

In the Matter of THE PURE OIL COMPANY, TOLEDO REFINING DIVISION
and INTERNATIONAL OIL WORKERS UNION, C. I. O.

Case No. 8-B-1386.—Decided February 29, 1944

Messrs. Ben A. Harper and Allen C. Hutcheson, both of Chicago, Ill.,
for the Company.

Mr. Clyde Shamblen, of Toledo, Ohio, 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 International Oil Workers Union, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Pure Oil Company, Toledo Refining Division, Toledo, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William C. Murdock, Trial Examiner. Said hearing was held at Toledo, Ohio, on January 25, 1944. 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. Subsequent to the hearing the Company moved to make certain corrections in the record; no opposition being made thereto, the motion is granted, and the record is hereby ordered corrected in accordance therewith. 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 Pure Oil Company, an Ohio corporation, is engaged in the business of acquiring and developing oil lands, and in the production, refining, sale, and distribution of petroleum and its related products

throughout the United States. A substantial portion of the Company's crude oil is transported across the various State lines to the Company's refineries in Michigan, West Virginia, Texas, and Oklahoma, and the products of these refineries are distributed throughout the various States of the Union. We are concerned herein solely with the petroleum refinery of the Company located in Toledo, Ohio, which is approximately 75 percent engaged in business relating to the war effort of the United States.

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

II. THE ORGANIZATION INVOLVED

Local 346, Oil Workers International Union, affiliated with the Congress of Industrial Organizations,¹ is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

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.²

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 seeks to represent a unit composed of all office, warehouse, and laboratory employees of the Company, excluding the telegraph (or teletype) operator, the manager's (or superintendent's) secretary, and supervisory employees.³ The Company contends that these employees properly constitute three separate groups consisting of office workers, non-professional laboratory employees, and profes-

¹ The record indicates that Local 346 is the local labor organization more directly concerned herein.

² The Field Examiner reported that the Union submitted 32 designations, of which 30 have apparently genuine original signatures and contained the names of persons appearing upon the Company's pay roll; that said pay roll contains the names of 55 employees in the appropriate unit.

³ This unit corresponds to that formerly represented by Local No. 29, United Office and Professional Workers of America, (CIO), herein called the Office Workers, pursuant to a collective bargaining agreement with the Company. The Office Workers no longer claims any interest in the employees within said unit.

sional laboratory employees. In addition, the status of the shipping clerk dispatcher is in dispute between the parties.

Since 1941, at which time the Company executed a contract with the Office Workers, the employees whom the Union seeks to represent herein have been included within a single unit for the purposes of collective bargaining.

The Company contends, in this proceeding, that since the unit was constituted several changes have taken place which warrant a re-examination thereof. The record indicates that other than a change in the qualifications of persons classified as chemists,⁴ there has been little material change in the duties or conditions of employment of the employees involved herein. We are of the opinion that the changes which have been made are not sufficient to warrant dividing into smaller groups the unit previously established by collective bargaining. We shall, therefore, include the office and laboratory employees within the single unit.⁵

The record indicates that the shipping clerk dispatcher is an employee formerly included within the previous bargaining unit. The Company contends that this employee has been promoted since the unit had been formed, and is now a supervisory employee. The record indicates, however, that the shipping clerk dispatcher, whose duties consist primarily of routing supplies and products, has no authority to hire, discharge, or recommend other action affecting the status of any employees. Under these circumstances, we shall include him within the unit.

We find that all office, warehouse and laboratory employees of the Toledo refinery of the Company, including the shipping clerk dispatcher, but excluding the telegraph (or teletype) operator, the manager's (or superintendent's) stenographer, and all 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 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-

⁴ Since December 16, 1943, the Company classifies as chemists only those persons having degrees in chemistry.

⁵ See *Matter of Consolidated Vultee Aircraft Corporation*, 54 N. L. R. B. 125; *Matter of Kennecott Copper Corporation*, 40 N. L. R. B. 988; *Matter of Aluminum Ore Co.*, 39 N. L. R. B. 1286; *Matter of Libby-Owens-Ford Glass Company*, 31 N. L. R. B. 569; *Matter of Clinton Company*, 25 N. L. R. B. 934.

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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Pure Oil Company, Toledo Refining Division, Toledo, Ohio, 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 Eighth 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 Local 346, Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.