

In the Matter of LOS ANGELES BROADCASTING COMPANY, INC. and
AMERICAN RADIO TELEGRAPHERS ASSOCIATION, BROADCAST LOCAL NO. 15

Case No. R-332.—Decided December 6, 1937

Radio Broadcasting Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize petitioning union as exclusive bargaining agent; controversy as to appropriate unit—*Unit Appropriate for Collective Bargaining:* established labor organizations among employees; occupational differences; wage differentials—*Representatives:* proof of choice: signed petition designating union as collective bargaining representative; comparison of petition with pay roll—*Certification of Representatives:* upon proof of majority representation.

Mr. David Persinger, for the Board.

Mr. Garnet C. Rainey, of Los Angeles, Cal., for the Company.

Mr. Ernest Robert, of Los Angeles, Cal., for the Union.

Mr. Henry H. Foster, Jr., of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On August 3, 1937, American Radio Telegraphers Association, Broadcast Local No. 15, herein called the Union, filed with the Regional Director for the Twenty-First Region (Los Angeles, California), a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Los Angeles Broadcasting Company, Los Angeles, California, 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 September 22, 1937, an amended petition was filed with the Regional Director. On September 25, 1937, 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 October 6, 1937, the Regional Director issued a notice of hearing; copies of which were duly served upon the Company and the Union.

Pursuant to the notice, a hearing was held at Los Angeles, California, on October 12, 1937, before Clifford D. O'Brien, the Trial Examiner duly designated by the Board.

The Board and the Company were represented by counsel, the Union by its secretary and organizer, and all participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded to 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 these rulings 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

Los Angeles Broadcasting Company, Inc., is a corporation organized in March 1933 under the laws of the State of California. It owns and operates radio station KFAC, under license from the Federal Communications Commission. Technicians employed by the Company are likewise licensed by the Federal Communications Commission. The station operates with one thousand watts' power over a designated band of thirteen hundred kilocycles. It is not a part of any national network, nor does it rebroadcast from any other station at the present time. Its principal coverage is a radius of approximately twenty-five miles from its broadcasting station located in the City of Los Angeles, California, but it is heard in numerous other states and in several foreign countries, particularly after midnight when the large majority of stations cease broadcasting. The Company owns its own broadcast equipment, which is powered by electricity, some of which comes across state lines from Boulder Dam, Arizona.

We find that Los Angeles Broadcasting Company, Inc., is engaged in traffic, communication, and commerce among the several states and between the United States and foreign countries, and that the employees engaged in the operation of the radio station of the Company are directly engaged in such traffic, communication, and commerce.

II. THE ORGANIZATION INVOLVED

American Radio Telegraphers Association, Broadcast Local No. 15, is a labor organization in which employees of the Company are eligible for membership. It is a local of American Radio Telegraphers Association, which in turn is affiliated with the Committee for Industrial Organization.

III. THE QUESTION CONCERNING REPRESENTATION

As early as July 1937, Ernest T. Roberts, on behalf of the Union, contacted officials of the Company with the view to bargaining collectively for certain of the employees. In several meetings and telephone calls the Union claimed to be entitled to recognition as the exclusive representative of these employees. The Company took the position, however, that it would recognize and bargain with the Union as the representative of its members only. It is conceded by the Company that the Union represents a majority of the office employees, a majority of the technicians and the janitor. The Company does not concede that the Union represents a majority of the announcers. There appears, therefore, to be a dispute as to the appropriate unit, the Company indicating that its decision as to recognition will depend upon whether the Union represents a majority in each of the different classifications of the Company's employees, and the Union insisting that the designation of it by a majority of the employees in a larger unit entitles it to recognition as exclusive representative of that unit.

We find that a question has arisen concerning the representation of employees of the Los Angeles Broadcasting Company, Inc., and that this question tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

IV. THE APPROPRIATE UNIT

The Company's staff consists of approximately sixty-one (61) employees, classified by the management as follows:¹ General manager, 1; office staff, 5; salesmen, 4; musicians, 11; technicians, 6; announcers, 7; staff talent (regular), 5; special talent, 21; janitor, 1.

Of the foregoing, the musicians and the employees classified as talent appear from the evidence to be represented by labor organizations which are affiliated with the A. F. of L. The salesmen work out of the office. Of these, two work entirely on a commission basis, while the other two are paid both salary and commission. The salesmen have their own organization which represents them in collective bargaining with the Company. Within the Company's classification of five office employees is included Charles T. Hughes, the assistant manager of the Company, whose duties appear, in the main, to be supervisory. Among the seven people classified as announcers by the Company is one Robert Swan, chief announcer, who, in addition to performing the duties of an announcer, directs the apportionment of time and the traffic of other announcers, and generally supervises their work. Another of those classified as announcers by the Company is one Mel Roach, whose exclusive duty is to announce one

¹ Respondent's Exhibit No. 1, being the pay roll for the month of September 1937.

thirty-minute program daily pursuant to a special contract with a sponsor. He also has other employment elsewhere.

The Union does not purport to represent the musicians and talent, who are paid on a weekly basis as distinguished from the bi-monthly basis existing for the rest of the employees, because of their representation by the American Federation of Labor unions. The Union likewise does not purport to represent the salesmen, who have an organization of their own.

In view of all these facts, we find that the employees engaged as office staff (excluding the general manager and assistant manager), technicians, janitor, and announcers (excluding the chief announcer and special program announcer), constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to the 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.

V. THE DETERMINATION OF REPRESENTATIVES

Within the above described unit, on the basis of the September pay roll, there appear to be sixteen employees. The Union presented a petition designating itself as representative for collective bargaining signed by thirteen employees within the said unit.² No challenge of these signatures was made by the Company. The Union also placed in evidence an application, signed by another of the employees within the above described unit, designating it as the representative of the applicant for the purposes of collective bargaining. It was also contended by the Union representative that the Union represented one other employee in the above described unit, but no authorization or certification for said employee was introduced into evidence. The evidence that the Union represented fourteen out of the sixteen employees in the above described unit was undisputed.

We find that the Union has been designated and selected by a majority of the employees of Los Angeles Broadcasting Company, Inc., in an appropriate unit for the purposes of collective bargaining as found above. The Union, therefore, by virtue of Section 9 (a) of the Act, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to wages, rates of pay, hours of employment and other conditions of employment.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Board makes the following conclusions of law:

² Union's Exhibit No. 2.

1. A question affecting commerce has arisen concerning the representation of employees of Los Angeles Broadcasting Company, Inc. 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 engaged as office staff (excluding the general manager and assistant manager), technicians, janitor, and announcers (excluding the chief announcer and the special program announcer), 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, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that American Radio Telegraphers Association, Broadcast Local No. 15, has been designated and selected by a majority of the employees of Los Angeles Broadcasting Company, Los Angeles, California, engaged as office staff (excluding the office manager and assistant manager), technicians, janitor, and announcers (excluding the chief announcer and special program announcer), as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, American Radio Telegraphers Association, Broadcast Local No. 15, 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.