

GTE Automatic Electric Incorporated, Employer-Petitioner and Local #336, International Brotherhood of Electrical Workers, AFL-CIO. Case 13-UC-87

November 30, 1976

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS FANNING
AND JENKINS

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Arlander Keys. 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 13, this proceeding was transferred to the Board for decision. Thereafter, the Employer and the Union filed briefs and the Employer filed a reply 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 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. For many years the Employer and Local 336 have bargained collectively for a group of telephone equipment installers working within the continental United States, and have entered into collective-bargaining agreements regarding their wages and working conditions. The bargaining unit was never certified by the Board, but the recognition clause of the contracts provided that it was "subject to and in accordance with the provisions of the National Labor Relations Act" The current bargaining unit described in the contract is "telephone equipment installers in the various classifications set forth in Schedule A hereto in the Installation Division of the Company, but excluding office and clerical employees, guards and professional and supervisory employees, confidential employees, managerial employees, and all other employees not specifically included in the Unit set forth herein." The Employer-Petitioner seeks the clarified unit as follows:

Included: Telephone Equipment Installers employed in the Installation Division of the Company in the United States.

Excluded: Telephone Equipment Installers employed on projects in foreign countries outside the United States, office and clerical employees, guards and professional and supervisory employees, confidential employees, managerial employees and all other employees not specifically included above.

The Employer-Petitioner desires clarification as a result of the recent claim under the existing collective-bargaining agreement by Local 336 that it is entitled to bargain on behalf of installers employed by GTE Iran Incorporated on a project currently being performed in Iran. The Employer refused to bargain on the grounds that the installers in Iran are not covered by the Labor Management Relations Act nor by the collective-bargaining agreement between the Employer and Local 336.

GTE Automatic Electric Incorporated and GTE International Incorporated are independent wholly owned subsidiaries of General Telephone & Electronics Corporation. In April 1975, GTE International Incorporated concluded an understanding for the sale and installation of telephone equipment to Telecommunications Company of Iran, owned by the government of Iran. Under the arrangement, GTE Automatic Electric Incorporated is selling telephone switching equipment and other apparatus to its sister subsidiary, GTE International Incorporated, which in turn sells it to Telecommunications Company of Iran. A subsidiary of GTE International Incorporated, GTE Iran Incorporated is responsible for the actual installation of equipment in Iran. GTE Iran Incorporated currently employs all the installers who are working in Iran.

The first installers sent to Iran were recruited by GTE Automatic Electric Incorporated from among the Local 336 installers and from other available sources. Supervisory and management personnel were recruited from GTE Automatic Electric Incorporated, sister subsidiaries, and from outside sources. Only approximately one-third of the total number of employees involved in the Iran project are from GTE Automatic Electric Incorporated. None of the employees who were recruited from GTE Automatic Electric Incorporated for the Iran project has been assured of reemployment by GTE Automatic Electric Incorporated on return to the United States.

When the installation work in Iran began in October 1975, installers recruited from GTE Automatic Electric Incorporated remained on the payroll of that

corporation. Subsequently, GTE Iran Incorporated was formed as a new subsidiary of GTE International Incorporated.

In January 1976, all of the employees in Iran not already on the payroll of GTE International Incorporated were transferred to the payroll of GTE Iran Incorporated where they have remained. As a result of the creation of GTE Iran Incorporated and the transfers, all installers permanently assigned to Iran are now on the payroll of GTE Iran Incorporated. They are not, however, the only employees on the payroll of GTE Iran Incorporated.

There are approximately 850 installers covered by the local contract in the United States. There are about 59 installers in Iran.

It is clear that employees in Iran are not within the jurisdiction of the Act.¹ Accordingly, we find that telephone equipment installers employed on projects in Iran or other foreign countries outside the United States are not within the unit covered by the parties' collective-bargaining agreement. We therefore grant the Employer-Petitioner's motion for unit clarifica-

tion and exclude from the unit telephone equipment installers employed on projects in Iran or other foreign countries outside the United States.²

ORDER

It is hereby ordered that the collective-bargaining unit of employees of GTE Automatic Electric Incorporated, represented by Local #336, International Brotherhood of Electric Workers, AFL-CIO, be, and it hereby is, clarified by excluding from the unit telephone equipment installers employed on projects in foreign countries outside the United States.

² Member Jenkins agrees that the union cannot bargain for its members with respect to their wages, hours, and working conditions in foreign countries. He would deny the petition seeking clarification of the bargaining unit, however, because employees in the unit who are on temporary assignment to work in foreign countries retain many interests in the conditions of employment in the unit in the United States. There was testimony indicating they are in layoff status while on temporary foreign assignment and, in this respect, they clearly remain members of the bargaining unit. They are entitled to bargaining representation with respect to such matters as the terms of their transfer to foreign countries, their retention of seniority rights, their rights to be returned to the United States, and their reemployment rights. The fact that the Employer need not bargain about the terms and conditions of their employment in Iran hardly relieves it of the duty to bargain about such other matters as those mentioned. For these reasons, Member Jenkins would not exclude from the unit employees on temporary assignment in foreign countries and would dismiss the petition.

¹ *RCA OMS, Inc (Greenland)*, 202 NLRB 228 (1973). *Benz v Compania Navera Hildago, S A*, 353 U S 138 (1957)