

In the Matter of ASSOCIATED REFINERIES, INC. and INTERNATIONAL UNION OF OPERATING ENGINEERS, A. F. L.

In the Matter of ASSOCIATED REFINERIES, INC. and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL NO. 886, A. F. L.

Cases Nos. 16-R-1018 and 16-R-1050.— Decided November 28, 1944

Mr. Malcolm E. Rosser, Jr., of Duncan, Okla., for the Company.

Mr. Henry L. Cranford, of Ardmore, Okla., and Mr. Phil Taylor, of Tulsa, Okla., for the Engineers.

Mr. A. J. Moore, of Oklahoma City, Okla., for the Teamsters.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Union of Operating Engineers, A. F. L., herein called the Engineers, and International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 886, A. F. L., herein called the Teamsters, alleging that questions affecting commerce had arisen concerning the representation of employees of Associated Refineries, Inc., Duncan, Oklahoma, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Elmer Davis, Trial Examiner. Said hearing was held at Duncan, Oklahoma, on October 13, 1944. The Company, the Engineers, and the Teamsters 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

Associated Refineries, Inc., is a Delaware corporation engaged in the operation of an aviation gasoline refinery at Duncan, Oklahoma, 59 N. L. R. B., No. 120.

under lease from the Defense Plant Corporation and a supplies contract with the Defense Supplies Corporation. The Company annually receives at its Duncan, Oklahoma, plant raw materials valued in excess of \$800,000, of which about 30 percent is obtained from sources outside the State of Oklahoma. During the same period, it produces finished products valued in excess of \$800,000, almost all of which is shipped to points outside the State of Oklahoma.

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

II. THE ORGANIZATIONS INVOLVED

International Union of Operating Engineers, and International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local No. 886, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company has refused to recognize either the Engineers or the Teamsters as the exclusive bargaining representative for any of its employees until certified by the Board in appropriate units.

A statement of a Board agent, introduced into evidence at the hearing, indicates that both the Engineers and the Teamsters represent substantial numbers of employees in the units hereinafter found appropriate.¹

We find that questions affecting commerce have 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 UNITS

The Teamsters seeks a unit of all dockmen and over-the-road fuel transport truck drivers excluding the truck foreman and head truck drivers. The Engineers desires to include in a single unit all production and maintenance employees, including unmilitarized watchmen, but excluding clerical employees, dockmen, over-the-road fuel transport truck drivers, auxiliary military police, engineering department

¹ The Field Examiner reported that the Engineers submitted 179 authorization cards; that the names of 145 persons appearing on the cards were listed on the Company's pay roll of August 31, 1944, which contained the names of 324 persons in the unit claimed by the Engineers to be appropriate; and that the cards were dated between June 1944 and September 1944.

The Teamsters submitted 33 authorization cards, the names on 29 of which also were listed on the aforesaid pay roll, which contained the names of 69 employees in the amended unit claimed by the Teamsters to be appropriate. The cards were dated between July 1944 and September 1944.

employees, gang pushers, and other supervisory personnel. The Engineers also raises some question as to the proper disposition of laboratory department employees, while the Company takes no position relative to the appropriateness of either of the aforesaid units or their specific composition, except that it would seemingly include in the production and maintenance unit all non-supervisory laboratory department employees.

The laboratory department comprises samplers who draw or pick up samples throughout the plant for delivery to the laboratory; technicians who make routine determinations as to the physical aspects of hydro-carbons, usually under supervision; motor laboratory technicians who run knock engines for anti-knock determinations of fuels; and chemists, six of whom are graduate chemists, who make chemical analyses of hydro-carbons and catalysts of a comparatively high technical nature, and four of whom are non-graduates who operate low temperature fractional machines. We shall include the samplers, technicians, and motor technicians in the unit since their work is of a simple routine nature.² However, we shall exclude the chemists who, because of their technical qualifications and work fall within the classification of professional employees customarily excluded from production and maintenance units.

We find that the following units, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, are appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

(1) All dockmen and over-the-road fuel transport truck drivers, at the Duncan, Oklahoma, refinery operated by the Company, excluding the truck foreman and head truck drivers.

(2) All production and maintenance employees at the Duncan, Oklahoma, refinery operated by the Company, including unmilitarized watchmen and samplers, technicians, and motor laboratory technicians in the laboratory department, but excluding clerical employees, dockmen, over-the-road fuel transport truck drivers, auxiliary military police, chemists, engineering department employees, and gang pushers.

V. THE DETERMINATION OF REPRESENTATIVES

At the time of the hearing the Company had in its employ a number of temporary employees engaged specially to assist in repair and construction work in connection with an enforced shut-down. The work is not expected to last more than a few weeks. In view of the

² See *Matter of Pittsburgh Coke & Iron Company*, 56 N. L. R. B. 1770, and cases cited therein.

expected short duration of their employment, we shall exclude all such temporary employees from participation in the election. We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Associated Refineries, Inc., Duncan, Oklahoma, elections 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 Sixteenth 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 units 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election and temporary employees as indicated in Section V, above, to determine whether or not in unit (1) of Section IV, above, they desire to be represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 886, A. F. L., and whether or not in unit (2) of Section IV, above, they desire to be represented by International Union of Operating Engineers, A. F. L., for the purposes of collective bargaining.