

In the Matter of AMERICAN OIL COMPANY (ROSSLYN BULK PLANT—
ROSSLYN, VA.), EMPLOYER and OIL WORKERS INTERNATIONAL UNION,
CIO, LOCAL No. 403, PETITIONER

Case No. 5-R-2820.—Decided May 12, 1947

Mr. C. H. Thompson, of Baltimore, Md., for the Employer.
Mr. Thomas J. McCarthy, of Arlington, Va., for the Petitioner.
Mr. Benj. E. Cook, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Baltimore, Maryland, on February 3, 1947, before Harold M. Weston, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

American Oil Company, a Maryland corporation, having its principal office at Baltimore, Maryland, is engaged in the distributing and sale of petroleum products at Rosslyn, Virginia, the only plant involved herein.¹ During the year 1946, the Employer sold and distributed from this plant approximately 25,000,000 gallons of gasoline and other petroleum products to customers in the Commonwealth of Virginia, District of Columbia, and State of Maryland. All of the aforesaid products were shipped to the Employer's plant from points outside the Commonwealth of Virginia.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

¹ The Employer maintains plants in approximately 11 States and the District of Columbia.

II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Petitioner seeks to represent all dispatchers at the Employer's Rosslyn bulk plant and requests that they be merged with the unit of clerical employees which it currently represents.² In the alternative, the Petitioner seeks to represent the dispatchers in a separate unit, if the Board determines that these employees possess supervisory authority. The Employer contends that dispatchers are supervisory employees and for that reason opposes their inclusion in the clerical unit or their establishment as a separate unit.

The dispatchers are charged with the responsibility of receiving orders and inquiries over the telephone, directing the truck drivers in the scheduling and delivery of purchases to consumers, inspecting the loading of trucks, and accounting for money collected by the latter. Many of the clerical duties performed by the dispatchers are integrated with those performed by clerical employees currently represented by the Petitioner.³ The assistant superintendent, who has immediate supervision over all employees in the plant, occupies a room with the dispatchers; the truck drivers occupy an adjoining room. Although oral reports are made by the dispatchers as to facts affecting a truck driver's general ability, deportment and the infraction of Employer rules, such reports serve merely as a basis for inquiry and investigation by the assistant superintendent. We are of the opinion that the dispatchers do not exercise supervisory authority within the meaning of the Board's customary definition. We are of the further opinion that their interests and duties are sufficiently allied to those of the clerks currently represented by the Petitioner

² As the result of a consent election (Case 5-R-2750) held on November 19, 1946, among the clerical employees of the Employer's bulk plant in Rosslyn, Virginia, the Petitioner was certified by the Regional Director as the representative of such employees.

³ There are 5 dispatchers, 8 clerks, and 45 to 48 truck drivers.

as to warrant their inclusion in the same unit.⁴ We shall, however, direct that an election be held among the dispatchers to determine their desires in the matter. If in such election a majority of the dispatchers select the Petitioner as their bargaining representative, they will thereby be deemed to have indicated their desire to be included in the established clerical unit and the Petitioner may bargain for them as part of such unit.

We shall direct that an election be held in the following voting group:

All dispatchers in the Employer's Rosslyn, Virginia, bulk plant, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with American Oil Company, Rosslyn, Virginia, 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 Fifth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, among employees in the voting group described 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 Oil Workers International Union, CIO, Local No. 403, for the purposes of collective bargaining.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.

⁴ See *Matter of American Oil Company*, 39 N. L. R. B. 247, wherein the dispatchers involved herein were included by the Board, pursuant to agreement of the parties, in a non-supervisory unit of clerical employees. The Petitioner herein lost the election directed in the foregoing unit. There is no showing that the duties of the dispatchers have changed since the issuance of the foregoing decision.