

In the Matter of TENNESSEE ELECTRIC POWER COMPANY and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Case No. R-627.—Decided May 5, 1938

*Electric, Motorbus, Street Railway, Telephone, and Water Utility Industry—Investigation of Representatives:* controversy concerning representation of employees; controversy concerning appropriate unit; rival organizations; collective agreement with rival organization, executed subsequent to filing of petition, no bar to direction for election—*Unit Appropriate for Collective Bargaining:* all employees throughout the electrical utility system of the company in Tennessee and Georgia, and all other employees who engage in, or devote a substantial amount of time to, the production, transmission, or distribution of electricity, or the operation, construction, and maintenance incident thereto, or electrical work, in general, excluding certain categories; system-wide; community of interest; functional coherence; occupational differences; employees not eligible for membership in established labor organization—*Election Ordered:* pay-roll list furnished for purpose of, pursuant to agreement; name of one union omitted from ballot upon request.

*Mr. M. A. Prowell*, for the Board.

*Mr. Silas Williams*, of Chattanooga, Tenn., for the Company.

*Mr. E. D. Bieretz*, of Washington, D. C., and *Mr. George L. Googe* and *Mr. O. A. Walker*, of Atlanta, Ga., for the Brotherhood.

*Mr. Sidney Elliott Cohn*, of New York City, and *Mr. H. E. Howard, Jr.*, of Chattanooga, Tenn., for the United.

*Mr. Stanley J. Morris*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 1, 1937, International Brotherhood of Electrical Workers, herein called the Brotherhood, filed with the Regional Director for the Tenth Region (Atlanta, Georgia) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Tennessee Electric Power Company, Chattanooga, Tennessee, 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 December 20, 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 and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On January 13, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Brotherhood, and upon United Electrical, Radio and Machine Workers of America, herein called the United, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on February 3 and 4, 1938, before James C. Paradise, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel; the Brotherhood and the United by their respective officials. All parties 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 various rulings. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On March 3, 1938, pursuant to notice, a hearing was held before the Board in Washington, D. C., for the purpose of oral argument. The Company was represented by counsel, and the Brotherhood by its representatives. Counsel for Utility Workers Organizing Committee, herein called the U. W. O. C., a labor organization affiliated with the Committee for Industrial Organization, appeared and stated that the U. W. O. C. had been authorized to represent, in this proceeding, employees of the Company formerly represented by the United.<sup>1</sup> Upon no objection being raised by any of the parties, the Board granted leave to the U. W. O. C. to be substituted for the United. All parties participated in the oral argument. At the close of the hearing, it was agreed by the parties that a certain "List of Employees on Payroll October 31, 1937," prepared by the Company and filed with the Board on February 25, 1938, setting forth the names of persons in the employ of the Company on October 31, 1937, the nature of their work, and certain other matters, be admitted to the record as prima facie evidence of the facts therein contained, and in the event an election be directed by the Board as part of the investigation ordered that the list be taken for such purpose.<sup>2</sup> Said

<sup>1</sup> Counsel explained that theretofore organization activity among utility workers and their representation, by the United, had been carried on through its Utilities Division and that this Division had separated itself from the United to form the U. W. O. C.

<sup>2</sup> The list is entitled "The Tennessee Electric Power Company List of Employees on Payroll October 31, 1937, As Requested by The Trial Examiner For the National Labor Relations Board At Hearing in Chattanooga, February 4, 1938."

list is hereby admitted in evidence as part of the record in this proceeding. With respect to certain employees noted in the list as "No Longer Employed," the parties agreed that such persons were to be considered for the purpose of this case as employees who either had quit or been discharged for cause since October 31, 1937. The employees so noted will be so considered.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Tennessee Electric Power Company is a Maryland corporation and has its main office in Chattanooga, Tennessee. It owns and operates a public utilities system covering a substantial portion of the State of Tennessee and a small contiguous area in Georgia. The largest cities which it serves are Chattanooga and Nashville.

The principal business of the Company consists in the production, transmission, and distribution of electrical energy. Power is developed at a number of steam and hydroelectric stations or plants in Tennessee and at one large hydroelectric station in Blue Ridge, Georgia. There are also in operation a few small Diesel or semi-Diesel generating stations. All of the stations are connected by a network of 1,600 miles of high-tension wires. The lines pass through 92 substations and have direct connecting tie-ins with power stations operated by other utility companies in Alabama, Kentucky, North Carolina, and Georgia. These connections permit the purchase and sale of electricity under reciprocal contracts, an exchange of energy when necessary to attain a mutually economical flow, assistance in the event of stoppages, and other benefits. A continuous flow of current moves over these connections. In 1937, the Company purchased 7 per cent of its load, or 70 million kilowatt hours, from power companies in Alabama, Georgia, and Kentucky; and delivered about 8 per cent of its current outside of Tennessee.

Among the customers of the Company purchasing electricity are substantially all industries within the territory covered by the system, the Western Union Telegraph Company and Postal Telegraph Company, the United States post offices, the Southern Bell Telephone Company which operates the telephone system in Tennessee, two radio stations in Chattanooga and one in Nashville, and various airports and the radio beacons maintained for the use of interstate air lines.

The Company owns and operates as incident to its power business, street railway and motorbus systems in Chattanooga and Nashville,

Tennessee; a motorbus line from Chattanooga to Ft. Oglethorpe, Georgia; water plants and distribution systems in 10 Tennessee towns and at Blue Ridge, Georgia; ice-manufacturing plants in 7 towns in Tennessee; a small hotel and commissary at Hales Bar, and a somewhat larger hotel at Parksville, Tennessee; a small telephone system in Blue Ridge, Georgia; and a number of retail stores selling electrical appliances and other merchandise in Tennessee and Georgia.

The business of the Company is carried on through seven operating divisions: the Production and Transmission Department, the Chattanooga District, Nashville District, East Tennessee District, North Tennessee District, Middle Tennessee District, and Cumberland District.

The Production and Transmission Department is in charge of the production and transmission of electricity throughout the system. Its headquarters are at the main office of the Company in Chattanooga. The department operates and maintains the power generating stations at Nashville, Hales Bar, Great Falls, Estill Springs, Ocoee No. 1, Ocoee No. 2, and Parksville, Tennessee; and Blue Ridge, Georgia.<sup>3</sup> It also operates and maintains the substations. It engages in certain construction and maintenance work, chiefly in connection with the towers and high-tension lines.<sup>4</sup>

The six districts have authority over all business of the Company except the production and transmission of power and current. For purposes of district administration, the territory covered by the system is divided into geographic subdivisions equal to the number of districts, and each district is given control over all business derived from within one of the subdivisions. Unlike the Production and Transmission Department, the districts are not managed from the main office in Chattanooga, but enjoy some autonomy. However, the main office exercises a general review and determines general policy, handles certain matters common to all districts, and undertakes some details like the billing of customers. The distribution of electricity to consumers, and incidental construction and mainte-

<sup>3</sup> Classification of employees in the power stations is substantially as follows: Engineers, boiler operators and helpers, boiler room laborers, firemen, condenser and turbine operators, switchboard operators, assistant and relief switchboard operators, oilers, conveyer belt operators, ash crane and ash drag operators, larry operators, crusher operators, brakemen, water tenders, coal unloaders, coal drag operators, electricians and electrician helpers, mechanics, machinists, flume patrol and gate watchmen, brick masons, clerks, superintendents, assistant superintendents, nurse, janitors, storeroom manager and storeroom clerks, and various laborers.

<sup>4</sup> Employees working outside the power stations include the following: System load dispatchers and assistant dispatchers, substation operators and substation watchmen, control operators, electricians and electrical helpers, mechanics, cable splicers, dynamite men, linemen, groundmen, truck drivers, telephone maintenance men, tower painters, janitors, night watchmen, clerks, stenographers, foremen, subforemen, chief electricians, and various laborers.

nance;<sup>5</sup> the operation and maintenance of the street railway and motorbus transportation systems in Chattanooga and Nashville, including the street railway and bus repair shops, garages, car barns, and storehouses;<sup>6</sup> the operation and maintenance of ice-manufacturing plants, water plants and distribution systems, and a telephone system; the operation of the retail stores, hotels, and commissaries<sup>7</sup> come within the jurisdiction of the districts.

## II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers is a labor organization affiliated with the American Federation of Labor. It admits to membership all types of electrical workers including those engaged in the production, transmission, and distribution of electricity, and in the operation, construction, and maintenance of the means thereof. It excludes from membership, so far as here material, supervisory employees of the rank of general foremen and higher, clerical employees, office workers, meter readers, collectors, janitors and building service employees, civil engineers and draftsmen, surveyors, and temporary employees, provided that any employee otherwise excluded, except supervisory employees, who engages in a substantial amount of electrical work, is admitted.

<sup>5</sup> The employees engaged in the distribution of electricity to consumers, and in related construction and maintenance, are classified principally as follows: Metermen, meter readers, meter service men, cut-out men, electric service men, home lighting, lighting sales, collectors, bill deliverers, line foremen, linemen, groundmen, truck drivers, auto and truck mechanics, cable splicers, cable splicer helpers, electricians, electrician helpers, mechanics, mechanic helpers, chief control and control operators, appliance service men, janitors, clerks, and various laborers.

<sup>6</sup> Employees in the street railway and motorbus systems at Chattanooga and Nashville are divided into seven departments. These employees include workers in the district transportation department, viz., street car and bus operators, dispatchers, inspectors, schedule time and traffic checkers, switchmen, incline operators and conductors at Lookout Mountain and incline porters and laborers, oilers, pressers, porters, gatemen, ticket agents, janitors, division superintendents, and various laborers; workers in the district track department, viz., foremen, rock car operators, truck drivers, welders, sanders, oilers, greasers, switch maintenance men, foremen, and laborers; workers in the street car and bus repair shops, the car barns, and garages, viz., machinists, pipe fitters, carpenters, painters, glaziers, cushion menders, upholsterers and body men, bus and car hostlers, blacksmiths, brickmen, armature winders and repairers, oilers, repairmen, motor inspectors, sanders, car and bus cleaners, car and bus washers, bus mechanics, bus greasers, auto and ignition mechanics, sand driers, register readers, electricians, welders, signal men, general maintenance men and helpers, chauffeur, watchmen, janitors, foremen, and laborers; and workers in the storerooms, viz., storeroom helpers and laborers, and watchmen.

<sup>7</sup> The workers engaged in the remaining business operations conducted by the districts include the ice plant operators, water plant operators and distributors, water department service men and laborers, local managers and assistant managers, cashiers, telephone cashier in Blue Ridge, Georgia, clerks, salesmen, garage foremen, foremen, hostlers, cooks, maids, and hotel operators; the small plant operators in charge of the oil-burning generating plants.

The Company also employs throughout the system clerical and office workers of various classifications, supervisory employees of the rank of general foreman and higher, building service employees, and civil engineers, surveyors, and draftsmen.

United Electrical, Radio and Machine Workers of America, is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership employees in the whole of the electrical and radio industry; and at the time of the filing of the petition, and at the hearing before the Trial Examiner,<sup>8</sup> claimed jurisdiction over employees of electric light and power utilities. It also admits to membership unorganized workers employed in operations carried on as incident to the business of such utilities. It excludes from membership, so far as here material, supervisory employees, civil engineers and draftsmen, surveyors, and temporary employees; and also excludes clerical employees, office workers, cashiers, salesmen, and building service employees, working in centers where large numbers of their respective classes are employed.

### III. THE QUESTION CONCERNING REPRESENTATION

The Brotherhood has a history of organizational activity among employees of the Company commencing in 1933. Its early efforts to secure members were confined to utility electrical workers in the Chattanooga and Nashville areas. In February 1935, Local 846 was established as a mixed union for such workers in Chattanooga and vicinity, including the towns of Hales Bar and South Pittsburg. Local 429 enlisted members among similar employees in Nashville. While some first successes were achieved, the organizational work met with reverses. However, in the early part of 1937, the Brotherhood began its present campaign for membership under the direction of its vice president and now claims as members some 590 utility electrical workers in various parts of the system. In addition to Locals 846 and 429, which have been active, Local 961 was chartered in January 1938 for members of the Brotherhood at Columbia, Tennessee, and another local is proposed for members in Murfreesboro and surrounding towns. The Brotherhood has not yet requested a collective bargaining contract with the Company.

The United commenced its present membership drive among employees of the Company in July 1937. Organizational work was begun at Hales Bar and South Pittsburg, and Local 1504 was chartered at Hales Bar for employees of both towns. It is conceded by all parties that at the time of the filing of the petition and the hearing, the United had as members a majority of the employees at Hales Bar and South Pittsburg. Recently it established a local in Chattanooga, and some members have been secured at Estill Springs.

In October 1937, the United requested the Company to enter into a collective bargaining contract with it. A form of agreement was presented and discussed at several conferences. During the course

<sup>8</sup> See footnote 1.

of these negotiations, the Brotherhood protested to the Company against the continuation thereof on the ground that it, and not the United, was the collective bargaining representative of the employees. The Brotherhood asked the Company whether it would consent to the conduct of an election under the direction and supervision of the Board to ascertain which labor organization was the representative. Upon the Company giving its consent, the petition was filed on November 1, 1937. Prompt notice thereof was given the Company by the Brotherhood.

On November 10, 1937, the Company signed a collective bargaining contract with the United applicable to all employees of the Company "now working at Hales Bar and South Pittsburg who are members of the Union, or may become members at a later date," excluding, with certain limitations, superintendents, foremen, and shift engineers. The contract provided, among other things, for exclusive recognition of the United as collective bargaining representative of the employees covered, for preferential employment to members of the United at the two towns, for a 5-per cent wage increase, and for arbitration.

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

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

We find that the question concerning representation which 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.<sup>9</sup>

#### V. THE APPROPRIATE UNIT

The Brotherhood contends that the unit appropriate for the purpose of collective bargaining is system-wide, comprising workers employed by the Company throughout its electrical system in Tennessee and Georgia, that workers employed at Hales Bar and South Pittsburg come within the system-wide unit and do not constitute a group separate and apart. It further contends that a proper classification of employees within such unit would consist of all employees who engage in or devote all or a substantial amount of

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<sup>9</sup> Cf. *Consolidated Edison Company of New York, Inc., et al. v. National Labor Relations Board* (C. C. A. 2d), decided March 14, 1938, C. C. H. Labor Law Service, par. 18110; *Matter of Pacific Gas and Electric Company and United Electrical & Radio Workers of America*, 3 N. L. R. B. 835.

their time to the production, transmission, and distribution of electricity, and in operation, construction, and maintenance incident thereto; except supervisory employees of the rank of general foreman and higher, clerical employees, office workers, meter readers, collectors, janitors, building service employees, civil engineers and draftsmen, surveyors, and temporary employees; provided, that any employee (except supervisory employees) who engages in a substantial amount of electrical work would be included.

Thus, the Brotherhood would exclude from the unit all employees of the Company in the street railway and motorbus systems at Chattanooga and Nashville, that is, workers in the transportation and track departments; in the street car and bus repair shops, car barns, and garages; and in the storerooms.<sup>10</sup> It would also exclude employees engaged in the operation and maintenance of the ice-manufacturing plants, water plants and distribution systems, telephone system at Blue Ridge, Georgia, and hotels and commissaries.<sup>11</sup> It would exclude all salesmen in the retail stores and elsewhere and, in general, supervisory employees of the rank of general foreman and higher, all clerical help, office workers, storeroom employees, janitors, building service employees, and temporary employees. However, it would include in the unit employees within these classifications who devote a substantial amount of their time to electrical work, or in operation, construction, and maintenance incident thereto.

The United contends that irrespective of whether a system-wide unit composed of employees in the electrical system is appropriate for collective bargaining purposes, the employees at Hales Bar and South Pittsburg should be excluded, as a distinct and separate body, from such unit. The United further takes the position that the classification of employees within the unit contended for by the Brotherhood is much too narrow, that all employees of the Company properly should be included except the following: Supervisory employees of the rank of general foreman and higher, civil engineers and draftsmen, surveyors, and temporary employees; and clerical employees, office workers, cashiers, salesmen, janitors, and building service employees, who work in Chattanooga and Nashville where large numbers of these workers are employed.

Thus, the United, in contradistinction to the Brotherhood, would have included in the system-wide unit all clerical employees, office workers, cashiers, salesmen, storeroom employees, janitors, and building service employees, who work in the various towns and cities covered by the utilities system outside of Chattanooga and Nashville; meter readers and collectors; employees in the street railway and

<sup>10</sup> See footnote 6.

<sup>11</sup> See footnote 7.

motorbus system, i. e., workers in the transportation and track departments, in the street car and bus repair shops, car barns and garages, and in the storerooms; and employees engaged in the operation and maintenance of the ice-manufacturing plants, water plants and distribution systems, telephone system, hotels and commissaries.

As noted, the Company is chiefly engaged in the production, transmission, and distribution of electrical energy. It is common knowledge that workers in an electrical utility system are intimately associated with each other in their work despite geographic separations of work situs. There is marked interdependency in the different functions performed throughout the system, as well as a recurrence in function in different parts of the system. Moreover, the record shows that the relations of the electrical utility employees with the Company have been substantially on a system-wide basis. The majority of these workers are in the Production and Transmission Department and report directly to departmental headquarters at the main office in Chattanooga. There is evidence of the transfer of employees from one part of the system to another, as conditions require. The main office in Chattanooga determines the labor policy of the Company for all employees, and any labor organization would have to deal with that office irrespective of what employees in the system it represented.

In view of these circumstances we are of the opinion that in so far as the employees in the electrical system of the Company are concerned, a system-wide unit is appropriate for collective bargaining purposes. The facts establish a mutuality of interest among all such employees concerning working conditions. It will be noted that the Brotherhood claims that it has organized a majority of these employees and has been designated their representative for the purpose of collective bargaining.<sup>12</sup>

We do not believe, however, upon the evidence before us, that the unit should embrace employees engaged in the other businesses of the Company. The workers in the street railway and motorbus systems, the ice-manufacturing plants, water plants and distribution systems, telephone system, the hotels and commissaries, and the retail stores, constitute groups divorced in function and separate in interest from the employees in the electrical system. The record discloses that the United has not succeeded in enrolling any of these workers as members, and the Brotherhood does not admit them. Their greater number, by far, work in the transportation systems at Chattanooga and Nashville, that is, in the transportation and track de-

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<sup>12</sup> Cf. *Matter of Wisconsin Power and Light Company and United Electrical, Radio and Machine Workers of America, Local No. 1134*, 6 N. L. R. B. 320; *Matter of Standard Oil Company of California and Oil Workers International Union, Local 299*, 5 N. L. R. B. 750.

partments, the street car and bus repair shops, car barns and garages, and storerooms. As shown by the evidence, transportation workers, traditionally and at the present, throughout the utilities industry, form separate labor organizations, constitute distinct bargaining units, and enter into their own collective bargaining contracts. The United concedes that if the transportation employees of the Company were organized in a separate, transport-workers labor organization, it would not suggest their being included in the unit. We note two exceptions, though, to the general exclusion of employees in the other businesses. It appears that some of these employees devote a substantial amount of their time either regularly or at definite periods during the year, to work in the electrical system. This is true of some of the local town managers, assistant cashiers, and clerks in the districts, and of some of the ice plant and water plant operators. It likewise is apparently the case with at least some of the workers in the bus repair shops and garages who work on the trucks used by the line crews. Employees who fall in this classification come within the unit, for the reason that their interests are identified substantially with those of the workers in the electrical system. We shall also include employees of the Company, in general, who engage in electrical operations. Neither the Brotherhood nor the United would have these employees excluded, and the nature of their work makes them sufficiently allied with those in the electrical system to infer the existence of a community of interest between them.

The considerations which have led us to find that the system-wide unit among employees in the electrical system is an appropriate one for collective bargaining purposes, impel us to conclude that the employees of the Company at Hales Bar and South Pittsburg, who are engaged in production, transmission, and distribution of electricity, or in operation, construction, and maintenance incident thereto, should not be excluded from such unit.<sup>18</sup> There is no need for repeating what already has been stated in this regard. Work at Hales Bar centers about two power stations and is the same in character as work done elsewhere at the other stations of the Company. High-tension wires connect the Hales Bar plants with Chattanooga, which is only 22 miles distant, and with the rest of the system. The South Pittsburg employees in the electrical system engage in distribution and incidental construction and maintenance, not in production or transmission. Their work likewise is typical of work performed elsewhere throughout the system.

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<sup>18</sup> Cases recognizing a smaller unit within a larger system-wide unit as appropriate for collective bargaining purposes, or a smaller unit already organized before the system as a whole has organized, are distinguishable. Cf. *Matter of Armour & Company* and *International Association of Machinists, Local 92*, 5 N. L. R. B. 535; *Matter of Associated Press and The American Newspaper Guild*, 5 N. L. R. B. 43.

It is true that on November 10, 1937, a majority of the employees at Hales Bar and South Pittsburg, who were members of the United, entered into the agreement with the Company, heretofore set forth. Nevertheless, that contract was executed subsequent to the filing of the petition for certification and must be held subject to this proceeding.

In accordance with the usual rule, supervisory employees of the rank of general foreman and higher, as well as foremen and superintendents who have authority to employ and discharge, or to discharge, will be excluded from the unit. We shall follow the suggestion of the Brotherhood and the United that the civil engineers, draftsmen, and surveyors likewise be excluded. The nature of the work performed by these employees, and the character of their duties and training, distinguish them from the other workers in the electrical system and warrant their exclusion. Upon the same basis, the nurses are to be excluded. Clerical employees of various types, office workers, janitors, and building service employees, watchmen, storeroom workers, and salesmen, if any, have interests and perform functions which differentiate them from the workers within the unit deemed appropriate, and they too shall be excluded, provided that if any of these employees devote a substantial amount of their time to electrical work, they will be included. Meter readers, bill deliverers, and collectors, whose work approximates clerical work in character, for the same reason are not to be included, unless they too spend a substantial part of their time in electrical work. Temporary employees, that is, skilled or unskilled workers employed on a temporary basis to perform a particular job or employed on trial for a 90-day period, will be excluded.

We find that the following employees of the Company constitute a unit appropriate for the purposes of collective bargaining: All employees throughout the electrical utility system of the Company in Tennessee and Georgia, including Hales Bar and South Pittsburg, and all employees in the businesses of the Company other than the electrical utility system, who are engaged in, or devote all or a substantial amount of their time either regularly or at definite periods during the year to, the production, transmission, or distribution of electricity, or the operation, construction, and maintenance incident thereto, or electrical work, in general, excluding meter readers, bill deliverers, collectors, civil engineers and draftsmen, surveyors, nurses, clerical employees of all types, office workers, janitors and building service employees, watchmen, storeroom workers, and salesmen, if any, provided, that any of these employees thus excluded who devote a substantial amount of time, as aforesaid, are included, and excluding also supervisory employees of the rank of general foreman and higher,

as well as foremen and superintendents who have a right to hire and discharge, or to discharge, and temporary employees as heretofore defined. We further find 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

The Brotherhood failed to introduce satisfactory proof that it had been designated and selected by a majority of the employees in the appropriate unit as their representative for collective bargaining. Testimony was offered to the effect that it had 590 members among employees of the Company throughout the system. It did not exhibit any list of its members or other evidence of its membership. The Brotherhood estimated that the number of employees within the unit here found appropriate was 1,050, but no precise computation has been shown. The United makes no claim that it represents a majority of the employees of the Company within the system-wide unit. We hold that an election by secret ballot is necessary to resolve the question concerning representation.

The United requests that if an election is directed by the Board in a system-wide unit its name be omitted from the ballot. We shall so direct.

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

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Tennessee Electric Power Company, Chattanooga, Tennessee, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The following employees of the Company constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act: All employees throughout the electrical utility system of the Company in Tennessee and Georgia, including Hales Bar and South Pittsburg, Tennessee, and all employees in the businesses of the Company other than the electrical utility system, who are engaged in, or devote all or a substantial amount of their time either regularly or at definite periods during the year to, the production, transmission, or distribution of electricity, or the operation, construction, and maintenance incident thereto, or electrical work, in general, excluding meter readers, bill deliverers, collectors, civil engineers and draftsmen, surveyors, nurses, clerical employees of all types, office workers, janitors and building service employees, watchmen, storeroom workers, and salesmen, if any,

provided, that any of these employees thus excluded who devote a substantial amount of time, as aforesaid, are included, and excluding also supervisory employees of the rank of general foreman and higher, as well as foremen and superintendents who have a right to hire and discharge, or to discharge, and temporary employees as heretofore defined.

### DIRECTION OF ELECTION

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

**DIRECTED** that, as a part of the investigation ordered by the Board to ascertain representatives for the purposes of collective bargaining with Tennessee Electric Power Company, Chattanooga, Tennessee, an election by secret ballot be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Section 9, of said Rules and Regulations, among all employees throughout the electrical utility system of the Company in Tennessee and Georgia, including Hales Bar and South Pittsburg, and all employees in the businesses of the Company other than the electrical utility system who engage in, or devote all or a substantial amount of their time either regularly or at definite periods during the year to, the production, transmission, or distribution of electricity, or the operation, construction, and maintenance incident thereto, or electrical work, in general, whose names appear on the pay-roll list filed by the Company with the Board on February 25, 1938, excluding meter readers, bill deliverers, collectors, civil engineers and draftsmen, surveyors, nurses, clerical employees of all types, office workers, janitors and building service employees, watchmen, storeroom workers, and salesmen, if any, provided, that any of these employees thus excluded who devote a substantial amount of time as aforesaid are included, and excluding also supervisory employees of the rank of general foreman and higher, as well as foremen and superintendents who have a right to hire and discharge, or to discharge, temporary employees, and employees listed in said list as "No Longer Employed," or who have since October 31, 1937, quit or been discharged for cause, to determine whether or not they desire to be represented by International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

[SAME TITLE]

## AMENDMENT TO DIRECTION OF ELECTION

*May 21, 1938*

On May 5, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled proceeding, the election to be held within twenty (20) days from the date of the Direction, under the direction and supervision of the Regional Director for the Tenth Region (Atlanta, Georgia).

The Board, having been advised that a longer period is necessary, hereby amends the Direction of Election by striking therefrom the words "within twenty (20) days from the date of this Direction" and substituting therefor the words "within thirty (30) days from the date of this Direction."

[SAME TITLE]

## SECOND AMENDMENT TO DECISION

AND

## DIRECTION OF ELECTION

*May 28, 1938*

On May 5, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled proceeding, the election to be held within twenty (20) days from the date of the Direction, under the direction and supervision of the Regional Director for the Tenth Region (Atlanta, Georgia). On May 21, 1938, the Board issued an Amendment to Decision and Direction of Election in the above-entitled proceeding, the election to be held within thirty (30) days from the date of the Direction of Election.

The Board, having been advised that a longer period is necessary, hereby amends the Direction of Election, as amended, by striking therefrom the words "within thirty (30) days from the date of this Direction" and substituting therefor the words "within forty (40) days from the date of this Direction."