

STATE OF MICHIGAN

DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN:

CALHOUN COUNTY ROAD COMMISSION

Case No. L75 L-798

-and-

TEAMSTERS LOCAL 214

INTRODUCTION

Pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Commission's regulations, a Fact Finding hearing was held regarding matters in dispute between the above parties. Pursuant to adequate notice, the hearing commenced at 10:00 a.m. at the Sheridan Inn in Battle Creek, Michigan on December 23, 1976. Pursuant to an agree-to post-hearing procedure, the last item of proof was received on January 27, 1977. The undersigned, Mario Chiesa, is the Fact Finder herein.

The Calhoun County Road Commission shall hereinafter be referred to as the Commission and/or the Employer, while Teamsters Local 214 shall hereinafter be referred to as the Union.

APPEARANCES

FOR THE COUNTY

Michael Ward, Attorney  
Dick Walsh

FOR THE UNION

Joseph Valenti, President Local 214  
G. N. McIlvain, Secretary-Treasurer  
Ed Weiss  
Jim Russell  
Don Walter

## ISSUES

1. Duration of Agreement.
2. Wages.
3. COLA.
4. Dental.
5. Retroactivity.

## HISTORY

The unit involved herein consists of approximately 80 employees. The prior Collective Bargaining Agreement terminated on March 31, 1976. The parties engaged in negotiations and employed mediation. Impasse was reached in certain areas and the Union filed a request for fact finding on June 3, 1976.

## Comparables

The Union has chosen as comparables the Road Commissions of the Counties of Jackson, Ottawa, Muskegon, Monroe and St. Clair, claiming that they are similar to Calhoun in the area of gas and weight tax income.

The Commission offers the Counties of Eaton, Barry, Kalamazoo, Jackson, Hillsdale, Branch and St. Joseph on the basis that they are adjacent counties and, thus, define the market areas in which the Commission competes for labor and in which the employee must purchase goods and services. Further, the Commission has also listed counties based on similar motor vehicle income. Those Counties are Berrien, Kalamazoo, Jackson, Ottawa, Monroe, Muskegon, St. Clair and Bay.

The parties have presented arguments as to why the counties they have presented should be considered as comparables. Quite frankly, both arguments are logical. Hence, the Fact Finder will consider all the counties submitted as comparable to Calhoun for the purpose of this hearing.

## EVIDENCE AND ARGUMENT

### Duration of Contract

The Union takes the position that the Collective Bargaining Agreement should have an effective date of April 1, 1976, expiring on March 31, 1978, i.e., a two-year agreement.

The Commission desires a three-year agreement terminating on March 31, 1979.

The Commission argues that a three-year agreement would provide for greater labor peace than would a contract of lesser duration. It maintains that a two-year agreement would force the parties to begin negotiating a new agreement in about eight months.

The Union argues that a three-year agreement increases the probability of the employees facing a situation where they must stand by and watch their purchasing power diminish because of increasing inflationary pressures.

If all the comparables are listed and the relevant information that is contained in the exhibits is extracted therefrom, the summary would appear as such:

<u>County</u>	<u>Length of Contract</u>	<u>Termination Date</u>
Jackson	3 years	12/78
Ottawa	3 years	8/1/77
Muskegon	3 years	7/1/77
Monroe	2 years	7/1/77
St. Clair	2 years	2/28/78
Eaton	3 years	12/31/77
Barry	2 years	4/1/77
Kalamazoo	3 years	10/9/78
Hillsdale	1 year	12/31/75
Branch	-	2/8/77
St. Joseph	-	-
Berrien	3 years	6/30/79
Bay	2 years	12/31/77

Out of the thirteen (13) counties, six (6) Road Commissions have three-year (3) agreements, four (4) have two-year (2) agreements, one had a one-year (1) agreement and it is unknown what length of agreement the remaining Road Commission had. Certainly the above indicates that the facts show that a three-year (3) agreement is the most common.

The herein parties have never been involved in a three-year labor agreement. There have been prior agreements that had a duration of two years, along with one-year agreements.

#### Wages

The present wage schedule appears as follows:

<u>Classification</u>	<u>4/1/75 per hour</u>
1. Common labor	\$4.75
2. Truck drivers, sign men, loader operators under 2 yards, stores	4.95
3. Gas truck driver and assistant mechanics	5.05
4. Centerline lead men (while operating), power and roller operator (while operating), assistant plant operator (while operating), asphalt distributors and helpers (while operating)	5.10
5. Back hoe (Bay City), grader operator crane and shovel operators, bulldozer operators, loader operators at least 2 yards and over, paver operators LD and bridge crew LD, mechanics, asphalt plant operators, asphalt plant lead men, paver operators lead men, bridge crew lead men (while acting).	5.15

The Union's position is:

"Based on the evidence and arguments above, it is the position of this Local Union that the employer pay the equivalent amount of monies which would amount to the average of those counties in the composite, effective April 1, 1976."

In the second year of agreement, the Union demands a 6% across-the-board increase if its first year demand is accepted or a 10% increase if it is not.

The Commission offers 40¢ per hour for all employees except heavy equipment operators and mechanics, for which it offers 50¢ per hour. This increase is to become effective upon ratification. Effective April 1, 1977, the Commission offers 40¢ per hour for heavy equipment operators and mechanics and 35¢ per hour for every other classification. Effective April 1, 1978, the Commission offers 35¢ per hour for heavy equipment operators and mechanics and 30¢ per hour for all other classifications.

The evidence doesn't indicate what the Commission considers as a heavy equipment operator nor does the evidence show that the prior agreement between the herein parties distinguishes between a light truck driver and a heavy truck driver. Hence, the evidence will be analyzed by using the classification breakdown which existed in the prior agreement, where possible.

A summary of the wages paid during 1976 in the various classifications appear as follows:

<u>County</u>	<u>(low) Common Laborer</u>	<u>Average of Heavy and Light Truck</u>	<u>Distributor Operator, etc.</u>	<u>High</u>
Jackson	\$5.68 (\$5.41)	\$5.71	\$5.90	\$6.06 (\$5.68)
Ottawa	5.31	5.48	5.63	5.87
Muskegon	4.98 - 5.03	5.24	5.45 - 5.51	5.51
Monroe	6.27	6.44	6.59	6.79
St. Clair	5.46	5.61	5.61	5.90 (\$5.85)
Eaton	5.09 (light truck)	5.12	5.29	5.34 (\$5.29)
Barry	4.30	4.78	4.92	5.08
Kalamazoo	4.78 (\$5.08)	5.17	5.35	5.54 (\$5.84)
Hillsdale*	4.42	4.85	4.87	5.07
Branch	3.00 (\$4.83)	4.65	4.53	4.87 (\$5.45)

<u>County</u>	<u>(low) Common Laborer</u>	<u>Average of Heavy and Light Truck</u>	<u>Distributor Operator, etc.</u>	<u>High</u>
St. Joseph*	\$4.50	\$4.67	-	\$5.04
Berrien	4.83 (\$5.98)	5.29	5.45	5.67 (\$5.45)
Bay	4.67	4.80	5.07	5.11 (\$5.06)
Average	4.50	5.30	5.44	5.61
Average'	5.13	-	-	5.62
Calhoun '75	4.75	4.95	5.10	5.15
Employer '76	5.15	5.35	5.50	5.65
Union '76	?	5.67 light 5.72 heavy	?	5.96 H.E. 6.01 Mech.

NOTE: \*Not used because data is from an agreement that expired prior to 1976 or expiration date is unknown.

The data above is from "1976 Summary of Employer contract provisions for Michigan County Road Commissions, Union Exhibit 1, Employer Exhibit 1 and 2. The Union data was identical to the data contained in the 1976 Summary . . . Where the Employer data was different, it is placed in a bracket, i.e., ( ). The "average" contains no bracket data. Average' contains bracket data and excludes conflicting unbracket data.

Union Exhibit 1 shows the following, inter alia:

<u>County</u>	<u>Light Truck</u>	<u>Heavy Truck</u>	<u>Heavy Equip.</u>	<u>Mechanic</u>
Jackson	\$5.68	\$5.73	\$5.95	\$6.06
Ottawa	5.48	5.48	5.73	5.87
Muskegon	5.19	5.29	5.51	5.51
Monroe	6.42	6.50	6.79	6.72
St. Clair	<u>5.61</u>	<u>5.61</u>	<u>5.85</u>	<u>5.90</u>
Average	5.67	5.72	5.96	6.01

Employer Exhibit 1 shows the following inter alia:

<u>County</u>	<u>Wage Range</u>	
	<u>High</u>	<u>Low</u>
Eaton	\$5.29	\$5.09
Barry	5.08	4.30
Kalamazoo	5.84	5.08
Jackson	5.68	5.41
Hillsdale	5.07	4.42
Branch	5.45	4.83
St. Joseph	5.04	4.50
Calhoun	<u>5.65</u>	<u>5.15</u>
Average	5.37	4.85

The average without including the Commission's offer or Hillsdale and St. Joseph is \$5.47 for the high and \$4.95 for the low.

Employer Exhibit 2 (based on motor vehicle income) shows the following:

<u>County</u>	<u>Income</u>	<u>Wage Range</u>	
		<u>High</u>	<u>Low</u>
Berrien	\$3,700,000	\$5.45	\$4.98
Kalamazoo	3,600,000	5.84	5.08
Jackson	3,400,000	5.68	5.41
Ottawa	3,300,000	5.87	5.31
Calhoun	3,100,000	5.65	5.15
Monroe	2,900,000	6.79	6.27
Muskegon	2,900,000	5.51	4.98
St. Clair	2,800,000	5.85	5.46
Bay	2,600,000	<u>5.06</u>	<u>4.67</u>
Average		5.74	5.26

The average without including the Commission's offer is \$5.76 for the high and \$5.27 for the low.

The Union has also introduced extensive information regarding the first year negotiated increases for all industries. The average is 45¢ per hour for 1976 as of 10/8/76.

The Union has also introduced cost-of-living data. On April 1, 1975 the CPI, all cities, 67=100, was 158.6, while on April 1, 1976, the CPI was 168.2, an increase of 6.05%. For the period April 1, 1976 to October 1, 1976, the increase was 3.03%.

#### Cost of Living Allowance

The prior Collective Bargaining Agreement does not contain a COLA clause.

The Union seeks the following:

- "1) That the cost of living be placed into effect July 1, 1976 on all hours worked.
- 2) It be based on the 67 = 100 index.
- 3) That the .4 rise in the index = 1¢ per hour.
- 4) That it be computed quarterly.
- 5) Such amounts owed, if any, be baked into existing hourly rate.
- 6) 20¢ per hour cap - 1976
- 7) 20¢ per hour cap - 1977

The Commission opposes a COLA in any form.

Some of the evidence concerning this issue has been stated in the prior section. However, there are a few other items that must be addressed.

The Union states:

"The last pay raise of 40¢ an hour which was negotiated in behalf of these employees was implemented on April 1, 1975. At that time, the Consumers Price Index based on 67 = 100 was 158.6. The present Index, November of 1976, is at 173.8. This shows a change in the Index of 15.2 or 38¢ an hour. Therefore, employees of this bargaining unit have had 38¢ of the 40¢ pay raise eroded by the cost of living impact."

Further, the Union's exhibit states that 600,000 postal workers are covered by escalator clauses, along with numerous other public sector employees.



A summary of Employer Exhibits 1 and 2 presents the following:

<u>County</u>	<u>COLA</u>
Jackson	No
Ottawa	Yes
Muskegon	No
Monroe	Yes
St. Clair	Yes - 23¢ per cap
Eaton	No
Barry	No
Kalamazoo	No
Hillsdale	No
Branch	No
St. Joseph	No
Bay	No

#### Dental Coverage

The prior Collective Bargaining Agreement doesn't contain any provision regarding dental or optical insurance.

The Union's demand states:

"We propose, therefore, that the employer contribute \$3 per week to the Republic Life Insurance Company for eye and dental coverage family plan for all employees of the bargaining unit. We further propose that if the cost of the premium increases during the Collective Bargaining period, that the employee and the Union would be responsible in absorbing such a cost. This would insure that the premium amount would not be increased and such cost can be budgeted for."

The Commission desires to remain at the status quo.

Union Exhibit 1 shows that from May, 1975 to May, 1976, dentist fees have increased 5.8%. A review of all the exhibits shows that none of the comparable counties have a dental plan.

### Retroactivity

This item will be discussed in the discussion and recommendation section of this opinion.

### DISCUSSION AND RECOMMENDATIONS

Retroactivity is one of the items that separates the parties. The Union argues that since it does not have the right to strike, retroactivity should be granted. The Commission contends that the Union's argument doesn't take into account the fact that when employees lost the right to strike, employers lost the right to lock out. Further, the Commission maintains that if wage and benefit adjustments were retroactive, the Union would lack incentive to settle. The Union argues that the Commission has had the benefit of the uninterrupted labor of its employees and thus it (the Commission) should retroactively pay an amount equal to what it had offered. Conversely, the Commission argues that it has paid wages and provided benefits during the relevant period of time and thus should not be forced to pay retroactive increases.

The Fact Finder cannot fully accept the Union's argument which states that retroactivity should be granted because employees cannot strike. It wouldn't enhance the collective bargaining process to automatically grant retroactive wage and benefit adjustments. If retroactivity were automatic, it is quite possible that the Commission's prophecy would materialize and Union would be reluctant to settle knowing that any increase would be retroactive. Thus, unions would hold out for greater increases knowing they had nothing to lose.

However, the Fact Finder is not persuaded that the Commission's argument is the most acceptable. True, if retroactivity were automatic, unions may hold out for a longer period of time. Yet, if retroactivity was not a threat, it would be logical to assume

that employers would linger and stall at the bargaining table, for every day that passes increases the amount of money an employer would save. The Fact Finder feels that a policy which is designed to settle an impasse should not automatically deny or grant retroactive wage and benefit adjustments.

If retroactivity is not to be automatically granted or automatically denied as a matter of policy, then the other elements must be looked to in order to decide the question. The evidence reveals that the parties have historically made wage adjustments retroactive. The Commission states, however, that it is a rare occasion when an agreement has been settled on the date the prior agreement terminated. Further, the Commission states that out of the comparables offered, a few, to its knowledge, did not grant retroactive wage and benefit adjustments. The evidence further shows that while the agreement expired in March of 1976 and it is now February, 1977, there is no indication that either party acted in bad faith. The record doesn't establish that either party used delaying tactics or procrastinated at the bargaining table.

After examining the record and analyzing the available evidence, the Fact Finder recommends that any wage and benefit adjustment be made retroactive to April 1, 1976. There is no reason to deviate from the practice employed in the past.

In the first year of the agreement, the Commission has offered a 40¢ per hour increase for all employees except heavy equipment operators and mechanics. For the last two classifications, the Commission offers a 50¢ per hour increase. It is unknown what the Commission includes in the category of heavy equipment operator. Hence, for comparison purposes the schedule that

appears in the prior collective bargaining unit will be used. The Union seeks an increase of 72¢ per hour for light truck; 77¢ per hour for heavy truck; 81¢ per hour for heavy equipment; 86¢ per hour for mechanics. If the data is compared with the prior wage rates, the following is observed:

<u>Classification Per Prior Agreement</u>	<u>Present Rate</u>	<u>Commission's Offer in \$ &amp; % Increase</u>	<u>Union Offer in \$ &amp; % Increase</u>
Common Laborer	\$4.75	\$5.15; 8.4%	\$5.56; 17.1%*
Truck Drivers, etc.	4.95	5.35; 8.1%	5.67; 14.5% (light truck) 5.72; 15.6% (heavy truck)
Gas truck drivers, etc.	5.05	5.45; 7.9%	?
Centerline lead men, etc.	5.10	5.50; 7.8%	?
Back Hoe, etc.	5.15	5.65; 9.7%	5.96; 15.7% (heavy equip.) 6.01; 16.7% (mechanics)
*calculated from Union Exhibit 2			
Average		8.4%	15.9%

The evidence shows that the CPI increased approximately six percent from April, 1975 to April, 1976. The Commission's offer is much closer to the percentage increase in the CPI than is the Union's offer.

After considering all the evidence, it appears that the Union's offer is inflated and unacceptable. Yet, it cannot be said that the Commission's offer is unreasonably low. The Commission's offer is much more comparable to the data extracted from the comparable cities than is the Union's. The Fact Finder recommends that the Commission's offer be adopted in the first year of the agreement.

Effective April 1, 1977, the Commission has offered a 35¢ per hour increase for all employees except heavy equipment operators and mechanics. The last two groups are offered a 40¢ per hour increase. Since the Union's offer was not adopted in the first year of the agreement, it seeks a 10% across-the-board increase for the second year of the contract. When compared, the offers appear as such:

<u>Classification Per Prior Agreement</u>	<u>1976/77 Rate</u>	<u>Commission's Offer in \$ and %</u>	<u>Union's Offer in \$ &amp; %</u>
Common Laborer	\$5.15	\$5.50; 6.8%	\$5.67; 10%
Truck drivers, etc.	5.35	5.70; 6.5%	5.89; 10%
Gas truck drivers, etc.	5.45	5.80; 6.4%	6.00; 10%
Centerline lead men, etc.	5.50	5.85; 6.4%	6.05; 10%
Back Hoe, etc.	5.65	6.05; <u>7.1%</u>	6.22; <u>10%</u>
Average		6.6%	10%

It is very difficult to recommend either the Union's offer or the Commission's offer because there is little data regarding the 1977-1978 year. What data is available suggests that the CPI will be increasing at a decreasing rate. Thus, it is probable that the CPI will increase less from April, 1976 to April, 1977 than it has from April, 1975 to April, 1976. Again, when the offers are compared to the available evidence, as meager as it is, the Commission's offer is more acceptable than the Union's.

Effective April 1, 1978, the Commission has offered 30¢ per hour for every employee except heavy equipment operators and mechanics for which it has offered 35¢ per hour. The adjustments would appear as such:

<u>Classification Per Prior Agreement</u>	<u>1977/78 Rate</u>	<u>Commission's Offer In Dollar &amp; Percent Increase</u>
Common Laborer	\$5.50	\$5.80; 5.5%
Truck drivers, etc.	5.70	6.00; 5.3%
Gas truck drivers, etc.	5.80	6.10; 5.2%
Centerline lead men	5.85	6.15; 5.1%
Back Hoe, etc.	6.05	6.40; <u>5.8%</u>
Average		5.4%

The Union has made no offer for the third year of a three-year agreement, since it seeks a two-year agreement.

If the Commission's offer were accepted for the third year, the total three-year increase would appear as follows:

<u>Classification Per Prior Agreement</u>	<u>1975/76 Rate</u>	<u>1978/79 Rate</u>	<u>Dollar Increase &amp; Percent Increase</u>
Common Laborer	\$4.75	\$5.80	\$1.05; 22.1%
Truck drivers, etc.	4.95	6.00	1.05; 21.2%
Gas truck drivers, etc.	5.05	6.10	1.05; 20.8%
Centerline lead men, etc.	5.10	6.15	1.05; 20.6%
Back Hoe, etc.	5.15	6.40	1.25; 24.3%

It is extremely difficult to try to determine whether or not the agreement should be three years in duration or two years in duration and if it is three years in duration, should the Commission's offer be accepted or should the third year rate be modified?

Looking at duration for a moment, the evidence indicates that three-year agreements are very common. Yet, only one other county has an agreement which covers the period of time that a three-year agreement would cover if granted herein. Most of the other agreements terminate before a three-year agreement between the immediate parties would terminate. Further, it is unknown

what adjustments were contained in the wage schedules in the other agreements and of course it is not known what wage rates or benefits the comparable counties will pay and provide during the entire period that this agreement, if three year, will be in force. Yet, the Fact Finder feels that a three-year agreement is a worthy goal and both parties should endeavor to accept same, even though they have never had a three-year agreement.

In order to realistically consider the duration-wage problem, the Fact Finder must also consider the Union's demand for COLA. True, COLA is not provided by a majority of the comparable counties. However, it is not an unknown provision, for three out of the twelve comparable communities do provide some sort of COLA provision.

Keeping in mind all the evidence regarding wages, duration and COLA, the Fact Finder recommends alternate proposals. First, a two-year agreement is recommended, along with the Commission's wage offers for the two years. Secondly, the Fact Finder can recommend a three-year agreement, along with the Commission's wage offers for all three years if on April 1, 1978, the Union's demand for a COLA, as stated herein, is also adopted. The 20¢ cap which is incorporated in the Union's demand would limit the cost of the benefit. In fact, the maximum total approximate cost would be \$33,280.00, i.e.,  $(.20 \times 2080 \times 80)$ . Also, the cap allows the Commission to more accurately budget for the benefit. The uncertainty of the evidence regarding the second and third years of the proposals makes the COLA much more acceptable than it would have otherwise been.

The Union's demand regarding dental and optical insurance must also be examined. The maximum total cost of the program would approximate \$12,480.00, i.e.,  $(3 \times 80 \times 52)$ . Frankly, the total cost is not staggering. Further, the Union has pledged that it would absorb any increase in cost during the

collective bargaining period; thus, allowing the Commission to budget accurately. However, none of the comparable counties provide a similar benefit. Of course, there is the possibility that dental plans will become more common as a result of new agreements. Nevertheless, it is difficult to speculate on what other parties will agree to in the future. After considering all the evidence, the Fact Finder cannot recommend the adoption of the Union's proposal.

#### CONCLUSION

The Fact Finder assures the parties that he has carefully considered the available evidence. Further, the recommendations herein should serve as a basis for a new Collective Bargaining Agreement.

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MARIO CHIESA

Dated: February 9, 1977