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IN THE MATTER OF FACT-FINDING UNDER ACT 176
PUBLIC ACTS OF 1939 AS AMENDED

ALPENA COUNTY ROAD COMMISSION,

MERC Case No. L 85 1806-B

Employer

-and-

UNITED STEELWORKERS OF AMERICA,
LOCAL 139,

Labor Organization

Appearances:

Alpena County Road Commission -

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United Steelworkers of America,
Local 139 -

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Alpena County Road Commission

On June 16, 1986, a Petition for FACT FINDING, pursuant to the provisions of MCLA 423.25, was submitted by Alpena County Road Commission with regard to their negotiations with Local 139 of the United Steelworkers of America. The petitioning employer, hereinafter (COMMISSION) or (EMPLOYER) sought "fact finding" as it believed that "the publication of the facts and recommendations would assist in reaching a labor agreement..." The employees, represented by Local 139 of the United Steelworkers of America, hereinafter (UNION) or (EMPLOYEES), include laborers, equipment operators, mechanics and custodial classifications, number approximately 32. The parties seek resolution of a three (3) year labor agreement, commencing November 1, 1985, terminating October 31, 1988. Retroactivity on disputed economic issues is not in dispute.

On October 7, 1986, the undersigned was appointed to act as "FACT FINDER" by the Michigan Employment Relations Commission. After several telephone conferences with the parties, the fact finding hearing was scheduled and was held on December 1, 1986. At the hearing, the parties were given the opportunity to present testimony, exhibits and all relevant evidence to support their respective positions.

At the conclusion of the hearing on December 1, 1986, there were several evidentiary questions left unresolved, so each party was given the opportunity to present additional information. With the concurrence of all parties, the record remained open until December 26, 1986, during which time either party could mail additional evidence directly to my office with copy to the

other party. In the event either party desired to reconvene the hearing based upon the submission of the additional mailed-in evidence, they were able to do so. Both parties submitted additional materials to my office after the hearing, but neither party requested that the hearing reconvene.

Accordingly, the recommendations provided in this report are based upon the record as of its closing on December 26, 1986.

ISSUES

As outlined in the Fact Finding Petition of June 16, 1986, and as addressed at the December 1, 1986 hearing, testimony and evidence was submitted on the following issues:

1. Wages
2. Health Insurance
3. Temporary Vacancies
4. Temporary But Permanent Position
5. Sick Leave
6. Staggered Step-Increase Scale For New Hires
7. Shift Premium
8. Marking of Road Hazards
9. Pay for Excess Sick Leave Accumulation
10. Coveralls
11. Commission Use of Subsidized Labor
12. Rate For Recalled Employee

Neither party desired to submit final briefs. Instead, the parties are relying upon the testimony, exhibits and written summaries submitted through the course of the proceedings.

BACKGROUND

A. Comparison Data:

There are 83 county road commissions in Michigan. By law, each county road commission is required to submit an audited Annual Financial Report to the Michigan Department of Transportation. Included in that report are the cost of labor and fringe benefits which are reported in uniform fashion in accordance with Michigan Department of Transportation instructions. This data which in part expresses "cost of fringes" as a percentage of total labor has been utilized by the County Road Association of Michigan in its Summary of Employee Contract Provisions to outline relative costs among counties (Employer 4, Employer Amended 4, Fringe Benefits, Supplemental Information).

There are 21 county road commissions (including Alpena) in the northern lower peninsula. Although the UNION took the position that comparison with other county road commissions has not been part of the traditional collective bargaining process with this EMPLOYER, it was agreed that the 21 northern lower peninsula counties were appropriate if one was to examine comparisons. Further, the "heavy truck driver" classification (named "Drug Truck" in Alpena) was also agreed to be the relevant overall classification for comparison purposes. In this regard, the comparison data submitted on the record, with concurrence of both parties, dealt with the heavy truck driver classification in

the 21 counties in the northern lower peninsula. The information submitted in this regard for 1985 was as follows:

<u>COUNTY</u>	<u>FRINGE % OF TOTAL LABOR</u>	<u>HOURLY WAGE</u>	<u>FRINGE COST/HR.</u>	<u>TOTAL LABOR COST/HR.</u>
ALPENA	63.2%	\$8.80	\$5.56	\$14.36
ALCONA	53.0	9.70	5.14	14.84
ANTRIM	46.0	8.20	3.77	11.97
BENZIE	40.3	8.90	3.59	12.49
CHARLEVOIX	43.0	7.91	3.40	11.31
CHEBOYGAN	63.6	8.00	5.09	13.09
CRAWFORD	40.1	8.43	3.38	11.81
EMMET	51.6	8.16	4.21	12.37
GRAND TRAVERSE	54.0	9.08	4.90	13.98
IOSCO	45.0	9.21	4.14	13.35
KALKASKA	54.5	9.10	4.96	14.06
LEELANAU	43.7	8.47	3.70	12.17
MANISTEE	47.5	8.69	4.13	12.82
MISSAUKEE	67.0	8.86	5.96	14.80
MONTMORENCY	50.0	9.14	4.57	13.71
OGEMAW	57.0	9.05	5.16	14.21
OSCODA	52.0	7.90	4.11	12.01
OTSEGO	53.0	8.26	4.38	12.64
PRESQUE ISLE	52.0	8.25	4.29	12.54
ROSCOMMON	52.6	8.35	4.39	12.74
WEXFORD	49.8	8.65	4.31	12.96
High*	67.0%	\$9.70	\$5.94	\$14.84
Low*	40.1	7.90	3.38	11.31
Average*	50.8	8.62	4.38	12.99

*Excluding Alpena

B. Ability To Pay:

Both parties placed great emphasis on the ability to pay argument. County Road Commission revenues primarily come from three sources, the Michigan Transportation Fund, Federal Revenues and local contributions. Both parties submitted a variety of exhibits outlining current and prior revenues received by the COMMISSION.

The UNION argues that the COMMISSION has received increased operating revenue from the Michigan Transportation Fund in the amount of \$498,980.00 for the 1982-1985 period. It has submitted the Michigan Transportation Fund Annual Reports for 1982 through 1985 (Union 12). According to these UNION exhibits, the COMMISSION received the following State Trunk Line Fund increases:

		<u>Increase of:</u>	<u>% Increase:</u>
<u>1982</u>	to <u>1983</u>		
\$1,157,060.00	to \$1,235,844.00	\$78,784.00	6.9%
<u>1983</u>	to <u>1984</u>		
\$1,235,844.00	to \$1,525,719.83	\$289,875.32	19%
<u>1984</u>	to <u>1985</u>		
\$1,525,719.83	to \$1,656,041.58	<u>\$130,321.75</u>	<u>12.7%</u>
		\$498,980.00	38.6%

In addition, the UNION traced reductions in COMMISSION Pension Fund contributions which were caused by an accelerated funding credit (Union 16). These reductions for the 1982-1985 period amount to \$69,752.00. These reductions will continue for 1986 and for at least two more years.

The UNION asserts the Alpena County Road Commission is "one of the richest in the State." In support of this argument, the Union points to a history of Certificates of Deposit from 1976 through October, 1986, which reveal deposits of \$151,728.00 to \$586,000.00 (Union Supplemental Information, December 9, 1986); specifically, \$580,000.00 Certificate of Deposit in May, 1986 (Union 18).

The COMMISSION exhibits on "ability to pay" examine overall revenues and expenditures. Employer 1 analyzed a ten year period of 1976 - 1986 (estimated) total income and revenues as follows:

ANALYSIS OF
ANNUAL INCOME VS. ANNUAL EXPENSE

<u>YEAR</u>	<u>TOTAL INCOME</u>	<u>TOTAL EXPENSE</u>	<u>INCOME OVER (UNDER) EXPENSE</u>
1976	\$ 3,807,287	\$ 2,706,611	\$1,100,676
1977	1,773,583	2,190,898	(417,315)
1978	2,091,913	2,340,752	(248,839)
1979	2,009,403	1,775,468	233,935
1980	2,080,235	2,214,450	(134,215)
1981	2,010,204	1,776,436	233,768
1982	2,238,286	2,167,206	71,080
1983	2,257,713	2,305,816	(48,103)
1984	3,120,096	3,125,811	(5,715)
1985	2,810,253	3,011,323	(201,070)
1986 (Est.)	<u>2,498,600</u>	<u>2,795,513</u>	<u>(296,913)</u>
	\$26,697,573	\$26,410,284	\$ 287,289

In addition, Employer 2 reviewed the ten-year history of ending calendar year fund balance, which in 1986 was estimated at \$377,149.00 or 13.5% of annual expenses. The COMMISSIONS' auditors, Stewart, Beauvais and Whipples, Certified Public Accountants, opined in its correspondence of October 31, 1986,

that a fund balance averaging 30% of annual expenditures is "reasonable" for road commissions (Employer 2).

In response, the UNION asserts that the significant expense increases have not come from increased labor costs. To the contrary, the increased expenses are primarily derived from excessive equipment purchases. UNION 17 outlines COMMISSION equipment purchases from 1983 to 1986. The COMMISSION does not dispute the purchases but maintains they are an "equipment intensive" operation for which prudent management dictates timely replacement. The EMPLOYER argues that prior years of inability to purchase equipment have caused unreasonable maintenance costs. More recently, money has been spent in capital outlay to catch up on equipment purchases which had been deferred.

The following reflects the COMMISSION's past 11 years of capital expenditures:

<u>YEAR</u>	<u>CAPITAL OUTLAY ROAD EQUIPMENT</u>	<u>AMOUNT</u>)
1976		\$ 75,723
1977		58,634
1978		106,915
1979		96,602
1980		134,471
1981		5,167
1982		-0-
1983		399,938
1984		185,926
1985		377,297
1986 (est.)		397,000

With respect to savings realized by the reduction in the COMMISSION's pension fund contributions, the EMPLOYER asserts

that it is a short-term phenomena that will cease as soon as the accumulated credits are used up. As of December 31, 1984, that accumulated credit was \$230,127.00

The EMPLOYER's position on "ability to pay" is not one of economic destitution. Rather, the COMMISSION cites a continuing trend of income not increasing as quickly as expenses and decreasing fund balance, with no significant increase in productivity. Total labor costs including fringes have required an increased percentage of Michigan Transportation Fund Income, if the current labor force is to be maintained under the Employer's Wage Proposal (Employer 3).

With respect to the UNION argument on the COMMISSION's Certificates of Deposit, the EMPLOYER asserts that it is not unusual for an entity having annual expenditures in excess of \$3,000,000.00 to have Certificates of Deposit at a given time. Such amounts do not represent undesignated fund balances, but are simply part of the annual operation revenues, as yet unspent.

C. RECENT AGREEMENTS

Consistent with the COMMISSION's position on comparables, the recent wage settlements for the 21 northern lower peninsula road commissions have been provided (Employer 5). Although they have different commencement dates, almost all comparable county road commissions have resolved their economic contracts for 1986. Wage settlements are as follows:

<u>COUNTY</u>	<u>% INCREASE</u>
ALCONA	2.5%
ANTRIM	3.6
BENZIE	9.0
CHARLEVOIX	3.7
CHEBOYGAN	5.8
CRAWFORD	3.3
EMMET	1.2
GRAND TRAVERSE	2.7
IOSCO	4.5
KALKASKA	4.5
LEELANAU	(Negotiations)
MANISTEE	3.8
MISSAUKEE	1.1
MONTMORENCY	1.3
OGEMAW	4.4
OSCODA	4.0
OTSEGO	2.7
PRESQUE ISLE	3.5
ROSCOMMON	5.0
WEXFORD	3.8
Average % Increase:	3.71%

In addition to recent road commission settlements, other area governmental units have also had 1986 wage settlements (Employer 6, Union 19):

<u>GOVERNMENT UNIT</u>	<u>% INCREASE</u>
ALPENA COUNTY	4.0%
ALPENA GENERAL HOSPITAL	2.8
PRESQUE ISLE COUNTY	2.8
ALPENA TOWNSHIP	3.4
CITY OF ALPENA	3.2
ALPENA PUBLIC SCHOOLS	5.0
Average % Increase:	3.5%

Pertinent 1986 private sector settlements also are of some impact (Employer 7):

<u>COMPANY</u>	<u>% INCREASE</u>
NATIONAL GYPSUM	1.8%
NATIONAL GYPSUM QUARRY	No increase
ABITIBI	No increase
BESSEN COMPANY	3.2
BAKER ENTERPRISES	<u>1.0</u>
Average % Increase:	2.0%

At the fact finding hearing of December 1, 1986, there was discussion regarding the precarious future of National Gypsum, the area's predominant employer. Since that time, a decision has been made to close the National Gypsum Huron Cement Mill, resulting in the loss of over 450 jobs in an area that already had 12.2% unemployment.

ISSUES

1. WAGES:

Employer Position:

11/1/85	3%
11/1/86	3%
11/1/87	3%

Union Position:

11/1/85	7%
11/1/86	6%
11/1/87	6%

The UNION's justification for its proposed wage increase primarily rests upon the "ability to pay" argument. The UNION views the Alpena County Road Commission as "one of the

richest in the State." Increased revenues from the Michigan Transportation Fund in 1982, 1983 and 1984, plus savings realized from reduced pension contributions, lead the UNION to conclude that its wage proposal is affordable. The UNION theory is that since Michigan Transportation Fund revenues increased an average of 12.9% each year from 1982 through 1985, they maintain the right to request wage increases of 7%, 6% and 6%.

The COMMISSION, on the other hand, takes a broader view. Total revenues and expenditures are taken into account for a ten year period. The trend reveals expenses increasing faster than income (Employer 1); and decreasing fund balance (Employer 2). Without lay-offs, labor and fringe expenses continue to take an increased percentage of Michigan Transportation Funds (Employer 2). The EMPLOYER has not argued "inability to pay", or that the UNION's proposal would cause it to cease operations. The EMPLOYER's position is that ability to pay is not the last or only consideration in making the appropriate determination on wages. There are other factors that must also be considered, such as costs for equipment and materials. There must be a certain amount of equipment and materials to keep each worker gainfully employed and to maintain proper operations. All expenses, not just labor, must be taken into account.

Comparatively, COMMISSION employees, as measured by the Heavy Truck Driver classification in the 21 northern lower peninsula counties, are above average for 1985. The 1985 average rate was \$8.62/hour, County employees receiving \$8.80/hour. There were 12 counties receiving lower rates and only eight

receiving higher rates. A 3% increase for 1986 will not change the EMPLOYEES' comparative status for 1986. According to Employer 5, average wage settlements for 1986 were 3.71%. A 3% wage increase is closer to the average 1986 settlement than the 7% or 6% proposed by the Union.

In addition, settlements by local government entities (Employer 6, Union 19) averaged 3.5%. Private sector settlements (Employer 7) averaged 2.0% for those companies that gave raises in 1986. One must also be mindful of the loss of the area's "bell weather" employer, National Gypsum, whose plant closing eliminated 450 jobs in an area already suffering 12.2% unemployment.

In view of the fact that Alpena County Road Commission employees will still receive above average pay and a 3% settlement is in line with settlements reached by other local private and public employers, I recommend that the EMPLOYER's position on wages, retroactive to November 1, 1985, be adopted. While the UNION may be correct that the EMPLOYER presently has the ability to pay the UNION's request, that alone does not justify the granting of the UNION's wage demand.

2. HEALTH INSURANCE:

Employer's Position:

A. Institute "prevent" program - precertification to verify necessary treatment.

B. Convert from MVF-2 to MVF-1, eliminating convalescent care, OPPC, pre and post natal care, ML rider.

C. Master Medical Benefits convert from Option IV to Option VI thus increasing deductible from \$50.00 to \$150.00.

D. Prescription Drug Co-Pay, increase co-pay from \$2.00 to \$3.00.

E. Eliminate policy wide, dependent and medicare complimentary coverage, individuals to pay for dependent coverage and medicare complimentary coverage where needed.

Union Position:

(A - E) No change.

(F) At age 62 - provide retiree hospitalization coverage -- 50% to be paid by COMMISSION.

The COMMISSION has proposed a series of changes in health and hospitalization coverages to address the issue of escalating rate costs. The EMPLOYER argues that these changes would reduce the health insurance costs to more manageable levels and address the broader issue of the more conservative utilization of medical services.

Over the past three (3) years, monthly insurance rates for the current Blue Cross Blue Shield policy for family coverage were as follows:

1984 - \$198.49

1985 - \$191.42

1986 - \$212.15

The EMPLOYER has provided supplemental information in its survey of Northern Michigan Road Commission's on the health insurance issue. This survey demonstrates that at \$212.15 per month for family coverage, health insurance costs incurred by the COMMISSION are not out of line with costs paid by other Northern Michigan Road Commissions. Average monthly costs for family medical hospitalization insurance among those communities providing figures in the COMMISSION survey, is \$191.62. The survey does not outline the level of coverage provided nor does it indicate if any of the changes suggested by the COMMISSION are in effect for any of these road commissions. Since there has been no showing that neither the costs nor the coverage currently provided by the COMMISSION is either unaffordable or out of line with benefits provided by other road commissions, I am persuaded that the current hospital medical coverage should remain in effect for active employees.

The one exception would be adoption of the "Prevent" now termed "Predetermination," program which has only recently become available. As explained, "Predetermination" would not reduce benefits but would simply require the employees' doctor to request approval for all elective, non-emergency inpatient admissions at participating Michigan hospitals. This program derived in conjunction with the UAW, has apparently been adopted by several other road commissions, (Iosco, Leelanau, Montmorency, Oscoda) with no report of adverse affect. Accordingly, I would

recommend its adoption as a means of containing health care costs without reducing health care benefits.

With respect to the UNION's proposal on the EMPLOYER pay one-half (1/2) the cost of retirees at age 62, hospital and medical insurance premiums, I am persuaded that this change ought to be adopted. As I understand the proposal, the premium would relate to the retiree only and then only between the ages of 62 and 65. According to the survey provided by the EMPLOYER, nine of the twenty one comparison communities currently provide 100% coverage to the retiree. The UNION requests only 50% coverage for the retiree only. This certainly would assist retirees against increased costs from cuts in Medicare assistance. The EMPLOYER's cost would not immediately amount to .2% of hourly wages as not all employees would realize this benefit at the same time.

3. TEMPORARY VACANCIES:

Employer Position

ARTICLE V, B, 2(b).

Current language:

"(b) Temporary job vacancies that cannot be filled within the classification shall be filled by other employees in accordance with seniority, provided they so desire and have the ability to perform the work and duties of the job. If no one

desires the vacancy, it can be filled by the least senior employee who has the ability to do the work."

Proposed language:

"(b) Temporary job vacancies that cannot be filled within the classification shall be filled by other employees in accordance with seniority, provided they so desire and have the ability to perform the work and duties of the job. Management shall have the right to require that an employee remain on his regular job or return to his regular job for the convenience of the Road Commission. If no one desires the vacancy, it can be filled by the least senior employee who has the ability to do the work."

ARTICLE V, B, 3

Current language:

"3. Employees temporarily assigned to a lower paid job shall receive their regular rate of pay."

Proposed language:

"3. a. Employees who exercise seniority to secure assignment and are temporarily assigned to a lower paid job shall receive the rate of the lower paid job for hours worked in the lower paid job."

b. Employees who have not exercised seniority but are temporarily assigned by the Road Commission to a lower paid job shall receive their regular rate of pay."

UNION Position - No change.

The EMPLOYER seeks to change both the availability and rate of pay for employees who seek to work in temporary positions. Under the current contract, a temporary job vacancy may be filled by an employee having the ability to do the work in accordance with seniority. The EMPLOYER seeks to amend that procedure by reserving for itself the right to veto, "at its convenience" the filling of that job by a senior employee. As explained, the EMPLOYER may desire to prevent an employee from filling a temporary vacancy where that employee is needed in his regular job by the EMPLOYER. The UNION has argued that this situation has occurred only once and then a solution was able to be worked out between the parties.

In addition, the EMPLOYER seeks to pay the lower rate to an employee who exercises seniority to move into a lower paid temporary job. If, however, the EMPLOYER causes the employee to move into a lower paid job, the employee would receive his regular rate of pay. The EMPLOYER takes the position that it's inappropriate to allow a higher paid employee to exercise seniority in acquiring a lower paid temporary vacancy and to pay him at his higher rate of pay. The UNION on the other hand, feels that the EMPLOYER's position is stripping the contract of

an individual's seniority rights. Employees' seniority allows them to take on a temporary vacancy when perhaps there is no work available for the senior employee. By providing for lower pay, a right acquired by seniority is thereby lost.

Both parties have persuasive arguments. The UNION seeks to retain its seniority system and the EMPLOYER desires to fill jobs in accordance with its needs. I am persuaded that it would be appropriate to pay the seniority person the lower wage rate when temporarily filling a lower paid job that he has "voluntarily" requested that job and has exercised his seniority to obtain it. If the seniority person sought to fill a lower paid temporary assignment due to lack of work in his regular job, this would not be voluntary. If there was regular work available for that seniority person, and he sought to exercise his seniority to fill a lower paid temporary assignment, then the lower rate should be paid. This would have the effect of causing seniority people to remain on their jobs when work is available which would be consistent with the end sought by the EMPLOYER in its amendment to Article V, B, 2(b). I, therefore, recommend that Article V, B, 2(b) not be changed, but that Article V, B, 3(a), the EMPLOYER's proposal be adopted only in those cases where an employee "voluntarily" seeks to secure a lower paid temporary assignment where work in his regular job is available.

4. TEMPORARY BUT PERMANENT POSITIONS:

Employer Position

Amend contractual language to afford the COMMISSION the right not to award the filling of certain jobs to a person having a higher rate of pay than the posted classification.

Union Position

No Change.

There are certain jobs that the Road Commission, which although "permanent jobs" are filled temporarily because of seasonal obligations. In essence, an employee has both a permanent seasonal job and a regular permanent job. These jobs include the aggregate inspector, Weighman and Sealcoat crew. With a limited work force, the EMPLOYER seeks to secure the right to retain an employee in the higher rate of pay classification rather than to allow him to fill one of these temporary seasonal jobs. The UNION on the other hand seeks to maintain its job bidding procedures which follows the seniority concept without regard to the exception sought by the EMPLOYER.

Although the EMPLOYER's request for modification of seniority in the filling of these temporary seasonal jobs seems logical and would appear to be a prudent management practice, the COMMISSION has failed to produce any evidence of operational

hardship under the current language. The COMMISSION has failed to demonstrate that the current procedures have caused operational difficulties or prevented effective completion of work. There have been no examples cited which caused me to conclude that the principle of seniority should be modified. Moreover, there has been no comparative showing that the filling of these positions in the Alpena Road Commission are less restrictive in the comparable road commissions in the Northern Lower Peninsula. Accordingly, I recommend that the current language remain unchanged.

5. SICK LEAVE:

Employer Position:

Sick day pay be limited to 8 hours.

Union Position:

Use of sick day may produce 10 hours pay where the employee is working a 10 hour schedule.

Under the current contract, Article X A 1, employees accumulate one sick day for each month of service. Up to 4 sick days per year may be used as personal leave days. (Article X B) The normal work week is five/eight hour days, however, the COMMISSION has obtained the right to schedule a work week of four/ten hour days (4/10). During the 4/10 work week, employees have utilized their personal leave days and receive ten hours pay.

The EMPLOYER seeks to change this practice by limiting sick pay, even when used as personal leave in ten hour days, to eight hours.

At first glance, it would appear that employees can strategically schedule personal days to get an "extra" two hours pay. The UNION's position however, is that in negotiating the "4/10" schedule, this possibility was specifically recognized and agreed to by the EMPLOYER.

According to the UNION, unrebutted by the Employer, the 4/10 schedule was agreed upon in order to get additional construction work. In the give and take of bargaining the 1982-1985 agreement, the UNION cites a number of concessions "that they granted in order to accommodate the parties mutual interest in obtaining the 4/10 schedule. This included the temporary employ of operators outside the bargaining unit, employees reporting directly to the construction site, waiver of overtime equalization and elimination of lunch pay. At negotiations, the COMMISSION specifically recognized the receipt of ten hours pay for the use of a sick day during the 4/10 schedule.

I am persuaded that current procedure of paying ten hours sick time during the four ten schedule should be continued. The EMPLOYER has not contradicted the UNION's recollection of agreements reached on this issue in the 1982-85 negotiations. The practice of payment of the ten hours sick time during the previous contract, certainly sustains the UNION's position that there was an agreement. The EMPLOYER has not provided any change

of circumstances from the time it made its original agreement. Whatever justification the EMPLOYER now offers for its change in practice existed at the time that it made its agreement during the 1982-1985 contract. Accordingly, I would recommend that the status quo on the sick leave payment be maintained.

6. STAGGERED STEP - INCREASE WAGE SCALE FOR NEW HIRES:

Employer Position:

ARTICLE XII

Current language:

"A. The persons employed in the classifications set forth on the schedule (Schedule A) shall be paid the wages set forth therein during the term of this Agreement, except that new employees, during their probationary period, shall be paid ten (10) cents per hour less, except as provided in Section G of this Article."

Proposed language:

"A. The persons employed in the classifications set forth on Schedule A shall be paid the wages set forth therein during the term of this agreement except that new employees shall be hired out at a rate equivalent to \$1.50 per hour less than the rates shown

and shall receive an increase of \$.50 per hour every six (6) months until such employee attains the rate shown on the attached exhibit."

Union Position:

Change his rate for laborer classification only.

Under the current contract, there is a \$.10 per hour differential between new hires and employees that have completed their probationary period. After ninety (90) days, the expiration of the probationary period, employees receive a \$.10 raise and have thus reached the maximum pay scale of their classification. The EMPLOYER seeks to introduce a hire rate which is \$1.50 per hour less than the maximum rate, this lower rate would be followed by three six-month increments at \$.50 per hour would cause employees to reach maximum pay in eighteen (18) months.

The UNION has agreed to this schedule but only for the laborer classification, this covers one (1) position.

In a related issue, the UNION seeks to amend Article XII (G) relating to re-employment of a laid off employee within two years of layoff. Under the current contract, if a laid off seniority employee is re-employed within a two year period he is considered a new employee, but is paid the seniority rate. If a laid off employee is re-employed after two years, he will be paid the hire rate. The UNION seeks to eliminate this two year limitation and permit employees to return at the rate of pay

received at the time of layoff regardless of period of layoff. The UNION's proposal for modification of Section G becomes more significant in view of the EMPLOYER's proposals to lower the starting rates by \$1.50 per hour.

In reviewing the comparison data provided by the EMPLOYER for the starting rate schedules and increments in the 21 Northern Lower Peninsula Road Commissions, there does not appear to be any prevailing practice. None of the road commissions are currently as liberal as the COMMISSION in its step increase policy for new hires. Conversely, none of the road commissions would be as strict in their step increase/new hire increment policy as the COMMISSION in its proposal. Nevertheless, I believe the COMMISSION's proposal has merit and should be adopted. The COMMISSION's proposal would not affect any current employees and at the same time would provide an opportunity for containing costs while the COMMISSION attempts to increase its work force. There is merit in the COMMISSION's argument that an employee becomes more proficient with increased experience an 18 month employee should perform more effectively than a 90 day employee.

Likewise there is merit in the UNION's position that an employee should not be treated as a new hire in the event he is laid off more than two years. Therefore, I would recommend adoption of the UNION's proposal on recalled employees returning to the level in effect at the time of layoff, regardless of period of layoff. The EMPLOYER would still retain it right to determine if those employees will be recalled.

7. SHIFT PREMIUM:

Employer Position:

Eliminate the \$.18 per hour 8 p.m. to 8 a.m. shift premium.

Union Position

No change.

The EMPLOYER seeks to eliminate the \$.18 per hour evening shift premium mainly due to the mininum dollars spent on this benefit. According to the EMPLOYER's records, the total bargaining unit received only \$216.61 during the November '84 to December '85 period for shift premium.

The COMMISSION asserts that it is not able to handle the shift premium payments in its new computer program. The cost for calculating shift premium by hand according to the EMPLOYER exceeds the total benefit of paid shift premium.

The UNION's position is that it opposes any cuts in economics and this includes shift premium.

In the supplemental comparison data provided by the EMPLOYER, hourly shift premium is paid in six of the Northern Lower Peninsula Road Commissions. Four of these six road commissions, pay less shift premium than the COMMISSION. Keeping in mind the cost of wages and fringes presented by EMPLOYER 4 and

the wage package which has been recommended in this report, I do not believe there is justification for eliminating the shift premium, however insignificant the total amount paid each year. Shift premium serves a purpose of paying additional wages for those employees working inopportune times. Limitations of the occasions on which shift premium is paid should not justify elimination of the benefit. If the EMPLOYER finds that its cost in record keeping for shift premium does not justify the payments made, then perhaps an increase of a different benefit could be offered in exchange for elimination of the shift premium.

8. MARKING OF ROAD HAZARDS:

Employer Position:

Employer seeks to amend Article XX (H) to permit supervisors to place barricades and signs in addition to flags and holders to mark road hazards.

Union Position:

Retain status quo. Allow supervisors to mark road hazards with flags and holders -- utilize bargaining unit members in the event more is required.

During the course of negotiations, the COMMISSION sought to permit non-bargaining unit personnel to remove any road

obstacle that posed any danger to persons or property. This position has been dropped by the COMMISSION. At this point, the COMMISSION desires language to enable a supervisor to adequately mark a road hazard which included the use of signs and barricades. The COMMISSION does not seek to enable the supervisor to repair the hazard. If work is immediately needed to eliminate the hazard then a bargaining unit employee could be called out to correct the problem; supervisors would not do repair work.

In reviewing this issue, I recommend that the COMMISSION's position of permitting supervisors to put up barricades and signs be adopted. Public health and safety requires that all adequate means be immediately employed for the marking of a road hazard. The supervisor has the responsibility for determining whether employees should be immediately called to repair or correct the hazard. To mandate that a supervisor be limited in the means of marking a road hazard when bargaining unit employees are not present may be neither safe nor practical. Certainly a road commission could be found negligent in failing to adequately mark hazards which are known to be dangerous, this includes the use of barricades.

9. PAY FOR EXCESS SICK LEAVE ACCUMULATION:

Union Position:

Accumulated sick days in excess of 90 - 100% immediate payout.

Employer Position:

Accumulated sick days in excess of 90 - 50% payout.

The UNION proposes to increase the payout of accumulated sick days in excess of 90 to 100% of the rate of pay in effect at the time of payout. EMPLOYER seeks to retain the status quo and maintain payout of days in excess of 90 at 50%.

Comparison data provided by the EMPLOYER in its survey of Northern Lower Peninsula Road Commissions indicates that only one employer, Montmorency pays 100% of sick days earned in excess of the maximum accumulation. Five road commissions allow unlimited accumulation of sick days so payment of excess days is not in issue. Nevertheless of the five employers that permit unlimited accumulation of sick days, four of them provide only 50% payout upon retirement while the COMMISSION pays 100% of the 90 permissible days of sick leave accumulation. Five other employers provide for 50% payment for sick days in excess of the maximum accumulation in a similar fashion to the COMMISSION's current practice.

After examining the maximum accumulation, the payment for the excess amount and the payment of sick days on retirement, I am persuaded that the current practice as outlined in the parties' collective bargaining agreement should not be changed. Compared to other northern Michigan communities, these aspects of

the parties' sick leave payout plan compare favorably and there is no justification for change.

10. COVERALLS:

Union Position:

Coveralls be furnished and cleaned by the Road Commission for all bargaining unit employees.

Employer Position:

Coveralls are furnished for certain classifications only when duties may damage personal wear.

The UNION requests that the COMMISSION provide clean coveralls for all bargaining unit employees and not limit itself to certain classifications or specified situations. The UNION believes that "most jobs" at the COMMISSION will damage personal wearing clothes.

The EMPLOYER feels that the current collective bargaining agreement requiring it to provide coveralls for employees actually performing certain functions and such other duties that may damage personal wear is adequate. To require the COMMISSION to provide coveralls for all bargaining unit members would cause considerable expenditure both for the purchase of those coveralls and for their maintenance. The COMMISSION does

not desire to expand the responsibilities in providing coveralls especially where they have already provided them when employees engage in duties that may damage their personal wear. The COMMISSION asserts that only five of the 83 Michigan road commissions provide uniforms or coveralls to all employees and that two-thirds of them provide them to mechanics or shop people only. The UNION has not provided any comparison data to rebut the COMMISSION's statistics nor have they cited any specific instances where employees have damaged personal wear in the course of their employment due to a lack of Commission provided coveralls. If indeed there is a need to provide a benefit to employees due to damages caused to their personal clothing during the course of their duties, then a need for a clothing or cleaning allowance should be discussed. In the meantime, I recommend that the current practice for providing coveralls by the COMMISSION be maintained.

11. COMMISSION USE OF SUBSIDIZED LABOR:

Union Position:

In the event COMMISSION employees are laid off, the COMMISSION is barred from participating in any subsidized worker program irrespective of whether such workers are "COMMISSION" employees.

Employer Position:

Permit COMMISSION to participate subsidized employment programs even if road commission employees are laid off.

Under the current collective bargaining agreement, Article I (F), the COMMISSION is barred from hiring employees under temporary employment programs sponsored by Federal, State or Local Governments in the event any bargaining unit member is laid off. Moreover, the contract has provisions prohibiting the contracting out of work normally performed by bargaining unit employees at any time when employees are laid off. (Article XX (N))

The UNION contends that the above provisions are violated in the event the EMPLOYER utilizes persons employed by state or federal programs even when the laborer is not employed by the COMMISSION. From the UNION's view, it matters little that the employees are paid by another government entity when its bargaining unit members are laid off.

The COMMISSION contends that even if the contract barred it from participating in such programs, that funds would still not be available to rehire laid off employees. Further, the COMMISSION feels that it has an obligation to take advantage of what programs are available to meet its obligations to the public in the public road system.

Again, this is an issue where both parties maintain persuasive arguments. If the utilization of third-party paid programs like State of Michigan Youth Corp. is a violation of the

parties' collective bargaining agreement, Article XX (N), when employees are laid off then it would be a proper matter for the grievance procedure. The Michigan Youth Corp. has apparently participated in jobs normally performed by COMMISSION employees in recent years. Presumably, no road commission employees were laid off at that time, otherwise a grievance could have been filed by the UNION.

As I understand the purpose of these state or federally funded programs, they are to provide employment for persons to supplement the regular work force rather than replace it. Given a situation when employees are laid off, it would not appear to be consistent with the purpose of these programs to have program participants perform work normally done by bargaining unit members. From the UNION's point of view, it matters little whether the person performing their work is paid by the COMMISSION or not. The fact remains that their member is laid off and someone else is performing their work. Accordingly, I would recommend that the UNION's proposal barring the COMMISSION from "participating" (causing Program labor to perform bargaining unit work) in any subsidized program when bargaining unit members are laid off be adopted.

Respectfully submitted, .

By


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