

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
CITY OF RACINE : Case XXIX
Involving Certain Employees of : No. 17009 ME-963
CITY OF RACINE : Decision No. 12358

Appearances:

Mr. Karl Monson, District Representative, appearing on behalf of
the Union.
Mulcahy & Wherry, Attorneys at Law by Mr. John Coughlin, appearing
on behalf of the Employer.

ORDER CLARIFYING BARGAINING UNIT

City of Racine having requested the Wisconsin Employment Relations Commission to clarify an existing collective bargaining unit of employees in its employ presently represented by Local 67 AFSCME, AFL-CIO, to determine whether the positions of Parking System Utility Man, Parking Meter Maintenance Man, Parking Meter Collector, Parking System Maintenance Man, 1/ Groundskeeper - Wustum, and Custodian - Wustum should be included or excluded from the aforementioned bargaining units; and hearing in the matter having been held at Racine, Wisconsin, on November 19, 1973 by Herman Torosian, Hearing Officer; and the Commission having considered the evidence and being fully advised in the premises makes and files the following

ORDER

That the collective bargaining unit consisting of "all city employees of the Public Works system, . . . composed of the following related departments: Department of Public Works and its related divisions thereof, namely: DPW Streets and Alleys Maintenance Division, DPW Garage Equipment Maintenance Division, DPW Solid Waste Division, DPW Sewer Maintenance Division, and the DPW Waste Water Treatment Division; the Cemeteries, Traffic and Parking Systems Division, Wustum Museum, Community Services, Memorial Hall, Parks and Recreation Department and its Forestry Division, Building Complex Division, and shop clericals, . . . excluding professional, clerical and office workers and any supervisory employee with the right to hire, fire or otherwise discipline employees or effectively recommend such action.", appropriately includes the

1/ At the hearing the Petitioner amended its petition to include for determination the position of Parking System Maintenance Man. Said position is a new position created after the filing of the instant petition and is occupied by an employee previously classified as a Parking System Utility Man.

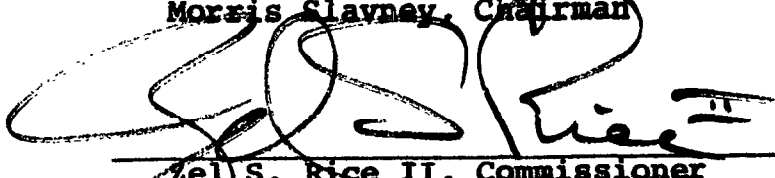
positions of Parking System Utility Man, Parking Meter Maintenance Man, Parking Meter Collector, Parking System Maintenance Man, Groundskeeper - Wustum, and Custodian - Wustum.

Given under our hands and seal at the
City of Madison, Wisconsin this 21st
day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The City of Racine, hereinafter referred to as the Municipal Employer on July 20, 1973 petitioned the Commission to determine whether the positions of Parking System Utility Man, Parking Meter Maintenance Man, Parking Meter Collector, Parking System Maintenance Man, Groundskeeper - Wustum, Custodian - Wustum, are appropriately included or excluded from the existing collective bargaining unit described by the parties in their current collective bargaining agreement as consisting of "all city employees of the Public Works system, . . . composed of the following related departments: Department of Public Works and its related divisions thereof, namely: DPW Streets and Alleys Maintenance (sic) Division, DPW Garage Equipment Maintenance Division, DPW Solid Waste Division, DPW Sewer Maintenance Division, and the DPW Waste Water Treatment Division; the Cemeteries, Traffic and Parking Systems Division, Wustum Museum, Community Services, Memorial Hall, Parks and Recreation Department and its Forestry Division, Building Complex Division, and shop clericals, . . . excluding professional, clerical and office workers and any supervisory employee with the right to hire, fire or otherwise discipline employees or effectively recommend such action." Said unit is presently represented by Local 67, AFSCME, AFL-CIO.

Five of the six positions in dispute (the sixth "Parking System Maintenance Man" is a new position) were in 1971 included in a stipulated unit consisting of all regular full-time and all regular part-time employees (averaging 20 hours per week or more) of the City of Racine, including employees in the Assessor's office, City Attorney's office, DPW Cemetery, Personnel, Finance, Engineering, Memorial Hall, Health Department, Purchasing, Police Department, Library, and Fire Department WPCS, and all other City of Racine employees, but excluding all professional employees in the City Hall, Law enforcement personnel in the Police Department, Fire Fighters in the Fire Department, Craft employees, employees represented by Local 67, AFSCME, AFL-CIO and Local 63, AFSCME, AFL-CIO confidential and supervisory employees. After an election conducted on July 28, 1971 among employees of said unit, and a supplemental election conducted among certain other employees of the City of Racine, on November 19, 1971, the Commission on April 6, 1972 certified that the majority of the eligible employees who voted in the election in said unit voted against representation. Although five of the six parking system and Wustum employees, whose positions are in dispute in the instant case, were included in the unit which rejected representation, the City of Racine and Local 67 bargained these positions into their January 1, 1973-December 31, 1974 collective bargaining agreement.

Thereafter, on January 4, 1973 four parking system employees sent a letter to the Wisconsin Employment Relations Commission stating that although they had previously been included in a unit which rejected representation, the City of Racine and Local 67, AFSCME, nevertheless included them in their 1973-1974 collective bargaining agreement. On January 26, 1973 the Wisconsin Employment Relations Commission answered said letter stating that any of the employees in the units involved, wherein said employees rejected representation, could not be included in any existing bargaining unit presently represented by AFSCME or any of its locals. Thus, the Commission stated the four parking system employees were not properly included in the unit covered in the collective bargaining agreement existing between the City of Racine and Local 67, AFSCME.

It is the City's position that the Wisconsin Employment Relations Commission, at this time, should make a determination as to whether the positions in dispute should be included in the unit covered by the current collective bargaining agreement existing between the City of Racine and Local 67.

It is the position of Local 67 that, since these employees were bargained for and are now covered by the agreement between the City of Racine and Local 67 for the years 1973 and 1974, said positions should remain in the unit covered by that agreement.

It is still the Commission's position, under the circumstances and facts existing at the time of inquiry by the employees occupying the positions in dispute now, that said positions should not have been included in the collective bargaining unit covered by the existing agreement between the parties. However, since that time, certain facts involving the instant matter have changed, which leads the Commission to conclude that said positions should now be included in the collective bargaining agreement described by the parties in their existing agreement.

Since October 8, 1973, the parties stipulated to an election to be conducted by the Commission among employees in a unit consisting of "all regular full-time and regular part-time employees of the City of Racine, excluding supervisory, confidential, craft and professional employees as defined in the Act and all other employees, who were employed by the Municipal Employer on September 21, 1973." Said unit, although described differently, is basically the same unit in which the Commission conducted an election, in 1971 which included the positions in dispute in the instant case.

The unit thus stipulated was in fact a residual unit, consisting of all employees who were not represented at the time by any labor organization. However, the six positions in dispute herein, were not included in the unit stipulated to by the parties on October 8. Said positions undoubtedly would have been included in said unit had they not been included in the January 1, 1973-December 31, 1974 collective bargaining agreement.

In reviewing the unit in which the Commission conducted an election on November 15 (pursuant to the October 8 stipulation), and the unit in which the positions in question have been included, the Commission concludes that said positions should more appropriately be included in the unit represented by Local 67.

Four of the positions in dispute, Parking System Utility Man, who is responsible for parking lot clean up; Parking Meter Maintenance Man, who is responsible for the maintenance of parking meters; Parking Meter Collector, who is responsible for emptying parking meters; and Parking System Maintenance Man, who is responsible for maintaining equipment in the department including meters, are in the Traffic and Lighting Department which is under the supervision of C. Jenn, Traffic Engineer, who in turn reports directly to F. Larson, Commissioner of Public Works. All other employees in the DPW are in the unit represented by Local 67. The four employees whose positions are in dispute have the same supervisor as the four other employees in the Traffic and Lighting Department who are currently in the unit. The community of interest of said employees is definitely with other employees in the Traffic and Lighting Department. If the Commission excluded said positions from the unit, said positions would be the only blue-collar positions in the DPW excluded from the unit represented by Local 67.

As to the Groundskeeper and Custodian employed at Wustum Museum, it is noted that said positions also were excluded from the election recently conducted by the Wisconsin Employment Relations Commission. Local 67 represents all Custodians employed in the City and employees employed in the Park and Recreation Department. In this regard, there are laborers in the Park and Recreation Department who perform outside "grounds" work similar to those duties performed by the Groundskeeper at Wustum. Wustum employees report directly to George Richard, Director, Wustum Museum, who in turn reports directly to Allen B. Damer, Division Manager, Park and

Recreation Department. As Division Manager, employees employed at the Memorial Hall, Cemetery, Park and Recreation, Wustum Museum, Community Services and the Zoo, are under Domer's jurisdiction.

Based on the above and foregoing, the Commission concludes that the positions of Parking System Utility Man, Parking Meter Maintenance Man, Parking Meter Collector, Parking System Maintenance Man, Groundskeeper - Wustum, Custodian - Wustum, should accrete to the unit represented by Local 67, as described in the Order.

Dated at Madison, Wisconsin this 21st day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

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

Howard S. Bellman
Howard S. Bellman, Commissioner