

BEFORE THE STATE OF ALASKA  
DEPARTMENT OF LABOR  
LABOR RELATIONS AGENCY

|                                         |   |                            |
|-----------------------------------------|---|----------------------------|
| In the matter of                        | ) |                            |
|                                         | ) |                            |
| The Unfair Labor Practice Charge of     | ) |                            |
| INTERNATIONAL BROTHERHOOD OF ELECTRICAL | ) |                            |
| WORKERS, LOCAL #1547                    | ) |                            |
|                                         | ) | Case No. <u>ULP 84-004</u> |
| Petitioner                              | ) |                            |
|                                         | ) |                            |
| and                                     | ) |                            |
|                                         | ) |                            |
| CITY OF FAIRBANKS                       | ) |                            |
|                                         | ) |                            |
| Employer                                | ) |                            |

DECISION AND ORDER NO. 85-4, AMENDED

On April 1, 1985 the Agency issued a Decision and Order, number 85-4, ruling that the City of Fairbanks was guilty of an unfair labor practice and ordering the City to cease the illegal practice. That Decision was appealed to the Superior Court. In its appeal brief, the City cited a relevant NLRB Decision which had been overlooked by both parties and not considered by the Agency in rendering Decision and Order number 85-4. Subsequently, the Agency moved for remand so that it might consider this precedent. The Superior Court has granted that motion and this, then, is the Agency's reconsideration.

The NLRB decision, heretofore overlooked, is Federal-Mogul Corp., 209 NLRB 343, 85 LRRM 1353 (1974). This case involved a group of industrial employees who were added to an already existing bargaining unit of production employees as the result of a "Globe" election. The NLRB held that in such a situation, the pre-existing contract should not be applied to the newly added group.

The court has accurately noted that this is a case of first impression in Alaska. However, the Federal-Mogul doctrine has been applied consistently in Michigan, Iowa and Oregon state courts.

The Alaska Courts consider applicable NLRB decisions highly relevant in ruling on unfair labor practice claims. Alaska Public Employees Assn., Inc. v. Municipality Of Anchorage, 555 P. 2d 552, 553 (Alaska 1976). This agency has also determined such consideration to be appropriate.

The IBEW opposes the consideration of Federal-Mogul on the belief that the relevant election was not a "Globe" election because the IBEW was not a certified union at the time of the election. As pointed out by Judge Blair in his opinion, "Globe" elections do not require the existence of already certified bargaining units. Judge Blair finds the IBEW arguments against the "Globe" status of the election without merit. We agree.

Under the Federal-Mogul doctrine, when a group of employees is added to an already existing bargaining unit under a "Globe" election, the pre-existing contract does not apply to them. The agency sees no reason to depart from this NLRB precedent.

ORDER

Accordingly, it is hereby ordered that the unfair labor practice charge filed by IBEW is dismissed.

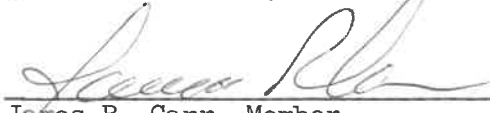
Dated

10/17/85



  
Robert J. Bacolas, Chairman

  
Donald R. Wilson, Member

  
James R. Carr, Member

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| CITY OF FAIRBANKS            | ) |                     |
|                              | ) |                     |
| Employer                     | ) |                     |
| _____                        | ) |                     |

DECISION AND ORDER NO. 85-4

On December 1st, 1984, The International Brotherhood of Electrical Workers Local 1547 filed an Unfair Labor Practice charge against the City of Fairbanks alleging that the City violated A.S. 23.40.110(a)(5) by refusing to bargain in good faith, more specifically by insisting that separate bargaining agreements be negotiated for portions of the unit which I.B.E.W. was certified to represent.

Both parties stipulated to waive their right to hearing under 2 AAC 10.250(b) and to submit briefs on the issue upon which the Agency would issue its ruling. The facts surrounding the unit in question are not disputed.

The accusation having been filed, the City responded on December 27, 1984 denying the accusation. The I.B.E.W. filed their initial brief on January 20, 1985. The City filed theirs on February 4, 1985. The I.B.E.W. supplied a reply brief on March 1, 1985 and the City advised the Agency that they did not desire to comment further. It is upon this record that after careful investigation and consideration the Agency finds:

1. Waste Water Treatment Plant employees expressed their desire through election on October 9, 1984 to be one with the MUS unit represented by I.B.E.W.

2. The Agency certified both groups of employers as a single unit on December 24, 1984.
3. While the self-determination election is not an accretion, the effects of the election in this situation are most analagous to an accretion where the provisions of an existing contract automatically extend to added job classifications.
4. The parties are required to negotiate on wages for the new job classifications not contained in the existing agreement.
5. Modification of the unit is a permissive subject of bargaining.  
Insisting to impasse on the unit makeup after Agency certification constitutes an unfair labor practice by the City of Fairbanks.

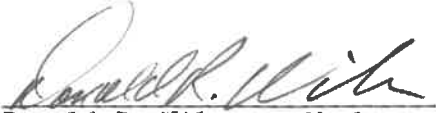
ORDER

Accordingly, it is hereby ordered that the City of Fairbanks acknowledge that the terms and conditions of the existing contract extends to the Waste Water Treatment Plant employee classifications and OSP engineers and that the City immediately enter into collective bargaining with I.B.E.W. as to the wage rates on all new classifications in the unit certified by this Agency that are not covered by the existing contract.

DATED: april 1, 1985



  
Robert J. Bacolas, Chairman

  
Donald R. Wilson - Member

  
James R. Carr - Member