

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
DISTRICT COUNCIL 48, AFSCME, AFL-CIO
For Clarification of Bargaining Unit
Involving Certain Employees of
CITY OF MILWAUKEE

Case VI
No. 8633 ME-21
Decision No. 960-F

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., appearing on behalf of the Petitioner.
Mr. Nicholas M. Sigel, Assistant City Attorney, appearing on behalf of the Municipal Employer.
Mr. Charles J. Kersten, Attorney at Law, and Mr. Gilbert Vosswinkel, President, Technicians, Engineers and Architects of Milwaukee, appearing on behalf of the Intervenor.

DECLARATORY RULING

District Council 48, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission wherein it requested the Commission to clarify the bargaining unit set forth in the Certification of Representatives issued by the Commission on May 24, 1965, in the above entitled matter, specifically with respect to whether employees occupying the positions of Engineering Technician IV, employed in the Department of Public Works, General Office, more specifically Oraian Pawlak, Herbert Kurtzheim, Ronald Haas and Elmer Belter, and Engineering Technician V, employed in the Department of Public Works, Bureau of Engineers, Construction Division, more specifically Henry Licht, should be or should not be included within the certified bargaining unit; and hearing on such petition, as amended, having been held in Milwaukee, Wisconsin, on June 9, June 26 and July 2, 1969, before Robert B. Moberly, Examiner; and during the course of the hearing Technicians, Engineers and Architects of Milwaukee, an employee organization, having been permitted to intervene in the proceeding on its claim that the employees set forth in the petition should be included in the bargaining unit represented by it; and the Commission having considered the evidence and briefs of the parties, and being fully advised in the premises, makes and issues the following

DECLARATORY RULING

1. That the position of Engineering Technician IV in the employ of the City of Milwaukee in its Department of Public Works, General Office, and the position of Engineering Technician V, in the employ of the City of Milwaukee in its Department of Public Works, Bureau of Engineers, Construction Division, are included in the previously certified collective bargaining unit consisting of "all regular professional, engineering and architectural employees, including Engineering Technicians IV, V and VI, employed by the City of Milwaukee, excluding all other employees, confidential employees, supervisory employees and executives, for which Technicians, Engineers and Architects of Milwaukee is the certified collective bargaining representative.

Given under our hands and seal at the
City of Madison, Wisconsin, this 8th
day of January, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

William R. Wilberg
William R. Wilberg, Commissioner

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Case VI
No. 8633 ME-21-
Decision No. 6960-P

MEMORANDUM ACCOMPANYING DECLARATORY RULING

In May, 1963, following an election conducted by it, the Wisconsin Employment Relations Commission certified District Council 48, AFSCME, AFL-CIO, as the collective bargaining representative for all employees employed in a collective bargaining unit consisting of all regular employees employed in the various bureaus in the Department of Public Works of the City of Milwaukee excluding, in addition to confidential employees, supervisors and executives, certain other employees including engineers and architects.^{1/} Included in said bargaining unit, along with other positions, were the positions of Assessment Technician employed in the Department of Public Works, General Office, and the Position of Administrative Assistant II, employed in the Department of Public Works, Bureau of Engineers, Construction Division.

On May 24, 1965, following an election conducted by it, the Commission certified Technicians, Engineers and Architects of Milwaukee, hereinafter referred to as TEAM, as the collective bargaining representative of employees employed in a bargaining unit consisting of all regular professional engineering and architectural employees, including Engineering Technicians IV, V and VI employed by the City of Milwaukee excluding all other employees, confidential employees, supervisory employees and executives.^{2/}

^{1/} City of Milwaukee, Dec. No. 6215-J.

^{2/} City of Milwaukee, Dec. No. 6960-A.

On March 17, 1967, the Milwaukee City Service Commission, as a result of an evaluation of the position, reclassified the position of Assessment Technician, employed in the Department of Public Works, General Office, to the position of Engineering Technician IV. Additionally, it appears that the position of Administrative Assistant II, employed in the Department of Public Works, Bureau of Engineers, Construction Division, has been deleted and has been replaced by the position of Engineering Technician V. Neither reclassification resulted in any significant change in the duties of and the work performed by the persons holding such positions. However, the reclassifications did result in an increase in salary for such persons. District Council 44 contends that said positions, despite their reclassifications, should remain in the collective bargaining unit presently represented by it for the reason that the work performed by the individuals occupying said positions has remained unchanged despite the change in classifications.

From the record as a whole it is clear to us that the positions in question were reclassified on the basis that the employees occupying them were in fact performing the functions and duties of Engineering Technician IV and Engineering Technician V, respectively. It is without dispute that such employees are performing the functions and duties of the Engineering Technicians IV and V as outlined in the existing job description for such positions, and a wage increase was granted along with the reclassification in recognition that the positions involved more substantial duties than those performed by Assessment Technicians and Administrative Assistants II. The positions should consequently be included in the bargaining unit, represented by TEAM, which contains other Engineering Technicians IV through VI in the Department of Public Works.

It is true that since the issuance of original certification, when these positions were not excluded as professionals, the job content of the positions has not changed. However, the positions in question were not challenged in the earlier lengthy proceedings, and one purpose of clarification proceedings is to determine questions of this nature which were overlooked or otherwise not raised at the time of the original proceedings. Our Order today is in harmony with that purpose.

Dated at Madison, Wisconsin, this 8th day of January, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

William R. Wilberg
William R. Wilberg, Commissioner