

In the Matter of UNION PRODUCING COMPANY AND ASSOCIATED COMPANIES: UNITED GAS PIPE LINE COMPANY AND HOUSTON GULF GAS COMPANY and OIL WORKERS INTERNATIONAL UNION (CIO)

In the Matter of UNITED GAS PIPE LINE COMPANY and OIL WORKERS INTERNATIONAL UNION (CIO)

Cases Nos. 16-R-723 and 16-R-731 respectively.—Decided December 13, 1943

Vinson, Elkins, Weems & Francis, of Houston, Tex., by Mr. W. O. Crane, of Shreveport, La.; and Johnson & Rogers, by Mr. Carl Wright Johnson, of San Antonio, Tex., for the Companies.

Mr. Lindsey P. Walden, of Ft. Worth, Tex., and Mr. M. B. King, of Corpus Christi, Tex., for the Union.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Oil Workers International Union (CIO), herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company, Shreveport, Louisiana, herein collectively called the Companies, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Elmer Davis, Trial Examiner. Said hearing was held at San Antonio, Texas, on October 21, 1943. The Companies 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 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 COMPANIES

United Gas Pipe Line Company is a Delaware corporation doing business in Texas, Louisiana, Alabama, Florida, and Mississippi, with headquarters at Shreveport, Louisiana. It is engaged in the purchase, transportation, and sale at wholesale of natural gas and the operation of gasoline plants. In Texas its operations are principally in areas near San Antonio, Houston, and Wichita Falls, and in the east central portion of the State. The instant proceedings are concerned with operations near San Antonio known as the San Antonio District. During July 1943, United Gas Pipe Line Company sold 2,733,576 M. C. F. of natural gas to industrial consumers, public utilities, drilling contractors, military reservations, and other pipe lines. During September 1943, it sold to Mexican Gas Company at Roma, Texas, 709, 412 M. C. F., of natural gas, which the latter organization distributed to Monterrey, Mexico, and intermediate points. During July 1943, United Gas Pipe Line Company bought supplies valued at \$2,159.00, of which \$382.00 represents materials brought into the State from points outside Texas.

Union Producing Company is a Delaware corporation with headquarters at Shreveport, Louisiana, and is engaged in the exploration for, and the production, sale, and distribution of, crude oil and natural gas in Texas, Louisiana, and Mississippi. In Texas its operations are restricted to the area near Wichita Falls, to east central Texas, and to the so-called Beeville District. During September 1943 the corporation produced 11,975,267 M. C. F. of natural gas and in the year 1942, 11,784,407 barrels of crude oil. During July 1943 the Beeville District alone produced 146,485 barrels of crude oil, 9,354 barrels of condensate, and 1,888,022 M. C. F. of natural gas.¹ A considerable portion of the natural gas thus produced was delivered within the Beeville District to United Gas Pipe Line Company and to Houston Gulf Gas Company. During July 1943, Union Producing Company purchased for maintenance materials valued at \$23,090.39, of which amount \$9,901 represented materials purchased outside Texas.

Houston Gulf Gas Company is a Delaware corporation with headquarters at Shreveport, Louisiana, and is primarily engaged in the production, sale, and distribution of gas and condensate. It operates 14 gas wells and 1 oil well. It owns, maintains, and operates a pipe line beginning near Refugio, Texas, and terminating near Houston, Texas, where gas is delivered at wholesale to the retail distribution system for the City of Houston and to other customers. During

¹ In addition to this amount, 2,606,119 M. C. F. of natural gas was delivered to recycling plants.

September 1943, Houston Gulf Gas Company produced natural gas in the amount of 3,618,102 M. C. F., a majority of which was sold to consumers in the general area of Houston, Texas, and 780,188 M. C. F. to industrial consumers within that area, and a substantial amount to United Gas Pipe Line Company.

United Gas Pipe Line Company and Union Producing Company are wholly owned subsidiaries of United Gas Corporation, a Delaware corporation with headquarters at Shreveport, Louisiana. More than 99 percent of the stock of Houston Gulf Gas Company is owned by United Gas Pipe Line Company.²

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTIONS CONCERNING REPRESENTATION

Prior to the separate petitions filed in this proceeding, the Union asked the Companies for recognition as sole bargaining agent of their employees in certain proposed bargaining units. The Companies refused to grant the desired recognition, requesting that the Union secure the certification of the Board.

Statements prepared by the Field Examiner and introduced into evidence at the hearing indicate that the Union represents a substantial number of employees in each bargaining unit found herein to be appropriate.³

We find that questions affecting commerce have 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.

² United Oil Pipe Line Company is a wholly owned subsidiary of United Gas Corporation. This corporation operates in a small area near the Texas-Louisiana line, and, in the general vicinity of Longview, Texas, has a pipe line which crosses the State boundary. United Oil Pipe Line Company is not a party to this proceeding and its employees are not directly involved herein.

³ In support of its claim to represent employees in the Beeville district, the Union submitted 83 cards, of which 13 were undated and the remaining dated in 1943. Of these cards, 37 appeared to bear signatures of employees of Union Producing Company, 20 the signatures of employees of United Gas Pipe Line Company, and 9 the signatures of employees of Houston Gulf Gas Company in the Beeville district for the pay-roll period ending August 25, 1943. Of employees listed as working in the Beeville district during this pay-roll period, 68 are employees of Union Producing Company, 45 of United Gas Pipe Line Company, and 13 of the Houston Gulf Gas Company, respectively. There are approximately 126 employees of the Companies in the unit appropriate for employees in the Beeville district.

In support of its claim to represent employees in the San Antonio District, the Union submitted 67 authorization cards, of which 5 are undated, and the remaining dated in 1943. Of these cards, 64 appear to bear genuine original signatures of employees of United Gas Pipe Line Company on the August 25, 1943, pay roll for the San Antonio district. There are approximately 150 employees in the unit appropriate for employees in the San Antonio district.

IV. THE APPROPRIATE UNITS

A. *The scope of the bargaining units*

The Union contends that production and maintenance employees of United Gas Pipe Line Company in the San Antonio District constitute a separate appropriate bargaining unit. The Union further contends that production and maintenance employees of Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company in the Beeville district constitute a separate appropriate bargaining unit. The Companies contend that neither of the proposed units is an appropriate unit and that the only bargaining unit appropriate for their employees is system-wide in scope, including employees in the several affiliated corporations.

The three Companies whose employees are concerned in these proceedings have interlocking directorates and ownership. They have their headquarters at Shreveport, Louisiana, where, through central office management, their production, distribution, and sales activities are integrated and closely coordinated. Although the several Companies respectively retain their individual corporate existences, and to some extent their separate respective functions in prospecting for, developing, producing, gathering, transporting, and selling oil and gas, their work processes are subject to central control. The Companies' properties include gas and oil wells, gas and gasoline plants, and an inter-connecting network of gas pipe lines extending through parts of five States. To afford steady service to their customers, the Companies have so moulded and coordinated their operations that they are able to transport and deliver gas produced from many fields throughout their system to practically any delivery point within their service area. Common emergencies require shifts of employees from one area to another, and varying local operating needs make an over-all command of the Companies' products and resources necessary.

The Companies divide their operations into several geographical districts, each of which constitutes an administrative division of management in charge of an administrative supervisor called a district manager. In small districts the district manager has direct charge of all field operations in his district. In the large districts there are separate superintendents directly in charge of the several different field operations, such as main pipe line, field pipe line, and production work. These several district superintendents are under the district manager and an operating chief in the central office at Shreveport. Districts, as administrative subdivisions of the Companies' operations, are modified in size from time to time as the volume of the Companies' business therein increases or decreases. New districts are created by subdivision whenever operations reach sufficient mag-

nitude within a district to make such subdivision advisable for convenience in administration. District lines are drawn solely for simplicity, ease, and convenience in operating the Companies' business.

Wages, hours, and other working conditions throughout the Companies' operations are controlled by the central office at Shreveport, Louisiana, and are substantially uniform. The Companies use a uniform job classification system, and duties for each job are the same wherever that job category is listed on district pay rolls throughout their territory. There are 2,809 employees engaged in the Companies' over-all operations, of whom 1,550 are production and maintenance employees. During 1942 and the first half of 1943, 311 persons were transferred from one district to another. Seniority is rated upon system-wide service in any one of the several Companies, and seniority is one element in the making of promotions. Throughout their operations the Companies share common field office buildings, warehouses, garages, repair shops, and employee housing, and other facilities. The Companies have a uniform vacation policy, health insurance, and group life insurance programs. They have a uniform policy for compensation for injury in their services, and the same doctors and health services are available to all employees.

The present petitions directly concern employees in two districts of the Companies' operations, the San Antonio and the Beeville districts. Employees in a third district, known as the Houston district, are indirectly affected by the petitions. The San Antonio district is a distribution district with headquarters at San Antonio. There are approximately 175 production and maintenance employees listed on the district pay roll, all of whom are subject to the supervision of the district manager. All these employees are employees of United Gas Pipe Line Company. Adjacent to the San Antonio district, is another distribution and production district, known as the Houston district, with district headquarters at Houston. All employees in the Houston district are subject to its district manager, and paid through its district office. The Beeville district, primarily a production district, in geographical area overlaps in part territory included in the Houston and San Antonio districts, respectively. There are approximately 200 production and maintenance employees in the Beeville district. They include employees of Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company. All employees of these Companies are under the supervision of the Beeville district manager and are paid through the Beeville district office. Employees of the several Companies receive checks bearing the names of the individual Company which is charged for his services. Due to the overlapping of the Beeville district on the

geographical territory of the San Antonio and Houston districts, employees of United Gas Pipe Line Company and employees of Houston Gulf Gas Company work in part under the supervision of the district manager of the Beeville district and in part under the district manager of the San Antonio or the Houston district, respectively. All employees in the Beeville district are engaged primarily in production work, or in field or gathering pipe line work. Employees in the Houston district are in charge of the main pipe line of that area for transmission purposes.

It is clear that the uniform working policies of the several Companies, their closely integrated management, and their common control, support the contention of the Companies that an over-all, system-wide unit of production and maintenance employees is appropriate for bargaining purposes. The Union admits the appropriateness of a system-wide unit, but contends that its organization of the Companies' employees has not extended to any such scope. The Companies urge that seniority is weighed upon service in any one of their districts, that seniority is a factor in determining promotions, and that, for this and other reasons, bargaining units restricted to administrative subdivisions will cause confusion and resentment and will impede transfers between administrative units. The record does not disclose that seniority has been given any major consideration in the Companies' promotion program. In any event a promotion program and the weight to be accorded seniority in a promotion, expansion, or lay-off situation, is properly a subject for collective bargaining. The Companies have never bargained with any labor organization for any of their employees. The Companies, *inter alia*, further urge that, due to the overlapping of the Beeville district upon geographical territory covered by the Houston district, and the necessary closeness of the work of the employees within, dissatisfactions and unrest will be engendered between them if employees in the Beeville district are grouped in a unit which excludes employees in the Houston district. The Union claims a majority representation among employees in the San Antonio district and among employees in the Beeville district, and though presently engaged in organizing employees in the Houston district, it does not claim to represent a majority of these employees at this time. The Union's present organization of the Companies' employees is coextensive with two identifiable separate administrative divisions of the Companies' extensive operations. Employees in the Houston district work under supervisors subject to their district manager. The Companies have seen fit to place these employees in a position to work with employees of another district and yet maintain an administrative independence with respect to their work. The manager of the Beeville district has no jurisdiction over them. We see no

reason to require their inclusion in the same bargaining unit with employees of the Beeville district. Since employees within the San Antonio and Beeville districts have signified a desire for collective bargaining, we shall not require that they be deprived of their right of collective bargaining until the organization of any other employees of the Companies may be accomplished. We therefore find that separate bargaining units limited to employees in the Companies' San Antonio and Beeville districts, respectively, constitute separate bargaining units.⁴ This finding, however, will not preclude a full investigation of the unit, or units, appropriate for the purposes of collective bargaining for the Companies' employees whenever a petition may later be filed involving these employees.

B. Categories of employees within the bargaining units

The Union contends that all production and maintenance employees of Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company who are subject to the supervision of the manager of the Beeville district, including meter inspectors, but excluding supervisors, office and clerical employees, technical, professional, administrative, and janitorial employees, should be included in the unit for employees in the Beeville district and that all production and maintenance employees of United Gas Pipe Line Company who are subject to the supervision of the manager of the San Antonio district, including meter inspectors, dispatchers, telegraphers, and warehouse clerks, but excluding supervisors, office, technical, professional, administrative, and janitorial employees, should be included in the unit for employees in the San Antonio district. The Companies do not object to the categories of employees proposed for inclusion and exclusion, respectively, in the two district units, but only to the separation of these district employees from a system-wide unit. The Companies and the Union agree that supervisory employees, including foremen, should be excluded from the bargaining units for non-supervisory employees. The Companies and the Union agree upon the individual employees in the separate districts who would be included in these listed categories. The parties agree to include subforemen within the unit found appropriate for employees in the Beeville district. Subforemen have from one to five employees working under them. They do not have the authority to hire or to discharge such employees, but they have the power to recommend hire and discharge, and considerable weight is given to their recommendations. We shall, for this reason, exclude subforemen from the bargaining

⁴ *Matter of The Western Union Telegraph Company*, 39 N. L. R. B. 287; *Matter of Pacific Gas & Electric Company*, 44 N. L. R. B. 665.

units, and we shall also exclude all other employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or to recommend such action effectively.

We find that all regular production and maintenance employees of Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company who work under the supervision and management of the Beeville district manager, including meter inspectors, but excluding office and clerical employees, technical, professional, administrative, and janitorial employees, supervisors, foremen, subforemen, and all other employees who have 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 the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act. We further find that all regular production and maintenance employees of United Gas Pipe Line Company who work under the supervision and management of the San Antonio district manager, including meter inspectors, dispatchers, telegraphers, and warehouse clerks, but excluding office and clerical employees, technical, professional, administrative, and janitorial employees, supervisors, foremen, and all other employees who have 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 the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions which have arisen concerning the representation of the Companies' employees shall be determined by separate elections among all employees in the respective units found appropriate in Section IV, above, who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Union Producing Company, United Gas Pipe Line Company, and Houston Gulf Gas Company, Shreveport, Louisiana, separate elections 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 all employees of the Companies in the respective units 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 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 (CIO), for the purposes of collective bargaining.