

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
WISCONSIN COUNCIL 40, AFSCME,  
AFL-CIO  
Involving Certain Employees of  
WAUKESHA COUNTY  
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Case 101  
No. 39440 ME-216  
Decision No. 26020

ORDER DENYING MOTION TO REOPEN RECORD  
AND GRANTING MOTION TO AMEND TRANSCRIPT

On September 28, 1987 Wisconsin Council 40, AFSCME, AFL-CIO filed a petition requesting that the Wisconsin Employment Relations Commission clarify an existing collective bargaining unit by adding to it approximately 40 positions not presently represented. Following three days of hearing, briefs and reply briefs, Petitioner on April 24, 1989 filed a Motion to Reopen the Record for purposes of admitting certain documents not offered at the time of the hearing, and further moved for the correction of several errors in the transcript. On May 10, 1989, the County replied by letter, objecting to reopening the record and agreeing to Petitioner's proposed corrections to the transcript. The Examiner, being fully advised in the premises, finds that good cause is not shown for the Motion to Reopen Record and that the transcript should be amended as proposed, and therefore issues the following

ORDER DENYING MOTION TO REOPEN RECORD  
AND GRANTING MOTION TO AMEND TRANSCRIPT

1. The Motion filed by Petitioner requesting that the record in this matter be reopened for purposes of admitting certain documents is denied.

2. The Motion by Petitioner that the transcript be corrected by:

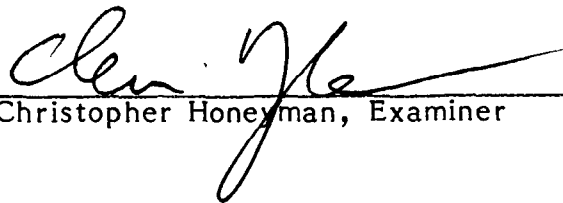
- a. Changing "contract" to "contracts" on Volume 3, page 106, line 7; B
- b. Changing "clerk" to "collections" in Volume 3, page 125, lines 8 and 18; C
- c. Changing Volume 3, page 125, lines 21 and 22 to reflect that the question recorded there related to representation of attorneys in the Corporation Counsel's office; and
- d. Changing "clerk" to "collections" in Volume 3, page 126, line 1;

is granted.

Dated at Madison, Wisconsin this 23rd day of May, 1989.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Christopher Honeyman, Examiner

WAUKESHA COUNTY

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO REOPEN RECORD  
AND GRANTING MOTION TO AMEND TRANSCRIPT

The Petitioner's Motion to Amend Transcript is not opposed by the County or by either of the two intervening labor organizations, and is clearly warranted. Petitioner's Motion to Reopen the Record, however, must meet the following standard established by the Commission's rule ERB 10.19:

Close of hearing

A hearing shall be deemed closed when the evidence is closed and when any period fixed for filing of briefs, presentation of oral arguments, if any, or both has expired. The hearing may be reopened on good cause shown.

Petitioner proposes to reopen the record for purposes of admitting a copy of a petition filed with the Wisconsin Employment Relations Commission in 1983; an order issued by the Commission in 1983; and a seniority list of certain employees employed by the Employer. The County contends in opposition to the Motion that any or all of these documents could have been offered at the time of the hearing.

I find that the Employer's objection is warranted. The hearing in this matter has been lengthy, and the parties had ample time in which to prepare for it. The documents offered were clearly available to Petitioner in its capacity as representative and as a party to the Commission's prior proceedings referred to by some of the documents. And there is no dispute that the record had been closed at the time that the documents were offered. Furthermore, I do not find that the County has, as alleged by Petitioner in its Motion, introduced "new and erroneous evidence" in its reply brief, justifying the reopening of the record to admit rebuttal evidence. I do not read the County's brief referred to as offering evidence at all as opposed to argument, and indeed briefs are not the place for evidence to be offered. Accordingly, I find that Petitioner has not demonstrated good cause for the Motion, 1/ and that reopening the record is therefore improper under ERB. 10.19.

Dated at Madison, Wisconsin this 23rd day of May, 1989.

By

  
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Christopher Honeyman, Examiner

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1/ See also Seymour Community School District, Dec. No. 23844, (WERC, 7/86).