

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 :
 In the Matter of the Petition of :
 :
 LOCAL 222, UNITED NURSING HOME & :
 HOSPITAL EMPLOYEES' FEDERATION :
 :
 Involving Certain Employes of : Case XII
 : No. 16242 ME-861
 : Decision No. 11513
 TWO RIVERS MUNICIPAL HOSPITAL :
 INCLUDING HAMILTON MEMORIAL HOME :
 :

Appearances:

Mr. Roger Jacobson, Business Representative, appearing on behalf of the Petitioner.
 Porter, Purtell, Purcell, Wilmot & Burroughs, S.C., Attorneys at Law, by Mr. Robert A. Wilmot, appearing on behalf of the Municipal Employer.
Mr. James Billings, Business Representative, appearing on behalf of the Intervenor Local 150, Service & Hospital Employees' International Union, AFL-CIO.
Mr. Michael J. Wilson, Business Representative, appearing on behalf of Intervenor Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 76.

DIRECTION OF ELECTION

Local 222, United Nursing Home & Hospital Employees' Federation having petitioned the Wisconsin Employment Relations Commission to conduct an election among certain employes of Two Rivers Municipal Hospital including Hamilton Memorial Home; and hearing on such petition having been held at Milwaukee, Wisconsin, on December 28, 1972, Stanley H. Michelstetter II, a member of the Commission's staff being present; and Local 150, Service and Hospital Employees' International Union, AFL-CIO, and Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 76, both having been permitted to intervene on the basis of the claim of each to represent said employes; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employes of the above-named Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election 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 employes of the Employer at its Two Rivers, Wisconsin location, excluding professional (including registered nurses), craft, confidential, managerial, and supervisory employes, who were employed by the Municipal Employer on January 8, 1973, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes desire to be repre-

WCCME

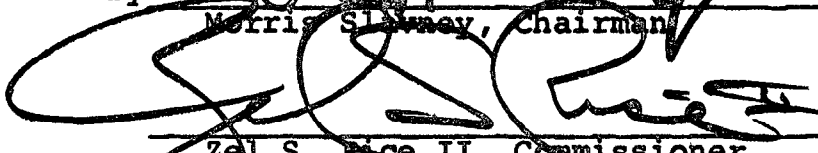
sented for the purposes of collective bargaining by Local 222, United Nursing Home & Hospital Employees' Federation; Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 76; or Local 150, Service & Hospital Employees' International Union, AFL-CIO, or none of said organizations.

Given under our hands and seal at the City of Madison, Wisconsin, this 9th day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

G. Key

TWO RIVERS MUNICIPAL HOSPITAL INCLUDING HAMILTON MEMORIAL HOME
XII Decision No. 11513

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

The instant proceeding was initiated by a petition filed by Local 222, United Nursing Home & Hospital Employees' Federation, hereinafter referred to as Local 222, requesting the Commission to conduct an election among all regular employes of Two Rivers Municipal Hospital including Hamilton Memorial Home, hereinafter referred to as the Municipal Employer, excluding registered nurses, managerial, professional, confidential employes, guards and supervisors. During the course of the hearing, Local 150, Service & Hospital Employees' International Union, AFL-CIO, hereinafter referred to as Local 150, and Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 76, hereinafter referred to as Local 76, moved to intervene in the proceeding on the basis that each of said organizations claim to represent the employes in the unit involved. Local 222 and the Municipal Employer objected to such intervention, contending that neither Local 150 nor Local 76 produced a showing of interest sufficient to establish their right to intervene in the proceeding and to be placed on the ballot.

Representatives of Local 150 and Local 76, under oath, claimed to represent certain employes in the unit. On the basis of such claim, the Hearing Officer permitted Local 150 and Local 76 to intervene. The Commission affirms the action of the Hearing Officer. There exists no present collective bargaining representative for the employes involved. (No showing of interest was required of the Petitioner to initiate this election proceeding, in accordance with the Commission's policy. 1/) Since each of the intervenors could have filed an election petition without any showing of interest, it follows that they may be permitted to intervene without any showing of interest on the basis of their claim that they represent employes in the bargaining unit involved.

The Municipal Employer and the three organizations involved agreed that the appropriate unit should include all regular employes of the Municipal Employer and should exclude supervisory, confidential, managerial and executive employes. While there was agreement that professional (specifically registered nurses) and craft employes should be excluded from the unit, the Municipal Employer took the position that the statement of the appropriate unit should only exclude registered nurses and no statement should be made with respect to the exclusion of professional and craft employes. Section 111.70(4)(d)2.a. dictates that where craft and professional employes have not pursuant thereto voted for inclusion in the sought unit, the Commission must exclude them. In view of the fact that the Municipal Employer employs professional employes, the Commission finds the Municipal Employer's position without merit and, therefore, the Commission expressly excludes professional and craft employes from the appropriate unit.

During the course of the hearing the Municipal Employer presented no list of the employes occupying the positions to be included in the

1/ Wauwatosa Board of Education (8300-A), 2/68, aff. Dane Co. Cir. Ct., 8/68; Dodge County (Clearview Home) (8734) 10/68.

bargaining unit. Therefore, the Municipal Employer is directed to submit such a list to the Commission within ten (10) days hereof, which list should include the name of the employes and the position occupied by each individual employe. Copies of said list shall be sent by the Municipal Employer to the three labor organizations at the time they are submitted to the Commission. Each of the labor organizations shall, within ten (10) days of the receipt of a copy of such list, advise the Commission as to their respective challenges, if any. Upon receipt of such information from the labor organizations involved, the Commission will determine whether an additional hearing is necessary, prior to the election, with respect to the determination as to eligibles.

Dated at Madison, Wisconsin, this 9th day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slevney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerpman, Commissioner