

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petitions of	:	
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IBEW LOCAL NO. 134, UAW, U.F.C.W. LOCAL	:	Case 1
NO. 1444, IBT LOCAL NO. 744, HERE	:	No. 44420 E-3068
LOCAL NO. 122, IAMAW DISTRICT NO. 8,	:	Decision No. 26850-G
and IBT LOCAL NO. 43	:	
	:	
	:	Case 2
Involving Certain Employes of	:	No. 44421 E-3069
	:	Decision No. 26851-G
DAIRYLAND GREYHOUND PARK, INC.	:	
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AMENDED DIRECTION OF ELECTIONS 1/

On June 26, 1992, the Wisconsin Employment Relations Commission issued a Certification of Results of Election in the above matters which reflected the following results from an August 2, 1991 election in a Mutuels Department unit and a Residual unit:

Mutuels Unit

1.	Claimed eligible to vote	<u>  275  </u>
2.	Ballots cast (Includes all ballots)	<u>  215  </u>
3.	Ballots challenged	<u>    9  </u>
4.	Ballots void	<u>    0  </u>
5.	Ballots blank	<u>    0  </u>

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1/ Our July 15, 1992 Direction of Elections erroneously included UFCW Local 1444 on the Residual unit ballot.  
No. 26850-G  
No. 26851-G

6.	Valid ballots counted (Total ballots cast minus challenged ballots, void ballots, and blank ballots)	_ 206 _
7.	Ballots cast IBEW Local 134	_ 72 _
8.	Ballots cast for Teamsters Local 744	_ 4 _
9.	Ballots cast for UFCW Local No. 1444	_ 35 _
10.	Ballots cast for no representation	_ 95 _
<u>Residual Unit</u>		
1.	Claimed eligible to vote	_ 436 _
2.	Ballots cast (Includes all ballots)	_ 312 _
3.	Ballots challenged	_ 18 _
4.	Ballots void	_ 2 _
5.	Ballots blank	_ 1 _
6.	Valid ballots counted (Total ballots cast minus challenged ballots, void ballots, and blank ballots)	_ 291 _
7.	Ballots cast H.E.R.E. Local 122	_ 0 _
8.	Ballots cast for Teamsters Local 744	_ 59 _
9.	Ballots cast for UAW Region 10	_ 45 _
10.	Ballots cast for UFCW Local 1444	_ 71 _
11.	Ballots cast for no representation	_ 116 _

On July 6, 1992, UFCW Local 1444 filed a request for a runoff election in the Mutuels unit.

On July 14, 1992, Teamsters Local 744 filed a request for a runoff election in the Residual unit. By letter dated June 29, 1992, UAW advised the Commission that it did not wish to be on the ballot in any Residual unit election. By letter dated June 5, 1992, UFCW Local 1444 made the same request.

The Commission has considered the runoff requests and concluded that it is an appropriate exercise of discretion under Sec. 111.05(3m), Stats., to conduct runoff elections in the Mutuels and Residual units. The Commission has further concluded that it is an appropriate exercise of discretion under Sec. 111.05(3m), Stats., to delete from the runoff ballots the names of the representative which received the least number of votes in the original election.

Given the foregoing, we hereby issue the following

AMENDED DIRECTION OF ELECTIONS

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission on August 7, 1992: 2/

1. In a collective bargaining unit consisting of all regular full-time and regular part-time Mutuels Department employes of Dairyland Greyhound Park, Inc., excluding supervisory, managerial and confidential employes who were employed on June 3, 1992, 3/ except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes voting desire to be represented by IBEW Local 134 or U.F.C.W. Local No. 1444 for the purposes of collective bargaining with Dairyland Greyhound Park, Inc. on questions of wages, hours and conditions of employment or whether such employes desire not to be so represented.

2. In a collective bargaining unit consisting of all regular full-time and regular part-time employes of Dairyland Greyhound Park, Inc., excluding Mutuels Department employes and Maintenance Department employes and supervisory, managerial and confidential employes who were employed on June 3, 1992, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes voting desire to be represented by Teamsters Local 744 for the purposes of collective bargaining with Dairyland Greyhound Park, Inc. on questions of wages, hours and conditions of employment or whether such employes desire not to be so represented.

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2/ The parties stipulated to the election date.

3/ The parties stipulated to the June 3, 1992 eligibility date.

Given under our hands and seal at the City of Madison, Wisconsin  
this 16th day of July, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/  
A. Henry Hempe, Chairperson

Herman Torosian /s/  
Herman Torosian, Commissioner

William K. Strycker /s/  
William K. Strycker, Commissioner

DAIRYLAND GREYHOUND PARK, INC.

MEMORANDUM ACCOMPANYING AMENDED DIRECTION OF ELECTIONS

We conducted the first representation election on August 2, 1991. Certification of the election results was delayed until June 26, 1992, by resolution of objections to the election and by litigation over an amended election petition.

As the August 2, 1991 election did not produce a conclusive result as to the question of representation, we find it appropriate under Sec. 111.05(3m), Stats., to direct the requested runoff elections in the Mutuels and Residual units.

Section 111.05(3m), Stats., also gives us discretion in the context of a runoff election to delete from the ballot the choice which received the least number of votes in the first election. Here, exercise of that discretion would delete HERE from the Residual ballot and Teamsters from the Mutuels ballot.

HERE filed written argument asking that we retain them on the ballot. HERE argues that because the preferences of the large numbers of non-voting employees remain unknown, it is conceivable that HERE enjoys significant support among employees. We do not find this potential level of support to be a persuasive basis for retaining HERE on the ballot. Deletion of ballot choices is a means by which the Legislature sought to enhance the likelihood of a conclusive result. Particularly where, as here, the election process has been lengthy, we conclude that enhancing the likelihood of a conclusive result is of paramount importance. Thus, we have exercised our discretion to delete HERE and Teamsters from the Residual and Mutuels ballots, respectively.

Dated at Madison, Wisconsin this 16th day of July, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/  
A. Henry Hempe, Chairperson

Herman Torosian /s/  
Herman Torosian, Commissioner

William K. Strycker /s/  
William K. Strycker, Commissioner