience, background, and training drawn from both units; and (5) the 51-percent criteria established in prior Board decisions provides no clear guidance herein as each center employee will be engaged in functions utilizing both "long-distance" circuits and "local" circuits, and can simultaneously use both types of circuits.⁹

In view of the foregoing, it would be inappropriate to add these employees to either unit through a petition for clarification and we shall, therefore, dismiss the Employer's petition.

ORDER

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

⁸ *Pacific Telephone and Telegraph Company*, 58 NLRB 1042; 85 NLRB 713; 107 NLRB 1615; 108 NLRB 862; *Pacific Northwest Bell Telephone Company*, 178 NLRB 726.

⁹ In view of this finding, ORTT's motion to dismiss on the ground that the petition herein seeks to challenge the longstanding 51-percent rule is hereby denied.