

The Mountain States Telephone and Telegraph Company and Communications Workers of America, Petitioner. Case 28-RC-2669

September 23, 1975

DECISION ON REVIEW AND DIRECTION OF ELECTION

BY CHAIRMAN MURPHY AND MEMBERS FANNING AND PENELLO

On May 30, 1974, the Regional Director for Region 28 issued his Decision and Order in the above-entitled proceeding in which he dismissed the petition filed herein, finding inappropriate Petitioner's requested unit of nonsalaried employees in the Employer's commercial offices in El Paso County, Texas. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, the Petitioner filed a timely request for review of the Regional Director's decision on the ground, *inter alia*, that the Regional Director departed from officially reported precedent. The Employer filed a statement in opposition thereto.

The National Labor Relations Board, by telegraphic order dated April 16, 1975, granted the request for review. Thereafter, the Petitioner and the Employer filed briefs 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, including the briefs on review, and makes the following findings:

Petitioner contends that the unit it seeks, limited to the 105 employees at the Employer's El Paso County, Texas, commercial office, is appropriate under the Board's decision in *Michigan Bell Telephone Company*, 192 NLRB 1212 (1971), *affd.* in 216 NLRB No. 145 (1975), and other Board precedent. The Employer contends that the minimal appropriate unit is an employerwide unit of its commercial office employees. We find merit in the Petitioner's contentions.

The Employer, part of the Bell Telephone System, is engaged in business as a public utility providing telephone service to a large part of the Western United States. The Employer's operations extend over a territory consisting of Arizona, Colorado, Idaho, Montana, New Mexico, Utah, Wyoming, and El Paso County, Texas. The Employer maintains its general headquarters at Denver, Colorado, where its activities are coordinated and controlled. The head-

quarters staff for the Employer's commercial department is located at Denver and, along with the plant, traffic, and engineering departments, is headed by the Employer's vice president of operations who reports to the Employer's president. There are 3,200 employees in the entire commercial department, which is comprised of 51 commercial offices in the 8-state area in which the Employer operates.

The Employer is organized along administrative and operational lines on a state basis. Thus, each of the state operations, including El Paso County, Texas, which is the only area serviced in that State, is headed by a vice president and general manager. These heads of the various state operations report to the vice president of operations in Denver. The record discloses that while general policies and procedures are set by the corporate executives at Denver and the Employer strives for uniformity throughout its operations by issuing publications and training handbooks, conducting periodic audits of field offices, and centrally administering labor relations and other personnel programs, each state operation, including the El Paso County operation, is significantly autonomous with respect to the day-to-day functioning of the respective facilities.

The record demonstrates that the El Paso County general manager has authority to hire personnel for the commercial office involved herein and that interviewing, testing, training of personnel, and proficiency evaluations are performed on the local level. In addition, certain disciplinary matters are handled by local supervision and are reviewed by higher levels only if referred there. The general manager may terminate employees unable to complete initial training without further review; however, disciplinary problems involving employees of long service, or situations involving EEOC matters, are referred to the Denver office. Vacation schedules are determined locally and overtime as necessary is scheduled by local supervision. Personal leave, with or without pay, may be granted locally. The El Paso County commercial employees receive the same wages as other commercial department employees in Employer's wage zone 2 which includes Tucson, Arizona; Albuquerque, New Mexico; and Colorado Springs; however, the initial rate for newly hired employees is determined locally, based on educational background and general capabilities.

All of the Employer's employees receive the same benefits which are administered by a General Benefit Committee located in Denver. However, orientation of employees concerning these benefits is conducted locally for the El Paso employees, and there is a Texas State Benefit Committee which reviews local benefit cases and makes recommendations to the General

Benefit Committee. A local incentive award system also exists for the El Paso County employees.

Like the Employer's other commercial employees, the El Paso County employees process orders for telephone service, adjust peculiar problems of customers, and see that customer billing is accurate. They have no significant work contact with commercial employees at other locations¹ except to interchange credit information by telephone with employees throughout Mountain States' operations and with other offices in the Bell System. They service directly only the customers residing in El Paso County, including two communities which are partially in New Mexico. The commercial employees here sought have five local levels of supervision, viz, business office supervisors, unit managers, the Texas commercial supervisor, the Texas commercial marketing manager, and finally the general manager.

Regarding interchange of employees, the record shows that there have been no temporary or emergency transfers into or out of the El Paso commercial office and there appears to be little significant interchange between El Paso commercial employees and commercial employees of the Employer's other commercial offices. Thus, with respect to permanent transfers during 1972 and 1973, 19 employees transferred into the El Paso commercial office from other commercial offices of the Employer and 14 commercial employees transferred from El Paso to other locations. However, only 3 of these latter employees went to commercial offices of the Employer; the other 11 employees transferred to offices outside Mountain States. It appears from the record that these transfers were voluntary and were made pursuant to a company program whereby an employee may transfer, upon request, to the Employer's other business offices or to other locations in the Bell System. Employees transferred to the El Paso office must undergo a period of retraining because of the unique procedures and practices at that office.

There is no bargaining history with respect to the employees in the unit requested herein² and no union is presently seeking representation on a broader basis. The record shows, however, that the Petitioner and the International Brotherhood of Electrical Workers (IBEW) represent other classifications of the Employer's employees.³ Thus, the Petitioner

represents separate units of the Employer's plant and traffic employees in employerwide units, except Montana. It represents a statewide unit of the Employer's traffic employees in Montana, except for two metropolitan areas. Among others, IBEW represents separate statewide units of Employer's plant and plant clerical employees in Montana; metropolitan area units of Employer's traffic employees in Butte and Missoula, Montana; and a metropolitan area unit of janitors in Billings, Montana. The negotiations for its statewide and metropolitan units in Montana are conducted locally, with guidance and participation from headquarters. These negotiations are subject to review by headquarters.

Like most public utilities, the Employer maintains a highly integrated and centrally controlled operation. As indicated, to assure uniformity the Denver headquarters formulates and administers labor relations, establishes common personnel policies on an employerwide basis, and determines uniform wage rates for each zone, among other matters. Also, as noted above, the Employer administers a company-wide benefit plan, as well as other programs. In addition to the foregoing, each vice president and general manager attends periodic review conferences in Denver to make sure that his operations are uniform with those of the other States. While these factors tend to support the appropriateness of an employerwide commercial department unit, as urged by the Employer, we are of the opinion that there are sufficient other factors to warrant finding that the requested unit, which is coextensive with an administrative and operational subdivision of the Employer, is also appropriate.⁴

In cases involving public utilities, the Board has long held that the optimum unit is one that is systemwide in scope. However, as we stated in *Michigan Bell Telephone, supra*, which we find is controlling herein, a commercial office in a telephone utility which is engaged, as here, in soliciting and servicing telephone subscriptions in a well-defined geographic area may be compared with an outlet or territory in a selling operation. Viewed in this light, a requested unit limited to the commercial department employees in the El Paso County area is presumptively appropriate. Contrary to the Regional Director, we find that the record evidence regarding the autonomy of the El Paso County supervision in controlling the day-to-day operations of those facilities, the lack of temporary interchange, the geographic separation from other commercial facilities, the lack of a bargaining history for the requested employees, and the

less than employerwide bases. *Pacific Northwest Bell Telephone Company*, 173 NLRB 1441 (1968).

⁴ *Iroquois Telephone Corporation*, 169 NLRB 344 (1968); *Pacific Northwest Telephone Company, supra*.

¹ The El Paso commercial office is 700 miles from Denver and 40 miles from the Employer's nearest commercial office.

² The Regional Director dismissed a petition for essentially the same unit as that herein in Case 28-RC-1281 and no review was sought. We find no merit to the Employer's contention that that case is controlling in the instant matter. The finding in that case is not consistent with the finding in *Michigan Bell, supra*, which we find to be controlling herein.

³ While the Employer's bargaining history in other units is not controlling herein, we think such history is relevant to demonstrate that units exist on

fact that no labor organization seeks representation on a broader basis, among other factors, sufficiently demonstrates that the commercial department employees in the El Paso County office share a sufficient community of interest, apart from other commercial department employees, to support a finding that they constitute a separate unit appropriate for bargaining.

Accordingly, we find that the following employees⁵ of the Employer have a sufficient community of

⁵ The Regional Director found it unnecessary to resolve the eligibility of employees classified as cashier, service bureau clerks, coin box collector, mail attendant, and commercial representative.

The Petitioner would include the cashier, while the Employer would exclude her as a supervisor. Although the record shows that she substitutes for an admitted supervisor absent due to illness or while on vacation and that she apparently directs the work of unit employees, we are unable to determine from the record the extent of such direction or whether she exercises any of the indicia of supervisory authority. Accordingly, we shall permit the cashier to vote subject to challenge.

interest to constitute a unit appropriate for the purpose of collective bargaining within the meaning of 9(b) of the Act:

All nonsalaried employees of the Employer in its commercial offices in El Paso County, Texas, excluding security employees, commercial service analysts, confidential employees, guards, and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

Petitioner would include, and the Employer would exclude, the service bureau clerks. The record shows that these employees maintain a stock of forms and handle copy machines, such as multilith and Xerox, in the basement of the building where the commercial employees are located and are supervised by business office supervisors. Accordingly, we shall include them in the unit.

Regarding the coin box collector, mail attendant, and commercial representative, the Employer would exclude these employees, while the Petitioner, although agreeing that as salaried employees they are apparently not in the unit, refused to concede that they be excluded. Accordingly, as there is insufficient evidence in the record to enable us to determine their eligibility status, we shall allow them to vote subject to challenge.