

In the Matter of STANDARD OIL COMPANY (INDIANA) and OIL WORKERS  
INTERNATIONAL UNION, LOCAL 389, AFFILIATED WITH THE C. I. O.

*Case No. 7-R-1568.—Decided January 11, 1944*

*Mr. Merwin Bristol*, of Chicago, Ill., for the Company.

*Mr. B. J. Schafer*, of Detroit, Mich., for the O. W. I. U.

*Mr. Alex S. Ross*, of Detroit, Mich., for the C. S. P. W.

*Mrs. Augusta Spaulding*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by Oil Workers International Union, Local 389, affiliated with the C. I. O., herein called the O. W. I. U., alleging that a question affecting commerce had arisen concerning the representation of employees of Standard Oil Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Pheney, Trial Examiner. Said hearing was held at Detroit, Michigan, on November 26, 1943. The Company, the O. W. I. U., and Central States Petroleum Union, Local 102, herein called the C. S. P. U., 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

Standard Oil Company, incorporated in Indiana, carries on the business of manufacturing, transporting, and marketing petroleum products in 14 States in the Middle West, including Michigan.

54 N. L. R. B., No. 70.

Through affiliated companies, it is engaged in the business of producing and transporting crude petroleum. The Company carries on extensive marketing operations in Michigan, operating in that State numerous warehouses and bulk plants where its products are stored and from which they are distributed. All the gasoline and other petroleum products which the Company markets in Michigan are manufactured outside the State and are brought into the State by railroad and truck.

Gasoline, kerosene, and heating oils distributed and sold in the Detroit Sales Division, which is the only section of the Company's business directly involved in this proceeding, are for the most part, manufactured at the Company's refinery at Whiting, Indiana, and are transported from Whiting by boat and stored at River Rouge Lake Terminal, River Rouge, Michigan. Gasoline, kerosene, and heating oils distributed by the Detroit Sales Division are obtained as needed from River Rouge. Lubricating oils, packaged goods, and all other products are brought into the State from refineries of the Company outside Michigan. For the first 6 months of 1943, the total sales of the Detroit Sales Division amounted to \$8,074,294.48, all of which represented products shipped to Michigan from points outside that State. These products included gasoline, kerosene, greases, lubricating oil, and other petroleum products.

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

## II. THE ORGANIZATIONS INVOLVED

Oil Workers International Union, Local 389, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Central States Petroleum Union, Local 102, is a labor organization affiliated with Central States Petroleum Union of Woodriver, Illinois, admitting to membership employees of the Company.

## III. THE ALLEGED APPROPRIATE UNIT

The Company's Detroit Sales Division includes geographically the area in and about Detroit, and rural communities in Michigan. It includes a main office at Detroit, 10 "A" stations, 87 "B" stations, and 2 "C" stations. "A" stations are bulk stations located within the city and suburbs of Detroit, where petroleum products are received and stored and from which these products are directly delivered to the Company's customers. "A" stations are under the direct charge of a sales supervisor and of an accounting supervisor. They are manned by a group of operating and maintenance employees, including salaried drivers, commissioned drivers, pumpers, gaugers, loaders, mechanics,

warehousemen, car washers, firemen, and construction men. Office employees handle the clerical work at each station. "B" stations are bulk storage plants in small communities, each of which is under the supervision and charge of a "B" station agent. "B" station agents are commissioned drivers. They generally have no assistants or helpers employed by the Company. They work under the direction of a supervisory employee, who is in charge of the operations of several "B" stations. "C" stations are supply or storage warehouses, operated by "B" station agents, for the convenience of "B" stations which are situated too far distant from an "A" station to use it as a source of supply.

On September 3, 1943, the O. W. I. U., alleging that it represented a majority of certain employees of the Company, asked the Company to recognize it as their sole bargaining representative. On September 10, 1943, the Company refused so to recognize the O. W. I. U., alleging that the proposed unit was not an appropriate bargaining unit.

On May 9, 1942, the Board issued a Decision and Direction of Election in a prior representation proceeding involving employees of the Company.<sup>1</sup> In this Decision, the Board found that all "A" station employees, including commissioned drivers, all "B" station agents, and all clerical employees in the Detroit Sales Division of the Company, excluding all supervisory employees, salesmen, and helpers of "B" station agents, constituted a unit appropriate for the purposes of collective bargaining. The petition in this prior case was filed by the O. W. I. U., the petitioner herein, and the O. W. I. U. and the C. S. P. U. participated in the election ordered by the Board.<sup>2</sup> The C. S. P. U. won the election, and on August 13, 1942, the Board certified the C. S. P. U. as sole bargaining representative of all employees in the appropriate bargaining unit.<sup>3</sup> At the time of the certification, a contract between the Company and the C. S. P. U., covering employees in the appropriate bargaining unit, was in full force and effect. The contract by its terms became effective on January 17, 1941, and terminated on January 1, 1943, subject to renewal from year to year thereafter. The parties agreed to continue their contract until January 1, 1944.<sup>4</sup>

The O. W. I. U. contends that all salaried operating and maintenance employees at "A" stations in the Detroit Sales Division, excluding commissioned drivers, station "B" agents, supervisory employees, and clerical employees, constitute an appropriate bargaining

<sup>1</sup> *Matter of Standard Oil Company (Indiana)*, 40 N. L. R. B. 1233.

<sup>2</sup> Previous to December 4, 1942, the C. S. P. U. operated under the name of Central States Petroleum Council, Local 102, and it was functioning under its earlier name at the time of the election.

<sup>3</sup> 43 N. L. R. B. 117.

<sup>4</sup> Neither the Company nor the C. S. P. U. contends, nor do we find, that the contract, as extended, is a bar to an investigation and determination of representatives at this time.

unit. The Company and the C. S. P. U. contend that the unit found by the Board to be appropriate for employees in the Company's Detroit Sales Division in the prior representation proceeding, set forth above, is the appropriate bargaining unit.

While the unit proposed by the O. W. I. U. might, under other circumstances, operate as an appropriate bargaining unit for employees of the Company, we see no reason at this time to alter the bargaining unit determined as appropriate for the Company's employees in the former representation proceeding. In that case, the O. W. I. U. contended that all employees in the "A" stations, including commissioned drivers and clerical employees, should be included in the same bargaining unit. The O. W. I. U. wished to exclude from the unit "B" station agents and clerical employees at the main office. The C. S. P. U. desired to include both these classes of employees in the bargaining unit. The Company took no position as to the unit. The record disclosed that since 1937 the disputed groups had been covered with other employees of the Company under collective bargaining agreements between the Company and the C. S. P. U. Since we were persuaded that the work interests of commissioned drivers in "A" stations, whom both organizations desired to include, were not distinguishable from those of "B" station agents, concerning whom they disagreed, and since we were further persuaded that there was no distinction in the working conditions of clerical employees in "A" stations, whom both labor organizations desired to include, and main office employees, concerning whom they disagreed, we concluded, on the basis of the bargaining history and the entire record therein, that all these employees should be included in the same bargaining unit.

The O. W. I. U. urges, in support of its proposed unit, that it has lately excluded all clerical employees from its membership and that it no longer considers that commissioned drivers should be included in the same bargaining unit with salaried drivers. Since 1937, the C. S. P. U. has been bargaining with the Company for all employees in the unit previously found appropriate. The record does not disclose that there has been any such defection from membership in the C. S. P. U. among employees in the proposed unit as would impel us to conclude that bargaining on the established basis has not been entirely successful.<sup>5</sup> There has been no substantial change in the operations of the Company since the issuance of the decision in the

<sup>5</sup> In support of its contention to represent a majority of the employees in its proposed bargaining unit, the O. W. I. U. submitted 54 authorization cards, of which 53, dated in August 1943, bear apparently genuine signatures of employees listed on the Company's pay roll of September 15, 1943. There are approximately 128 employees in the unit proposed by the O. W. I. U. There are approximately 363 employees in the present bargaining unit, of whom approximately 87 are "B" station agents, 100 are main office employees, 27 are "A" station clerical employees, and 17 are "A" station commissioned drivers.

prior proceeding. We see, therefore, no reason to disturb our finding with respect to the appropriate unit for the Company's employees.<sup>6</sup>

Since the unit proposed by the O. W. I. U. is, under the present circumstances, inappropriate for bargaining, and since the O. W. I. U. has not presented evidence indicating that it represents a substantial number of employees in an appropriate bargaining unit, we shall dismiss the petition filed herein.

#### ORDER

Upon the basis of the above findings of fact and the entire record in this proceeding, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Standard Oil Company, Detroit, Michigan, filed by Oil Workers International Union, Local 389, affiliated with the C. I. O., be, and it hereby is, dismissed.

<sup>6</sup> *The Post-Standard Company*, 39 N. L. R. B. 1308.