

DECISIONS AND ORDERS OF THE NATIONAL LABOR RELATIONS BOARD

In the Matter of WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY and UNITED ELECTRICAL & RADIO WORKERS OF AMERICA, LOCAL NO. 601, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, and EMPLOYEES REPRESENTATION PLAN OF WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY

Case No. R-158.—Decided July 9, 1937

Electric Equipment Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees—rival organizations; refusal by employer to recognize union as exclusive representative—question affecting commerce: confusion and unrest among employees—*Unit Appropriate for Collective Bargaining:* organization of business; eligibility for membership in labor organization; employees on hourly wage basis; no controversy as to—*Representatives:* proof of choice: membership in union; signature of cards authorizing union as bargaining agency—*Certification of Representatives:* after investigation but without election.

Mr. Robert H. Kleeb for the Board.

Mr. William E. Miller, of Pittsburgh, Pa., for the Company.

Mr. Alexander Shaw, of Pittsburgh, Pa., for United Electrical & Radio Workers of America, Local No. 601.

Mr. Alexander B. Hawes, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF CASE

On April 26, 1937, United Electrical & Radio Workers of America, Local No. 601, herein called the Union, filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania), a petition alleging that a question affecting commerce had arisen concerning the representation of the employees, except supervisory employees, working at the East Pittsburgh Works, Trafford Works, and Homewood Service Works (including Linhart and Copper Mill) of Westinghouse Electric & Manufacturing Company, East Pittsburgh, Pennsylvania, herein called the Company, and requesting the National

Labor Relations Board to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 6, 1937, the Union filed an amended petition, which was to the same effect except that it designated the employees involved as all "check" (i. e., hourly rate) employees in such plants. On May 14, 1937, the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and to provide for an appropriate hearing. On June 4, 1937, the Regional Director issued a notice of a hearing to be held at Pittsburgh, Pennsylvania, on June 11, 1937, copies of which were duly served upon the Company, upon the Union, upon a representative of the International Brotherhood of Electrical Workers, herein called the Brotherhood, a labor organization named in the petition as claiming to represent the Company's employees, and upon certain officers of the Employees Representation Plan of Westinghouse Electric & Manufacturing Company, hereinafter referred to as the E. R. P., a labor organization which, preliminary investigation indicated, purported to represent some of such employees.

Pursuant to the notice, a hearing was held at Pittsburgh, Pennsylvania, on June 11, 1937, before David M. Harrison, the Trial Examiner duly designated by the Board. The Board, the Company, and the Union were represented by counsel and participated in the hearing. Neither the Brotherhood nor the E. R. P. appeared or took any part in the proceedings. On June 18, 1937, the Board caused the issuance of a notice of a further hearing, to be held at Pittsburgh, Pennsylvania, on June 24, 1937. Copies were duly served upon counsel for the Company and the Union. Pursuant to the notice, a hearing was held at Pittsburgh, Pennsylvania, on June 24, 1937, before the same Trial Examiner. The Board, the Company, and the Union were again represented by counsel.

At both hearings, full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties appearing. No motions or exceptions to rulings of the Trial Examiner were made during the course of either hearing.

Upon the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE COMPANY AND ITS BUSINESS

Westinghouse Electric & Manufacturing Company is a Pennsylvania corporation, incorporated April 9, 1872, having executive offices in East Pittsburgh, Pennsylvania, and New York, New York.

The Company and its subsidiaries manufacture and sell machinery and appliances for the generation, transmission, and utilization of electricity. To name specifically a few of its electrical products, the Company makes generators, refrigerators, vacuum cleaners, lamps, switches, air-conditioning equipment, locomotives, elevators, fans, furnaces, transformers, and x-ray equipment. The principal plants of the Company are located in Pennsylvania, Massachusetts, New York, Ohio, New Jersey, California, and Missouri. Subsidiaries own important plants in New Jersey, Connecticut, Illinois, New York, and Norway. The Company and its subsidiaries own warehouses and office buildings in New York, Illinois, Michigan, Missouri, Minnesota, New Jersey, Pennsylvania, California, Oregon, Washington, and Florida. The Company's advertising material lists customers for at least one of its products in 41 States, two territories, and six foreign countries. It lists sales offices in 105, "agent-jobbers" in 83, and "service shops" in 36 cities throughout the United States.

The plants with which we are concerned comprise what is designated by the Company as its East Pittsburgh Division. They are located at East Pittsburgh, Trafford, and Pittsburgh, Pennsylvania. The East Pittsburgh Works manufactures large electrical equipment, such as generators, motors, switchgears, and electrical railway equipment. It also contains a copper rolling mill, a research laboratory, and office buildings. The Trafford Works contains an iron foundry and a plant for the manufacture of micarta products. The Homewood Works, in Pittsburgh, is a plant devoted to renewal parts and service of equipment. The East Pittsburgh Division employs approximately 11,500 hourly rate workers, exclusive of supervisory and clerical employees.

Approximately half of the materials purchased by the Company in its operation of this Division are bought outside Pennsylvania. About 90 per cent of the finished products of the Division are shipped to destinations outside Pennsylvania.

II. THE ORGANIZATIONS INVOLVED

United Electrical & Radio Workers of America, Local No. 601, is a labor organization admitting to its membership hourly rate employees (except supervisory employees) working in the East Pittsburgh Division of the Company. It is a local union, member of an international union affiliated with the Committee for Industrial Organization.

The International Brotherhood of Electrical Workers also is a labor organization, claiming to represent a majority of the Company's employees. The Employees Representation Plan of Westinghouse Electric & Manufacturing Company is another labor organiza-

tion existing among Company employees. The conditions of admission to membership in these two organizations do not appear from the record.

III. THE APPROPRIATE UNIT

At the original hearing the Company stipulated that the number of hourly rate employees in the works of the East Pittsburgh Division was 11,521, distributed among the different departments as follows:

Feeder Division.....	2914
Factory Service.....	1696
Generator Division.....	1939
Micarta Division.....	311
Motor Division.....	2358
Printing Division.....	202
Switchgear Division.....	2037
Miscellaneous.....	64
Total.....	11521

These figures do not include supervisory or clerical employees. Some of these departments are confined to one or two of the plants, but others have employees in all of them. As indicated above, all of these plants are included by the Company in a single administrative division, the East Pittsburgh Division, which corresponds to divisions of the Company in other localities, such as the separate divisions at Cleveland, Ohio, and at Mansfield, Ohio. The East Pittsburgh Division is under the charge of a single official of the Company.

This feature of the Company's organization is reflected in the organization of the Union. It, too, treats the various plants at East Pittsburgh, Trafford, and Homewood, including Linhart and Copper Mill, as a single unit, and its membership is open and confined to employees in that unit. The Union claims that the bargaining unit should include employees in all of these various plants. At the hearing no objection was raised to this contention.

The amended petition designates the "check" (hourly rate) employees in the East Pittsburgh Division as the appropriate bargaining unit. Such a designation would include only production employees, excluding clerical help. It would also include certain supervisory employees if literally interpreted. It is clear, however, that the Union does not intend to include foremen in the unit. Such employees are not admitted to its membership. Nor did the testimony given at the hearing as to the number of hourly rate employees, which was clearly intended to show the size of the proposed bargaining unit, include any supervisory employees.

We therefore find that, in order to insure to the employees of the East Pittsburgh Division of Westinghouse Electric & Manufacturing

Company the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, all of the Company's hourly rate employees in such Division, except supervisory employees, constitute a unit appropriate for the purposes of collective bargaining.

IV. QUESTION CONCERNING REPRESENTATION

Both the Union and the Brotherhood claim to represent a majority of the employees of the East Pittsburgh Division of the Company. Certain representatives of the E. R. P. have written to the Regional Director stating that they do not believe the Union has the support of the majority of the employees at the East Pittsburgh works. The Company, however, has indicated its willingness to bargain collectively with the Union as the sole bargaining agent, if the National Labor Relations Board determines that the Union has been designated as representative by such a majority. It has stated that it wishes to have evidence of majority representation, since, as it says, other groups also claim to represent members in the Division.

The Company's present refusal to recognize the Union as sole bargaining agent has created resentment and dissatisfaction among the employees who are members of the Union.

V. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question of representation which has thus arisen, in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

VI. THE EXCLUSIVE BARGAINING AGENCY

The bargaining unit stated above included, at the time of the original hearing, 11,521 employees.

At the second hearing, the secretary of the Union produced books containing a record of the Union membership. These showed the names of a total of 7,207 employees in the East Pittsburgh Division as having joined the Union since its formation in 1935. Among these are the names of members who have since died. According to a count made by the secretary within the past three months, the deceased members number not more than 15. All others were members at the date of the hearing. Certain clerical employees are apparently admitted to membership in the Union, but of course should not be counted in determining a majority of the unit set

forth above. The secretary testified, however, that not more than 100 of the members carried on the Union books belonged in this category.

In addition to the book record of members, a batch of Union membership application cards was produced at the hearing signed by hourly rate employees whose names had not yet been recorded. Thirty-five of such employees had already paid their initiation fees, while 29 had not. Each card carried the following statement: "The undersigned hereby authorizes and requests the United Electrical and Radio Workers of America, through its officers, to represent me for the purpose of collective bargaining with regard to wages, hours and working conditions."

Since one of the purposes of the Union is to carry on collective bargaining for its members, all members must be considered as having designated the Union as their representative for this purpose. We are, therefore, justified in counting all present recorded members, except clerical employees, together with all persons who have signed membership applications, in determining whether the Union has been designated as the collective bargaining agency by a majority of the East Pittsburgh Division employees. On this basis the Union appears to have been so designated by at least 7,156 employees in the unit of 11,521, a clear majority. No secret ballot is necessary, and we will certify the Union as the exclusive representative of all the employees in the appropriate unit.

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. All hourly rate employees employed by Westinghouse Electric & Manufacturing Company in the East Pittsburgh, Trafford, and Home Service Works, including Linhart and Copper Mill, except supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the employees in the aforesaid unit, within the meaning of Section 9 (c) of the National Labor Relations Act.

3. United Electrical & Radio Workers of America, Local No. 601, having been selected for the purposes of collective bargaining by the majority of the employees in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

CERTIFICATION OF REPRESENTATIVES

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Electrical & Radio Workers of America, Local No. 601, has been designated and selected by a majority of the hourly rate employees, employed by Westinghouse Electric & Manufacturing Company in its East Pittsburgh, Trafford, and Homewood Service Works, including Linhart and Copper Mill, excluding supervisory employees, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, United Electrical & Radio Workers of America, Local No. 601, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.