

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

SHELL PIPELINE CO., LP

Cases 16-CA-342028
16-CA-354242
16-CA-364531

and

SHELL CHEMICAL, LP

Cases 16-CA-342034
16-CA-342039
16-CA-354215
16-CA-354239
16-CA-364517
16-CA-364527

and

PENNZOIL-QUAKER STATE COMPANY
D/B/A SOPUS PRODUCTS

Cases 16-CA-354212
16-CA-364511

and

UNITED STEEL, PAPER AND FORESTRY, RUBBER
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL UNION,
AFL-CIO, CLC

Regan Hafer, Esq. and *Julie St. John, Esq.*, for the General Counsel.

Mr. Ben Lilienfeld, for the Charging Party Union.

Scott Huffstetler, Esq. and *April Walter, Esq.*, for the Respondent Employers.

STATEMENT OF THE CASE

BRIAN D. GEE, Administrative Law Judge. This case was tried before me by Zoom on May 7, 2026, and in-person in Houston, Texas, on June 2, 2026. Based on charges filed by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the Union), the General Counsel issued an order further consolidating cases, second consolidated complaint, and notice of hearing (the complaint) on April 3, 2026.¹ The complaint alleges that Shell Pipeline Co., LP; Shell Chemical, LP; and

¹ On the second day of hearing, the General Counsel moved, without opposition, to sever Cases 16-CA-365566 and 16-CA-367596, as well as related paragraphs in the complaint (which included parts of pars. 21, 22, 23, and parts of pars. 1 and 24). I granted that motion. Tr. 23-24. I also removed those case numbers from the caption.

Pennzoil-Quaker State Company d/b/a SOPUS Products violated Section 8(a)(5) and (1) of the National Labor Relations Act (the Act) by failing and refusing to furnish certain information requested by the Union. (GC Exh. 1.)²

5 At trial, all parties were afforded the right to call, examine, and cross-examine witnesses, to present any relevant documentary evidence, to argue their legal positions orally, and to file posthearing briefs. Based on a careful review of the entire record, including the posthearing briefs and my observation of the credibility of the witnesses, I make the following

FINDINGS OF FACT

I. JURISDICTION

10 Respondent Shell Pipeline is a limited partnership with a place of business located in Houston, Texas, and is engaged in transporting and storing crude oil, refined products, chemicals, and natural gas liquids. In conducting its operations annually, it sells and ships from its Houston facility goods valued in excess of \$50,000 directly to points outside of the State of Texas. (R Ans.)

15 Respondent Shell Chemical is a limited partnership with a place of business located in Houston, Texas, and is engaged in the manufacture and sale of bulk petrochemicals. In conducting its operations annually, it sells and ships from its Houston facility goods valued in excess of \$50,000 directly to points outside of the State of Texas. (R Ans.)

20 Respondent Pennzoil-Quaker State Company d/b/a SOPUS Products is a Delaware corporation with an office and place of business located in Houston, Texas, and is engaged in manufacturing, blending, marketing, and distributing motor oils and lubricants for consumer, industrial, and commercial transport applications. In conducting its operations annually, it sells and ships from its Houston facility goods valued in excess of \$50,000 directly to points outside of the State of Texas. (R Ans.)

25 Respondents Shell Pipeline, Shell Chemical, and SOPUS Products admit, and I find, that during the times material to the complaint each was an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. Respondents admit, and I find, that the Union is a labor organization within the meaning of Section 2(5). (R Ans.) Based on the foregoing, the National Labor Relations Board (the Board) has jurisdiction over this matter,
30 pursuant to Section 10(a) of the Act.

II. STATEMENT OF FACTS

This case concerns the Union's information requests related to four bargaining units. The issue is whether Respondents violated Section 8(a)(5) and (1) of the Act by failing and refusing to provide the Union with individualized minority data for unit employees?

² To aid review, I have included certain citations to the record in my findings of fact. The citations are not necessarily exclusive or exhaustive, as my findings and conclusions are based on my review and consideration of the entire record.

The Bargaining Units and CBA Non-Discrimination Provisions

The Shell Pipeline Unit has approximately 35 employees who perform operator and maintenance work on the pipelines between Texas and Louisiana. At all times material to the complaint, Shell Pipeline recognized the Union, on behalf of Local 13–2003, as the unit employees’ bargaining representative.³ The parties’ most recent collective-bargaining agreement (CBA) is for the period April 1, 2024, through March 31, 2027. The CBA has an antidiscrimination provision, Article 35, which states that all provisions of the contract “shall be applied to provide equal opportunity for all employees without discrimination because of race, color . . . national origin . . . or any other legally protected EEO status.” (Jt Exhs. 4, 11; Tr. 42.)

At Shell Chemical, the Union represents two bargaining units at the plant located in Deer Park, Texas: the Chemical Plant Unit and the Chemical Lab Unit. For the Plant Unit, the Union, on behalf of Local 13-00001 Unit 11, represents all hourly employees at Deer Park, excluding plant protection and lab employees.⁴ There are approximately 250 unit employees who perform operator and maintenance work. The most recent collective-bargaining agreement was for the period February 1, 2022, through January 31, 2026. The CBA’s antidiscrimination provision, at Article 2, states that neither the company nor the Union “shall engage in nor condone any discrimination . . . against any employees because of race, creed, color, ethnicity . . . or any other category protected by applicable federal, state, or local laws.” (Jt Exhs. 2, 11; Tr. 42.)

For the Chemical Lab Unit, the Union, on behalf of Local 13-00001 Unit 33, represents the lab and senior lab technicians.⁵ There are around 10 unit employees who perform lab technician work. That CBA also was for the period February 1, 2022, through January 31, 2026. Its nondiscrimination provision, Article 2, contains the same language: neither the company nor the Union “shall engage in nor condone any discrimination . . . against any employees because of race, creed, color, ethnicity . . . or any other category protected by applicable federal, state, or local laws.” (Jt Exhs. 3, 11; Tr. 42–43.)

Two key representatives for Shell Pipeline and Shell Chemical were Lori Martinelli and Kenny Sanchez. Martinelli was the employee and industrial relations manager and/or senior employee relations and industrial relations advisor for Shell Pipeline. Sanchez was the U.S. employee and industrial relations advisor for both Shell Pipeline and Chemical. Both were admitted 2(11) supervisors and/or 2(13) agents. (Jt Exh. 11.)

³ The Pipeline Unit covers hourly paid employees as defined by the National Labor Relations Act at all Shell Pipeline, Gulf of Mexico facilities, with the exception of all facilities located north of the Mississippi/Tennessee border. (Jt Exh. 11.)

⁴ The Chemical Plant Unit covers all hourly paid employees of Shell Chemical LP at its Houston (Deer Park), Texas Chemical Plant except Plant Protection employees and Chemical Lab Unit employees. (Jt Exh. 11.)

⁵ The Chemical Lab Unit covers senior lab technicians and laboratory technicians excluding all other employees, including operators, maintenance employees, applications specialists, office clerical employees, professional employees, confidential employees, guards, and supervisors. (Jt Exh. 11.)

The SOPUS Unit consists of approximately 120 employees who perform production, maintenance, and laboratory work at Respondent SOPUS's plant in Galena Park, Texas.⁶ Between August 2024 and the hearing, SOPUS recognized the Union, on behalf of Local 13-00001 Unit 03, as the unit employees' bargaining representative. The most recent collective-

5 bargaining agreement was for the period November 16, 2023, through November 15, 2026. The CBA's antidiscrimination provision, Article 2, states that neither the company nor the Union will discriminate against any employees on the basis of "race, . . . color, ethnicity, national origin . . . or other legally protected status." (Jt Exhs. 5, 11; Tr. 43.)

SOPUS' representative for these information requests was Katherine Page, senior

10 employee relations and industrial relations advisor. SOPUS admitted that Page was a 2(11) supervisor and/or a 2(13) agent. (Jt Exh. 11.)

Background

Since at least 2014, the Union had been requesting from Respondents the unit employees' individualized demographic data. This included employee names, telephone numbers, dates of

15 hire, work departments, gender, date of birth, and minority status.⁷ The Union typically made its requests twice a year, in or around March and September. In turn, Respondents routinely furnished that information, including minority status. For example, in 2023, Shell Chemical provided the Union with individualized racial data for all 238 employees in the Chemical Plant Unit. In their response letters, Respondents identified what data was being produced and

20 outlined expectations of how the Union would safeguard it (e.g., use it only for legitimate purposes, store it securely, prevent unauthorized personnel from accessing it). Respondents also mentioned the European Union General Data Protection Regulation (GDPR), an EU data protection law in their communications because parent company Shell Oil Company (Shell) was subject to that.⁸ At the hearing, Michael Fehl, the U.S. manager for employee relations and

25 industrial relations of Shell, conceded that, since all three respondents are U.S. companies, none of their employees are subject to the GDPR. (Jt Exh. 12, pp. 1-4; GC Exh. 3(b); Tr. 43-44, 60, 155.)

The Union used minority data to evaluate claims of discrimination. Union Staff Representative Ben Lilienfeld testified that, "one of the things we look at when a member raises

⁶ The SOPUS Unit covers all production, maintenance and laboratory employees at its plant located in Galena Park, Texas, but excluding office clerical employees, guards, watchmen, professional employees, and supervisors. (Jt Exh. 11.)

⁷ For employees located in the United States, Respondents define "minority" to include individuals from the following groups: Hispanic or Latino, Black or African American, Asian, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, or Two or More Races. Shell defines minority to exclude individuals who describe themselves as "White." (R Exh. 2—Bates 000897-000898.) That said, the demographic minority data Respondents provided on an aggregated basis also included figures for white employees. While words such as "race," "ethnicity," or "ancestry" might describe the information sought more accurately, the Union's requests used the word "minority," so I will too.

⁸ Shell is the U.S. based subsidiary of Royal Dutch Shell, a multinational oil company. It employs approximately 22,000 individuals in the U.S. See [Shell Oil Company - Simple English Wikipedia, the free encyclopedia](#), last checked on August 12, 2026. While Shell is currently headquartered in England, it was historically headquartered in the Netherlands. (Tr. 117.)

that concern [racial discrimination] is, we look at what is the minority status of the folks that are either claiming to have been harmed, or those that say [they] are . . . receiving the better treatment.” Manager Fehl agreed that Union may have used individualized minority data in its grievances. (Tr. 46, 60–61.)

5 In 2022, Shell began implementing worldwide a new diversity equity and inclusion (DEI) initiative called “Self ID.” Shell’s U.S. companies, including all three respondents, implemented Self ID in 2023. Among other things, Self ID asked employees to “voluntarily submit their diversity data,” which included, in the U.S., race and ethnicity, disability, gender identity, sexual orientation, and Veteran status. Because it needed employees’ race and ethnicity
10 information to provide to the government as a Federal contractor, Respondents’ FAQs stated that, if any employee opted not to identify their ethnicity, a Shell representative would do so “based on visual observation.” (R Exhs. 1–4; Tr. 100–117, 153–154.)

The March 2024 Information Requests

15 In March 2024,⁹ the Union submitted its usual request for demographic data to Respondents Shell Pipeline and Shell Chemical. On May 15, however, those two Respondents refused to furnish three types of unit information on an individualized basis: date of birth, gender, and minority status.¹⁰ They gave that data only in aggregated form; e.g., the number of unit employees in various age brackets, the number of female and male employees, and the number of employees who identified in certain ethnic groups. (Jt Exh 6, pp. 1–2, 7–11; Jt Exh 7,
20 pp. 1–2, 7–11; Jt Exh 8, pp. 1–2; Jt Exh. 11, p. 4.)

Separately, on August 22, USW Local 13-1 President Brandi Sanders-Lausch requested from Shell Chemical and SOPUS individualized information about unit employees, including their date of birth and gender. When asked if the information was needed for bargaining, Sanders explained that it was needed for USW’s insurance provider. On August 29, Shell
25 Chemicals and SOPUS provided the Local with individualized date of birth and gender data, as the companies understood that age and gender can impact the pricing of insurance plans. (Jt Exh. 6, pp. 15–19; Jt Exh. 7, pp. 14–19; Jt 9, pp. 4–5; Jt Exh. 11, pp. 4–5; Tr. 135–136.)

The September 2024 Information Requests

30 On September 6, the Union sent its next request for demographic data. On September 10 and 16, SOPUS provided most of the information, including date of birth and gender—but withheld individualized minority data. For that, SOPUS gave only aggregated information. When the Union pointed out that minority information was missing, SOPUS on September 17 responded that the Union needed to explain the relevance. On September 19, the Union articulated five reasons why minority information was relevant to its representational duties:

⁹ All dates are for the year 2024 unless specified otherwise.

¹⁰ Unlike Shell Pipeline and Shell Chemical, SOPUS provided the Union with individualized demographic data in March. This included date of birth, gender, and minority status information. In her cover letter, Page told the Union, “the employee personal data you requested is within the representational duties and responsibilities you outlined in your request as the bargaining agent for the hourly represented employees at the Houston Lubricants Plant.” (GC Exh. 2, Tr. 46.) On August 29, SOPUS again sent the union information, which included unit employees’ date of birth and gender. (Jt Exh. 11, p. 5.)

1. To allow the Union to verify the summary gender and race information the Company has provided;
2. To assist the Union in evaluating potential promotional inequities and/or disparities that may be related to gender and/or race;
- 5 3. To assist the Union in evaluating potential benefit and/or contractual issues that may be related to gender and/or race;
4. To assist the Union in evaluating potential health and safety issues that may have gender and/or race factors; and
5. To assist the Union in communications with bargaining unit employees.

10 Despite this explanation, on September 27, Page summarily replied that they were not enough to establish relevance, writing that SOPUS “disagreed” and that that Union needed to provide a “further showing of relevancy.” She added that, in their view, aggregated minority data was sufficient to serve the Union’s needs. On October 10, Page again refused to provide the minority data, absent a “further showing of specific relevancy.” Page also cited to Self ID and the
 15 company’s need “to protect our sensitive and personal information.” (Jt Exh. 9, pp. 6–11, 15–19, 20–21; Jt Exh. 11, pp. 5–6.)

As for Shell Pipeline and Shell Chemical, on September 12, they again refused to provide individualized information about date of birth, gender, and minority status—giving that in aggregated form only. When the Union pointed out that those items were missing, Kenny
 20 Sanchez replied on September 18 that the companies considered aggregated information sufficient and that, if the Union wanted individualized information, it needed to give a specific explanation of relevance. He added that date of birth and gender¹¹ information had recently been provided to the Local president because it was needed for the USW insurance plan. On
 25 September 19, the Union explained why date of birth, gender, and minority status data was relevant to its representational duties, listing the same five reasons given to SOPUS. Like Page, Sanchez responded with a summary denial, stating that Shell Pipeline and Shell Chemical did not view the Union’s reasons as adequate and asserting that the aggregated information was
 “sufficient to assist the union with evaluating potential grievances.” He said that the Union needed to proffer additional reasons before the information would be furnished. (Jt Exh. 6, pp.
 30 20–26, 36–37; Jt Exh. 7, pp. 20–26, 29–32, 33–35; Jt Exh. 8, pp. 21–22; Jt Exh. 11, pp. 5–6.)

In contrast to Respondents’ claims that individualized minority data was not relevant, Lilienfeld explained at the hearing how the Union used that data to police the CBAs. He testified:

35 THE WITNESS: Well, if an—if an employee—a bargaining unit employee is not properly promoted or awarded a job bid, or other opportunities, we need to evaluate if their minority status played a factor in that. I mean—well, while we would all like to believe that, in today’s world, that everybody is blind to those things, if—it’s not the real world, and to be honest, this is the South and we—we do have—still have remnants of,

¹¹ Sanchez mistakenly wrote that the companies had provided date of birth and *minority* information. However, the companies had actually provided date of birth and *gender* data on August 29. The Local president did not request minority data. (Jt Exh. 7, pp. 15–19, 91–93.)

you know, people like—groups like the KKK and others, they really have an issue with that type of stuff. ¶ So, it is our—it is one of the things that we are concerned about. We want to ensure and to request that during each grievance or whatnot, you know.

(Tr. 59–60.) Additionally, without ready access to minority data, the Union’s investigation of grievances would be slowed significantly: “[If the] Company’s position is the same as it is today, when we would request it, we—would be fighting about it for more time than we have allowed under the CBA, to process that grievance through the arbitration process.” (Tr. 60.)

Lilienfeld shared a specific incident that illustrated the relevance and need for individualized minority data. In that case, a warehouse employee believed that his supervisor was speaking to him more aggressively than to his coworkers because of race. But everyone in the warehouse was a member of a minority group: the employee was African American, the supervisor was Hispanic, and the coworkers were Hispanic. If the Union did not have individualized minority data, its investigation would have been hampered. “[W]ithout having the individualized data,” he said, “we wouldn’t be able to ascertain whether [racial discrimination] was part of the problem.”¹² (Tr. Pp. 62, 77.)

Later in the hearing, the ALJ asked Manager Fehl about this scenario. After considering it, Fehl conceded that aggregated minority data would be insufficient:

JUDGE GEE: So, getting back to the example that Mr. Lilienfeld gave this morning about a black gentleman in a warehouse where the dispute involved, in part, a Latino supervisor treating Latino workers better. ¶ In that case, all of the data would be—well, of fifteen people in the warehouse, all fifteen were members of minority groups. And so, it doesn’t—it doesn’t address the Union’s need—could I have you speak to that?

THE WITNESS: Sure. In that scenario, if the Union was only relying on the sub aggregated data, had to be provided it, that would not potentially have met their needs, if they were looking for the individual ethnicity or racial make-up of say these fifteen individuals.

(Tr. 150-151.) Fehl, who supervised Martinelli and the team that responded to the Union’s information requests, also admitted that the Union may have used individualized minority data in its grievances. Based on Respondents’ production of only aggregated minority data, he conceded that, for the Union to investigate claims of racial discrimination such as the above, it would have to make an additional information request just for that group of employees. (Tr. 141–142, 145–146, 151–152.)

On October 1, Lilienfeld wrote to say that minority information was presumptively relevant and that the Union had provided specific examples only as a courtesy. He also asserted that Respondents have the information and that they had been providing it to the Union “for years

¹² Additionally, in response to a question about Respondents’ offers to provide individualized data on a “yes/no” basis (e.g., whether specific individuals were minorities but not specifying which group), Lilienfeld explained that, “simply knowing that someone is a minority, the yes/no—again, there’s different groups of minorities that doesn’t specify. So that isn’t sufficient for our needs.” (Tr. 84–85.)

without issue.” He cautioned that the Union would have to take “further escalated action” if Respondents did not furnish the information. (Jt Exh. 6, p. 35; Jt Exh. 7, p. 33.)

On October 4, the Union reiterated its September 6 information request. (Jt Exh. 6, pp. 40–42; Jt Exh. 7, pp. 38–40; Jt Exh. 11, p. 7.)

5 By letter dated October 10, Shell Pipeline and Shell Chemical provided the information for gender and date of birth only. As for minority information, Martinelli again asserted that “this information requires a further showing of specific relevancy to obtain the information individually.” They provided only aggregated information. Martinelli also pointed to Self ID. Because the companies told employees that their demographic data would be limited to “a very
10 limited number of individuals in HR,” Respondents would not provide that information to the Union “unless there is a specific relevancy for the union to have this information.” She suggested that, as an alternative, the Union could provide waivers from every unit employee consenting to the Union obtaining this information. (Jt Exh. 6, pp. 45–46; Jt Exh. 7, pp. 41–42; Jt Exh. 11, p. 7.)

The November Zoom Call

15 On November 12, the parties met by Zoom to discuss the minority data issue. Lilienfeld represented the Union, Sanchez represented Shell Pipeline and Shell Chemical, and Page represented SOPUS. Lilienfeld asked why Respondents were withholding the minority data after providing it for at least a decade. Sanchez and Page raised the GDPR. When Lilienfeld pointed out that the Respondents were U.S. companies not subject to the GDPR, they conceded that point.
20 Sanchez and Page then said they could not provide the minority data because of an internal company policy. When Lilienfeld complained that they never provided that company policy, they conceded that point, too. Finally, Sanchez and Page said that Respondents simply would not provide the minority data, absent an order from the NLRB. Lilienfeld testified, without contradiction, that “they told me flat out, that unless the NLRB tells us we got to provide it, we’re
25 not going to provide it.” (Jt Exh. 11, p. 7; Tr. 54–55.)

The March and April 2025 Information Requests

On March 3, 2025, the Union made its next semi-annual request for the unit employees’ demographic data. On April 9, 2025, Shell Pipeline and Shell Chemical furnished most of the information but withheld the individualized minority data that was given in aggregated form
30 only. On April 14, 2025, the Union reiterated its request for minority data. Later that day, Pipeline and Chemical again demanded that the Union justify how the information was relevant. (Jt Exh. 6, pp. 51–59; Jt Exh. 7, pp. 47–55; Jt Exh. 11, pp. 7–8.)

On March 3, 2025, the Union requested demographic data from SOPUS. On March 11, 2025, SOPUS withheld the minority data, too. It provided that only in aggregated form. (Jt Exh.
35 9, pp. 25–33.)

III. CREDIBILITY

Each party presented a single witness: the General Counsel called Union Representative Ben Lilienfeld, while Respondent called Manager Michael Fehl. Based on various factors,

including their demeanors, I found both witnesses to be credible. They listened carefully to questions and answered without hesitation, including giving answers that could be viewed as harmful to their respective positions; their answers were generally consistent with the documentary evidence and the factual stipulations; and they exhibited good factual recall. Most of the facts here were not in dispute. As to the one incident where there was potential for disagreement—the Zoom call on November 12 between Lilienfeld, Page, and Sanchez—only Lilienfeld testified about that. Neither Page nor Sanchez were called by Respondents and Fehl did not participate in the call. I found Lilienfeld’s testimony about that call to be credible. My credibility determinations were factored into the Statement of Facts.

IV. ANALYSIS

The complaint alleges that Respondents violated Section 8(a)(5) and (1) by failing and refusing to provide the Union with individual minority data on unit employees in response to Union requests in 2024 and 2025.

Section 8(a)(5) requires employers to bargain in good faith with the collective-bargaining representatives of their employees. This duty includes supplying the union with information potentially relevant to its responsibilities as the exclusive bargaining representative. *NLRB v. Acme Industrial Co.*, 383 US 432, 435–436 (1967). In situations like this one, where the parties have negotiated an anti-discrimination provision into their CBA, the union has the duty to police that provision—which may require it to request information on the ethnic demographics of unit employees. Such data is presumptively relevant, and employers violate the Act by refusing to furnish it, absent a valid defense. *Lucky Markets*, 251 NLRB 836, 838–839 (1980); *Westinghouse Electric Corp.*, 239 NLRB 106 (1978), enf’d. *Electrical Workers IBEW v. NLRB*, 648 F.2d 18, 24–25 (DC Cir. 1980); *Frito-Lay, Inc.*, 333 NLRB 1296, 1300 (2001).

Even if this information was not presumptively relevant, General Counsel established that it was actually relevant. By the Union’s September 19 written explanations and by Lilienfeld’s testimony, they demonstrated that minority data was necessary and relevant to the Union’s ability to investigate claims of racial discrimination and to evaluate whether to pursue grievances. Respondents conceded that the Union may have used individualized minority data in its grievances. *Acme Industrial*, 385 U.S. at 433, 437–438 (employer has “the obligation to furnish information that allows a union to decide whether to process a grievance”); *Disneyland Park*, 350 NLRB 1256, 1257 (2007) (employer has a duty to provide information relevant to a union’s decision to file grievances).

The record also demonstrated that aggregated data was not sufficient. Lilienfeld’s example of the African American warehouse employee with a Latino supervisor and Latino co-workers illustrated how aggregated numbers failed to tell a complete story. Simply knowing that everyone in the warehouse was a member of a minority group (yes/no) or that the entire plant has certain minority populations (aggregated data) would not enable the Union to understand that the Latino supervisor was potentially favoring Latino employees over the lone African American employee. Even manager Fehl admitted that the Union would need more than aggregated data under this scenario.

None of Respondents' defenses justified its conduct. They first argued that this matter is governed by *Detroit Edison v. NLRB*, 440 U.S. 301 (1979), and that their confidentiality concerns outweighed the Union's need for the information. However, Respondents did not demonstrate that they had any "substantial claims of confidentiality" to weigh against the Union's need for the information.¹³ Since *Detroit Edison*, the Board has narrowly defined confidential information to include things like trade secrets, individual medical records and disorders, the names of witnesses to drug transactions, and studies made in preparation for pending litigation. *Detroit Newspaper Agency* at 1072 (and cases cited therein).¹⁴ In deciding numerous Section 8(a)(5) cases over the years, the Board has never found employees' minority status to be confidential information. See *Westinghouse Electric Corp.*, 239 NLRB 106 (1978), *enf'd*. *Electrical Workers IBEW v. NLRB*, 648 F.2d 18, 24–25 (DC Cir. 1980); *Lucky Markets*, 251 NLRB 836, 840 (1980) (Board deemed race data on unit employees presumptively relevant and ordered it produced without any special safeguards); *White Farm Equipment Co.*, 242 NLRB 1373, 1376 (1979) (Board ordered employer to produce, without any special safeguards, race information on individuals who applied for employment and individuals hired); *Frito-Lay, Inc.*, 333 NLRB 1296 (2001) (Board ordered employer to produce race data for nonunit employees).

Nor does Respondents' claim find much support in the record. First, there is no history that they ever treated minority status as being any different from other types of employee data, such as names, date of hire, telephone numbers, or work departments. Dating back to at least 2014, Respondents routinely furnished minority status and other demographic data to the Union on a semi-annual basis.¹⁵ Second, while they contend that the European Union GDPR prohibits the disclosure of this information, Respondents conceded that none of them are subject to that law, since they are U.S.-based companies. Third, Respondents' reliance on the Self ID program is internally inconsistent. On one hand, they asserted that the program prevented them from sharing employees' demographic information, such as racial/ethnic status; yet on the other hand, they gave other information subject to Self ID, such as gender, to the Union. If Self ID stopped them from disclosing minority status, it should have also prevented them from producing gender information.¹⁶ Additionally, while they represented to employees that "only specific HR/IT security groups have access to this data," Respondents routinely share it with the Federal government, pursuant to their status as contractors. Finally, Respondents' managers admitted to the Union that they simply were not going to provide the minority data unless and until the

¹³ It is the employer's burden to prove that the information is confidential. See *Pennsylvania Power Co.*, 301 NLRB 1104, 1105 (1991); *Washington Gas Light Co.*, 273 NLRB 116, 116 (1984); *Postal Service*, 356 NLRB 483, 486 (2011); *Detroit Newspaper Agency*, 317 NLRB 1071, 1073 (1995); *Northern Indiana Public Service Co.*, 347 NLRB 211, 222 (2006).

¹⁴ One quality these categories of information have in common is that they cannot be known absent disclosure. In contrast, a person's ethnic status may be determined simply by observation—a practice Respondents utilize. Their FAQs on Diversity, Equity & Inclusion state that, if an employee chooses not to self-identify, "your Race/Ethnicity will be determined by a Shell representative based on visual observation." (R. Exh. 2, FAQ # 27, Bates Stamp 0000898.)

¹⁵ In rejecting an employer's claim of confidentiality, the Board in *Washington Gas Light Co.*, 273 NLRB at 116, relied in part on there being "no evidence of a clear past practice or policy of confidentiality to support that claim."

¹⁶ To the extent that Respondents argue that there was a good reason to disclose gender information (the Union needed to produce it to its insurance provider), there is an even more compelling reason to provide minority data: it is required by the National Labor Relations Act.

NLRB ordered them to do so. As Lilienfeld credibly testified, Page and Sanchez told him on November 12, “that unless the NLRB tells us we got to provide it, we’re not going to provide it.”

Based on my finding that Respondents failed to demonstrate a legitimate and substantial confidentiality claim, it would be inappropriate to apply the *Detroit Edison* balancing test.

5 *President & Fellows of Harvard College (Harvard University)*, 375 NLRB No. 5, slip op. 1 at fn. 2 (2026). I therefore reject Respondents’ first defense.

Respondent’s second defense is that minority data is not presumptively relevant and that the Union failed to demonstrate its relevance. This argument also lacks merit. As detailed above, where the parties have nondiscrimination language in their CBAs, the Board has uniformly found
10 that minority data is presumptively relevant. Moreover, the Union established the actual relevance.

Respondent’s third defense is that these proceedings are invalid due to the unconstitutional structure of the NLRB—more particularly, the removal protections for Board members and ALJs impeding the President’s exercise of executive powers. The Board has
15 dismissed this argument in similar situations where there was no evidence showing that the complaining party suffered any harm caused by the removal protections. See *SJT Holdings, Inc.*, 372 NLRB No. 82, slip op. at 1 fn. 4 (2023) (citing *Collins v. Yellen*, 594 U.S. 220, 257–258 (2021)).

As the Union requested relevant evidence and Respondents refused to provide that
20 information, absent a valid defense, I find that they violated Section 8(a)(5) and (1). *Electrical Workers IBEW v. NLRB*, 648 F.2d 18, 25. I therefore find that Respondents Shell Pipeline and Shell Chemical unlawfully refused to furnish information, as alleged in paragraphs 11, 13, 15, 17, and 19 of the complaint, and that Respondent SOPUS unlawfully refused to furnish information, as alleged in paragraphs 13, 15, 17, and 19 of the complaint.

25 CONCLUSIONS OF LAW

1. Respondent Shell Pipeline Co., LP, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Respondent Shell Chemical, LP, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

30 3. Respondent Pennzoil-Quaker State Company d/b/a SOPUS Products is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC is a labor organization within the meaning of Section 2(5) of the Act.

35 5. At all times material to the complaint, the Union has been the exclusive collective-bargaining representative of the employees in the Shell Pipeline, Shell Chemical Plant, Shell Chemical Lab, and SOPUS units.

6. By refusing to furnish the Union with the requested information about individual unit employees’ minority status, Respondents Shell Pipeline, Shell Chemical, and SOPUS have

engaged in, and are engaging in, unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

REMEDY

Having found that Respondents engaged in certain unfair labor practices, I recommend that the Board order it to cease and desist and to take certain affirmative actions designed to effectuate the policies of the Act. On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended¹⁷

ORDER

A. Respondent Shell Pipeline, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC by refusing to furnish requested information that is relevant and necessary to the Union’s performance of its functions as the collective-bargaining representative of the Pipeline Unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union with the information it requested on March 4, September 6, and October 4, 2024, and March 3 and April 14, 2025.

(b) Within 14 days after service by the Region, post at its Houston, Texas facility copies of the attached notice marked “Appendix A” in English and any other language deemed appropriate by the Regional Director. Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 4, 2024.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 16 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

¹⁷ If no exceptions are filed as provided by Sec. 102.46 of the Board’s Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

B. Respondent Shell Chemical, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Refusing to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC by refusing to furnish requested information that is relevant and necessary to the Union’s performance of its functions as the collective-bargaining representative of the Chemical Plant Unit and Chemical Lab Unit employees.
- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) Furnish the Union with the information it requested on March 4, September 6, and October 4, 2024, and March 3 and April 14, 2025.
- (b) Within 14 days after service by the Region, post at its Houston, Texas facility copies of the attached notice marked “Appendix B” and “Appendix C” in English and any other language deemed appropriate by the Regional Director. Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 4, 2024.
- (c) Within 21 days after service by the Region, file with the Regional Director for Region 16 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

C. Respondent SOPUS, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Refusing to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC by refusing to furnish requested information that is relevant and necessary to the Union’s performance of its functions as the collective-bargaining representative of Respondent’s SOPUS Unit employees.
- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) Furnish the Union with the information it requested on September 6 and October 4, 2024, and March 3 and April 14, 2025.

- 5 (b) Within 14 days after service by the Region, post at its Houston, Texas facility copies of the attached notice marked “Appendix D” in English and any other language deemed appropriate by the Regional Director. Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 4, 2024.
- 10
- 15 (c) Within 21 days after service by the Region, file with the Regional Director for Region 16 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

20 Dated, Washington, D.C., August 17, 2026.



Brian D. Gee
Administrative Law Judge

25

APPENDIX A

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC by failing and refusing to furnish requested information that is relevant and necessary to the Union’s performance of its functions as the collective-bargaining representative of our employees in the following unit:

All hourly paid employees as defined by the National Labor Relations Act at all Shell Pipeline, Gulf of Mexico facilities, with the exception of all facilities located north of the Mississippi/Tennessee border.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish the Union with the individualized minority information it requested on March 4, September 6, and October 4, 2024, and March 3 and April 14, 2025.

SHELL PIPELINE CO., LP

Dated

(Employer)

By

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret–ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board’s Regional Office set forth below or you may call the

Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Callers who are deaf or hard of hearing who wish to speak to an NLRB representative should send an email to relay.service@nlrb.gov. An NLRB representative will email the requestor with instructions on how to schedule a relay service call.

National Labor Relations Board, Region 16

819 Taylor St., Rm 8A24
Fort Worth, TX 76102-6107
Telephone: (817) 978-2921
Hours of Operation: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/16-CA-342028 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE
DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY
OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE
WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S
COMPLIANCE OFFICER (682) 703-7489.

APPENDIX B

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

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Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC by failing and refusing to furnish requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our employees in the following unit:

All hourly paid employees of Shell Chemical LP at its Houston (Deer Park), Texas Chemical Plant except Plant Protection employees and Chemical Lab Unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish the Union manner with the individualized minority information it requested on March 4, September 6, and October 4, 2024, and March 3 and April 14, 2025.

SHELL CHEMICAL, LP

Dated

(Employer)

By

(Representative)

(Title)

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APPENDIX C

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

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Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC by failing and refusing to furnish requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our employees in the following unit:

All senior lab technicians and laboratory technicians, excluding all other employees, including operators, maintenance employees, applications specialists, office clerical employees, professional employees, confidential employees, guards and supervisors.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish the Union manner with the individualized minority information it requested on March 4, September 6, and October 4, 2024, and March 3 and April 14, 2025.

SHELL CHEMICAL, LP

Dated

(Employer)

By

(Representative)

(Title)

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APPENDIX D

NOTICE TO EMPLOYEES
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Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC by failing and refusing to furnish requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our employees in the following unit:

All production, maintenance and laboratory employees at the Pennzoil-Quaker State Company plant located in Galena Park, Texas, but excluding office clerical employees, guards, watchmen, professional employees, and supervisors.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish the Union manner with the individualized minority information it requested on September 6 and October 4, 2024, and March 3 and April 14, 2025.

PENNZOIL-QUAKER STATE COMPANY
D/B/A SOPUS PRODUCTS

Dated

(Employer)

By

(Representative)_____
(Title)

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employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Callers who are deaf or hard of hearing who wish to speak to an NLRB representative should send an email to relay.service@nlrb.gov. An NLRB representative will email the requestor with instructions on how to schedule a relay service call.

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