

All powerhouse employees at the Employer's Schenectady, New York, plant, including watch engineers, boiler operators, turbine operators, water tenders, water treatment operators, coal mill operators, slag and soot men, power stations steam record and meter maintenance employees, water and meter service operators, distribution operator leaders, distribution operators, turbine engineers, air compressor operators, heating operators, electrical maintenance and distribution operators, electrical maintenance employees in buildings #13, #265, and #63, load dispatchers, and switchboard operators, but excluding the waste treatment plant operators, the coal handlers, and the machine repair leader, machine repair machinists, and plant utilityman in the power stations in buildings #13 and #61.

If a majority of employees vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate bargaining unit, and the Regional Director conducting the election is instructed to issue a certification of representatives to the Petitioner for such unit, which the Board, under such circumstances, finds to be appropriate for purposes of collective bargaining. In the event a majority do not vote for the Petitioner these employees shall remain a part of the existing unit and the Regional Director will issue a certification of results of election to such effect.

[Text of Direction of Election <sup>7</sup> omitted from publication.]

MEMBERS RODGERS and BEAN took no part in the consideration of the above Decision and Direction of Election.

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<sup>7</sup> The testimony establishes that the recently laid-off powerhouse employees, although they retain recall rights under the existing contract, have no reasonable expectancy of recall within the immediate, foreseeable future. We find, therefore, that they are ineligible to vote. See *Brown-Forman Distillers Corporation*, 118 NLRB 454

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**Thiokol Chemical Corporation, Redstone Division and International Association of Machinists, AFL-CIO, Petitioner.**  
*Cases Nos. 10-RC-4208 and 10-RC-4209. April 24, 1959*

### DECISION AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held before Dennis R. MacCarthy, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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 [Members Rodgers, Bean, and Fanning].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner, herein called the IAM, claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. In Case No. 10-RC-4208, the IAM seeks to represent a unit of maintenance employees, and in Case No. 10-RC-4209, a unit of production or plant employees at the Employer's Redstone Division, Redstone Arsenal, Huntsville, Alabama. It would exclude from either unit the employees in the machine and welding shops for whom it is presently certified, all professional and technical employees and office clerical employees. The Employer contends that only a single unit of production and maintenance employees is appropriate, excluding those employees whom the IAM agrees to exclude, and the electrical shop employees as well, because they recently voted in a Board-conducted election. The Employer and IAM also disagree on whether certain employee classifications are in fact professional, technical, office clerical, or supervisory in nature.

The Redstone Division is engaged in research, design, and development of solid fuel propellants and propulsion units for missiles and rockets. Its research and development program requires the production and assembly of various types of rocket motors and engines with which to test the experimental propellants and propulsion components. A large number of engineers and other professional and technical personnel are employed in the research and testing phases of the Employer's operations. There are also more than 600 employees engaged in maintenance of plant and equipment and in producing machine parts, assembling components, mixing propellants, and loading engine cases for testing purposes. These manual employees are all hourly paid, have similar working conditions and benefits, and may be transferred or promoted between operating and maintenance sections.

There is no history of collective bargaining for any employees at the plant other than the machine and welding shop employees for whom the IAM was certified in 1957. The petitions for separate units of production and maintenance employees filed herein would encompass all plant employees engaged in manual work and with similar interests in wages, hours, and conditions of employment. The IAM has offered no reason in support of its request to represent these employees in separate units. In view of the plant's integrated operations, the community of interests of the employees involved, and the

absence of any cogent reason for division of a typical production and maintenance unit, we find that only a single unit is appropriate here.<sup>1</sup>

A petition filed by Local 588, International Brotherhood of Electrical Workers, AFL-CIO, for a unit of electricians, helpers, and apprentices was consolidated with the instant petitions for the purpose of hearing. During the course of the hearing, the Employer and Local 588 agreed to the holding of an immediate consent election. The IAM acquiesced in this agreement by amending its unit requests to exclude the electrical shop employees, and did not participate in the election held on November 14, 1958. A majority of the electrical shop employees voted against representation by Local 588. In its brief, the Employer contends that Section 9(c)(3) of the Act<sup>2</sup> requires the exclusion of the electrical shop employees from the production and maintenance unit found appropriate here. We do not agree. These employees are appropriately part of a plantwide unit, and as the election directed herein is not in the unit or subdivision in which the election of November 14, 1958, was held, they are not precluded by Section 9(c)(3) from participation in choosing a bargaining representative for a production and maintenance unit.<sup>3</sup>

The IAM would include, and the Employer would exclude from the unit, receiving and shipping clerks, clerks A, B, and C, material inspectors, process and product inspectors, and instrument technicians B. Furthermore, the IAM prefers to leave to the Board the placement of the following employee classifications which the Employer would also exclude: instrument technicians A, photographers, and darkroom technicians.

*Receiving and shipping clerks:* The Employer contends that these nine clerks are office clericals and should be excluded for that reason. They inspect and certify the receipt and shipment of company merchandise. The accounting department is then notified, but other than this there is no contact with other office clericals. These clerks also work with and among the plant laborers, whom the parties agree to include, and with whom they have common supervision. We find that the receiving and shipping clerks are plant clericals, and in accord with Board policy, we shall include them in the unit.<sup>4</sup>

*Clerks A, B, and C:* The parties agreed that certain clerks A and B in the property and consolidated supply department should be ex-

<sup>1</sup> This holding is not intended to affect the Board's policy of recognizing the appropriateness of a maintenance unit alone, in the absence of a history of bargaining on a broader basis.

<sup>2</sup> Section 9(c)(3) provides that "No election shall be directed in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held."

<sup>3</sup> *Pacific Maritime Association*, 110 NLRB 1647, 1651; *Vacuum Cooling Company*, 105 NLRB 794, 797.

<sup>4</sup> *Murray Ohio Manufacturing Co.*, 118 NLRB 1027, 1029.

cluded as office clericals. These stipulated exclusions are listed in appendix A. The Employer would also exclude the remaining clerks A for the same reason. The transcript of the hearing at which evidence was taken on the clerks A became unavailable to the Board due to the illness of the reporter, and the record made at the reopened hearing is insufficient for a determination of their status. We cannot therefore decide on their inclusion or exclusion at this time but shall allow them to vote subject to challenge by either the Employer or the Petitioner.

The Employer would also exclude all clerks B and C, some 70 in number, on the ground that their work is office clerical in nature. They work in various plant departments maintaining production, test and inspection records, and doing other clerical work, directly related to plant functions. We find that they are plant clericals, and include them in the unit.<sup>5</sup>

*Material inspectors:* There are about 20 material inspectors in the test and inspection department who, the Employer contends, should be excluded as "akin to engineers or technicians." These individuals use machinists' tools with which to check the quality of components which the Company purchases or manufactures for use in its development program. Any deviations from the company specifications are reported to the engineering department, but the inspectors do not make any recommendations or corrections. Although experience as a machinist is desirable for this job, other plant employees who have shown mechanical aptitude have been promoted to inspectors, including a janitor and a carpenter. The inspectors can receive all necessary training directly on the job.

*Process and product inspectors:* The process and product inspectors work with the plant operators in the pilot lines department to check that processing procedures conform to prescribed company specifications. The Employer would exclude them on the basis that they, like the material inspectors, are "akin to engineers or technicians." Process and product inspectors are selected from plant personnel who have at least a high school education and who show alertness and reliability. The skills required for this position are acquired largely through on-the-job training with experienced inspectors.

As the record does not indicate that the material inspectors or the process and product inspectors are required to exercise independent judgment or possess any specialized skills, we find that they are neither

<sup>5</sup> *Murray Ohio Manufacturing Co., supra*, 1030. The parties also disagree as to the placement of Harris, a clerk B in the machine shop. Harris' work in the machine shop is similar to that of other clerks of this classification. As there is no indication that he has been included in the machine-shop unit, which the Petitioner already represents, we shall include him in the production and maintenance unit as a plant clerical.

professional nor technical employees.<sup>6</sup> We shall, therefore, include them in the unit.

*Instrument technicians A and B:* They are assigned to the test and inspection department to calibrate, test, and repair testing instruments, and record data during the functioning tests of rocket motors or components. Some instrument technicians work as part of a crew with plant operators with whom they share common supervision. Instrument technicians also regulate the temperature controls of the curing ovens and occasionally perform the same tasks as the oven operators. Although the Employer prefers to hire for these positions persons with previous experience, it has also promoted former plant operators who show an aptitude for such work. The Employer would exclude them on the ground that they are "junior professionals." As the record does not indicate that these individuals are required to display any independent judgment in the performance of their duties, we find that instrument technicians A and B are highly skilled maintenance men rather than technical or professional employees, and we shall include them in the unit.<sup>7</sup>

*Photographers and darkroom technicians:* There are seven photographers and two darkroom technicians comprising the photographic laboratory staff. The Employer would exclude them as "junior professionals." They work alone, shooting, developing and editing photographs and high speed movies, both colored and black and white, for measuring and recording rocket motor tests. The films are studied by the engineering staff and may also be used for training purposes. We believe that the degree of proficiency and judgment required of the photographers and darkroom technicians in obtaining a satisfactory photographic record of the rocket tests justifies their classification as technical employees,<sup>8</sup> and, as one of the parties objects to their inclusion, we shall, in accord with our customary policy, exclude them from the production and maintenance unit.

Accordingly, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act: All production and maintenance employees of the Employer's Redstone Division, Redstone Arsenal, Huntsville, Alabama, including electrical shop employees, receiving and shipping clerks, clerks A, B, and C,<sup>9</sup> material inspectors, process and product inspectors, and instrument technicians A and B, but excluding photographers and darkroom technicians, machine and welding shop employees, professional, technical and office clerical employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

<sup>6</sup> *Clarostat Mfg. Co., Inc.*, 105 NLRB 20, 23; *Aerial Products, Inc.*, 111 NLRB 385, 387.

<sup>7</sup> *Central Operating Company*, 115 NLRB 1754.

<sup>8</sup> Cf. *Westinghouse Air Brake Company*, 119 NLRB 1391, 1394.

<sup>9</sup> Subject to the qualifications set forth above.

## APPENDIX A

## EXCLUDED CLASSIFICATIONS

The following classifications in the property and consolidated supply department were excluded as office clericals by agreement of the parties:

1. The clerk B who works with the department chief.
2. Clerk typist B in surplus property section.
3. Clerks B and clerk steno B in property accounting section.
4. Clerk typist A in property management section.
5. Clerks A and B, and clerk typist B in stores section.
6. Clerk typists A and B in receiving and shipping section.

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**Hunt Foods and United Can & Glass Division of Hunt Foods & Industries, Inc. and Cannery Warehousemen, Food Processors, Drivers & Helpers, Local 768, Clerical Division, I.B.T.C.W.H.A., Petitioner and Office Employees' International Union, Local 29, AFL-CIO. Case No. 20-RC-3730. April 27, 1959**

## DECISION AND ORDER

Pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted by the Regional Director on January 21, 1959, among the employees in the unit described below. After the election, the parties were furnished with a tally of ballots which showed that, of approximately 69 eligible voters, 30 cast ballots for the Petitioner, 2 for the Intervenor, and 29 against the participating labor organizations. Eight ballots were challenged. After an investigation, the Regional Director on March 2, 1959, issued his report on challenged ballots, in which he recommended that the challenges to the ballots of Mabel Brown, Kathryn Dorst, Anthony Froncek, Gunther Kriwinski, Beatrice Ewing, and Ardis Walker be sustained, and that the challenges to the ballots of Frank Castro and Paul Brenner be overruled and opened and counted. The Employer filed timely exceptions to the Regional Director's findings and recommendations as to the ballot of Castro alone. The Petitioner and Intervenor filed no exceptions.

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 [Members Rodgers, Bean, and Fanning].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent certain employees of the Employer.