

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
GENERAL TEAMSTERS, WAREHOUSE & DAIRY :
EMPLOYEES LOCAL UNION #126, AFFILIATED :
WITH THE INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN :
AND HELPERS OF AMERICA and CARPENTERS :
& JOINERS OF AMERICA, LOCAL UNION #782, :
AFL-CIO, Jointly :
For a Referendum on the Question :
of an All-Union Agreement Between :
FOND DU LAC LUMBER COMPANY :
Fond du Lac, Wisconsin, Employer :
and GENERAL TEAMSTERS, WAREHOUSE & DAIRY :
EMPLOYEES LOCAL UNION #126, AFFILIATED :
WITH THE INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN :
AND HELPERS OF AMERICA and CARPENTERS :
& JOINERS OF AMERICA, LOCAL UNION #782, :
AFL-CIO, Jointly, Unions. :

Case II
No. 16588 R-5460
Decision No. 11775

Appearances:

Mr. Donald F. Wetzel, Secretary-Treasurer, General Teamsters, Warehouse & Dairy Employees Local Union #126, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and Mr. Martin H. Koenig, Recording Secretary, General Teamsters, Warehouse & Dairy Employees Local Union #126, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, for the Petitioners.
Mr. Louis Andrew, Jr., Attorney at Law; Mr. Donald T. Ahonen, President, Fond du Lac Lumber Company, and Mr. Dennis E. Hauser, Secretary-Treasurer, Fond du Lac Lumber Company, for the Employer.

DIRECTION OF REFERENDUM

Petition having been filed with the Wisconsin Employment Relations Commission by General Teamsters, Warehouse & Dairy Employees Local Union #126, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Carpenters & Joiners of America, Local Union #782, AFL-CIO, Jointly, requesting that a referendum be conducted among certain employees of Fond du Lac Lumber Company, Fond du Lac, Wisconsin, for the purpose of determining whether the required number of such employees favor an "All-Union Agreement" between the Employer and the Union pursuant to the provisions of the Wisconsin Employment Peace Act; and hearing on such petition having been conducted at Fond du Lac, Wisconsin, on March 30, 1973, Jos. B. Kerkman, Commissioner, appearing on behalf of the Commission; and during the course of said hearing, said Employer having made a motion for dismissal of said petition; and the Commission having considered the evidence and arguments of Counsel and being satisfied that said motion for dismissal should be denied, and being satisfied that a question has arisen concerning an "All-Union Agreement" for certain employees of Fond du Lac Lumber Company;

NOW, THEREFORE, it is


DIRECTED

That a referendum by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission in the collective bargaining unit consisting of all drivers, yard workers, yard salesmen, fork lift operators, warehouse employes, working foremen, millwork shop employes, cabinet makers, temporary and part-time help employed by Fond du Lac Lumber Company, 154 West McWilliams Street, Fond du Lac, Wisconsin, excluding supervisors, guards and clerical workers as defined in the Act, who were employed by the Employer on March 30, 1973, except such employes as may prior to the referendum quit their employment or be discharged for cause for the purpose of determining whether the required number of such employes favor an "All-Union Agreement" between said Employer and General Teamsters, Warehouse & Dairy Employees Local Union #126, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Carpenters & Joiners of America, Local Union #782, AFL-CIO, Jointly.

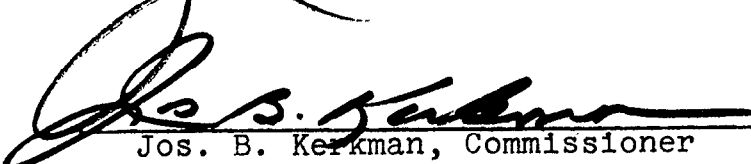
Given under our hands and seal at the City of Madison, Wisconsin, this 19th day of April, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF REFERENDUM

At the hearing the Employer moved that the petition be dismissed on the basis that the issue is moot, due to the fact that the Employer and the Union entered into a five-year collective bargaining agreement on March 14, 1973, and the aforementioned agreement has no provision contained in it for an all-union agreement. The Employer further argues that in a bargaining unit comprised of nine employees, it is quite possible that a substantial number of employees could terminate during the course of the five-year agreement now in effect between the parties, and that any referendum that might be conducted in 1973 would probably not accurately express the wishes or desires of the employees five years hence.

While an all-union agreement was never subject to bargaining in the bargaining sessions leading up to the agreement signed by the parties on March 14, 1973, the Union argues that there is nothing to preclude the parties from entering into an all-union agreement either as an addendum to the existing collective bargaining agreement or as a separate agreement between the parties. The Union further asserts that they are foreclosed from negotiating such an agreement with the Employer without first having determined whether a sufficient number of employees favor such an agreement. The Union further points out that whether or not an all-union agreement is entered into between the parties is determined by negotiations between the parties, and that if the Employer refuses to agree to it, no such agreement can be executed. For that reason the Union urges that the referendum should be conducted.

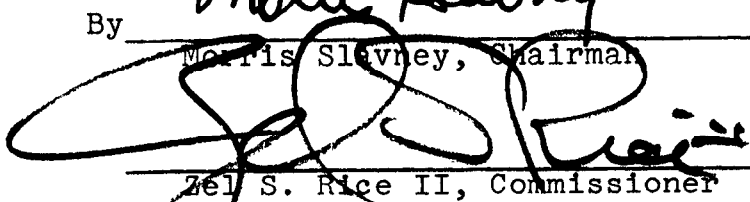
The Commission has held that it may direct a referendum upon petition of a labor organization so that the Employer might, if he desired, enter into an all-union agreement either as an amendment to an existing agreement or as part of a new agreement to be negotiated in the future.^{1/} In view of the announced intention of the Union to attempt to negotiate an all-union agreement during the term of the existing five-year collective bargaining agreement now in effect, the Commission directs this referendum in accordance with its policies as annunciated, supra.

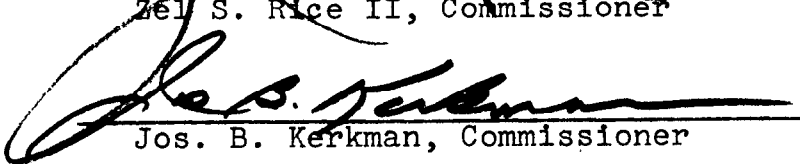
Dated at Madison, Wisconsin, this 19th day of April, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

^{1/} Wrought Washer Manufacturing Company, Decision No. 326, 11/41; Doelger and Kersten, Inc., Decision No. 4054, 9/55; Marquette University, Decision No. 7266, 9/65.