

**Alabama Religious Broadcasting Company, Inc. and  
International Brotherhood of Electrical Workers,  
Local Union 253, AFL-CIO, Petitioner. Case 10-  
RC-10378**

November 28, 1975

**DECISION AND DIRECTION OF  
ELECTION**

**BY CHAIRMAN MURPHY AND MEMBERS  
JENKINS AND PENELLO**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Donald E. Howard of the National Labor Relations Board on July 22, 1975. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, and by direction of the Regional Director for Region 10, this proceeding was transferred to the Board for decision. Thereafter, the Employer submitted a brief.

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 Petitioner, herein also referred to as IBEW, seeks to add three previously unrepresented announcers to the existing unit composed of three technicians that it has represented since 1960. The most recent collective-bargaining agreement between IBEW and the Employer regarding the technicians expired on June 30, 1975. Employer Alabama Religious Broadcasting Company, Inc., is an Alabama corporation with its principal place of business located in Irondale, Alabama, where it is engaged in the operation of a radio station with the call letters WLPH.

A question was presented at the hearing whether the Employer meets the Board's discretionary jurisdictional standards for radio stations. In this regard, the Board decided in *Raritan Valley Broadcasting Company, Inc.*, 122 NLRB 90 (1958), that it will assert jurisdiction over those radio stations which have a gross volume of business of at least \$100,000 annually. Here the record shows the Employer reported a 1974 gross annual revenue of \$105,954 to the Federal Communications Commission.

As indicated in the FCC report, this figure includes \$10,573 in revenue derived from trade-outs or barter transactions with local merchants and resort hotels in exchange for advertising on the station. Since the Employer estimates that \$9,000 of these benefits inured directly to its employees, it contends this portion should not be considered for jurisdictional purposes. As a result, the actual gross revenue for the Employer in 1974 would fall below our jurisdictional standard for radio stations.

However, inasmuch as both the Federal Communications Commission and section 61(a) of the Internal Revenue Code of 1954,<sup>1</sup> as amended, include trade-outs as gross revenue or income, we conclude that the Employer meets the jurisdictional standard. Accordingly, we find that it will effectuate the purposes of the Act to assert jurisdiction in this proceeding.

2. The Petitioner is a labor organization claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

With regard to the determination of the appropriate unit, the Employer asserts that the unit should also encompass a clerical employee and the company bookkeeper. Although the Petitioner desires to exclude the clerical employee, it is willing to represent this employee if the Board finds the unit otherwise inappropriate. The Petitioner takes no position with respect to the inclusion of the bookkeeper. The Employer further requests a self-determination election to give the unrepresented employees an opportunity to vote whether they want to be represented in an overall unit by IBEW or not at all.

Alice Kennedy, the clerical employee, has daily contact with the technicians and announcers. She spends approximately 3 hours per day preparing the program or traffic logs required by the FCC. In addition, Kennedy types all advertising sales contracts, sorts and distributes the mail, records receipt of program tapes, and prepares for mailing those tapes already used. Furthermore, she has the same supervisor as the other employees in the unit.

Since Kennedy is essentially a plant clerical employee directly involved in the regular operations of the radio station, we find that she has a community of interest with the announcers and technicians and should therefore be included in the voting group hereinafter set forth. Accordingly, we shall include the plant clerical in the voting group.

The testimony as to the status of the bookkeeper reveals that she has an office immediately adjacent to

<sup>1</sup> 26 U.S.C. §61(a).

the studio where the announcers and technicians work on the board. Based on her physical proximity to the other unit employees and inasmuch as she is the only other unrepresented employee, we shall also include the bookkeeper in the voting group.

4. In accordance with Board policy, we believe that the employees sought to be added to the established bargaining unit should be given an opportunity by a self-determination election to express their desires with respect to being included in the existing bargaining unit currently represented by the Petitioner. Accordingly, we shall direct an election in the following voting group:

All unrepresented employees of the Employer employed at its Irondale, Alabama, location,

excluding guards, salesmen, managerial employees, and supervisors as defined by the Act.

If a majority of the employees in the above group cast their ballots for the Petitioner, they will be taken to have indicated their desire to constitute a part of the existing unit currently represented by the Petitioner, and the Petitioner may bargain for such employees as part of that unit. If a majority of them vote against the Petitioner, they will be taken to have indicated their desire to remain outside the existing unit, and the Regional Director will issue a certification of results of election to that effect.

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