

**Kiewit Puerto Rico, Inc. and Sindicato Empleados
Equipo Pesado, Construction Y Ramas Anexas de
Puerto Rico, Inc., Petitioner** Case 24-RC-5143

January 8, 1974

DECISION ON REVIEW AND ORDER

BY CHAIRMAN MILLER AND MEMBERS KENNEDY
AND PENELLO

On September 11, 1973, the Regional Director for Region 24 issued a Decision and Direction of Election in the above-entitled proceeding in which he directed an election among a unit of all heavy and light equipment operators, shop welders, mechanics, and their respective helpers and oilers employed by the Employer at Patillas, Puerto Rico; but excluding all other employees, guards, and supervisors as defined in the Act. In his Decision and Direction of Election the Regional Director rejected the Employer's and Intervenor's¹ contract-bar contention on the ground that the involved contract was executed pursuant to Section 8(f) of the Act. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's Decision on the grounds that a substantial question of law is raised because of the departure from officially reported Board precedent.

By telegraphic order dated October 17, 1973, the National Labor Relations Board granted the Employer's request for review and stayed the election pending decision on review.

Pursuant to the provisions of Section 3(b) of the

¹ Federacion de Empleados de Comercio y Ramas Anexas de Puerto Rico, Inc

² Generally speaking Sec 8(f) of the Act sanctions the execution of

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 entire record in this case with respect to the issues under review and finds as follows:

The Employer is a Delaware corporation engaged in the construction industry within the Commonwealth of Puerto Rico. In early June 1973, the Employer commenced construction of the Patillas Dam Spillway Replacement Project. On June 27, 1973, negotiations for a labor agreement were commenced by the Employer and a representative of the Intervenor. After several bargaining sessions, a 3-year agreement was executed on July 12, 1973.

The record shows that as of the date of the execution of this contract the Employer had a work complement of 11 employees filling 8 different job classifications, and that as of the date of the hearing herein there were 15 employees in approximately 10 classifications.

In these circumstances, we find no warrant for the Regional Director's conclusion that the involved contract was executed pursuant to Section 8(f) of the Act and therefore no bar to the instant petition.² Accordingly, we find, in accordance with established Board policy, that the involved contract, executed at a time when the Employer had a substantial and representative work complement, bars the instant petition and we shall therefore dismiss it.

ORDER

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

prehire contracts in the construction industry but provides that such a contract does not bar a petition filed pursuant to Sec 9(c) of the Act