

In the Matter of PHILLIPS PETROLEUM COMPANY and OIL WORKERS  
INTERNATIONAL UNION, C. I. O., LOCAL 348

*Case No. 17-R-924.—Decided August 5, 1944.*

*Mr. H. H. Booth*, of Kansas City, Mo., for the Company.

*Mr. H. A. Caldwell*, of El Dorado, Kans., and *Mr. W. W. Watson*,  
of Kansas City, Kans., for the Union.

*Mr. Bernard Goldberg*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, C. I. O., Local 348, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Phillips Petroleum Company, Kansas City, Kansas, 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 July 10, 1944. The Company and the Union appeared and participated. All parties 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 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

Phillips Petroleum Company is a Delaware corporation having its principal operative offices in New York City and Bartlesville, Oklahoma. It is engaged in the business of refining, processing, transporting, distributing, and selling petroleum products. The Company owns and operates refineries in several states, including one in Kansas

City, Kansas, with which this proceeding is concerned. The Kansas City refinery has a capacity of approximately 23,000 barrels of crude petroleum per day. During the calendar year 1943, this refinery processed about 7,000,000 barrels of crude petroleum, and 80 percent of its products was shipped to points outside the State of Kansas.

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, Local 348, affiliated with the Congress of Industrial Organizations, 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 its hourly paid laboratory employees on the ground that the unit sought by the Union is inappropriate.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of the employees involved in this proceeding.<sup>1</sup>

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 DETERMINATION OF REPRESENTATIVES

The Union seeks to include all hourly paid laboratory workers, excluding anti-knock engineers, blend chemists and all supervisory employees, in the unit of production and maintenance employees for which it is at present the bargaining representative. The Company contends (1) that these laboratory employees, because of the nature of their work and the high rate of turnover among them, should not be included in any bargaining unit; (2) that, in the event the Board rejects its initial contention, a separate unit of these laboratory employees be established apart from the unit of production and maintenance employees.

The laboratory employees whom the Union seeks to include in the unit of production and maintenance employees, like the latter, are hourly paid, punch a time clock, and have the same vacation, insurance,

<sup>1</sup>The Field Examiner reported that the Union submitted 20 application-for-membership cards, that the names on all the cards appeared on the Company's pay roll of June 24, 1944, which contained the names of 36 employees in the alleged appropriate unit, and that the cards were dated as follows: 12 in May 1944, 4 in June 1944, and 4 undated.

hospitalization, and sick benefits. They perform simple, routine laboratory tests which are an integral part of the production processes in the refinery. No technical education is shown to be required for the work. While the turnover among the laboratory employees is high, it is no greater than the turnover among other women employees engaged directly in the production processes. The jobs themselves are permanent. This Board has repeatedly included routine laboratory workers in a unit of production and maintenance employees.<sup>2</sup> No sufficient reason here appears why the hourly paid laboratory employees may not be so included. We shall, therefore, permit the preference of such employees to determine whether or not they shall be added to the existing unit of production and maintenance employees, and to that end shall order a self-determination election. If at such election these employees select the Union they will have thereby indicated their desire to be included in a unit with the production and maintenance employees, and the Union may accordingly bargain for them as part of such unit.

We shall direct that an election by secret ballot be held among all hourly paid employees of the Company's laboratory at its plant in Kansas City, Kansas, excluding anti-knock engineers, blend chemists 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, 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.<sup>3</sup>

The Company employs a number of students who are now working full-time and are expected to continue as part-time employees after school commences.<sup>4</sup> The Company urges that these students be declared ineligible to vote. The Board has had frequent occasion to consider contentions similar to that here made, and has held that students working as regular part-time employees have sufficient interest in the outcome of a bargaining election to entitle them to vote. Accordingly we shall permit the students in question to participate in the election.<sup>5</sup>

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<sup>2</sup> See *Matter of Pittsburgh Coke & Iron Company*, 56 N. L. R. B. 1770; *Matter of Monarch Aluminum Co.*, 53 N. L. R. B. 756; *Matter of Commercial Solvents Corporation*, 45 N. L. R. B. 141.

<sup>3</sup> The Union urges that, because of the high rate of turnover, the pay-roll period of July 6, 1944, be used in determining eligibility to vote. We are of the opinion, however, that the reason advanced by the Union is not sufficient to warrant a departure from our customary practice in fixing the date of eligibility. The request is hereby denied.

<sup>4</sup> One of the students is only working 30 hours; he is now attending school.

<sup>5</sup> See *Matter of General Petroleum Corporation of California*, 56 N. L. R. B. 1366. *Matter of Ken-Rad Tube & Lamp Corporation*, 56 N. L. R. B. 1050; *Matter of Wagner Folding Box Corporation*, 49 N. L. R. B. 346.

## 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, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Phillips Petroleum Company, Kansas City, Kansas, 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 hourly paid employees of the Company's laboratory at its plant in Kansas City, Kansas, excluding anti-knock engineers, blend chemists, 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, 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 any 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, C. I. O., Local 348, for the purposes of collective bargaining.

**CHAIRMAN MILLIS** took no part in the consideration of the above Decision and Direction of Election.