

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY and
UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA,
LOCAL No. 613

Case No. R-455.—Decided January 10, 1938

Electrical Transformer Industry—Investigation of Representatives: controversy concerning representation of employees; rival organizations; refusal by employer to recognize and bargain with either union until the question of representation is determined—*Unit Appropriate for Collective Bargaining:* stipulation as to bargaining unit—*Representatives:* proof of choice; membership in union; comparison of membership cards of rival unions with current pay roll—*Certification of Representatives*—upon proof of majority representation.

Mr. Robert H. Kleeb, for the Board.

Mr. Fred Haug, of Pittsburgh, Pa., for the United.

Miss Helen Dermick, of Pittsburgh, Pa., for the Independent.

Mr. Martin Kurasch, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On October 14, 1937, United Electrical, Radio and Machine Workers of America, Local No. 613, herein called the United, filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Allis-Chalmers Manufacturing Company, Pittsburgh, Pennsylvania, 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 November 17, 1937, the United filed an amended petition, and on November 30, 1937, it filed a second amended petition. On December 3, 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 December 4, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the United, and upon the Independent Transformer Workers Union of Pittsburgh, herein called the Independent, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on December 11, 1937, at Pittsburgh, Pennsylvania, before Tilford E. Dudley, the Trial Examiner duly designated by the Board. The United was represented by Fred Haug, a field organizer, and the Independent was represented by Helen Dermick, an employee of the Company. The Board, the United, and the Independent 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 to all parties.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY¹

Allis-Chalmers Manufacturing Company, a Delaware corporation, operates plants at Pittsburgh, Pennsylvania, herein called the Pittsburgh Works; Milwaukee, Wisconsin; La Crosse, Wisconsin; La Porte, Indiana; Springfield, Illinois; Norwood, Ohio; and Boston, Massachusetts. The Pittsburgh Works of the Company consists of five plants: The Bayard Plant, the Adams Plant, the Juniata Plant, the Manchester Plant, and the Tannery Plant. The Pittsburgh Works is engaged in the manufacture of electrical transformers. It does approximately 20 per cent of the business in that industry. The principal products purchased by the Pittsburgh Works are copper, insulated wire, and copper bayer shapes and sheets; steel plates, sheets, bars and shapes; oil; insulation materials; bolts and nuts; porcelain bushings; paint and varnish. Sixty per cent of all the products purchased by the Pittsburgh Works originate outside the State of Pennsylvania.

The average monthly production of the Pittsburgh Works during the period of 1935-1936 and the first four months of 1937 amounted to \$296,559.38. Approximately 90 per cent of the total products of the Pittsburgh Works are shipped outside the State of Pennsylvania. The products are sent to all States of the United States and occasionally shipments have been made to the Hawaiian Islands, Philippine Islands, Cuba, Porto Rico, Mexico, Argentina, Chile, Brazil, China, Russia, Canada, and Spain.

¹ The facts in this section are derived from a stipulation entered into by the Company and the Board.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio and Machine Workers of America, Local No. 613, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all production and maintenance employees of the Company, excluding office workers, supervisory employees, engineers, chemists, technicians, inspectors, apprentices, and watchmen.

Independent Transformer Workers Union of Pittsburgh is a labor organization admitting to membership all production and maintenance employees of the Company, excluding office workers, supervisory employees, engineers, chemists, technicians, inspectors, apprentices, and watchmen.

III. THE QUESTION CONCERNING REPRESENTATION

On August 18, 1937, the Independent asked the Company to recognize it as the bargaining agency for the employees at the Pittsburgh Works, and on September 13, 1937, the United requested recognition as sole bargaining agency. On September 16, 1937, the Company posted a notice to its employees and sent letters to both labor organizations stating that it would recognize neither organization until the Board had made a finding as to the appropriate unit and as to the group having the majority in such unit.

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

At the hearing both labor organizations stipulated that they considered the appropriate unit to be "production and maintenance workers, exclusive of foremen, assistant foremen, supervisory and clerical employees, engineers, chemists, technicians (including draftsmen and tracers), group leaders, inspectors, apprentices, and watchmen." This corresponds, in general, with the eligibility rules of both organizations.

We find that the production and maintenance employees of the Company, excluding foremen, assistant foremen, engineers, chemists,

technicians (including draftsmen and tracers), group leaders, inspectors, apprentices, watchmen, and excluding those in supervisory capacities, constitute a unit appropriate for the purposes of collective bargaining and 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

Russell Miller, a field examiner of the Sixth Region of the National Labor Relations Board, testified that he had compared membership cards of the United and of the Independent with the pay-roll sheets prepared by the Company. The authenticity of the membership cards of the United and of the Independent was not questioned. No objection was made to the pay-roll sheets that had been submitted by the Company. He made the following findings:

Number of employees in the appropriate unit.....	1038
United membership cards.....	637
Independent membership cards.....	146
Duplications.....	51

At the hearing the Independent introduced 59 additional membership cards. The Trial Examiner did not consider it necessary to compare these additional cards with the pay-roll sheets or with the United cards since, even assuming that all of the 59 cards duplicated cards submitted by the United, the cards submitted by the United which were not duplicated by Independent cards would number 527 and would thus constitute a majority in the appropriate unit.

We find that the United has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

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 Allis-Chalmers Manufacturing Company, Pittsburgh, Pennsylvania, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company, excluding foremen, assistant foremen, engineers, chemists, technicians (including draftsmen and tracers), group leaders, inspectors, apprentices, watchmen, and excluding those in supervisory capacities, constitute a unit for the purposes of collective bargaining

within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Electrical, Radio and Machine Workers of America, Local No. 613, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) 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 United Electrical, Radio and Machine Workers of America, Local No. 613, has been designated and selected by a majority of the production and maintenance employees of Allis-Chalmers Manufacturing Company, Pittsburgh, Pennsylvania, excluding foremen, assistant foremen, engineers, chemists, technicians (including draftsmen and tracers), group leaders, inspectors, apprentices, watchmen, and excluding those in supervisory capacities, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Electrical, Radio and Machine Workers of America, Local No. 613, 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.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Decision and Certification of Representatives.