

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WINTER JOINT SCHOOL DISTRICT, NO. 1,	:	
	:	
Complainant,	:	
	:	Case XXIII
vs.	:	No. 24343 MP-965
	:	Decision No. 16951-B
NORTHWEST UNITED EDUCATORS,	:	
	:	
Respondent.	:	
	:	

ORDER DENYING PETITION

On April 5, 1979 the commission appointed Amedeo Greco examiner to hear and decide a complaint of prohibited practice filed by the Winter Joint School District, No. 1 (District) which alleged that Northwest United Educators (NUE) has committed certain prohibited practices in the course of its collective bargaining with the District. Thereafter, during the course of said proceeding before the examiner, Robert Hanus, Robert J. Langham and Lloyd D. Williams (Petitioners), employes of the District and included in the collective bargaining unit represented by NUE, moved by their representative, Hugh L. Reilly, National Right to Work Legal Foundation Inc., to intervene in said proceeding. After considering the arguments of the parties the examiner issued an order 1/ dated July 2, 1979, denying said motion. On July 19, 1979 the Petitioners filed a Petition For Review and for a Stay of Proceedings, wherein they seek to stay the proceedings before the examiner pending review of the examiner's decision denying their motion to intervene. Thereafter on July 25, 1979 the District responded to said petition indicating that it did not oppose the Petitioners' motion to intervene nor did it object to the request for a stay pending commission review of the examiner's order denying said motion provided said stay did not unduly delay the proceedings on the complainant. On July 27, 1979 NUE filed its response to the petition wherein it indicated that it objected to the Petitioners' request to intervene and was opposed to said petition. The commission, having considered the Petition, is satisfied that the proceedings before the examiner not be stayed as requested;

NOW, THEREFORE, it is

ORDERED

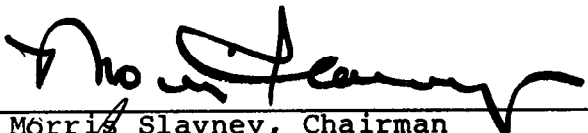
That the Petitioners' request for a stay of the proceedings before the examiner in order that they may seek a review of his

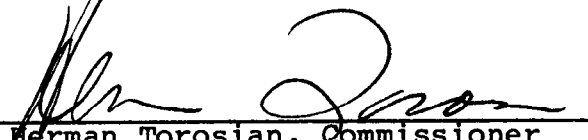
1/ Decision No. 16951-A.

decision denying their motion to intervene at this time be, and the same hereby is, denied.

Given under our hands and seal at the City of Madison, Wisconsin this 24th day of September, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING ORDER DENYING PETITION

The gravamen of the complaint pending before the examiner is that NUE has committed prohibited practices by: (1) requesting that the District agree in collective bargaining to a fair share agreement while simultaneously refusing to provide the District with information concerning the amounts or purpose of expenditures of any funds that may be derived therefrom; and (2) using dues money collected from its members in the bargaining unit of District employes and fair share contributions collected from other municipal employes generally, and proposing to use the fair share contributions it seeks to collect from non-members in the bargaining unit of District employes all for purposes not directly related to collective bargaining within the meaning of Section 111.70(1)(d), Wisconsin Statutes. The examiner, in denying the Petitioner's Motion to Intervene, noted that there is no question but that individuals who are covered under a fair share agreement have an interest in how fair share funds collected are expended, but went on to indicate that the Petitioners lack standing as parties in interest in this proceeding because there is no fair share agreement in effect nor has the District agreed to a fair share agreement. We agree with the examiner's reason for denying the motion to intervene.


The first issue presented to the examiner relates to the rights of the District and the duties of NUE in collective bargaining. It is the District's rights as a municipal employer which are being violated if NUE's conduct is unlawful in that regard. With regard to the second issue presented, it would appear that there is no claim that any money is being collected from employes of the District who are not members of NUE. Since the Petitioners are non-members who are not currently required to pay a fair share contribution, they have no standing as parties in interest to the dispute between the District and NUE in that regard.

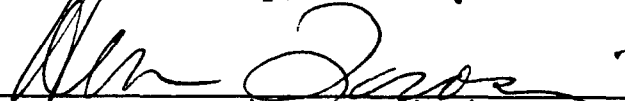
We agree with the examiner that it is sufficient that the petitioners be afforded the opportunity to present their views on the issue in dispute between the District and NUE in the form of a brief amicus curiae and it would be inappropriate to allow them to participate in the proceedings as a party to this dispute. 2/


Dated at Madison, Wisconsin this 24th day of September, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


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2/ We note in this regard that the District and NUE have agreed to proceed to resolve the issues on the basis of a stipulated record; whereas, if the Petitioners were allowed to intervene they would insist on an evidentiary hearing which both parties have agreed is unnecessary to resolve the legal issues raised by the complaint.