

In the Matter of THE TEXAS PIPE LINE COMPANY and OIL WORKERS  
INTERNATIONAL UNION, C. I. O.

*Case No. 19-R-1383.—Decided December 8, 1944*

*Mr. Y. A. Land*, of Tulsa, Okla., for the Company.

*Mr. B. J. Rickey*, of Casper, Wyo., for the Union.

*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon 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 The Texas Pipe Line Company, Houston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Maurice M. Miller, Trial Examiner. Said hearing was held at Shelby, Montana, on November 18, 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. All parties were afforded 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 Texas Pipe Line Company is a Texas corporation engaged in the business of gathering and transporting crude petroleum and petroleum products in six States. We are here concerned with its Montana area. The Company owns and operates 2,598 miles of gathering lines and 3,811 miles of trunk lines. It is subject to the Interstate Commerce Act.

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

## III. THE QUESTION CONCERNING REPRESENTATION

On July 10, 1944, the Union requested recognition as the collective bargaining representative of the employees in the Montana area. The Company declined to recognize the Union until it had been certified by the Board.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<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

We find, in substantial agreement with the parties, that all production and maintenance employees in the pipe-line operations of the Company in its Kevin-Sunburst and Cut Bank fields, including district gauger, assistant district gaugers, pipe-liners, and tour engineers, but excluding clerical employees, superintendent, gang foremen, and any 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.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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

<sup>1</sup> The statement discloses that the Union submitted applications for membership bearing the apparently genuine signatures of 7 persons whose names appeared on the Company's September 15, 1944, pay roll. The said pay roll listed approximately 13 employees in the appropriate unit.

Election herein, subject to the limitations and additions set forth in the Direction.

The Company contends that its employees presently in the armed forces of the United States should be afforded an opportunity to vote. We are not unmindful of the fact that employees on military leave retain their status as employees and, therefore, have a real interest in the choice of a bargaining representative. For this reason, our Direction of Election will provide, as has been the case of the past, that those who appear at the polls in the election shall be allowed to vote if otherwise eligible. However, the Company urges that to assure an opportunity for all employees in the armed forces to vote, a provision should be included in the Direction of Election requiring the Regional Director to mail ballots to each such employee. We find such a suggestion to be unfeasible for the reasons stated in *Matter of Mine Safety Appliances Co.*, 55 N. L. R. B. 1190. When it is determined that service men have returned to their employment in sufficient numbers so that they comprise a substantial percentage of the employees in an appropriate unit in which we have certified a collective bargaining representative, a new petition for the investigation and certification of a bargaining agent may be filed with the Board. In this manner, employees in the armed forces, who were unable to cast a vote, will be afforded an opportunity to affirm or change the bargaining agent selected in their absence.

The Company further requests that all employees be polled by mail. We shall deny the request; the Regional Director, however, in accordance with customary practice, may conduct the balloting, in whole or in part, by mail if such procedure is expedient.

#### 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 The Texas Pipe Line Company, Houston, Texas, 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 Nineteenth 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 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., for the purposes of collective bargaining.