

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF LANSING, BOARD OF WATER  
AND LIGHT,  
Public Employer,

Case No. R00 F-65

-and-

INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, LOCAL 352,  
Petitioner.

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APPEARANCES

Gabriel D. Hall, Gabriel Hall & Associates, for the Employer

Klimist, McKnight, Sale, McClow & Canzano, P.C., by David R. Radtke, Esq., for Petitioner

**DECISION AND DIRECTION OF ELECTION**

Pursuant to the provisions of Section 12 of the Public Employment Relations Act (hereafter **APER**A@), 1947 PA 336, as amended by 1965 PA 379 and 1973 PA 25, MCL 423.212; MSA 17.455(12), this matter came on for hearing before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission, on October 20 and November 6, 2000, at Lansing, Michigan. Based upon the entire record in this matter, including briefs filed on or before December 19, 2000, the Commission finds as follows:

The Petition:

In the petition filed on June 16, 2000, the International Brotherhood of Electrical Workers, Local 352 (hereafter **AIBEW**@), seeks to represent a unit described as:

All full-time and regular part-time clerical and technical persons employed by the Board of Water and Light at its facilities located in Lansing and the surrounding area; but excluding professional and supervisory employees as defined by the act.

The Employer maintains that there is no community of interest between the clerical and technical employees and that a combined unit is not appropriate.

Facts:

The Lansing Board of Water and Light is a public utility which produces electricity, water and steam to residential and commercial customers in the Lansing, Michigan area. The Board operates out of several facilities in the Lansing area and employs approximately 720 employees. There is an existing skilled trades bargaining unit represented by the IBEW Local 352, which includes 400 employees in various classifications, such as electrician, mechanic, machinist, power plant operator, truck driver, and welder. This unit also includes certain categories of clerical employees who deal with customers, including customer billing and customer service representatives.

The nonsupervisory bargaining unit sought by Petitioner includes approximately 24 clerical employees and 62 technical employees. The clerical job classifications provide support for supervisors, managers and administrators. Clerical employees perform typical office functions including typing, dictation and answering the telephone. They utilize personal computers in their work. Clerical job titles include secretary, office specialist, accounting/payroll clerk, mail messenger, and para-technical. The technical job classifications include positions such as computer information support, applications programmer, accountant, collector-open accounts, as well as several subclasses of technicians, including designer/drafter, system support, utility location, instrument and control, communications, and others.

Employees in both the clerical and technical classifications are required to have a high school diploma, but are not required to have an undergraduate degree. Most technicals are required to have specialized training or an associates degree, which is generally not required of clericals, although some clericals are required to have specialized computer training. Work hours for clerical and technical employees are similar, with starting times between 7 a.m. and 8 a.m., and quitting times between 3 p.m. and 5 p.m. Since both groups are eligible for flex time, their hours may vary. Both groups are nonexempt employees eligible for overtime.

All of the clericals perform work in an office setting. Many of the technicals work primarily in the field; however, many also work in the office, such as computer employees, accountants, and drafters. Employees classified as para-technicals perform clerical work as well as technical work such as preparing charts and graphs. Most of the Employer's facilities employ both clerical and technical employees. Clerical and technical employees have routine contact with each other in their jobs. Some work side-by-side in the same department and report to the same supervisor. Clerical employees may assist technical employees by preparing paperwork or relaying telephone messages. Technical employees working in computer support classifications provide assistance to clericals with computer related problems on a regular basis. Both clericals and technicals use personal computers in their assignments and are connected to the Employer's e-mail system.

Personnel policies for all employees are established and promulgated by the human resources department. This department is responsible for the hiring of employees, establishing wage levels and classifications, administration of employee benefits and compensation, and labor relations. The human resources department has published an employee handbook which sets forth employment policies and procedures, including discipline, promotion, and safety policies, as well as wage and benefit information, pension and retirement programs, and employee incentive programs. This

handbook applies to both clerical and technical employees. Both groups fill out the same application for employment and have a six-month orientation period. Clerical and technical employees follow the same call-in procedure and are governed by the same excessive absentee program. Their paid holidays, accrued vacation, and health insurance and pension program are identical.

The salary range for technicals is somewhat higher than that of clericals. However, there is some overlap; depending on seniority and grade, a clerical could receive wages higher than a technical. There is also some overlap of job function. The classification para-technical performs technical work up to 20% of the time and works closely with technical employees. The Employer also has a program for employees whose jobs have been eliminated or who are being underutilized. These employees are placed in job openings within their skill ability regardless of classification.

#### Discussion and Conclusions:

Petitioner maintains that the single clerical/technical unit which it has petitioned for is the appropriate unit. Petitioner asserts that clericals and technicals employed by the Lansing Board of Water and Light share a community of interest based on similar skills and working conditions, identical employee benefits, centralized labor relations, and regular contacts and interchange in the course of their employment. The Employer argues that Commission policy favors a separate clerical unit and that Petitioner has failed to establish unique or compelling circumstances to justify deviating from that policy.

In determining appropriate bargaining units, our primary guide is the policy expressed in *Hotel Olds v Labor Mediation Bd*, 333 Mich 382 (1952), that is, to constitute the largest unit which, under the circumstances of the case, is most compatible with the purposes of the law and includes in a single unit all common interests. Commission policy does not require that a union seek the optimum or *most* appropriate unit, as long as it seeks to represent *an* appropriate collective bargaining unit. *Lansing Sch Dist*, 1980 MERC Lab Op 832,835; *Detroit Bd of Ed*, 1977 MERC Lab Op 548, 554. Where there is more than one legitimate unit configuration, each based on a different but defensible community of interest, the one sought by the labor organization will ordinarily be found appropriate. *City of Grosse Pte Farms*, 1977 MERC Lab Op 1066, 1070; *Three Rivers Hosp*, 1967 MERC Lab Op 263; *Baryamas Drive-In Cleaners*, 1967 MERC Lab Op 159, 164,

As a general rule, we have found that clerical employees share a community of interest and constitute a presumptively appropriate bargaining unit. *Waverly Comm Sch*, 1989 MERC Lab Op 819, 820; *City of Wayne*, 1986 MERC Lab Op 200, 204. However, we have also stated that it is not inherently inappropriate to combine clericals in a unit with other employees, and the circumstances of each case must be carefully examined. *Fowlerville Comm Sch*, 1980 MERC Lab Op 820; *Village of Beverly Hills*, 1980 MERC Lab Op 850. In a number of cases, we have combined clericals with other nonsupervisory, support classifications. See e.g. *City of Lansing, Housing Comm*, 1980 MERC Lab Op 813; *Saginaw Int Sch Dist*, 1980 MERC Lab Op 645; *East Grand Rapids Bd Ed*, 1979 MERC Lab Op 28. These cases reflect that our approach has been to consider factors such as bargaining

history, size of the bargaining unit(s), interchangeability and contact among employees, work location, similar skills, benefits, and working conditions.

We find that the record in this case demonstrates that clerical and technical employees share a community of interest, making a single bargaining unit appropriate. There is no bargaining history with either of these groups; there is, however, a bargaining history with another group of employees in diverse classifications, which includes certain clerical classifications. This precludes the establishment of a single comprehensive unit of clerical employees. Clerical and technical employees share terms and conditions of employment and are governed by the same personnel policies. They are stationed at the same locations and have routine contact with each other. There is also an overlap between the two groups both in terms of job function and skills utilized. The para-technical classification performs both clerical and technical functions, as do certain employees in the *Aunderutilized@* program. The technical classifications include office jobs such as computer applications trainer, computer information support, designer/drafter, and accountant. While the skill level of technical employees may be generally higher, we find that the functions and skills of both groups are not so diverse or dissimilar as to prevent their being included in one unit. *Saginaw Valley State Univ*, 1991 MERC Lab Op 109, 114. Finally, considering the overall size of the Employer, a separate unit of the relatively small number of clericals, approximately 25 employees, would cause undue fragmentization of bargaining units, contrary to Commission policy. Therefore, we will direct an election in the unit described below:

**DIRECTION OF ELECTION**

We conclude that the unit requested herein by Petitioner is an appropriate bargaining unit within the meaning of Section 13 of PERA, and that a question of representation exists under Section 12 of PERA in the following bargaining unit:

All full-time and regular part-time clerical and technical employees employed by the City of Lansing Board of Power and Light at its facilities located in Lansing and the surrounding area; but excluding professionals and supervisors as defined by the Act.

The above employees shall vote pursuant to our usual direction of election whether or not they wish to be represented for purposes of collective bargaining by the International Brotherhood of Electrical Workers, (IBEW) Local 352.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Chair

Harry T. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: