

ONTARIO LABOUR RELATIONS BOARD

Between:

Electrical Contractors Association
of London,

Applicant,

- and -

The International Brotherhood of
Electrical Workers, Local Union 120,

Respondent,

- and -

Electrical Power Systems Construction
Association,

Intervener.

BEFORE: D.E. Franks, Vice-Chairman, and Board Members
E. Boyer and H.J.F. Ade.

APPEARANCES AT THE HEARING: W.S. Cook, W.R. Ferguson
and N.W. Purdy for the applicant; David T. Butt for
the respondent; B.H. Stewart and W. Chenery for the
intervener and Hydro Electric Power Commission of
Ontario.

DECISION OF THE BOARD:

1. This is an application for accreditation in which the applicant seeks to be accredited as the bargaining agent for certain employers who have a bargaining relationship with the respondent. The applicant and the respondent are parties to a collective agreement dated June 8, 1971, the term of which extended from May 13, 1971 to April 30, 1973. This agreement is binding on more than one employer in the construction industry. The Board therefore finds that it has jurisdiction under section 113 of the Act to entertain this application.

2. The applicant in the present case is a Corporation. In support of its application the applicant filed true copies, certified by the President of the Corporation, of certain Letters Patent and Supplementary Letters Patent. The

Letters Patent, given September 18, 1968 by the Provincial Secretary and Minister of Citizenship of the Province of Ontario, create Electrical Contractors Association of London a Corporation without share capital. The Supplementary Letters Patent, given April 26, 1971, by the Minister of Financial and Commercial Affairs, extends the objects of the Corporation. Included in the extended objects granted by the Supplementary Letters Patent is the following object:

- (f) To become an accredited employers' organization under The Labour Relations Act, as amended from time to time, or any legislation substituted therefor and to regulate relations between employers and employees in the electrical trade and all ancillary and allied trades and represent such employers in collective bargaining within any sector or sectors in any geographical area or areas as defined under The Labour Relations Act or as determined by The Labour Relations Board.

On the basis of the foregoing the Board is satisfied that the applicant is an employers' organization within section 106(d) of The Labour Relations Act and that it is a properly constituted organization for the purposes of section 115(3) of the Act.

3. In support of its application the applicant filed documentary evidence of representation on behalf of nineteen (19) employers. These documents are in a standard form and the effect of each is to appoint the applicant association to represent the individual employer as bargaining agent in regard to the employees covered by a collective agreement with the respondent in the geographic area and sectors of the construction industry for which the applicant has applied to be accredited. Each document also appoints the applicant as agent of the individual employer for the purposes of making an application for accreditation and vests in the applicant all necessary authority to enable it to discharge the responsibilities of an accredited bargaining agent. The applicant also filed a duly completed Form 62 Declaration Concerning Representation Documents. The Board is satisfied that the evidence of representation meets the requirements set out in section 96 of the Board's Rules of Procedure and the Board is further satisfied that the individual employers on whose behalf the applicant has submitted evidence of representation have vested appropriate authority in the applicant to enable it to discharge

the responsibilities of an accredited bargaining agent.

4. The applicant applied to be accredited as the bargaining agent for a unit of employers consisting of all employers of journeymen, electricians and apprentices for whom the respondent has bargaining rights in the Counties of Oxford, Huron, Middlesex and Elgin, in the industrial, commercial and institutional sector, the residential sector, the sewers, tunnels and watermains sector, the road sector, the heavy engineering sector, the pipelines sector and the electrical power systems sector. At the hearing, counsel for both the applicant and the respondent agreed to an amendment to the application to limit the unit applied for to the industrial, commercial and institutional sector and the residential sector. On the basis of this agreement the intervener, which had opposed the inclusion of the electrical power systems sector in the unit, withdrew from the proceedings. Having considered the representations of the parties, the Board finds that all employers of journeymen electricians and apprentices for whom the respondent has bargaining rights in the Counties of Oxford, Huron, Middlesex and Elgin in the industrial, commercial and institutional sector and the residential sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

5. Notice of this application was given to thirty-one (31) employers in accordance with the Board's Rules of Procedure. There were two employers who failed to make the proper filings in Form 67 and Schedule "H" and with respect to which neither the applicant nor the respondent made any representations. Accordingly, Employer No. 3 - Alford Electric Limited, and Employer No. 17 - McDonald Elec. Co. Ltd. are removed from the list of employers in the unit of employers.

6. At the hearing in this matter the applicant and respondent agreed that Employer No. 31 - Hydro Electric Power Commission of Ontario should be removed from the list of employers in the unit of employers because the respondent was not entitled to bargain on behalf of its employees in the bargaining unit set out in paragraph 4 supra. Employer No. 23 - R.B.P. Electric Contractors in its filings stated that it did not come within the unit for which the applicant had applied to be accredited for. In that this statement was not challenged at the hearing, this employer is also removed from the list. The parties agreed to the removal of Employer No. 25 - Raycor Electric Ltd. from the list as being merely a

duplication of Employer No. 24 - Raycor Electric Limited.

7. Employer No. 16 - Jolliffe-Seaton Elec. Co. Ltd. failed to file a return. In these circumstances the parties have agreed that for the purposes of section 115 of the Act this employer should be placed on Final Schedule "E".

8. On the basis of the foregoing considerations and the filings by individual employers the Board has drawn up the following lists of employers. Those listed on Final Schedule "E" are those who have indicated that they had employees affected by the application in the year preceding January 30, 1973, the date of the making of this application. Those on Final Schedule "F" have indicated that they have not had such employees.

FINAL SCHEDULE "E"

Ainsworth Elec. Co. Limited
Albion-Lane Electric Limited
Allen Electric Limited
Black & McDonald Limited
Brinkman Electric Limited
Adam Clark Limited
Comstock International Ltd.
R.J. Devereaux Electric
Ferguson Electric Ltd.
George T. Greenside Electrical
Contracting Co. Ltd.
Hale Electric
Jenkins-Morrison Electrical Ltd.
Johnson Controls Limited
Jolliffe-Seaton Elec. Co. Ltd.
J.V. McDonnell Electrical Ltd.
S.H. Myles & Company Limited
Raycor Electric Limited
Wm. Roberts Elec. & Mech. Ltd.
F.J. Rogers Limited
Tri-Ven Limited
John E. Waugh Limited
Wilson & Somerville Limited

FINAL SCHEDULE "F"

Devereaux & Haggarty Limited
Fred Mason & Son Electric
Midwood Electric Limited
Perth Elec. Contracting Ltd.

The Board finds that the twenty-two (22) employers on Final Schedule "E" are those employers who had employees in the year immediately preceding the making of the application, and the number twenty-two (22) is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

9. On the basis of all the evidence before us the Board finds that on the date of the making of the application the applicant represented seventeen (17) of the twenty-two (22) employers on Final Schedule "E". The seventeen (17) employers is the number of employers to be ascertained by the Board under section 115(1)(b) of the Act. Accordingly, the Board is satisfied that a majority of the employers in the unit of employers are represented by the applicant.

10. The entitlement of an employers' organization to accreditation is based on a "double" majority. We have now dealt with the first of the majorities that an applicant must obtain, a majority of employers in the unit of employers. We now turn to determine whether those employers employed a majority of the employees affected by this application. The Schedule "H" which accompanied the Form 68, Employer Filing filed by the individual employers sets out the number of employees that the employer has at each job site with details of the location and type of construction involved. By section 115(1)(c) of the Act the relevant payroll period is the weekly payroll period immediately preceding the making of the application, in this case the weekly payroll period immediately preceding January 30, 1973. The Board is satisfied that such a payroll period is the satisfactory payroll period for the determination in section 115(1)(c) of the Act.

11. On the basis of all the evidence before it and in accordance with the foregoing considerations the Board finds that there were ⁴¹¹one hundred and eighty-four (184) employees affected by the application during the weekly payroll period immediately preceding January 30, 1973. The one hundred and eighty-four ⁴¹¹(184) employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act.

12. The Board further finds that the seventeen (17) employers within the unit represented by the applicant employed ¹²one hundred and sixty-four (164) ²⁶³of these one hundred and eighty-four (184) employees. The Board is therefore satisfied that the majority of employers represented by the applicant employed a majority of the employees affected by the application as ascertained in accordance with the provisions of

section 115(1)(c) of the Act.

13. Having regard to all of the above findings a Certificate of Accreditation will issue to the applicant for the unit of employers found to be an appropriate unit of employers in paragraph 4 supra, and in accordance with the provisions of section 115(2) of the Act for such other employers for whose employees the respondent may after November 17, 1972, obtain bargaining rights through certification or voluntary recognition in the geographic area and sectors set out in the unit of employers.

My 25/1/74

March 20, 1974

"D.E. Franks"
for the Board