

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PHILLIPS 66,	)	
	)	
Respondent,	)	<b><u>CONSOLIDATED</u></b>
	)	
v.	)	Case Nos. 31-CA-085243 &
	)	31-CA-096709
USW LOCAL 534,	)	
	)	
Charging Party.	)	
	)	
	)	

**RESPONDENT-EMPLOYER’S RESPONSE TO ORDER TO SHOW CAUSE**

Respondent Phillips 66 (“Phillips 66” or the “Company”) hereby responds to the National Labor Relations Board’s (the “Board”) Order to Show Cause dated November 20, 2018.

Phillips 66 agrees with the Board’s determination that the Charging Party’s allegation that Respondent maintained an unlawful work rule or policy should be analyzed under the new and correct standard under *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017) (Boeing), rather than the overruled standard under *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). However, Phillips 66 does not believe it is necessary to sever and remand the work rule complaint back to the administrative law judge (ALJ) for further proceedings. Respondent believes that the Board has the information it needs in the record to make a determination about the lawfulness of Respondent’s work rule using the *Boeing Co.* standard without having to remand the complaint to the ALJ for further proceedings. Respondent believes that utilizing the correct standard, the Board will find that Respondent’s work rule is clearly valid.

Indeed, the Board in *Boeing* chose not to remand the case back to the ALJ after it announced the new standard for analyzing the lawfulness of employer work rules. Instead, the Board in *Boeing* applied the new standard directly to the facts in the record and determined that the work rule was lawful. *See Boeing, supra*, 365 NLRB at \*18-22.

For these reasons, Phillips 66 respectfully requests the that Board not sever and remand the complaint allegations involving the maintenance of an allegedly unlawful work rule to the ALJ and instead Respondent requests that the Board analyze the claim under the new Boeing standard using the facts in the record.

Dated: December 18, 2018

Respectfully submitted,

By: /s/ Michael S. Chamberlin  
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**CERTIFICATE OF SERVICE**

**RE: PHILLIPS 66  
CASES 31-CA-085243, 31-CA-096709**

The undersigned counsel for Respondent, PHILLIPS 66, hereby certifies that he caused a true and correct copy of the foregoing **RESPONDENT-EMPLOYER'S RESPONSE TO ORDER TO SHOW CAUSE** to be served upon the following counsel of record on this 18th day of December, 2018, by electronic mail and U.S. Mail:

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