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**In the Matter of Statutory Fact-Finding between:**

**CHARLEVOIX COUNTY ROAD COMMISSION,  
Employer,**

**Case No. L06 J-3017**

**-and-**

**Fact-finder Ben Kerner**

**TEAMSTERS LOCAL 214,  
Union.**

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**Appearances:**

**For the Employer:           Michael R. Kluck  
  Michael R. Kluck & Associates**

**For the Union:                Michael L. Fayette  
  Pinsky, Smith, Fayette, & Kennedy, LLP**

**FACT-FINDER'S PRELIMINARY RECOMMENDATION  
(COMPARABLE EMPLOYERS)**

**BACKGROUND.**

This fact-finding matter was initiated by the Union's filing of a petition dated January 23, 2006, in which it identified the issues of wages and health and dental insurance as issues in dispute between the parties. The Employer filed a response on April 2, 2007. On March 9, 2007, I was appointed as the Fact-finder by the Michigan Employment Relations Commission under its authority under the Labor Mediation Act, Section 25, MCL 423.25, by which the Commission is authorized to appoint agents to find the facts of a labor dispute and make them publicly known, in an effort to obtain settlement.

From the pre-hearing conference held on April 4, 2007, it appeared that the parties had rather different ideas of which communities could be considered

as comparable to the Charlevoix County Road Commission. As one of my first duties, I invited the parties to determine a way to narrow these differences. The parties agreed to submit exhibits and briefs on the subject of which communities composed a proper universe of comparable employers to examine, in regard to their bargaining units, and the wages, hours, terms and conditions of employment applicable to employees in their bargaining units.

The Employer has responded by a detailed examination of 7 initially-union proposed employers, those being Antrim County Road Commission, Cheboygan, Emmet, Grand Traverse, Kalkaska, Leelanau, and Otsego Road Commissions. In its brief and supporting exhibits, the Employer reviews the comparative populations; size of the bargaining units; source of revenues; extent of Michigan Transportation Fund (MTF) revenues; and, road mileage. The Employer concluded that none of the proposed comparables were really sufficiently like Charlevoix County to be useful in comparisons for collective bargaining purposes. In its rebuttal brief, however, the Employer urges possible acceptance of Kalkaska and Leelanau County Road Commissions as closer to Charlevoix in MTF revenues than any of the others.

The Union responded by fine-tuning its list of comparables to the 4 counties contiguous with Charlevoix County, those being Antrim, Cheboygan, Emmet, and Otsego. The Union argued that the relevant factors are population size, MTF funding level, and geographical proximity. In regard to bargaining unit size, the Union says that "without additional information, [it] is very difficult to use as a comparable." [U. Brief, p.2] It cites the variation in duties from one road commis-

sion to another, some taking on park maintenance, where others do not. In addition, the Union claims that the factor of road mileage, without more, is problematic. That is, according to the Union, because there is no breakdown of how many miles are served under M.D.O.T. maintenance contracts, which are, apparently, not part of the MTF funding.

The Union also placed in evidence the Report and Recommendations of Fact-finder William E. Long, a proceeding between these same parties in 2004. Reference will be made to it, where his findings or his reasoning appear to have relevance to today's situation.

## FINDINGS.

The four comparables asserted by the Union are appropriate comparables, on the basis of several factors. First, they are all funded, as are the entire sample of county road commissions here considered, to the extent of approximately 2/3<sup>rd</sup> of their budgets by the MTF. [Finding of Fact-finder Long at p. 5]. The variation in the MTF of the asserted 7 communities in Mr. Long's case was in the range of 20%. The Fact-finder ruled that, "Plus or minus 20% or 21% is not a significant difference, particularly when considering the MTF revenue is not a county's total annual revenue." [Fact-finder Long's Report, p. 5.] I agree with that assessment.

In the current situation, based on the 2006 M.D.O.T. Annual Report, the comparison of MTF revenues at the proposed counties compared to Charlevoix County is from 110% of Charlevoix MTF revenues (Antrim County) to 120%

(Cheboygan and Otsego Counties). These differences, though not insignificant, must be considered within the "range of reason" for purposes of determining comparability.

Similarly, with regard to the factor of population, the counties range as follows:

	<u>Est. 2005 Pop.</u>
<b>Charlevoix</b>	<b>26,722</b>
Antrim	24,422 (91.4)
Cheboygan	27,463 (102.8%)
Emmet	33,580 (125.7)
Otsego	24,665 (92.3%)

This shows that the subject community, Charlevoix County, is the median in terms of population size of the group of 5 communities including the Union-proposed group of 4 here-considered. In addition, the range of dispersal among the 4 Union-proposed communities is not great: from 125% to 91%.

The other county road commissions originally proposed by the Union present some difficulties (with the exception of Kalkaska). Grand Traverse is much bigger in relevant measures than Charlevoix. Grand Traverse contains the regional hub of Traverse City, and has a population size of 83,971 [314% higher]. Its funding from the MTF is \$6,992,933, compared to Charlevoix's \$3,142,434 [225% higher].

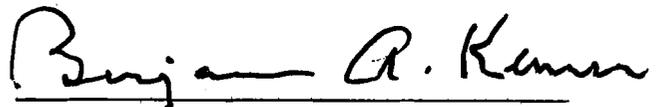
Leelanau is smaller, both in population and funding from MTF. The problem, however, with Leelanau, is that it is sufficiently far away from the base of Charlevoix Road Commission operations at Boyne City, to present the picture of

a different labor market. It would be unlikely that individuals resident in the Leelanau Peninsula would drive the 57 miles from Traverse City to Boyne City plus the mileage from their homes to Traverse City in order to attend work.

Kalkaska has MTF revenues very similar to Charlevoix, \$3,293,569 compared to Charlevoix's \$3,142,434 [105% of Charlevoix's] and a population which is somewhat smaller, 16,571 compared to Charlevoix's 26,090 [63.5%]. The City of Kalkaska is only 40 miles distant from Boyne City, a reasonable commuting distance. It seems appropriate to include Kalkaska County Road Commission as a comparable Employer in these proceedings.

## CONCLUSION

Thus, we have the following employers as appropriate comparables for this proceeding: Antrim, Cheboygan, Emmet, Kalkaska, and Otsego County Road Commissions. Features of the relevant collective bargaining agreements and characteristics of the wages, terms and conditions of employment for the employees of these road commissions will be considered presumptively relevant to this fact-finding proceeding, if presented by one or the other party.



Benjamin A. Kerner  
Fact-finder

Dated: June 13, 2007  
Detroit, Michigan