STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

WAYNE COUNTY AIRPORT AUTHORITY,
Public Employer - Respondent,

-and-

WAYNE COUNTY LAW ENFORCMENT SUPERVISORY,
LOCAL 3317, AFSCME,
Labor Organization - Charging Party in Case No. C05 H-187,

-and-

SEIU, LOCAL 503
Labor Organization - Charging Party in Case No. C05 H-196.
_____/

APPEARANCES:

The Danielson Group, P.C., by Kenneth M. Gonko, Esq., for the Public Employer

Akhtar, Webb & Ebel, by Jamil Akhtar, Esq., for the Labor Organizations

DECISION AND ORDER ON MOTION FOR RECONSIDERATION

On April 17, 2007, the Commission issued a Decision and Order in the above-entitled matter reversing the Decision and Recommended Order of the Administrative Law Judge (ALJ), which found that Respondent, Wayne County Airport Authority (WCAA) violated Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379 as amended, MCL 423.210. We disagreed with the ALJ's conclusion that Respondent breached its duty to bargain in good faith by proposing to eliminate Act 312[1] arbitration for members of the bargaining units represented by Charging Parties, Wayne County Law Enforcement Supervisory Local, 3317, AFSCME and SEIU, Local 503. The parties' prior collective bargaining agreements contained language addressing the bargaining units' eligibility for Act 312 arbitration. Respondent proposed to eliminate that language from the parties' future collective bargaining agreements. We found that

[1] Act 312, 1969 PA 312, as amended by 1976 PA 203, and 1977 PA 303, MCL 423.231-247, provides for compulsory binding arbitration of unresolved contract disputes in municipal police and fire departments.

the proposal was a permissive subject of bargaining and that making such a proposal does not violate Section 10 of PERA. Therefore, we dismissed the unfair labor practice charges.

Charging Parties filed a motion for reconsideration of our Decision and Order on May 3, 2007 with a brief and a request for oral argument.[2] Respondent filed its response to the motion for reconsideration on May 11, 2007. After reviewing the motion and response filed by the parties, we find that oral argument would not materially assist us in deciding this case. Therefore, Charging Parties' request for oral argument is denied.

In the motion for reconsideration, Charging Parties contend that the Commission erred when it failed to adopt the ALJ's conclusion that the bargaining units represented by Charging Parties met the criteria for binding arbitration under Act 312. Charging Parties also assert that the Commission erred when it determined that the question of whether the bargaining units are eligible for Act 312 arbitration was not properly before the ALJ.

We addressed these issues in our decision and found that the issue before the ALJ, and this Commission, was whether Respondent violated its duty to bargain by proposing the deletion of contract language regarding eligibility for Act 312 arbitration. The Charge asserted that the contract proposal raised an illegal subject of bargaining. Thus, to determine whether an unfair labor practice had been committed, we examined the nature of the proposal. Upon finding that the proposal was on a *permissive* subject of bargaining, it was evident that Respondent's actions in making the proposal were not a violation of PERA. See *Royal Oak Professional Fire Fighters Ass'n*, 19 MPER 24 (2006). Accordingly, there was no need for us to consider the further question of bargaining unit eligibility under Act 312.

Rule 167 of the Commission's General Rules, 2002 AACS R 423.167 governs motions for reconsideration and states in pertinent part:

> A motion for reconsideration shall state with particularity the material error claimed. . . . Generally, and without restricting the discretion of the commission, a motion for reconsideration which merely presents the same issues ruled on by the commission, either expressly or by reasonable implication, will not be granted. (Emphasis added)

In the motion for reconsideration, Charging Parties essentially restate the same arguments they presented in their response to Respondent's exceptions to the ALJ's Decision and Recommended Order. We carefully considered those arguments in our April 17, 2007 Decision and Order. Therefore, Charging Parties have not set forth grounds for reconsideration. See *Wayne Co Cmty College*, 16 MPER 50 (2003); *City of Detroit Water and Sewerage Dep't*, 1997 MERC Lab Op 453.

[2] On May 4, 2007, Charging Parties appealed our Decision and Order to the Court of Appeals. Since Charging Parties' motion for reconsideration was still pending, the Court of Appeals dismissed the appeal for lack of jurisdiction on June 21, 2007.

ORDER

The motion for reconsideration is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

_____
Christine A. Derdarian, Commission Chair

_____
Nino E. Green, Commission Member

_____
Eugene Lumberg, Commission Member

Dated: _____