

In the Matter of SUNLIGHT ELECTRIC COMPANY and UNITED ELECTRICAL  
& RADIO WORKERS OF AMERICA

*Case No. R-565.—Decided March 29, 1938*

*Electric Motor Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: refusal by employer to recognize petitioning union as the exclusive bargaining agent of its employees—*Unit Appropriate for Collective Bargaining:* production and maintenance employees, exclusive of clerical and supervisory employees; stipulation—*Representatives:* proof of choice: applications for membership in union; comparison, pay roll with union cards—*Certification of Representatives:* upon proof of majority representation.

*Mr. Peter Di Leone*, for the Board.

*Mr. Bruce G. Booth*, of Detroit, Mich., for the Company.

*Mr. James Pascoe*, of Dayton, Ohio, for the United.

*Mr. W. W. Pierson*, of Warren, Ohio, for Electric Workers, Inc.

*Mr. A. J. Toth*, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On September 14, 1937, United Electrical & Radio Workers of America, Local No. 717,<sup>1</sup> herein called the United, filed with the Regional Director for the Eighth Region, Cleveland, Ohio, a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Sunlight Electric Division of General Motors Corporation,<sup>2</sup> herein called the Company, and requesting that an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On November 29, 1937, the National Labor Relations Board, herein called 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, ordered an investigation

<sup>1</sup> Referred to in the Order Directing Investigation and Hearing as United Electrical & Radio Workers of America.

<sup>2</sup> The petition as originally filed designated the Company as Sunlight Electric Company, but at the hearing it was amended without objection to designate the Sunlight Electric Division of General Motors Corporation

and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On December 30, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the United. Pursuant to the notice, a hearing was held on January 10, 1938, at Warren, Ohio, before William Seagle, the Trial Examiner duly designated by the Board. At the hearing, Sunlight Electric Workers, Inc., herein called Electric Workers, a labor organization claiming to represent employees directly affected by the investigation, was granted leave to file an intervening petition. The Board, the Company, the United, and the Electric Workers, were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

General Motors Corporation, a Delaware corporation with its principal offices in New York City and Detroit, Michigan, operates at Warren, Ohio, the Sunlight Electric Division which is engaged in the manufacture of electric motors. The raw materials used in connection with such manufacture are copper wire, steel, cast iron, paper, bare copper, and wedges. Forty-four per cent of the materials are purchased from sources outside the State of Ohio and ninety-five per cent of the finished products are normally shipped to points outside Ohio.

During the peak of production in August 1937, the Company employed 858 persons, exclusive of clerical and supervisory employees, and on January 10, 1938, the date of the hearing, it employed 627 such persons.

##### II. THE ORGANIZATIONS INVOLVED

United Electrical & Radio Workers of America, Local No. 717, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all production and maintenance employees of the Company, excluding clerical and supervisory help.

Sunlight Electric Workers, Inc., is an independent labor organization organized and incorporated under the laws of the State of Ohio on July 20, 1937. It admits to its membership all employees of the Company, except clerical and supervisory employees.

### III. THE QUESTION CONCERNING REPRESENTATION

On April 1, 1937, the United, claiming to represent a majority of the employees of the Company within an appropriate unit, submitted to the general manager of the Company a proposed agreement recognizing the United as the exclusive bargaining representative of such employees. The general manager stated that the Company would be unable to grant such recognition and that the General Motors Corporation had a contract with the United Automobile Workers of America covering employees of the Sunlight Electric Division. At the hearing, however, counsel for the Company made a formal statement indicating that the Company no longer took the position that the contract between the United Automobile Workers of America and the General Motors Corporation applied to the employees here involved. Thereafter, on April 8, 1937, the Company by letter notified the United that it was recognized as the exclusive bargaining representative of its members only. On May 26 and July 22, 1937, the United renewed its demand for recognition as the exclusive bargaining agent of all the employees, exclusive of clerical and supervisory employees. On July 22, 1937, the Company, by letter, stated that it could not grant such recognition. In a letter dated July 20, 1937, Electric Workers notified the Company of its organization and requested recognition as the bargaining representative of its members. On September 24, 1937, the Company posted a notice on its bulletin board recognizing Electric Workers as the exclusive bargaining agent of its members. At the hearing, the Company stated that it did not know what labor organization represented a majority of its employees.

We find that a question has arisen concerning representation of employees of the Company.

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION

We find that the question concerning representation that has arisen, occurring 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.

## V. THE APPROPRIATE UNIT

At the hearing, all the parties stipulated that all employees of the Company, exclusive of clerical and supervisory employees, constitute an appropriate bargaining unit.

We find that the production and maintenance employees, excluding clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

## VI. THE DETERMINATION OF REPRESENTATIVES

Victor Decavitch, president of the United, testified at the hearing that the United represented between 670 and 700 employees of the Company, 360 of which had signed a petition circulated November 6, 1937, authorizing the United to represent them. Herbert E. Engster, president of Electric Workers, testified at the hearing that his union represented between 280 and 300 employees and of this group, that 185 had signed membership application cards, and that 85 to 100 signed a petition stating that the person signing did not desire the United as the bargaining representative and asking that an election be held. The petition of the United and the cards of the unions were not introduced in evidence, but the parties stipulated that an agent of the Board should check them against pay-roll data of the Company for authenticity and duplications of signatures and that the results of the check should be incorporated in the record and be deemed a part of the evidence in the proceeding. The check made by Peter Di Leone, regional attorney, showed 532 "signatures on lists and cards of the United"; 102 "signatures on Electric Workers cards only"; 85 "duplications (signatures) on cards and lists of both unions"; 18 signatures of persons resigned, and 6 of persons whose names do not appear on the pay roll.

Since the stipulation made at the hearing did not provide for a check of the cards and petition against the pay roll of the Company as of any specific date, the parties, on March 4, 1938, further stipulated that the pay-roll date current as of January 10, 1938, be used to determine the number of maintenance and production employees of the Company that designated the United or Electric Workers to represent them for the purposes of collective bargaining. The stipulation also provided that the results of the check were to be made a part of the record in the case.

Pursuant to the stipulation, a check of the cards and petition of the United and the cards of Electric Workers against the January 10 pay roll was made at the offices of the Company by Field Examiner

Andrew A. Meyer in the presence of Victor Decavitch, the representative of the United, Herbert E. Engster, the representative of Electric Workers, and E. E. Madden, the representative of the Company. The check showed that of the employees within the appropriate unit on the pay roll of January 10, 381 employees signed United cards, 12 employees signed the United petition authorizing representation, 86 employees signed Electric Workers cards, and 62 employees, in addition to those already mentioned, signed both Electric Workers cards and the petition or cards of the United.<sup>3</sup>

Thus, 393 persons within the appropriate unit whose names appeared on the Company's pay roll as of January 10, 1938, designated the United as their bargaining representative. Counsel for the Company stated at the hearing that there were 627 production and maintenance employees, exclusive of clerical and supervisory employees, on its pay roll on January 10, 1938. It is apparent, therefore, that a majority of the employees of the Company within the appropriate unit desire the United to represent them for the purposes of collective bargaining.

We find that the United has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Sunlight Electric Division of General Motors Corporation, Warren, Ohio, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company, excluding clerical and 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.

3. United Electrical & Radio Workers of America, Local No. 717, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

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<sup>3</sup> The United claims that 11 additional employees should be included in the check, 9 of whom signed United cards and 2 signed Electric Workers cards. The 11 were laid off January 5, 1938, and paid in full on January 7, 1938. The United contends that since the 11 employees were on the pay roll during the same working period, namely, January 1 to January 13, as the employees actually working on January 10, they were employees on the "pay roll date current as of January 10, 1938." The Board need not, however, decide this issue since determination of the question as to whether the United represents a majority within the appropriate unit is not dependent thereon.

## 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, 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. 717, has been designated and selected by a majority of the production and maintenance employees of Sunlight Electric Division of General Motors Corporation, Warren, Ohio, excluding clerical and 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. 717, 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.