

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

WRIGHT-HENNEPIN COOPERATIVE
ELECTRIC ASSOCIATION

Employer

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WOKERS, LOCAL UNION 160

Petitioner

Case 18-RC-121141

**REPORT AND RECOMMENDATION ON OBJECTIONS TO CONDUCT
AFFECTING THE RESULTS OF THE ELECTION, ORDER
DIRECTING HEARING AND NOTICE OF HEARING**

Pursuant to a petition filed on January 24, 2014,¹ and a Stipulated Election Agreement executed by the parties and approved on February 3, an election by secret ballot was conducted on March 5 among certain employees of the Employer.²

The results of the election are set forth in the Tally of Ballots which was served on the parties at the conclusion of the election.³

¹ Unless otherwise indicated, all dates are in 2014.

² The appropriate collective bargaining unit agreed to by the parties and approved by the Regional Director is defined as:

All full-time and regular part-time dispatchers employed by the Employer in Rockford, Minnesota; excluding all confidential and clerical employees, guards and supervisors, as defined by the Act, and all other employees.

³ The Tally of Ballots shows:

Approximate number of eligible voters	14
Number of void ballots	0
Number of votes cast for labor organization	5
Number of votes cast against participating labor organization	8
Number of valid votes counted	13
Number of challenged ballots	0
Number of valid votes counted plus challenged ballots**	13

On March 12, the Petitioner filed timely objections to conduct affecting the results of the election, a copy of which was served on the Employer. On March 21, the Union withdrew its objections concerning the Employer's withholding of bonus payments to unit employees and the moving of part-time unit employees if the Union won the election. The Employer denies that it has engaged in objectionable conduct.

THE OBJECTIONS

A copy of the objections is attached. Essentially, Petitioner's objections allege that during the critical period, between the filing of the petition and election, the Employer withheld unit employees' annual wage increases and told them that if the Union was voted in, the wage increase would not be granted retroactively, as it otherwise would be; and the Employer posted the Notice of Election in a coercive location.

CONCLUSION AND ORDER

Based on the investigation of the Petitioner's objections, I conclude that the objections raise substantial and material issues of fact and law which can best be resolved by record testimony received at a formal hearing. Accordingly, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended,

IT IS HEREBY ORDERED that a hearing be held before a hearing officer designated by the Regional Director for Region Eighteen for the purpose of receiving evidence to resolve the issues raised by the Petitioners' objection.

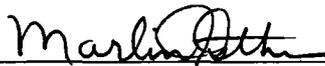
IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within fourteen (14)

days from the date of issuance of such report, any party may file with the Board in Washington, DC, an original and seven (7) copies of exceptions thereto. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director, and a statement of service shall be made to the Board simultaneously with the filing of the exceptions. The rights and obligations are further delineated in Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, and all actions of the parties shall be in accordance with the rules covering this type of proceeding as contained therein. Filing exceptions electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. *Once the website is accessed, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt of the exceptions rests exclusively with the sender. A failure to timely file the exceptions will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that commencing at **9:00 a.m. on March 28, 2014**, and consecutive days thereafter, as needed, in **NLRB Hearing Room, Suite 790, 330 Second Avenue South, Minneapolis, Minnesota**, the hearing on the objections will be conducted before a hearing officer of the National Labor Relations Board upon the objection set forth above, at which time and place the parties will have the right to appear in person, to give testimony and to examine and cross-examine witnesses.

Dated at Minneapolis, Minnesota, March 21, 2014.



Marlin O. Osthus, Regional Director
National Labor Relations Board
Eighteenth Region
330 Second Avenue South, Suite 790
Minneapolis, MN 55401-2221

Attachment

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 18**

<p>WRIGHT-HENNEPIN COOPERATIVE ELECTRIC ASSOCIATION, Employer,</p> <p>And</p> <p>INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION 160, Union.</p>	<p>CASE 18-RC-121141</p>
---	--------------------------

OBJECTIONS TO ELECTION

International Brotherhood of Electrical Workers, Local Union 160 (“Union”) raises objections to the outcome of the election on the following bases:

1. The Employer held one-on-one meetings with unit employees, which were characterized as their “annual one-on-one review.”
 - a. These reviews, however, which were customarily held in the unit employees’ immediate supervisor’s office were, instead, held in a conference room. For the first time ever, a human resources representative was present at the review.
 - b. During the course of this “review” the unit employees were advised that they would not receive the customary annual raise, and based this upon the fact that the Employer was prohibited from changing terms and conditions of employment as a result of the status quo letter arising out of the Union election.
 - c. The raises, which were retroactive to the beginning of the year for all other non unit employees are based upon the Employer’s prior year’s performance. There is

also a bonus given to all employees based upon the Employer's prior year's performance. These bonuses were provided to the unit members, however, they were paid the week prior to the Election. The Union does not know whether other non-unit employees were paid bonuses at a different time.

d. In addition, the pay raises to non-unit employees were retroactive. At least one unit employee was advised that, in addition to not receiving the raise, if the Union won the Election, raises would not be retroactive. During this conversation, it was also clearly implied that in the event the unit determined not to vote for representation, any raises would be retroactive to the first of the year.

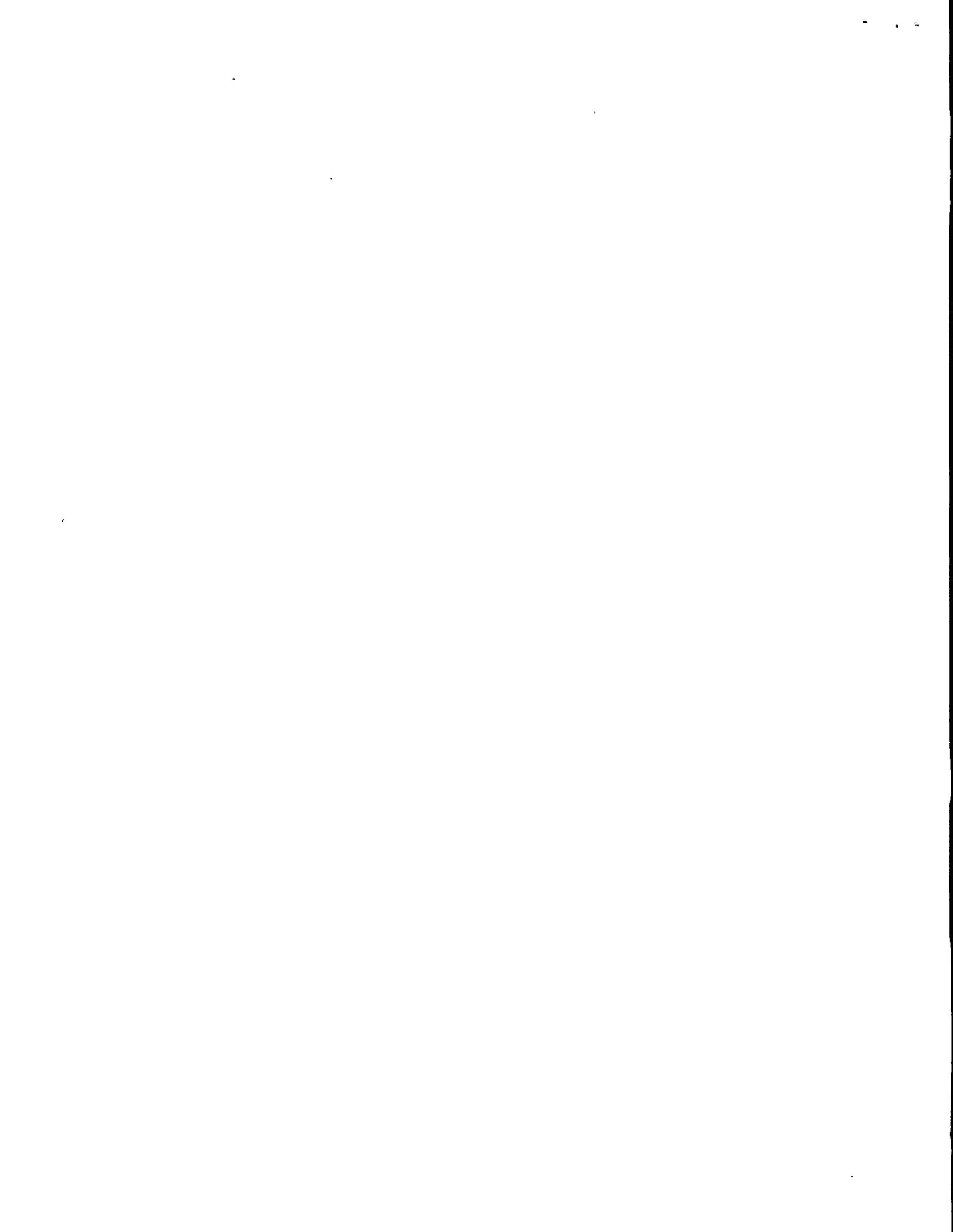
c. A meeting was of all potential unit members, which was attended by the CEO, the head of Human Resources, and the immediate supervisor of the potential unit members. The Election Notice, which had already been posted, was given to the individual unit employees and they were directed to read it and then pass it to one another.

2. The same immediate supervisor posted the Notice of Election on a large glass window dividing his office from the area where the unit members work.

a. There were other places within the work area where the Notice of Election could have been posted and where other information for the employees is typically posted by the employer.

b. Because the Notice of Election was posted at the very top of the window, any employee reading the Notice would have to stand directly in front of the supervisor's window, in full view of the supervisor, to review it.

c. There are photographs available showing:

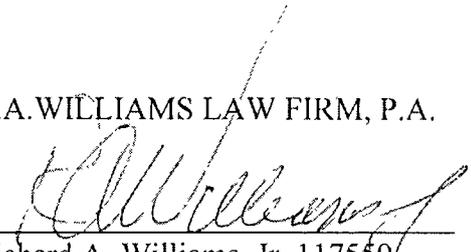


- i. the location of the Notice of Election;
- ii. other areas where the Notice of Election could have been posted, with equal or better access to the employees and absent the intimidating impact of having to read it in full view of the supervisor, and
- iii. areas in which other notices to the unit employees are typically posted.

3. A supervisor said in a meeting that part-time dispatchers would be moved if the Union was voted in by the unit employees.

DATED: 3/12/14

R.A. WILLIAMS LAW FIRM, P.A.


Richard A. Williams, Jr. 117559
2400 County Road D West, Suite 110
St. Paul, MN 55112
651-848-0280/Phone 651-848-0282/Fax
ATTORNEYS FOR UNION

COPIES WERE SENT VIA EMAIL TO:

Robert Halagan, Attorney for Employer
Halagan Law Firm, Ltd.
15 2nd Street NW
Buffalo, MN 55313-1358
EMAIL: rhalagan@gmail.com

Employer: Wright-Hennepin Cooperative Electric, ATTN: Mike Rudolph
6800 Electric Drive, PO Box 330, Rockford, MN 55373
EMAIL: mrudolph@whe.org

IBEW 160, ATTN: Tom Kochler
EMAIL: tgk@ibew160.org

IBEW 160, ATTN: Kevin Peterson
EMAIL: kjp@ibew160.org