

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
ENGINEERING AID, SUPERVISION, DESIGN
AND SURVEY EMPLOYEES OF THE SEWERAGE
COMMISSION OF THE CITY OF MILWAUKEE
Involving Employees of
THE SEWERAGE COMMISSION OF THE
CITY OF MILWAUKEE

Case VIII
No. 11122 ME-276
Decision No. 8564

ORDER OF DISMISSAL

Engineering Aid, Supervision, Design and Survey Employees of the Sewerage Commission of the City of Milwaukee having filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70, Wisconsin Statutes, among all employees of the City of Milwaukee Sewerage Commission classified as Engineering Aide I, II, III and IV; and hearing on such petition having been held at Milwaukee, Wisconsin on December 1, 1966, September 6, 1967, and September 29, 1967; and during the course of said hearing, Milwaukee District Council 48 and Local 366, American Federation of State, County and Municipal Employees, AFL-CIO, having been permitted to intervene in the instant proceeding on its claim that it represents the so-classified employees of the Municipal Employer; and the Commission having considered the evidence and arguments of Counsel, and being satisfied that the unit set forth by the Petitioner as being appropriate is not comprised of a single craft or of separate divisions or departments, and, therefore, cannot constitute an appropriate collective bargaining unit within the meaning of Section 111.70, Wisconsin Statutes;

NOW, THEREFORE, it is


ORDERED

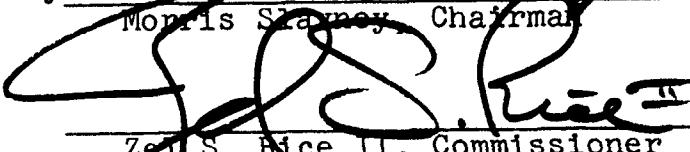
That the petition filed in the instant matter be, and the same hereby is, dismissed.

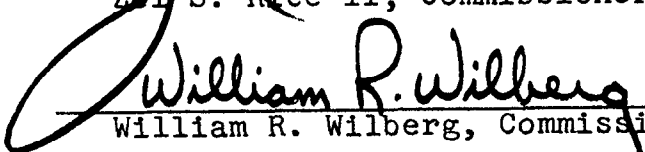
Given under our hands and seal at the
City of Madison, Wisconsin, this 6th
day of June, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slattery, Chairman


Zell S. Rice II, Commissioner


William R. Wilberg, Commissioner

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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

The petition initiating this proceeding was filed by five employees of the Sewerage Commission, as individuals, on October 31, 1966. The hearing on the matter was opened on December 1, 1966, and adjourned indefinitely in order to allow the parties an opportunity to discuss methods of resolving the matter voluntarily. However, the hearing was reopened on September 6, 1967, and September 29, 1967, at which time all parties completed their presentations of evidence and oral argument. Subsequent to the issuance of the transcript an extended period was provided for the filing of briefs.

District Council 48 (and Local 366), AFSCME, AFL-CIO, the Intervenor herein, on April 2, 1965, was certified^{1/} as the exclusive collective bargaining representative of all regular full-time and regular part-time employees of the Sewerage Commission employed in the following departments: Administration and Main Office, Drafting and Design, Engineering Construction and Maintenance, Plant Laboratory and Research, Plant Office and Plant Supervision, Plant Operation and Maintenance and Shipping. Excluded from said bargaining unit were employees in the Machine Shop, Power Plant and Building Trades, and craft employees, supervisors, confidential employees and executives.

On the date on which the present petition was filed, the Municipal Employer and the Intervenor were parties to a collective bargaining agreement covering the certified unit, which agreement covered the

1/ Decision No. 6964

period from January 1, 1966, to December 31, 1966, and were at the time engaged in negotiations for a subsequent agreement. At the hearing the Intervenor moved for the dismissal of the petition on the ground of untimely filing. Inasmuch as our present rule with respect to timeliness in this respect was not adopted until February 1968,^{2/} we are not applying that rule herein, and the Intervenor's motion in that regard is denied.

As noted above, the petition was originally filed by named individual employees. At the second hearing session, however, the petition was amended to reflect that it was filed on behalf of an organization identified as Engineering Aid, Supervision, Design and Survey Employees of the Sewerage Commission of the City of Milwaukee. The evidence indicates that such organization was formed on approximately June 3, 1966, and is composed of employees in the classifications which said organization seeks herein to represent. The stated objective of the organization is "the study and promotion of the financial and technical status" of its members.

The Intervenor and the Municipal Employer objected to the amendment as untimely and on the ground that the petitioning organization was not a labor organization within the meaning of Section 111.70, Wisconsin Statutes. The timeliness contention has two components: The conversion of the petition from a simple decertification effort to an attempt to change bargaining representatives, and the absence of a demand for negotiations by the petitioning organization upon the Municipal Employer. The contention fails, however, because the petition serves as such a demand and because there is no evidence of any prejudice suffered by the conversion of the petition's objective.

As to the question of the petitioning organization's identity as a labor organization, the record as a whole discloses that it has as a principal objective the representation of employees in negotiations concerning wages, hours and conditions of employment. On that basis the Petitioner qualifies as a labor organization.

The Petitioner seeks a unit comprised of all employees classified as Engineering Aides I, II, III and IV. These employees were, at the time of the previous certification, assigned to the following departments: Administration and Main Office, Drafting and Design, and Engineering Construction and Maintenance. Since that time the Municipal Employer's organizational structure has been revised and, at the time

^{2/} Wauwatosa Board of Education, Decision No. 8300-A

of the hearings in this case, these employes were assigned to the Sewer Design Department, the Plant Design Department and the Field Engineering Department. These departments are each headed by an official who reports directly to the Chief Engineer and General Manager, who is the Municipal Employer's highest administrative official.

In addition to the Engineering Aides, there are supervisory employes, graduate engineers and clerical employes in the three pertinent departments. There is also a Meter Reader assigned to the Field Engineering Department.

The Petitioner contends that the unit which it seeks is appropriate and proper both as a craft unit and because it is comprised of a division or department. In this regard it is further contended that all of the Engineering Aides are within the Municipal Employer's "Engineering Department." However, it is apparent from the record that no "Engineering Department" exists in the Municipal Employer's organizational structure and that the concept of an "Engineering Department" exists merely as a conversational reference.

Thus, the Engineering Aides are, in fact, in three departments and these departments cannot in any event constitute an appropriate unit or units unless such department or departments are also held to include all non-craft and non-supervisory employes, or unless the Engineering Aides do, as the Petitioner contends, constitute a craft group.

The Engineering Aides perform in four different and distinct capacities. They are inspectors, designers, members of survey parties and one of them is a sewer gauger. The designers are in the Sewer Design and Plant Design Departments, whereas all of the other Engineering Aides are in the Field Engineering Department.

There are approximately six employes in the designer category, and they perform as draftsmen in their respective departments.

There are usually twelve employes divided into three survey parties of four men each. Each of these parties usually includes a Chief of Party, an instrument man and two rod-and-chain men. The Chief is in charge and directs the parties as well as recording its findings. The instrument man operates the transit or other surveyor's apparatus, whereas the remaining party members have lesser responsibilities.

Only one employe is assigned to sewer gauging, or flow gauging, as it is sometimes referred to, and he has performed that function for approximately 15 years. Among his responsibilities is the measurement

of the flow of sewage from various communities with which the Municipal Employer is associated. This process involves weirs and measuring devices in the sewerage system, the maintenance and operation of which are also performed by this employee. The Sewer Gauger is assisted by a Meter Reader who replaces him, to a limited extent, when he is absent.

The Inspectors, who number approximately 50, are responsible for the adherence to certain building standards and regulations in the construction of sewers. This construction is done by private contractors, and the Inspector represents the Municipal Employer at the construction site. He may function at more than one project during a day, and he may remain with a project for several months. These projects are placed in two categories: those located within Milwaukee and suburban projects. Inspectors who function in Milwaukee are under the supervision of a Resident Engineer and have less responsibility than Inspectors at suburban sites whose supervision by an Engineer is less constant and who is, normally, the Municipal Employer's sole representative at the project.

In Winnebago County Hospital (Decision No. 6043) we declared that:

"We shall consider employees to be engaged in a single craft when they are a distinct and homogeneous group of skilled journeymen craftsmen, working as such together with their apprentices and/or helpers....All employees included in the unit must be practitioners of the same allied craft and must be primarily engaged in the performance of tasks requiring the exercise of their craft skills."

Even if we were to find that the Engineering Aides were craftsmen within this definition, we could not find that they practice the "same allied craft" or constitute a "homogeneous group." Thus, they cannot be found to be a single craft unit.

This conclusion is based upon the distinctly different skills of Draftsmen, Surveyors and Inspectors. We recognize that the Engineering Aides have certain common conditions of employment, such as their outdoor work, and that their work has common objectives with respect to the operation of the Municipal Employer. Further, note is taken of certain distinctions between the Engineering Aides and other employees in the presently certified unit. Nonetheless, the evidence indicates that they perform their functions separately, have disparate skills and are coordinated only to the extent demanded by their common employment by the Municipal Employer.

Finally, there remains the question of whether any of the Engineering Aides may be found to constitute a craft group. Apparently, most of the Engineering Aides are hired at the "I" level which requires that they have a high school education. From that level they advance fairly automatically to the "IV" level over a period of approximately ten years. They are hired above the "I" level when they have had relevant experience or training. There is no formalized training program provided by the Municipal Employer for the Engineering Aides. They are started at the simplest, least responsible jobs, such as rod-and-chain man in the survey party, and learn over the years to perform the more complex functions until they may be assigned as Chief of Party or suburban Inspector. (The process of advancement is fairly well defined for Inspectors and Surveyors, however, the record is lacking in this respect regarding Draftsmen and the Sewer Gauger.)

Based upon the foregoing and the record as a whole, it is our conclusion that none of the pertinent categories of employees are craft groups within the meaning of the Statute. Usual concomitants of craft status are lacking, such as a licensing or certification. The advancement of an Engineering Aide differs in that manner from an apprenticeship in a craft. Note is also taken of the fact that even the most skilled of the Engineering Aides work under a graduate engineer and that the record does not indicate whether the surveyors and draftsmen reach what would be considered journeyman proficiency in the general community. Of course, the inspectors and the sewer gauger have no counterparts in the general community.


Since the claimed unit does not consist of employees employed in a single department or division, they cannot be given the opportunity to determine for themselves, as provided in Sections 111.02(6) and 111.05(2), whether they desire to constitute themselves a separate collective bargaining unit.

Further, since they are not craft employees, they do not constitute a separate unit within the meaning of Section 111.70(4)(d).

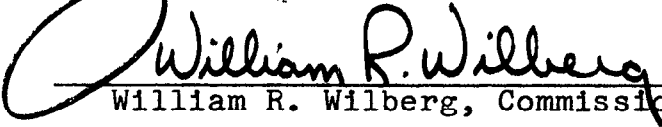
Dated at Madison, Wisconsin, this 6th day of June, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner