

The Legal Intelligencer

Arbitrator Restores Benefits for Union Oil Workers

Arbitrator Thomas McConnell Jr. issued an order June 22 instructing Philadelphia Energy Solutions Refining and Marketing to return benefits the company cut in January 2017.

By Katheryn Tucker | July 10, 2018

Following months of litigation and arbitration, lawyers have secured the restoration of benefits they estimate will be worth some \$10 million to union oil refinery workers.

Arbitrator Thomas McConnell Jr. issued an order June 22 instructing Philadelphia Energy Solutions Refining and Marketing to return benefits the company cut in January 2017. Those cuts included reducing the company's contributions to medical plan costs from 80 percent to 70 percent, and cash option retirement plans from 7 percent of pay to 0 percent.

"The grievance is sustained," McConnell wrote. "The company is ordered to make bargaining unit employees whole for the losses sustained due to the unilateral changes at issue here."

The company's defense was that the changes were necessary because Philadelphia Energy Solutions was in financial distress and under bankruptcy reorganization. But union lawyers argued that the company was bound by the collective bargaining agreement, which prohibited unilateral changes such as the ones at issue.

McConnell said he will retain jurisdiction over the case for 90 days. “During that time, either or both parties may invoke this continued jurisdiction should there be any dispute about the remedy issued.”

The action was lodged by the United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Services Workers Union, Philadelphia Local 10-1.

“The decision is a very solid win for local unions,” said Debra Jensen of Galfand Berger in Philadelphia, who represented the union with partner Michael McGurrin of her firm, as well as Abigail Carter and Elisabeth Oppenheimer of Bredhoff & Kaiser in Washington, D.C.

“We looked at this as a case where PES made a unilateral decision in violation of its collective bargaining agreement and shirked its duties to its employees, who keep its Philadelphia refinery open,” Jensen said. “They do the heavy work that moves that oil from the trains or the ships to the pipelines and out again.”

She estimated the refinery processes 350,000 barrels of crude oil a day, and the decision, “makes the employees whole.”

Thomas Giotto and Bobbi Britton Tucker of Cozen O’Connor in Pittsburgh represented the company. They could not be reached for comment.

The decision is likely to resound with union lawyers because it restores benefits only to members. In this case, of the 1,100 workers affected, only 700 are union members, according to Jensen, the daughter of a union worker and, in her words, “a union baby.” She said when her father died at the age of 93, he still had his painters’ union card in his wallet.

“In 38 years of practicing law, I’ve never seen anything so profoundly significant as this decision, which says, ‘you 700 to the left, here are your checks. You 400, go to the right and get back to work,’” she said.

The math is still being worked out, but Jensen said she expects the issues to be resolved and the benefits repaid in August.