

In the Matter of THE TEXAS PIPE LINE COMPANY and OIL WORKERS
INTERNATIONAL UNION, LOCAL 367, C. I. O.

Case No. 16-R-691.—Decided November 5, 1943

Mr. John C. Jackson, of Houston, Tex., for the Company.

Mr. W. A. Combs, of Houston, Tex., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, Local 367, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Texas Pipe Line Company, South Texas Division, Houston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Proctor, Trial Examiner. Said hearing was held at Houston, Texas, on September 13 and 14, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Texas Pipe Line Company, a Texas corporation with its principal place of business located in Houston, Texas, is a wholly owned subsidiary of The Texas Company. The Company is a common carrier pipe line system engaged in the transportation of crude oil and petroleum products throughout several States, and is subject to the

rules and regulations of the Interstate Commerce Commission as well as the Railroad Commission of Texas. The Company owns and operates 2,637 miles of gathering lines and 3,837 miles of trunk lines. The gathering lines system consists of a network of lines ranging in size from 2 to 10 inches in diameter which gather oil from the oil producing leases and conduct it into the Company's initial trunk line receiving stations. The trunk lines system is the main artery through which the oil gathered in the various fields and leases is moved towards its ultimate destination. During the year 1942 crude oil in excess of 55,000,000 barrels was transported through the pipe lines of the Company. In order to obtain direct supervision over the maintenance and operation of its properties, the Company has divided its operations into seven superintendent areas, among which is the South Texas Division, with which we are concerned herein.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Oil Workers International Union, Local 367, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to recognize the Union as the exclusive bargaining representative of certain of its employees on the ground that the unit sought by the latter is inappropriate.

A statement of the Field Examiner, introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union contends that all production and maintenance employees engaged in the South Texas Division of the Company, excluding supervisory and clerical employees, constitute an appropriate unit. In addition to disputing the propriety of including several classifications within the unit (hereinafter discussed *seriatim*), the Company contends that the appropriate unit is system-wide.

¹ The Field Examiner reported that the Union submitted 249 authorization cards, of which 228 bear apparently genuine original signatures of persons whose names appear upon the Company's pay roll of July 31, 1943. Said pay roll contained a total of 413 names within the appropriate unit.

As indicated hereinbefore, the Company is an integrated pipe line system divided, for organizational purposes, into seven divisions, each under the direction of a divisional superintendent who is responsible for its operation, construction, and maintenance, as well as for its personnel. Because of the nature of its business, involving as it does a maximum flexibility in the routing of oil, divisional lines are not necessarily permanent, and are subject to changes which emanate from the central office at Houston. The conditions of employment are uniform throughout the entire system, and transfers of employees are made both intra- and interdivisionally; however, intradivisional transfers of personnel are usually of a temporary character, whereas transfers between divisions have customarily been of a more permanent nature, and involve a change in pay roll.

Since 1941 the Union has attempted locally to conduct grievances on the part of the employees whom it seeks herein to represent, but on each occasion has been referred to the divisional superintendent. The jurisdiction of the Union has been limited for the present by its parent organization to the employees of the Company in the South Texas Division, and it has not attempted to organize employees other than those in that division. We are of the opinion that the extent to which the Union has organized the employees of the Company, the administrative set-up of the Company, and, in this instance, the past history of relations between the Company and the Union, indicate the feasibility of the divisional unit. We find, therefore, that such a unit is appropriate.²

The Company contends that chief tour engineers, tour engineers, carpenter foremen, gang foremen, assistant gang foremen, paint foremen, welder foremen, district gaugers, master mechanics, and assistant master mechanics should be excluded from the unit on the ground that they are supervisors. The Union, while not conceding the correctness of the Company's position with respect to the foregoing classifications, agrees that carpenter foremen, gang foremen, paint foremen, welder foremen, and the master mechanics, do have some supervisory powers and does not oppose their exclusion at this time. We shall exclude them. However, the Union contends that chief tour engineers, tour engineers, district gaugers, and assistant master mechanics are ordinary workmen without any supervisory capacity, and should be included within the bargaining unit.

*Chief Tour Engineers and Chief Main Line Engineers.*³ The Union argues that these employees are merely "pumpers," whereas

² Cf. *Matter of Texas Empire Pipe Line Company*, 19 N. L. R. B. 631, wherein the Board found a divisional unit appropriate in view of the Union's extent of organization, and the organizational set-up of the Company.

³ These classifications of employees are substantially the same; the main line pumping stations are apparently located on the main artery as well as the stations under the supervision of chief tour engineers appear to be gathering points.

the Company contends that they are employees directly responsible for the operation and maintenance of the pumping machinery and exercise supervisory authority over the other employees at their particular stations. These employees receive a higher remuneration than the other employees at the stations to which they are assigned. In addition to their responsibility for the proper functioning of the machinery, it is their duty to supervise oilers and other employees assigned to assist in the operation and maintenance of the station. These employees also make out the station reports, and are responsible for the correctness of receiving and delivery tickets covering the receipt or delivery of crude oil from and to outside companies. We are of the opinion that those employees exercise functions sufficiently supervisory in nature to warrant their exclusion from the unit hereinafter found appropriate. We shall, therefore, exclude them.

The record is not sufficiently definite concerning the supervisory authority of tour engineers (and relief tour engineers),⁴ district gaugers,⁵ assistant master mechanics, and assistant gang foremen, to permit a present determination as to their status. Accordingly, we shall allow them to vote in the election hereinafter directed, but shall impound their ballots pending clarification of their status.

Upon the basis of the entire record, and in accordance with the foregoing findings of fact, we find that all production and maintenance employees of the Company, excluding clerical employees, chief tour engineers, chief main line engineers, carpenter foremen, gang foremen, paint foremen, welder foremen, and master mechanics, and all other supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot. The Union desires that eligibility to vote be determined as of August 31, 1943. However, in the absence of any persuasive reason for departing therefrom, we shall adhere to our customary practice, and shall direct that the employees of the Company eligible to vote in the election shall be those in the appropriate unit who were employed during the pay-roll

⁴ These employees act as tour engineers at regularly scheduled intervals. The balance of their time is spent in other capacities at the pumping station.

⁵ While we have found in another proceeding (*Matter of Empire Pipe Line Company*, 46 N. L. R. B. 1341), that similarly designated employees were too closely connected with management to warrant their inclusion within the unit, the evidence herein concerning the duties and responsibilities of these employees was not as detailed as it was in that case.

period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Texas Pipe Line Company, South Texas Division, Houston, Texas, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Oil Workers International Union, Local 367, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.