

In the Matter of STANDARD OIL COMPANY (OHIO), CLEVELAND DIVISION
and OIL WORKERS INTERNATIONAL UNION, C. I. O.

Case No. 8-R-1618.—Decided October 17, 1944

Mr. Maurice F. Hanning, of Cleveland, Ohio, for the Company.

Mr. Walter N. Collins, of Whiting, Ind., for the Union.

Mr. Thomas A. Ricci, 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., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Standard Oil Company (Ohio), Cleveland Division, Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Cleveland, Ohio, on September 1, 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. At the hearing, the Company moved to dismiss the petition. The Trial Examiner referred the motion to the Board for determination. The motion is denied.¹ 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:

¹ The grounds for the motion were that the Company has petitioned the United States Supreme Court for a writ of certiorari in the case of *N. L. R. B. v. Standard Oil Company, an Ohio corporation, Sohio Pipe Line Corporation, and Latonia Refining Corporation*, 142 F. (2d) 676, enforcing 47 N. L. R. B. 517, in which the Board ordered the disestablishment of the Association of Petroleum Workers of the Standard Oil Company of Ohio. We denied an identical motion in *Matter of Sohio Pipe Line Company*, 57 N. L. R. B. 1734.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Standard Oil Company (Ohio), is an Ohio corporation, engaged in the refining, sale, and distribution of petroleum products at numerous plants throughout the State of Ohio. This proceeding solely concerns the employees of the Company's Cleveland Sales Division, located in and about Cleveland, Ohio. The finished products distributed by the Cleveland Sales Division are valued in excess of \$1,000,000 annually and are received largely from Standard Oil refineries. The crude oil from which these finished products are made comes entirely from without the State of Ohio and is valued in excess of \$1,000,000 annually.

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, 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, 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

For the sale and distribution of petroleum products in the State of Ohio, the Standard Oil Company (Ohio) maintains 13 sales divisions, 1 of which is the Cleveland Sales Division. The Cleveland Sales Division is comprised of 9 bulk plants, situated in various localities in Cuyahoga County and in parts of 2 adjoining counties. The Company employs drivers, loaders, warehousemen, recappers and maintenance employees, all known as distribution employees, in the entire Cleveland Sales Division.

² The Field Examiner reported that the Union submitted 67 membership cards, and that the names of 64 persons appearing on the cards were listed on the Company's pay roll, which contained the names of 158 employees in the unit alleged to be appropriate by the Union, and the names of 216 employees in the unit hereinafter found appropriate.

The Union contends that the drivers, loaders and warehousemen working out of the Cleveland bulk plant and the Asphalt bulk plant, 2 of the bulk plants of the Cleveland Sales Division, with specified exclusions, constitute an appropriate unit for collective bargaining purposes. The Company contends that all distribution employees throughout the entire Cleveland Sales Division, including recappers and maintenance men, should be included in a single unit and that a unit limited to any part of the division is inappropriate.

The Cleveland bulk plant is used as the headquarters of the Cleveland Sales Division. The Asphalt bulk plant is less than 2 miles distant, and the remaining seven bulk plants are from 12 to 30 miles distant from the Cleveland bulk plants. The Union has limited its organizing activities to the drivers, loaders and warehousemen working out of the Cleveland and the Asphalt bulk plants.

One superintendent has charge of the entire division. Under him there are five supervisors, one in charge of the recappers, who are located at the Cleveland bulk plant, and the other four in charge of division-wide operations. Drivers, loaders and warehousemen are employed at each plant in the division. All the maintenance employees are stationed at the Cleveland bulk plant. Some of the maintenance men are assigned for duty at the other plants in the division and report to the Cleveland bulk plant only once weekly. Drivers from the Cleveland bulk plant often make deliveries to other plants in the division and drivers from these other plants regularly call maintenance men to make mechanical repairs at the homes or shops of the Company's customers.

The same wage scale, working hours and working conditions apply to all distribution employees in the division. There have been permanent transfers among employees of all the bulk plants³ and also frequent temporary transfers among them occasioned by vacation schedules and illness. Whenever, due to seasonal changes in consumer demands, the operation of a bulk plant is suspended or terminated, the employees from that bulk plant are assigned to work at various other bulk plants within the same division. It is apparent that the distribution operations of the Cleveland Sales Division are closely integrated and that the employees throughout the division have a community of interest. Under the circumstances, we shall establish a single unit of all distribution employees of the Company's entire Cleveland Sales Division.

We find that all maintenance and operations employees of the Company's Cleveland Sales Division, including drivers, loaders, warehousemen, recappers, and maintenance employees, but excluding clerical, part-time and technical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect

³ The record contains evidence of 37 such transfers during the last 4 years

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.⁴

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.⁵

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 Standard Oil Company (Ohio), Cleveland Sales Division, Cleveland, 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 Oil Workers International Union, C. I. O., for the purposes of collective bargaining.

⁴ The parties agreed to exclude clerical, part-time, technical and supervisory employees.

⁵ The Union may withdraw from the election by serving written notice of such intention upon the Regional Director for the Eighth Region within 10 days after the date of the Direction of Election herein.