

**Warren Rural Electric Cooperative Company, Inc. and  
International Brotherhood of Electrical Workers,  
AFL-CIO, Petitioner. Case 9-RC-10108**

February 28, 1974

**DECISION ON REVIEW**

BY CHAIRMAN MILLER AND MEMBERS  
FANNING AND JENKINS

On July 13, 1973, the Acting Regional Director for Region 9 issued a Decision and Direction of Election in the above-entitled proceeding in which he found appropriate a systemwide unit of employees of the Employer's electrical utility, including therein, *inter alia*, on the basis of his findings that they are not supervisors as defined in the Act, a field engineer and a staking chief in the engineering services department, nine line foremen, five service foremen, a mechanic, and a warehouseman in the electric operations department. Thereafter, the Employer, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, as amended, filed a timely request for review of the Acting Regional Director's decision on the grounds, *inter alia*, that in resolving the issues raised as to the supervisory status of the aforementioned classifications, he made findings of fact which are clearly erroneous and departed from officially reported precedent.

The National Labor Relations Board, by telegraphic order dated August 20, 1973, granted the request for review insofar as it related to the Acting Regional Director's resolution of the supervisory status of the above-mentioned 18 individuals, denied the request for review as to all other matters, and stayed the election pending decision 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 considered the entire record in this case with respect to the issues under review, and makes the following findings of fact:

The Employer is a Kentucky corporation whose electric utility operations extend over a geographical territory consisting of eight Kentucky counties in a southwest area of the State. Its headquarters are at Bowling Green, and it is subdivided into four service districts: Bowling Green, Leitchfield, Morgantown, and Franklin.

The engineering services department has offices at Bowling Green and is under the overall supervision of the manager, Frank Ragan. Among those report-

ing to him is Thomas Shriver, the operations engineer. Aside from other responsibilities, Shriver is in charge of work planning for the *field engineer* and a *staking chief*, Ken Pemberton and Cedric Hatcher, respectively, both of whom are engaged in the surveying and charting of rights-of-way for the construction of new lines. The field engineer, in the highest labor grade for hourly paid employees, T-10,<sup>1</sup> performs the duties of engineering, staking, and development of plans for construction of major electric lines. The staking chief, in labor grade T-8, does similar but less complicated work on smaller projects such as line extensions and relocations. Pemberton has a crew of two to five employees, depending on the size of the project, in the classifications of instrument man (T-7), utility man (T-6), and chairman (not filled at present). Hatcher has a crew of two or three, in the classifications of rodman (T-5) and chainman (when available). From time to time crew members may be interchanged.

Under their job descriptions, both the field engineer and the staking chief periodically review and appraise the performance of personnel and recommend changes in wages or status in accordance with established personnel procedures and practices; direct the activities of their crews; recommend termination of employment of assigned personnel when deemed necessary; inspect all work performed under their supervision and for which they are accountable, for conformity to design and accepted procedures and standards; and supervise personnel assigned to them for adherence to established safety practices and procedures. In practice, they complete performance evaluations of their crew members at least once a year, on the basis of which evaluations they make recommendations as to merit increases.<sup>2</sup> The recommendations must be approved by the operations engineer and the department manager. Although Pemberton and Hatcher consult with the operations engineer, their recommendations are their own and are usually followed. There was evidence that Pemberton and Hatcher have recommended the termination of two employees, one in 1969 and the other in 1970. The record shows that although in each instance the affected employee was given a second chance, he was subsequently terminated solely on the recommendations of Pemberton and Hatcher because they saw no improvement in his performance. In addition, Pemberton and Hatcher may authorize overtime when in their judgment it would be economical to do so, to obviate the need to return to the site the following workday. They also attend monthly meetings of all supervisors and over

<sup>1</sup> There is a wage differential of approximately 10 percent between labor grades

<sup>2</sup> Evaluations are completed after 6 months for new employees and for those for whom no merit increase is recommended.

the years have been sent to various supervisory workshops at schools and universities.

The electric operations department has offices in each of the service districts. Department Manager C. D. "Buck" Jenkins is located at Bowling Green headquarters. Each of the other three districts has a superintendent. Working out of these four locations are *nine line foremen*, each with a crew of three or four, and *five service foremen*, each with a one- or two-man crew.<sup>3</sup> There is some fluctuation in crew sizes. The line foremen are responsible for construction work, i.e., clearing rights-of-way, digging holes, and setting poles; the service foremen are responsible for maintenance work on poles, lines, and other equipment in place.

The job descriptions for line and service foremen, insofar as they set forth their responsibilities in making evaluations of performance, recommendations of wage increases, direction of crew members, and recommendations of termination, parallel those for the field engineer and staking chief, above discussed. After receiving work orders from their respective district offices the line and service foremen decide the priority of the jobs and are in complete charge of their crews in the field. They direct their men, make work assignments, and are responsible that the work is done in accord with specifications and safety standards. Although they are in radio contact with headquarters or the district offices, they have the authority to take correctional action on their own. They maintain and sign the time sheets for their crews, decide when to take rest breaks and whether or not to grant time off for sickness or personal reasons, and schedule vacations. They decide whether or not their crews shall work overtime in accordance with the needs of the job and may call out employees to work in special situations. Line foremen or service foremen may, among themselves, decide whether to interchange crew members. Although no severe disciplinary problems have arisen requiring termination of a line or service crew member, one occasion arose in which a service foreman made an effective recommendation of permanent transfer of a crew member to a line crew.

Like the field engineer and staking chief, the line and service foremen complete performance evaluations and make recommendations as to merit increases for their crew members, and they attend monthly supervisory meetings. Each year they attend a 3-day supervisory training course conducted by personnel from the University of Kentucky. In the absence of a district superintendent due to vacation or illness, the service foreman in that district fills in for him.

<sup>3</sup> The foremen are in labor grade T-10 and the highest labor grade of their crew members is T-9, a differential of roughly 53 cents per hour.

The *automotive mechanic* and his assistant work in the automotive shop at Bowling Green. He is responsible for the preventive and corrective maintenance of all of the Employer's vehicles and reports directly to Jenkins. He assigns work to his assistant,<sup>4</sup> keeps his time records, evaluates his performance periodically, and makes recommendations of merit increases for him. He also authorizes overtime work and schedules vacations for his assistant. He attends supervisory meetings.

The *warehouseman* is responsible to Jenkins for maintaining the Bowling Green warehouse. He has a helper<sup>5</sup> and has the same degree of authority to affect his status as does the mechanic with regard to his assistant. The warehouseman too attends monthly supervisory meetings.

The foregoing record facts demonstrate, in our opinion, contrary to the Acting Regional Director, that the 18 disputed individuals have and exercise supervisory authority as it is defined in Section 2(11) of the Act. We note, first of all, that despite the fact that these individuals spend the great majority of their time performing physical labor together with their crew members or assistants, they are the sole persons at the sites of their employment with authority to act for the Employer with respect to matters affecting employee status during virtually the entire workday. Thus, all of them generally maintain time and attendance records of employees assigned to work with them, decide whether or not to grant requests for time off, set vacation times, make changes in work assignments, interchange or call in additional crew members when appropriate, and authorize overtime when it is deemed necessary. Moreover, not only are they expected to make periodic evaluations of the work performance of employees regularly working with them and to make recommendations with regard to merit wage increases and terminations, but the record shows that they in fact exercise these functions. And we conclude, on the facts herein, that substantial reliance is placed on their recommendations by their superiors. As support for this conclusion, we note especially the facts that their superiors have little or no opportunity to observe the work of the rank-and-file employees involved, that they are given supervisory training courses on an annual basis, and that they attend monthly supervisory meetings. We find, therefore, that the 18 individuals here in dispute are supervisors as defined in the Act, and the appropriate unit is modified to read as follows:

All employees of the Employer employed in its operations at Bowling Green, Leitchfield, Mor-

<sup>4</sup> The mechanic is in labor grade T-8, his assistant T-6.

<sup>5</sup> The warehouseman is in labor grade T-7, his helper T-4.

gantown and Franklin, Kentucky, including all engineering department employees, staker clerks and groundskeepers, but excluding all office clerical employees, meter readers, water district department employees, members services department employees, janitors, guards, the field engineer, staking chief, line foremen, service foremen, the mechanic, the warehousemen, and all other supervisors as defined in the Act.

Accordingly, the case is remanded to the Regional Director in order that he may conduct an election pursuant to the Acting Regional Director's Decision and Direction of Election, as modified herein, except that the payroll period for determining eligibility shall be that immediately preceding the date of this Decision on Review.