

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF APPLETON

ORDER DENYING MOTION FOR RECONSIDERATION

NOW, THEREFORE, it is

Given under our hands and seal at the
City of Madison, Wisconsin, this 30th
day of March, 1970.

Morris, Slavney, Chairman

Zel S. Rice II, Commissioner

William R. Wilberg, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
GENERAL DRIVERS & DAIRY EMPLOYEES UNION,
LOCAL NO. 563, affiliated with the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF
AMERICA
Involving Certain Employees of
CITY OF APPLETON

Case XIX
No. 13248 ME-498
Decision No. 9511-A

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION FOR RECONSIDERATION

In dismissing the petition filed by the Union in the instant proceeding as not being timely filed, the Commission concluded that the raising the question of representation at the time would have substantially disturbed the progress and stability of a substantial negotiating process. Facts established at the hearing on the petition indicated that the Municipal Employer and Local 73, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, were parties to a collective bargaining agreement, which by its terms, was to expire on December 31, 1969. The agreement did not contain any provision setting forth a date on which the agreement was to be reopened or on which bargaining between the parties should commence for a new collective bargaining agreement. The evidence further indicated that representatives of the Municipal Employer and Local 73 commenced bargaining in September 1969 for a new agreement, and that on October 1, 1969, representatives of the Municipal Employer and Local 73 reached an agreement, subject to the adoption of the budget on or before November 20, 1969. The Petitioner, Teamsters Local 563, filed its petition on October 30, 1969.

The Petitioner contends that the contract does have a provision which sets forth a final date (December 30) in which either party must submit bargaining proposals for the following year unless the collective bargaining agreement was to be automatically renewed, and in support of that argument cites the following provision in that agreement:

"This agreement shall be effective on January 1, 1969 and shall remain in full force and effect until and including December 31, 1969, and shall be automatically renewed from year to year unless either party notifies the other of its intent to modify the agreement prior to the expiration date."

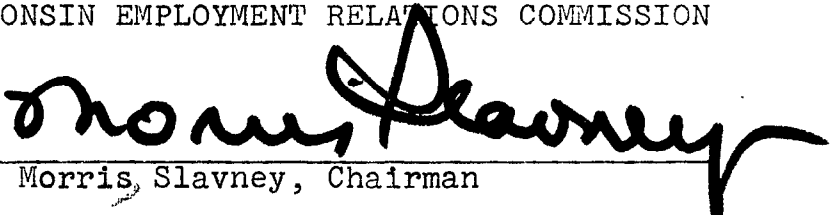
However, the negotiations between Local 73 and the Municipal Employer commenced long before December 31, 1969, and as a matter of fact, the parties reached an agreement some thirty days prior to the filing of the petition, only subject to the adoption of the budget by the Municipal Employer. A substantial period of negotiations had taken place prior to the filing of the petition, and an agreement had been reached. Thus, to entertain a petition for a new election at this time, as we indicated in our Memorandum accompanying our Order dismissing the petition "would substantially disturb the progress and stability of a substantial negotiating process"


Counsel for the Petitioner urges the Commission to adopt a definite rule with respect to the timely filing of petitions for new elections where the existing collective bargaining agreement contains no reopening date, in order that petitioning organizations and employers may have certain deadlines as to the timely filing of petitions in such situations. The Commission is well aware of the problems involved and is presently studying the matter, and it plans in the near future to schedule a public hearing or hearings in order to give interested parties an opportunity to be heard prior to the adoption of a rule applicable in like situations.

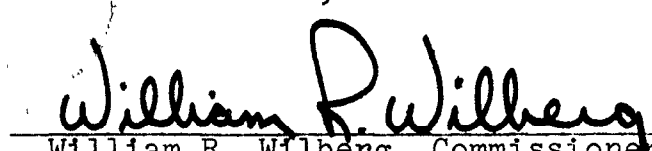
Dated at Madison, Wisconsin, this 30th day of March, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner