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STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
FACT FINDING

In the Matter of:

TEAMSTERS, LOCAL 214,

Petitioner (Union),

MERC Case No. L00 E-7011

-and-

KENT COUNTY ROAD COMMISSION,

Respondent (Employer).

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APPEARANCES

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- Petition Filed: September 28, 2000
- Answer to Petition: October 28, 2000
- Fact Finder Appointed: December 5, 2000
- Fact Finding Hearing Date: (Lansing MERC): March 28, 2001
- Post Fact-Finding:  
Receipt of Parties' Positions: June 25, 2001  
Employer's Rebuttal Arguments: July 17, 2001
- Fact Finding Report and Recommendation: August 2, 2001

Fact Finder:

JOHN A. LYONS

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**FACT-FINDING REPORT AND RECOMMENDATION**

This case is submitted on exhibits and the parties' arguments on the issues. The exhibits form the factual basis for the recommendation.

• Exhibits Received:

Union's Exhibits:

- Ex. 1.1 Brief of Wage Increases
- Ex. 1.2 Summary of Retirement Benefits - Medical Insurance
- Ex. 1.3 Summary of Pension Benefits - 401-K Contributions
- Ex. 1.4 Summary of Dental and Optical Insurance
- Ex. 1.5 Summary of Health Plan Policies
- Ex. 1.6 State Map
- Ex. 1.7 County Information
- Ex. 1.8 Employee Totals by Road Commission
- Ex. 2 GEU Settlement
- Ex. 3 BNA weighted average wage increase for 2000 median increase
- Ex. 4 Cost of Living Insurance for 2000 from BNA
- Ex. 5 Social Security Cost of Living Increase for 2001
- Ex. 6 Berrien County Road Commission Contract 2000-2004
- Ex. 7 Calhoun County Road Commission CBA 1999-2001
- Ex. 8 Ingham County Road Commission CBA 1999-2002
- Ex. 9 Jackson County Road Commission CBA 2000-2003
- Ex. 10 Kalamazoo County Road Commission CBA 1999-2002
- Ex. 11 Kent County Road Commission CBA 1997-2000
- Ex. 12 Livingston County Road Commission CBA 1998-2001
- Ex. 13 Oakland County Road Commission CBA 1998-2002

- Ex. 14 Ottawa County Road Commission CBA 2000-2004
- Ex.15 County Road Association of Michigan 2000 Salary Wage and Benefit Report
- Ex. 16 Kent County Road Commission Retirees Health Care Resolution 11/7/88

Employer Exhibits:

- Ex. 1 List of Issues
- Ex. 2 Tentative Agreements
- Ex. 3 Written proposals of the parties
- Ex. 4 Bargaining Unit Roster and Earnings in Calendar Year 2000
- Ex. 5 Bargaining Unit Roster and Earnings Contract Year 6/1/99- 5/30/00
- Ex. 6 Bargaining Unit Roster as of 3/26/01
- Ex. 7 Cost of Living 6/97 - 5/00, 6/00 - 1/01
- Ex. 8 Comparison Area Road Commissions 2000 Wage Rates for Driver, Operator, Mechanic
- Ex. 9 East v. West Road Commissions Comparability 2000 Wage Rates
- Ex. 10 Survey of 2000 and 2001 Year-to-Date Wage Increases in State/Local Government Nationwide and Private Sector Multi-State and North Central
- Ex. 11 Total Cost of Union 3/26/01 Proposals
- Ex. 12 Total Cost of Union Pre-3/26/01 Proposals
- Ex. 13 Cost of Union 3/26/01 Wage Proposal
- Ex. 14 Cost of Union Pre-3/26/01 Wage Proposal
- Ex. 15 Comparison Wage Rates and Negotiated Increases (Allegan, Barry, Ionia, Kalamazoo, Montcalm, Muskegon, Newaygo, Ottawa)
- Ex. 16 Cost of Union Proposal Unit Health Insurance (Office Visit and Prescription Co-Pay)
- Ex. 17 Survey of Year 2000 East Michigan Employers Office Visit and Prescription Co-Pay
- Ex. 18 Comparison Medical Co-Pay Office Visit and Prescription
- Ex. 19 Survey of Year 2000 West Michigan Employee Payment of Health Insurance Premiums
- Ex. 20 Kent County Road Commission Health Insurance Premiums 1989-2001
- Ex. 21 Calculations of Cost of Union Proposal - Office Visit and Prescription Co-Pay
- Ex. 22 Dental Premiums: Kent County Road Commission Contribution 1994-1999, and Employer v. Union Proposals 2000-2004
- Ex. 23 Retiree Health Care in Michigan's 83 County Road Commissions
- Ex. 24 Union Proposal Retiree Health Care Cost Projections 2000-2010
- Ex. 25 Cost of Union 3/26/01 Retiree Health Proposal
- Ex. 26 Cost of Union Pre-3/26/01 Retiree Health Proposal
- Ex. 27 Longevity Payments

- Ex. 28 Kent County Road Commission Management Retiree Health Insurance 12/31/96 and 12/31/99
- Ex. 29 Kent County Road Commission Management Roster
- Ex. 30 1988 Resolution for Retirees Health Care - Management
- Ex. 31 Kent County Contract Provisions on Retiree Health Insurance
- Ex. 32 Cost of Union 3/26/01 401-K Proposal
- Ex. 33 Cost of Union Pre-3/26/01 401-K Proposal
- Ex. 34 Kent County Road Commission 401-K Accounts Values
- Ex. 35 Comparison Sick Pay
- Ex. 36 Expired Collective Bargaining Agreement
- Ex. 37 3/2/98 Letter of Understanding

As noted, both parties submitted post-hearing written arguments in support of their positions. The Employer also submitted rebuttal exhibits, 38-53. Those exhibits are:

- Ex. 38 Kent County Road Commission CBA 1994 - 1997
- Ex. 39 US Census Bureau Quick Fact Covering Counties Allegan, Barry, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Newaygo, Ottawa
- Ex. 40 US Census Bureau Quick Facts - Counties Berrien, Calhoun, Ingham, Jackson, Livingston, Macomb, Oakland, Wayne
- Ex. 41 Local Area Personal Income, Bureau of Economic Analysis
- Ex. 42 2000 Survey of Buying Power, Sales and Marketing Management
- Ex. 43 East v. West Road Commissions Mechanics Comparability 2000 Wage Rates
- Ex. 44 2000 Survey of Employer's Health Plan Costs - Participant Composition
- Ex. 45 Allegan and Muskegon County Road Commissions' Health Insurance Contract Provisions
- Ex. 46 West Michigan Comparables 1999 Wage Rates - Contracts
- Ex. 47 Kent County Agreements 89-91, 92-94 re: Sick Pay, Retiree Health Insurance, Wages
- Ex. 48 Employer Truck Driver Wages 1986-1999, Compensation Total Retirement 401-K of Account Balances
- Ex. 49 Comparative FACs and MERS B-2, B-3, B-4 Pension Payments
- Ex. 50 401-K Account Balances upon Retirement 60-75
- Ex. 51 401-K Account Balances upon Retirement at 55-75
- Ex. 52 Fund revenues year ended 12/31/01
- Ex. 53 Excerpts Montcalm County Road Commission CBA

There are approximately 202 bargaining unit members according to the Petition. The unit is made up of "all employees including park, engineering aides, survey crews, truck drivers, heavy equipment operators, custodians, office

employees, clerical employees employed at the Kent County Road Commission". The unit does not include supervisors or managers. The parties negotiated, and mediated twice, but couldn't resolve this dispute. The fact finder was appointed pursuant to PA 176 of 1939.

The Petition set forth as unresolved issues:

1. Wages
2. Health Insurance Co-Pay
3. Overtime Distribution
4. Retirees' and Spouse Health Insurance
5. Employer's Pension Contribution

At hearing and subsequently, the following issues were presented, and considered. Recommendations are made on the following:

1. Wages submitted by the Union
2. Health Insurance
  - (a) Prescription Rider Co-Pay submitted by Management
  - (b) M.D. Visit Co-Pay submitted by Management
  - (c) Coordination submitted by Management
  - (d) Maximum Premium for Dental Insurance submitted by Union
3. Retiree Health Insurance submitted by Union
4. Employer Contribution 401-K submitted by Union
5. Sick Pay Revision submitted by Management
6. Letter of Understanding submitted by Management
7. Disability Leave of Absence submitted by Management
8. Duration of the Agreement
9. Effective Date of Various Benefits

### **DISCUSSION**

Both parties submitted positions and urged acceptance of their comparables in support of the issues. Obviously, the record is the several exhibits submitted by both parties and rebuttal exhibits. Post-hearing written arguments and rebuttal

arguments are also considered. Several factors must be considered when weighing economic proposals. For instance, the Employer does not, in the traditional sense, offer inability to pay as a defense to the Union demands, rather, it argues the allocation of monies for certain priorities, as well as mandated projects. But, the fact still remains that the revenue stream of the Employer could bear the demands of the Union. The issue is one of balance.

The majority of the proposals have been identified as economic. Two issues, the Letter of Understanding as well as effective date of the contract, are considered non-economic. All other issues are economic. As noted, all data and arguments have been considered and, where necessary, will be referenced.

The parties could not agree on the appropriate comparable data. The Union suggests change in the parties' traditional comparable consideration to include Ingham, Livingston, Oakland, Jackson, Calhoun, and Berrien counties. These counties are neither contiguous nor bear any relationship to the Kent County labor market. But, the Union urges acceptance because it argues that Kent County Road Commission is the largest, most progressive of all its traditional comparables, and this fact requires its comparison to other equally large Road Commissions regardless of their geographics." The Employer has included the contiguous counties of Ottawa, Muskegon, Newaygo, Montcalm, Ionia, Barry and Allegan. Both parties have used Kalamazoo County. The labor market from which Kent County draws its employees and/or directly competes is more appropriately located in the west side of the state rather than those communities in the middle or eastern counties. For instance, it is a stretch to consider Oakland County as comparable to Kent County for

a number of reasons. Its population, SEV and geographic location, certainly makes the comparison suspect.

The writer has attempted to consider the parties' relative positions in negotiations, mediation where included in the exhibits as well as all data to arrive at recommendations. Reference will be made to the contract provisions, where they exist, and noted where none exists - for instance in the Retiree Health Insurance area.

Moreover, the parties had reached at least a facial agreement as to the length of the contract or duration. At hearing and subsequently, it appears that the Union changed its position and is relying on a three year term whereas the Employer has set forth its positions based on a five year contract. The Employer characterizes the Union's position on some of the issues as "back sliding." The Arbitrator would only note that generally speaking in labor matters, there is no agreement until there is total agreement. Issues, as well as costs, are interdependent for the purposes of this recommendation. The Arbitrator adopts the position of the Employer with regard to duration. It simply makes sense economically for both parties. The terms of a new contract will have time to settle in and stretch out where changed. There are many reasons why a longer contract term is necessary, one of which is the annual implementation of several of the economic issues so that the impact is spread over time.

In addition, it should be noted that the Union's position concerning wages was modified two days before the hearing. It requests a four (4%) percent across the board wage increase for each year with full retroactivity because it is felt that the

wage proposal was no longer appropriate based on the rate of inflation and wage increases of their comparables. The percentage approach is totally different than the position in negotiation/mediation.

**ISSUE 1: WAGES (SECTION 12.1 and APPENDIX A)**

The Union requests a four (4%) percent across the board increase to all classifications during a three year contract term.

Management's position is as follows:

<u>Year</u>	<u>Amount of Increase</u>
2000	\$1,000 signing bonus
2001	\$0.45/hr
2002	\$0.50/hr
2003	\$0.50/hr
2004	\$0.55/hr

Recommendation:

<u>Year</u>	<u>Amount of Increase</u>
2000	\$0.45/hr
2001	\$0.45/hr
2002	\$0.50/hr
2003	\$0.55/hr
2004	\$0.55/hr

A four (4%) percent increase is simply not justified by the comparables. The recommendation is a compromise position between the pre-3/28/2001 position of the Union and Management's position on the issue of wages. The contiguous comparables when reviewed indicate that the Kent County Road Commission is among the highest paid. The recommended compromise wage position maintains the high position of the Road Commission employees among their comparable



peers. This recommendation is not intended to modify their standing among their group comparables. If they are truly the highest, they should remain the highest.

The Employer has suggested a signing bonus for year 2000. Signing bonuses do not necessarily take into account retroactive lost earnings. The employees have been without a pay increase since 1999. The suggested hourly increase in 2000 will help deflect loss of earnings and the impact of area cost of living increases.

## **ISSUE 2: GROUP INSURANCE, SECTION 13.9(b) HEALTH INSURANCE**

### **Current Provision:**

Blue Cross/Blue Shield PSG (formerly called MVF-1) Plan with D-45 NM, ML Riders: \$5.00 co-pay prescription drug, Master Medical (\$50.00 employee/\$100.00 family deductible); no-fault automobile coordination, for the employee and dependents with premiums fully paid by the Road Commission up to an amount equal to the monthly premiums charged by the highest cost HMO provider for the coverage (single, double, family) the employee has. Premiums in excess of that amount shall be assumed by the employee. Married employees shall be limited to coverage under one (1) insurance policy. Effective as soon as it can be administratively accomplished but no later than June 1, 1998, Blue Cross/Blue Shield participants shall have Ten (\$10.00) Dollar prescription drug co-pay. Employees who retire will be offered the opportunity to purchase hospitalization insurance under the commission's health care program. Upon the condition that the retiree assumes the cost and pays in advance the required cost.

This issue, as noted, is made up of four sub-issues. Each will be treated separately.

### **(a) Prescription Rider Co-Pay**

<u>Union Position:</u>	\$5.00 generic \$10.00 brand name, B.C.
<u>Management Position:</u>	\$10.00 generic \$20.00 brand name, B.C.

Recommendation:

Compromise:	2000	Status Quo
	2001	Status Quo
	2002	Status Quo
	2003	\$10.00 Generic and \$20.00 Name Brand
	2004	\$10.00 Generic and \$20.00 Name Brand

The comparables support the recommendation, however, there is a movement toward the \$10.00/\$20.00 co-pay for drug riders. This is especially true in the comparable labor market. The effective date of these changes is implemented by calendar year. The recommended approach will give time and notice to all unit members of the new co-pay which amounts to a two-fold increase.

**(b) M.D. Visit Co-Pay**

Union Position: Retain current \$5.00 co-pay per visit 80/20 BC

Management Position: \$10.00 visit co-payment, retain 80/20 BC

Recommendation:

Management proposal is recommended. \$10.00 visit co-payment and retain Blue Cross/Blue Shield 80/20 coverage. This benefit co-payment is in line with the comparables.

**(c) Family Coordination - Section 13.1. Dental Insurance**

Union Position: status quo

Management Position: Members of the same family employed by the Kent County Road Commission must coordinate dental insurance benefits.

There is no coordination benefit under the current provision.

The Union's position is status quo. The Management's position is that members of the same family employed by the Kent County Road Commission must coordinate dental insurance benefits.

It appears that the agreement provides for coordination under the terms of 13.9 (b), Group Insurance, Blue Cross/Blue Shield where the provision states:

. . . Married employees shall be limited to coverage under one (1) insurance policy. . . .

Recommendation:

Management's position be adopted. Position of Management is reasonable and there is no valid argument to the contrary.

**(d) Maximum Premium for Dental Insurance - Section 13.10. Dental Insurance**

The parties' Collective Bargaining Agreement provides that the latest Employer contribution effective July 1, 1999 shall be \$40.00.

Union Position:

<u>For Year</u>	<u>Amount Per Month</u>
2000	\$40.00
2001	\$44.00
2002	\$50.00
2003	\$52.00
2004	\$55.00

Management Position:

<u>For Year</u>	<u>Amount Per Month</u>
2000	\$40.00
2001	\$42.00
2002	\$43.00
2003	\$44.00
2004	\$45.00

Recommendation: That Management's position be adopted. This is the maximum monthly dental insurance premium contribution by the Employer. It still reflects a showing of dental premium shared costs. No specific comparable data other than Union Ex. 1.4 is received. This is a modest increase over the contract term but it should be considered with the total package recommendation.

### **ISSUE 3. RETIREE HEALTH INSURANCE**

**Current:**

There is no current benefit provision other than terms of Section 13.9(b) which provides in relevant part:

Employees who retire will be offered the opportunity to purchase hospitalization insurance under the Commission's health care program, upon the condition that the retiree assumes the cost and pays in advance the required cost.

**Union Position:**

Future retirees to receive Employer provided health insurance. Program to match program provided to management employees.

**Management Position:**

Future retirees with 25 years of service at age 60 will receive Employer contribution of \$100.00 per month up to age 65. Condition upon discontinuance of longevity benefits and sick pay revisions.

Recommendation: The Union position should be adopted effective January 1, 2002.

Examination of comparables indicate support for the Union position, but most importantly the internal supervisory comparable suggests that it is time that all Kent County Road Commission employees be treated the same. Health care

needs of unit members do not end when the member retires. A perusal of Union Exhibit 15, Salary, Wage and Benefit Reports prepared by the County Road Association of Michigan (2000), as well as Employer Exhibit 23 indicates that Allegan, Kalamazoo, Muskegon and Ottawa Counties provide health care benefits for retirees only, whereas Barry, Ionia, and Newaygo provide for both the retiree and dependents. Only Montcalm has a similar provision to Kent County. An important comparable, the internal comparable of supervisory and management employees as outlined in Union Exhibit 16 - a CRC resolution which was adopted and approved in November of 1988, provides the basis for health care insurance for retired supervisory employees. It was effective January 1, 1989 - 12 years ago. The supervisors, according to the terms of the resolution, forfeited "service pay" (longevity), and other pay as a quid pro quo. The latter in itself is an unusual provision. No other comparable gave up these benefits, but the Union has indicated that it is willing to do so. See Union Brief, p. 7. In any event, the majority of the comparables do support significant change from the current practice which requires retired employees to pay their own health care. The reason the fact finder is swayed by the Union's position is simple. Health care is a basic benefit that has been provided to management employees for over ten years. There is no real justification to treat subordinate employees differently. The medical needs of retired unit members are surely no different. One could argue several medical-economic reasons, but there should be no distinction. Regardless, I have adopted the position of the Union as in the judgment of the fact-finder, it more nearly complies with the

comparable data and certainly, and most importantly, the internal comparable - the supervisory and management employees of the Road Commission.

#### **ISSUE 4. EMPLOYER CONTRIBUTIONS TO 401-K**

The current provision states:

##### Section 13.12. Pension Plan

The Commission has approved a savings plan under Section 401 of the Internal Revenue Code. A majority of the bargaining unit employees have approved this plan and in a determination as a qualified plan, has been requested from the Internal Revenue Service. This savings plan will become effective on the first day of the month following determination by I.R.S. as a qualified plan and will replace all existing pension plans.

Union Position:

The Employer contribute 7% of the employee's compensation.

Management Position:

The Employer contribute 6% of the employee's compensation.

##### Recommendation:

Management's position be adopted. The Employer contribution to remain at six (6%) percent.

The position recommended more nearly complies with the comparable data and, as with any particular issue, the increased cost of modification must be considered in light of the total package recommended.

**ISSUE 5. SICK PAY REVISION - SECTION 8.7(B)**

**Union Position:**

Maintain current benefit.

**Management Position:**

Beginning 6/1/01, all non-probationary employees shall receive three (3) paid personal days and earn additional days at the rate of one (1) personal day for each two (2) days of paid sick leave earned to be used in the next calendar year. Discontinue Section 1. Sick Days. All paid sick days shall be earned at the rate of one (1) hour for each .0231 straight time hours worked. Personal days not used shall be paid off at the end of the contract year.

**Recommendation:**

The provision should remain status quo. If the parties do successfully negotiate retiree health care, it is the fact-finder's understanding that there would be some modification to the application of sick leave benefits. That obviously should be taken into account in light of this recommendation.

**ISSUE 6. LETTER OF UNDERSTANDING - SECTION 13.5. DRUG AND ALCOHOL TESTING**

**Union Position:**

Status quo.

**Management Position:**

Seeks a letter of understanding that drug related violation is just cause for discharge under Section 13.5.

**Recommendation:**

Status quo. Section 13.5 contains a comprehensive drug and alcohol testing provision that requires compliance with the policy as a condition of employment.

The Employer strictly prohibits the unauthorized use or possession, sale, or distribution of drugs and/or alcohol by its employees on its premises during work time. There is an affirmative statement that "violation of this policy will result in discipline up to and including discharge." In addition, there is a document that has been submitted by both parties as an exhibit, a letter dated March 2, 1998 addressed to Mr. Fred Bennett, Teamsters Local 214, regarding clarification of discipline for drug rule violations. In that letter, Mr. John Rice, Managing Director of the Road Commission, indicates that employees will be subject to immediate discharge for a first violation of the drug regulation rules. It appears that there is more than sufficient policy for such regulation. Therefore, there is no immediate need for a letter of understanding.

#### **ISSUE 7.      DISABILITY - LEAVE OF ABSENCE**

Covered by Section 8.7(A) provides in relevant part:

Sick leave shall be granted to employees with seniority upon application, subject to the Road Commission's right to require medical proof. An employee may be on sick leave for a period of not more than eighteen (18) months. The Road Commission may request, as a condition of continuance of any sick leave, proof of continuing disability.

Union Position:      \*

Retain current provision.

Management Position:

Modify Section 8.7 to provide that an employee diagnosed by a physician as permanently, medically unfit to return to work shall not be eligible to receive an eighteen (18) month leave of absence.



### Recommendation:

Status quo remain. No illustrative examples are urged to indicate a need or problem situations that dictate the necessity for such a modification of the provision. The Road Commission has the right, as a condition of continuance of any sick leave, to require proof of continuing disability. If the disability is determined to be permanent, Management can take appropriate action. It appears that the argument of the Employer is more concerned with the possibility of paying health care insurance for an active employee when there is the prospect of that employee not immediately returning to work. While that could be troublesome, no examples were given to show the need for such a change in the current provision.

### **Duration:**

As indicated earlier, there was a dispute as to contract term/duration. That has been resolved in the Employer's favor. Likewise, there may be an issue with regard to the effective date of contract provisions. As indicated, the effective date of the wages are self-explanatory, the health insurance change of co-pay is again self-explanatory being effective in certain contract years. The M.D. co-pay requirement would be effective January 1, 2002. Coordination of benefits should be effective whenever it may be administratively determined, but not retroactively applied. The maximum dental cost is effective during the contract years as set forth.

Retiree health care provision should become effective January, 2002.

## SUMMARY

### Issue 1:      **Wages, Section 12.1 and Appendix A**

<u>Year</u>	<u>Amount of Increase</u>
2000	\$0.45/hr
2001	\$0.45/hr
2002	\$0.50/hr
2003	\$0.55/hr
2004	\$0.55/hr

### Issue 2:      **Group Insurance, Section 14.9(b) Health Insurance**

#### **(a) Prescription Rider Co-Pay**

2000	Status Quo
2001	Status Quo
2002	Status Quo
2003	\$10.00 Generic and \$20.00 Name Brand
2004	\$10.00 Generic and \$20.00 Name Brand

#### **(b) M.D. Visit Co-Pay**

Management proposal is recommended. \$10.00 visit co-payment and retain Blue Cross/Blue Shield 80/20 coverage.

#### **(c) Family Coordination - Section 13.1 Dental Insurance**

Management's position: Members of the same family employed by the Kent County Road Commission must coordinate dental insurance benefits.

#### **(d) Maximum Premium for Dental Insurance - Section 13.10 Dental Insurance.**

Management's position:

<u>For Year</u>	<u>Amount Per Month</u>
2000	\$40.00
2001	\$42.00
2002	\$43.00
2003	\$44.00
2004	\$45.00

**Issue 3: Retiree Health Insurance**

The Union position should be adopted effective January 1, 2002:  
Future retirees to receive Employer provided health insurance.  
Program to match program provided to management employees.

**Issue 4: Employer Contributions to 401-K**

Management's position: The Employer contribution to  
remain at six (6%) percent.

**Issue 5: Sick Pay Revision - Section 8.7(B)**

The provision should remain status quo.

**Issue 6: Letter of Understanding - Section 13.5  
Drug and Alcohol Testing**

The provision should remain status quo.

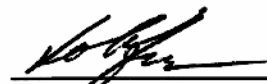
**Issue 7: Disability - Leave of Absence**

The provision should remain status quo.

**Duration:** Management position: 5 year contract.

Hopefully the above recommendation will assist the parties in arriving at a  
new collectively bargained agreement.

Respectfully submitted,



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John A. Lyons, Fact Finder

Dated: August 2, 2001