

Allegheny Pepsi-Cola Bottling Company and Teamsters, Chauffeurs, Warehousemen, Helpers, Miscellaneous, Brewers & Soft Drink Workers Local No. 822, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Cases 5-RC-9406 and 5-RC-9417

March 12, 1976

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MURPHY AND MEMBERS FANNING
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 Michael A. Caldwell of the National Labor Relations Board. Following the close of the hearing, the Regional Director for Region 5 transferred this proceeding to the Board for decision. Thereafter, the Employer and Petitioner filed briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, 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 labor organization involved claims 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.

4. The Employer is engaged in the sale and distribution of soft drinks. The Petitioner seeks a unit of employees at the Employer's Norfolk, Virginia, branch plant which is part of the Employer's southern division.¹ The Employer contends that a division-wide unit, which would include eight branch plants, is alone appropriate and, thus, that the petition should be dismissed.

The Employer introduced considerable evidence showing that the individual branch plants in its southern division operate within policy strictures set down on the division or higher level, and that the

plants are subject to division level oversight for the purpose of keeping branch operations efficient and consistent with company policy and goals. On occasion when some new program is instituted, such as a new sales promotion scheme, division or even company headquarters personnel may work on the branch level for an extended period to assure that the new program is properly put in operation. Also, the division loss control director holds meetings of employees at the various branches. Such evidence—and that mentioned here does not exhaust that placed in the record by the Employer—does show that the branch plants, including Norfolk, are not independent businesses but rather are a part of the Employer's southern division operating within company guidelines specifying in greater or lesser detail methods and purposes of operations. However, a substantial degree of centralized control, even as further evidenced by uniform wage and benefit policies and centrally kept personnel records, does not alone rebut the presumption of the appropriateness of a single-branch-plant unit where as here, at least with respect to the Norfolk plant, there exist significant factors supporting such a unit.

Thus, Norfolk, which is one of the larger plants, is at least 25 miles from any other branch. There is no consequential interchange of employees between Norfolk and other branches. Further, the Norfolk employees do not normally look to division personnel for supervision or direction but rather to branch supervisors. These supervisors report to the branch manager who is also concerned to an appreciable extent with the immediate supervision of the branch employees. Hiring and disciplinary action, including discharges, are handled for the most part on the branch level as are most grievances. Overtime is controlled by division level decisions, but the selection of employees to work allotted overtime is a branch matter. Also, it is clear that it is primarily the responsibility of branch supervision operating under the branch manager to assign employees to their specific jobs and to see that the various work is carried out efficiently and in accordance with established company policy.

It is unnecessary to labor the matter further, for the foregoing fully demonstrates that the Norfolk branch is a separate administrative division of the Employer's operations, having its own separate manager who is responsible for the branch's day-to-day operations and who exercises considerable responsibility with respect to employment matters, and that the Norfolk branch employees comprise a readily identifiable stable group separate and apart from other of the Employer's employees. Accordingly, we find that a unit of the following employees at the

¹ Alternatively the Petitioner seeks as a single unit the Employer's Norfolk, Hampton, and Suffolk branches. In view of our decision herein, we do not reach the issue of the appropriateness of such a three-plant unit.

Employer's Norfolk, Virginia, branch plant is appropriate² for purposes of collective bargaining within the meaning of Section 9(b) of the Act:³

² See *Allegheny Pepsi-Cola Bottling Company*, 216 NLRB 616 (1975), wherein the Board found a separate Martinsburg, West Virginia, unit to be appropriate. The Employer claims that that case is distinguishable on the grounds that there is more centralized control of branch plants in its southern division than in its Harrisburg division involved in that case. The difference, if any, is not substantial, and in any event there is, as we have found here with respect to Norfolk, such branch autonomy and responsibility with respect to day-to-day operations as warrants its separate representation. See also *Empire Mutual Insurance Company*, 195 NLRB 284 (1972).

³ The Petitioner and Employer agree on the composition of the Unit.

All full-time and regular part-time employees, including route salesmen, delivery men, route managers, swing men, syrup salesmen, merchandisers, syrup managers, mobile market managers, warehouse leadmen, checkers, laborers, vending leadmen, vending delivery men, dispatchers, vending mechanics, garage leadmen, garage mechanics, and janitors, excluding all office clerical employees, guards, and supervisors as defined in the Act.

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