

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

LOCAL 150, SERVICE AND HOSPITAL :  
EMPLOYEES' INTERNATIONAL UNION, AFL-CIO :

For a Referendum on the Question :  
of an All-Union Agreement between :

Case III  
No. 15523 R-5295  
Decision No. 11048

UNITED CARE FACILITIES, INC. d/b/a :  
JACKSON CENTER :  
Milwaukee, Wisconsin, Employer :

and LOCAL 150, SERVICE AND HOSPITAL :  
EMPLOYEES' INTERNATIONAL UNION, :  
AFL-CIO, Union. :  
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Appearances:

Mr. Don Beatty, President, for the Petitioner.

Charles, Herriott, Clemons, Teschner & Noelke, Attorneys at Law,  
by Mr. George K. Whyte, for the Employer.

Mr. William L. Smith, President, Local 222, United Hospital and  
Nursing Home Employees Federation, for the Intervenor.

DIRECTION OF REFERENDUM

Local 150, Service and Hospital Employees' International Union, AFL-CIO having petitioned the Wisconsin Employment Relations Commission to conduct a referendum pursuant to Section 111.06 of the Wisconsin Statutes, among certain employees of United Care Facilities, Inc. d/b/a Jackson Center, Milwaukee, Wisconsin; and a hearing on such petition having been conducted at Milwaukee, Wisconsin, on May 24, 1972, by Zel S. Rice II, Commissioner; and at the outset of said hearing, Local 222, United Hospital and Nursing Home Employees Federation having been permitted to intervene in the instant proceeding; and further during the course of the hearing Local 150, Service and Hospital Employees' International Union, AFL-CIO and the above named Employer having executed a stipulation for referendum in the matter; and the Commission having considered the evidence and being satisfied that a question has arisen concerning an "All-Union Agreement" for certain employees of the above named Employer;

NOW, THEREFORE, it is

DIRECTED

That a referendum by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time and regular part-time employees employed by United Care Facilities, Inc. d/b/a Jackson Center, Milwaukee, Wisconsin, excluding supervisors, confidential,

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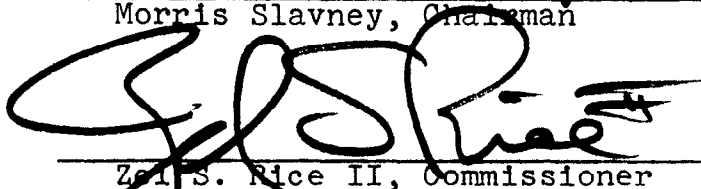
managerial, professional and office employes, licensed practical nurses, registered nurses, and registered occupational therapists, who were employed by the Employer on May 23, 1972, except such employes as may prior to the referendum quit their employment or be discharged for cause, for the purpose of determining whether or not the required number of such employes favor an "All-Union Agreement" between the Employer and Local 150, Service and Hospital Employees' International Union, AFL-CIO.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 5th  
day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 

Morris Slavney, Chairman



Zell S. Rice II, Commissioner



Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF REFERENDUM

During the course of the hearing the Intervenor objected to the present conduct of a referendum. The Intervenor has filed an unfair labor practice with the Commission against the Employer charging, among other things, that the labor agreement between the Petitioner and the Employer contains an illegal union security provision and that such provision is being enforced in violation of Section 111.06(1)(c) of the Wisconsin Employment Peace Act. The Intervenor contends that since the Commission has not made a decision on the legality of the union security clause, we should not proceed with the referendum. It also contends that during the course of the hearing in the unfair labor practice case the Petitioner herein argued that no referendum was necessary to authorize the existing union security provision since the employees covered by the collective bargaining agreement and employed by Jackson Center constituted an accretion to an existing bargaining unit of employees of United Care Facilities, Inc., at another facility, who are covered by a labor agreement containing a union security provision which had been authorized in a previous referendum. The Intervenor further contends that the Petitioner was not the majority representative at the time the collective bargaining agreement between the Employer and the Petitioner herein was executed, and, therefore, the agreement itself is illegal.

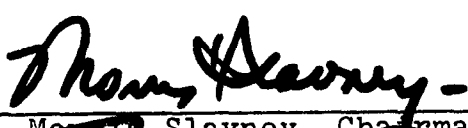
The arguments of the Intervenor are not sufficient to convince the Commission to dismiss the referendum petition. The results of the referendum will not affect the legality or illegality of the union security provision as it existed during the period covered by the complaint proceeding. In other words should the required number of employees favor the authorization of the "All-Union Agreement", said authorization cannot be retroactively applied.

Further, apparently both the Petitioner and the Employer, by entering into the stipulation for the instant referendum, during the course of the hearing, indicated some doubt as to the legality of their existing union security provision.

Dated at Madison, Wisconsin, this 5th day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner