

In the Matter of HOME OIL & REFINING Co. and OIL WORKERS INTERNATIONAL UNION, CIO

Case No. 19-R-1202.—Decided December 20, 1943

Mr. John D. Stephenson, of Great Falls, Mont., for the Company.

Mr. B. J. Rickey, of Casper, Wyo., for the Union.

Miss Olive N. Barton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Home Oil & Refining Co., Great Falls, Montana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Great Falls, Montana, on November 18, 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 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

Home Oil & Refining Co., a Montana corporation, is engaged at its only refinery just outside Great Falls, Montana, in petroleum refining and marketing. About \$1,000,000 worth of raw materials, mostly crude oil, is used by the Company annually. All of the crude oil is obtained from within the State. During the same period about \$2,000,000 worth of finished products, consisting of gasoline, distillates,

burner fuels, Diesel fuels, asphalts, and base stock for 100-octane gasoline is manufactured and sold. About 25 percent of the gasoline and 5 percent of the distillates and Diesel fuel is shipped from the plant to points outside the State of Montana. The Company also operates a number of service stations separately from the refinery, which are not involved in this proceeding.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

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 Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about September 14, 1943, the Union requested the Company to enter into collective bargaining relations with it on behalf of certain employees. The Company in a letter dated October 15, 1943, refused this request on the ground that several of its employees were in the armed service.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit herein 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 alleges in its amended petition, that the appropriate unit consists of all the refinery employees of the Company, excluding supervisory and clerical employees and all employees covered by an agreement between the Company and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., herein called the Teamsters.² The Company refuses to state its position as to the unit, preferring to leave the matter to the Board's determination. The evidence shows that there are several

¹ The Field Examiner stated that the Union submitted 33 authorization cards, of which 32 bear apparently genuine original signatures, corresponding with names on the Company's pay roll of September 16 to 30, 1943, which pay roll contains the names of 41 persons within the alleged appropriate unit. The cards are all dated September 1943.

² An agreement dated December 4, 1942, between the Company and the Teamsters, presented in evidence, covers truck loaders, warehousemen, and truck drivers employed outside the refinery but does not cover the one truck driver working within the refinery.

unarmed watchmen under the supervision of the production department, who are not sworn in as military police. We will include them in the unit.³ The laboratory superintendent, or chemist, and the assistant chemist, we shall exclude because of the supervisory authority of the chief chemist over the laboratory workers and because both are highly skilled technical workers with college degrees or the equivalent in experience.

Accordingly, we find that all refinery employees of the Company, including watchmen, and excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, clerical employees, the superintendent of the laboratory, the assistant chemist, and all employees covered by the Company's agreement with the Teamsters, 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 question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll 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 3, is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Home Oil & Refining Co., Great Falls, Montana, 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 Nineteenth 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

³ See *Matter of Pittsburgh Limestone Corporation*, 53 N. L. R. B. 810; *Matter of Duval Texas Sulphur Company*, 53 N. L. R. B. 1387.

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, and 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 affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.