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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
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STATE OF MICHIGAN
DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

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In the Matter of:

MERC CASE NO: G95 F-4021

HOLLAND BOARD OF PUBLIC WORKS
SEIU LOCAL 586

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REPORT OF FACT FINDER
APPOINTED BY THE EMPLOYMENT RELATIONS COMMISSION
OF THE STATE OF MICHIGAN

Dated: May 14, 1996



CHARLES AMMESON, FACT FINDER

APPEARANCES

FOR THE UNION	FOR THE EMPLOYER
Irene Serrano	Michael A. Snapper, Attorney
Marsha Winger	Tim Morawski
James Shelton	Joylene Nelson, Legal Assistant
Shanon Dangremond	Clyde Robinson
Karen Schurman	Mark Beauchamp
Becky Carroll	

EXHIBITS

Employer Exhibit 1	Employer's Economic Proposal
Joint Exhibit 2	Collective Bargaining Agreement
Union Exhibit 3	Certification of Representative dated June 5, 1995
Joint Exhibit 4	Job Descriptions
Union Exhibit 5	Current Approved Status of Permanent Full-Time and Part-Time "A" Positions for Fiscal Year 1995
Union Exhibit 6	City of Holland Table of Job Classifications and Assigned Pay Schedule & Range, Effective July 1, 1994
Union Exhibit 7	Union Municipal Comparison
Union Exhibit 8	Fact Sheet for the Opportunity Program Holland PBW Performance Pay Plan
Union Exhibit 9	Pay Schedule as of 7/1/95
Employer Exhibit 10	Clerical Wage Survey
Employer Exhibit 11	Wage Scale Michigan Municipal Utility Companies (Using 4 County Area) Holland Board of Public Works Position Title
Employer Exhibit 12	Holland HBPW Staffing Comparison
Employer Exhibit 13	CPCO's Contract Rates
Employer Exhibit 14	Benefits as % of Payroll
Joint Exhibit 15	Holland BPW Table of Job Classifications and Assigned Pay Schedule & Range, Effective July 1, 1995
Employer Exhibit 16	Employer's Association Wage Survey Report

Employer Exhibit 17	MESC Comparison Survey
Employer Exhibit 18	BLR, What to Do About Personnel Problems, 1995 Survey of Nonexempt Compensation
Employer Exhibit 19	Union Wage Survey
Union Exhibit 20	Municipal Comparables
Union Exhibit 21	Grand Rapids Press, Tuesday, March 21, 1995, "Board of Public Works Briefs" (2 pages)
Joint Exhibit 22	List of Clerical Union Members

BACKGROUND

This matter is before the fact finder upon the Union's petition filed by James Shelton on January 30, 1996. At that time, unresolved issues were identified as Union Security, Management Rights, Wages and Duration of Agreement.

The unit consists of approximately 16 clerical employees with titles of Clerk-typists II, Customer Account Representative, Account Clerk II, Chief Account Clerk, Customer Service Representative, Junior Buyer, Cash Management Clerk, Scheduler and GIS Operator. The unit was certified as such on June 5, 1995 by the Michigan Employment Relations Commission.

The Employer provides electric, water and sewage utility services for residents of the City of Holland. The testimony and evidence was uncontradicted that the Employer is recognized as a separate employer from the City and its other agencies.

Negotiations were successful in resolving all issues by way of a proposed agreement offered as Joint Exhibit 2. Subsequent to the petition, the Union and Employer were successful in negotiating an agreement as to all remaining issues, except wages and duration.

Fact Finding Hearings were scheduled and held on March 27, 1996 and April 17, 1996, at which time the hearings were closed. The essence of the Employer's position is that its proposal, outlined in Employer Exhibit 1, consisting of a 2-tier wage scale, was warranted because of increased competition from private electric utilities; because its wages are higher than

comparable private and public employers in the relevant geographic area; and because a 2-tier system is the least disruptive manner by which to maintain responsible employment relations while achieving competitive wage structures in the long term. The essence of the Union's position is that private wage comparisons were inappropriate; that the difference in wages between the 2 tiers of the Employer's proposal would cause employment relations morale problems between present and future employees, and would also cause morale problems among present employees who would be economically "trapped" in their current positions; and that the Employer's 2-tier proposal was retaliatory for the successful Union organization.

DISCUSSION -- RETALIATION

Although the fact finder can appreciate that any proposal which involves decreased wages, coming upon the heels of a successful union organization, could be perceived as retaliatory, it is not uncommon that such is the perception in first contract negotiations. The formal bargaining relationship is generally a new experience for all, and neither party is accustomed to presenting or rejecting demands as a unit. The matter in the present situation is somewhat more complicated because of the fact that the Employer had announced a "Pay for Performance" Plan prior to the Union's recognition.

It is uncontested that the Pay for Performance Plan remains an offer from the Employer. It is uncontested that the Union rejects the offer.

The fact finder also must acknowledge that the Employer's proposal, even though calling for decreased compensation for future employees, does, in fact, call for a pay increase for all employees in the unit who remain in their present positions. The Employer proposal does not suggest a freeze or cut in fringe benefits.

Consequently, even though the Union may perceive the Employer proposal as meager in comparison to their expectations, the evidence presented to the fact finder does not warrant a conclusion that the Employer proposal is retaliatory.

DISCUSSION -- COST OF LIVING

The Employer proposal for its top tier and the Union proposal both appear to be predicated upon actual cost of living experience. The proposals call for a 3.2 percent increase as of July 1, 1995; and actual CPI-U increases with a floor of 2 percent and cap of 5 percent for July 1, 1996 and July 1, 1997. The fact finder has researched the proposals with Department of Labor Statistics and forecasts, and concludes the proposals fall within the expected range, are reasonable and will benefit the employees, the Employer and the public interests.

DISCUSSION -- COMPETITION/PRIVATIZATION

A considerable portion of the Employer's presentation undertook to demonstrate that private competition regarding provision of electricity was not only on the horizon, but had arrived. The fact finder, although impressed that private enterprise pressures could become a reality, cannot conclude that the threat of private competition in the supply of electricity will have a significant impact upon the competitiveness of the wage scales for the employees in the present unit during the proposed terms.

First, if there is any single component that threatens the competitiveness of the Employer's enterprise, it is the cost of producing electricity (fuel and actual generation costs). The evidence did suggest that the Employer compared well regarding labor costs.

Second, the evidence was inconclusive that private competition, as to the actual supply, or even wheeling of electricity to the vast majority of the Employer's customers, was imminent during the proposed terms of the collective bargaining agreement.

Third, the evidence did not preponderate that local private competition was a threat. Local private costs were in many instances higher than the Employer's costs. Beyond this, wheeling will have the same impact on local private competitors.

Fourth, only a portion of the Employer's services encompass electricity generation and supply.

However, one fact -- that local private electric utilities are now competing on regional and national levels -- does bring home the reality that all enterprises subject to market pressures and competition must be on guard to maintain and protect competitive advantages. A responsible public utility must be vigilant in this regard. Unlike a public library or municipality which serves a purely governmental function which private enterprise cannot replace, the provision of electricity, although of public importance, has not been primarily a public function. In fact, the evidence before the fact finder demonstrates that the vast majority of electricity is, in fact, generated and transmitted privately.

Thus, the fact finder does conclude that the Employer is subject to private competition. More importantly and more relevant, however, is the fact that the Employer is subject to private competition in the labor market. There was no evidence presented that the skills and experience required for the unit positions could only be obtained in the public sector. Thus, for this reason alone, the fact finder concludes that, although the threat of private competition in electrical service is not an impending concern, private competition is a factor to be considered in assessing labor market wage scales.

DISCUSSION -- WAGE COMPARISON

For the reasons set forth immediately above, the fact finder rejects the notion that the only appropriate wage comparisons are

with other public employers. The evidence suggests that labor market competition for the present unit positions crosses private and public lines, and encompasses both sectors. Beyond this, it appears from the record that geographic competition and comparison is more important and appropriate than comparisons based upon public versus private distinctions, or for that matter industry distinctions.

Although no industry comparisons were available to the fact finder, the fact finder is curious whether such comparisons would compare favorably with the present wage structure. Nevertheless, the fact finder is quite cognizant of the fact that private utilities in West Michigan are reorganizing and downsizing as significantly as private manufacturing. Thus, the fact finder is comfortable with the conclusion that an industry wage comparison would be marginally reliable at best.

Consequently, the fact finder does determine that a combination of private and public data provides the best comparison for labor market and wage information for purposes of determining wage proposals that meet the Union's, the Employer's and public interests.

In that regard, the fact finder determines that, with minor adjustments, the Employer's proposal should be implemented. If the proposal is proven to be uncompetitive, any inequities may be adjusted relatively soon due to the duration of the remaining agreement. Beyond this, any feared inequities will have little or no impact on the present unit incumbents, because of the 2-

tier proposal.

Also, the fact finder has considered the vital nature of the Employer's enterprise -- providing public electrical service -- and has determined that, as such, the Employer and the public would benefit from being a wage leader to a certain extent. Being somewhat more than competitive will assist the Employer in attracting and retaining qualified employees. A stable work force is of benefit to all interests involved. Being somewhat of a market leader, rather than a market follower, is preferable to all interests involved, unless there is a direct and immediate competitive or other threat or crisis.

The fact finder determines that the following wage scale is a competitive scale:

Title	0 Mos.	3%	6 Mos.	3%	1 year	5%	2 year	5%	3 year
Cash Management Clerk	9.83		10.13		10.43		10.96		
Customer Accounts Representative	10.02		10.33		10.64		11.18		
Account Clerk II	10.02		10.33		10.64		11.18		
Customer Service Representative	10.83		11.17		11.51		12.08		
Chief Account Clerk	10.86		11.20		11.54		12.11		12.72
Clerk Typist II	9.83		10.13		10.43		10.96		
Junior Buyer	10.02		10.33		10.64		11.18		
Scheduler	10.83		11.17		11.51		12.08		
GIS Operator	10.02		10.33		10.64		11.18		

The above determination was made utilizing the TEA, MESC and BLR comparisons submitted as Employer Exhibits 16, 17 and 18.

However several modifications were required regarding particular job comparisons. In addition, the fact finder's determination differs from the Employer's proposal because the Employer proposal significantly changes internal consistencies. The fact finder is not persuaded that altering internal consistencies, based solely on the comparable job descriptions, is warranted.

For some reason, which was not explained to the fact finder, various jobs presently pay the same. The fact finder's recommendation maintains those consistencies in both tiers of his recommended wage scale. However, inasmuch as the fact finder utilized all "same paying" positions in determining his comparable wage scales, internal consistencies were somewhat altered, but not as significantly as the Employer proposal. The fact finder's method follows.

First, the fact finder does not accept the Clerk Typist Comparison offered by the Employer. The comparison requires a 30% reduction. However, no particular explanation for such a profound decrease was offered. The fact finder is unable to recommend such a reduction, particularly when Union Exhibit 6 demonstrates that the City of Holland is paying significantly higher for a Clerk typist II. Although the City of Holland does have a Clerk typist I position, which falls within the Employer's comparison, there is no evidence that the city Clerk Typist I position is more comparable with the Employer's Clerk Typist II position than the City Clerk Typist II position. Consequently, and for the reason that the Employer presently pays the Clerk

Typist II position the same as the Cash Management Clerk position, the fact finder, for the purpose of internal consistency and finding this to be the most relevant comparison, utilized the Cash Management Clerk positions in the TEA, BLR and MESC comparisons as the comparable for the Clerk Typist II position. Otherwise, the fact finder utilized the TEA, MESC and BLR comparable in the same manner as did the employer.

Next, the fact finder took the comparisons for the Cash Management Clerk and Clerk Typist II positions as 1 group; the Customer Service Representative and Scheduler positions as 1 group; the Customer Account Representative, Account Clerk II, Junior Buyer and GIS Operator positions as 1 group; and the Chief Account Clerk as 1 group, for the reason that the Employer presently pays positions within those groups the same. The fact finder then averaged the 1994 comparables of each position, weighing each position equally, to come up with a group average comparison.

The fact finder next took the group average comparison and made it the 6 month pay rate in his recommendation. The fact finder then reduced the group average comparable by 3% to determine the starting pay rate; increased the group average comparable by 3% to determine the 1 year pay rate; and then added another 5% to determine the 2 year pay rate. Because the Chief Account Clerk position has a third year increase, the fact finder added another 5% for to determine the third year pay rate for that position.

The fact finder then paid particular attention to any pay rate that varied from the Employer's proposal by more than 5%. Two such positions were the Customer Account Representative and Account Clerk II positions. Upon closer examination, it was determined that the Employer's proposal significantly altered internal consistencies regarding these positions. The fact finder is not persuaded that the evidence presented warrants as significant a change internally as proposed by the Employer.

Another such position was the Clerk Typist position. The reason for the difference between the fact finder's recommendation and the Employer's proposal has already been explained.

Finally, the Scheduler position varies from the Employer proposal by 11%. However, the Employer acknowledged it had no good comparisons for this position. Thus, the fact finder determines that the best comparison are the other same paying group positions presently in the unit. This is the basis for fact finder's recommendation as to this position.

DISCUSSION -- TWO TIER WAGE SCALES

This fact finder recognizes that two tier wage scales are not without their own problems. There is no doubt that paying workers performing the same job function significantly different rates may create morale problems. It is doubtful that this fact finder would recommend a two tier system unless proposed by at least one of the parties. Likewise, recommending wage or fringe

benefit reductions for current employees, even if warranted on a wage comparison basis, may have considerable morale implications.

The evidence received indicated that this Employer had recent experience with a two tier system, although the wage differences between tiers may not have been as significant as the Employer's present proposal. Without belaboring the point, the fact that the Employer is willing to undertake a two tier system which calls for no pay or fringe benefit reductions, and, in fact, allows for pay increases for current employees merits consideration of a two tier system.

This fact finder concludes, in light of the comparables presented; the fact that a two tier has been implemented by this Employer before; the duration of the proposed agreement; and the seniority of the unit members, that a two tier system best meets all interests concerned. Because the Employer is proposing a two tier system, the fact finder accepts that it meets the Employer's interests. A two tier proposal meets the present employee's economic needs providing for maintenance of fringe benefits and cost of living increases. A two tier proposal meets the public's interests in controlling costs, offering competitive wages, and maintaining the morale and economic interest of current employees in a manner that will encourage longevity with the employer. All in all a two tier system best balances economic and morale interests for all concerned. The evidence presented indicated that a more drastic proposal, which would significantly affect moral, was not warranted.

The Employer, as compared to its utility competition, does a good job at providing electrical service competitively. Its biggest competitive concern pertains to its generation costs, apparently in large part due to the age of its generation facilities and fuel costs. There is no evidence that maintaining a two tier system will significantly affect the Employer's competitiveness.

DISCUSSION -- FREEZE

The one aspect of the Employer's proposal that the fact finder does not recommend is the provision that present employees are required to move to the lower tier pay scale if they do not remain in their present position. The fact finder accepts the union's argument that this would have a significant morale impact on present employees. The fact finder accepts that the employees would, as the union representative advocated, be left with "no where to go".

Such a situation would have unnecessary negative consequences for all interests. The employees would be disillusioned. The Employer would suffer the morale consequences of dissatisfied employees who, in the comparable job market, would be less than likely to secure equally remunerative positions elsewhere. The public interest would similarly be negatively impacted.

The employer has been competitive in monitoring its non-generation costs, and the labor costs of this unit is a

relatively small portion of the Employer's total expenditures. The fact finder determines that the requirement that present employees move to the lower tier pay scale if they do not remain in their present position is not economically warranted and recommends against same.

DISCUSSION -- DURATION

The company proposal is for a three year contract, one year of which has almost passed. The union proposes a 2 year contract. The fact finder determines that the three year proposal best serves all interests. A two year contract would allow insufficient time to determine whether the two tier system or the second tier wage scale is workable and competitive. A three year contract is twice as likely to allow an informed review in this regard. Thus, the fact finder recommends a contract of three years duration.

RECOMMENDATIONS

For the reasons set forth above, the fact finder recommends the following two tier wage scales for the respective time periods set forth below, be incorporated into the proposed collective bargaining agreement offered as Joint Exhibit 2, which agreement should be effective July 1, 1995 through June 30, 1998. All present employees and employees hired before the date of a signed agreement shall be paid first tier pay. Employees hired after the date of a signed agreement shall be paid second tier

pay. Pay increases for present employees shall be retroactive to July 1, 1995.

LOWER TIER (NEW EMPLOYEES)

Title	0 Mos.	3%	6 Mos.	3%	1 year	5%	2 year	5%	3 year
Cash Management Clerk	9.83		10.13		10.43		10.96		
Customer Accounts Representative	10.02		10.33		10.64		11.18		
Account Clerk II	10.02		10.33		10.64		11.18		
Customer Service Representative	10.83		11.17		11.51		12.08		
Chief Account Clerk	10.86		11.20		11.54		12.11		12.72
Clerk Typist II	9.83		10.13		10.43		10.96		
Junior Buyer	10.02		10.33		10.64		11.18		
Scheduler	10.83		11.17		11.51		12.08		
GIS Operator	10.02		10.33		10.64		11.18		

UPPER TIER (PRESENT EMPLOYEES)

Title	0 Mos.		6 Mos.		1 year		2 year		3 year
Cash Management Clerk	10.21		10.77		11.49		12.11		
Customer Account Representative	10.96		11.71		12.56		13.33		
Account Clerk II	10.96		11.71		12.56		13.33		
Customer Service Representative	10.49		11.21		11.89		12.56		
Chief Account Clerk	12.71		13.41		14.17		14.84		15.55
Clerk Typist II	10.21		10.77		11.49		12.11		
Junior Buyer	10.96		11.71		12.56		13.33		
Scheduler	10.49		11.21		11.89		12.56		
GIS Operator	10.96		11.71		12.56		13.33		