

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO,
LOCAL UNION 965**

Involving Certain Employees of
CITY OF FENNIMORE

Case 2
No. 59922
ME-3829

Decision No. 30159-B

Appearances:

Lawton & Cates, S.C., Attorneys at Law, by **Attorney P. Scott Hassett**, 10 East Doty Street, Suite 400, Madison, Wisconsin 53703-2694, appearing on behalf of the International Brotherhood of Electrical Workers, AFL-CIO, Local Union 965.

Kramer, Brownlee & Infield, LLC, Attorneys at Law, by **Attorney Eileen Brownlee**, 1038 Lincoln Avenue, P.O. Box 87, Fennimore, Wisconsin 53809-0087, appearing on behalf of the City of Fennimore.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CLARIFYING BARGAINING UNIT**

On October 1, 2001, the International Brotherhood of Electrical Workers, Local 965, filed a petition with the Wisconsin Employment Relations Commission wherein it requested that the Commission clarify the existing bargaining unit consisting of all regular full-time and regular part-time electric, water, generation and wastewater plant employees employed by the City of Fennimore, excluding public works, clerical, confidential, supervisory, managerial and executive employees, to include those individuals in the positions of Wastewater Treatment

No. 30159-B

Superintendent and Utility Superintendent. The City of Fennimore had previously challenged the eligibility of those individuals to vote in the representation election on the basis that they were supervisors.

Hearing was held on December 20, 2001, before Examiner David E. Shaw, a member of the Commission's staff, in Fennimore, Wisconsin. At hearing, the parties entered into a stipulation of facts on the record and agreed, on the basis of said stipulation, to request that the Commission clarify the bargaining unit set forth above to include the employees/positions in issue. The Examiner notified the parties that the Commission would take administrative notice of the record in the prior certification in this bargaining unit. A stenographic transcript was made of the hearing.

Based upon a review of the parties' stipulation of facts and their agreement on the record, the Commission makes and issues the following

FINDINGS OF FACT

1. The International Brotherhood of Electrical Workers, Local 965, herein the Union, is a labor organization with its principal offices located at 3501 East Washington Avenue, Madison, Wisconsin 53704. On August 2, 2001, the Union was certified by the Commission as the exclusive collective bargaining representative of those employees of the City of Fennimore in the collective bargaining unit consisting of

“all regular full-time and regular part-time electric, water, generation and wastewater plant employees employed by the City of Fennimore, excluding public works, clerical, confidential, supervisory, managerial and executive employees.” DEC. No. 30159-A (WERC, 8/01).

On October 1, 2001, the Union filed a petition with the Commission requesting that the Commission clarify said bargaining unit to include the individuals in the positions of Wastewater Treatment Superintendent (Anthony Rosemeyer) and Utility Superintendent (Allan Zoromnski).

2. The City of Fennimore, herein the City, is a municipal employer with its principal office at 860 Lincoln Avenue, Fennimore, Wisconsin 53809. During the representation election held in the collective bargaining unit set forth in Finding of Fact 1, the City challenged the ballots of Rosemeyer and Zoromnski on the basis that they were supervisors and therefore not eligible to vote.

3. At hearing, the parties stipulated that as to Rosemeyer and Zoromnski, “neither is actually working at this point to any extent in a supervisory capacity, despite some language in their job descriptions, existing job descriptions to the contrary.” The parties then stipulated to inclusion of Rosemeyer and Zoromnski in the bargaining unit set forth above in Finding of Fact 1 and requested that the Commission clarify the bargaining unit consistent with that stipulation.

4. Anthony Rosemeyer, in the position of Wastewater Treatment Superintendent, does not have supervisory duties and responsibilities in sufficient combination and degree to be a supervisor.

5. Allan Zoromnski, in the position of Utility Superintendent, does not have supervisory duties and responsibilities in sufficient combination and degree to be a supervisor.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. Anthony Rosemeyer, in the position of Wastewater Treatment Superintendent, is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

2. Allan Zoromnski, in the position of Utility Superintendent, is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

Based upon the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

Anthony Rosemeyer, in the position of Wastewater Treatment Superintendent, and Allan Zoromnski, in the position of Utility Superintendent, are hereby included in the bargaining unit described in Finding of Fact 1.

Given under our hands and seal at the City of Madison, Wisconsin this 14th day of January, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

