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In the Matter of the Petition of	:	
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MILWAUKEE DISTRICT COUNCIL	:	Case CCXXX
48, AFSCME, AFL-CIO	:	No. 28646 ME-2053
	:	Decision No. 18996-C
Involving Certain Employees of	:	
	:	
CITY OF MILWAUKEE	:	
	:	

Podell, Ugent & Cross, S.C., Attorneys at Law, 207 East Michigan Street, Milwaukee, Wisconsin 53203, by Ms. Nola Cross, on behalf of Milwaukee District Council 48, AFSCME, AFL-CIO.

Padway & Padway, Attorneys at Law, Wisconsin Tower Building, 606 West Wisconsin Avenue, Milwaukee, WI 53202, by Mr. Milton S. Padway, on behalf of the Public Employees Union No. 61, Laborers' International Union of North America, AFL-CIO.

Ms. Karen M. Christianson, Personnel Analyst, on behalf of the City of Milwaukee, Labor Relations Division, Room 701-A, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202

On February 23, 1983 Milwaukee District Council 48, AFSCME, AFL-CIO (hereinafter AFSCME) filed an amended petition requesting that the Commission either conduct an election or issue an order clarifying bargaining unit as regards a bargaining unit briefly described in the petition as "all regular employees employed by the City of Milwaukee currently represented by AFSCME and including employees classified as Driver-Loader." In said petition, AFSCME specified that it is seeking to have included in the existing bargaining unit the employees in the positions of Driver-Loader. As the reasons for the proposed inclusion of said position in said bargaining unit, AFSCME's petition stated "community of interest, bargaining history, desires of employees involved." 1/ Upon receipt of the amended petition, the Commission forwarded copies of the petition and of the amended petition to representatives of the City of Milwaukee and of Public Employees Union No. 61, affiliated with the Laborers' International Union of North America, AFL-CIO and requested that each advise the Commission in writing as to its position with respect to same.

The City replied that it took no formal position in the matter and Laborers took the position that the matters involved in the petition and the amended petition had been raised in a previous Wisconsin Employment Relations Commission proceeding to which the City, AFSCME and Laborers were parties 2/ and that the Commission had fully determined said matters in that proceeding. Laborers further noted that the Commission had also denied AFSCME's requests for rehearing in that proceeding and for a representation election (by order dated September 3, 1982) and that the Commission's decision in the previous proceeding is presently pending a judicial review before the Circuit Court in Milwaukee County pursuant to a petition for review filed by AFSCME. Laborers further note that the reasons set forth in AFSCME's amended petition were involved in the initial petition for clarification and that the Commission has already ruled against AFSCME in those respects. Accordingly, Laborers contends that it would not be proper for the Commission to entertain AFSCME's amended petition in these circumstances.

2/ (18996-A) 7/82.

The Commission has considered the matter and is satisfied that the issues raised by the petition (community of interest, bargaining history, desires of employees) are the same as those dealt with by the Commission in its previous orders dated July 23, 1982 and September 3, 1982. Therefore, for the reasons advanced above by Laborers, the Commission concludes that it would not be proper to proceed further with this petition concerning issues already decided by the Commission and pending judicial review before the Circuit Court in Milwaukee County.

NOW, THEREFORE, it is

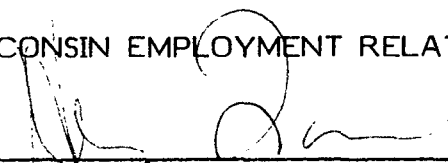
ORDERED 3/

That the petition as amended for election and/or unit clarification noted above, shall be and the same hereby is, dismissed.

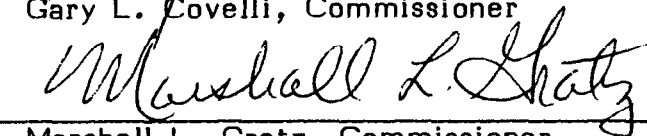
Given under our hands and seal at the City of  
Madison, Wisconsin this 27th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Gary L. Covelli, Commissioner

  
Marshall L. Gratz, Commissioner

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- 3/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. <sup>This subsection does not apply to s. 17.025 (3)(a). No agency is</sup>  
~~filed under this subsection in any contested case.~~

this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.