

In the Matter of SOCONY-VACUUM OIL COMPANY, INCORPORATED and
SOCONY-VACUUM EMPLOYEES FEDERATION FOR COLLECTIVE BARGAIN-
ING OF PAULSBORO, N. J.

Case No. 4-R-1598.—Decided February 12, 1945

Mr. Richard H. Lowe, of New York City, and *Mr. H. W. Sheldon*, of Camden, N. J., for the Company.

Mr. Edward P. Baker, of Woodbury, N. J., and *Mr. Frank H. Wittmann*, of Sewell, N. J., for the Federation.

Mr. H. P. Medler, of Fort Worth, Tex., *Mr. Forrest Sparks*, of Philadelphia, Pa., and *Mr. Harry Hiles*, of Mt. Royal, N. J., for the C. I. O.

Miss Ruth E. Bliefeld, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Socony-Vacuum Federation for Collective Bargaining of Paulsboro, N. J., herein called the Federation, alleging that a question affecting commerce had arisen concerning the representation of employees of Socony-Vacuum Oil Company, Incorporated, Paulsboro, New Jersey,¹ herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene N. Purver, Trial Examiner. Said hearing was held at Camden, New Jersey, on January 5, 1944. The Company, the Federation, and the Oil Workers International Union, C. I. O., herein called the C. I. O., 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 opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

¹ The name of the Company appears as it was amended at the hearing.
60 N. L. R. B., No. 106.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Socony-Vacuum Oil Company, Incorporated, a New York corporation, with its main office in New York City, is engaged in the production, refining, and distribution of petroleum and petroleum products of all types. Its operations extend into most States of the United States. Only the Paulsboro, New Jersey, plant, a refinery, is involved in this proceeding.

The Company's principal raw material is crude petroleum, all of which is obtained from points outside the State of New Jersey, in a value in excess of \$1,000,000 annually. In its Paulsboro, New Jersey, plant the Company manufactures aviation gasoline and other products for the United States Government and foreign governments under lend-lease, as well as gasoline and other products for civilian consumption, all of which products are valued in excess of \$1,000,000 annually. A substantial proportion of the Company's finished products is shipped to points outside the State of New Jersey.

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

II. THE ORGANIZATIONS INVOLVED

Socony-Vacuum Employees Federation for Collective Bargaining of Paulsboro, N. J. and Oil Workers International Union, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Federation has bargained for the Company's employees since 1937, but the Company refused, in November 1944, to accord the Federation formal recognition as the "exclusive bargaining representative" of its employees until it has been certified by the Board.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Federation 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 Federation submitted 1,264 cards, all of which bore names of persons listed on the Company's pay roll which contained the names of 1,938 employees in the appropriate unit; and that 59 cards were dated 1943; 1,190 were dated 1944, and 15 were undated.

The C. I. O. submitted 20 authorization cards, all of which bore the names of persons appearing in the aforesaid pay roll. The cards were all dated November and December 1944.

IV. THE APPROPRIATE UNIT

The last written contract of the Company and the Federation, signed in 1944, defines the unit as "all employees in the Paulsboro refinery of the Company excepting those in a supervisory, executive, professional, administrative capacity, and others who are not subject to Federation representation." The unit, petitioned for by the Federation in this proceeding, would include the same employees as are covered by the contract.

The Company and the Federation were agreed that the appropriate bargaining unit should consist of all employees of the Company at the Paulsboro, New Jersey, refinery, excluding the general manager; superintendent; assistant superintendents; foremen; assistant foremen; and assistants to foremen; technical and professional assistants, namely, designing engineers, purchasing agents, assistant purchasing agent, field party chief, production engineer, supervisor specialties, and secretaries to executives; office manager; assistant office manager; chief clerks; junior engineers; maintenance engineers; industrial relations manager and staff; medical assistant; nurse; cashier; and all or 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. All parties agreed that employees of the research development laboratory and the marketing staff of the Company are not employees of the Company at its Paulsboro refinery, and that all employees in categories above that of leader in maintenance and shift leader in production are supervisory employees and should be excluded from the unit. The C. I. O., however, contends that all militarized guards, clerical employees and works laboratory employees should be excluded from the unit, in addition to the classifications above enumerated.

Militarized guards. The Company employs 77 guards, 38 of whom have been militarized since 1941. The Federation contends that, since it has always bargained for these employees, and over 50 percent of the militarized guards are members of the Federation, they should be included in the unit with the non-militarized guards and other employees. The Company supports the contention of the Federation, while the C. I. O. contends that these militarized guards should be excluded. While the history of the bargaining between the Company and the Federation is a factor to be considered in determining whether or not certain employees are to be included in the appropriate unit, it does not warrant a departure from our usual policy respecting militarized guards.³ We shall exclude such guards from the unit hereinafter found appropriate.

³ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of Gibbs Gas Engine Company*, 55 N. L. R. B. 492, *Matter of Sprague Specialties Company*, 55 N. L. R. B. 47.

Clerical employees. The Company employs approximately 89 clerical employees, some of whom are attached to the various production departments in the plant, while the rest work in the main office which is just outside the gate of the plant. Clerical employees assigned to production departments are responsible to the heads of such departments, while clerical employees working in the office are responsible to office management. Although pay-roll records are made up at the Paulsboro plant, it was testified that most of the clerical work of the Company is handled at its New York City office. The office clericals are all salaried employees, while the clerks in the production departments are paid an hourly rate. The Federation contends that all clerical employees should be included in the unit because they have been covered by the bargaining since 1937, 75 percent of the clerical employees are members of the Federation, and the office and production department clericals voted on the question of a 48-hour week in an election recently conducted by the Federation. The Company also desires the inclusion of all clerical employees, since, it states, by reason of its type of operation, it needs to maintain flexibility in its personnel so that it can easily transfer employees from production departments to the office. It points out that when the Company went on a 48-hour week it did not have enough work for the entire office staff and transferred certain employees to jobs in production departments. It was stated that this could not be done in all cases, however, as there are certain jobs in the plant which cannot be handled by women and at least one-half of the office force is composed of women. The general manager of the plant testified also that some of the office clericals spend at least 50 percent of their time in the plant, as, for example, timekeepers and yield department employees, who are engaged in checking materials in production areas. The C. I. O. contends that all clerical employees should be excluded from the unit.

Although we are not unmindful of the fact that the office and plant clericals have for several years been represented as one unit with the production and maintenance workers, we are not persuaded that this circumstance justifies departure from our usual practice of segregating office workers from production and maintenance workers for collective bargaining purposes.⁴ The clerical employees assigned to production departments are factory or plant clerks, and, as such, will be included in the production and maintenance unit.⁵ The clerical employees in the office, however, are a separate group, under different supervision from that of the plant clericals, are paid on a salary, rather than

⁴ See *Matter of Indianapolis Power and Light Company*, 51 N. L. R. B. 670, *Matter of Sierra Pacific Power Company*, 56 N. L. R. B. 458.

⁵ See *Matter of Hammermill Paper Company*, 48 N. L. R. B. 1269; *Matter of Corn Products Refining Company*, 56 N. L. R. B. 1140; *Matter of Chicago Rawhide Manufacturing Company*, 59 N. L. R. B. 1234; *Matter of Goodman Manufacturing Company*, 58 N. L. R. B. 531.

hourly basis, and, although some of them may go into the plant to obtain certain information, their interests and working conditions are different from those of the production and maintenance workers. We shall exclude all office clerical employees from the unit.

Works laboratory employees. The C. I. O. contends that all technical employees in the works laboratory should be excluded from the unit and all routine laboratory workers included. The Company, and the Federation contend that all works laboratory employees should be included in the unit. It appears that all employees in the works laboratory except for the professional chemists, who are also supervisory employees, are routine laboratory workers. Most of these employees are trained on the job, and perform the routine work of the department. They are paid on the same basis as are the production and maintenance employees. Since these employees work in the plant, and are not laboratory technicians in the true sense of the word, we shall include all works laboratory employees, except for the chemist and assistant chemist, in the unit.⁶

We find that all production and maintenance employees at the Company's Paulsboro, New Jersey, plant, including factory clerks and routine workers in the works laboratory, but excluding the general manager, superintendent, assistant superintendents, foremen, assistant foremen and assistants to foremen, technical and professional assistants (namely, designing engineers, purchasing agent, assistant purchasing agent, field party chief, production engineer, supervisor of specialties, and secretaries to executives), office manager, assistant office manager, chief clerks, all office clerical employees, junior engineers, maintenance engineers, industrial relations manager and staff, medical assistant, nurse, cashier, militarized guards, all chemists,⁷ including the chief and assistant chemist in the works laboratory, all persons above the category of leader in maintenance or shift leader in production, and all or 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 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

⁶ See *Matter of Hammermill Paper Company, supra*

⁷ There are employees classified as chemists employed in various departments of the Company, all of whom appear to be supervisory employees.

Election 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 Socony-Vacuum Oil Company, Incorporated, Paulsboro, New Jersey, 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 Fourth 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 they desire to be represented by Socony-Vacuum Federation for Collective Bargaining of Paulsboro, N. J., or by Oil Workers International Union, C. I. O., for the purposes of collective bargaining, or by neither.