

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL UNION NO. 3, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS,

Decision No. 98-70

AFL-CIO

-and-

Docket Nos:
RU-124-69
RU-137-69
RU-150-69

DISTRICT COUNCIL 37, AFSCME,

Petitioners,

-and-

LOCAL 246, S.E.I.U., AFL-CIO
Intervener,

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

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DECISION, ORDER AND
DIRECTION OF ELECTIONS

On July 9, 1969, Local Union No.3, I. B. E. W.,
AFL-CIO (herein called Local 3) filed a petition for certifi-
cation as collective bargaining representative of a city-
wide unit of Foreman of Mechanics (Docket No. RU-124-69).

On September 24, 1969, District Council 37, AFSCME,
AFL-CIO (herein D.C. 37) filed a petition for certifi-
cation of Radio Repair Mechanics (Docket No. RU-137-69).

On December 15, 1969, Local 3 filed a petition
for certification as collective bargaining representative of
electrical work, including the Radio Repair Mechanic, peti-
tioned for by D. C. 37 in Case No. RU-137-69, and Supervising
Superintendent of Maintenance.

Local 3 and Local 246, S.E.I.U. applied to intervene in Case No. RU-137-69, and D. C. 37 applied to intervene in Case No. RU-150-69. No objections having been filed thereto, the applications to intervene will be granted.

These proceedings have been consolidated for purposes of decision because of the interrelated questions prepared.

Upon consideration of its investigation, including the positions of the parties, the Board of Certification issues the following Decision, Order, and Direction of Elections:

The Appropriate Units and
Representative Status

Local 3 currently is certified as the city-wide representative of the following unit:

Armature Winders (7 NYCDL No. 5);
Cable Splicers, Cable Splicer's Helpers,
Linemen, and Lineman's Helpers (7 NTCDL No. 65);
Electrical Inspectors, Senior Electrical
Inspectors, Supervising Electrical Inspectors,
and Principal Electrical Inspectors (MR-26-64);
Fire Alarm Dispatchers, Supervising Fire
Alarm Dispatchers, and Chief Fire Alarm Dis-
patchers (CWR-80/67, as amended by Decision
No. 47-69);

Inspectors of Fire Alarm Boxes and Senior
Inspectors of Fire Alarm Boxes (Decision No. 9-68,
As amended by Decision No. 12-69).

Local 3's petition in Case No. RU-150-69 seeks establishment of a single unit of employees engaged in electrical repairs, installations, operations and inspection, including the above-mentioned titles for which Local 3 currently is certified, and the additional titles of Electricians, Electrician (Airport), Electrician (Powerhouse), Electrician (X-Ray) Electrician's Helper, Stationary Engineer (Electric), Senior Stationary Engineer (Electric), Radio Repair Mechanic, Supervising Chief Fire Alarm Dispatcher and Supervising Superintendent of Maintenance. As previously indicated, in Case No. RU-124-69, it seeks a separate unit of Foreman of Mechanics.

D.C. 37 contends that Radio Repair Mechanics should constitute a separate bargaining unit. Local 246 seeks to appear on the ballot in any election involving Radio Repair Mechanics if such employees are found to constitute a separate unit.

The Office of Labor Relations urges a separate unit of Foreman of Mechanics; oppose a separate unit of Radio Repair Mechanics; would exclude Supervising Superintendents of Maintenance from any of the units here sought; and contends that the titles subject to §220 of the Labor Law should be differentiated from those of Career and Salary Plan employees.

Supervising Superintendent of Maintenance

Employees in the title of Supervising Superintendent of Maintenance perform primarily non-electrical work in connection with traffic devices and markings. They presently are included in a unit with Foreman (Traffic Device Maintenance) [Decision No. 88-701 for which we recently issued a Direction of Election. Accordingly, they will be excluded from any of the unit herein.

Docket Nos. Ru-124-69, 137-69, 150-69

Radio Repair Mechanic

Radio Repair Mechanics install, repair, align and tune radio, radar, television, and other electronic apparatus and equipment. Their duties, skills and interests are closely related to those of employees engaged in other electrical work. We find and conclude, therefore, that establishment of a separate unit of Radio Repair Mechanics would run counter to the Board's policy against fragmentation, and, therefore, is inappropriate (Matter of Civil Service Technical Guild, Local 375 A.F.S.C.M.E., Decision NO. 38-69; Matter of District Council 37, Decision No. 44-68)

Foreman of Mechanics

Foremen of Mechanics supervise skilled mechanics and helpers, including those engaged in electrical work, in connection with the maintenance, alteration, repair erection and dismantling of equipment and structures. There are three other closely related foreman titles, incumbents of which supervise employees in the journeyman and helper titles involved herein. These are: Foreman Electrician, Foreman Cable Splicer and Foreman Lineman. There also are four other supervisory titles with closely related skills, interests and duties: Stationary Engineer (Electric) Stationary Engineer (Electric Pumping Station), Senior Stationary Engineer (Electric) and Senior Stationary Engineer (Electric Pumping Station). All these titles properly belong in the same bargaining unit.

Prevailing Rate Employees

Many of the titles concerned herein are subject to §220 of the Labor Law. The "wages and supplements" of incumbents of those titles are determined by the City Comptroller on the basis of prevailing rates paid in private industry.

Section 5a (1) of Executive Order 52 expressly provides "that with respect to those employees whose wages are determined under Section two hundred twenty of Labor Law, there shall be no duty to bargain concerning those matters whose determination is provided for under such section." This important limitation of the permissible scope of collective bargaining for prevailing rate employees clearly differentiates their interests from those of other employees. Accordingly, in the absence of unusual circumstances, we shall place prevailing rate employees in a separate unit or units.

Supervisory employees

A number of the titles here involved are supervisory and, under §1173-3.0 1, may not be included in the same bargaining unit with non-supervisory employees **li** without the consent of a vote of a majority of the*** supervisory employees involved."

For purposes of unit placement, therefore, the titles concerned herein fall into four groups:

A. Supervisory-Prevailing Rate

Foreman of Mechanics
Foreman Cable Splicer
Foreman lineman
Foreman Electrician
Stationary Engineer (Electric)
Senior Stationary Engineer (Electric)
Stationary Engineer (Electric Pumping Station)
Senior Stationary Engineer
(Electric Pumping Station)

B. Non-Supervisory-Prevailing Rate

Radio Repair Mechanic
Armature Winder
Cable Splicer
Cable Splicer's Helper
Lineman
Lineman's Helper
Electrician
Electrician (Airport)
Electrician (Powerhouse)
Electrician (X-Ray)
Electrician's Helper

_____ C. Supervisory-Career & Salary
Supervising electrical Inspector
Principal Electrician Inspector
Supervising Fire Alarm Dispatcher
Chief Fire Alarm Dispatcher
Supervising Chief Fire Alarm Dispatcher
Senior Inspector of Fire Alarm Boxes
and employees in restored Rule X titles
Serving in position equated thereto.

_____ D. Non-Supervisory-Career & Salar
Electrical Inspector
Senior electrical Inspector
Fire Alarm Dispatcher
Inspector of Fire Alarm Boxes
and employees in restored Rule X titles
Serving in positions equated thereto.

Local 3 presently is the certified representative of all employees in the Rule XI titles listed in group D, and has submitted duly authenticated photostatic copies of dues payment records of all employees serving in restored Rule X positions equated thereto.* Local 3 also is the designated representative for purposes of collective bargaining of a majority of the employees in the titles listed in each of the other groups, as evidenced by dues check-off

authorizations, and by duly authenticated copies of dues payment records.

Accordingly, we find that Local 3 has been designated and selected by a majority of the employees in each of the said groups as their representative for the purposes of collective bargaining.

Such records constitute an "appropriate and suitable method" of ascertaining the choice of employees Under §1172-5. 0b (1) [see Matter of New York State Nurses Association, Decision No. 19-68

Our unit finding will await the outcome of self-determination elections to be conducted among the supervisory employees in groups "A" and "C", above.

ORDER AND DIRECTION OF ELECTIONS

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

O R D E R E D, that the applications to intervene filed herein by Local Union No. 3, I.B.E.W., AFL-CIO, District Council 37, A.F.S.C.M.E., AFL-CIO, and Local 246, S.E.I.U., AFL-CIO, be, and the same hereby are, granted; and it is further

O R D E R E D, that the petition filed by District Council 37, A.F.S.C.M.E., AFL-CIO, in Case No. Ru-137-69 be, and the same hereby is dismissed, and it is further

D I R I C T E D, that separate elections by secret ballot shall be conducted, under the supervision of the Board of Certification, or its agents, at a time, place, and during hours to be fixed by the Board, to determine:

1. whether the employees in group "A," above, desire a separate unit for the purposes of collective bargaining, or desire a combined unit with the employees in group "B" above; and

2. whether the employees in group "C," above, desire a separate unit for the purposes of collective bargaining, or desire a combined unit with the employees in group "D", above.

DATED: New York, N. Y.

December 28, 1970

Arvid Anderson
Chairman

Eric J. Schmertz
Member

Walter L. Eisenberg
Member

