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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

THE LIBRARY NETWORK **MERC CASE D10 G-0747**

-and-

MICHIGAN AFSCME COUNCIL 25
LOCAL 1659
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FACT FINDER'S REPORT

The collective bargaining agreement between the parties expired on September 30, 2010. The parties were able to negotiate several revisions to the expired contract, but even with the assistance of a MERC mediator they were not able to agree on all the terms of a new CBA. The Employer filed a Petition for Fact Finding on June 2, 2011. The undersigned was appointed Fact Finder by the Michigan Employment Relations Commission on August 1, 2011. A hearing was convened on October 24, 2011. The Union was represented by Kenneth J. Bailey, and the Employer was represented by Robert Nyovich. Following opening statements the parties and the Fact Finder determined that live testimony would not be necessary. The parties agreed to present their evidence and argument by way of briefs with accompanying exhibits. Both parties submitted briefs on December 9, 2011.

The Petition for Fact Finding filed by the Employer listed four issues: Article 10, Section 2 – Subcontracting; Article 21, Section 1 – Insurance Programs; Article 25, Section 1 – Furlough Days; and the Step & Wage Schedule. Subsequent to the filing of the Petition, the Michigan legislature passed and the Governor signed Public Act 152 of 2011 establishing the healthcare insurance premium contribution rate for public employees. The Employer then withdrew the issue of health insurance premiums from its petition.

Essentially, two issues remain: subcontracting and compensation.

Subcontracting

The current contract language at Article 10, Section 2 reads:

> The Union recognizes the right of the Employer to subcontract any work.
> Contracting or subcontracting shall not cause the demotion or layoff of bargaining unit employees.

The Employer has proposed removing the second sentence of that provision. The Union proposes retaining the current language. In support of its position the Employer argues:

> While the Employer has no immediate plan to subcontract services or functions currently provided by members of the bargaining unit, it believes such a prerogative is necessary in today's dire economy. (Employer Brief, p. 4).

In the Union's view:

> The current language remains an appropriate compromise between the parties' opposing desires: the Employer's desire for flexibility and the Union's equally strong desire for job security. (Union Brief, p. 8).

This is not a dispute about an obscure contract provision somewhere in the inner reaches of a collective bargaining agreement. The Employer's proposed change goes to the essence of the relationship between management and labor in a collective bargaining environment. Certainly political winds shift, the economic pendulum swings, and bargaining power moves from one side of the table to the other. That is to be expected. But this proposal seeks to have the Union concede the field altogether. I do not see how any Union could agree to it or how any Fact Finder could recommend it.

I recommend that the existing language be retained.

<u>Compensation</u>

According to the Employer's Brief:

> The salary/economic proposals presented by the Employer request mandated unpaid furlough days of up to fifteen (15) days for Office Staff and a ten percent (10 %) pay reduction for Delivery Drivers. The Employer has further submitted Salary Grade Levels for Sorter, Delivery Driver, Delivery Driver Senior and Senior Accounting Clerk. The aforementioned proposals are supported by a review of the salary comparables submitted by the Employer, which established that The Library Network's current salary levels are the highest among comparable library entities. Furthermore The Library Network's current financial condition supports the aforementioned proposals. (Employer Brief p. 7).

With respect to the proposed unpaid furlough days, the Employer's proposal includes the language: "No paid accrued time may be taken on these days."

The Employer's Brief supports the requested wage reductions with an account of reductions in the Employer's revenues and Fund Balance and an increase in its expenditures.

According to the Union's Brief, a Part-Time Level 3 Delivery Driver working 20 hours per week made $14,191 at the 2010 rate. A 10% wage reduction would subtract $1,419 from that number for an annual wage of $12,772. A Full-time Level 3 Computer Operator, after making the 20% healthcare contribution required by the new law and taking 15 unpaid furlough days, would go from an annual salary of $34,239 to $27,894, a loss of $6,345 or 18.5% of salary.

I have no reason to doubt that the Employer's revenues are down, its expenditures are up, the numbers are as they have been reported, and it's projected Fund Balance is as it represents it to be. What is missing from the record before me is a clear explanation of how the Employer's wage proposals stack up against its projected budgetary shortfall. I don't know how much money the Employer needs to save, and I don't know how much it will save if the proposed changes are adopted.

Neither the Union nor the Fact Finder is unaware of present economic reality. In its opening statement the Union expressed a willingness to make its share of the necessary sacrifices. In its Brief the Union proposed only that I "apply the facts and enter recommendations that comport with the bargaining unit's core concerns on the outstanding issues." Both the Union and I recognize that some combination of furlough days and wage reductions is probably necessary under the circumstances. But the full package of cuts proposed by the Employer has not been sufficiently supported on this record. There is no evidence, for example, that the Employer modified its proposal at all when PA 152 was enacted. Obviously, if employees are going to begin paying 20% of their healthcare premiums, the cost of those premiums to the Employer will be reduced. The Employer's proposal should be adjusted to reflect that savings. The Employer has also supplied no justification for the proposal that accrued time may not be taken for furlough days.

I recommend that the parties negotiate a package of wage concessions and furlough days that is closely tailored to match the Employer's projected budgetary shortfall. Ultimately, that package may look very similar to the proposal before me. But I cannot recommend that proposal on this record.

Respectfully submitted,

Barry Goldman
January 19, 2012