

**The Great Atlantic & Pacific Tea Company, Inc. and Retail Clerks International Association, AFL-CIO, Local 1636, Petitioner**

**The Great Atlantic & Pacific Tea Company, Inc. and Amalgamated Meat Cutters & Butcher Workmen of North America, Local 282, AFL-CIO, Petitioner. Cases Nos. 12-RC-1028 and 12-RC-1073. August 7, 1961**

**DECISION AND DIRECTION OF ELECTIONS\***

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, separate hearings were held before Frank James Kruzich, hearing officer. The hearing officer's rulings made at both hearings are free from prejudicial error and are hereby affirmed. The above-captioned cases are hereby consolidated for purposes of decision.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Leedom and Brown].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.<sup>1</sup>
2. The labor organizations involved claim to represent certain employees of the Employer.
3. Questions affecting commerce exist concerning the representation of employees of the Employer within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. The Petitioner in Case No. 12-RC-1028, herein referred to as the Retail Clerks, seeks to represent a unit of all employees at nine of the Employer's stores in and around St. Petersburg, Florida, excluding the meat department employees. The Petitioner in Case No. 12-RC-1073, herein referred to as the Meat Cutters, seeks to represent a unit of all meat department employees at the same nine stores, excluding all other employees. Both Petitioners agreed, however, to represent any combination of stores the Board found appropriate. The Employer contends that the proposed units are inappropriate and that the combination of nine stores is an arbitrary grouping based on extent of

\*By order dated August 28, 1961, the Board granted the Employer's request for inclusion of a new store located at 1231 Cleveland Street, Clearwater, Florida, to which all the parties agree.

<sup>1</sup>The Employer refused to stipulate that it was engaged in interstate commerce within the meaning of the Act. It is a Maryland corporation doing business in Florida, operates retail food and grocery stores, has gross sales in excess of \$1,000,000 per year, and causes to be shipped to Florida from other States more than \$50,000 worth of goods annually. We find that the Employer meets the jurisdictional standards set forth in *Carolina Supplies and Cement Co.*, 122 NLRB 88, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

organization. It maintains that the scope of any unit found appropriate should be limited to its six stores in the St. Petersburg metropolitan area, and that all employees in these stores should be in a single overall unit. There is no bargaining history affecting any of the employees involved herein.

*Scope of units:* The record shows that the nine stores included in the petitions are part of an administrative subdivision of the Employer, which consists of these nine stores and a 10th store in Tarpon Springs. In accordance with standard Board policy, we find that each unit found appropriate below should be coextensive in scope with the Employer's entire administrative subdivision of 10 stores.<sup>2</sup> We shall, therefore, in view of the Petitioners' stated positions, *supra*, direct elections in each unit subject to the Regional Director's determination that each Petitioner has an adequate showing of interest in the unit which it seeks to represent.

*Composition of units:* The Board finds overall units appropriate in stores of this kind where no union seeks to represent the meat department separately,<sup>3</sup> but where, as here, one union seeks all employees excluding the meat department, and another union seeks a meat department unit, the Board finds such separate units appropriate.<sup>4</sup> Therefore, we find that the following units of employees at the Employer's retail food stores in its administrative subdivision comprised of 10 stores in St. Petersburg, St. Petersburg Beach, Largo, Clearwater, and Tarpon Springs, Florida, excluding from each unit store managers, assistant managers, watchmen, guards, and all supervisors as defined in the Act, are appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

(a) All employees<sup>5</sup> in the grocery, produce, and dairy<sup>6</sup> departments, including checkers, bagboys, office workers, porters, and all regular part-time employees<sup>7</sup> in these departments, but excluding all meat department employees.

(b) All meat department employees, including regular part-time employees, but excluding meat department managers.

[Text of Direction of Elections omitted from publication.]

<sup>2</sup> *Winn-Dixie Stores, Inc.*, 124 NLRB 908, 911.

<sup>3</sup> *Schaeffers Prospect IGA Store*, 124 NLRB 1433.

<sup>4</sup> *Weis Markets, Inc.*, 116 NLRB 1993.

<sup>5</sup> The Retail Clerks would include produce managers and head cashiers, while the Employer would exclude them as supervisors. There is evidence that some individuals in these categories have supervisory authority, while others do not, depending, it appears, upon the size of the store. As the record does not identify all those who have such authority, we shall allow all produce managers and head cashiers to vote in unit (a) subject to challenge.

<sup>6</sup> The petition in Case No. 12-RC-1028 includes a "dairy dall" department in the unit description. The Employer, however, states that it has a dairy department but none called "dairy dall."

<sup>7</sup> The Petitioners seek to include all regular part-time employees, while the Employer would include only those working 20 hours or more a week. In accord with standard Board policy, we shall include all regular part-time employees and permit them to vote in their respective units. *Winn-Dixie Stores, Inc.*, *supra*, at 912.