

In the Matter of ROCKY MOUNTAIN PIPE LINE COMPANY, CONTINENTAL PIPE LINE COMPANY, AND CONTINENTAL OIL COMPANY, EMPLOYER and OIL WORKERS INTERNATIONAL UNION, CIO, PETITIONER

In the Matter of CONTINENTAL OIL COMPANY, EMPLOYER and OIL WORKERS INTERNATIONAL UNION, CIO, PETITIONER

Cases Nos. 30-RC-24 and 30-RC-49, respectively.—Decided September 29, 1948

DECISION
AND
DIRECTION OF ELECTIONS

Upon petitions duly filed, a consolidated hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

The Employer's motion to dismiss the petitions on the ground that the units are inappropriate, is hereby denied for the reasons stated in paragraph 4, *infra*.

At the hearing, the Petitioner moved that the Board direct a supplemental hearing in order to obtain evidence of the inclusion of certain disputed categories of employees in bargaining units in other pipe-line companies. We think the record is sufficiently detailed and clear without such additional hearing. Accordingly, the motion is hereby denied.

Pursuant to the provisions of Section 3'(b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organization named below claims to represent employees of the Employer.

*Chairman Herzog and Members Murdock and Gray.

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:

In Case No. 30-RC-24, the Petitioner seeks a unit composed of all pipe-line employees employed by (a) Continental Pipe Line Company at stations between Lance Creek, Glenrock, and Big Muddy Field, Wyoming; (b) Rocky Mountain Pipe Line Company at stations between Denver, Colorado, and Lance Creek, Wyoming; and (c) Continental Oil Company pipe-line division at the Glenrock Tank Farm, and Big Muddy Field, Wyoming; excluding all guards, professional employees, and supervisors.

In Case No. 30-RC-49, the Petitioner seeks a unit composed of all operative and maintenance employees of Continental Oil Company's Natural Gasoline and Gas Plant at Lance Creek, Wyoming, excluding clerical and plant-protection employees, and supervisors.

The Employer contends that (1) the employees in the Continental Oil Company's pipe-line division should be excluded from any unit or units; and (2) the remaining employees in both cases sought to be included in two separate units should be combined in a single unit. It argues that because a single unit, which did not include the employees of Continental Oil pipe-line division, was agreed upon in a consent election held in 1944, the Petitioner is now precluded from seeking any different unit. We find no merit in this contention in view of the fact that the 1944 election did not result either in a certification or in any bargaining history.¹

Subject to the Board's disposition of the preceding point, the Employer agreed with the Petitioner that all pipe-line employees of the three companies in question, with the exceptions discussed below, are eligible for inclusion in any bargaining units set up by the Board.

Rocky Mountain Pipe Line Company and Continental Pipe Line Company are subsidiaries of Continental Oil Company. They, like the pipe-line division of the parent corporation, operate pipe lines in Wyoming and Colorado for the transportation of petroleum products. The pipe-line employees of all three companies have the same wages, hours, and working conditions. Most of the employees are interchangeable. They are under the supervision of the same top personnel.

¹ *Matter of The Hartford Courant Company*, 72 N. L. R. B. 292; *Matter of Sampsel Time Control, Inc.*, 74 N. L. R. B. 611.

Continental Oil Company's Natural Gasoline and Gas Plant is located at Lance Creek, Wyoming, where both Rocky Mountain Pipe Line and Continental Pipe Line have stations. But it receives no oil or gas from any of the three pipe-line companies. There is no interchange of employees between the gas plant and the pipe-line companies. The gas plant is under the supervision of the Natural Gasoline and Gas division of the Continental Oil Company, quite separate from the pipe-line division, although they are both under the ultimate supervision of the vice president in charge of production of the Continental Oil Company. Labor policies are determined upon a Continental Oil system basis, but while wages, hours, and other conditions of labor in each division are considered in general relation to each other and to the conditions prevailing in the industry at large, they are determined separately.

In view of the foregoing facts, we find two separate units, as sought in the petitions, appropriate.

In Case No. 30-RC-24, the parties disagree with respect to unit placement of *chief engineers, engineers-in-charge, chief R & D gaugers, connection foremen, district mechanics, troublemen, and district gaugers*. The Petitioner would include and the Employer exclude these employees. The record discloses that *chief engineers, engineers-in-charge, chief R & D gaugers, and connection foremen* are all supervisors as defined in the Act. Although for the most part they work a shift alone and do the same work as that done by the employees on other shifts, they are in charge of those employees and have the power to hire and discharge, or effectively to recommend hiring and discharging. Accordingly, we shall exclude them from the unit.

There are two *district mechanics* who keep all the machinery on the lines in good working order. Each works alone and has no helpers permanently assigned to him. If he needs help, members of either a station crew or a connection gang are sent to him, and only in case of necessity would he hire employees. Neither of the district mechanics has ever hired or fired helpers. In the light of these facts, we find that district mechanics are not supervisors. Accordingly we shall include them in the unit.

There are two *troublemen* who maintain and repair the telephone and telegraph lines and equipment. Normally, they work alone, but when necessary, assistance is given them from the connection gang. They may hire additional help for the duration of a special job, and both troublemen have on occasion done so. In view of the fact that the troublemen act only irregularly as supervisors, we find that they are not supervisors within the meaning of the statute. Accordingly, we shall include them in the unit.

There are four *district gaugers* who sample and test crude oil, and decide whether to accept or reject oil as pipe-line oil. These district gaugers do not supervise any employees.² We find, contrary to the Employer's contention, that the district gaugers are not supervisors. Accordingly, we shall include them in the unit.

In Case No. 30-RC-49 (Continental Oil Company only) the parties disagree with respect to unit placement of the *field foreman, maintenance foreman, plant loading foreman, Manville Loading Terminal foreman, compressor station foreman, field measurement foreman, and the warehouse clerk*. The Petitioner desires to include, and the Employer to exclude, these classifications. With the exception of the *plant loading foreman* and the *warehouse clerk*, the persons in these classifications supervise the work of others and have the power effectively to recommend the hiring and discharging of employees. We find that they are supervisors as defined in the Act. Accordingly, we shall exclude them from the unit.

The *loading foreman* in the plant works alone. He is not a supervisor. We shall include him in the unit.

The *warehouse clerk* likewise has no supervisory duties. He devotes half his time to handling material and to maintenance of the warehouse, and half to clerical duties in which he makes reports of all material coming into and going out of the warehouse. His work is closely related to the plant production processes. Accordingly, we shall include him in the unit.

We find that the following units, excluding from each unit guards, professional employees, and supervisors as defined in the Act, are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All pipe-line employees employed by (a) Continental Pipe Line Company at stations between Lance Creek, Glenrock, and Big Muddy Field, Wyoming; (b) Rocky Mountain Pipe Line Company at stations between Denver, Colorado, and Lance Creek, Wyoming; and (c) Continental Oil Company pipe-line division at the Glenrock Tank Farm, and Big Muddy Field, Wyoming; including district mechanics, troublemen, and district gaugers, but excluding chief engineers, engineers-in-charge, chief R & D gaugers, and connection foremen;

(2) All operative and maintenance employees of Continental Oil Company's Natural Gasoline and Gas Plant at Lance Creek, Wyoming, including the loading foreman in the plant, and the warehouse

² One of the district gaugers has a part-time assistant who works 1 day a week as assistant district gauger. We find that the district gauger's supervisory duties are not sufficiently great to constitute him a supervisor as defined in the Act.

clerk, but excluding the field foreman, maintenance foreman, Manville Loading Terminal foreman, compressor station foreman, and field measurement foreman.

DIRECTION OF ELECTIONS

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, elections by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventeenth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the units found appropriate in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Elections, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for the purposes of collective bargaining, by Oil Workers International Union, CIO.