

L.D. NO. 2000-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Public Employer,

-and-

Docket Nos. RO-91-200
RO-94-29
RO-94-30

AFSCME COUNCIL 73, AFL-CIO,
LOCALS 3912, 3913, 3914,

Employee Representative.

Appearances:

For the Authority,
Riker, Danzig, Scherer, Hyland & Peretti, attorneys
(Brett M. Reina, of counsel)

For AFSCME,
Weissman & Mintz, attorneys
(Steven P. Weissman, of counsel)

DECISION

The New Jersey Turnpike Authority and AFSCME Council 73, Locals 3912, 3913, 3914, have for some time been engaged in a dispute concerning the unit eligibility of certain supervisory employees of the Authority. The history of the dispute need not be set forth in detail here. On appeal of N.J. Tpk. Auth. and PERC and AFSCME, P.E.R.C. No. 94-24, 19 NJPER 461 (¶24218 1993), rev'd and rem'd 289 N.J. Super. 23 (App. Div. 1996), the New Jersey Supreme Court clarified the standard by which this Commission would

determine confidential and managerial status and remanded the matter to the Commission for a determination on the unit eligibility of each of the employees. Aff'd as mod. 150 N.J. 331 (1997). The parties have specifically agreed, as confirmed by correspondence dated May 19, 1999 and June 17, 1999, respectively, that the dispute concerning the unit status of these controverted titles be submitted to the Commission's Litigation Alternative Program. The parties agreed to rely on the Turnpike's job descriptions and job duty summary as the basis for this decision. The parties have consented to the terms of this decision and have agreed that this decision is final and binding on the parties and resolves the representation petitions pending before the Commission.

The Turnpike has submitted evidence that certain job titles must be excluded from representation because they are managerial or confidential employees within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

N.J.S.A. 34:13A-3(f) defines "managerial executive" as:

persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices....

In Turnpike I, the New Jersey Supreme Court examined this exclusion and partially modified the Commission's standards for determining managerial status. An employee will be found to be a managerial executive if he or she either formulates managerial policies and practices or is charged with the responsibility of directing the effectuation of such management policies and practices.

Under Turnpike I, an employee "formulates" policies and practices when he or she develops a set of objectives to further the mission of a segment of the governmental unit and when he or she selects a course of action from among available alternatives. Id. at 356. A managerial executive need not have final responsibility for signing off on policies if his or her recommendations effectively determine what policies will be adopted. An employee need not possess organization-wide or extra-departmental power to be a managerial executive. The Court noted that, particularly in large organizations, managers may have significant power, discretion, and influence within their departments, such as may meet the definition of managerial executive. Id. at 356. Accord Gloucester Cty., P.E.R.C. No. 90-36, 15 NJPER 624 (¶20261 1989) (employee who determined welfare reform policies is a managerial executive even though she lacked extra-departmental power); Union Cty., P.E.R.C. No. 48, NJPER Supp. 166 (¶48 1970) (assistant treasurer was managerial where he effectively determined policies).

Under Turnpike I, an employee directs the effectuation of policies and practices if:

he is charged with developing the methods, means, and extent of reaching a policy objective and thus oversees or coordinates policy implementation by line supervisors. Whether or not an employee possesses this level of authority may generally be determined by focusing on the interplay of three factors: (1) the relative position of that employee in employer's hierarchy; (2) his functions and responsibilities; and (3) the extent of discretion he exercises. [Id. at 356].

In applying the Supreme Court's modified standard, the Commission recently found, for example, in Ocean Cty. Utilities Auth., P.E.R.C. No. 98-20, 24 NJPER 212 (¶29100 1998), that the regulatory compliance officer was a managerial executive because he exercises Authority-wide decisional powers and is a managerial executive under N.J.S.A. 34:13A-3(f).

The Turnpike Authority has also asserted that certain positions are confidential employees.

N.J.S.A. 34:13A-3(g) defines confidential employees as those employees of a public employer "...whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiations unit incompatible with their official duties."

In Turnpike I, the New Jersey Supreme Court approved the standards articulated in State of New Jersey, P.E.R.C. No. 86-18, 11 NJPER 507 (¶16179 1985), recon. den., P.E.R.C. No. 86-59, 11 NJPER 714 (¶16249 1985) for testing confidential status:

We scrutinize the facts of each case to find for whom each employee works, what [the employee] does or what [the employee] knows about collective negotiations issues. Finally, we determine whether the responsibilities or knowledge of each employee would compromise the employer's right to confidentiality concerning the collective negotiations process if the employee was included in a negotiating unit.

In Turnpike I, the Supreme Court explained:

Obviously, an employee's access to confidential information may be significant in determining

whether that employee's functional responsibilities or knowledge make membership in a negotiating unit inappropriate. However, mere physical access to information without any accompanying insight about its significance or functional responsibility for its development or implementation may be insufficient in specific cases to warrant exclusion. The test should be employee-specific, and its focus on ascertaining whether, in the totality of the circumstances, an employee's access to information, knowledge concerning its significance, or functional responsibilities in relation to the collective negotiations process make incompatible that employee's inclusion in a negotiating unit. [Id. at 358.]

Based upon the Authority's submissions, and applying the statutory definition of managerial executives and confidential employees, together with the parameters set forth in Turnpike I, to the facts in this matter, I find as follows:

ADMINISTRATION

MANAGER, BUSINESS DEVELOPMENT & ADMINISTRATIVE LIAISON^{1/}

The Manager, Business Development & Administrative Liaison, R. Ashworth, works under the general direction of the Assistant to the Executive Director of the Authority, fulfilling management responsibilities for establishing and maintaining sound working relationships with concessionaires and for the review and inspection of service areas and services provided to users of the Turnpike. In

^{1/} This title was formerly Manager, Patron Services. There have been no changes to the position's responsibilities, grade or required qualifications. The position will be assigned additional administrative duties.

addition to responsibilities involving inspection of all service areas and preparation of inspection reports and recommendations, he participates in negotiations for contracts with service area concessionaires and in the administration of these contracts. Moreover, the Manager, Business Development & Administrative Liaison establishes and maintains co-operative working relationships with the various Departments of the Authority involved in the construction, maintenance and improvement of service areas and facilities. Working closely with the Administration, the position plays a significant role in the review and formulation of management policies and practices.

Based on the foregoing, I find that the Manager, Business Development & Administrative Liaison is a management employee, appropriately excluded from the unit under the statutory criteria previously set forth.

TECHNOLOGY & ADMINISTRATIVE SERVICES

The Technology and Administrative Services Department is responsible for all technological systems and data processing support for the Authority and for procurement for these systems. The Department is headed by a Director and is divided into various sections.

MANAGER, TELECOMMUNICATIONS & ELECTRONICS

This position, held by J. Farrell, is responsible for all of the Authority's telecommunications and electronics networks. He is ultimately responsible for the efficient operations of these systems, including their effective operation during times of any labor disputes. He is also responsible for confidential investigations concerning telecommunications usage.

I find that the Manager, Telecommunications & Electronics position is appropriately excluded from the unit.

MANAGER, SYSTEMS & PROGRAMMING

The Manager, Systems & Programming, J. Maklary, reports directly to the Director of the Department. In the absence of the Director, the Manager is in charge of the entire Department and attends meetings with the Authority's Executive Director.

Generally, the position is responsible for providing estimated costs in terms of personnel requirements and equipment for implementing systems and program projects, for establishing schedules and work assignments required for implementing systems and program projects, for monitoring project progress and for developing procedural standards for systems and programming activity. The Manager, Systems & Programming provides cost estimates of negotiations proposals to the Authority's negotiations team before and during collective negotiations. The Manager also works with and has access to confidential computer files as part of his regular job responsibilities.

Based on the foregoing, I find that the Manager, Systems & Programming is a confidential management employee, appropriately excluded from the unit under the statutory criteria set forth.

MANAGER, TECHNOLOGY SUPPORT & OPERATIONS

The Manager, Technology Support & Operations, W. Bruzek, also reports to the Director of the Department. The position is primarily responsible for managing the Authority's central computer facility and associated desktop devices, for providing security for the central computer facility and data, and for providing technical support to the Authority's user community. Additionally, the position is responsible for costing out contract proposals during collective negotiations.

Based on the foregoing, I find that the Manager, Technology Support & Operations is a confidential manager, appropriately excluded from the unit under the statutory criteria.

MANAGER, MICROPROCESSING SYSTEMS & NETWORK DESIGN

The Manager, Microprocessing Systems & Network Design, A. Voza, reports to the Director of the Department and is primarily responsible for supervising, coordinating and participating in the design and installation of microprocessors, other related electronic equipment and data networking equipment for use by the Authority. This position has responsibility for all electronic information in the Authority's network. This position has the ultimate

responsibility for maintaining and operating the Authority's network, including the safeguarding of confidential information. The position also monitors the operation of the data network and estimates development and ongoing costs in terms of personnel and equipment required for implementing microprocessor, data networking and related digital electronics projects.

Based on the foregoing, I find the Manager, Microprocessing Systems & Network Design is appropriately excluded from the unit under the statutory criteria set forth.

FINANCE AND BUDGET

Catherine Schladebeck is the Comptroller, the highest management position in the Finance and Budget Department. Reporting directly to her are the Capital Program Manager,^{2/} Toll Audit Manager, the Assistant Comptroller and Chief Financial Analyst. The Chief Accountant, Payroll Manager, Disbursement Manager and Budget Analyst all report to the Assistant Comptroller.

CAPITAL PROGRAM MANAGER

Budget Analyst, J. Nichols, has assumed the responsibilities of the Capital Program Manager. The position is responsible for managing and administering Authority expenditures

^{2/} The Capital Program and Toll Audit Manager position has been divided into two separate titles - Capital Program Manager and Toll Audit Manager. There have been no changes in the responsibilities, grade or required qualifications for these titles.

and capital program budgeting, assuring the accurate maintenance of records and preparing financial reports in the Capital Program Section of the Department. The Capital Program Manager is responsible for reviewing policies and procedures for the Finance and Budget Department and the Authority and making recommendations for improvement. The position manages staff performance, maintains and monitors financial records for budgets, contracts and professional agreements and assists in the development and preparation of the Authority's capital budget and other expenditures, including reviewing, recommending changes and implementing the Authority's policies and procedures.

Based on the foregoing, I find that the Capital Program Manager is appropriately excluded from the unit based on the statutory criteria set forth previously.

TOLL AUDIT MANAGER

The Toll Audit Manager, M. Walsh, is responsible for the management and administration of Authority toll audit budgeting, assuring the accurate maintenance of records and preparation of financial reports in the Toll Audit Section of the Department. Toll Audit Manager is responsible for reviewing policies and procedures for the Department and the Authority and making recommendations for improvement. The position manages staff performance, maintains and monitors financial records for budgets, contracts and professional agreements and assists in the development and preparation of the

Authority's budget and other expenditures, including reviewing, recommending changes and implementing the Authority's policies and procedures.

Based on the foregoing, I find that the Toll Audit Manager is appropriately excluded from the unit under the statutory criteria.

CHIEF FINANCIAL ANALYST

The Chief Financial Analyst, D. Manuelli, is responsible for the management and administration of the Financial Analysis and Cash Management Sections of the Finance and Budget Department, ensuring that current and accurate financial records are maintained. His responsibilities include analyzing financial matters of the Authority pertaining to offers made to bargaining units, analysis of Authority financial reports, and projections related to matters which have potential impact on the Authority's financial condition. The Chief Financial Analyst reviews Department and Authority policies and procedures and makes recommendations for improvement.

Based on the foregoing, I find that the Chief Financial Analyst is appropriately excluded from the unit under the statutory criteria previously set forth.

BUDGET ANALYST

The Budget Analyst, J. Nichols, has responsibility for the management and administration of the capital budget and other

capital expenditures, assuring the accurate maintenance of records and preparation of financial reports. He directs work flow within the Department to meet established monthly, quarterly and annual reporting requirements and deadlines. Other responsibilities include providing operating and functional management for the implementation of budget plans and objectives including cash requirements and maintaining appropriate reporting structures as well as a computerized capital expenditure data base. The Budget Analyst prepares the capital budget committee recommendations for the Commissioners' approval. The position also reviews, evaluates and recommends changes to existing Authority policies and procedures.

For the foregoing reasons, I find the Budget Analyst is appropriately excluded from the unit under the statutory criteria previously set forth.

DISBURSEMENT MANAGER

The Disbursement Manager is responsible for the management and administration of Authority expenditures, assuring the accurate maintenance of records and preparation of financial reports. The position reviews, evaluates and effectively recommends changes to existing Departmental procedures in order to insure proper and timely payment of all Authority expenditures. Other responsibilities include maintaining the computerized disbursement system, monitoring financial records pertaining to disbursements, contracts and professional agreements. Among other duties, the

Disbursements Manager pays rents, processes invoices and issues checks to vendors, consultants and contractors. The position has also involved creating a disbursements procedures manual and instituting procedures necessitated by the change from a manual to computerized accounting system.

Based on the foregoing, I find that the Disbursements Manager is appropriately excluded from the unit under the statutory criteria.

CHIEF ACCOUNTANT

The Chief Accountant, J. Intromasso, is responsible for the management and administration of general accounting, assuring the accurate maintenance of records and preparation of financial reports. Specifically, the position is responsible for preparing and finalizing the Authority's entire operating budget as well as a monthly report reflecting the Authority's financial condition and for assisting outside auditors who conduct annual and other periodic audits. The Chief Accountant has prepared cost estimates for the Authority's collective negotiations team and has discussed negotiations proposal costs with the Director of Tolls. The Chief Accountant has advance knowledge of the Authority's offers to the unions and has recommended negotiations proposals which would be advantageous to the Authority.

Based on the foregoing, the Chief Accountant is a confidential manager, and is appropriately excluded from the unit under the statutory criteria.

PAYROLL MANAGER

The Payroll Manager, S. Sahli, is generally responsible for the preparation of payrolls, payroll records and all related reports and records pertaining to the various facets of the payroll function such as deferred compensation, terminal leave, pensions, payroll taxes, group insurance, vacation and sick banks. Specifically, the Payroll Manager calculates, compiles and provides payroll information to the Law Department and to the Authority's collective negotiations team. The Payroll Manager has been present at negotiations sessions as a resource person and has advance knowledge of negotiations proposals. Additional duties require interpretation and administration of contract terms as they pertain to payroll administration.

Based on the foregoing, the Payroll Manager is appropriately excluded from the unit pursuant to the statutory criteria previously set forth.

HUMAN RESOURCES

The Human Resources Department is headed by a Director, a position currently held by Mary Elizabeth Garrity. The Department consists of several sections headed by various managers and administrators. Reporting directly to the Director, among others, is the Personnel Administrator, Human Resources Manager and the

Manager of Safety and Benefits.^{3/} Assisting the Manager of Employee Safety and Loss Control and also under the general direction of the Director is the Employee Safety Administrator.

MANAGER, SAFETY & BENEFITS

The Manager, Safety & Benefits, H. Galary, is responsible for the development, implementation and maintenance of risk management, control policies and procedures designed to protect the safety and health of Authority employees and patrons; for ensuring the Authority compliance with applicable safety, health, fire protection and group health benefit-related regulations, and for providing cost effective, high quality benefit programs for Authority employees, retirees, eligible dependents and survivors. Specifically, the position requires the Manager to develop policies and procedures including written procedures and manuals, reports forms, audits and training programs designed to achieve the position's objectives. The position is also assists management during collective negotiations by costing out contract proposals. Moreover, the duties involve regular access to and working with confidential computer files which pertain to the supervision and discipline of other management employees.

^{3/} The organizational chart for the Department describes the title as Manager of Employee Safety and Loss Control while the official job description for this position is Manager, Safety & Benefits. For purposes of this decision, I assume that the title being excluded is only one position, Manager, Safety & Benefits.

Based on the foregoing, the Manager, Safety & Benefits is appropriately excluded from the unit under the statutory criteria.

HUMAN RESOURCES MANAGER

The Human Resources Manager, D. Little, works under the general direction of the Director in developing, implementing and coordinating policies and programs involving recruitment, testing, placement, salary and wage administration and training in compliance with State and Federal discrimination laws. Part of the duties and responsibilities of the Human Resources Manager entails administering collective negotiations agreements and assuming the duties of the Director in his/her absence.

Based on the foregoing, I find that the Human Resources Manager is appropriately excluded from the unit under the applicable statutory criteria.

PERSONNEL ADMINISTRATOR

The Personnel Administrators, M. Roberts and W. Paladeau, are responsible for planning, developing and implementing the overall wage and salary administration program for the Authority. In accomplishing these duties, the Personnel Administrators are responsible for establishing plans and procedures for carrying out Authority compensation policies and practices and for conducting and interpreting wage and salary surveys in order to recommend changes to ensure compensation objectives. Specifically, the positions

supervise and coordinate the merit and performance appraisal programs, develop incentive or bonus plans, prepare and maintain cost of living and other industry wage rate studies, and formulate and administer a job evaluation program. Finally, the Personnel Administrators assist management in the development of policies and Authority objectives.

Based on the foregoing reasons, I find that the Personnel Administrators are appropriately excluded from the unit under the statutory criteria.

EMPLOYEE SAFETY ADMINISTRATOR

The Employee Safety Administrator, J. O'Keefe, is generally responsible for the implementation of policies and procedures designed to protect and enhance the safety and health of Authority employees and patrons, for ensuring Authority compliance with applicable occupational safety & health regulations, and for assisting in the administration of the Authority's Safety Program. Specifically, this position recommends policies and procedures regarding the Authority's security systems and employee safety. The Administrator is responsible for investigating and reporting workers' compensation claims. This position assists management during collective negotiations on issues involving employee safety.

For the foregoing reasons, the Employee Safety Administrator is appropriately excluded from the unit under the statutory criteria previously set forth.

MAINTENANCE

The Maintenance Department is responsible for maintaining the Authority's roadways, buildings, signs, mechanical equipment, automotive fleet and communications system. The Department is headed by a Director and consists of several sections which report directly to the Director.

DIVISION MANAGER, MAINTENANCE

The Division Manager, Maintenance, D. McNamara, works under the general direction of the Maintenance Director, and has general responsibilities for administering all roadway, bridge, drainage and other related highway maintenance activities of the Authority. In addition to these general responsibilities, this position also prepares the annual Department operating budget and proposals for collective negotiations on behalf of management.

Based on the foregoing, the Division Manager, Maintenance position is appropriately excluded from the unit under the statutory criteria set forth.

SUPERINTENDENT OF ROADWAYS

The Superintendents of Roadways, North and South, J. Colby and T. Giaimo, work under the direction of the Division Manager and are responsible for highway maintenance, including drainage, right of way, bridge repair, and structural repair in their areas. The positions prepare budgets for their Division which are submitted to

the Maintenance Engineer for inclusion in the Departmental budget. In addition, the Superintendents of Roadways participate in meetings with the Division Director and make recommendations on policy issues and on negotiations proposals. Moreover, the positions are responsible for the administration of collective negotiations agreements in the Division, including acting as hearing officers in disciplinary matters.

Based on the foregoing, I find that the Superintendents of Roadways are appropriately excluded from the unit under the statutory criteria set forth.

MANAGER, EQUIPMENT

The Manager, Equipment position is currently vacant. This position is responsible for supervising the maintenance of all of the Authority's cars and trucks. The position is responsible for developing the budget for the equipment, including recommending the purchase of trucks, cars and automotive parts. In addition, the Equipment Manager has participated in developing proposals for collective negotiations.

For the foregoing reasons, I find that the Manager, Equipment is appropriately excluded from the unit under the statutory criteria set forth above.

BUILDINGS MANAGER

The Buildings Manager, B. Campbell, is generally responsible for the maintenance of all Authority buildings, roadway signing and sign fabrication, electro-mechanical and electronic toll equipment, and roadway lighting systems. The Buildings Manager reports directly to the Director and makes policy recommendations which often affect other sections in the Department. Specifically, this position implements cost-reduction policies and recommends improvements for operational efficiency and reduction of monthly expenditures. In addition, the position requires budget preparation. The Buildings Manager has assisted the Director in developing the Department's negotiations strategies for collective negotiations.

Based on the foregoing, I find that the Buildings Manager is appropriately excluded from the unit under the statutory criteria set forth.

ADMINISTRATIVE MAINTENANCE MANAGER

The Administrative Maintenance Manager, R. Walley, reports directly to the Director and is responsible for inventory control and processing personnel transactions. The Administrative Maintenance Manager is the Departmental liaison between the Director and the labor organizations which represent Maintenance Department employees. He meets with union representatives regularly to discuss operational procedures and disciplinary issues. His responsibilities include investigating and resolving grievances

informally which involves access to the Department's personnel records. The Administrative Maintenance Manager has participated in providing negotiations recommendations which are discussed and integrated with other proposals given to the Director.

Based on the foregoing, I find that the Administrative Maintenance Manager is appropriately excluded from the unit under the statutory criteria set forth.

OPERATIONS

The Operations Department ensures the continuous flow of traffic and provides communications, emergency services and police coverage on the Turnpike. It also provides an employee safety program. It is composed of five divisions. The Operations Department is headed by a Director. Reporting to the Director are the Manager of the Traffic Operations Center; the Traffic Engineer, Operations; the Manager, Emergency Services; the Traffic Engineer, Design & Planning as well as the Administrative Assistant, State Police. Reporting to the Traffic Engineer, Operations is the Traffic Operations Assistant.

MANAGER, TRAFFIC OPERATIONS CENTER

The Manager, Traffic Operations Center, L. Jackson, is generally responsible for setting speed limits, controlling speed warning signs, traffic control and monitoring the Automatic Traffic Surveillance and Control System. In addition, the position is

responsible for recommending staffing needs, equipment and operational programs for the Department, as well as developing and implementing policies and procedures in emergencies and for making personnel decisions including cutbacks. The Manager, Traffic Operations Center has prepared the budget for his section and developed proposals for the Authority's negotiations team.

Based on the reasons stated above, I find that the Manager, Traffic Operations Center is appropriately excluded from the unit under the statutory criteria set forth.

MANAGER, EMERGENCY SERVICES

The Manager, Emergency Services, J. Lyons, is responsible for the effective operation of the emergency services operation. Specifically, the position requires coordinating and formulating contracts with garages to provide emergency services for Authority patrons, reviewing and settling complaints regarding the emergency services provided, inspecting equipment for use, reviewing insurance coverage and approving the facilities of the garages. Additionally, the Manager, Emergency Services maintains financial records of towing, records of disabled vehicles and established agreements with first aid and fire squads. The position also coordinates with the Law Department and contractors concerning hazardous materials cleanup of spills on or near the roadway. The Manager, Emergency Services is also responsible for formulating rules, regulations and procedures relating to service permit programs and the road service

program. The position participates with management in suggesting proposals for collective negotiations.

Based on the foregoing, I find that the Manager, Emergency Services is appropriately excluded from the unit under the statutory criteria set forth.

TRAFFIC ENGINEER, DESIGN & PLANNING

The Traffic Engineer, Design & Planning, J. Kraft, is responsible for compiling and analyzing data on traffic volume, accidents, police activities, traffic patterns for use in recommending policies and procedures for toll and traffic lane requirements. In addition, his section maintains and distributes vehicle accident reports to the public. In the absence of the Department Director, the Traffic Engineer, Design & Planning assumes responsibilities for the administrative function of the Operations Department. The position has been involved in labor negotiations, recommends collective negotiations proposals, and has input into Division budget cutbacks and staffing needs.

Based on the foregoing, I find that the Traffic Engineer, Design & Planning is appropriately excluded from the unit under the statutory criteria set forth above.

TRAFFIC ENGINEER, OPERATIONS

The Traffic Engineer, Operations, J. Purdum, is responsible for ensuring continuous traffic flow by handling traffic problems as

they occur. His section oversees traffic control devices such as signs, pavement markings, variable message signs and interchange traffic signals. The position is responsible for scheduling all construction and maintenance activities; managing traffic control for football games, fireworks displays and accidents; and reviewing plans for other traffic safety measures such as toll plaza overhead lane controls, line striping designs, highway lighting and guardrail installation. The Traffic Engineer, Operations makes policy recommendations to the Director on matters affecting traffic control. The position assumes responsibilities for the administrative function of the Operations Department in the absence of the Director. Finally, the Traffic Engineer, Operations develops proposals for collective negotiations, determines which positions within the Division can be eliminated and where the budget can be cutback.

Based on the foregoing, I find that the Traffic Engineer, Operations is appropriately excluded from the unit under the statutory criteria discussed previously.

TRAFFIC OPERATIONS ASSISTANT

The Traffic Operations Assistant, W. McDaniels, reports to the Traffic Engineer, Operations and assists him in scheduling traffic control supervisors to place and remove lane closing signs and barriers and to ensure that those working on the roadway wear safety vests, that flashing lights are operating and that rules are

followed. His responsibilities include coordinating activities with the State Police and Tolls Department on special events affecting traffic flow. This position makes a substantial contribution to management in the planning, institution and review of Authority policies, programs and activities in connection with safety and efficiency of traffic operations.

Based on the foregoing, I find that the Traffic Operations Assistant is appropriately excluded from the unit under the statutory criteria set forth previously.

TOLL COLLECTION

The Toll Collection Department is headed by a Director who reports to the Chief Engineer. The Department's mission is to collect tolls efficiently, maintain and operate toll collection equipment, and supply and support the toll collection operation. Reporting to the Director are the Section Manager, Administration, the Division Managers (Southern and Northern Divisions) and the Coordinator of Field Operations. The Section Manager, Administration is an excluded title. Under this position and reporting to it are the Manager, T.E.M. and the Manager, Internal Affairs & Training (formerly Manager, Training & Audit).

MANAGER, TOLL EQUIPMENT MAINTENANCE

The Manager, Toll Equipment Maintenance (T.E.M.), K. Walton, is responsible for all maintenance relating to the computerized toll collection system. The position controls the payroll, inspects contractors' work and coordinates maintenance work with other Departments. Additionally, the Manager, T.E.M. prepares his section's budget and approves the purchase of equipment and supplies for the section. The position assists in formulating Department policy. Moreover, this position is routinely involved in collective negotiations and assists management in determining the ramifications of changes to collective negotiations agreements during the negotiations.

Based on the foregoing, I find that the Manager, T.E.M. is appropriately excluded from the unit under the statutory criteria set forth.

DIVISION MANAGER, TOLL COLLECTION

The Division Managers, Toll Collection, G. Devan and D. Housser, are responsible for overseeing, coordinating, organizing, directing, controlling and evaluating the responsibilities and duties of all toll collection personnel and activities within the Department including, but not limited to, administering collective negotiations agreements and reviewing and submitting negotiations proposals for unit personnel as well as monitoring budget expenditures and training personnel within the Division. Additionally, the position continuously reviews, evaluates, and

submits recommendations concerning proposed or existing rules, regulations, policies and procedures of the Department and/or Authority.

For the reasons stated above, I find the Division Managers, Toll Collection are appropriately excluded from the unit under the statutory criteria set forth.

MANAGER, INTERNAL AFFAIRS & TRAINING^{4/}

The Manager, Internal Affairs & Training, T. Moran, oversees, administers and analyzes Department employee training and audit records related to toll revenue collections. Among the specific duties and responsibilities of the position, the Manager, Internal Affairs & Training conducts periodic audit reviews of Toll Collection personnel to insure compliance with Departmental rules and regulations as well as Authority policies and procedures and reviews and analyzes all toll revenue reports of all full and part-time collectors and supervisors in order to confirm all adjustments and finalized audit records. Additionally, this position updates and maintains the toll collector manual of instruction and participates in collective negotiations on behalf of management with all unions on issues pertaining to toll operations.

^{4/} This title was formerly Manager, Training & Audit. There have been no changes in responsibilities, grade or required qualification for this title.

Based on the foregoing, I find that the Manager Internal Affairs & Training is appropriately excluded from the unit under the statutory criteria set forth.

ENGINEERING

The Engineering Department manages the capital budget, creates and authorizes construction and widening specifications, and procures design and construction contractors and other professional services. The Chief Engineer is the head of the Department.

SUPERVISING ENGINEER^{5/}

The Supervising Engineers, R. Grimm, Supervising Engineer-Planning, H. Steinbeis, Supervising Engineer-Bridges; J.D. Williams, Supervising Engineer-Highways; and S. Wisniewski, Supervising Engineer-Administration, manage the operations and the staff of a section in the Engineering Department. They oversee design and construction for highway-related projects, including overseeing the performance of contractors and consultants. They develop costs for projects under the Authority's annual capital budget. They negotiate with, coordinate and direct the work of consultants and/or contractors. They may act in place of the

^{5/} The Authority submitted job descriptions for the Supervising Engineer-Planning and the Supervising Engineer-Highways. The Authority represents that the other Supervising Engineers (Administrative and Bridges) have comparable authority and responsibilities for their respective sections.

Department's Chief Engineer. They maintain cooperative working relationships with other Authority Departments, outside contractors and public entities.

Based on the above, I find that the four Supervising Engineer positions at issue are appropriate for exclusion from the unit.

DEPUTY DIRECTOR, ELECTRONIC TOLL COLLECTION (E.T.C.)^{6/}

The Deputy Director, E.T.C., F. O'Connor, reports to the Assistant Chief Engineer and is responsible for managing system engineering activities for the Customer Service Centers (CSC) systems that are procured, installed, tested and placed into financial and programming operations. Generally, the responsibilities of the position include developing, directing and implementing the CSC element of the E.T.C. project from planning to design through the construction and service period; planning assigning and reviewing the work of staff assigned to the projects; and coordinating project work with affected agencies and Departments. Additionally, this position recommends policy generally, and manpower needs specifically, as a result of the installation of the E.T.C. project which will impact on future collective negotiations proposals.

^{6/} This title was formerly Project Manager, Customer Service Center. There have not been any changes in the responsibilities, grade or required qualifications for this title. The job description remains the same.

Based on the foregoing, I find that the Deputy Director, E.T.C. is appropriately excluded from the unit under the statutory criteria set forth.

LAW

ATTORNEYS

There are four Attorneys in the Law Department, T. Brown, M. Himelman, J.A. Martin, and P. Stefanile, in pay grades 13, 14 and 15. They report to the Senior Attorney, and are authorized to review legal matters, to provide advice on legal questions to members of the Turnpike, and review and prepare legal documents. They are responsible for collecting facts and researching legal issues to implement the goals of the Law Department and protect the Authority's legal interests.

I find that the Authority's Attorneys are appropriate for exclusion from the unit.

CONCLUSION

Based upon these employees' responsibilities, I find, pursuant to N.J.S.A. 34:13A-5.3 and the Supreme Court's decision in Turnpike I, that all of the foregoing positions are appropriately excluded from AFSCME's collective negotiations unit.

Susan W. Osborn

Susan Wood Osborn
LAP Umpire

DATED: September 2, 1999
Trenton, New Jersey