

In the Matter of PENNSYLVANIA GREYHOUND LINES, INC. and TRANSPORT WORKERS UNION OF AMERICA, LOCAL NO. 155

*Case No. R-422.—Decided March 31, 1938*

*Bus Transportation Industry—Investigation of Representatives:* rival organizations; controversy as to appropriate unit—*Unit Appropriate for Collective Bargaining*—proposed unit of maintenance men, porters, and baggage clerks, including or excluding ticket agents, at one point in company's lines, inappropriate because other employees at the same point whose functions and interests are closely allied to those within the unit are excluded—*Order:* dismissing Petition for Investigation and Certification.

*Mr. Henry Shore*, for the Board.

*Mr. Ivan Bowen*, of Minneapolis, Minn., and *Mr. Charles H. Young*, of New Castle, Pa., for the Company.

*Mr. Benjamin C. Sigal*, of Pittsburgh, Pa., for the T. W. U.

*Mr. Paul R. Hutchings*, of Washington, D. C., for the I. A. M.

*Mr. A. Lane Cricher*, of Pittsburgh, Pa., for the Brotherhood.

*Mr. Clyde J. Ringer*, of Avalon, Pa., for the M. C. E. U.

*Mr. Bernard W. Freund*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On September 22, 1937, Robert J. Davidson, field representative of the Committee for Industrial Organization, acting in behalf of the Transport Workers Union of America, Local No. 155, herein called the T. W. U., 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 employees of Pittsburgh Division,<sup>1</sup> Pennsylvania Greyhound Lines, Inc., and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. The petition was later amended to state correctly the name of the employer as Pennsylvania Greyhound Lines, Inc., herein called the Company. On October 21, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to

<sup>1</sup> At the hearing the T. W. U. defined "Pittsburgh Division" as including only the garage and terminal operated at Pittsburgh, Pennsylvania, by Pennsylvania Greyhound Lines, Inc.

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

On November 22, 1937, the Regional Director granted leave to intervene to the International Association of Machinists, herein called the I. A. M., a labor organization claiming to represent employees directly affected by the investigation. On November 24, 1937, the Regional Director granted leave to intervene to the Brotherhood of Railway Trainmen, herein called the Brotherhood, a labor organization heretofore certified by the Board as the representative of all bus drivers employed by the Company.<sup>2</sup>

On September 21, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, the T. W. U., and the I. A. M. Pursuant to the notice a hearing was held on November 26 and 27, 1937, at Pittsburgh, Pennsylvania, before Albert H. Lohm, the Trial Examiner duly designated by the Board. At the commencement of the hearing the Trial Examiner granted leave to intervene to the Motor Coach Employees Union, Inc., herein called the M. C. E. U., a labor organization claiming to represent employees directly affected by the investigation. The Board, the Company, the T. W. U., and the Brotherhood were represented by counsel; the I. A. M. by its assistant director of research; and the M. C. E. U. by its acting organizer. All 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.

The Trial Examiner permitted the T. W. U. to amend its petition during the course of the hearing by substituting Pennsylvania Greyhound Lines, Inc., for Pittsburgh Division, Pennsylvania Greyhound Lines, Inc., and by restating its allegations with regard to the appropriate unit. On the second day of the hearing the Trial Examiner refused to admit evidence offered by the M. C. E. U. for the purpose of proving that it had been designated as bargaining agent by certain employees of the Company at Pittsburgh. This evidence was relevant to the issue of whether the unit proposed by the T. W. U. was appropriate, and should have been received. The Trial Examiner's ruling was not prejudicial, however, in view of our disposition of the case. During the course of the hearing the Trial Examiner made other 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.

<sup>2</sup> 3 N L R. B. 622.

Pursuant to leave granted by the Trial Examiner, briefs were filed subsequent to the hearing by the Brotherhood and the I. A. M. jointly, and by the T. W. U. On February 21, 1938, oral argument was had before the Board in Washington.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Company is engaged in the bus transportation business in the East and Middle West. At a number of points along its lines the Company operates garages and terminals, among which are a garage and a terminal at Pittsburgh, Pennsylvania, which are here involved.

At the hearing the Company stipulated that it is engaged in interstate commerce, that a substantial part of the Company's business in and out of Pittsburgh is interstate, and that all employees within the unit claimed by the T. W. U. to be appropriate are engaged in the operations of the Company. The Board has assumed jurisdiction over the Company in two previous cases.<sup>3</sup> The Company stipulated that the findings of fact relating to the Company and its business made by the Board in *Matter of Pennsylvania Greyhound Lines, et al.* and *The Brotherhood of Railroad Trainmen, Case No. R-151*,<sup>4</sup> are true and that the record upon which those findings were made be incorporated as part of the record in this case in so far as relevant.

#### II. THE ORGANIZATIONS INVOLVED

The Transport Workers Union of America is a labor organization affiliated with the Committee for Industrial Organization. Local No. 155 of the T. W. U., formerly called the United Bus Employees of America, has been authorized by the T. W. U. to organize employees of the Company in and about Pittsburgh, Pennsylvania. The president of Local No. 155 testified that the local admits to its membership maintenance men, porters, baggage clerks, and ticket agents employed in the Company's Pittsburgh garage and terminal.

The International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to its membership maintenance employees of the Company throughout its lines.

The Motor Coach Employees Union, Inc., is a recently formed independent labor organization. It has solicited applications for membership among maintenance men, ticket agents, information clerks, telephone operators, and baggage clerks employed by the Company in Pittsburgh.

<sup>3</sup> 1 N. L. R. B. 1, and 3 N. L. R. B. 622.

<sup>4</sup> 3 N. L. R. B. 622.

## III. THE APPROPRIATE UNIT

In its original petition the T. W. U. alleged that maintenance men, porters, and ticket agents employed in Pittsburgh constitute a unit appropriate for purposes of collective bargaining. During the hearing the petition was amended in this respect to include baggage clerks also. Both the I. A. M. and the Brotherhood contend that the unit proposed by the T. W. U. is not appropriate because it is not an employer unit, a craft unit, a plant unit, or a subdivision thereof. The record does not disclose that either the M. C. E. U. or the Company takes any specific position regarding the appropriate unit.

At the Pittsburgh garage about 90 maintenance men and 3 or 4 drivers' room attendants are employed. Maintenance employees are paid on an hourly basis, with very few exceptions, and receive time and one-half for overtime. Two and one-half miles away, at the terminal, the Company has employees variously classified as starter, ticket agent, desk information clerk, telephone information clerk, telephone operator, baggage clerk, stenographer, janitor, porter ("red-cap"), ladies' room attendant, men's room attendant, and ticket office clerk. On September 15, 1937, there were 7 ticket agents, 10 baggage clerks, 23 porters, and a total of 28 employees in the other classifications with not more than 6 employees in any one classification. Porters are paid \$1 per month, depending on tips for their livelihood. All other terminal employees work on a monthly salary, with straight time for overtime. The Company has established a seniority system among the maintenance men and among the ticket agents, but not among the baggage clerks or porters.

Comparison of authorizations from employees submitted by the T. W. U. and the M. C. E. U. with Company pay rolls for September 15, 1937, pursuant to stipulation by all parties, reveals that the T. W. U. has been designated as bargaining representative by 86 of the 90 maintenance men, 16 of the 23 porters, and 1 of the 7 ticket agents employed on that date and that the M. C. E. U. has been designated by 4 maintenance men, 4 ticket agents, and 1 baggage clerk. Four of these employees gave authorizations to both the T. W. U. and the M. C. E. U.

The unit claimed by the T. W. U. to be appropriate excludes a number of classifications of employees of the Company in Pittsburgh whose functions and interests are closely allied to those of employees included within the proposed unit. Porters and baggage clerks are included, but not drivers' room attendants, janitors, or rest-room attendants; ticket agents are claimed to be properly joined with maintenance men, porters, and baggage clerks, but not any of the other white-collar workers. The seemingly arbitrary exclusions

from the proposed unit find no justification in the record. The unit is not based on any craft or similar distinction, or predicated upon any history of collective bargaining either in the Company's Pittsburgh garage and terminal or in the bus transportation industry generally. We conclude that a unit composed of maintenance employees, porters, baggage clerks, and ticket agents employed by the Company in Pittsburgh is not appropriate for the purposes of collective bargaining.

In its brief filed subsequent to the hearing the T. W. U. indicated its willingness to bargain for a unit composed only of maintenance men, porters, and baggage clerks, in the event the Board should determine that ticket agents should be excluded from the unit proposed in the amended petition. In support of this smaller unit the T. W. U. emphasized the fact that certain of the employees contained within it work together at the terminal during peak periods to get busses serviced and ready to leave on schedule. We do not feel that this fact is sufficiently significant to warrant our setting aside these three classifications in a separate bargaining unit. The considerations governing our conclusion above that the larger unit proposed by the T. W. U. is not appropriate are equally applicable here.

The I. A. M. and the Brotherhood also contended that no bargaining unit restricted to the Pittsburgh employees of the Company is appropriate. The I. A. M. states in connection with this position that it represents maintenance men employed in garages operated by the Company along its lines outside Pittsburgh. Since we have decided on other grounds that the unit proposed by the petitioning union is not appropriate, we do not find it necessary to consider the merits of the contention made by the I. A. M. and the Brotherhood.

#### IV. THE QUESTION CONCERNING REPRESENTATION

The petition in this case, as amended, relates solely to maintenance men, porters, baggage clerks, and ticket agents employed by the Company in its garage and terminal at Pittsburgh. We have found in Section III above that no proposed unit among these employees is appropriate for the purposes of collective bargaining. We therefore find, on the basis of the record in this case, that no question has arisen concerning the representation of employees of the Company in an appropriate bargaining unit within the meaning of the Act.

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

#### CONCLUSION OF LAW

No question concerning the representation of employees of Pennsylvania Greyhound Lines, Inc., in an appropriate bargaining unit

exists within the meaning of Section 9 (c) of the National Labor Relations Act.

### ORDER

Upon the basis of the foregoing findings of fact and conclusion of law the National Labor Relations Board hereby dismisses the Petition for Investigation and Certification filed in this proceeding in behalf of the Transport Workers Union of America, Local No. 155.