

**Columbia Gas Transmission Corporation and Oil, Chemical and Atomic Workers International Union and its Locals 3-372 and 3-628**

**Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc. and Oil, Chemical and Atomic Workers International Union and its Locals 3-372 and 3-628.** Cases 9-UC-91 and 9-UC-92

August 30, 1974

## DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS FANNING  
AND JENKINS

On September 25, 1973, the Employers<sup>1</sup> filed petitions to clarify a single bargaining unit currently recognized by them by creating two separate bargaining units. A hearing was held on January 9, 10, and 11, 1974, before Hearing Officer Joseph T. Perry. All parties appeared and participated at the hearing. On January 11, 1974, the Acting Regional Director for Region 9 issued an order transferring the cases to the Board. Briefs have been filed by the Employers and the Unions.

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 Employers are engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Unions involved herein are labor organizations within the meaning of Section 2(5) of the Act.

3. No questions affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act for the following reasons:

Each of the Employers is a wholly owned subsidiary of Columbia Gas Systems, Inc., a public utility holding company. Columbia Gas Transmission Corporation, the Petitioner in Case 9-UC-91, is a Delaware corporation with its principal offices in Charleston, West Virginia. It produces and purchases natural gas and operates a transmission pipeline in seven States with sales to over 100 public utilities and

municipalities, including Columbia Gas of West Virginia, Inc., and Columbia Gas of Kentucky, Inc. These latter two companies, the Petitioners in Case 9-UC-92, are engaged in the distribution of natural gas to points in the States of West Virginia and Kentucky, respectively. They have their headquarters in Columbus, Ohio.

A reorganization of the companies of the Columbia Gas System, which includes these Employers, underlies the filing of the petitions to clarify the unit herein. The express purpose of the reorganization was to avoid the dual regulation by both State and Federal authorities of the various Columbia Gas System companies that engaged in both interstate transmission and local distribution operations. As a result of the reorganization the interstate transmission operation is now handled exclusively by Columbia Gas Transmission Corporation, subject only to the jurisdiction of the Federal Power Commission; and the local distribution operations is now handled by eight separate public utilities, including Columbia Gas of West Virginia, and Columbia Gas of Kentucky, each of which is subject only to the state agencies in the State in which it operates. This functional realignment was completed in 1971.

The realignment of the management structure to correspond with the functional structure was not completed until later, in April 1973. Prior to the realignment of the management structure the companies of the Columbia Gas System were managed on a "Group" basis, with a single management supervising both transmission and distribution operations in each group. The three principal groups, identified by geographic regions, were the Columbus Group, the Pittsburgh Group, and the Charleston Group. The Employers involved herein were all part of the Charleston Group.<sup>2</sup> Since April 1973, a chairman and other officers of the Columbia Gas Transmission Corporation have assumed the management of all interstate transmission operations and employees. Similarly, a chairman and other officers of the consolidated distribution companies, including Columbia Gas of West Virginia and Columbia Gas of Kentucky, have assumed the management of all distribution operations and employees. The transmission corporation and the distribution companies each have their own labor relations departments.

The unit proposed in Case 9-UC-91 would consist of approximately 730 employees engaged in the operation of the interstate transmission system under the direction of the Columbia Gas Transmission Corporation. The unit proposed in Case 9-UC-92 would

<sup>1</sup> The term "Employers" is used to collectively identify Columbia Gas Transmission Corporation, the Petitioner in Case 9-UC-91, and Columbia Gas of West Virginia, Inc., and Columbia Gas of Kentucky, Inc., the Petitioners in Case 9-UC-92.

<sup>2</sup> The Charleston Group also included Columbia Gas of Virginia, Inc. Employees of Columbia Gas of Virginia were not part of the bargaining unit, nor are they now, involved in the instant proceeding.

consist of approximately 450 employees engaged in distribution operations in two States under the direction of Columbia Gas of West Virginia and Columbia Gas of Kentucky, respectively. A majority of the employees in each of the proposed units perform essentially different work, but a substantial number of employees in both units perform work requiring similar skills or involve unskilled or entry level jobs. The transmission employees work at 64, and the distribution employees at 30, locations in West Virginia and Kentucky, including 7 common locations where the facilities are physically and organizationally separate. The record further shows that the transmission and distribution employees are separately supervised and that temporary transfers between operations have not occurred since the reorganization. The hours of work for transmission employees are much more varied than most of the distribution employees who work from 8 a.m. to 4:45 p.m. The transmission and distribution employees have separate communication systems, training programs, and grievance systems.

A long-established bargaining relationship exists between the parties, dating to 1944. In the ensuing years the identification of the parties and the scope of the unit have been affected by various consolidations, mergers, and internal reorganizations involving both the Employers and the Unions. On December 29, 1966, the Employers and the Unions signed an agreement covering the existing recognized unit in the instant case. The parties have signed succeeding agreements in 1970, 1972, and the latest, on December 1, 1973. The 1973 agreement included a provision that it "shall be effective for its term in such unit or units thereafter determined to appropriate in NLRB cases 9-UC-91 and 9-UC-92 or related cases."

The Employers assert that the present single unit no longer accords with the Employers' administrative structure or organization and that the transmission corporation and the two distribution companies are functionally autonomous separate systems. The Employers further assert that as a consequence the single bargaining unit should be separated along functional lines to correspond with the reorganization of the Employers. Specifically, the Employers propose one unit consisting of employees engaged in interstate transmission operations (Case 9-UC-91) and a second unit consisting of employees engaged in local distribution operations (Case 9-UC-92). The Unions contend, however, that the employees engaged in transmission and distribution operations should continue to be represented in one bargaining unit.

We find no merit in the request by the Employers to separate the existing recognized bargaining unit into two bargaining units. The record shows that the

employees represented by the Unions have continued to perform the same functions in the same locations after the reorganization that they performed prior to the reorganization. These employees have the same immediate supervision as they had prior to the reorganization and the reorganization has had little if any direct affect on day-to-day operations. Although there now exists separate labor relations departments, this change has no practical effect on the handling and processing of grievances until the grievance reaches the top step.

The Employers seek to raise this issue as a matter of unit clarification. We note, however, that there is no ambiguity and no dispute concerning the fact that the employees who are the subject of the instant petitions came within the coverage of a series of collective-bargaining agreements, including the most recent one effective December 1, 1973, and that they have been included in the long-established unit represented by the Unions. We further note that no party seeks at this time an election among employees in the established unit nor questions the status of the Unions as the bargaining representative of that unit. *National Education Association*, 206 NLRB 893 (1973).

On the basis of the circumstances set forth in the record, we find the Employer's reorganization has had no meaningful or substantial impact or effect on the status or appropriateness of the long-existing bargaining unit. Accordingly, we shall dismiss the petitions.

#### ORDER

It is hereby ordered that the petitions in Cases 9-UC-91 and 9-UC-92 be, and they hereby are, dismissed.

CHAIRMAN MILLER, concurring separately:

I concur in the result, although I agree with little of the rationale of the opinion signed by my colleagues. If the two units proposed by the Petitioner were shown to be appropriate units by our usual standards, and if the existing single unit had been rendered inappropriate by reason of organizational changes, I would grant the petition.

The difficulty here is that the proposed two units are, in my view, not appropriate on the basis of our usual tests. The existing unit would, *ab initio*, also have been of dubious appropriateness but has been rendered appropriate by bargaining history. But the two proposed units have little to commend them, except for the fact that they are coextensive geographically with a two-state area, which factor is insufficient, in my view, to render them appropriate. For this reason I concur in the dismissal.