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James R. McDonnell Ph.D.

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Jamestown Board of Public Utilities and International Brotherhood of Electrical Workers Local 459

Abstract
In the matter of the fact-finding between the Jamestown Board of Public Utilities, employer, and the International Brotherhood of Electrical Workers Local 459, union. PERB case no. M2009-336. Before: James R. McDonnell, Ph.D., fact finder.

Keywords
New York State, PERB, fact finding

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NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF THE IMPASSE

BETWEEN

JAMESTOWN BOARD OF PUBLIC UTILITIES
and

IBEW LOCAL 459

PERB Case No. M 2009-336

APPEARANCES:

For the Board: **William L. Wright, Esq., Interim Labor Relations Administrator**

For the IBEW: **Donald Hoak, Business Manager/Financial Secretary**

Fact Finder: **Dr. James R. McDonnell**

FACT FINDER REPORT AND RECOMMENDATION

Factual Background

The Board of Public Utilities for the City of Jamestown, New York (hereinafter, "Board") and Local Union No. 459 of the International Brotherhood of Electrical Workers (hereinafter, "Local 459") have been engaged in collective bargaining negotiations for a successor collective bargaining agreement to the current agreement that expired by its terms on March 31, 2009.

The Board provides electric, water, sanitation, sewage and district heating services to residents and businesses in the City of Jamestown and surrounding areas. Local 459 represents certain employees of the Board including those in the electric and water divisions, certain employees in the sewage division and employees in the customer service department who perform work for all divisions.

The current collective bargaining agreement was initially negotiated in 1998 and was effective for a three-year period from April 1, 1998 to March 31, 2001. That agreement was thereafter extended twice, each time for a four-year period – from April 1, 2001 through March 31, 2005 and again from April 1, 2005 to March 31, 2009. During each of these extensions, the only modification to the agreement was that wage increases were provided during each year under these extension agreements.

The parties began negotiations for a successor agreement to the current agreement on February 18, 2009. Each party submitted a substantial number of proposals, in part because it had been over 10 years since the parties last engaged in any extensive substantive negotiations and during that time, there had been changes in the nature and operation of the business.

Over the course of the next year, the parties met 15 times and were able to make substantial progress in reshaping their agreement, resolving approximately half of the 35 substantive proposals initially presented.

However, the parties were unable to resolve all their substantive issues and consummate an agreement and therefore, on February 3, 2010, impasse was declared and PERB assigned a mediator to assist the parties in reaching an agreement. Mediation sessions were conducted in April and May 2010, and with the assistance of the mediator, the parties were able to resolve all but four (4) of their outstanding issues. At the conclusion of the mediation, the issues still in dispute were wages, health insurance, sick leave payout upon retirement and line of progression in the water department.

I was thereafter designated as the Fact Finder to assist the parties in trying to resolve these remaining issues. It should be noted that while four (4) issues remain outstanding, my Report in this matter will focus on wages and health insurance since those are the issues upon which the parties focused at the hearing in this matter and also the ones that were emphasized in the Fact-Finding Brief submitted by the Board at the hearing. As to the remaining issues, including sick leave pay out upon retirement and line of progression in the water department, I am recommending that the parties agree to maintain the status quo as to those issues.

The fact that the parties were unable to agree on wages and health insurance comes as little surprise. In the current economic environment, both in the public and private sectors, wages and health insurance are the crucial issues in almost all collective bargaining negotiations. In the New York State public sector, both in negotiated agreements as well as in interest arbitration where that is an option, the amount of the wage increase is generally tied to an increased contribution by employees to the cost of providing health insurance. In addition and/or in the alternative, changes might be made to the health insurance plan to decrease the cost of providing such coverage.

The parties' positions in the current negotiations and their inability to reach agreement reflect these difficult economic realities.

With this in mind, the following constitutes my findings and recommendations on the issues addressed.

WAGES AND HEALTH INSURANCE

At the conclusion of the mediation process, Local 459 proposed a four-year agreement with the following across-the-board percentage wage increases in each year of that agreement:

April 1, 2009-March 31, 2010 – 3%

April 1, 2010-March 31, 2011 – 3.5%

April 1, 2011-March 31, 2012 – 4%

April 1, 2012-March 31, 2013 – 3.75%

The Board proposed more modest increases as follows:

April 1, 2009-March 31, 2010 – 2%

April 1, 2010-March 31, 2011 – 1.75%

April 1, 2011-March 31, 2012 – 1.75%

April 1, 2012-March 31, 2013 – 1.75%

In support of its position, the Board noted that inflation has remained relatively flat [1] and the federal government has not increased Social Security benefits for two (2) years due to the stagnant economy. The Board argues that the wage increases proposed by Local 459 cannot be justified as they greatly exceed the inflation rate.

[1] According to the Bureau of Labor Statistics, the inflation rate as of the end of September 2010 was 1.1%, up from -.4% for calendar year 2009.

The Board further noted that its proposed wage increases were more in keeping with other contract settlements in the City of Jamestown, especially when one considers the health insurance contribution percentage provided for in these other settlements. It cited the following Jamestown settlements in support of its position:

AFSCME: 2.75%, 3%, 2.75%, and 3%. Final health insurance contribution: 17%

CSEA: 2.5%, 3%, 2.75% and 3%. Final health insurance contribution: 17%

JCAA/JURA: 1.75% and 1.75%. Final health insurance contribution: 16%

Teamsters: 2.5% (not retroactive), 1% and 0.3%. Final health insurance contribution 10%

The Board explained that it uses a total cost bargaining approach and that the amount of the wage increase it is able to provide is dependent, at least in part, upon the health insurance contribution to which Local 459 is willing to agree. It notes that while some of the settlements set forth above have higher percentage wage increases, none of them has lower health insurance contributions and the one settlement (with the Teamsters) that does provide for lower health insurance contributions, also provides substantially lower wage increases.

There is no question that the Board's proposed wage increases are significantly lower than the wage increases provided for in the AFSCME and CSEA's settlements. The Board notes that Local 459 members received yearly wage increases each year from 1998 through 2009. It reports in its Brief that the sum of the annual wage increases (on a non-cumulative basis) during this 11 year contract period was 27% and therefore, the wage increases kept pace with inflation, which was 27.1%. Section 11.1 on page 26 of the current contract specifies that there were 2.25% increases in each year of the contract from 2005 through 2008. Thus, the historical annual increases fall somewhere between the respective positions of the parties.

With respect to the parties' health insurance proposals, Local 459 proposed a 10% employee contribution rate to be effective for the entire duration of the four-year contract. Based upon the fixed contribution in place under the current contract, this would represent approximately a 5% increase in employee contribution rates. That said, it is important to remember that the fixed contribution in place under the past contract represented approximately 10% of the total cost of health insurance in 1998. That percentage fell of course as the cost of the insurance increased and the fixed contribution did not.

The Board has proposed a combination of fixed and percentage employee contribution rates during the term of the contract as follows:

Upon settlement of the contract – $50 single and $100 family

Effective April 1, 2011 – $60 single and $150 family

Effective April 1, 2012 – 15%

In its Brief, the Board stressed that while it has done its best to provide exceptional health insurance coverage while minimizing annual cost increases, costs have nevertheless continued to increase dramatically. Of course, this is an unfortunate reality for all employers who provide any type of meaningful health insurance for their employees. Costs have and continue to increase considerably from year to year and those increases are expected to continue.

Local 459 maintained its position that its proposal on health insurance contributions was entirely reasonable and represented a substantial increase in employee contributions.

And it should be noted that the percentage increase proposed by Local 459 would increase the employee contribution automatically as the premiums increased whereas the Board's proposal would continue to provide for a fixed contribution until April 1, 2012.

After careful consideration of the evidence and arguments presented by the parties, I make the following recommendation for settlement as to the issues of wages and health insurance benefits:

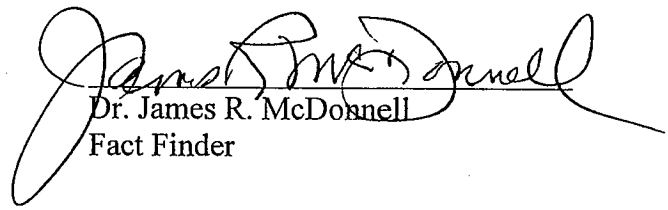
Contract Year	Wages	Health Insurance Benefits Employee Contribution
4/1/2009-3/31/2010	2.5%	Same as current contract
4/1/2010-3/31/2011	2.5%	Same as current contract
4/1/2011-3/31/2012	2.5%	12.5% effective 4/1/2011
4/1/2012-3/31/2013	2.5%	15% effective 4/1/2012

As previously indicated, the other two outstanding issues should remain status quo.

I make no further recommendations.

Dated: Buffalo, New York
March 9, 2011

Respectfully submitted,



Dr. James R. McDonnell
Fact Finder