

In the Matter of EASTERN STATES PETROLEUM CO., INC., AND EASTERN STATES PETROLEUM COMPANY OF TEXAS *and* PIPE FITTERS LOCAL NO. 195 OF THE UNITED ASSOCIATION OF JOURNEYMEN PLUMBERS AND STEAMFITTERS OF THE UNITED STATES AND CANADA, A. F. L.

In the Matter of EASTERN STATES PETROLEUM CO., INC., AND EASTERN STATES PETROLEUM COMPANY OF TEXAS *and* OIL WORKERS INTERNATIONAL UNION, LOCAL NO. 227, C. I. O.

*Cases Nos. 16-R-987 and 16-R-1082, respectively.—Decided December 14, 1944*

*Mr. Duncan Neblett, of Houston, Tex., for the Companies.*

*Mr. W. J. Burkett, of Beaumont, Tex., for the Pipefitters.*

*Mr. George P. Murrin, of Houston, Tex., for the E. R. P.*

*Messrs. M. S. McCorquodale and B. F. McClellan, of Houston, Tex., for the Council, and the Engineers.*

*Messrs. Bliss Daffan and Clyde Ingram, of Houston, Tex., for the Oil Workers.*

*Mr. Clarence C. Rehl, of Houston, Tex., for the Boilermakers.*

*Mr. Ed. Dawley, of Houston, Tex., for the Weldors.*

*Mr. W. M. Askins, of Houston, Tex., for the Engineers.*

*Miss Ruth F. Bliefield, of counsel to the Board.*

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon petition duly filed by the Pipe Fitters Local No. 195 of The United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, A. F. L., herein called the Pipefitters, alleging that a question affecting commerce had arisen concerning the representation of employees of Eastern States Petroleum Co., Inc., and Eastern States Petroleum Company of Texas, herein called the Companies, the National Labor Relations Board provided for an appropriate hearing upon due notice before Glenn L. Moller, Trial Examiner. Said hearing was held at Houston, Texas, on October 10 and 11, 1944. At the commencement of the hearing the Oil Workers Inter-

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national Union; Local No. 227, C. I. O., herein called the Oil Workers, moved that the petition for investigation and certification of representatives theretofore duly filed by it be consolidated with the Pipefitters' petition for the purposes of hearing and decision. An order of consolidation was issued by the Board on October 10, 1944, the date of the hearing, and the two causes joined. The Houston Labor Trades Council, A. F. L., herein called the Council, the Companies, and the Eastern States Petroleum Co., Inc., Employees Representation Plan, herein called the E. R. P., objected to the motion to consolidate and requested a 3-weeks' continuance. The Trial Examiner overruled the motions for continuance, but allowed the parties until October 21, 1944, to introduce additional evidence. Pursuant to this ruling additional showings of representation were made by various of the unions involved, as hereinafter set forth, and were incorporated in the record. The objection to the motion to consolidate and order of consolidation and the Trial Examiner's ruling on the motion for continuance are hereby upheld. The Companies, the Pipefitters, the Oil Workers, the International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers of America, Local 74, A. F. L., herein called the Boilermakers, the International Union of Operating Engineers, A. F. L., herein called the Engineers; the Council; the Weldors, Cutters and Metal Fabricators Union, affiliated with the United Brotherhood of Weldors, Cutters and Helpers of America, herein called the Weldors; and the E. R. P. appeared and participated in the hearing. 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 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 COMPANIES

Eastern States Petroleum Co., Inc., a Delaware corporation licensed to do business in the State of Texas, operates an oil refinery in Houston, Texas, hereinafter called Plant 1. During the 6-month period ending July 31, 1944, Plant 1 manufactured finished products valued in excess of \$1,000,000, approximately 75 percent of which was sold and shipped to points outside the State of Texas. During the same period raw material valued in excess of \$1,000,000 was used, approximately 5 percent of which was shipped to Plant 1 from points outside the State of Texas.

Eastern States Petroleum Company of Texas, a Texas corporation, hereinafter called Plant 2, is a wholly owned subsidiary of the Dela-

ware company. The Texas company was set up for bookkeeping and accounting purposes at the suggestion of Defense Supply Corporation, which owns the buildings and equipment of Plant 2. Plant 2 operates a 100-octane gasoline unit located about one-half mile from Plant 1. All of the charging stocks and components processed at Plant 2 are piped to that plant from Plant 1. Since it began operations in March 1944, Plant 2 has produced 100-octane gasoline valued in excess of \$1,000,000, all of which has been delivered to various agencies of the United States Government for use in the war effort. All of the by-products of the 100-octane gasoline are piped back to Plant 1, where they are further processed in order to make them suitable for commercial purposes.

The Companies admit that they are engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

It was stipulated by the parties at the hearing that Pipe Fitters Local No. 195 of The United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, A. F. L.; Oil Workers International Union, Local No. 227, C. I. O.; Houston Labor and Trades Council, A. F. L.; Eastern States Petroleum Co., Inc., Employees Representation Plan; International Brotherhood of Boiler-makers, Iron Shipbuilders and Helpers of America, Local 74, A. F. L.; International Union of Operating Engineers, A. F. L.; and the Weldors, Cutters and Metal Fabricators Union, affiliated with the United Brotherhood of Weldors, Cutters and Helpers of America, are labor organizations admitting to membership employees of the Companies.

## III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

The Pipefitters and the Oil Workers each requested the Companies to recognize them as the exclusive bargaining representative of the Companies' employees in the units which they allege to be appropriate. Both requests were refused by the Companies, and the petitions involved herein were thereupon filed.

An examination of the evidence upon which the claims for representation are based by the Oilworkers, the E. R. P., the Council, and Weldors, leads us to the conclusion that no sufficient showing has been made by any of these unions among the employees involved to warrant further investigation. Pursuant to the stipulation of the parties at the hearing a Supplemental Report on Investigation of Interest of Contending Labor Organizations was submitted by the Trial Examiner, and made a part of the record herein. This report indicates that the

Council, which represents the consolidated stand<sup>1</sup> of the Pipefitters, Boilermakers, and Engineers, and the Council, has submitted a total of 108 authorization cards bearing signatures of persons listed on the Companies' pay roll, which pay roll contains the names of 589 persons in the unit alleged by the Council to be appropriate. The Oil Workers has submitted a total of 73 authorization cards bearing signatures of persons listed on the pay roll, which contains the names of 276 employees in the unit alleged by it to be appropriate, and the showing of the Weldors amounts to approximately 6 percent of the employees in the unit it alleges to be appropriate. Since the E. R. P. is presently operating under an oral contract with the Companies no showing of representation was required from this organization.

We find that no question has arisen concerning the representation of employees of the Companies within the meaning of Section 9 (c) of the Act, and shall order that the petitions be dismissed.

### ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petitions for investigation and certification of representatives of employees of Eastern States Petroleum Co., Inc., and Eastern States Petroleum Company of Texas, filed by Pipe Fitters Local No. 195 of The United Association of Journey-men Plumbers and Steamfitters of the United States and Canada, A. F. L., and Oil Workers International Union, Local No. 227, C. I. O., be, and they hereby are dismissed.

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<sup>1</sup>The Pipefitters originally petitioned for a craft unit, and the Engineers and Boilermakers intervened seeking similar units. At the hearing they requested a production and maintenance unit, with the Council representing them on the ballot. Subsequently, in a letter dated November 2, 1944, which was after the close of the hearing and after the period for filing briefs or exceptions, and therefore untimely, the Pipefitters requested that it be allowed to revert to the original position as stated in its petition. No notice of this change of position was given the other parties, and there is insufficient evidence in the record concerning this contention, because of the position taken by the Pipefitters at the hearing. The request is therefore denied.