

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PERTH AMBOY, NEW JERSEY
Public Employer

and

Docket No. RO-264

LOCAL NO. 11, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS
OF AMERICA

Petitioner

DECISION

Pursuant to a Notice of Hearing to resolve a question concerning representation of the Street Department employees of the City of Perth Amboy, New Jersey, a hearing was held on April 15, 1971 before Hearing Officer Leo M. Rose at which all parties were given an opportunity to present evidence, examine and cross-examine witnesses, to argue orally, and to file briefs. On June 16, 1971 the Hearing Officer issued his Report and Recommendations. Neither party filed exceptions to the Hearing Officer's Report and Recommendations.

The Executive Director has considered the record and the Hearing Officer's Report and Recommendations, and on the basis of the record in this case finds:

1. The City of Perth Amboy is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. Local No. 11, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is an employee representative within the meaning of the Act.
3. The Petitioner herein seeks certification for a unit composed of Street Department employees in the Department of Public Works of the City of Perth Amboy.

The Public Employer disagrees with the unit sought, on the ground that community of interest is broader than said unit, and embraces the entire Department of Public Works. Therefore, a question exists concerning representation and the matter is appropriately before the Executive Director for determination.

4. In the absence of exceptions to the Report and Recommendations of the Hearing Officer the undersigned adopts the findings and recommendation of the Hearing Officer pro forma.
5. The undersigned finds, in agreement with the Hearing Officer, that the unit sought by Petitioner is not an appropriate negotiating unit. Accordingly, the petition herein is dismissed.


Maurice J. Nelligan, Jr.
Executive Director

DATED: September 17, 1971
Trenton, New Jersey

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APPEARANCES:

For the City of Perth Amboy

Robert P. Levine, Esquire, City Attorney

For Local 11, International Brotherhood of
Teamsters, Chauffeurs, Warehousemen and
Helpers of America

Zachery Schneider, Esquire

HEARING OFFICER'S REPORT AND RECOMMENDATION

A petition was filed with the Public Employment Relations Commission by Local 11, I.B.T. (hereinafter "Petitioner") requesting an election of all employees of the Street Department of the City of Perth Amboy (hereinafter "Employer".)

Pursuant to Notice of Hearing, a hearing was held before the undersigned at 1100 Raymond Boulevard, Newark, New Jersey. All parties were given an opportunity to examine and cross-examine witnesses, to present evidence and to argue orally. Both parties hereto elected not to file briefs. Upon the entire record in the proceeding, the Hearing Officer finds:

1. The City of Perth Amboy is a public employer within the meaning of the Act and is subject to its provisions.
2. Local 11, I.B.T. is an employee representative within the meaning of the Act.
3. Local 11 claims to represent the employees petitioned for in an appropriate unit and the City of Perth Amboy disputes the appropriateness of the unit. Therefore, this matter is properly before the Commission for determination.

Petitioner claims that community of interest and kindred functions make an appropriate unit of the employees sought. [The unit sought is composed of employees engaged in street cleaning, road repair and maintenance, and sewer department, but excluding clericals.]

The Employer contended that the Street Department is within the Department of Public Works, which consists of "five or six other departments" (Tr. Pg. 8.) [Testimony elicited that there are actually eight lesser divisions in the Department of Public Works: Electrical, City Engineer, Street Cleaning, Garbage, Sewer, Sewage, Road Repair, Motor Maintenance.] The total number of employees in the DPW is 120, of whom 42 are in Street Cleaning, exclusive of supervisory and clerical employees. The employees here in question are Street Department workers and the term

is used synonymously with "Street Cleaning Department". (Tr. Pg. 12) Therefore, contends the Employer, the unit is inappropriate, in that it covers only a fraction of the DPW in which the community of interest lies. In the course of testimony, the Employer showed that common job titles were used in the various functions of the DPW, (e.g. laborer, truck drivers, equipment operator, etc.) and that some degree of interchangeability was practiced. He likewise showed that there was one DPW payroll (i.e. no separate payroll by subdivision of the Department), that the Walsh Act under which the Employer functions, only requires a DPW, and does not specify a finer break-down. Finally, testimony shows that all employees of the DPW on the same titles draw the same pay and fringe benefits. (Tr. Pg. 36 et seq.)

On the basis of the entire record herein, and after due deliberation, the undersigned does not perceive the Street Department as an entity sufficiently distinct to be considered as an appropriate unit. Considered as an integrated whole, the DPW seems like the more likely unit, partly because there is flexibility in the deployment of personnel to meet the larger needs of the Department, and partly because the proposed fragmentation does not seem to effectuate public policy and the purposes of the Act. 1/

That the employees of the Street Department organized themselves and sought recognition may seem to some to be sufficient reason to permit balkanization of the DPW, on the ground that they chose to exercise their rights under the Act, whereas the remainder of the employees of the DPW - for undisclosed reasons, or for no reasons - chose not to do so. Therefore, runs this argument, why should a group be denied access to their rights because others similarly situated elected not to follow the same course?

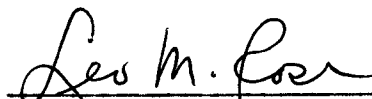
Action taken by this Commission in a recent matter 2/ may be raised in support of the foregoing question. But the matters are not "on all fours," because the Elizabeth matter was a consent, following granted recognition to a labor organization for all of the DPW, excluding the Water Department. Furthermore, the wishes of the employees composing the unit, while worthy of note, need not be controlling, particularly, it seems to the undersigned, if the unit is too limited in scope, so as to make of community of interest a tiny umbrella, instead of the tent the Act intended it to be. In such cases, as here, the artificiality of defining community so as to include the group sought and still preclude other Department employees becomes a reductio ad absurdum, with a portent of eight separate units and labor organizations - in a Department of 120 employees.

1/ C 34:13A-2 (2)-----to promote permanent public and private employer-employee peace and health, welfare, comfort and safety of the people of the State.

2/ City of Elizabeth and Local 866 I.B.T., RO-270 - involving the Water Department of that City - a unit of 16 employees. But here all other employees of DPW had been recognized and the Water Department excluded.

In a word, the broader community of the entire DPW seems so obvious, wieldy, and practical, (both as it concerns the employees and also as it concerns the Employer), that defense of the unit sought is difficult to mount.

Therefore, the undersigned respectfully recommends that the petition in the within matter be dismissed on the grounds that the unit sought is not appropriate.



Leo M. Rose
Hearing Officer

DATED: June 16, 1971
Trenton, New Jersey