

Sept. 1994



1 PELRB No. 5

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

_____)	
In the Matter of)	
)	
Local 187, United Steelworkers)	
of America, AFL-CIO/CLC)	
)	
Petitioner,)	
)	
and)	Case No. CP 6-95(M)
)	
City of Carlsbad)	
)	
Public Employer.)	
_____)	

DECISION AND ORDER

Pursuant to the authority of the Public Employee Labor Relations Board (PELRB or Board) under the Public Employee Bargaining Act of 1992 (PEBA or Act), NMSA 1978, §§10-7D-1 to 10-7D-26, (Repl. Pamp. 1992), and in accordance with PELRB rules and regulations, 4 N.M.Reg.No. 6, 475 (Mar. 31, 1993), the petition for certification as incumbent labor organization in Case No. CP 6-95(M) was investigated pursuant to PELRB Rule 2.

The Director's decision to certify Local 187, United Steelworkers of America, AFL-CIO/CLC (petitioner or USWA) as the incumbent labor organization was not appealed by either party in the proceeding.

Pursuant to Rule 2.15(c) the Board shall review the Director's decision notwithstanding the absence of a request for review by a party to the proceeding. At the September 27, 1994, PELRB meeting the Director's decision was noted under "Report of the Director." This **DECISION AND ORDER**, however, reflects the Board's formal review of the Director's determination.

We adopt the Director's findings of fact and conclusions of law. By attaching it to this **DECISION AND ORDER** we incorporate it as a final action of the Board.

The Board reviewed the Director's determination during open session at its January 11, 1995, meeting in Santa Fe, New Mexico, following notice and publication of the meeting pursuant to the Open Meetings Act.

By direction of the Board.

Patrick J. Halter

Patrick J. Halter
Director, PELRB

January 12, 1995
Albuquerque, New Mexico



State of New Mexico
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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BRUCE KING
GOVERNOR

PATRICK J. HALTER
DIRECTOR

BOARD MEMBERS
BILL GIRON
CHAIRMAN
DICK LOY
JAMES KEATON

In the Matter of
United Steelworkers of America,
AFL-CIO/CLC, Local 187
Petitioner,
and
City of Carlsbad
Employer.

Case No. CP 6-95 (M)

DIRECTOR'S REPORT

Pursuant to the authority of the Public Employee Labor Relations Board (PELRB or Board) under the Public Employee Bargaining Act of 1992 (PEBA or Act), NMSA 1978, §§10-7D-1 to 10-7D-26, (Repl. Pamp. 1992), and in accordance with PELRB rules and regulations, 4 N.M.Reg.No. 6, 475 (Mar. 31, 1993), the petition for certification as incumbent was processed under Rule 2.

The Director's Report is issued pursuant to Rule 2.29. The following findings of fact and conclusions resulting from the processing of the petition follow:

1. United Steelworkers of America, AFL-CIO/CLC, Local 187 (Petitioner), is a "labor organization" as defined under the Act at §4.J.

2. City of Carlsbad (Employer), is a "public employer" as defined under the Act at §4.Q.

3. On May 9, 1967, the governing body for the Employer enacted Resolution No. 340 that authorizes the City Administrator to engage in collective bargaining with agents of labor organizations who act as the exclusive representative for certain employees.

4. Since the implementation of Resolution No. 340, the City, through its designated representative, has negotiated with the Petitioner, acting and serving as the exclusive representative for the positions enumerated in paragraph 8 below, for several labor-management contracts dating from 1970. Agreements reached through collective bargaining have been incorporated into written collective bargaining agreements.

5. Pursuant to the Petitioner's status as the exclusive representative for certain employees of the Employer, the parties have been negotiating a successor collective bargaining agreement for a contract that expired on March 1, 1994.

6. The City's written, stated intent is to continue to recognize the Petitioner as the exclusive representative.

7. There is no question or issue of representation arising in Case No. CP 6-95(M).

8. The following job classifications are included in the bargaining unit: auto body repairman, auto refuse equipment operator, container maintenance, container maintenance assistant, caretaker, construction maintenance 1*, construction maintenance 2, construction foreman, foreman, heavy equipment operator 1, heavy equipment operator 2, lead welder foreman, light equipment operator, lubrication 1, lubrication 2**, master mechanic, mechanic 1, mechanic 2, shop foreman, tireman, traffic signer, truck driver, warehouseman clerk, welder 1, welder 2, collection system foreman, clerk/dispatcher, collection system maintenance operator, equipment maintenance, plant operator 2, plant operator 3, plant operator 4, head plant operator, laboratory technician 4, laborer, meter reader, meter reader representative, maintenance, cashier, ground safety officer, janitor 1, janitor 2, library clerk, senior library clerk, office clerk, facility maintenance.

9. Excluded from the bargaining unit are police, firefighters, electricians as well as supervisors and managers and confidential employees as defined under the Act.

10. Based on the investigation, the requirements as well as the spirit and intent of PELRB Rule 2.29 have been fulfilled. Moreover, PEBA §24 states that a bargaining unit established prior to January 1, 1992, "shall continue to be recognized as appropriate for the purposes of the [PEBA]."

11. With these findings of fact, the Director determines that the Petitioner shall be certified as the incumbent labor organization in Case No. CP 6-95(M).

12. PELRB Rule 2.29 states that "a determination by the Director certifying the petitioner...shall be appealable to the Board under the procedures set forth in Rule 2.15[.]"

Patrick J. Halter

Patrick J. Halter
Director, PELRB

September 20, 1994
Albuquerque, New Mexico



State of New Mexico
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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CERTIFICATION OF EXCLUSIVE REPRESENTATIVE

A petition for certification of incumbent labor organization having been filed pursuant to PELRB Rule 2.29 and the investigation of the petition showing that the requirements of Rule 2.29 have been fulfilled as well as notice of PEBA §24 which provides that a bargaining unit established prior to January 1, 1992, "shall continue to be recognized as appropriate for the purposes of the Act," the PELRB Director in *City of Carlsbad*, Case No. CP 6-95(M), concludes that the labor organization below shall be certified as the exclusive representative

Local 187
United Steelworkers of America, AFL-CIO\CLC

that it is the exclusive collective-bargaining representative of the employees in the appropriate bargaining unit described below.

UNIT: The following job classifications are included in the bargaining unit:

auto body repairman, auto refuse
equipment operator, container
maintenance, container maintenance
assistant, caretaker, construction
maintenance 1*, construction
maintenance 2, construction foreman,
foreman, heavy equipment operator 1,
heavy equipment operator 2, lead
welder foreman, light equipment
operator, lubrication 1,
lubrication 2**, master mechanic,
mechanic 1, mechanic 2, shop foreman,
tireman, traffic signer, truck driver,
warehouseman clerk, welder 1, welder 2,
collection system foreman,
clerk/dispatcher, collection system
maintenance operator, equipment
maintenance, plant operator 2, plant
operator 3, plant operator 4, head plant
operator, laboratory technician 4,

laborer, meter reader, meter reader
representative, maintenance, cashier,
ground safety officer, janitor 1,
janitor 2, library clerk, senior
library clerk, office clerk,
facility maintenance.

Excluded from the bargaining unit are
police, firefighters, electricians,
supervisors and managers,
and confidential positions as defined in
the Act, and all others.

Patrick J. Halter

Patrick J. Halter
Director, PELRB

Signed at Albuquerque,
New Mexico on the 20th
day of September, 1994.