

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

COLUMBIA GAS OF OHIO, INC. ^{1/}

Employer

and

Case 9-RC-17470

UTILITY WORKERS OF AMERICA, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, ^{2/} the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Employer, a corporation, is a public utility which provides natural gas services to customers in Ohio. The Employer operates out of approximately 11 centers, one of which is

^{1/} The Employer's name appears as amended at hearing.

^{2/} The Employer and the Petitioner timely filed briefs which I have carefully considered in reaching my decision.

located at Springfield, Ohio, the only facility at issue in this proceeding, where it currently employs about four to six employees in the unit found appropriate. Each operations center is responsible for operations in a specific geographic area. There is no history of collective bargaining affecting any of the employees in this proceeding.

The parties stipulated that all office clerical and technical employees employed by the Employer at its Springfield operations center, including the operations coordinator, the administrative assistant and the operations clerks should be included in any unit found appropriate. The parties also stipulated that the appropriate unit should exclude the construction inspector and all professional employees, guards and supervisors as defined in the Act.

In accordance with the stipulation of the parties, I find that a unit of office clerical and technical employees, including the operations coordinator, the administrative assistant and operations clerks, employed by the Employer at its Springfield operations center is appropriate for purposes of collective bargaining.

The parties disagree as to the unit placement of Alfonzo Howard, a measurement and regulation technician who has been on extended sick leave since July 2000, and Michael Pilcher, a corrosion technician. Both report for work at and are based out of the Springfield operations center. Neither party took a specific position on the record nor in their briefs as to whether Howard and Pilcher are technical employees. However, the record does not reflect the existence of any other employees who work at or out of the Springfield location who might be technical employees. Although the record, as previously noted, is not clear on the issue, it appears the Petitioner would include these technicians on the ground that they are technical employees within the unit description or, at least, share a sufficient community of interest with the other unit employees to warrant their inclusion in the unit. The Employer would exclude the technicians merely as lacking such a community of interest with the other unit employees.

In support of its position, the Petitioner asserts and the record reflects that the technicians in question share the same work reporting location and fringe benefits as the other unit employees, that they attend staff meetings and social functions whose attendance is limited to Springfield employees and that they have work spaces at the Springfield operations center.

The Employer maintains, and the record shows, that the technicians in question are salaried whereas office clerical employees are hourly paid; that the technicians in question are supervised separately from the office clericals and have separate non-integrated job functions which do not require work related contact; and that the technicians in question spend more than 90 percent of their time performing maintenance work on piping and pressure regulation systems in the field, while the clerical employees spend their time in the office doing paper work and computer data entry. The record is lacking in specificity as to the wage rates, working hours and other terms and conditions of employment of the office clericals to enable a comparison on those matters with the technicians.

None of the technicians or office clerical employees testified at the hearing. Although the testimony of persons whose unit placement is in dispute is not required, such testimony is often the best evidence bearing on unit placement issues. Given the unique circumstances of this case,

where the parties agree that technical employees should be included in the unit but did not take a position concerning whether the technicians were technical employees and where the evidence is insufficient to make a comparison of the wages, hours and other terms and conditions of employment of the technicians with other unit employees, I conclude that the testimony of the technicians and office clerical employees is necessary to make a proper determination concerning the technicians' unit placement.

Accordingly, in the absence of specific and detailed evidence allowing me to make a proper determination as to their status, I shall permit the measurement and regulation technician, Alfonzo Howard, and the corrosion technician, Michael Pilcher, to vote subject to challenge and I hereby instruct my agent conducting the election to challenge their ballots if they appear at the polls to vote.

Based on the foregoing, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining:

All office clerical employees and technical employees, including the operations coordinator, the administrative assistant and operations clerks, employed by the Employer at or out of its 2101 West Main Street, Springfield, Ohio facility, excluding the construction inspector and all professional employees, guards and supervisors as defined in the Act.

Accordingly, I shall direct an election among the employees in such unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Utility Workers Union of America, AFL-CIO**.

LIST OF ELIGIBLE VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters using full names, not initials, and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB No. 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **November 15, 2000**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **November 22, 2000**.

Dated at Cincinnati, Ohio this 8th day of November 2000.

/s/ Richard L. Ahearn

Richard L. Ahearn, Regional Director
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