

**Addressograph-Multigraph Corporation<sup>1</sup> and Office  
and Professional Employees International Union,  
Local No. 49, AFL-CIO. Case 8-UC-82**

December 14, 1973

**DECISION AND ORDER**

BY CHAIRMAN MILLER AND MEMBERS  
FANNING AND PENELLO

On February 22, 1973, Petitioner filed a petition requesting clarification of the below-described unit of employees of the Employer in which it was certified in 1940 by this Agency. On May 1, 2, and 3 and June 12, 13, and 14, 1973, a hearing was held before Hearing Officer Charles Z. Adamson for the purpose of taking testimony with respect to the issues raised by the petition. All parties appeared and participated at the hearing. On June 22, 1973, the Acting Regional Director for Region 8 issued an order transferring this case to the Board. Thereafter, the 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 reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error.<sup>2</sup> They are hereby affirmed.

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

The Employer is a Delaware corporation, doing business in Ohio, other States, and foreign countries. It is engaged in the production, distribution, and servicing of copy machines, offset duplicators, data recording systems, general data writing equipment, reproduction equipment for the engineering and architectural fields, photo typesetting equipment, and business machine and general office supplies. The Employer operates its business through a number of divisions, at least one of which is organized as a separate wholly owned subsidiary corporation. It has various facilities located in cities throughout the United States, including a number located within the greater Cleveland, Ohio, area.

<sup>1</sup> As amended at the hearing.

<sup>2</sup> Petitioner contends that the failure of the Hearing Officer to require compliance with the *subpoena duces tecum* directed to the president of the Addressograph-Multigraph Corporation was prejudicial error. We find no merit in this contention. Testimony was given by several other Employer's witnesses concerning the Employer's labor relations policies and practices at the various facilities described *infra*, as well as the organization and structure of the Employer's business—all this being part of the information that was sought by the subpoena. Petitioner also sought the names, addresses, and telephone numbers of employees working at the Employer's three new operations named in the original petition. As noted, the Employer's witnesses testified to much of the information sought by the subpoena and

In 1940, Petitioner won a consent election held in a broadly defined unit which included office clerical, plant clerical, and professional employees then working in the plant located at 1200 Babbitt Road, Euclid, Ohio, variously called the Babbitt Road or the Euclid plant. Petitioner has had an unbroken history of collective bargaining for those employees since that date.<sup>3</sup> Its most recent contract is for a period effective from September 22, 1971, to May 3, 1974, and defines the unit thereby covered by job classifications. It reads, in pertinent part, as follows:

1.1 The Company recognizes the Union as the exclusive representative for collective bargaining . . . of the employees in the office bargaining unit of its Squibb, Park Hill, and Euclid, Ohio, office departments as hereinafter defined.<sup>4</sup>

2.1 The office bargaining unit is defined as follows: All office and clerical employees, including time study employees, timekeepers, factory clerical employees, stock chasers, and professional employees other than Engineer (former Code 4-6), Product Designer-Major (former Code 4-8), Electrical Product Designer-Major (former Code 4-18), Engineering Trainee (former Code 4-19) [there follows a list of contractual and statutory exclusions].

There are approximately 235 employees currently covered by this contract, all of whom work at the Babbitt Road location. Petitioner claims, in opposition to the Employer, that it is entitled to represent, as part of its unit, an additional 215 employees working at four newly opened facilities in the Greater Cleveland area; and it requests that its unit be clarified accordingly. It bases its claim on a theory that any of the new facilities within the Greater Cleveland area fall within the scope of the unit it represents if, as it contends: (a) some, if not all, of the functions now performed at these new facilities were formerly performed at the Babbitt Road location; and (b) the clerical staffs now employed at those locations include any classifications of employees who would clearly be within the bargaining unit if employed at Babbitt Road. It further asserts that, as a matter of bargaining practice, the Employer has in the past extended contract coverage to office

the Petitioner did not press these matters on cross-examination. The record fails to reveal the significance of the additional information sought and how it would affect our conclusions herein. We therefore cannot say that it was error for the Hearing Officer to refuse to require compliance with the subpoena.

<sup>3</sup> Of the 1,400 employees currently working at the Euclid plant, the International Association of Machinists, District 54, represents approximately 1,009 employees in a production and maintenance unit whose work entails the manufacturing of Addressograph products.

<sup>4</sup> The Squibb and Park Hill facilities are no longer in existence. Operations which were carried on at those sites have since returned to the Babbitt Road plant.

clerical employees in any newly established operations in the area, and that it orally agreed to continue doing so during the negotiations preceding the current contract. For the reasons set out below, we find no warrant for granting Petitioner's clarification request.

The employees sought in the petition to be included in the unit through clarification, as explicated at the hearing, compose the office clerical staffs at four divisions of the Company known as Tower East Corporate Headquarters, Data Systems Division, Graphics Research and Development Center,<sup>5</sup> and Amec, Inc., the last of these having been organized as a wholly owned subsidiary of the Employer. The four divisions are part of a larger number of divisions newly created by the Employer throughout the country pursuant to an extensive corporate reorganization plan initiated in 1971, shortly after the Employer's appointment of a new president and chief executive officer. The object of the plan was to convert a highly centralized corporation with diverse business operations into a decentralized organization consisting of a pure corporate headquarters office having a staff function, and various autonomous operational divisions each having overall responsibility for one of the many separable profit-producing business functions of the Employer.<sup>6</sup>

The record shows that each of the four divisions described *supra* is in fact now a completely autonomous operation. Each is responsible for establishing wage or salary compensation and fringe benefits for its employees. Each sets its own shift hours. Each has its own supervisory hierarchy. Grievances, questions, or complaints arising at each facility are handled at that facility. Each operation has its own payroll. There is no interchange of employees between any of the four operations sought by the Petitioner or between any of them and the Babbitt Road plant. Particular facts descriptive of the location of each of the four divisions *supra*, its structure and functions, and its relationship to the Babbitt Road operations are as follows:

1. *Data Systems Division.* The Employer established the Data Systems Division in August 1972. At the same time, it eliminated the division or department located at Babbitt Road which was known as the Data Products Group, and assigned to the new division here under discussion a major portion of its functions and responsibilities.<sup>7</sup> The functions and

responsibilities now allocated to the new Data Systems Division are not, however, confined to those formerly performed by members of the complement who worked at Babbitt Road as part of the now defunct Data Products Group. They now include overall responsibility for (a) the Data Products Group formerly located at Cambridge, Massachusetts; (b) the operations at Hillside, New Jersey, with its satellite operation in Guilford, Connecticut, responsibility for both of which was formerly vested in the vice president in charge of the Employer's United States operations, as then structured; (c) the Holmesville, Ohio, manufacturing plant, responsibility for which was formerly vested in the vice president in charge of manufacturing; and (d) the Documentar Science operation at Santa Ana, California, which was purchased in June 1972. The latter was added to the Data Products Group for a 2-month period.

For the 2-month period following its establishment, the new Data Systems Division was housed at the Babbitt Road site. It moved, in October 1972, to temporary facilities in Bedford Heights, Ohio, pending a further move to permanent quarters in Solon, Ohio, about 15 miles from the Babbitt Road facility. The latter move is scheduled for the fall of 1973. The division presently has an engineering support unit located at the Babbitt Road plant, but that support unit also is scheduled to move to the Solon site when the division's headquarters leaves Bedford Heights.

There are about 160 employees at the new Data Systems Division headquarters, 28 of whom are nonexempt salaried employees,<sup>8</sup> who, as the Employer puts it, "are now performing work which, if performed at the Babbitt Road location, would be bargaining unit work." These 28 are part of the total staff of 52 nonexempt salaried employees who perform the supporting clerical services for the division's management and administrative personnel. Petitioner seeks to add 50 of these nonexempt employees to the unit it currently represents. Although the majority of the nonexempt employees at Data Systems headquarters had worked at Babbitt Road, only three were former bargaining unit personnel.

2. *Amec, Inc.* The Employer established Amec as a wholly owned subsidiary involving the export of its various products. At the same time, it eliminated: (a) the International Department at Babbitt Road, and

<sup>5</sup> Graphics Research and Development Center's establishment as a separate division was begun in 1970, but implementation of those plans was not finally accomplished until 1971. The Petitioner added the Graphics R/D Center to its petition for unit clarification during the course of the hearing. In its brief, Petitioner has requested that the proceeding be remanded for further evidentiary hearings regarding the duties of employees at the Graphics R/D Center. In light of our disposition of this petition and the reasons set forth *infra*, we deny Petitioner's request.

<sup>6</sup> The plan contemplated, however, that fund-raising would remain a function solely under the control of the corporate headquarters, even where the new division was structured as a separate profit center.

<sup>7</sup> It transferred that part of the Data Products Group's functions and responsibilities having to do with the VariTyper, into its VariTyper Division. The petition does not embrace any employees in this new division.

<sup>8</sup> As defined by the Fair Labor Standards Act.

(b) similar departments handling international business at scattered locations throughout the country. The latter were part of divisions separately servicing the export business activities of four of the Employer's product lines; viz, the Bruning, VariTypewriter, Copi-Duplicator, and the Addressograph. About 28 to 35 percent of the business functions and responsibilities now handled by Amec had previously been handled by International Department personnel at Babbitt Road. The remaining 65 to 72 percent had been handled at the now eliminated departments at other facilities and locations.

Amec is housed at a building located 10 miles from the Babbitt Road plant. It has a total complement of 64, of whom 40 are nonexempt employees. Of these 40, Petitioner seeks the 37 clericals who provide supporting services for Amec's managerial personnel. The Employer admits that most of the managerial employees had formerly worked in the International Department at Babbitt Road, and that 37 of the 40 nonexempt employees are "performing work which, if performed at Babbitt Road, would be bargaining unit work." The Employer also admits that 6 of the 40 nonexempt employees had also formerly worked in the International Department at Babbitt Road; and an additional 10 had formerly been employed in other of the departments at Babbitt Road. The Employer witnesses testified, however, that these 16 clericals—representing, in any event, a minority of the total number of this division's employees sought for the bargaining unit by the Petitioner—were taken on by Amec only after, pursuant to management policy statements, each terminated his employment at Babbitt Road and filed an application with Amec. Each of such employees was told when hired by Amec that his prior service with the Employer would be credited only for purposes of computing vacation and pension benefits.

3. *Graphics Research and Development Center*, hereinafter referred to as Graphics. Unlike the above division, Graphics is not a "profit center." Plans for its establishment as a separate division or center were initiated in November 1970. It was formed with the object of serving as a support research and development group for all divisions of the Employer in the United States. Graphics supplanted and took over functions previously performed by: (a) the Advance Development Department which, until September 1970, was housed at the Babbitt Road plant; and (b) a research center which had been previously located at Cambridge, Massachusetts.

Graphics is presently located at a facility on South Miles Road, a location at which the Advanced

Development Department was also housed until its functions were formally assigned to Graphics, and at which, in addition, some bargaining unit employees in other departments had also been housed during periods preceding the effective date of the current bargaining contract. There were no bargaining unit employees in the Advanced Development Department while it was at Babbitt Road or after it moved to the South Miles facility.

There are now 203 employees at the Graphics R/D Center, divided into 159 exempt and 44 nonexempt employees. The Petitioner claims the 44 nonexempt employees are part of its unit. The nonexempt employees work as secretaries, as research model makers, and as designers. The Employer's witnesses testified that none of the nonexempt employees at Graphics are now doing any work ever previously performed by the bargaining unit employees.

4. *Tower East Corporate Headquarters*. In October 1971, the Employer moved its corporate headquarters offices from the Babbitt Road facility to Tower East, at Shaker Heights, Ohio, a location 8 miles away. This move involved all of the high-ranking corporate officers and their administrative staffs. It did not involve any bargaining unit personnel.

Unlike the situation existing before the Employer's reorganization of its corporate structure, the high-ranking executives and their managerial employees have now divested themselves of line responsibilities for the divisional operations at Babbitt Road. They have retained only the overall corporate staff responsibilities.

The high-ranking executives and their supporting managerial staffs are serviced by 84 nonexempt office clericals, all of whom the Petitioner here claims as part of its unit. However, only 5 of these 84 now perform work which, if performed at Babbitt Road, would be bargaining unit work.

As is apparent from the foregoing recitation, the Employer's restructuring of its operations resulted in certain drastic changes in the composition of the work force of the Babbitt Road facility and adversely affected the size of the unit historically represented by the Petitioner.<sup>9</sup> Petitioner seeks, understandably, to offset the effect of some of these changes on the unit it represents, and it filed this petition with that objective in view. The question before us is whether the clarification route is the appropriate method for achieving the objective Petitioner seeks. We find that it is not.

As indicated earlier, Petitioner has grounded its petition, in part, on a claim that the office clerical jobs performed in the facilities, *supra*, are substantial-

<sup>9</sup> Under the present corporate structure, the Babbitt Road plant's activities are confined to the manufacturing of Addressograph products. A Multigraph division, formerly housed there, has been moved to Mt.

Prospect, Illinois, with the result that portions of the bargaining unit personnel formerly connected with those activities were also adversely affected.

ly identical to those held by unit employees before the Employer reorganized its business structure and/or to those now performed in the unit.

Testing this claim against the evidence set out above, it is plain that no unit personnel has ever performed any of the job duties now assigned to employees of the Graphics Research Development Center. Similarities in job duties now performed by some clerical personnel at other of the new divisions to those formerly performed by unit personnel can be perceived. But dissimilarities are also apparent, as many of the newly assigned duties involve work never previously assigned to unit employees. Furthermore, such similarities as do exist are attributable to the fact that some of the management personnel at the new divisions and for whom the clerical staffs in issue here provide supporting services formerly performed managerial duties at Babbitt Road. As is obvious from the evidence set out above, however, the functions and responsibilities assigned to such official managerial personnel are substantially different from those assigned to them at Babbitt Road.<sup>10</sup> Furthermore, hiring and supervision is separate; there is no interchange of employees; and it is clear that the restructuring of the Employer's business here did not involve a mere relocation of portions of the Babbitt Road operations and was not confined to those operations.<sup>11</sup>

Petitioner has alternatively grounded its petition on a claim that evidence relating to the parties' practices in administering their past contracts, as well as that relating to their negotiation of the current contract, establishes the Employer's agreement to extend contract coverage to employees at any newly opened operations in the area at which "bargaining unit" work is being done. Neither the evidence on which Petitioner relies, however, nor the accretion concepts underlying its presentation, provide support for this aspect of Petitioner's case.

The record shows, to be sure, that during the terms of previous contracts, the Employer had occasion to assign to personnel at facilities other than Babbitt Road<sup>12</sup> some activities and functions identical to those then being performed at the Babbitt Road facility; and that the Employer voluntarily granted

<sup>10</sup> Cf. *White Motor Corporation*, 164 NLRB 295; *Patterson-Sargent Division of Textron, Inc.*, 173 NLRB 1290.

<sup>11</sup> See *General Electric Company*, 170 NLRB 1272.

<sup>12</sup> Those facilities were located at sites known as Park Hill, Squibb, Alpha Drive, South Miles Road, and Plant 7. The current contract mentions only two of those locations, Park Hill and Squibb, both of which were defunct as of the date of the hearing.

<sup>13</sup> We note, in passing, that the Employer has long maintained three other operations in the Greater Cleveland area having a similar autonomous structures: Buckeye Ribbon & Carbon, the Cleveland Branch, and the Cleveland Service Center, all of which employ office clerical staffs not represented by any union. Some such clerical employees are assigned work which, if performed at Babbitt Road, would be done by bargaining unit employees. But there is no claim and no evidence that the parties ever

recognition to Petitioner as the representative of the office clerical employees involved, even though the express terms of the contracts then in effect did not mention any sites or locations other than Babbitt Road. But the record also shows that when contract coverage was extended to employees at those sites, the labor relations policies affecting those employees were controlled from Babbitt Road; there was employee interchange between each such facility and Babbitt Road; there was common supervision of the employees; and but for lack of space, the employees involved would have been housed at the Babbitt Road location. The situation giving rise to this petition is not parallel. In the operations here in issue, hiring and supervision are separate; there is no interchange of employees; no maintenance of common personnel records; and labor relations policies are independently established.<sup>13</sup>

Petitioner also adduced some evidence purporting to show that, although the current contract of the parties does not, on its face, extend to any employees other than those employed at locations specified in the contract, the Employer orally agreed during the negotiations to extend coverage to any new locations established in the area, in accord with a bargaining proposal to this effect presented by Petitioner. Employer witnesses participating in the negotiations expressly denied having made such an oral commitment, and indeed testified that they flatly rejected the Petitioner's proposal. We need not resolve this evidentiary conflict as, under established policy, we would not consider a contractual commitment to extend coverage to employees at new operations, such as those here in issue, sufficient to justify addition of such employees to an established unit without the employees' consent.<sup>14</sup>

On the basis of the above, we are of the view that if Petitioner desires to represent the office clerical employees at Tower East Corporate Headquarters, Data Systems Division, Amec, Inc., and Graphics Research and Development Center, a proper procedure would be the filing of a representation petition.<sup>15</sup> To summarize, the considerations opposing the clarification route are: the four newly established operations are geographically separated from the

agreed to apply the terms of the unit contract to any such employees. So far as the record shows, Petitioner has never claimed, and does not now claim, that any such employees are within the intended scope of its unit and should therefore be accreted thereto without the employees' consent.

Significantly, the record established that, in 1952, voluntary recognition was not extended to Petitioner for employees at one of the operations, the Cleveland Branch. Petitioner, then affiliated with its present International's predecessor, filed a representation petition and went on to an unsuccessful election.

<sup>14</sup> *Patterson-Sargent Division of Textron, Inc.*, *supra*; *Beacon Photo Service, Inc.*, 163 NLRB 706.

<sup>15</sup> We, of course, intimate no conclusions with respect to any of the issues which might be raised in any such proceeding.

Babbitt Road site; there is no interchange of employees between the new operations of the Babbitt Road plant; the work performed at the new operations is an amalgam of work from Babbitt Road and other locations; each operation has its own labor relations policy separate from the Babbitt Road plant; the agreement between the Employer and the Petitioner does not cover these operations; and the number of employees that Petitioner seeks to add to its unit without clear evidence of their consent

approximately equals the number its unit now contains. We shall, therefore, dismiss this petition.

#### ORDER

It is hereby ordered that the petition for clarification filed by Office and Professional Employees International Union, Local No. 49, AFL-CIO, be, and it hereby is, dismissed in its entirety.