

In the Matter of ZONE OIL TRUCKING CORP., EMPLOYER *and* LOCAL 511,
OIL WORKERS INTERNATIONAL UNION, CIO, PETITIONER

Case No. 2-RC-1990.—Decided September 27, 1950

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Jack Davis, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.
4. The appropriate unit:

The parties agree that all clerical employees in the traffic department of the Employer's Brooklyn, New York, operation, excluding professional employees, watchmen, guards, and supervisors, constitute an appropriate unit. There is disagreement, however, as to whether the dispatchers should be included in the unit, the Employer contending that they should be excluded as supervisors.

The Employer is engaged principally in delivering petroleum products for the Paragon Oil Company, Inc. Functionally, the Employer's business is divided into an operating section, consisting of such employees as truck drivers, loaders, and garagemen,¹ and the traffic department, which includes four or five dispatchers, and one or two clerical employees designed as phone clerk, and order clerk

¹ The operating section employees are currently represented by the Petitioner.

or assistant to dispatcher.² The traffic department is separately located and operates under the immediate supervision of Greve, vice president in charge of traffic.

In practice, Paragon Oil Company sends all its orders for petroleum products to the Employer where they are turned over to the dispatchers for processing. The dispatchers, assisted by clerical employees, prepare traffic sheets showing the trucks to be used, the amount and type of product to be loaded, and the delivery destinations. They also prepare delivery sheets, one of which is given to the driver who goes to the garage, receives the designated truck, generally loads it with the required amount of fuel from the storage tanks, and makes delivery. In addition, the dispatchers prepare passes, on which is recorded the fuel charged to each driver, and make out and punch drivers' time cards, to show the time in and out of each delivery. The dispatchers give instructions concerning changes in delivery to drivers serving regular routes, who are required to call in twice daily, and to other drivers, where deliveries cannot be effected according to the original delivery sheet.

Emergencies arising with respect to deliveries are handled during the day, by Greve, the company official in charge of the traffic department. At night, or in Greve's absence, minor or routine difficulties, such as oil spills and truck breakdowns, are handled by the dispatchers. Major emergencies, such as serious traffic accidents, are immediately referred to Greve, who is apparently on call at all times. Dispatchers prepare informal memoranda regarding special incidents handled by them and submit such memoranda daily to Greve.³ Dispatchers have no authority to question drivers concerning the length of time taken to make deliveries. And while they may withhold the assignment of deliveries to a driver unfit for such work and give routine directions to the other clerical workers, the record shows that they have no authority to hire, discharge, discipline, or grant wage increases, or effectively to recommend such action. Under all the circumstances, we conclude and find that the dispatchers are not supervisors within the meaning of the Act,⁴ and we shall include them in the unit of clerical employees.⁵

² There are apparently no other clerical workers except the private secretary to the vice president and the assistant to the vice president and claims man, whom the parties agree should be excluded from the unit.

³ Although reports by the dispatchers may be utilized by Greve in determining personnel action, the dispatchers make no recommendations in this regard.

⁴ Cf. *New England Transportation Company*, 90 NLRB 539; *Ready Mixed Concrete Company*, 90 NLRB No. 49; *American Oil Company*, 73 NLRB 917.

⁵ See *Modern Heat & Fuel Company*, 89 NLRB 1345; *Shell Oil Company*, 72 NLRB 516.

Accordingly, we find that all clerical employees in the traffic department of the Employer's Brooklyn, New York, operation, including dispatchers, but excluding professional and confidential employees, watchmen, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication in this volume.]