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MICHIGAN DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

MUSKEGON COUNTY
ROAD COMMISSION,

EMPLOYER,

-&-

CASE No. *L00 A-7005

FACT FINDER: DR. DANIEL KRUGER

TEAMSTERS STATE, COUNTY & MUNICIPAL
WORKERS LOCAL #214,

UNION.

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FINDINGS OF FACT RECOMMENDATION

The undersigned was appointed by the Michigan Employment Relations Commission (MERC) as the Fact Finder in these proceedings by way of letter dated June 27, 2000. On August 25, 2000, a Pre-Hearing Conference was held at the Lansing offices of the MERC.

The Fact Finder recommended the parties continue their bargaining talks in an effort to reach a voluntary settlement and outlined various areas to focus on in his letter to the parties dated August 29, 2000.

For one reason or another, the Employer and Union were unable to reach agreement and on November 7, 2000, the Fact Finder offered various dates for fact finding

proceedings. On November 9, 2000, I established January 4 and 5, 2001, as the hearing dates and set the hearing location at the MERC offices in Lansing, Michigan. I directed the parties to provide the Fact Finder with various information prior to hearing and to attempt to agree on comparables and the unresolved issues.

Fact finding was convened on January 4, 2001, as scheduled. Each party was represented by counsel. Michael Fayette, Esq., represented the Union, and Michael R. Kluck, Esq., represented the Employer.

During the proceedings the parties provided the Fact Finder with several exhibits, a list of which will not be incorporated herein. These exhibits provided valuable information to the Fact Finder upon which he could base his recommendation to the parties. In addition, the Fact Finder met with the representatives of the parties and discerned the issues in dispute and their respective positions.

Below is the Fact Finder's recommendation as to each issue. It should be noted that except for the issues referred to in this report, the Fact Finder recommends that the Tentative Agreements reached by the parties prior to fact finding be incorporated into any final agreement.

ISSUE 1

WAGES

The Fact Finder has reviewed the evidence and arguments and recommends the following wage adjustments:

Effective the first full payroll period after the indicated dates, the following wage increases will be implemented:

7/1/1999	3%
7/1/2000	2%
1/1/2001	1%

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7/1/2001	2%
1/1/2002	1%
7/1/2002	2%
1/1/2003	1%

The percentage increases effective the first full payroll period after 7/1/1999 and 7/1/2000 will be applied against base wages only.

The percentage increases effective the first full payroll period after 1/1/2001 will be applicable to all hours worked or compensated including overtime worked.

The Fact Finder recommends a contract duration to commence when the new agreement is signed through JUNE 30, 2003.

Only employees on the Employer's active payroll when the contract is ratified by both parties will be eligible to receive any retroactive pay.

ISSUE 2

HEAVY EQUIPMENT OPERATOR TRAINING

The Fact Finder determines that the parties resolved this issue in a Letter of Understanding signed on April 20, 2000. The Employer, at great expense, relied on this resolution and implemented the agreement. The terms and conditions of the Letter of Understanding are contained in Exhibit #13 of the Employer which is attached to this Recommendation.

The Fact Finder learned during the course of the proceedings that the Union desired to have someone from the pool of newly trained Heavy Equipment Operators regularly fill the position of a bargaining unit employee, Mr. Brower, while Mr. Brower remains absent on leave. The Fact Finder agrees with the Employer that it has not agreed to any set

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number of Heavy Equipment Operator positions to be filled at any time. The Fact Finder has been informed that the Employer, in the exercise of its discretion, may appoint a pool operator to fill in while Mr. Brower remains absent. The Fact Finder encourages this approach but, based upon his earlier determination, does not make a recommendation in respect thereto.

ISSUE 3

FLEXIBLE SPENDING ACCOUNT

The earlier settlements of the parties included proposed increases in the Flexible Spending Accounts: provision contained in Article 34, Insurance, Section 2. The Union has sought further improvement from these earlier settlements based upon its analysis of the evidence surrounding the relative current cost of health care coverage and the money available in the Flexible Spending Account and Benefit Dollar Allocation Account (Article 34, Sections 1 & 2). The Union sought a \$1,200.00 increase over the life of the contract. The Fact Finder, on the basis of the evidence and arguments before him, recommends the Flexible Spending Accounts be modified as follows:

7/1/1999 to 6/30/2000	No Change
7/1/2000 to 6/30/2001	\$300 Increase
7/1/2001 to 6/30/2002	\$200 Increase
7/1/2002 to 6/30/2003	\$300 Increase

The Union's request goes too far too fast, given the comparables and the parties' history. The above recommendation represents \$275.00 per person more over the life of the Agreement than the Employer was willing to offer. This increase is significant and the Fact Finder believes it is balanced by the recommendations made earlier concerning wages and retroactivity.

ISSUE 4

REORGANIZATION OF CLASSIFICATIONS

The Union, during the proceedings, clarified with the Fact Finder its concern over the Employer's proposed elimination of the Common Laborer classification. The Union desired to retain this position in the contract so that in the event a bargaining unit employee lost his/her CDL, they would have a position to go to. The Employer countered that there are no employees in this classification, that all employees are required to have CDLs and be able to drive, and that loss of license issues have been dealt with on a case-by-case basis.

The Fact Finder recommends that the Common Laborer classification be retained in the contract. This is not to say that the Employer must fill the position or that it would be compelled to offer such a position to a worker who loses his or her driving privileges or for some other reason is unable to drive. The Employer's handling of such issues on a case-by-case basis is deemed reasonable by the Fact Finder.

The Employer has sought to rename the Hydraulic/Welder Repairman, Mechanic and Welder Classifications to "*Equipment Repairman*." These combined classifications would receive the Hydraulic/Welder Repairman rate of pay and would perform work as assigned. Personnel in the Equipment Repairman classification would not be allowed to bid to any other classification and the position would be deemed frozen. The Employer's arguments concerning these changes are persuasive based upon the efficiencies achieved. The Fact Finder recommends that the Equipment Repairman position be adopted effective after the contract is signed, that the position be deemed frozen for bid purposes.

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ISSUE 5
GRIEVANCES

The Union noted that there were "*grievances*" that have arisen during the course of bargaining based upon the discipline of various bargaining unit personnel. The Employer correctly noted that such "*grievances*" were not listed in the Petition for Fact Finding, nor did the parties agree during bargaining that certain grievances would remain table issues for resolution. On the basis of the record before the Fact Finder, he concludes that he has no jurisdiction over any grievances and, accordingly, no recommendation is rendered in regard thereto.

Dated: Jan 6, 2001

FACT FINDER:
BY: Daniel Kruger
DR. DANIEL KRUGER

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