

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF CUDAHY

Case XII
No. 18075 ME-1085
Decision No. 12997

Cudahy Professional Policemen's Association - Main Collective Bargaining Unit having petitioned the Wisconsin Employment Relations Commission to clarify the voluntarily recognized collective bargaining unit consisting of patrolmen, juvenile office and police detectives in the employ of the City of Cudahy, to include sergeants and detectives; and hearing in the matter having been held on August 12, 1974, Thomas L. Yaeger, Hearing Officer, having been present; and, Petitioner, at the hearing, having amended its petition by striking all reference to detectives; and, the Commission, having considered the evidence and arguments of counsel, and being fully advised in the premises, being satisfied that the bargaining unit previously mutually agreed upon cannot be altered in a proceeding initiated to clarify such existing unit;

ORDERED

Given under our hands and seal at the
City of Madison, Wisconsin this 10th
day of September, 1974.

By

~~Morris Slayney, Chairman~~

~~Re~~ S. Rice II, Commissioner

Howard S. Bellman, Commissioner

No. 12997

MEMORANDUM ACCOMPANYING ORDER DISMISSING
PETITION TO CLARIFY BARGAINING UNIT

The subject proceeding was initiated by the Cudahy Professional Policemen's Association - Main Collective Bargaining Unit, hereinafter referred to as the Association, requesting the Commission to clarify an existing voluntarily recognized collective bargaining unit to include sergeants and detectives. At the hearing, the Association amended its petition to exclude all reference to detectives inasmuch as detectives have been included in the collective bargaining unit which the Association was seeking to clarify. The existing voluntarily recognized unit as set forth in the parties' collective bargaining agreement in effect from January 1, 1973, to December 31, 1974, consists of patrolmen, juvenile officer and detectives. Presently, as evidenced by the Cudahy Police Department Organization chart, there are three sergeants employed in the Department.

The position of the City of Cudahy, hereinafter referred to as the City, is that the Municipal Employment Relations Act does not provide for the expansion of a voluntarily agreed upon collective bargaining unit by way of unit clarification procedures. Also, the City contends that, should the Commission entertain the instant petition, sergeants would be appropriately excluded from the agreed upon unit inasmuch as they are supervisors as defined in 111.70(1)(O)1, of the Act. The City also argues that there is little community of interest between the sergeants and other members in the unit.

The Association contends that under the authority vested in the Commission through 111.70(4)(d)2 of the Act, to "determine the appropriate bargaining unit for the purposes of collective bargaining" the Commission has the authority to include sergeants in the above described unit. The Association argues that inasmuch as the sergeants are not supervisors, their exclusion from the existing unit would result in unwarranted fragmentation.

The Hearing Officer took no evidence with respect to the supervisory status of the sergeants pending the determination by the Commission with respect to whether it will process the subject petition, since the existing unit had been established by agreement between the parties.

The threshold issue presented by the petition is whether this Commission will permit a party to a voluntarily agreed upon collective bargaining unit to expand the scope of that unit by way of a unit clarification petition although the Employer opposes such expansion. The City maintains herein that, were we to include sergeants in the above described unit, such unit would no longer be acceptable to the City.

The unit voluntarily agreed upon, consisting of patrolmen, juvenile officer and detectives is not repugnant to the provisions of the Municipal Employment Relations Act. Furthermore, the parties voluntarily agreed to exclude sergeants from the unit.

Where there exists a voluntarily recognized unit and where certain classifications of employees have been excluded from the unit, and a party involved in the recognition agreement opposes the proposed expansion, the Commission will not expand said unit without an election in the unit deemed appropriate. However, where, unlike the instant case, the original exclusion was based on statutory grounds and where, subsequently, the statute is amended to enlarge the term "employee" this policy will not

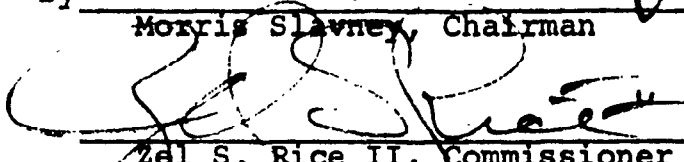
apply. Therefore, under the circumstances herein, the Commission is today dismissing the petition.

Dated at Madison, Wisconsin this 10th day of September, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner