

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

GENERAL DRIVERS, DAIRY EMPLOYEES AND
HELPERS LOCAL NO. 579 AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS
OF AMERICA

Case XVIII
No. 14549 ME-640
Decision No. 10352

Involving Certain Employees of

ROCK COUNTY

In the Matter of the Petition of

ROCK COUNTY EMPLOYEES, LOCAL 1077A,
AFSCME, AFL-CIO

Case XIX
No. 14581 ME-649
Decision No. 10353

Involving Certain Employees of

ROCK COUNTY

ORDER DETERMINING APPROPRIATE BARGAINING UNIT
AND SETTING HEARING TO DETERMINE ELIGIBILITY

Rock County Employees, Local 1077A, AFSCME, AFL-CIO, and General Drivers, Dairy Employees and Helpers Local No. 579, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, having filed separate petitions with the Wisconsin Employment Relations Commission, wherein said organizations each requested that the Commission conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employees of Rock County; and a consolidated hearing on said petitions having been held at Janesville, Wisconsin, on May 10, 1971, Howard S. Bellman, Hearing Officer being present; and during the course of said hearing Rock County Employees Association, having been permitted to intervene in the proceeding on the basis of its status as the recognized representative of certain of the employees involved in the matter; and the Commission having reviewed the evidence and arguments of the parties and being fully advised in the premises, and being satisfied that questions have arisen concerning the appropriate bargaining unit and representation for certain employees of said Municipal Employer;

NOW, THEREFORE, it is

ORDERED

That for the purpose of an election by secret ballot to be subsequently conducted herein under the direction of the Wisconsin Employment Relations Commission the appropriate collective bargaining unit consists of all clerical employees in the courthouse, the airport, the Beloit

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County Building, the Guidance Center, the Department of Social Services, the Highway Department, the Sheriff's Department, and all airport maintenance employees, and all Parks Department employees, excluding confidential, supervisory, craft and professional employees and also excluding all other employees of said Municipal Employer.

IT IS FURTHER ORDERED that further hearing in this proceeding shall be conducted at 10:00 a.m. on July 1, 1971, at the Rock County Courthouse, Janesville, Wisconsin, for the purpose of determining eligibility issues, as well as other issues which might pertain to said election.

Given under our hands and seal at the
City of Madison, Wisconsin, this 9th
day of June, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Jos. B. Kerkman
Jos. B. Kerkman, Commissioner

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MEMORANDUM ACCOMPANYING ORDER DETERMINING APPROPRIATE
BARGAINING UNIT AND SETTING HEARING TO DETERMINE ELIGIBILITY

The Intervenor, Rock County Employees Association, is the currently recognized bargaining representative of the employees of Rock County in a bargaining unit consisting of courthouse clerical employees, airport maintenance and clerical employees, Beloit County Building clerical employees, Guidance center clerical employees and Parks Department employees.

The clerical employees of the Social Services Department, the Highway Department and the Sheriff's Department are the County's only unrepresented employees, except for certain seasonal, irregular part-time, confidential and craft or professional employees.

The AFSCME requests an election in a unit comprised of these unrepresented clericals and the employees represented by the Intervenor. The Teamsters desire an election among the employees currently represented by the Intervenor, but would also participate in an election in the unit requested by the AFSCME.

The Intervenor does not wish to participate in any election but desires an election among the employees whom it represents. The Intervenor also states that it will continue to administer its current agreement with the County covering said unit until such time as it expires or another bargaining agent is certified.

The County alone contends that the aforesaid agreement with the Intervenor should be a bar to any election involving the employees which are covered by it. It agrees that an election would be appropriate among the unrepresented group, however. (An alternative position of both the

AFSCME and the Teamsters is that they would appear on the ballot if such an election were ordered.) As an alternative, if its contract-bar contention is rejected, the County would have the Commission find two appropriate units; one consisting of clerical employees and one consisting of maintenance and other employees.

The Teamsters petition was filed on April 2, 1971. The AFSCME petition was filed on April 12, 1971. The agreement between the County and the Intervenor has a reopening date of July 1, 1971. The County's budgetary deadline date is during November. The Commission in Milwaukee County, Dec. No. 8855, 1/69, stated as follows:

"Where there presently exists a collective bargaining agreement, resolution or ordinance covering the wages, hours and conditions of employment of employees in an appropriate collective bargaining unit, a petition requesting an election among said employees must be filed within the 60-day period prior to the date reflected in said agreement, resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions of the employees in the unit covered thereby unless the period of negotiations as set forth therein extends beyond six months prior to the budgetary deadline date of the Municipal Employer involved. In the latter event, petitions for elections will be entertained by the Commission if they are filed in good faith within sixty days prior to such six month period."

Here the petitions were not filed within the 60-day period prior to the commencement of negotiations, nor does the period of negotiations commence more than six months prior to the budgetary deadline date. However, the dismissal of the petitions on this ground would be futile in that the two petitioners could then immediately refile in a timely fashion, and because the hearing herein was held during the 60-day period. 1/ (The AFSCME has already filed a second petition to cover this contingency.) 2/

The County's alternative position that two units should be found appropriate is rejected because it conflicts with the statutory presumption in favor of an employer-wide unit, except where separate crafts, divisions or departments are involved. [Section 111.02(6), Wisconsin Statutes] The County's request contemplates separation according to the nature of the work performed and ignores divisional and departmental lines.

Likewise, the unit requested herein by the AFSCME, rather than the unit presently represented by the Intervenor, has been found more appropriate because it is more inclusive, and in effect, a residual unit of non-craft, non-confidential employees.

At the hearing the parties agreed that following any direction of election in this proceeding, a second hearing should be ordered for the purpose of making eligibility determinations and election arrangements with regard to whatever units in which elections are to be conducted; and

1/ See Black Earth School District No. 1, Decision No. 8854, 1/69.

2/ Rock County, Case XX.

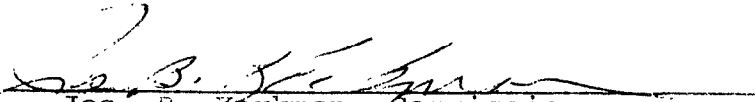
that the date of such hearing should be the voting eligibility date. (It is assumed that at such hearing, which is ordered herewith, the AFSCME will request the dismissal of its aforementioned second petition.)

Dated at Madison, Wisconsin, this 9th day of June, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner