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ROGER M. PECK,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0130-PC

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ORDER

This matter is before the Commission on appellant's request for oral argument with respect to the proposed decision. The Commission normally handles such requests informally, without a written order. However, since respondent has specifically requested a written decision, the Commission is issuing this order.

Section PC 5.06(2), Wis. Admin. Code, provides that the Commission may grant a request for oral argument if it "determines, in its discretion, that an issue or question is better addressed by oral argument rather than written argument."

Respondent opposed oral argument on the following basis:

The appellant bases his request for oral argument because a) he characterizes the respondent's defense as being primarily the fact that the appellant did not have advanced formal education and that the appellant believes he is being "singled out," and b) he believes that his time percentages should be open to discussion.

The respondent's entire defense is a matter of record and speaks for itself. Oral argument is not better than written argument regarding what constituted the respondent's primary defense. Furthermore, oral argument is not better than written argument regarding the appellant's perception of being "singled out." The appellant cross examined the respondent's witness regarding comparable and contrasting position descriptions and the wisdom and fairness of those classification decisions. The record can be referred to in written argument. Oral argument would not be better on this issue. Finally, it appears that the appellant seeks to re-open the issue of his time percentages. New evidence is not appropriate in written or oral argument form.


The Commission notes that appellant is proceeding without counsel, and this case turns on factual findings which were at least to some extent disputed at hearing. The Commission interprets his request as founded at least in part on the contention that he will be better able to present his arguments verbally than in writing. The Commission will grant his request, but points out that oral argument is just that -- argument -- and not an opportunity to present testimony or other evidence.

ORDER

Appellant's request for oral argument is granted and this appeal is to be scheduled for oral argument.

Dated: September 8, 1993

STATE PERSONNEL COMMISSION



LAURIE R. McCALLUM, Chairperson

AJT:rcr



DONALD R. MURPHY, Commissioner



JUDY M. ROGERS, Commissioner