

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN PINES COUNTY HOSPITAL  
Public Employer

and

Docket No. RO-301

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO  
Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of Bergen Pines County Hospital, a hearing was held before Hearing Officer Martin R. Pachman at which all parties were given an opportunity to examine and cross-examine witnesses, to present evidence, to argue orally and to submit briefs. Thereafter, Hearing Officer Kevin B. Powers, having been designated by the Executive Director as a substitute for Mr. Pachman, issued a Report and Recommendations. Exceptions have been filed by Bergen Pines County Hospital to the Hearing Officer's Report and Recommendations. The undersigned has considered the entire record, the Hearing Officer's Report and Recommendations, and the employer's exceptions, and on the basis of the facts in this case, finds:

1. Bergen Pines County Hospital is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. American Federation of State, County, and Municipal Employees, AFL-CIO, hereafter called the Federation, is an employee representative within the meaning of the Act.

3. The employer has refused to grant recognition to the Federation as the exclusive representative of the unit petitioned for; there is, therefore, a question concerning the representation of public employees and the matter is properly before the undersigned for determination.
4. The Hearing Officer's Report and Recommendations, is adopted, except as modified herein.

Petitioner seeks to represent and the Hearing Officer found appropriate a unit of employees in the Maintenance Department of Bergen Pines County Hospital. 1/ It is the position of the Petitioner that the employees it seeks to represent constitute an appropriate unit for the purpose of collective negotiations since the employees in question fall within the category of traditional skills in the craft area and as such have special interests which warrant their inclusion in a separate unit.

The Employer contends that the unit sought by the Petitioner is inappropriate because Maintenance Department employees do not constitute a craft or a distinct functional group who have special interests sufficiently different from other employees to warrant their inclusion in a separate unit. The Employer asserts that Maintenance Department employees enjoy a substantial community of interest with all blue collar employees of the Hospital which is indicated by the fact that wage schedules, hours of work, leaves of absence for vacation or because of illness, fringe benefits and pensions are uniformly applicable to all employees. The appropriate bargaining unit would consist of all blue collar employees,

1/ Notice is taken by the undersigned that the Commission in a previous decision, (Bergen Pines County Hospital, PERC No. 40) issued a decision directing an election in a unit of "all maintenance department employees." The Commission observed in the former case, "...that the record is virtually devoid of support for the Employer's unit contention. In fact the record does not indicate what other departments, classifications or persons would constitute an all blue collar unit nor why such would be appropriate." Since in the instant case the Employer advanced basically the same unit contention, a hearing was scheduled with the expectation that a broader picture would be revealed.

approximately 350, including those in the Maintenance and Heating Department, Dietary Department, Laundry Department, Chauffeur, Store Room and Groundskeepers. Further, The Employer contends that "[c]ertain features are shared by all blue collar jobs and there is a rational basis for one unit of blue collar employees. Basically, blue collar employees possess a community of interest predicated on distinctive manual labor, work location in the field, separate supervision, absence of formal education and emphasis on prior manual or mechanical experience." Moreover, the Employer contends that "a unit including all blue collar employees of Bergen Pines County Hospital not only would give due regard for the community of interest of the employees involved but would also enable the public employer to carry out its statutory duty of managing the property, finance and affairs of the County Hospital in an efficient manner, and further, we believe that this efficiency would be impaired by the fragmentation of a group, such as blue collar workers, with a community of interest into smaller groups based on job location or department structure."

The Hearing Officer stated that "[t]he record as developed herein substantiates the earlier decision of the Commission regarding the status of the employees in question as non-craft employees..." The above reference is to that earlier decision of the Commission wherein the Commission stated that "[w]hile there appears to be craft-like skills, the record does not demonstrate the existence of true crafts in the sense of a long period of training or apprenticeship with advancement to journeyman status or possessing a high degree of skill exercised with a minimum of supervision." 2/ Based on the instant record which is more detailed than the record supporting the earlier Commission decision, the undersigned finds that there are true craft skills involved and that there exists a basis for the establishment of a craft unit.


2/ P.E.R.C. No. 40, pg. 3.

The hospital is administered by a superintendent and two assistant superintendents. The Maintenance Department is supervised by Maintenance Superintendent Osmundsen who is assisted by a foreman, three assistant foremen and a chief engineer. The Employer has stipulated that although it is financed by Bergen County it enjoys complete administrative autonomy. In a previous decision of the Commission establishing a county-wide unit of blue collar employees, all employees of Bergen Pines County Hospital were excluded. 3/

The Maintenance Department consists of approximately forty unrepresented employees in the following titles: 4/ Senior Maintenance Repairmen-Carpenter, Senior Maintenance Repairmen-Plumber-Steamfitter, Senior Maintenance Repairmen-Electrician, Senior Maintenance Repairmen-Mason-Tile Setter, Maintenance Repairmen, Groundskeeper, Medical Electronic Repairmen, Maintenance Repair Helper, Truck Driver and Laborer.

The employees in the above classifications perform a variety of tasks within the area of traditional crafts. The record is replete with references to craft skills performed by the various plumber-steamfitters, carpenters, etc. The Maintenance Superintendent testified that there are thirty-one employees that are "craftsmen." Except for painters, who hold the title of Maintenance Repairmen, all of the "craftsmen" hold the title of Senior Maintenance Repairmen. Further, the Maintenance Superintendent stated that although the painters were not Senior Maintenance Repairmen they are still considered to be "craftsmen."

Although the employees do not enter employment with the title of "apprentice," there appears to be a progression within their trades which is analagous to apprenticeship. An individual has the opportunity to upgrade his position by taking tests which are administered by Civil Service. The



Maintenance Superintendent testified, in response to a question concerning the promotional ladders available, that "a man would come in as a laborer, and be advanced to a Maintenance Repairman, a Senior Maintenance Repairman, and a Senior Maintenance Repairman, lets say, electrician." The latter reference is to the Civil Service title Senior Maintenance Repairman-Electrician which is analagous to a journeyman electrician. The Maintenance Superintendent testified that there is a pay differential between the title of Senior Maintenance Repairman who does primarily plumbing and that of a Senior Maintenance Repairman Plumber/Steamfitter. The latter title is that of a journeyman plumber and as such he is compensated at a higher rate of pay.

With respect to the test of common supervision the Hearing Officer has indicated correctly that the employees in the Maintenance Department are assigned their specific work tasks by the Maintenance Repairman Foreman or the Assistant Foreman. All requests for work must be channeled through the Maintenance Superintendent and the employees are not supervised by other department heads. Work performed by Maintenance Department employees is not performed by employees in any other department. In fact, the record indicates that Maintenance Department job classifications do not exist in any other department.

In the area of hours of employment and shifts, the Personnel Officer testified that the various departments of the hospital work different hours and are on different shifts. The record indicates that the Maintenance Department operates during the day shift whereas the heating plant operates on a twenty-four hour basis; the dietary department is on two shifts; the laundry department is also on one shift but the hours are different from that of the maintenance department.

With respect to wages, the Employer stated that wage schedules are uniformly applicable to all employees of the hospital. Records maintained by the Department of Civil Service, Division of Local Government Services 5/, indicate that although the wage schedules may be uniformly applicable, the wage rates paid to maintenance department employees are considerably higher than ~~those~~ paid to other blue collar employees of the hospital. The following represents the hourly wage rates that were in effect at Bergen Pines County Hospital when the petition in the instant matter was filed:

MAINTENANCE DEPARTMENT

<u>Job Classification</u>	<u>Rate</u>
Senior Maintenance Repairman-Carpenter Electrician, Etc.	\$3.58-4.63
Senior Maintenance Repairman	3.43-4.48
Maintenance Repairman	3.18-4.23
Maintenance Repairman Helper	2.77-3.60
Truck Driver	2.77-3.60
Laborer	2.63-3.32
Groundskeeper	2.50-3.32

OTHER HOSPITAL EMPLOYEES

Building Maintenance Worker	\$2.77-3.60
Building Service Worker	2.77-3.60
Food Service Worker	2.50-3.32
Laundry Worker	2.50-3.32
Senior Food Service Worker	2.77-3.60

The Employer has stated that the appropriate unit would consist of approximately 350 employees. An examination of a list of job titles, and pay grades submitted by the Employer indicate that approximately 240 of the 300 employees outside of the Maintenance Department are at the bottom of a pay grade scale which runs from 'H09' to 'H21,' whereas Maintenance Department employees are paid at rates from 'H14' to 'H19' with

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5/ Of which administrative notice is taken here.

the exception of laborer and groundskeepers who are in pay grade "H09." It should also be pointed out that the same 240 employees are in noncompetitive positions whereas the only non-competitive positions in the Maintenance Department are those of laborer and groundskeeper.

The Employer maintains that the creation of a unit of Maintenance Department employees would prevent the public employer from "...managing the property, finance, and affairs of the County Hospital in an efficient manner, and further we believe that this efficiency would be impaired by the fragmentation of a group..." The undersigned finds no evidence that the efficiency of operations at Bergen Pines County Hospital would necessarily be impaired by the creation of a unit limited to Maintenance Department craft employees and their helpers. The undersigned finds that the evidence supports the appropriateness of a craft unit whose members possess a degree of functional distinctiveness and autonomy which warrants a finding that they possess a community of interest significantly separate and apart from other employees of Bergen Pines County Hospital.

The Employer has raised several exceptions to the Hearing Officer's Report and Recommendation which reflect the Employer's desire for a unit of all blue collar employees at Bergen Pines County Hospital.

The Employer's first exception is that the Hearing Officer "relied heavily on a prior case involving some 6 employees who were Stationary Engineers at Bergen Pines County Hospital." 6/ The undersigned has carefully considered the Hearing Officer's Report and Recommendation and finds no instance where the Hearing Officer made any reference to the above cited case.

In its second exception, the Employer cites certain decisions of the Commission which "follow the theory of establishing broad general 6/ Bergen Pines Hospital, P.E.R.C. No. 19.

units and are in direct conflict with the findings of the Hearing Officer in the case." 7/ Briefly, in P.E.R.C. No. 69, the Commission found a county-wide unit of all blue collar employees appropriate for purposes of collective negotiations. In support of the broader county-wide unit the Commission stated in part that the blue collar employees possessed a, "...similarity of skills and basic functions within certain job titles regardless of departmental assignment or location, and in general the connotations that derive from the descriptive term "blue collar", such as manual work, skill of a level less than craft...,[provides] ... a common denominator...[which]... distinguishes this group from white collar, technical, craft, etc." Inasmuch as the record supports the finding that the Maintenance Department employees are craft employees and further that Maintenance Department job classifications do not exist in any other department at the Hospital, the Employer's reliance on P.E.R.C. No. 69 is clearly without merit.

With respect to the Commission's decision in P.E.R.C. No. 50 the Commission stated that, "[n]ot only is the Commission satisfied that the units to be determined in this proceeding should, regardless of their composition, be state-wide in scope but it is equally satisfied that units sought here on any basis less than state-wide in terms of occupational coverage are inappropriate." Consequently, the Commission found appropriate for purposes of collective negotiations the following three non-professional, non-supervisory units: Health, Care and Rehabilitation Service Employees; Operations, Maintenance and Service employees; and Craft

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7/ Bergen County Board of Chosen Freeholders, et al, P.E.R.C. No. 69; State of New Jersey (Neuro-Psychiatric Institute, et al), P.E.R.C. No. 50.



employees. (emphasis added) Taking into account the merits of the respective cases, the undersigned concludes that the findings in the instant matter are not inconsistent with the Commission's decision in P.E.R.C. No. 50.

The third exception is that the Hearing Officer, "...relied on testimony in another case, namely, the Heating Plant of Bergen Pines County Hospital (sic), P.E.R.C. Decision No. 40, 8/ and did not rely to a large extent on testimony heard by him in this hearing is sufficient reason to reverse the findings". Although the Employer is correct that the Hearing Officer made reference to the above cited decision there is no indication that he "relied on testimony in another case." It should be pointed out that it is not improper for the Hearing Officer to make reference to previous decisions of the Commission and, further, the above finding that Maintenance Department employees are craft employees, is based solely on the record in the instant matter.

Finally, the Employer takes exception to the Hearing Officer's statement that, "[t]he efforts of the Maintenance Department are directed at the common objective of efficient general maintenance." The Employer states, "...the Commission can take judicial notice of the fact that all departments have as their common objective the proper operation of the hospital." The Employer's exception is clearly without merit in that the statement of the Hearing Officer was made in support of the fact that, "there is no inter-departmental transfer of personnel."

Accordingly, it is found that the appropriate unit for collective negotiations is all craft employees of Bergen Pines County Hospital in the following titles: Senior Maintenance Repairman-Carpenter, Senior Maintenance Repairman-Plumber-Steamfitter, Senior Maintenance Repairman-Electrician,  
8/ Employer is referring to P.E.R.C. No. 40, In the Matter of Bergen Pines County Hospital and International Union of Operating Engineers Stationary Locals 68-68A-68B, AFL-CIO.

Senior Maintenance Repairman-Mason-Tile Setter, Maintenance Repairman, Groundskeeper, Medical Electronic Repairman, Maintenance Repair Helper, Truck Driver and Laborer, but excluding managerial executives, professionals, clerical employees, non-craft employees, craft employees already represented, and all supervisors within the meaning of the Act. 9/

It is directed that an election in the unit described above be held within thirty (30) days of the date of this decision. Those eligible to vote shall be those who were employed in the unit above during the payroll period immediately preceding the date below; including employees who did not work during the period because they were out ill, or on vacation or temporarily laid off, including those in military service. Employees must appear at the polls in order to be eligible to vote. Ineligible to vote are those who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Those eligible to vote shall vote on whether or not they wish to be represented for the purpose of collective negotiations by Council No. 1 of the American Federation of State, County, and Municipal Employees, AFL-CIO.

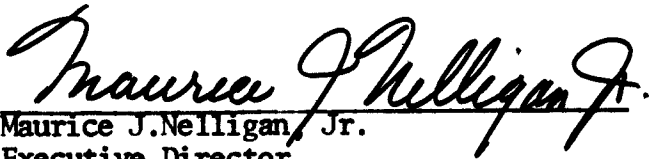
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9/ The unit petitioned for includes the titles Laborer, Groundskeeper, and Truck Driver. The uncontroverted testimony indicates that Laborers, Truck Drivers and Groundskeepers are called upon to act as "helpers" to the various craftsmen. Although the record indicates that Laborers, Truck Drivers and Groundskeepers do not spend all their time assisting craftsmen, the Maintenance Superintendent has testified that they have the opportunity to progress to journeyman status. Inasmuch as Laborers, Truck Drivers and Groundskeepers act as "helpers" they should be included in the unit.

The majority representative shall be determined by a majority of the valid votes cast.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

BY ORDER OF THE EXECUTIVE DIRECTOR

  
Maurice J. Nelligan, Jr.  
Executive Director

DATED: February 26, 1974

Trenton, New Jersey

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BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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Bergen Pines County Hospital

Public Employer

and

Docket No. RO-301

American Federation of State, County, and  
Municipal Employees, AFL-CIO

Petitioner

Appearances

Edwin C. Eastwood, Esquire  
for the Public Employer  
Albert Santiago  
for the Petitioner

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

A Petition for Certification of Public Employee Representative, Docket No. RO-301, was filed on May 17, 1971 with the Public Employment Relations Commission by the American Federation of State, County, and Municipal Employees, AFL-CIO seeking to represent a unit of employees in the Maintenance Department of the Bergen Pines County Hospital. On August 11, 1971 a petition, Docket No. RO-331, was filed by Local Union #68, International Union of Operating Engineers, AFL-CIO seeking to represent refrigeration and air conditioning engineers of the Bergen Pines County Hospital. By Order dated November 16, 1971, the two cases were consolidated and a Notice of Hearing issued. These cases were subsequently severed by Order dated December 20, 1971. In accordance with an Order Rescheduling Hearing dated December 6, 1971 and a subsequent Order Scheduling Hearing dated December 20, 1971, a hearing was held on this matter on January 13, 1972 before Martin Pachman in Newark, New Jersey at which all parties were given an opportunity to examine

and cross-examine witnesses, to present evidence and to argue orally. Based upon the entire record in this proceeding and on the brief filed on behalf of the public employer, the undersigned<sup>1/</sup> Hearing Officer finds:

1. The Bergen Pines County Hospital is a public employer within the meaning of the Act and is subject to its provisions.

2. The American Federation of State, County, and Municipal Employees, AFL-CIO is an employee representative within the meaning of the Act.

3. The public employer refused to recognize the employee representative as the exclusive representative of certain employees of the hospital. Therefore, a question concerning the representation of public employees exists and the matter is properly before the undersigned for report and recommendations.

#### ISSUES AND POSITIONS OF PARTIES

The issue before the Hearing Officer is whether certain employees in the Maintenance Department of the Bergen Pines County Hospital constitute an appropriate unit for the purposes of collective negotiations as provided in Chapter 303, Laws of 1968 as contended by the petitioner.

The public employer contends that the unit sought is inappropriate and offers testimony and argument to support the position that the appropriate unit would be one covering all blue-collar employees at Bergen Pines County Hospital, excluding a

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<sup>1/</sup> In accordance with Section 19:14-3 of the Commission's Rules and Regulations, the undersigned was designated Hearing Officer in this matter by the Executive Director in a letter to the parties dated August 3, 1972.

previously established unit of heating plant engineers and additionally excluding white-collar employees and supervisors within the meaning of the Act. Accordingly, it is the position of the public employer that the instant petition should be dismissed.

#### DISCUSSION AND FINDINGS

Notice is taken by the Hearing Officer that the public employer, at a previous hearing <sup>2/</sup> before a Hearing Officer of the Commission argued and presented evidence in a matter involving a similar unit of employees based upon a petition filed by the International Union of Operating Engineers. The Hearing Officer, in that matter, found appropriate a unit of employees of the Maintenance Department and recommended that an election be directed in such a unit. The public employer filed exceptions to the Report and Recommendations of the Hearing Officer in that matter. The Commission subsequently issued a decision directing an election in a unit described as follows: "All maintenance department employees including watchmen employed by the Bergen Pines County Hospital, Paramus, New Jersey, but excluding all office clerical employees, managerial executives, professional employees, supervisors within the meaning of the Act and all other employees."<sup>3/</sup>

In the instant case involving Bergen Pines County Hospital and the American Federation of State, County, and Municipal Employees, the unit petitioned for and the position of the public employer with regard to that petition are not substantially different from what they were in the above-cited case. The record as developed herein

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<sup>2/</sup> Bergen Pines County Hospital and International Union of Operating Engineers, Stationary Locals 68-68A-68B, AFL-CIO, P.E.R.C. No. 40

<sup>3/</sup> Bergen Pines County Hospital, P.E.R.C. No. 40, page 5

substantiates the earlier decision of the Commission regarding the status of the employees in question as non-craft employees and the appropriateness of the unit of maintenance employees of the Bergen Pines County Hospital.

The maintenance superintendent is in charge of and oversees all work done in the department.<sup>4/</sup> Department employees are assigned their specific work tasks by the foreman or one of three assistant foremen.<sup>5/</sup> When men are assigned to repair units in other departments, they do not come under the supervision of other hospital staff members.<sup>6/</sup>

The efforts of the maintenance department are directed at the common objective of efficient general maintenance. In reaching that objective, there is a degree of intra-departmental transfer of skills as manpower and work schedule pressures demand.<sup>7/</sup> However, there is no inter-departmental transfer of personnel whereby maintenance department employees would come under the direction or supervision of hospital staff members other than those in the maintenance department.<sup>8/</sup> The sole exception to this practice is the emergency situation where department employees might be requested to assist in other departments in order that the hospital could be allowed to continue to function.<sup>9/</sup> In the previous case cited above, the Commission found that this separation along departmental lines, coupled with the common objective, reflected a sufficient community of interest existed to find such a unit appropriate.<sup>10/</sup>

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<sup>4/</sup> Tran. P. 20

<sup>5/</sup> Tran. P. 21

<sup>6/</sup> Tran. P. 22

<sup>7/</sup> Tran. P. 40-41, Tran. P. 71, Tran. P. 83 and Tran. P. 100

<sup>8/</sup> Tran. P. 22

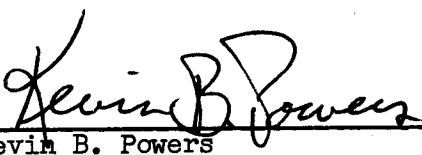
<sup>9/</sup> Tran. P. 85

<sup>10/</sup> P.E.R.C. No. 40 P. 4

In the absence of any compelling evidence that the structure, duties and responsibilities of the employees employed in the Maintenance Department have been altered in any substantial way so as to render the unit sought inappropriate, the Hearing Officer finds no basis not to recommend a unit found to be appropriate by the Commission.

RECOMMENDATION

Based upon the above-cited facts and the record as a whole, it is respectfully recommended by the undersigned that the unit sought be found to be an appropriate unit and that a secret-ballot election be conducted among the employees of the Maintenance Department of the Bergen Pines County Hospital to determine whether or not they desire to be represented for the purposes of collective negotiations by the American Federation of State, County, and Municipal Employees, AFL-CIO. It is recommended that the election be conducted in accordance with the Commission's Rules and Regulations.

  
Kevin B. Powers  
Hearing Officer

DATED: August 3, 1972  
Trenton, New Jersey