

In the Matter of WAR EMERGENCY PIPELINES, INC. and OIL WORKERS
INTERNATIONAL UNION, C. I. O.

Case No. 6-R-1060.—Decided January 15, 1945

Mr. W. Richardson Blair, of Philadelphia, Pa., *Messrs. P. W. Houghtlin* and *P. T. Thibodaux*, of Cincinnati, Ohio, and *Mr. L. Whitehead* of Uniontown, Pa., for the Company.

Mr. William V. Flower, of Hamilton, Ohio, for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended 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 War Emergency Pipelines, Inc., Cincinnati, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jerome L. Black, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on December 15, 1944. The Company and the Union appeared, participated,¹ 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 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

War Emergency Pipelines, Inc., a privately owned Delaware corporation with main offices in Cincinnati, Ohio, operates two trans-

¹ International Union of Operating Engineers, A. F. of L., also served with notice, did not appear.

continental pipelines known respectively as "Big Inch" and "Little Big Inch," as agent for Defense Supplies Corporation, a subsidiary of Reconstruction Finance Corporation which in turn is wholly owned by the United States Government. These pipelines transport and deliver crude oil and petroleum products from Texas to the New York and Philadelphia refining areas. Both pipelines generally utilize the same right of way and have a combined line fill of approximately 7,000,000 barrels of oil, of a value in excess of \$5,000,000 at current market prices. Delivery of oil and products at the eastern terminals for the month of August 1944, averaged about 500,000 barrels per day.

The Company is a non-profit corporation. It has, however, subject to certain powers and reservations on the part of its principal, full supervision, including authority to hire and discharge, over all labor required to operate and maintain the pipelines. It pays its employees directly from a bank account maintained in its own name as agent, keeps Social Security records, and carries Workmen's Compensation insurance for its employees. It is reimbursed for all items of expense by Defense Supplies Corporation. The contract between the Company and Defense Supplies Corporation specifically provides that persons employed by the Company shall be considered employees of the Company and not of Defense Supplies Corporation.

The Company admits and we find that it 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 employees in its Fifth Division 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.

² The Field Examiner reported that the Union submitted 90 application-for-membership cards, that there are 132 employees in the appropriate unit, and that the cards were dated September through November 1944.

IV. THE APPROPRIATE UNIT

The Company is divided into six operational divisions. The CIO requests a unit of production and maintenance employees in the Company's Fifth Division. The Company contends that the only appropriate unit for collective bargaining with its employee is system-wide. The Board has expressed the opinion that the system-wide unit may be the optimum unit for representation of the Company's employees, but taking into consideration the status of organization among these employees, has held that operating and maintenance employees in the Company's First, Second, Third, and Sixth Divisions constitute separate appropriate units for the purposes of collective bargaining.³ Since it does not appear that any one labor organization is yet in a position to represent all operating employees of the Company,⁴ we find that all operating and maintenance employees in the Fifth District of the Company constitute a separate appropriate unit. Without waiving its contention, the Company agrees with the Union as to the composition of the appropriate unit for employees in the Fifth Division.

We find, in accordance with the above and with the agreement of the parties, that all operating and maintenance employees of the Company's Fifth Division, including truck drivers, station engineers, and the foreman welder,⁵ but excluding the telegrapher,⁶ and employees who work full time in any of the Company's offices, chief engineers, the master mechanic, foreman, assistant foremen, and all 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election

³ See *Matter of War Emergency Pipelines, Inc.*, 56 N. L. R. B. 64, 58 N. L. R. B. 798, 59 N. L. R. B. 449.

⁴ The Oil Workers has been certified as the collective bargaining representative of employees in the Sixth and Third Divisions. Elections were conducted December 20 and 21, 1944, in the First and Second Divisions with the Oil Workers and International Union of Operating Engineers on the ballot. The Oil Workers won the election in the First Division, but the results of the election in the Second Division will have to be determined by a run-off election. A representation proceeding involving employees in the Fourth Division is now pending before the Board upon petition of the Operating Engineers.

⁵ The foreman welder exercises no supervisory authority.

⁶ The telegrapher spends 95 percent of his time in clerical duties.

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

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 War Emergency Pipelines, Inc., Cincinnati, 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 Sixth 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 the 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.