

In the Matter of GREAT LAKES PIPE LINE COMPANY and OIL WORKERS
INTERNATIONAL UNION, AFFILIATED WITH THE C. I. O.

Case No. 17-R-850.—Decided May 3, 1944

Messrs. Charles M. Blackmar and Ralph M. Jones, both of Kansas City, Mo., for the Company.

Mr. R. L. Jones, of Kansas City, Kans., for the Oil Workers.

Messrs. John H. LaRowe and E. C. Jarboe, both of Independence, Kans., for the Operating Engineers.

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, affiliated with the C. I. O., herein called the Oil Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Great Lakes Pipe Line Company, Kansas City, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Margaret L. Fassig, Trial Examiner. Said hearing was held at Kansas City, Missouri, on March 22 and 23, 1944. The Company, the Oil Workers, and International Union of Operating Engineers, affiliated with the American Federation of Labor, herein called the Operating Engineers, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon 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. The Company's request for oral argument before the Board is denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Great Lakes Pipe Line Company is a Delaware corporation, licensed to do business in the State of Missouri, maintaining its principal office in Kansas City, Missouri. The Company is a common carrier engaged in the transportation of petroleum products. Its operations are conducted in seven States under tariffs filed with the Interstate Commerce Commission, and in accordance with the Acts of Congress applicable to interstate pipe lines. The Company's system is comprised of 2,050 miles of pipe lines. In addition, the Company maintains 4,100 miles of wire and 1,418 miles of pole lines. During 1943, shipments of petroleum products transported in interstate commerce through the Company's pipe lines were at the rate of 62,490 barrels per day, and such daily carriage is conservatively estimated at a value in excess of \$100,000.

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 is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Union of Operating Engineers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about February 21, 1944, the Oil Workers requested recognition from the Company as the collective bargaining representative of certain of its employees. A representative of the Company replied that before the Company could act upon this request, it would have to consult with its attorneys. Thereupon, a representative of the Oil Workers sent a similar request through the mails, to which no reply was received.

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

¹ The Field Examiner reported that the Oil Workers submitted 42 designations and that there were 71 employees in the unit alleged by it to be appropriate.

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 Oil Workers seeks a unit comprised of all operating and maintenance employees of the Company in its superintendent district No. 2, including telephone linemen and those employees engaged in classifications listed on Appendix A, but excluding terminal testers, junior terminal testers, tester helpers, and those employees engaged in classifications listed on Appendix B. Both the Company and the Operating Engineers oppose the establishment of such a unit, contending that only a system-wide unit is appropriate. In addition, the Company opposes the inclusion of telephone linemen within a unit consisting solely of superintendent district employees.

The Company's system is divided into numerous subdivisions. There are 5 superintendent districts, 6 mechanical districts, 11 telephone sections, 3 electrical districts, 1 corrosion district, and 1 tankage district. The geographic lines of none of these various types of subdivisions correspond to those of any other, and the employees of each subdivision are under separate immediate supervision. Thus, the district superintendent has no authority over employees in the mechanical, electrical, corrosion, or tankage districts, or in the telephone sections, and, similarly, the supervisors in these subdivisions exercise no authority over the employees in the superintendent districts. All subdivisions, however, are ultimately controlled from the general office at Kansas City, which determines the Company's general policies.

The superintendent districts are primarily concerned with the maintenance and repair of the property within their geographic confines. The employees therein maintain the warehouses and other company buildings, and maintain and repair the pipe lines. The superintendent is responsible for all personnel records of the district, and is authorized to replace new workers in the unskilled categories without consultation with the general office. He also handles, in the first instance, grievances arising in his district. The record discloses that between January 1, 1939, and December 31, 1943, approximately 53 employees were permanently transferred from one superintendent district to another, an average of little more than 10 per year. It further discloses that although the Company has, in the past, changed the boundary lines of the various superintendent districts, no such change has been made for several years, and that none is contemplated in the immediate future. In view of these circumstances, we are of the opinion that the employees

engaged in the superintendent districts constitute well-defined functional and homogeneous groups.

The Company has not, in the past, bargained collectively with any labor organization as the representative of its employees. The Oil Workers, although intending to organize all employees of the Company, has, thus far, limited its organizational activities solely to the employees in two superintendent districts, including those in superintendent district No. 2. Despite its contention that only a system-wide unit is appropriate, the Operating Engineers failed to introduce documentary evidence showing that it represented any of the Company's employees. While we are of the opinion that, ultimately, a system-wide unit will be proper, no sufficient reason has been advanced for denying a distinct and identifiable group of employees the right to bargain collectively at this time, if they so desire.

As noted before, a dispute exists with respect to telephone linemen. The record discloses that these employees, although listed with other employees of the superintendent district, are not responsible to or under the supervision of the district superintendent. They are responsible, in fact, to the telephone superintendent who is stationed at the general office. Accordingly, we shall exclude telephone linemen from the unit.

We find that all operating and maintenance employees of the Company engaged in its superintendent district No. 2, including those engaged in classifications listed on Appendix A, but excluding telephone linemen, terminal testers, junior terminal testers, tester helpers, employees listed on Appendix B, 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 the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.²

V. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by an election by secret ballot. The Company contends that the usual provisions made by the Board with respect to the eligibility date will compel the Company to act in contravention of the Soldiers and Sailors Civil Relief Act, inasmuch as employees of the Company who have entered the armed forces of the United States will not appear upon the pay roll. Employees on military leave retain their status as employees, and those who present them-

² See *Matter of Texas Pipe Line Company*, 53 N. L. R. B. 431, *Matter of Texas Pipe Line Company*, 55 N. L. R. B. 239.

The Company requested that, if a unit less than system-wide be found appropriate, it should be defined geographically. However, since we find an administrative unit to be appropriate, and not a geographic one, the request is denied.

selves in person at the polls, if otherwise eligible, shall be permitted to vote.³ We 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 period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

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 Great Lakes Pipe Line Company, Kansas City, Missouri, 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 Seventeenth 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, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

APPENDIX A

Clerk, Billing
 Clerk, Gate
 Clerk, Terminal
 Driver, Truck
 Engineer, Trick, Booster
 Engineer, Trick, Diesel
 Engineer, Trick, Diesel-Gauger-Oiler
 Engineer, Trick, Diesel-Laborer, Station

³ *Matter of Mine Safety Appliance Co., etc*, 55 N. L. R. B. 1190.

⁴ The Operating Engineers stated at the hearing that it did not desire to participate in an election in the event the Board directed one for only those employees of the Company in superintendent district No. 2. Accordingly, we shall not place it upon the ballot.

Gauger-Oiler
Gauger, Terminal
Laborer, Gang
Laborer, Rack
Laborer, Station
Laborer, Terminal
Linewalker
Welder

APPENDIX B

Clerk, District
Clerk, Chief, Terminal
Engineer, Chief, Booster
Engineer, Chief, Diesel
Foreman, Gang
Foreman, Rack
Foreman, Terminal
Superintendent, District
Superintendent, Terminal