

1363

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

\*\*\*\*\*

IN THE MATTER OF THE  
FACT FINDING BETWEEN

LENAWEE COUNTY ROAD COMMISSION,  
-and-

MERC Fact Finding Case  
No. L 84-G-602

UNITED STEELWORKERS OF AMERICA.

*William Long 1-15-85*  
\*\*\*\*\*

Michigan State University  
LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

FACT FINDING RECOMMENDATION

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 an agreement between the Lenawee County Road Commission, hereinafter referred to as the "Employer" and the United Steelworkers of America, Local 14723, hereinafter referred to as the "Labor Organization", a hearing was held on January 10, 1985 at the Judicial Building in Adrian, Michigan. The undersigned, William E. Long, is the Fact Finder herein.

*Lenawee County Road Commission*

## APPEARANCES

### FOR THE EMPLOYER

Michael R. Kluck, Atty.  
Orrin Gregg, Gen. Mgr.  
Wayne Harsh, Superintendant  
Wayland Hart, Commissioner

### FOR THE LABOR ORGANIZATION

Bob Kemp, Intl. staff representing District 29, United Steelworkers of America  
Bob Lewis, President of Local 14723  
Susan McElfersh, member of Bargaining Team  
Jerry Ward, member of Bargaining Team  
Chuck McIntyre, member of Bargaining Team  
Bob Emery, vice president of Local and member of Bargaining Team

## HISTORY

The prior agreement expired 10-31-84. The employer has recognized the Labor Organization as:

"The sole and exclusive collective bargaining agent with regard to wages, hours, and other conditions of employment for all of its hourly rated employees, including office clerical employees, engineering and technical employees and excluding temporary employees, the secretary of the Commissioners, executives and supervisors."

Negotiations between the employer and the labor organization began in May, 1984. Two meetings were held in May, two in June, and one each in the months of September, October and November. A mediator was used in the later meetings and the Employment Relations Commission appointed this Fact Finder on November 19, 1984. Arrangements were made for a fact finding hearing which took place on January 1, 1985 at the Judicial Building in Adrian, Michigan from approximately 10:00 a.m. to

5:00 p.m. The parties presented four joint exhibits and the labor organization presented 16 exhibits and the employer presented 33 exhibits.

The Lenawee County Road Commission is comprised of approximately 55 employees. Approximately 45 are covered by the collective bargaining agreement. Like other counties, in 1980-81 the County Road Commission suffered declines in revenues. As a result, in early fall of 1981, approximately 27 employees were laid off. There was no use of temporary help in the summer of 1981, but temporary help was used in the summers of 1982 and 1983. Employees on lay off at that time were offered, and some accepted, employment under temporary status. Temporary employees are not provided wage scale or benefits covered by the collective bargaining agreement.

The 1981 layoff was the first and only occurrence in layoffs in recent history. Since that time, all employees have either been recalled or the time period for recall rights has been exhausted. The total work force has increased by five (5) since November, 1982, with four (4) of those being covered by the collective bargaining agreement.

The Fact Finder gathered from general comments and presentations that prior to the 1981 layoffs and the negotiations involving the 1982-84 agreement relationships between the Employer and the Labor Organization were generally positive. Following the 1982-84 agreement, relations have deteriorated.

This occurred in part, due to the continuation of some employees within the labor organizations on layoff while the employer resumed the practice of employing temporary help in the summers of 1982 and 1983 and in part, due to some controversy and confusion involving the budget balances and fiscal position of the employer during that time period the Labor Organization questioned and whether the employer was totally open with information on finances during bargaining for the 1982-84 agreement. There appeared to be some residual feelings as a result of these events which influenced to some extent the current negotiations. However, there also appeared to be no great animosity between the Labor Organization's members and the current General Manager and it is the feeling of this Fact Finder that with the resolution of the few differences at issue in this agreement, it is highly likely that the relationship between the Employer and the Labor Organization will continue to improve.

It was pointed out that there has been a history of pride in the performance and status of the Lenawee County Road Commission in the past and there is no reason to believe that it cannot be true in the future. Obviously, the Employer-Labor Organization harmony can contribute greatly to that goal.

#### ISSUE SUMMARY

The following issues were agreed upon and submitted to the Fact Finder as unresolved:

1. Article VII - Seniority
2. Appendix A - Hourly Wage Rates
3. Appendix B - Cost of Living Allowance
4. Article XVI - Duration of Agreement

Each issue will be discussed separately, accompanied by the Fact Finder's recommendation and rational for recommendation.

#### ARTICLE VII - SENIORITY

##### Discussion

The Employer proposes to delete language contained in the 1982-84 agreement authorizing the Employer to use a maximum of 14 temporary or seasonal employees per calendar year, each employee to be employed no longer than 12 weeks. The Employer argues that this language was placed in the last agreement for the first time only because employees were on layoff status at the time of that agreement. The Employer points out that there are no longer any employees on layoff status and, therefore, the language should be deleted.

The Employer and the Labor Organization agree that it has been common practice to use seasonal employees, usually in the summer for mowing, for shoveling stone and for traffic control. The Labor Organization does not oppose the deletion of the language provided language be added to the agreement to require the employer to recall any employee who may be on layoff status prior to employing any seasonal staff. The Labor Organization proposes language be added to Article VII, Section 6, to require temporary employees be laid off first, along with

probationary employees, if, and when, it becomes necessary to reduce the size of the work force. The Labor Organization argues that without this language, the Employer can lay off employees covered by the agreement and then hire temporary employees to perform work at a lesser wage and no benefits, work which laid off employees could perform. Both parties acknowledge that there are not employees presently on lay off status and there was no testimony or evidence presented that would lead to the conclusion that layoffs are anticipated in the foreseeable future. However, the issue became focused because of events over the life of the previous agreement.

#### Recommendation

It is recommended that the language contained in Article VII, Section 3 of the previous agreement pertaining to limitations on the number and duration of temporary or seasonal employees be retained.

#### Rational

A review of other contract provisions presented in Exhibits reveals that language providing for some limitation on the duration of employment of seasonal or temporary employees is not unusual. Language limiting the number of employees is unusual, but the employer testified that a maximum of 14 did not impose a burden on management. The Fact Finder can also appreciate the Labor Organization's concern that the Employer not abuse the layoff provision just to replace permanent employees

with seasonal or temporary employees at a lessor cost to the Employer. However, the language changes proposed by the Labor Organization would appear to place too great a management burden on the Employer. Retaining the language of the previous contract would provide the Labor Organization with some protection against possible over use of temporary employees for an extended period of time and yet not restrict the employer from using temporary employees following a lay off in the event lay offs again become necessary during the life of the agreement. It should again be noted, no such layoffs are anticipated at this time.

It is hoped that during the life of the agreement, the parties can, separately or together, review alternatives to the all or nothing at all approach and develop new language which recognizes and accomodates both the Employer's and the Labor Organization's concerns.

#### APPENDIX A - HOURLY WAGE RATES

##### Discussion

The Employer proposes a 4% across the board increase the first pay period after November 1, 1984 to October 31, 1985, and a 4% across the board increase after November 1, 1985 to October 31, 1986. The Employer would base the first 4% increase on the wage employees are receiving after the December, 1984 quarterly cost of living adjustment, i.e. \$8.67 for Highway Worker II (light truck). The Employer proposes that the cost of

living adjustments provided for in Appendix "B" be inoperable during the term of the agreement.

The Labor Organization proposes a 6% across the board increase effective the first pay period after November 1, 1984 to October 31, 1985 and that the agreement not extend beyond October 31, 1985. The Labor Organization also proposes that the cost of living adjustment provision in the previous agreement be retained in the new agreement. A number of exhibits were presented by the Labor Organization to demonstrate that the Employer did have the sufficient funds to pay the amount contained in the Labor Organization proposal. The Employer did not allege insufficient funds as a basis for rejecting the Labor Organization proposal.

The Employer presented Exhibits containing County Road Commission budgets and wage rates which the employer contended were comparable in size to Lenawee County or were neighboring counties or were members of the Southeastern Council of Counties. It was acknowledged that some of the current wage rates as reflected in those Exhibits could change in the future because of contract expiration dates. For example, five of the seven contracts identified in the Southeastern Michigan Council of Road Commissions group will expire on or before 6-30-85. (Employer Exhibit 35) The Employer acknowledged that wages have not been increased, excluding cost of living adjustment, for some time. The Fact Finder's notes indicate an increase June 1, 1981 and independent calculations seem to reveal the last increase being



November 1, 1982. The Employer's position is that it's proposal is consistent with the market and compartive road commissions.

The Labor Organization's position is that wage comparison among road commissions ought not be as determinative as wage comparisions within the county and surrounding areas in all aspects of industry. The Labor organization also points out that at one time the employee's wages were near the top of the levels for comparable counties and have now fallen near the mid to lower range in recent years, particularly as a result of no recent increases. The Labor Organization also acknowledged that the majority of counties the employer used for comparison did not have a cost of living provision in their agreements, but pointed out that Lenawee County agreements have contained cost of living provisions extending over many agreements and the Labor Organization felt strongly that this provision be retained.

#### Recommendation

It is recommended that base wages be increased as follows:

- The first payroll period after November 1, 1984, a 4% across the board increase, the increase to be based on the wage received after the December, 1984 cost of living quarterly adjustment payment.

- The first payroll period after November 1, 1985, a 2% across the board increase to cover the period November 1, 1985 to

October 31, 1986, the increase to be based on the wage received as of October 31, 1985.

- The cost of living allowance provision contained in Appendix B be retained and the index and quarterly payment dates be adjusted accordingly.

#### Rational

The employer's proposal would provide a very minimal increase beyond the anticipated cost of living. The Labor Organization's proposal would provide a substantial increase initially, and, of course, does not address a wage beyond October 31, 1985. The Fact Finder extensively reviewed the comparative wages in other counties, for example, Employer's Exhibit 35. In addition to this review, the Fact Finder considered a number of other factors, including the length of time since the most recent wage increase, the anticipated cost of living increases over the projected life of this agreement, and the overall budget of the Employer. Revenues for budget year 1985 are anticipated to be a little more than \$600,000 over revenues for 1984 within a total projected budget of \$8.9 million for 1985. (Labor Organization Exhibit 7 and 8) This represents approximately a 7.2 anticipated revenue increase. It is also recognized the Employer is practicing sound management and budget policies by establishing accounts for future capital expenditures and a reasonable contingency fund. But, equipment and structures, no matter how well maintained and/or replaced when obsolete, must be done so

with a confident, qualified and reasonably satisfied work force. Therefore, capital and labor expenditures must be properly balanced within reason to satisfy both objectives. It is felt that the wage proposal presented by the Fact Finder that. It is also felt the Fact Finder proposal is or will be generally consistent with the wage rate and structure of comparable counties. In addition, information provided to the Fact Finder in joint Exhibit 3 identified alternative proposals discussed by the parties during negotiations and the Fact Finder's proposal appears to be reasonably close to each of the parties alternative proposals.

Listed below is a projected comparisons of proposals for Highway Worker II (light truck) as best as the Fact Finder could calculate based on the information provided. A cost of living factor of .66% per quarter is assumed.

<u>Date</u>	<u>Previous Contract With Continued COLA and No Increase in Base</u>	<u>Employer Proposal</u>	<u>Fact Finder Proposal</u>	<u>Labor Org. Proposal</u>
11/84	8.67	9.01	9.01	9.19
12/84	8.67	9.01	9.01	9.19
3/85	8.73	9.01	9.07	9.25
6/85	8.79	9.01	9.13	9.31
9/85	8.85	9.01	9.19	9.38
11/85	8.85	9.37	9.37	--
12/85	8.91	9.37	9.43	--
3/86	8.97	9.37	9.49	--
6/86	9.03	9.37	9.54	--
9/86	9.09	9.37	9.60	--
12/86	9.15	9.37	9.66	--

## APPENDIX B - Cost of Living Allowance

### Discussion

This was discussed along with the recommendation and rational in the context of the previous issue. As was discussed before, this provision has had a long history of being a part of previous agreements and to remove it now is not viewed as promoting positive Employer-Labor Organization relationships. The Fact Finder's recommendation to retain the same language as contained in the previous agreement is made with knowledge that Section 3 of Appendix B contains a (\$.10) cent per quarter ceiling.

## Article XVI - Duration of Agreement

### Discussion

The Employer proposes a two-year agreement. The Labor Organization proposes a one-year agreement to expire October 31, 1985. The Employer argues that a two-year agreement provides more certainty for both the Employer and the Labor Organization and promotes efficient management and more positive labor management relations. The Labor Organization argues that there has been uncertainty over the life of the previous agreement and is not sure the same uncertainty will not exist in the future. The Labor Organization would want the opportunity to address potential problems at the earliest possible time. It was acknowledged by the both the Employer and the Labor Organization that past agreements have normally been for two or three year periods.

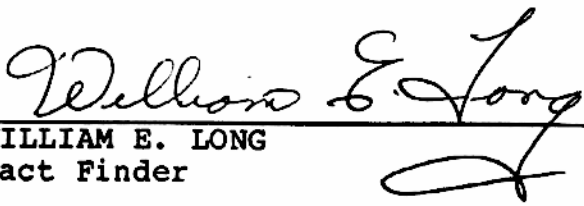
### Recommendation

It is recommended that the agreement extend for a period from 11-1-84 through 10-31-86.

### Rational

The Fact Finder spoke earlier in this report of what he perceived as relative harmonious relationships between the Employer and the Labor Organization over the years up to the 1981 period when the Michigan economy forced layoffs. Since that time and over the period of the previous agreement, relationships deteriorated. The economic situation has now stabilized and there has been some filling of positions. It is felt that if the parties accept the Fact Finder's recommendations on other issues, a period of approximately 16 months can lapse before negotiations begin on a new agreement. This period will allow the parties to continue to monitor this agreement in more stable times and hopefully permit more constructive discussions to occur in preparation for future agreements. A one year agreement would require the parties to begin negotiations in approximately four months which would be too short of time to allow this agreement to be tested.

Dated: 1-15-85

  
WILLIAM E. LONG  
Fact Finder  
122 S. Grand, Ste. 203  
Lansing, MI 48933