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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

UNITED STEELWORKERS OF AMERICA
LOCAL UNION 15157, PART-TIME
EMPLOYEES OF BAY COUNTY,

File No. L90-B-0754
William R. Ralls, Fact Finder

Union,

and

BAY COUNTY,

Employer.

FINDINGS AND RECOMMENDATIONS OF FACT FINDER

Bay County

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS
DIVISION OF FACT FINDING

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Respectfully submitted,

RALLS URBAN & ROSIER, P.C.

William Reid Ralls (P19203)
118 West Ottawa Street
Lansing, Michigan 48933
(517) 372-6622

Dated: August 5, 1992

LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

8/5/92

RALLS URBAN
& ROSIER, P.C.
ATTORNEYS & COUNSELORS
118 WEST OTTAWA
LANSING, MICHIGAN
48933
517/372-6622
FAX 517/372-6672

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FINDINGS AND RECOMMENDATIONS OF FACT FINDER

This dispute arises out of collective bargaining negotiations between the United Steelworkers of America, Local 15157 ("Union") and Bay County ("Employer"). The Union has represented part-time employees of the Employer since August 2, 1989. The parties reached their first collective bargaining agreement on June 8, 1990 for a one year agreement covering the 1990 calendar year. A copy of the 1990 agreement was submitted and admitted as Employer's Exhibit 2. Negotiations for a second contract began in November 1991, and the remaining unresolved issues form the basis for this fact finding proceeding.

After a breakdown in negotiations, the Union filed a Petition for Fact Finding with the Employment Relations Commission (MERC) on September 18, 1991. The petition sought a fact finding as to two listed unresolved issues: wages and funeral leave.

On March 4, 1992, I was appointed as fact finder in this matter pursuant to the labor mediation act, Public Act 176 of 1939. That act, at section 25(1), MCL 423.25(1), creates a fact-finding function within MERC whereby MERC (or its appointed fact finder) may convene a hearing and make written findings with respect to the matters in disagreement. MERC's fact-finding function is permissive in nature and not compulsory. However, once a party petitions for a fact finding, and MERC grants the petition, the fact finding becomes part of the mediation process. AFSCME v Wayne County, 152 Mich App 87 (1986). The findings are not binding on the parties but are public. Both parties have cooperated fully in the fact-finding process in this case.

On June 15, 1992, the parties presented evidence in a hearing in Lansing. Following the hearing, both parties presented summaries of their respective positions in writing.

I. ISSUE ONE: WAGES

(A) Background.

Prior to 1989, part time employees of the Employer were not represented. At that time, pursuant to a Board of Commissioners Resolution effective May 1, 1983, the part time employees were paid at the entry level rate negotiated by the full time employees. The full time employees had additional step progressions for higher pay rates based on employment longevity, but these step progressions were not applied to part

time employees. At present, the full time employees have four (4) step progressions: At hire, after 6 months, after 1 year, and after 2 years.

In the now-expired 1990 contract, the parties negotiated a change in the structure for part-time employees. The hourly scale for full time entry level employees was still used, but a 2-year step progression was added corresponding to the hourly wage rates in the 6-month step progression for full time employees. There were no further step progressions under the 1990 Agreement.

(B) Union's Proposal.

The Union in the current negotiations proposes a 3-year term with salary increases of 4% per year from 1991-1993. There is no dispute as to the rate of increase. The dispute relates to the Union's proposal to add one step progression in 1991 and another step progression in 1993 for a total of four step progressions beginning in 1993. Salary increases at each step progression would correspond to similar step progressions in the Employer's collective bargaining agreement with full-time employees, but with longer longevity levels than for full time employees. These step progressions would be at 2 years, 3 years, and 4 years.

At hearing and in written argument both parties have used, for purposes of illustration, the salary levels for an employee classified at level TS07. Under the expired 1990

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agreement, a part-time employee in this classification received \$8.59 per hour at initial hire and \$9.18 per hour after the 2-year step progression. Using this classification for illustrative purposes, the Union's proposal results in hourly rates as follows:

<u>YEAR</u>	<u>AT HIRE</u>	<u>2-YEAR STEP</u>	<u>3-YEAR STEP</u>	<u>4-YEAR STEP</u>
1991	8.93	9.55	10.14	NONE
1992	9.29	9.93	10.55	NONE
1993	9.66	10.33	10.97	11.63

The increases for each year are 4%, as offered by the Employer. However, those employees qualifying for the added 3-year step in 1991 and 1992, and for the 3-year step and/or the 4-year step in 1993, would effectively receive increases of greater than 4% due to the step increases. For example, a 5-year employee at the second and final step in 1990 received \$9.18 per hour. That employee would receive \$10.14 per hour in 1991 (10.5% increase from 1990), \$10.55 per hour in 1992 (4% increase from 1991), and \$11.63 per hour in 1993 (10.2% increase from 1992). In total, the part-time employee would receive an increase of 26.7% from 1990 to 1993, but no part time employee would be paid an hourly rate any higher than that paid to a full time employee at the corresponding wage step.

(C) Employer's Proposal.

Using the same illustration of the TS07 job classification, the Employer's proposal is as follows:

<u>YEAR</u>	<u>AT HIRE</u>	<u>2-YEAR STEP</u>	<u>3-YEAR STEP</u>	<u>4-YEAR STEP</u>
1991	8.93	9.55	NONE	NONE
1992	9.29	9.93	NONE	NONE
1993	9.66	10.33	NONE	NONE

The increases are the same 4% per year per level as in the Union's proposal, but without the 3-year and 4-year step progressions. The 5-year employee at the second and final step in 1990 would receive \$9.55 per hour in 1991 (4% increase from 1990), \$9.93 per hour in 1992 (4% increase from 1991), and \$10.33 per hour in 1993 (4% increase from 1992). In total, the part-time employee would receive an increase of 12.5% from 1990 to 1993, somewhat less than half the total increase under the Union proposal.

(D) Findings and Recommendations.

The Union argues that the part time employees do the same work as full time employees. The Employer concedes that some part time employees "arguably" perform the same or similar tasks as full time employees. No dispute exists that some part time positions by their very nature must be staffed with part time employees.

The gist of the dispute is not, however, the work tasks performed or the need of the Employer to employ part time employees. The Employer's needs are conceded by the very fact of employment, and the comparability of tasks performed must be presumed by the use of essentially the same job classifications. The real issue is whether the maximum pay levels, or step progressions, should be made applicable to part time employees as well as full time employees.

The Union argues that it is unfair for the part time employees performing the same or comparable work to be unable to advance past the second step progression regardless of seniority. The Employer argues that the historical relationship between the two groups (part time maximum levels are always below full time maximum levels) should govern, and that it would thereby be unfair to suddenly give wages to part time employees that are identical to full time wages. The employer also argues that the effective 26.7% increase to part time employees would be substantially out of line with those wage increases arrived at through collective bargaining with other comparable employees.

I find the Employer's arguments unpersuasive and the Union's arguments persuasive as to the concept of eventually achieving parity in hourly wage step progressions. The Employer's historical relationship argument ignores the fact that these employees were unrepresented while the full time employees achieved their wage scales through collective

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bargaining. If the disparity had arisen over several years of parallel collective bargaining, this argument might have some merit, but not under these circumstances. Second, I do not find the Union's request to be substantially out of line with the 4% increase given to full time employees. The wage rates only rise 4% in both cases. Only those employees with longevity qualifying for step increases obtain more than 4% increases, and this situation is equally true for any full time employee that progresses a pay step during the contract period. Consequently, I find the Union's goal of achieving parity with full time employees as to wage step progressions a reasonable goal. While Union members are employed only part time, the Union proposal adequately takes this difference into account by providing for greater longevity for part time employees to achieve the same step progressions.

Given the reasonableness of the concept, there remains the issue of whether the phase-in proposed by the Union of adding the third step immediately and the fourth step in 1993 is reasonable. The Employer's argument here is that the proposal is too costly, that too many Union members would immediately qualify for the full 26.7% increase, and that the sudden implementation of the fourth step in 1993 makes the 1993 cost increase especially burdensome for the employer. The Employer has presented cost data to support its argument.

On this point I find the Employer's argument persuasive, and therefore cannot recommend adoption of the Union's proposed pay scale. The cost analysis is essentially un rebutted, and the sudden impact of imposing step 4 as early as 1993 cannot be ignored. However, given the somewhat more modest increases in years 1 and 2 of the Union's proposal, and the overall reasonableness of the Union's position, I also cannot recommend adoption of the employer's pay scale without proposing an alternative. I instead recommend adoption of a compromise pay scale that takes into effect the Union's valid request to eventually achieve step progression parity with full time employees as contrasted with the Employer's valid concerns with overall costs and the sudden impact on costs of adding both steps 3 and 4 in the same contract. Consequently, again using the TS07 level for illustration, I propose the following alternative:

<u>YEAR</u>	<u>AT HIRE</u>	<u>2-YEAR STEP</u>	<u>3-YEAR STEP</u>	<u>4-YEAR STEP</u>
1991	8.93	9.55	NONE	NONE
1992	9.29	9.93	10.55	NONE
1993	9.66	10.33	10.97	NONE

The 5-year employee at the second and final step in 1990 would receive \$9.55 per hour in 1991 (4% increase from 1990), \$10.55 per hour in 1992 (10.5% increase from 1991), and \$10.97 per hour in 1993 (4% increase from 1992). In total, the part time employee would receive an increase of 19.5% from 1990

to 1993. This brings the part time employees one step progression away from the parity they seek, and sets the stage for a subsequent negotiation request to add the fourth step in 1994 or 1995. This alternative also avoids the cost impact to the Employer of adding step 3 only one year after adding step 2, and of adding step 4 in the same contract.

II. ISSUE TWO: FUNERAL LEAVE

Historically, the part time employees receive only mandated benefits (unemployment insurance, workers compensation, and Social Security) and participation in the Employer's pension plan. The Union proposes addition of a funeral leave policy excusing the employee for any of the first 3 normally scheduled working days immediately following a death in the employee's immediate family. The employee would be paid for scheduled work hours.

The union argues that all other bargaining groups have funeral leave as a benefit. The Employer did not argue the issue specifically, but did allude to cost considerations and the historical lack of comparable fringe benefits for part time employees. Given the history of part time employees lacking representation when represented full time employees obtained fringe benefits, I find that history unpersuasive. Costs of

this limited benefit would seem minor in comparison with many fringe benefits obtained by other bargaining units. I therefore find the Union's proposal reasonable.

Dated: August 5, 1992


William R. Ralls
Fact Finder

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