

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
: GENERAL DRIVERS, DAIRY EMPLOYEES AND :
HELPERS LOCAL UNION NO. 579, AFFILIATED :
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, :
CHAUFFEURS, WAREHOUSEMEN AND HELPERS : Case I
OF AMERICA : No. 15357 ME-759
: Decision No. 10913
Involving Certain Employes of :
: VILLAGE OF EAST TROY :
: :

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. Alan M. Levy, appearing on behalf of the Petitioner.
Korf, Pfeil & Graves, Attorneys at Law, by Mr. John P. Graves, Jr., appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTIONS

General Drivers, Dairy Employees and Helpers Local Union No. 579, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to the Municipal Employment Relations Act among certain employes of the Village of East Troy, Wisconsin; and a hearing on said petition having been conducted at East Troy, Wisconsin, on March 23, 1972, before George R. Fleischli, Hearing Officer; and the Commission having considered the evidence and arguments of the parties and being satisfied that questions have arisen concerning representation for certain employes of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this directive in the following appropriate collective bargaining units:

UNIT 1

All regular full time and regular part time employes of the Village of East Troy's Municipality of East Troy Railroad, but excluding supervisory, confidential and all other employes, who were employed by the Municipal Employer on April 4, 1972, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employes desire to be represented by General Drivers, Dairy Employees and Helpers

Local Union No. 579, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

UNIT 2

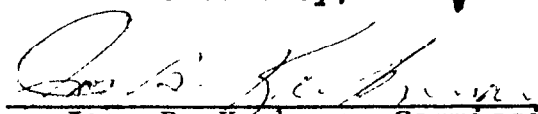
All regular full time and regular part time "blue collar" or operational service employees employed by the Village of East Troy, including all employees of its Department of Streets, Water and Sewers, but excluding office and clerical employees, police, firemen, employees of the Municipality of East Troy Railroad, professional employees, supervisory employees and confidential employees, who were employed by the Municipal Employer on April 4, 1972, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employees desire to be represented by General Drivers, Dairy Employees and Helpers Local Union No. 579, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 4th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

In its petition the Union requested an election among "all full time employees of the Street Department, Water Department and Sewer Department and railroad employees of the Village of East Troy, Wisconsin, excluding all supervisory and confidential employees". At the hearing the Petitioner indicated that it sought an election among all "blue collar" or operational service employees of the Municipal Employer. 1/

The Municipal Employer objected to the inclusion of the railroad employees in the bargaining unit sought by the Petitioner on the claim that the railroad employees constitute a separate, appropriate bargaining unit. The Petitioner indicated that it did not object to the establishment of a separate bargaining unit of railroad employees but would, in that case, ask that an election be conducted in the bargaining unit of railroad employees.

The Commission, in discharging its obligations under Section 111.70(4)(d)2a, will not accept a stipulation or agreement creating separate bargaining units of municipal employees unless it can be said that the bargaining units agreed to are appropriate within the meaning of the Municipal Employment Relations Act. The evidence of record herein indicates that it is appropriate to establish a separate bargaining unit of railroad employees as requested by the Municipal Employer.

The Commission recognizes that certain groups of employees such as police and firemen have a community of interest unique and separate from that of other employees of the Municipal Employer. The special skills and working conditions attendant upon the operation of a railroad require that the employees in this case also be given a separate bargaining unit. Although the wages and fringe benefits currently provided employees in the two bargaining units are similar, the railroad employees participate in the Railroad Retirement Fund rather than in the fund administered by the Social Security Administration. 2/ In addition they perform work which is unique and distinct from the work performed by the other employees. There is no interchange of employees between the two proposed bargaining units and the regular City employees do not normally perform work performed by the railroad employees.

1/ A unit of all "blue collar" or operational service employees is an appropriate bargaining unit within the meaning of Section 111.70(4)(d)2a of the Wisconsin Statutes. Dane County (10492-A) 3/72.

2/ The railroad in question is an interurban electric railway operating a freight shuttle service between East Troy and Mukwonago and would not appear to be a "carrier" within the meaning of the Railway Labor Act, 45 USC 151 (1926). At the hearing the Municipal Employer indicated that their wages, hours and working conditions were not subject to any other federal legislation regarding railroads.

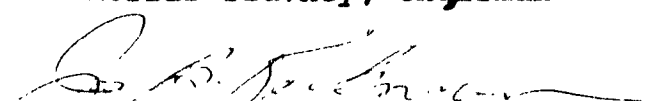
It should also be noted for the record that the nature of the railroad operation and perhaps its ownership may change in the near future. The Electric Railroad Historical Society has indicated an interest in developing the railroad and preserving it as an historical and tourist attraction. Because of this possibility the Commission is satisfied that establishing a separate bargaining unit of railroad employees now might well avoid the need to sever said employees from the overall "blue collar" unit in the future.

For the above and foregoing reasons the Commission has concluded that the employees of the Municipal Employer's railroad operation constitute a separate, appropriate bargaining unit separate and apart from the bargaining unit of "blue collar" or operational service employees sought to be represented by the Petitioner, and has directed an election in the two bargaining units.

Dated at Madison, Wisconsin, this 4th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner