

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

LEROY WOLF :

Involving Certain Employees of :

THE CITY OF HARTFORD :

Case VI  
No. 14761 ME-669  
Decision No. 10645

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Appearances:

Mr. LeRoy Wolf, as the Petitioner.

Mr. Roger E. Walsh, Attorney at Law, for the City of Hartford.

Mr. Arthur Wells, District Representative, for the Intervenor,  
Local No. 1432, AFSCME, AFL-CIO.

ORDER DISMISSING PETITION FOR CRAFT-UNIT SEVERANCE

LeRoy Wolf, an employe of the City of Hartford, Wisconsin, having petitioned the Wisconsin Employment Relations Commission for a determination as to whether "Linemen" employed by the City of Hartford in its electric and water utility system are, in fact, "craft" employes within the meaning of Section 111.70, and therefore, as craft employes, properly to be excluded from the collective bargaining unit described in a collective agreement existing between the City of Hartford and Local No. 1432, AFSCME, AFL-CIO, the bargaining relationship between the aforesaid parties having been initially consummated through the Municipal Employer's voluntary recognition of Local 1432 as the exclusive representative of its non-supervisory blue collar employes; and the presently existing collective agreement having described the bargaining unit as consisting of "the employes in the Street, Parks, Cemeteries and Utility Departments"; and the Commission, by its Hearing Officer, Robert M. McCormick, having conducted a hearing on said petition at Hartford, Wisconsin, on July 21, 1971, at the outset of which Local 1432, AFSCME, AFL-CIO, was permitted to intervene in the proceedings on the basis that it currently represented the employes covered by the instant petition, and that the positions sought to be severed thereby were covered by its existing collective agreement with the City of Hartford; and the Commission having considered the evidence and arguments of Counsel, and being fully advised in the premises and being satisfied that the classifications of Lineman, First Class and Apprentices, do not require the training and the practice of the skills of the "electrician-craft" so as to warrant the exclusion of the Lineman positions from the collective bargaining unit consisting of employes employed by the City of Hartford in its Street, Parks, Cemeteries and Utilities Departments;

NOW, THEREFORE, it is

ORDERED

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

Given under our hands and seal at the  
City of Madison, Wisconsin, this 22nd  
day of November, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Slavney*  
Morris Slavney, Chairman

*Zel S. Rice II*  
Zel S. Rice II, Commissioner

No. 10645

STATE OF WISCONSIN

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LEROY WOLF : Case VI  
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MEMORANDUM ACCOMPANYING ORDER  
DISMISSING PETITION FOR CRAFT-UNIT SEVERANCE

Initially at hearing the Petitioner advanced the position that the four Linemen not only sought exclusion from the overall unit, as craft employes, thereby to remain unaffected by the bargaining between the City of Hartford and Local 1432 over matters involving overall unit employes, but also that they sought an election to determine whether the Linemen desired representation by an independent organization, or by Local 1432. However, the independent group envisaged by Petitioner, was not a viable organization as of the outset of hearing, but Petitioner averred it might become one in the course of an adjournment of hearing, by the possible action of the Linemen. Subsequently, the Petitioner advanced on the record, a final and only position, namely, that the Linemen desired a determination as to whether they were craft, and if so, a determination that the craft positions would thereafter be excluded from the bargaining between the City and Local 1432, involving the overall unit.

At outset of hearing, Local 1432, as Intervenor, contended that the Municipal Employer and Local 1432 had already given recognition to the craft-like characteristics of the Linemen by the wage differentials afforded to the Linemen, vis a vis other classifications covered in the agreement, and that therefore there was no need to apply the craft severance provisions of 111.70. Local 1432 also claimed to represent the Linemen in question and sought a representation vote in a separate craft unit, if the Commission found the positions to be craft, on the question as to whether the Linemen wanted no representation, or continued representation by Local 1432. Local 1432 also requested dismissal of the petition on the grounds that the Linemen positions in question were covered by an existing collective agreement.

The Municipal Employer contended that the Linemen occupied positions reflecting mixed duties and skills, the occupants often assisting other maintenance and blue collar personnel in other departments; that the Linemen received no formal training nor any indentured apprenticeship program; and that they do not practice the gamut of skills, nor are they restricted to the skills, of a craft-electrician. The Municipal Employer contends that the Linemen do not meet the criteria for establishing a craft, according to the yardsticks applied by the Commission in administering 111.70(4)(d).

The statute governing questions as to the composition of collective bargaining units in municipal employment imposes an absolute mandate upon the Commission to exclude craft positions from an overall unit.

Section 111.70(4)(d) provides:

"Proceedings in representation cases shall be in accordance with ss. 111.02(6) and 111.05 insofar as applicable, except that where the Commission finds that a proposed unit includes a craft the Commission shall exclude such craft from the unit."

This proscription against co-mingling craftsmen with the remaining employees applies to previously stipulated units leading to certification, as well as to units agreed upon by a Municipal Employer and a labor organization. The Commission in either situation, when later confronted by a petition from a craft union or from an individual, shall direct the severance of the positions requested to be excluded from an overall unit, if it finds them to be craft.<sup>1/</sup>

The record discloses that the unit description from the present collective agreement which otherwise would expire on December 31, 1971, reads as follows:

"Article I - Recognition

The City recognizes the Union as the exclusive bargaining agency for the employees in the Street, Parks, Cemeteries, and Utility Departments with respect to wages, hours and other conditions of employment."

The agreement also makes provision in a wage appendix for the following classifications:

"Appendix A

<u>Classification</u>	<u>Eff 1-1-69</u>	<u>Eff 1-1-70</u>	<u>Eff 1-1-71</u>
1st Class Lineman	...	...	4.58
Apprentice Lineman (1st yr.)	...	...	3.63
(2nd yr.)	...	...	3.98
(3rd yr.)	...	...	4.28
Crew Leader			
(Sts. Park & Cem)	...	...	3.68
Equip Opr.-Meter Reader-			
Water Serviceman	...	...	3.63
Garbage Truck Driver	...	...	3.53
Trk. Dr.-Sanitation-			
Common Labor	...	...	3.48"

The record further discloses that four employees occupy the Linemen and related positions, Ray Burmeister, LeRoy Wolf, Gerry BeBeau and Darwell Wagner. The parties agreed that the titles of the positions described in the Municipal Employees' Manual for the Utilities Department (Water and Electric) continue to be used, which read as follows:

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<sup>1/</sup> Sheboygan County, (8256-E) 4/70; City of Milwaukee (7885) 1/67.

"Utilities Dept.

Line Foreman<sup>1</sup>/  
1st Class Lineman<sup>2</sup>/  
Lineman Apprentice<sup>2</sup>/  
Electric Utility Serviceman  
Water Utility Foreman  
Water Utility Mechanic & Ass't Sewerage Plant Operator  
Water Serviceman  
Meter Reader  
Meter Tester and Stock Clerk  
Sewerage Plant Operator"

(<sup>1</sup>/ Supervisory, not at issue)

(<sup>2</sup>/ Claimed craft positions)

Burmeister and BeBeau posted over from other departments of the City, and Wolf was hired from the street, all placed at the starting-apprentice level in 1966. The Municipal Employer had no pre-determined requirements in its recruitment of said personnel, though Wolf did have prior exposure to electronics and basic electricity in the Armed Services. Wagner had been employed as of 1969 as a Meter Tester and was transferred over to Apprentice-1st year, his prior experience being limited to the tasks of a Meter Tester. The practice indicates that a starting apprentice progresses to 1st class Lineman through three years of on-the-job training. The record discloses no formal training program of continuing related instruction in outside Technical Vocational schools, nor any such related instruction as part of an indentured apprenticeship program. However, the aspiring and incumbent Lineman did attend instructional seminars on an ad hoc basis, conducted by circuit vocational instructors conversant in utility distribution systems, to acquire added instruction in utility technology and safety matters.

The record further discloses that the Lineman-Foreman, who reports to the Director of Public Works, directly supervises only the three Linemen and Apprentice, and is the only licensed electrician in the system. There is no regularly scheduled interchange of personnel between the Electric and Water Utilities, though the Meter Tester and helper aid the Linemen as laborers and groundmen on many occasions throughout the year and to also replace absentees. Similarly the Linemen assist other departments in moving equipment, and fixtures, digging holes and trenches, cleaning and general janitorial duties in the utility building. Employees in other departments, such as the Streets Department, assist in clearing or fixing the right-of-way adjacent to line and equipment repair. The major installation of transformers, new construction of substantial length and major overhaul of electrical distribution equipment is performed by manufacturers or outside electrical contractors. The Linemen trim trees on a substantial number of occasions. The Lineman-Foreman performs and surveys the more difficult Lineman-Electrician tasks related to serious outage and maintenance problems. The Linemen, when confined to their specialties in maintaining the electrical distribution system (Hartford does not generate electricity), perform tasks and exhibit required skills as follows:

"Must have knowledge of a.c. circuits, transformer connections, line-construction standards, safe work habits and prepared to handle work on energized lines of 5000 volts or less. Perform as trouble-shooters in finding and correcting line faults. Make all necessary repairs, maintenance and construction of the distribution system, i.e., the installing and repairing of lines, poles and of equipment to be installed on poles."

The Lineman and Apprentices are required to have knowledge of a.c. circuitry (familiar with the basics of alternating current and be able to read diagrams of circuits).

The Apprentice progresses in experience, initially working on the ground for a year, relaying equipment to the Lineman and familiarizing himself with the equipment and tasks performed by the Lineman before climbing or handling primary circuits. His wage progression is automatic by virtue of the collective agreement, but there is no test for each of the one-year step increments, no test before reaching Lineman status and no state requirement, ala licensed electrician's examination, before the 3rd year Apprentice reaches 1st Class Lineman.

The record also discloses that between 1967 and 1969 for at least one year, no 1st Class Lineman was employed by the Municipal Employer, other than the Lineman-Foreman, who then directed three Apprentices. The Lineman-Foreman works approximately 50 per cent of his time on line and equipment maintenance, spending the other one-half performing administrative and supervisory tasks. Both groups of employes in the Electric and Water Utilities work out of the utility building, which is separate from other facilities of the Department of Public Works. The Linemen are the only employes in the Department of Public Works who are required to purchase an initial compliment of hand tools, which costs approximately \$150.00, with the City replacing tools thereafter at its expense.

In Winnebago County Hospital (Dec. No. 6043, 7/62) we declared that:

"We shall consider employes 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 employes 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. Helpers, who are in line of progression in the craft will be included as part of the craft."

In Sewerage Commission, City of Milwaukee (Dec. No. 8564, 6/68) the Commission found that no craft status attached to Engineer Aides who performed a myriad of duties, ranging from Inspectors at construction sites to Sewer Gauger, on grounds that no licensing or certification was required by the Employer, no formalized training program was utilized and therefore the Commission "could not find that they practiced the same allied craft or constituted a homogeneous group." (emphasis supplied)

Similarly, in Board of Education, City of Green Bay et al (Dec. No. 8667, 8/68), where two maintenance men specialized in heating, plumbing, faucet and minor valve repair, but who otherwise performed other general maintenance tasks, the Commission held that they, "were not craft employes. . .since they served no apprenticeship or formal training program. . .and their work doesn't present the opportunity to exercise the gamut of skills of the plumber craft, since they are unable to alter or extend sanitary systems." (emphasis supplied)

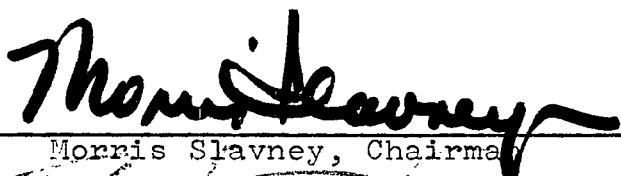
The Commission agrees with the contention of the Municipal Employer that Linemen performing for a large private utility, or for a large municipally owned utility, or for a large user-owned REA utility system, may present an entirely different mix of duties than the composite of tasks and skills required of Linemen employed by the City of Hartford Water-Electric Utility. The Linemen in question spend a substantial portion of their time performing duties outside of the area of specialization generally associated with a Lineman-Electrician. No licensing is required of the 1st Class Lineman, and the Linemen here do not "exercise the gamut of the skills of a Lineman-Electrician", since the only licensed electrician who can handle the most difficult of maintenance and construction tasks, is the Lineman-Foreman. There is no existing or past history of a formal training program.

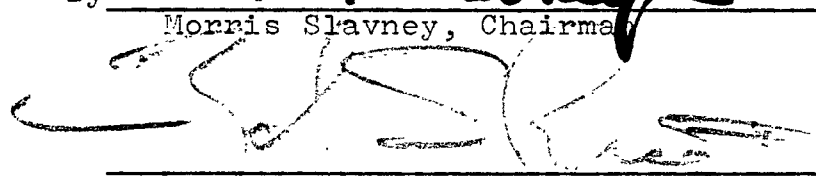
Though Local 1432 and the Municipal Employer have provided generous increments for the Lineman, over and above rates paid to other utility employes in recognition of their special skills, and though the Linemen spend a considerable amount of their time exclusively maintaining the lines, poles and equipment of the City's electrical-distribution system, we conclude that the 1st Class Linemen and Apprentice positions are not "craft" within the meaning of 111.70(4)(d) of the Act. We have therefore dismissed the Petitioner's petition for craft severance, and would leave undisturbed the overall bargaining unit established by Local 1432 and the City of Hartford in the course of collective negotiations.

Dated at Madison, Wisconsin, this 22nd day of November, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner