

In the Matter of WISCONSIN POWER AND LIGHT COMPANY and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, LOCAL NO. 1134

Case No. R-588.—Decided March 31, 1938

Gas and Electric Utility Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; controversy as to appropriate bargaining unit—*Unit Appropriate for Collective Bargaining:* employees in all districts: similarity of interests and functions of employees; history of collective bargaining relations with employer; organization of business; petitioning union claims majority in one district: rival organizations represent employees in all districts considered as one unit: unit confined to employees of one district is inappropriate—*Order:* dismissing Petition for Investigation and Certification of employees in one district only.

Mr. Morris L. Forrer, for the Board.

Mr. William Ryan, of Milwaukee, Wis., for the Company.

Mr. James C. White, of Milwaukee, Wis., for the United.

Mr. I. E. Goldberg, of Milwaukee, Wis., for the Brotherhood, and the Amalgamated.

Mr. Edwin L. Swope, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On October 28, 1937, United Electrical, Radio and Machine Workers of America, Local No. 1134, herein called the United, filed with the Regional Director for the Twelfth Region (Milwaukee, Wisconsin) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Wisconsin Power and Light Company, Beloit, Wisconsin, herein called the Company, 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. On January 27, 1938, 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 and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On January 28, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the United, upon the International Brotherhood of Electrical Workers, herein called the Brotherhood, and upon the Amalgamated Association of Street, Electric Railway & Motor Coach Employees of America, herein called the Amalgamated, the latter three labor organizations claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on February 3, 1938, at Beloit, Wisconsin, before Alvin J. Rockwell, the Trial Examiner duly designated by the Board. The Board, the Company, the United, the Brotherhood, and the Amalgamated 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 no prejudicial errors were committed. The rulings are hereby affirmed.

On February 28, 1938, the Company filed a brief with the Board urging that the petition be dismissed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Wisconsin Power and Light Company is a public utility corporation, organized under the laws of Wisconsin, with its principal office at Madison, Wisconsin. A majority of the Company's common stock is owned by the North West Utilities Company which is controlled by the Middle West Utilities Company. The Company has three subsidiaries, one of which is located in South Beloit, Illinois. The Company is engaged principally in providing electricity, gas, and water for about 15,000 square miles of territory within the State of Wisconsin. As an incident to its gas and electric business, it sells gas and electric appliances at retail. It also operates several intracity and intercity bus lines, one of which crosses the State line into Dubuque, Iowa, and one small intrastate electric railroad which operates between Sheboygan and Plymouth where it connects with the Chicago, Milwaukee and St. Paul Railroad. During 1936 the Company did a business of approximately \$8,250,000 and employed about 1,300 persons.

In 1936 the Company purchased approximately \$1,700,000 worth of the following materials, most of which were manufactured or

originated outside of Wisconsin: Coal, poles, copper wire, gasoline, oil transformers, regulators and similar equipment, gas and electric merchandise for resale, and other miscellaneous material of various kinds.

The Company is furnishing service outside of Wisconsin to South Beloit and Rockton, both located in Illinois, and to a few farmers living just across the boundary line in the State of Illinois. It furnishes service to several post offices and other federal buildings, and to air beacons located in its territory. It also furnishes full or part-time service to a number of industrial firms some of which are as follows: Gates American Company, Taylor Freezer Company, Fisher Rotary Oven Company, Freeman Shoe Company, Box Board Company, Gardner Machine Company, General Refrigeration Company, and Wisconsin Knitting Company.

The Company has about thirty plants located in different parts of its territory. The largest power plants are the hydroelectric plants at Prairie du Sac and Wisconsin Dells, the steam plant at Edgewater, and the steam and hydroelectric plants at Beloit. It has divided its territory into 14 Districts in order to be in closer contact with its consumers and to take better care of their needs. The only District referred to in the petition is the Beloit District, which is located near the boundary line between Wisconsin and Illinois. Most of the electricity, gas, and water which is sent outside of Wisconsin by the Company is sent out of this District to be distributed by its subsidiary in South Beloit, Illinois. There are about 120 persons employed in the District.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio and Machine Workers of America, Local No. 1134, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all employees of the Company in the Beloit District, excluding office, sales, and supervisory employees, and bus drivers.

International Brotherhood of Electrical Workers is a labor organization affiliated with the American Federation of Labor. It claims jurisdiction over all types of electrical workers in the Company, excluding sales, supervisory, and clerical employees.

Amalgamated Association of Street, Electric Railway & Motor Coach Employees of America is a labor organization affiliated with the American Federation of Labor. It admits to membership all the employees of the Company engaged in operating the Company's electric railroad, bus system and gas plants, and also janitors, but excludes sales, clerical, and supervisory employees.

III. THE APPROPRIATE UNIT

The United claims that the employees of the Beloit District, excluding office, sales, and supervisory employees, and bus drivers, constitute an appropriate bargaining unit. It claims to represent a majority of such employees. The Brotherhood and the Amalgamated contend that the bargaining unit or units should be composed of employees in all 14 Districts. The Brotherhood states that it has as members a majority of the electrical workers in all 14 Districts. The Amalgamated states that it has as members a majority of all the electric railroad and bus system employees, janitors and gas plant employees in the 14 Districts. The claims of the Brotherhood and the Amalgamated with respect to the 14 Districts together cover substantially the same classifications of employees as are covered by the claim of the United with respect to the Beloit District. On December 17, 1937, the Brotherhood and the Amalgamated each entered into an exclusive bargaining contract with the Company covering the employees in all 14 Districts which each claims to represent.

The record indicates that the functions and interests of employees in all 14 Districts are similar and closely related. Under such circumstances and in view of the nature of the business here involved, we are of the opinion that a unit composed of employees of only one district is not appropriate for the purposes of collective bargaining if any lawful labor organization or organizations represent the employees in all Districts considered as one unit.¹ On the basis of the claims of the Brotherhood and the Amalgamated, they each represent a majority of all employees of the Company in the 14 Districts within the classifications which each claims to represent. No issue was raised as to these claims at the hearing.

We find that a unit composed solely of employees of the Beloit District is not appropriate for the purposes of collective bargaining. Since the only petition filed in this proceeding relates solely to employees in this District, it is not necessary to determine what would be the appropriate unit if the petition were broader in scope.

IV. THE QUESTION CONCERNING REPRESENTATION

The petition in this case, as pointed out in Section III above, relates solely to employees of the Company in the Beloit District. We have found in Section III that a unit composed solely of employees of the Beloit District is not appropriate for the purposes of collective bargaining. We find, therefore, that no question has been raised

¹ See *Matter of Swift and Company and Packing House Workers Union, Local No 563*, 4 N. L. R. B. 779, *Matter of United Shipyards, Inc and Locals No 12, No 13, No 15 of The Industrial Union of Marine and Shipbuilding Workers of America*, 5 N. L. R. B. 742.

concerning the representation of employees in an appropriate bargaining unit.

Upon 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 Wisconsin Power and Light Company in a unit which is appropriate for the purposes of collective bargaining has arisen, 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 by United Electrical, Radio and Machine Workers of America, Local No. 1134.