

In the Matter of GULF REFINING COMPANY *and* LOCAL UNION No. 667, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

*Case No. 15-R-1488.—Decided February 28, 1946*

*Messrs. A. N. Gooch, Jr., and M. F. Rice, of Memphis, Tenn., for the Company.*

*Messrs. John L. Beach and William B. Powers, of Memphis, Tenn., for the Union.*

*Mr. Conrad A. Wickham, Jr., of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local Union No. 667, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Gulf Refining Company, Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Lewis Moore, Trial Examiner. The hearing was held at Memphis, Tennessee, on November 26, 1945. The Company and the Union 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 hearings 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

Gulf Refining Company, a Delaware corporation, maintains and operates refineries, gasoline plants, bulk plants, and service stations

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in 16 States. The plant involved in the present case is the Company's Memphis Terminal at Memphis, Tennessee. Its operations consist of receiving gasoline and kerosene in bulk form from outside the State of Tennessee, storing these products, and distributing them to points in the States of Tennessee, Arkansas, and Mississippi. During the 6 months preceding the filing of the petition, the Memphis Terminal received from outside the State approximately 20,000,000 gallons of gasoline and kerosene. About 93 percent of these products was sold in the State of Tennessee, 2 percent was hauled to the State of Arkansas by contract haulers, and 5 percent was hauled to the State of Mississippi by the Company's own drivers.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Local Union No. 667, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On August 22, 1945, the Union, by letter, requested that the Company recognize it as the exclusive bargaining representative of the transport truck drivers of the Company at its Memphis Terminal. The Company has refused such recognition unless and until the Union is certified by the Board.

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.<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

The Union contends that all over-the-road transport truck drivers, excluding city drivers,<sup>2</sup> plant workers, office and clerical employees, supervisors and executives, constitute an appropriate unit. The

<sup>1</sup> The Field Examiner reported that the Union had submitted four membership cards, three of which bore names of employees listed on the Company's August pay roll, and that there were approximately six employees in the appropriate unit.

<sup>2</sup> It appears from the record that the Company does not employ any city drivers at its Memphis Terminal.

Company raises no question as to the unit, leaving the issue for the Board's determination.

There is no collective bargaining history at the Company's Memphis Terminal. In August 1945, there were approximately 15 employees working at the terminal, consisting of a terminal superintendent, an assistant terminal superintendent, a chief clerk, 4 rackmen, 2 laborers or plant workers, and 6 transport truck drivers. Because of the Company's curtailed use of transport trucks following the end of the War, the number of drivers had been reduced at the time of the hearing from 6 to 2. It appears that these 2 drivers will henceforth constitute a permanent part of the Memphis organization. The transport truck drivers haul gasoline in transport trucks from the Terminal to various points designated by the Company, both inside and outside the State of Tennessee. There is no interchange of duties between the drivers and the other employees of the Company who do work typical of their classification. The wage scale of the transport truck drivers is also different from that of the other employees. On the basis of the foregoing facts, we are of the opinion that the transport truck drivers, who belong historically to a clearly defined craft, may function together for collective bargaining purposes.<sup>3</sup>

We find that all over-the-road transport truck drivers of the Company operating out of its Memphis Terminal, excluding plant workers, office and clerical employees, executives, 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 employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of 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 Rela-

<sup>3</sup> See *Matter of Motor Fuel Carriers, Inc.*, 62 N. L. R. B. 1439; *Matter of All-Steel Equip Company, Inc.*, 60 N. L. R. B. 1308; *Matter of English Freight Company*, 2 N. L. R. B. 67; *Matter of Sutherland Paper Company*, 55 N. L. R. B. 38.

tions 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 Gulf Refining Company, Memphis, Tennessee, 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 Fifteenth 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 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 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 Local Union No. 667, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.