

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION  
OF FLAT GLASS WORKERS OF AMERICA

*Case No. R-270.—Decided November 22, 1937*

*Glass Products Industry—Investigation of Representatives:* controversy concerning representation of employees: rival organizations, refusal by employer to recognize petitioning union as exclusive bargaining agency—*Unit Appropriate for Collective Bargaining:* wage and occupational differences; established labor organizations in plant; eligibility for membership in said organizations; history of collective bargaining relations with employer—*Representatives:* proof of choice: membership in union; signed authorization designating petitioning union as collective bargaining agent—*Certification of Representatives:* upon proof of majority representation.

*Mr. W. J. Perricelli*, for the Board.

*Mr. Edward Lamb*, of Toledo, Ohio, and *Mr. Albert Skinner*, of Columbus, Ohio, for the Glass Workers.

*Mr. Ellsworth Bundy*, of Cincinnati, Ohio, for the Glaziers' Local.

*Mr. Frank Hammer*, of Cincinnati, Ohio, and *Mr. Brockie Farrell*, for the Teamsters.

*Mr. A. Bruce Hunt, Jr.*, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On June 29, 1937, the Federation of Flat Glass Workers of America, herein called the Glass Workers, filed a petition with the Regional Director for the Ninth Region (Cincinnati, Ohio) alleging that a question affecting commerce had arisen concerning the representation of employees of the Cincinnati, Ohio, plant and warehouse of the Pittsburgh Plate Glass Company, 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 July 9, 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 July 29, 1937, the Regional Director issued a notice of hearing to be held on August 5, 1937, at Cincinnati, Ohio, copies of which were duly served upon the Company and the Glass Workers. Copies thereof were also duly served upon Glaziers' Local Union No. 387 of the Brotherhood of Painters, Decorators, and Paperhangers of America, Inc., herein called Glaziers' Local and the Local Union of the International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers of America, herein called the Teamsters, two labor organizations claiming to represent employees of the Company. Pursuant to the notice a hearing was held in Cincinnati, Ohio, on August 5, 1937, before Fred A. Hughes, the Trial Examiner duly designated by the Board. The Board and the Glass Workers were represented by counsel and the Glaziers' Local and the Teamsters by their agents, and all participated in the hearing. No appearance was made for the Company. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties appearing. During the course of the hearing the Trial Examiner made several rulings 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 Pittsburgh Plate Glass Company was incorporated in Pennsylvania August 24, 1883, and reincorporated November 3, 1920. Its principal business office is in Pittsburgh, Pennsylvania. The Company owns various plants and jobbing warehouses, 71 in number, throughout the United States, among which is the plant at Cincinnati, Ohio, with which this case is concerned.

The Company is engaged in the manufacture and sale at wholesale and retail of plate, window, safety and other types of flat and structural glass; paints, varnishes, lacquers, linseed oil, brushes and kindred articles; alkalis, chemicals and cement. The business of the Cincinnati plant is the manufacture and sale of mirrors, and the jobbing of glass, paints and brushes. The Company employs approximately 106 to 114 persons, including office and sales forces, at this plant.

Materials required for the manufacture of mirrors are shipped to the plant from outside the State of Ohio, as are the products to be jobbed. Glass is shipped from Ford City, Pennsylvania, Creighton, Pennsylvania, Mount Vernon, Ohio, and Clarksburg, West Virginia.

Various types of paints are received from Milwaukee, Wisconsin, brushes from Baltimore, Maryland, and linseed oil from Redwing, Minnesota. These materials and products come from other plants of the Company by rail and truck. Silver is purchased from a private concern in New York City. Approximately 75 per cent of the raw materials shipped to the Cincinnati plant for manufacturing and jobbing purposes come from without the State of Ohio, while approximately 50 per cent of the products sold by said plant are shipped to points outside the State of Ohio.

The Cincinnati plant employs on its regular pay roll about 18 salesmen who solicit orders in Ohio, Indiana, West Virginia, and Kentucky as well as commissioned salesmen who operate in New York, Pennsylvania, and Tennessee. The various products sold by the Cincinnati plant are sold to furniture and building concerns, retail stores for paint and brushes, and railway and bus companies.

In addition to the facts set forth above, the Company, in its application to the United States Patent Office for registration of the trade mark "Vitoloil", a trade name used and owned by the Company, made oath by its secretary that "said trade mark is used by said Corporation in commerce among the several States of the United States."<sup>1</sup> Further, it was stipulated by the Company and other parties to the instant proceedings that the business of the Cincinnati plant is interstate and that 75 per cent of the purchases of raw materials are made outside the State of Ohio.

## II. THE ORGANIZATIONS INVOLVED

Federation of Flat Glass Workers is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership persons employed in the glass industry, but its exact jurisdiction is not defined in the record.

Glaziers' Local Union No. 387 of the Brotherhood of Painters, Decorators and Paper Hangers of America is a labor organization affiliated with the American Federation of Labor. It admits to membership all workers in the Cincinnati plant, except supervisory, clerical and salaried employees, and salesmen and truck drivers.

The Teamsters and Chauffeurs Local Union of the International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers of America is a labor organization affiliated with the American Federation of Labor and admits to membership the truck drivers employed in the Cincinnati plant.

## III. THE QUESTION CONCERNING REPRESENTATION

Efforts of the Glass Workers to organize at the Company plant were commenced in June 1937. At the hearing the Glass Workers

<sup>1</sup> Board's Exhibit Nos 5B and C.

submitted in evidence an authorization containing 33 signatures, designating and authorizing the Glass Workers to act on behalf of the signers, who represent themselves to be employees of the Company, in negotiating a contract with the Company. This number constitutes a majority of the normal number of the employees outside of supervisory employees and the office and sales force, which we shall hereafter refer to as the production employees. Twenty-seven of the signatures were verified by various witnesses. None were challenged. All signers were identified by the dues books of the Glass Workers as members of the Local. The evidence is not clear as to when these signatures were obtained, but it is indicated that all were obtained on or prior to June 25, 1937.

On or about June 25, 1937, a representative of the Glass Workers held a conference with the manager of the Company during which the latter was informed that the Glass Workers represented a majority of the Company's production employees and desired to negotiate a contract in their behalf. The Company refused then and has since continued to refuse to recognize the Glass Workers as the bargaining agency for its production employees. It is indicated by evidence introduced on behalf of the Glass Workers that this refusal of the Company to bargain or negotiate a contract has been due to a threatened boycott of the Company's products on the part of the Glaziers' Local should any contract between the Company and the Glass Workers be entered into. Whatever the real reason, it is evident that such recognition on the part of the Company has been denied the Glass Workers.

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

#### IV. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question concerning representation which has arisen, in connection with the operations of the Company set forth 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 petition of the Glass Workers alleges that the proper and appropriate unit consists of: "Employees engaged in the processing and manufacturing of mirrors", thereby excluding the glaziers and truck drivers among the production employees. During the course of the hearing before referred to, the Glass Workers changed its position and contended that the unit appropriate for purposes of collective bargaining is the entire Cincinnati plant, exclusive of the office force,

salesmen, and salaried and managerial employees. This change of position was due to the threat of a boycott above mentioned.

Within the production divisions of the plant there are five departments, namely (1) Plate Glass, (2) Art Glass, (3) Glass Jobbing and Glazing, (4) Shipping, and (5) Mirror. The first two named departments have a combined personnel of from 14 to 16; the third has from 10 to 15 employees; the fourth from two to three employees; and there are 37 employees in the mirror department.

The maximum figures listed, totaling 71, represent the approximate number of employees when production is at a peak. In normal times the number of employees within the named departments, as shown above, is 63, the total of the minimum figures listed.

Persons employed within the mirror department are known as silverers, bevelers, framers, polishers, cleaners, buffers, and packers. The output of this department comprises approximately 15 to 18 per cent of the Company's business. It is within this department alone that the Glass Workers have secured members.

The glaziers, all members of the Glaziers' Local, employed by the company are highly skilled and are paid at the rate of \$1.55 per hour. The truck drivers, all members of the Teamsters, are semi-skilled employees and earn 67 cents per hour, while the balance of the employees within the named departments are paid at hourly rates varying from 43 cents to 65 cents.

The types of work done by the various employees differ sharply, as do their qualifications and rates of pay. Employees in the mirror department are engaged in the manufacture and production of mirrors. They and the employees in the plate glass and art glass departments work within the plant. The work of the glaziers is the installation of glass for customers and, consequently, is performed outside the plant. Glazing contracts constitute nearly 50 per cent of the Company's business. The duties of the truck drivers include the loading, unloading and hauling of glass. Employees are not transferred from one type of work to another and there is little evidence of interdependence in the operations of the named departments. The glaziers have clearly shown a desire to be represented separately for bargaining purposes, as have the truck drivers.

There are approximately 51 members of the Glaziers' Local employed in Cincinnati, Ohio. Since 1913 members of the Glaziers' Local employed by the Company have had a series of written, closed-shop agreements with the management covering rates of pay, hours, and working conditions of the glaziers. The plate and art glass workers and the mirror men are eligible for membership in the Glaziers' Local, but it appears that all members of this Local who are employed by the Company are glaziers. No effort has ever been made on the part of the Glaziers' Local to negotiate with the Com-

pany in behalf of employees eligible for membership in, but not members of, the Local.

At the time of the hearing already referred to, the Company employed two truck drivers. It was testified that an additional truck driver would be employed shortly thereafter. These employees are members of the Teamsters which, for a period of from seven to ten years, has had a series of written closed-shop agreements with the Company covering rates of pay, hours and working conditions.

It was indicated that relations between the Company and the Glaziers' Local have been on a satisfactory basis since their first contract was entered into. Such is also the case with respect to relations between the Company and the Teamsters. The present contract between the Company and the Glaziers is for a two-year period of duration; that between the Company and the Teamsters is for a one-year period of duration.

In order to insure to the employees of the Company the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the employees of the Company, excluding the glaziers, truck drivers, office force, salesmen, supervisors, and managerial and salaried employees, constitute a unit appropriate for the purposes of collective bargaining, in respect to rates of pay, wages, hours of employment, and other conditions of employment.

#### VI. THE DETERMINATION OF REPRESENTATIVES

There are from 63 to 71 production employees of the Company, the number varying as the amount of business fluctuates. Excluding the glaziers and truck drivers, there remain 51 to 53 production employees within the appropriate unit.

The Glass Workers' exhibit, heretofore described, contains the signatures of 33 employees, all in the mirror department, selecting the Glass Workers as their bargaining agency.

We find that the Glass Workers has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. The Glass Workers is, therefore, by virtue of Section 9 (a) of the Act, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment, and we will so certify.

#### CONCLUSIONS OF LAW

On 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 Pittsburgh Plate Glass Company at its Cincinnati, Ohio, plant and warehouse, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All of the employees of Pittsburgh Plate Glass Company at its Cincinnati, Ohio, plant and warehouse, excluding the glaziers, truck drivers, office force, salesmen, supervisors, and managerial and salaried employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

### 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, 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 CERTIFIED that Federation of Flat Glass Workers of America has been designated and selected by a majority of the employees of Pittsburgh Plate Glass Company at its Cincinnati, Ohio, plant and warehouse, excluding the glaziers, truck drivers, office force, salesmen, supervisors, and managerial and salaried employees, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, Federation of Flat Glass Workers of America 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.