

**WTMJ, Inc.¹ and Directors Guild of America, Inc.,
Petitioner. Case 30-RC-2609**

February 26, 1976

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MURPHY AND MEMBERS FANNING
AND JENKINS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Cecil Sutphen of the National Labor Relations Board on August 14 and 15, 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 30, this proceeding was transferred to the Board for decision.

The Employer and Petitioner filed briefs in support of their positions.

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 Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

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 Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Petitioner seeks to represent a unit of all staff producer/directors and all others doing the work of directors employed by the WTMJ, Inc., television station in Milwaukee, Wisconsin.

The Employer contends that the petition should be dismissed because: (1) the petition does not describe a readily identifiable group of employees, and (2) the unit sought does not constitute an appropriate unit for collective-bargaining purposes.

The Employer's business activities include telecasting, radio broadcasting, and operation of a CATV system. The Employer's radio and television broadcasting facilities, except for an AM transmitter,

are located in Milwaukee, Wisconsin, in a building sometimes called "Radio City."

There are over 225 employees in 16 classifications currently employed by the Employer at Radio City including sales, clerical, managerial, and production personnel. Approximately 77 employees are covered by collective-bargaining agreements and there are approximately 76 production employees unrepresented. The three collective-bargaining contracts in effect are: Service Employees International Union Local 150, representing the building maintenance employees; International Brotherhood of Electrical Workers and Local 715, representing the engineers; and the International Alliance of Stage and Theatrical Employees, representing the floormen or floor directors. There is no history of collective bargaining involving the job classification of producer/director.

There are six producer/directors. It appears that three other individuals also direct occasional television programs. Two of them are the "seniors," the two most senior floor managers. Although the two individuals in that category may change from time to time, it is always the two "seniors" who sporadically perform directorial duties. Additionally, there is an individual known as a "trainee," who is in training to become a producer/director. The "trainee" is a permanent employee, although by the Employer's definition of that job it ceases to exist 12 to 15 months after it begins and if no opening exists at that time for a producer/director the "trainee" is terminated.

The producer/directors produce and direct news, commercial productions, or studio productions as assigned by the TV production manager, directing on-air activities of engineering crews, booth announcers, newsmen, and floor crews. They work with sales representatives, clients, and/or agency personnel regarding program and commercial production ideas and concepts necessary to project the client's message or aim. They assist production management in development and production of commercial content and programming. They work under general direction and supervision, and are required to have broad knowledge of telecasting, and to be able to create, produce, and direct effective commercials and programs under pressure of on-air schedules, following established procedures and policies. The educational requirement in the job description for producer/director states, "High school plus 4-5 years related broadcast experience."

The Employer opposes the petition and relies heavily upon a 1973 Board decision,² involving WTMJ-TV and AFTRA for its position. In that case the requested unit was for television newsmen, and the alternative requested unit was for radio and tele-

¹ The name of the Employer appears as amended at the hearing.

² *The Journal Co. d/a/b WTMJ-AM-FM-TV*, 205 NLRB 36, 37 (1973).

vision newsmen. The Board noted "that the functions performed by the newsmen, especially in gathering the news and performing the news shows, involve a great deal of integration with other categories of the Employer's employees. For example, a newsman and photographer generally go out together to cover an emerging news story. Further, some of the programs presented by the Employer, such as the Morning Scene show, are jointly prepared by several departments. In addition, other classifications of employees, such as producer-directors, film handlers, and graphic arts personnel, are actively involved in the presentation of, or preparation for, the news shows."

The Board found, in sum, that "the contact with other employees, similarity of benefits, common supervision with other employees of the same department, interchange, and especially the similar nature of the job function which the newsmen shared with announcers," all demonstrated that the newsmen, in the circumstances therein, did not share a community of interest separate and apart from other employees of the employer. Accordingly, the Board found the requested unit and the alternative requested unit to be inappropriate and dismissed the petition.

We find no merit in the Employer's contention that the above case is controlling legal precedent for the disposition of the instant case. That decision held that a separate unit of newsmen was inappropriate and did not discuss the duties or interests of producer/directors. We have ruled in a number of cases that a unit of television producer/directors constitutes an appropriate unit.³ The Employer argues that in these

cases the employers contended the units petitioned for were inappropriate on grounds that the employees involved were supervisory and/or managerial employees and that that issue is not present in the instant case. This contention lacks merit. Although we found the employees involved were not supervisory and/or managerial employees, we further found that the producer/directors constitute an appropriate unit.

Moreover, WTMJ Producer/Director Tom Edwards, who had previously worked at WJZ-TV, where the Board directed an election, testified that the duties of producer/director at both WTMJ-TV and WJZ-TV were the same.

The evidence shows that the producer/directors' duties and functions, status within the production and programming departments, and relationships with other personnel are substantially similar, if not identical, to those of producer/directors at other stations where the Board has found units of producer/directors to be appropriate.⁴

In view of the foregoing, we shall direct an election in the following unit, which we find to be appropriate for the purposes of collective bargaining within the meaning of Section 9(c) of the Act:

All producer/directors and all others doing the work of directors employed by the WTMJ, Inc., television station in Milwaukee, Wisconsin,⁵ but excluding all other employees, guards, and supervisors as defined in the Act.

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

Broadcasting Company, Inc (WJZ-TV, Channel 13), 218 NLRB No 102 (1975), *Westinghouse Broadcasting Company, Inc (KDKA-TV)*, 220 NLRB No 11 (1975).

⁴ *Ibid*

⁵ Senior floor managers are not included in this category since they perform the duties of producer/directors only sporadically. However, the "trainee" is included inasmuch as his interests are the same as those of the unit employees

³ *Westinghouse Broadcasting Company (KYW-TV)*, 209 NLRB 788 (1974), *enfd.* 503 F.2d 1055 (C.A. 2, 1974); *Westinghouse Broadcasting Company, Inc (WBZ-TV/WJZ-TV)*, 215 NLRB No. 26 (1974), *Westinghouse Broadcasting Company, Inc. (KDKA-TV)*, 216 NLRB No. 64 (1975), *Golden West Broadcasters (KTLA-TV)*, 215 NLRB No. 141 (1974), *Post-Newsweek Stations of Florida, Inc (WPLG-TV)*, 217 NLRB No. 17 (1975); *Westinghouse*