D.R. NO. 85-25

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

COUNTY OF ESSEX

Public Employer,

-and-

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1158, AFL-CIO,

DOCKET NO. RO-85-123

Petitioner,

-and-

ESSEX COUNTY EMPLOYEES ASSOCIATION,

Employee Representative,

-and-

OFFICE & PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL 32, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation directs that a secret ballot election be conducted among certain employees of the County of Essex to determine their choice of a collective negotiations representative. The Director determines that the appropriate unit is : all employees employed by the County of Essex, excluding confidential, professional, craft and judiciary employees, employees of County Hospitals, managerial executives, police and supervisors within the meaning of the Act and all employees represented in other collective negotiations units.

The incumbent organization argued that the unit should exclude employees of constitutional officers but should include judiciary employees. The Director rejected these arguments finding

that employees of the County Clerk should not be excluded from the extant unit and that employees of the Judiciary were not included in the unit.

The incumbent also filed unfair practice charges which it contended should block the processing of the representation petition herein. However, the Director determined that the incumbent did not sufficiently support its claim that the conduct underlying the alleged unfair practice would prevent the conduct of a free and fair election. Accordingly, the Director declined to afford the charges blocking effect.

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Intervenor.

Appearances:

For the Public Employer
Elaine K. Hyman, Assistant County Counsel

For the Petitioner
Cecchi & Politan, Esqs.
(John M. Agnello of counsel)

For the Employee Representative
Thomas E. Durkin, Jr., Esq.
(Dennis A. Durkin of counsel)

For the Intervenor
Fox & Fox, Esqs.
(Frederic M. Knapp of counsel)

DECISION AND DIRECTION OF ELECTION

On February 27, 1985, the International Brotherhood of Electrical Workers, Local 1158, AFL-CIO ("IBEW" or "Petitioner") filed a timely Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission"). The IBEW seeks to represent all employees of the County of Essex ("County") who are currently represented by the Essex County Employees Association ("ECEA"or "Association"). In its Petition, the IBEW described this unit as "including all employees employed by the County of Essex currently represented by the Essex County Employees Association; excluded: management and confidential employees". The ECEA has intervened in this matter on the basis of its recently expired contract with the County covering certain County employees for the period 1979-1983, pursuant to N.J.A.C. 19:11-2.7.[1/]

The Office & Professional Employees International Union, Local 32, AFL-CIO ("OPEIU") has also intervened on the basis of its

1/ N.J.A.C. 19:11-2.7(a) states:

> (a) No employee organization will be permitted to intervene in any proceeding to resolve a question concerning the representation of employees unless it has submitted a showing of interest of not less than 10 per cent of the employees in the unit involved in the petition

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submission of a 10% showing of interest from the employees in the unit covered by the petition, pursuant to N.J.A.C. 19:11-2.7. The County has taken no position on this petition.

The ECEA objects to a secret ballot election and requests that I cease processing the petition until after the Commission adjudicates the unfair practice charges it has filed against the County.

The ECEA filed its first charge against the County, Docket No. CO-85-236, on March 14, 1985. It alleged that the County "failed to negotiate a successor agreement in good faith with the ECEA" and "discriminated in favor of the IBEW and/or the OPEIU and/or the CWA."

The ECEA requested that the charge block the processing of the the IBEW's petition on March 20, 1985. 2/

On March 21, 1985, I notified the ECEA that its charge was deficient and unless it provided additional facts, I would not process the charge.

On March 25, 1985, the ECEA filed a second charge against the County, Docket No. CO-85-246, alleging that the County, in January 1985, discriminated in favor of some employees "... by

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or has submitted a current or recently expired agreement with the public employer covering any of the employees involved.

2/ The request was made at an informal conference conducted by Commission staff agents.

unilaterally implementing a 6% pay raise to less than all employees in unit(s) represented by the ECEA."

On March 29, 1985, the Administrator of Representation advised the ECEA to submit documentary evidence and detailed statements of position specifically addressed to its request that the unfair practice charges block the processing of the representation petition. He further advised the ECEA that its unsupported allegations cannot block the processing of a representation petition.

On April 12, 1985, the ECEA filed an amendment to its charges, alleging that the County delivered to the IBEW and/or OPEIU and/or CWA mailing lists with the home addresses of employees in the extant unit but the ECEA did not receive such a list. It also alleged that the recipients of the previously alleged illegal and unilaterally implemented 6% pay increase were claimed as confidential employees in a clarification of unit petition filed by the County (Docket No. CU-83-46) and withdrawn in March 1985. 3/

3/ The County filed a Petition for Clarification of Unit on January 12, 1983, wherein it contended that the employees in the titles designated in the petition were confidential employees within the meaning of the Act and should therefore be removed from the Association's unit. Several meetings were conducted by a Commission staff agent with regard to said petition. The parties resolved the status of approximately 25 of the disputed employees but the dispute remained concerning the status of some 50 to 60 employees. After further settlement attempts stalled, the Commission staff agent requested that additional information be provided to the

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On May 17, 1985, I notified the ECEA that it had not cured the defects in its unfair practice charges [4/] and had seven days

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Commission so that the case could proceed toward a disposition. The parties were then in negotiations for a successor collective negotiations agreement and accordingly, the County requested that the matter be pended during negotiations in the hope that the parties would resolve the remaining disputes at the bargaining table.

However, the dispute persisted and when the IBEW petition was filed on February 27, 1985, this dispute regarding confidential employees was still pending. The Commission staff agent then informed the County that it would then either be required to proceed with the Petition for Clarification of Unit or withdraw same. The County chose to withdraw the petition.

Such a procedure is consonant with the Commission's policy to move representation petitions to elections as rapidly as possible. Generally, the Commission will not entertain attacks on the structure of an extant unit raised during the pendency of a valid representation petition challenging an incumbent's majority status. See In re Hoboken, D.R. 85-4, 10 NJPER 598 (¶ 15276 1984). Further, in In re State of New Jersey, D.R. No. 81-20, 7 NJPER 41 (¶12019 1980), aff'd P.E.R.C. No. 81-94, 7 NJPER 105 (¶12044 1981), mot. for recon. den. P.E.R.C. No. 81-95, 7 NJPER 133 (¶12056 1981), the Commission followed a similar procedure when the CWA filed petitions challenging the majority status of the incumbent NJCSA--NJSEA. At the time of the CWA filing, several clarification of unit petitions and associated unfair practice charges were pending concerning certain employees whom the State alleged were confidentials. The Commission determined that the pending disputes would not block the processing of the representation cases. See also, In re Cty. of Morris Park Commission, D.R. No. 80-17, 6 NJPER 37 (¶11018 1980).

4/ These charges allege that the County "1. [failed] to negotiate a successor collective bargaining agreement in good faith with the Essex County Employees Association; 2. [acted] to obstruct, delay and impede the Essex County Employees Association's good faith attempts to negotiate a successor
(Footnote continued on next page)

to present the Commission a clear and concise statement of facts constituting the alleged charge.

On May 17, 1985, I also notified the Association that it had seven (7) days in which to proffer affidavits and other documentary evidence and a statement of position supportive of the claim that the conduct underlying the alleged unfair practice would prevent the conduct of a free and fair election and, therefore, that the amended charge should be afforded a blocking effect.

On May 28, 1985, the ECEA filed a second amended charge, alleging that "during January or February 1985, the County delivered mailing lists with home addresses of employees represented by the ECEA to the IBEW, OPEIU and/or CWA". The Association also filed an affidavit alleging in very general terms, that unspecified agents of the Board of Chosen Freeholders had provided a list of employees to the IBEW. 5/

The ECEA also submitted an affidavit on May 28, 1985, with regard to its charge that the County purposefully delayed

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collective bargaining agreement; and 3. actively [discriminated] against the Essex County Employees Association in an impermissible attempt to oust the Essex County Employees Association of the exclusive representative certification awarded after election by the New Jersey Public Employment Relations Commission."

5/ Although the amendment alleges times and places when an alleged violation of the Act occurred, the ECEA has neither provided the Commission the names of agents involved in the alleged violation nor has it established which employee organization, if any, received a copy of the alleged list.

negotiations on a successor collective negotiations agreement with the Association in order to give the IBEW more time within which to gather a showing of interest in support of the instant petition.

The ECEA further alleges that the instant petition is not supported by an adequate showing of interest. It also argues that the petitioned-for unit is inappropriate for collective negotiations because it includes employees of employers other than the County and excludes judiciary employees.

The County denied all of the ECEA's unfair practice charges. It denies it either engaged in any bad faith negotiations or provided a list of employees to employee organizations. The County admits that it paid 6% salary increases to certain employees. However, the County asserted that the affected employees were either employees of the judiciary or employees who are confidential within the meaning of the Act, and in either case, not in the Association's bargaining unit.

I authorized an adminstrative investigation into the matters and allegations involved in the petition in order to determine the facts. See, N.J.A.C. 19:11-2.6(c).

Based upon the administrative investigation, I find and determine the following:

1. The disposition of this matter is properly based upon my administrative investigation. The parties have not placed in dispute any substantial and material factual issues which may be more appropriately resolved after an evidentiary hearing, pursuant to N.J.A.C. 19:11-2.6(b).

2. The County of Essex is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), is subject to its provisions and is the employer of the employees who are the subject of this petition.

3. The International Brotherhood of Electrical Workers Local 1158, AFL-CIO, the Office and Professional Employees International Union, Local 32, AFL-CIO, and the Essex County Employees Association are employee organizations within the meaning of the Act and are subject to its provisions.

4. The ECEA is the exclusive majority representative of the subject employees and is party to a recently expired collective negotiations agreement covering a unit described as "all craft employees of the County of Essex, but excluding Department of Public Works craft titles in the boiler room, and including [sic] all County Hospitals, County Correction Officers, identification officers, court attendants, probation officers, court clerks and all professional employees, managerial executives and police, and supervisors within the meaning of the Act" (The ECEA was certified by the Commission in 1970). 6/

5. On February 28, 1985, I notified the County, the ECEA and the OPEIU of the IBEW's petition. I requested the County to

6/ All craft employees in the Department of Public Works and the Department of Parks were subsequently removed from the unit by agreement of parties in 1981 and the IUOE was certified to represent those units in Commission Docket Nos. RO-81-158 & RO-81-227.

submit a list of all unit employees described in the petition. All parties were notified that absent such a list, the showing of interest is presumed adequate for further processing of the petition. On March 15, 1985, the County submitted a list of titles and the names of employees in those titles in the petitioned-for unit.

6. On March 14 and 25, 1985, the ECEA filed unfair practice charges (Docket Nos. CO-85-236 & CO-85-246) relating to this matter.

7. At an investigatory conference held on March 20, 1985, the IBEW asserted that the petitioned-for unit further excludes employees designated by the Assignment Judge of Essex County as judiciary employees, employees of the Superintendent of Elections/Commissioner of Registration of the Elections Commission and employees designated Assistant County Counsels.

8. The ECEA maintains that the proposed unit should further exclude employees of constitutional and/or statutory officers but should include judiciary employees. It contests the sufficiency of the showing of interest by the IBEW.

9. The OPEIU initially agreed with the composition of the proposed unit and was willing to consent to a secret ballot election. It later submitted a statement indicating that the proposed unit should exclude supervisors and professionals.

On April 1, 1985, the OPEIU filed a timely Petition for Certification of Public Employee Representative with the

Commission. By that petition, it seeks to represent a unit comprised of all Essex County Judiciary employees. Both the IBEW and ECEA have sought to intervene in this matter pursuant to N.J.A.C. 19:11-2.7.

10. The Judiciary takes the position that all employees whose duties and responsibilities are necessary and integral to the functioning of the court system are designated as "judiciary employees". By a memorandum dated May 1, 1984, Assignment Judge Scalera informed all judiciary employees that the Judiciary has never acknowledged and cannot now acknowledge that Judiciary employees are included in the ECEA negotiations unit. The Judiciary also advised this agency that the it does not acknowledge the jurisdiction of the Commission to review such determination.

11. The County has taken no position on the petition.

12. The IBEW is willing to consent to an election in the petitioned-for unit.

* * * *

ANALYSIS OF ISSUES

1. The ECEA contends that the IBEW petition is not supported by an adequate showing of interest. In support of this allegation, the ECEA submitted 13 certified affidavits signed by unit employees. Twelve affiants alleged that the IBEW may have submitted authorization cards in their behalf "with or without [their] consent or permission." These affiants requested that the

Director immediately withdraw their names from the IBEW's card list. Affiant No. 13 alleged that if the IBEW submitted an authorization card in his behalf, it was false. In fact, the IBEW has not submitted an authorization card in that affiant's behalf. The 13 affiants constitute about one percent of the petitioned-for unit of 1400 employees. Their disputed authorization cards do not mathematically effect the validity of the IBEW's showing of interest. 7/

Where a decision is made as to whether to count an authorization card in a showing of interest, one must look to the plain language on the face of the showing of interest card. All of the authorization and designation cards submitted with the IBEW petition contain clear language indicating that the public employees "authorize(s) the International Brotherhood of Electrical Workers to represent me in collective bargaining with my employer." 8/

In In re Jersey City Medical Center, D.R. No. 83-19, 8 NJPER 642 (¶13308 1982), the then Director of Representation stated:

7/ N.J.A.C. 19:11-1.2 (a)(8) requires that: "...petitions for certification of public employee representative shall be accompanied by a showing of interest as defined in N.J.A.C. 19:10-1.1(a)(25) of not less than thirty (30) percent of the employees in the unit alleged to be appropriate.

8/ N.J.A.C. 19:10-1.1 defines showing of interest as: "...a designated percentage of public employees in an allegedly appropriate negotiations unit or a negotiations unit found to be appropriate, who are members of an employee organization or have designated it as their exclusive negotiations representative...When requesting certification, such designations shall consist of authorization cards or petitions, authorizing the employee organization to represent such employees for the purpose of collective negotiations..."

> The submission of a showing of interest by a petitioner is an administrative requirement for the purpose of ensuring that sufficient interest exists among employees on behalf of the petitioner to warrant the expenditure of Commission resources in processing the petition. 1/ It is uniquely an administrative concern, and questions relating to its validity must be raised in a proper manner. Unless good cause exists to the contrary, challenges questioning the validity of a showing of interest are to be raised prior to the informal conference and should be embodied in the challenging party's response to the Commission's initial request for positional statements.
>
> Consistent with N.J.A.C. 19:11-2.1 2/, the undersigned engages in a separate review of claims regarding the propriety of the showing of interest.3/ Documentary and other evidence in support of such claims shall be filed within 72 hours of the raising of the challenge.
>
> 1/ In re Woodbridge Tp. Bd. of Ed., D.R. No. 77-9, 3 NJPER 26 (1977).
>
> 2/ N.J.A.C. 19:11-2.1 provides: The showing of interest shall not be furnished to any of the parties. The director of representation shall determine the adequacy of the showing of interest and such decision shall not be subject to collateral attack.
>
> 3/ See, In re City of Jersey City, E.D. No. 76-19, 2 NJPER 30 (1976).

The ECEA first raised its challenge to the showing of interest at the informal conference on March 20, 1985. It was then orally advised that pursuant to Commission policy, any documentary evidence proffered in support of its challenge to the showing of interest must be filed within 72 hours of the raising of the challenge. See, In re Jersey City Medical Center, supra. The ECEA failed to submit any documentation within the allocated time period.

In In re City of Jersey City, E.D. No. 76-19, 2 NJPER 30 (1976), it was held that:

> The object of an investigation [into a challenge of the showing of interest] is not to ascertain whether the petitioning party still has the same support it did when it filed, or even to resolve each challenge to the showing of interest raised by the objecting party. The true desires of the employees involved, which is the essential question to be resolved, will best be ascertained by the holding of an election, not by drawn out evidentiary hearings."9/

Based upon the administrative investigation and the preceeding discussion of law, I find that the showing of interest is proper and sufficient on its face to support the petition. The question concerning the representational desires of the employees raised herein can best be answered by the conduct of a secret ballot election by this Commission.

2. The ECEA next alleges that the petitioned-for unit is inappropriate in part because it includes employees of constitutional and/or statutory officers who are separate, autonomous public employers. It also alleges that the proposed unit is inappropriate because it excludes judiciary employees. The ECEA contends that judiciary employees should be included in its extant, county-wide negotiations unit.

Although the ECEA acknowledges that the petitioned-for unit parallels its current county-wide unit, it argues that the

9/ In re City of Jersey City, supra, p.12. See also, In re City of Newark, D.R. No. 85-24, 11 NJPER ___ (¶____ 1985).

County Clerk and County Surrogate are separate autonomous employers whose employees constitute, respectively, separate collective negotiations units.

In taking this position, the ECEA in effect requests that certain employees who have been included in the extant unit for over 14 years should now be removed from the unit. In In re City of Hoboken, supra, n.3, the Director of Representation noted that it is Commission policy not to process requests to modify an existing collective negotiations unit during the pendency of a representation proceeding challenging the incumbent's majority status. In that matter, the Director ordered an election among the employees in the existing unit. See also, In re City of Newark, supra, n.9.

Additionally, the County Clerk has not asserted a claim that it is a separate public employer. Moreover, no party has submitted a collective negotiations agreement negotiated and executed by the County Clerk and any employee organization which purports to cover the employees of the County Clerk. Accordingly, I find that the ECEA has failed to adequately demonstrate that certain employees of the County Clerk should be severed from the historical unit because they are employed by a separate constitutional (or statutory) officer. Moreover, as to employees of the Surrogate's Office, they are judiciary employees and their status is discussed below.

On April 1, 1985, the OPEIU filed a petition seeking to represent all clerical employees of the Judiciary of Essex County.

In response to that petition, the ECEA asserts that all judiciary employees (with the exception of those employees allegedly employed by separate constutitional or statutory officers) should be included in its extant, county-wide unit of County employees. The Commission has previously stated that whenever the Judiciary determines that certain personnel are within the superintendence and control of the courts, in the absence of the Judiciary's acquiesence to the procedures as set forth in the New Jersey Employer-Employee Relations Act, the Commission will not assert jurisdiction to adjudicate claims involving such employees. See In re State of New Jersey, D.R. No. 81-34, 7 NJPER 209 (¶12093 1981), req. for rev. den. P.E.R.C. No. 81-127, 7 NJPER 256 (¶12115 1981). See also, Passaic County Court Judges, D.R. No. 82-26, 8 NJPER 13 (¶13006 1981) aff'd P.E.R.C. No. 82-92, 8 NJPER 233 (¶13097 1982), Req. for Stay to App. Div. den. A-3208-81T2, Dir. cert. granted 93 N.J. 285 (1983).

In the representation matter concerning Judiciary employees, the Judiciary takes the position that all employees whose duties and responsibilities are necessary and integral to the functioning of the court system have been designated as "judiciary employees". By memorandum dated May 2, 1984, Assignment Judge Scalera informed all judiciary employees that "we have never recognized and cannot now recognize the inclusion of employees with titles performing judiciary functions in the Essex County Employees Association negotations unit." The Judiciary advised the Director

of Representation that the Judiciary does not acknowledge the jurisdiction of this Commission to review such determination. Based upon the foregoing, I dismiss the ECEA's claim that those employees designated by the Judiciary as judiciary employees are (or should be) included in its county-wide unit.

The OPEIU has requested that the proposed unit exclude supervisors and professionals. Although it appears that the unit sought by the IBEW does exclude supervisory and professional employees, it must be noted that N.J.A.C. 19:11-2.7 provides:

> "... (b) An employee organization seeking to intervene for the purpose of claiming a unit of employees different from that sought by the petitioner shall submit a showing of interest from at least 30 per cent of the employees in the unit it claims to be appropriate, or a current or recently expired agreement with the public employer covering such employees.

The OPEIU intervened in this matter on the basis of a showing of interest of 10%. Accordingly, it has no standing to seek an employee unit different than that sought by the IBEW and its request will not be formally considered.

3. Finally, the ECEA argues that the Commission should cease processing the representation petition until the processing of its amended unfair practice charge has been completed.

The Association's amended charge contains essentially three allegations: The County failed to negotiate in good faith in order to delay reaching agreement with the ECEA and thus assisted the IBEW; the County provided a list of unit employees to the IBEW

and/or OPEIU and failed and refused to provide same to the ECEA; and the County unilaterally and without negotiations provided a 6% salary increase to certain employees who are included in the ECEA's unit.

The filing of an unfair practice charge or even the issuance of an unfair practice complaint will not automatically block the processing of a representation petition. See, In re State of New Jersey, supra, n.3, where the then Director explained that neither the Act nor the rules of the Commission require the Commission to follow a blocking charge procedure. Likewise, a blocking charge procedure is not required by the Labor Management Relations Act nor by the National Labor Relations Board("NLRB"). The decision on whether an unfair practice charge should block a representation petition is a matter within the NLRB's discretion. Although, in accordance with Lullo v. Int'l. Fire Fighters, 55 N.J. 40 (1970), this Commission will seek guidance in its determination from the federal model, the Commission's unfair practice jurisdiction contemplates a procedure which is significantly different from NLRB practice. Accordingly, the Commission has never adopted the NLRB's automatic blocking policy.

The Director went on to review the legal standards for determining when, in the New Jersey public sector, an unfair practice charge should block a representation petition. First, the charging party must request that the charge block the representation proceedings. Second, it must submit documentary evidence in the

representation forum establishing the basis for the claim that the conduct underlying the unfair practice(s) prevents a free and fair election. Where such material has not been furnished, the Director has declined to exercise his discretion to block an election. See, In re Village of Ridgewood, D.R. NO. 81-17, 6 NJPER 605 (¶11300 1980). Third, in cases where the charging party proffers such evidence, the Director, in establishing a standard for the exercise of his discretion, looks to the policies and experience of the NLRB and court decisions in review thereof. The ultimate consideration is whether employees could, under the circumstances, exercise their free choice in an election.

The Director went on to enumerate the factors to be evaluated in considering whether a fair election can be conducted during the pendency of the unfair practice charge:

> ...the character and scope of the charge and its tendency to impair the employees' free choice; the size of the working force and the number of employees involved in the events upon which the charge is based; the entitlement and interest of the employees in an expeditious expression of their preference for representation; the relationship of the charging parties to labor organizations involved in the representation case; the showing of interest, if any, and the timing of the charge.

The ECEA's contention that the County deliberately delayed negotiations for a successor agreement is not persuasive. The only evidence proffered in support of this contention is the timing of the negotiations themselves. The contract expired on December 31, 1981. Negotiations for a successor agreement began in October

1983. By the time of the filing of this petition on February 27, 1985, the parties still had not reached an agreement. The record merely reveals that the ECEA and the County were involved in difficult and protracted negotiations for a successor to their 1983 agreement.

Similarly, there is no support for the ECEA's contention that the County provided a list of unit employees to rival unions. The affidavits submitted by the ECEA are based on double hearsay and fail to name any of the sources of such hearsay.

Finally, the ECEA's contention that the 6% raise given to certain employees constitutes an unfair practice charge of sufficient impact to block the representation petition must fall as well. The granting of the raise is undisputed. In December 1984, the County granted the raise to judicial employees (a raise to these employees is of no moment since they are not in the unit, see discussion, infra, pp. 14-16) as well as the 56 employees who the County claims are confidential. As discussed at footnote 3, the County filed a Petition for Clarification of Unit concerning these employees in January 1983, long before the representation question that is the subject of this decision became evident. The County constructively removed these employees from the unit 10/ in

10/ Although this type of action has been discouraged by the Commission, the Commission has made it clear that an employer may unilaterally remove a confidential employee from the unit
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December 1984, when it granted the 6% raise. However, the Association waited three months to challenge the County's action in granting this raise. The ECEA's lack of zeal in filing a charge on this matter does not support its contention that it was highly prejudiced by the granting of this raise. Moreover, the unit contains approximately 1400 employees. Assuming the 56 allegedly confidential employees properly belong in the unit, the raise was given to a small fraction of the unit and it is unlikely that this conduct would effect the employees exercise of free choice.

The ultimate consideration in resolving such a dispute concerns whether the employees could, under the circumstances, exercise their free choice in an election. See, N.J.A.C. 19:11-2.6(b)(3). On the basis of the investigation and the factors discussed above, I believe that the character and scope of these actions do not have the tendency to impair the employee's free choice and, therefore, the amended unfair practice charges should not be accorded blocking effect.

* * * *

I find that the appropriate unit for collective negotiations is: all employees employed by the County of Essex,

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at its peril. See, In re Passaic Cty. Reg. Bd. of Ed., P.E.R.C. No. 77-19, 3 NJPER 34 (1976).

excluding confidential employees, professional employees, craft employees, judiciary employees, employees of County Hospitals, managerial executives, police and supervisors within the meaning of the Act and all employees represented in other collective negotiations units.

I direct that an election be conducted among the employees described above, pursuant to N.J.A.C. 34:13A-2.6(b)(3). The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date of this decision, including employees who did not work during that period because they were out ill, on vacation, temporarily laid off, or in military service. Employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date are ineligible to vote.

I direct the Public Employer to simultaneously file with me and with the IBEW, ECEA and OPEIU, an eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles, pursuant to N.J.A.C. 19:11-9.6. The Public Employer shall also file with me, an accompanying proof of service. I must receive the eligibility list no later than ten (10) days prior to the date of the election. I shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether they wish to be represented for the purpose of collective negotiations by International Brotherhood of Electrical Workers, Local 1158, AFL-CIO, Essex County Employee Association, Office & Professional Employees International Union, Local 32, AFL-CIO or no union.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR

Edmund G. Gerber
Director

DATED: June 14, 1985
Trenton, New Jersey