

In the Matter of POSTAL TELEGRAPH-CABLE COMPANY OF MASSACHUSETTS
and AMERICAN RADIO TELEGRAPHISTS ASSOCIATION

Case No. R-646.—Decided May 25, 1938

Communications Industry—Investigation of Representatives: controversy concerning representation of employees: employer's refusal to grant recognition of union until question of representation is determined by Board; rival organizations—*Unit Appropriate for Collective Bargaining:* employees under jurisdiction of city superintendent of Boston, excluding the so-called "floating gang" and supervisory employees who have the right to hire and discharge; no controversy as to—*Election Ordered—Certification of Representatives*

Mr. Norman F. Edwards, for the Board.

Mr. J. T. Logue, of New York City, for the Company.

Mr. Sidney Elliott Cohn, of New York City, and *Mr. Mervyn R. Rathbourne*, for the A. R. T. A.

Mr. Harry Winer, of Dorchester, Mass., and *Mr. Kenneth M. Whitten*, of Philadelphia, Pa., for the C. T. U.

Miss Margaret M. Farmer, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On February 16, 1938, American Radio Telegraphists' Association, herein called the A. R. T. A., filed with the Regional Director for the First Region (Boston, Massachusetts) a petition, and on March 17, 1938, an amended petition alleging that a question affecting commerce had arisen concerning the representation of employees of Postal Telegraph-Cable Company of Massachusetts, Boston, Massachusetts, 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 March 14, 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 March 17, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the A. R. T. A., and upon Commercial Telegraphers' Union of the American Federation of Labor, herein called the C. T. U., a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on March 24, 1938, at Boston, Massachusetts, before Charles W. Whittémore, the Trial Examiner duly designated by the Board. The Board was represented by counsel, the Company by its vice president, the A. R. T. A. by its president, the C. T. U. by its representatives, and all participated in the hearing. Full opportunity to be heard, to examine and to 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

The Postal Telegraph-Cable Company of Massachusetts, incorporated in Massachusetts, is one of 35 operating companies, each incorporated in the State indicated in its corporate name, which together comprise the Postal Telegraph System. Each of these companies, including the Company, is a wholly owned subsidiary of the Associated Companies, a Massachusetts trust having its offices in New York City. The Associated Companies is in turn a subsidiary of, although not wholly owned by, Postal Telegraph-Cable Corporation, a holding and management company incorporated under the laws of Maryland.

The Postal Telegraph System operates under one management a closely coordinated system of telegraph land line communications extending throughout the United States, and by means of cable and radio connections, principally through subsidiary and affiliated companies, throughout the world.

The executive office of the System is located in New York City. By a written agreement entered into in 1931 by the 35 operating companies, the Postal Telegraph-Cable Company of New York was appointed the agent of each of the other companies, and delegated full power and authority, among other things, "to make and execute any

and all contracts concerning or in any wise pertaining to the business transacted or to be transacted by any party or by all of the parties."

During 1937, telegraph and cable revenues for Postal Telegraph-Cable Company of Massachusetts amounted to \$681,940.90. Of this amount, \$84,975.14 was received from intrastate traffic and \$596,965.76 from interstate and foreign traffic.

The present petition concerns only those employees of the Company who are under the jurisdiction of the city superintendent of Boston. There are approximately 350 employees in this group.

II. THE ORGANIZATIONS INVOLVED

American Radio Telegraphists' Association, Local 62, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all employees of the Company under the jurisdiction of the city superintendent of Boston, except supervisory employees who have the right to hire and discharge.

Commercial Telegraphers' Union, Boston District Postal Division Number 55, is a labor organization affiliated with the American Federation of Labor, also admitting to its membership all employees of the Company under the jurisdiction of the city superintendent of Boston, except supervisory employees who have the right to hire and discharge.

III. THE QUESTION CONCERNING REPRESENTATION

On August 25, 1937, the Company entered into an agreement with Boston District Postal Division Number 55 of the C. T. U. in which the C. T. U. was recognized as the exclusive collective bargaining agent for all employees in the City of Boston in respect to hours, wages, and other conditions of employment. It was provided that the agreement was to be subject to termination upon 30 days' notice given by either party. Feeling that a question concerning the representation of their employees had arisen, the Company terminated this agreement on March 15, 1938. The C. T. U. still claims to represent a majority of the employees in the Boston area.

The A. R. T. A. claims that a great many employees have joined its organization recently and that it now represents a majority of the employees in the Boston area. It has requested the Company to recognize it as the collective bargaining agent in this district. The Company has refused to deal with it on the ground that it has not been certified by the Board as the bargaining representative for employees within this group.

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.

V. THE APPROPRIATE UNIT

The A. R. T. A. seeks a bargaining unit composed of employees of the Company under the jurisdiction of the city superintendent of Boston, excluding supervisory employees who have the power to hire and discharge. The Company and the C. T. U. also desire such bargaining unit.

We have noted in Section I above that the entire Postal Telegraph System is operated as a unit. Policies in regard to matters of hours, wages, and other conditions of employment are centrally controlled. Furthermore, by the very nature of telegraphic communication, the work of the employees in different district offices throughout the country is closely coordinated and interdependent to an unusually high degree. The effect of stoppage of service in one locality is inevitably serious and widespread. The record shows that the ultimate goal of the A. R. T. A. and possibly of the C. T. U. is to organize the employees of the System on the basis of a nation-wide bargaining unit. However, such organization has not yet been effectuated. Both unions now have subsisting exclusive bargaining agreements with the Company covering different sections of the country. We are of the opinion that the employees under the jurisdiction of the city superintendent of Boston should not be denied the benefits of the Act pending more complete organization of all the employees throughout the country.¹

There was some discussion during the hearing as to whether the employees in the so-called "floating gang" should be considered to be under the jurisdiction of the city superintendent of Boston. It appears from the record that the "floating gang" is under the jurisdiction of the district foreman, who reports to officials in New York City. It moves over the entire State of Massachusetts, engaged in the maintenance of lines and in general line construction. Although the district foreman might conceivably be placed under the jurisdiction of the city superintendent of Boston when a problem with which he is deal-

¹ *In Matter of R. O. A. Communications, Inc. and American Telegraphists' Association*, 2 N. L. R. B. 1109 at 1115; *In Matter of Associated Press and The American Newspaper Guild*, 5 N. L. R. B. 43.

ing relates specifically to Boston, the gang is not usually located in Boston, nor is it usually in contact with other employees of the Company in the Boston area. Under the circumstances, we believe that this group should be excluded from the bargaining unit.

We find, therefore, that employees of the Company under the jurisdiction of the city superintendent of Boston, excluding the so-called "floating gang" and excluding also supervisory employees who have the right to hire and discharge, constitute a unit appropriate for the purpose of collective bargaining and that said unit will insure to employees of the Postal Telegraph-Cable Company of Massachusetts in the Boston area 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 Board introduced into evidence a list submitted by the Company of its employees in the metropolitan area of Boston as of March 15, 1938. This list contains the names of 344 employees, including the names of supervisory employees whom we have decided should be excluded from the bargaining unit.

The C. T. U. introduced into evidence approximately 244 application cards of employees within the appropriate unit, all of whom it claims as present members of its organization.

The A. R. T. A. submitted in evidence approximately 209 application cards of employees within the appropriate unit whom it claims as present members of its organization. It also submitted 115 statements signed in part by persons whose names appear on the application cards introduced in evidence by the C. T. U. which it claimed were repudiations of the C. T. U. as collective bargaining agent. An examination of the various documents discloses many duplications in the respective claims of the two unions. We find that the question which has arisen concerning the representation of employees can best be resolved by means of an election by secret ballot.

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 Postal Telegraph-Cable Company of Massachusetts, at Boston, Massachusetts, within the meaning of Section 9 (c), and Section 2 (6) and (7), of the National Labor Relations Act.

2. The employees of the Company under the jurisdiction of the city superintendent of Boston, excluding supervisory employees who have

the right to hire and discharge and excluding also the so-called "floating gang," constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

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

DIRECTED that as part of the investigation authorized by the Board to ascertain representatives for the purpose of collective bargaining with Postal Telegraph-Cable Company of Massachusetts, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 the employees of Postal Telegraph-Cable Company of Massachusetts under the jurisdiction of the city superintendent of Boston employed by the Company during the pay-roll period ending March 15, 1938, excluding the so-called "floating gang," the supervisory employees who have the right to hire and discharge, and those employees who have since quit or been discharged for cause, to determine whether they desire to be represented by Commercial Telegraphers' Union, or by American Radio Telegraphists' Association, for the purpose of collective bargaining, or by neither.

[SAME TITLE]

AMENDMENT TO DIRECTION OF ELECTION

June 2, 1938

On May 25, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled proceedings.

The petitioner now states that its name, American Radio Telegraphists' Association, has been changed to American Communications Association of the C. I. O., formerly known as American Radio Telegraphists' Association. Upon petitioner's request, the Board hereby amends its Direction of Election by striking therefrom

the name "American Radio Telegraphists' Association" wherever it occurs, and substituting therefor the name "American Communications Association of the C. I. O., formerly known as American Radio Telegraphists' Association."

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

June 30, 1938

On May 25, 1938, the National Labor Relations Board issued a Decision and Direction of Election in the above-entitled case. On June 2, 1938, the Board issued an Amendment to the Direction of Election. The Direction of Election, as amended, directed that an election by secret ballot be conducted under the direction and supervision of the Regional Director for the First Region (Boston, Massachusetts) among the employees of Postal Telegraph-Cable Company of Massachusetts under the jurisdiction of the city superintendent of Boston employed by the Company during the pay-roll period ending March 15, 1938, excluding the so-called "floating gang", the supervisory employees who have the right to hire and discharge, and those employees who have since quit or been discharged for cause, to determine whether they desired to be represented by American Communications Association of the C. I. O., formerly known as the American Radio Telegraphists' Association or by Commercial Telegraphers' Union of the A. F. of L., for the purpose of collective bargaining, or by neither.

Pursuant to the Direction and Amendment, an election by secret ballot was conducted on June 3, 1938, by said Regional Director. On June 4, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued, and on June 7, 1938, duly served upon the parties an Intermediate Report on the election. The results of the election were certified by all interested parties without qualification. Subsequent thereto Commercial Telegraphers' Union of the A. F. of L. filed objections to the conduct of the election and petitioned for a new election. The Board has investigated these objections and finds that the election was properly conducted. The objections are hereby overruled and the petition is hereby denied.

As to the balloting and its results, the Regional Director reported as follows:

Total number eligible to vote.....	307
Total number of ballots cast.....	281
Total number of blank ballots.....	0
Total number of void ballots.....	0
Total number of challenged ballots.....	1
Total number of ballots cast for Commercial Telegraphers' Union of the A. F. of L.....	113
Total number of ballots cast for American Communications Association of the C. I. O., formerly known as American Radio Telegraphists' Association of the C. I. O.....	162
Total number of ballots cast for "neither".....	5

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that, American Communications Association of the C. I. O., formerly known as American Radio Telegraphists' Association, has been selected by a majority of the employees of Postal Telegraph-Cable Company of Massachusetts under the jurisdiction of the city superintendent of Boston, excluding the so-called "floating gang" and the supervisory employees who have the right to hire and discharge, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, American Communications Association of the C. I. O., formerly known as American Radio Telegraphists' Association, 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.