

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS,  
AFL-CIO, DISTRICT NO. 10

Involving Certain Employees of

CITY OF MILWAUKEE  
FIRE DEPARTMENT - REPAIR SHOP  
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Case CXXXVII  
No. 17791 ME-1045  
Decision No. 12805

Appearances:

Mr. Joseph Spehert, Business Representative, appearing on behalf  
of the Petitioner.

Mr. William Malloy, Assistant Labor Negotiator, appearing on  
behalf of the Municipal Employer.

Mr. Kenneth Mandt, Business Representative, appearing on behalf  
of Intervenor Milwaukee District Council 48, AFSCME, AFL-CIO  
and its affiliated Local 33.

Mr. Joseph Ruditys, President, Local 215, appearing on behalf of  
Intervenor Milwaukee Professional Fire Fighters, IAFF, AFL-  
CIO.

DIRECTION OF ELECTION

International Association of Machinists and Aerospace Workers, AFL-CIO, District No. 10, herein referred to as Petitioner, having petitioned the Wisconsin Employment Relations Commission to conduct an election among certain employees of the City of Milwaukee; and hearing on such petition having been conducted on May 2, 1974, by Stanley H. Michelstetter II, Hearing Officer; and during the course of the hearing, Local 215, Milwaukee Professional Fire Fighters, IAFF, AFL-CIO and Milwaukee District Council 48, AFSCME, AFL-CIO (and its affiliated Local 33) having been permitted to intervene upon their claim to represent the instant employees; and the Commission having considered the evidence and positions of the parties, and being satisfied that a question has arisen concerning representation for certain employees of the City of Milwaukee;

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 of this Directive among all regular full-time and all regular part-time Fire Equipment Mechanics, Fire Equipment Repairmen, Maintenance Workers, Maintenance Mechanics, Mechanics Helpers and Stores Clerks employed by the City of Milwaukee in its fire department at its 118 West Virginia Street location, excluding professional employees, craft employees, fire-fighters, supervisors, managerial, executive and all other employees, who were employed on June 18, 1974, except such employees who quit their employment or are terminated for cause prior to the election,

No. 12805

for the purpose of determining whether such employes desire to be represented by International Association of Machinists and Aerospace Workers, AFL-CIO, District No. 10; or by Milwaukee District Council 48, AFSCME, AFL-CIO (and its affiliated Local 33); or by no organization, for the purposes of collective bargaining with the City of Milwaukee with respect to wages, hours and conditions of employment.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 18th  
day of June, 1974.

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

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The International Association of Machinists and Aerospace Workers, AFL-CIO, District No. 10 filed the instant petition March 26, 1974 and seeks an election to establish itself as exclusive collective bargaining representative of all regular full-time and all regular part-time Fire Equipment Mechanics, Fire Equipment Repairmen, Maintenance Workers, Maintenance Mechanics, Mechanics Helpers and Stores Clerks employed by the City of Milwaukee in its Fire Department at its 118 West Virginia Street location, excluding professional employees, craft employees, fire-fighters, supervisors, managerial, executive and all other employees. During the course of the hearing thereon conducted May 2, 1974, Local 215, Milwaukee Professional Fire Fighters, IAFF, AFL-CIO, was allowed to intervene on the basis that it previously represented such employees, and Milwaukee District Council 48, AFSCME, AFL-CIO (and its affiliated Local 33) was permitted to intervene on the basis of its claim to represent such employees. AFSCME also represents 241 employees with similar functions in the Repairs Division, Bureau of Municipal Equipment, Department of Public Works, who are currently under a collective bargaining agreement expiring December 31, 1974.

There are presently 20 employees in the instant unit plus a Fire-Fighter, who the parties stipulated should be excluded as a professional firefighter, and a Fire Equipment Mechanic III. The parties and Intervenor stipulated that all employees in the instant unit perform the same maintenance and repair functions as similar positions in the Repairs Division, Bureau of Municipal Equipment, Department of Public Works, except that, because of the nature of the equipment repaired, the instant employees are on call for 16 hours in addition to their normal eight-hour day, once every five days in a five-week period followed by two days off. Further evidence indicated that the instant employees receive the same wages and benefits as employees in the related Bureau of Municipal Equipment classifications. Although promotions are made first from within the instant unit, vacancies not thus filled are filled from the related Bureau of Municipal Equipment classifications and hiring lists therefor. The immediate supervision of the instant employees is provided by Fire Department Personnel and such employees are responsible to the Milwaukee Fire and Police Commission. The last applicable collective bargaining agreement between Intervenor Milwaukee Fire Fighters and the Municipal Employer provided:

- "1. Insofar as is applicable and possible, shop and clerical personnel in the Fire Department shall receive the same general salary increases and benefits as employees in classes represented by District Council 48. For purposes of information, salary increases are noted below:

. . ."

POSITION OF THE PARTIES:

The Petitioner contends that although the employees covered by the petition perform similar tasks to those tasks performed by the employees in the Repair Division in the Bureau of Municipal Equipment, employees involved in the petition have indicated a desire to be represented by the Petitioner, and further that said employees operate under supervision separate and apart from those in the Repair Division, they have had a different bargaining history and are assigned additional responsibilities over those assigned to the employees in the Repair Division

of the Bureau of Municipal Equipment. The Petitioner further contends that should the Commission find that the unit sought by the petition is not an appropriate unit under the Act that, at least, said employees should be given the opportunity to determine for themselves whether they desire to constitute themselves a separate unit.

The City and Intervenor AFSCME argue that the employees covered by the petition do not constitute an appropriate unit, since the Act discourages fragmentation of bargaining units. They further argue that the employees involved herein share a community of interest with the employees occupying similar positions in the Repair Division of the Bureau of Municipal Equipment, and that therefore the positions involved should accrete to the existing unit which includes the employees in the Repair Division of the Bureau of Municipal Equipment. AFSCME seeks to be included on the ballot in any election the Commission would direct. Although the Fire Fighters intervened on the basis of their former representative status, during the course of the hearing, the Fire Fighters indicated they did not desire to be placed on any ballot.

Also during the course of the hearing issues arose with respect to supervisory status of the Fire Equipment Mechanic III. Petitioner and AFSCME contend that the position is not supervisory, while the Employer contends otherwise.

#### DISCUSSION:

The primary issue herein is whether the employees covered by the petition constitute an appropriate unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act which states in relevant part as follows:

"The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit. Before making its determination, the commission may provide an opportunity for the employees concerned to determine, by secret ballot, whether or not they desire to be established as a separate collective bargaining unit." (Emphasis supplied)

The employees involved in the petition, prior to the adoption of MERA in November 1971, constituted an appropriate bargaining unit under the then existing Section 111.70 and were represented for the purposes of collective bargaining by Fire Fighters. Apparently the latter labor organization has abandoned its representative status of said employees. The majority of units consisting of employees in the employ of the various Bureaus of the City of Milwaukee were established under the original Section 111.70, which provided that employees engaged in separate divisions or departments could establish themselves into separate bargaining units. Such units were established regardless of the nature of the work performed. In other words, the same classification appears in more than one unit and the employees occupying said classification in the different units are represented by different labor organizations. While the present

statute encourages the Commission to avoid fragmentation wherever possible, because of the existing fragmentation of units among the employees in the employ of the City, we conclude that it would not violate the intent or spirit of the Act to maintain the employees involved in the petition in a separate bargaining unit. While there exists some semblance of a community of interest with employees in the Repair Division of the Bureau of Municipal Equipment, because of the nature of the work performed and because of similar wages and fringe benefits such community of interest is diminished by the fact that the employees are under distinct separate supervision and subject to the jurisdiction of the Police and Fire Commission. We therefore find that the unit petitioned for is appropriate and have directed an election to determine what, if any, representation the employees therein desire for the purposes of collective bargaining.

Dated at Madison, Wisconsin, this 18th day of June, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney -  
Morris Slavney, Chairman

Zel S. Rice II, Commissioner

Howard S. Bellman  
Howard S. Bellman, Commissioner