

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD

In the Matter of Fact-Finding	(Fact-Finding Report
	(and
	(Recommendations
Between	(
	(Case No. PERA-F-14-15-W
Municipal Authority of the City of	(
New Kensington	(Filed: January 15, 2014
	(Appointment: January 21, 2014
and	(Hearing: February 19, 2014
	(Report Issued: March 3, 2014
Utility Workers Union of America,	(Reporting Date: March 13, 2014
Local No. 220	(

Thomas L. Hewitt
Fact-Finder

Melanie Archangelo
Mediator

For the Employer

Raymond F. Sekula, Esquire
Counsel for Municipality
James A. Matta – General Manager (witness)
Ron Zampogna – Board Member (witness)
Melvyn Smith – Board Member

For the Union

Robert A. Eberle, Esquire
Counsel for Utility Workers Local #220
Ronald C. Balla – President, Local 220 (witness)
Jim Lewis – National Rep., UWUA (witness)
Thomas Hogan – V-President, Local 220

STATEMENT OF FACTS

The Authority was incorporated in January 1943, for the purpose of acquiring, maintaining and operating the water supply system for the City of New Kensington, City of Arnold and the Township of Lower Burrell, and has since expanded by service franchises to include the Townships of Upper Burrell, Allegheny, Washington and parts of the Borough of Plum, all in Westmoreland County. The Authority now services approximately 15,000 customers, which equates to 50,000 persons. It is anticipated that there is little opportunity for further expansion.

In the year 2006, it was evidenced that the Authority was in financial distress, when the local newspaper investigated the Authority and printed wages, salaries, benefits and other comparisons with similar authorities. The published data indicated that the Authority needed to be restructured, as costs were severely out of line. The newspaper repeatedly published a long and specific exposé on nepotism within the Authority, which named names, and reported that the Authority was in severe financial distress. This factual account resulted in a change to the five (5) person Water Authority Board which is appointed by the City Council of New Kensington. One of the newly appointed members on the Water Authority Board, a local businessman, testified at the Fact-Finding Hearing as to the many changes that were required over the years to achieve the current financial stability

It was determined that the newspaper's published statistics concerning excessive wages and benefits for all employees were factually correct and that they extremely exceeded the norm. Immediately the **new** Water Authority Board reduced the wages and benefits of the salaried employees to be comparable with other similar authorities. The Board requested the unionized employees to accept similar reductions, which those employees declined. The "in place" Labor Agreement between the MUNICIPAL AUTHORITY OF THE CITY OF NEW KENSINGTON and LOCAL UNION 220, UTILITY WORKERS UNION OF AMERICA, AFL-CIO, did not expire until December 1, 2008, some two (2) years later. The Union has represented this bargaining unit since 1953 and is composed of approximately twenty-three (23) employees working in twelve (12) job classifications, which are divided into three groups of employees: (1) clerical (office); (2) service employees (maintain the system); and (3) water plant employees (operate on a 24-7 schedule). The Union steadfastly refused to negotiate any givebacks, changes or reductions to the terms of the in-force Labor Agreement, even after it expired in 2008. Under the Pennsylvania Public Employee Relations Act (PERA), the wages and conditions under an expired municipal labor agreement cannot be unilaterally reduced by the Authority. Union agreement is required in order to

institute any changes, otherwise the contract terms continue in full force and effect without any wage increases or other contractual modifications. Consequently, there were no wage increases or modifications to the Labor Agreement, as the Water Authority refused to grant any increases in the more than five (5) year period since the expiration of the Labor Agreement on December 1, 2008.

In February 2012, the parties came to a “disputed agreement”. That is, the Authority believed it had an agreement, as the Union President and the Authority’s counsel shook hands and initialed the alleged tentative contract resolution. This agreement was not ratified by the membership and a contract agreement was not consummated. This further exacerbated the situation.

In January 2014, the Union requested Fact-Finding and the Pennsylvania Labor Relations Board appointed Thomas L. Hewitt as Fact-Finder. In accordance with the law, the parties timely presented their issues in dispute and each stated their positions on those issues. A full, fair and complete Fact-Finding Hearing was

held at the offices of the New Kensington Water Authority, at 920 Barnes Street, New Kensington, Pennsylvania, on February 19, 2014. All parties were offered the opportunity to present evidence, exhibits, statistical data and briefs, present, examine and cross-examine witnesses, and make statements and arguments.

Considering the testimony, evidence, arguments, exhibits and briefs of the parties, which contained comparisons of wages, benefits and contract language with other authorities of similar size in western Pennsylvania, the economic considerations of the residents and the area, the bargaining history of the parties and other pertinent data, the Fact-Finder makes the following recommendations:

**ARTICLE ONE
RECOGNITION OF RIGHTS AND
RESPONSIBILITIES OF UNION AND AUTHORITY**

FINDING: Article 1.02, Recognition and Union Security, (A) shall read as follows:

1.02 Recognition and Union Security

(A) The Authority hereby recognizes the Union as the sole and exclusive collective bargaining representative of the existing bargaining unit. The Authority agrees to negotiate with the authorized representatives of the Union as to all matters set forth in this Contract.

Each employee who, on the effective date of this Contract, is a member of the Union, and each employee who thereafter becomes a member of the Union, during the term of this Contract, shall maintain his/her membership in the Union for the duration of this Contract, with the proviso that any employee may resign his/her membership during the period of fifteen (15) days prior to the expiration of this Contract.

Each employee in the bargaining unit who is not a member of the Union shall be required to pay a fair share fee as provided for by Act 399 of 1993, Title P.S. §1102.1, *et seq.* The Union agrees to extend to all non-members an equal opportunity to join the Union.

The Authority agrees to deduct a fair share fee monthly from all employees in the bargaining unit who are not members of the Union. Authorization for non-members to deduct their fair share shall not be required. The amounts to be deducted shall be certified to the Authority by the Union on or before January 1 of each year, and the aggregate deductions of all non-union member employees shall be remitted to the Union by the last day of each succeeding month.

If any legal action is brought against the Authority as a result of any action it is requested to perform by the Union relating to fair share withholding, the Union agrees to indemnify and hold the Authority and its representatives harmless from any expenses or monetary damages the Authority might incur or be liable for as a consequence of its compliance with the provisions relating to fair share withholding.

(B), (C) and (D) remain unchanged.

Rationale: *Contract housekeeping to update compliance with State Law. The Authority has the right to disapprove any request which involves creation of overtime.*

FINDING: Article 1.03, Employment Classifications, (A) and (B) shall read as follows:

1.03. Employment Classifications

The following two classes of Employees shall be maintained by the Authority:

(A) Class I (Temporary) Employee:

- Shall be employed for a period not to exceed one hundred twenty (120) calendar days per year;
- Shall be paid sixty-five (65%) percent of the Class II (Regular) Employee current contractual rate for work in that classification;
- Following thirty (30) calendar days of employment, the Class I (Temporary) Employee shall be eligible for holiday pay under the same conditions as a Regular employee;
- Temporary Employees are not entitled to receive any other benefits provided by this Contract.

Rationale: *Contract housekeeping to update compliance with State Law. Clarification of language and for training and probation wage rate.*

(B) Class II (Regular) Employee:

- Shall be hired for permanent employment on a one hundred (180) calendar day trial period during which period the Authority unilaterally makes all determinations regarding ability and competency and the Employee may be discharged at the exclusive discretion of the Authority without recourse to the Grievance Procedure.

Employees hired before or after the effective date of this Contract shall be paid:

- Seventy (70%) percent of the job rate for the job performed for the first twelve (12) months of active employment;
- Eighty (80%) percent of the job rate for the job performed for the second twelve (12) months of active employment;
- Ninety (90%) percent of the job rate for the job performed for the next twelve (12) months of active employment;
- One hundred (100%) percent of the rate for the job performed following thirty-six (36) months of active employment.

Rationale: *It takes experience to perform at the maximum and during this learning curve, wages are reduced commensurately. Most of this language is per current Contract, Article 1(B). Three (3) years is a reasonable training period. After three (3) years the new employee is performing the same duties as longer service employees.*

FINDING: Add new language as Article 1.03 (C), as follows:

(C) **Newly-hired Regular Employees:**

Newly hired Regular Employees shall be eligible for:

- Holidays as set forth in Section 4.01 (A) after thirty (30) calendar days of employment;
- A personal day after completing ninety (90) calendar days of employment;
- Paid sick leave in accordance with Section 4.04, upon completion of one (1) year of service;
- Health insurance provided the first of the month following thirty (30) calendar days of employment;
- All other benefits provided by this Contract on the first day of employment.

Rationale: *Reasonable requirements in relation to other employers and provides for an enrollment period for insurance. Clarification of language.*

FINDING: Article 1.07, Rights of Management, shall read as follows:

1.07 Rights of Management

Subject only to the terms and conditions of this Contract, it is understood and agreed that the Authority has and retains the exclusive right to exercise the regular and customary functions of management, which functions are (i) management of its property; (ii) the methods and equipment to be used by it; (iii) the right to direct its employees in carrying out their duties; (iv) the right to hire and assign work; the right to suspend, discipline and discharge for just cause; the right to promote, demote, transfer or release employees due to the right of an employee who is aggrieved by such conduct of the Authority to file a grievance in accordance with the provisions of Section 1.08.

Rationale: *The addition of "just cause" provides the employees the same protection as nearly all other unionized employees. It is a standard developed over many years and thousands of arbitrations which provides guidance to the parties. In the "Miller" decision, the arbitrator used the "just cause" standard in his determination: "Therefore, it is my determination the Authority had*

“CAUSE” to suspend the grievant for fourteen work days in this circumstance” (Pg. 16; emphasis to the word “CAUSE” added by this Arbitrator).

FINDING: Article 1.08, Grievance Procedure, shall read as follows:

1.08 Grievance Procedure

The Authority in arbitration proceedings will not make use of any personnel records of previous disciplinary action(s) against the employee involved or any work rule violations of the employee involved where the disciplinary action or work rule violation occurred five (5) or more years prior to the date of the event which is the subject of such arbitration.

Rationale: *Contract clarification; Authority proposal. Reasonable restriction on disciplinary action.*

**ARTICLE TWO
SENIORITY**

FINDING: Article 2.01, Seniority, (H) shall read as follows:

- (H) 1. No seniority shall be accrued after all of an employee’s sick leave has been exhausted;
2. Seniority shall accrue for any period of absence due to a work-related injury.

Rationale: *A reasonable and acceptable solution to these two issues and in accordance with other agreements.*

FINDING: Article 2.03, Operator Qualifications, (A) and (B) shall read as follows:

2.03 Operator Qualifications

(A) All employees permanently assigned to the H. Burns Smith Water Treatment Plant (“Treatment Plant”), with the job classification of “Operator”, may be required, at the sole discretion of the Authority, to take the necessary steps to become the holder of the class of Operator’s License (“Licensee”) which is mandated by the federal and/or state government, or any agency or subdivision thereof, to be held by an Operator in a Treatment Plant which is at least equal in size and specifications to that of the Authority.

Any employee employed and assigned on a permanent basis as an Operator Helper at the Treatment Plant must earn a Class A, Subclass 1, 7, 8, 10 and 11 Water Operator Certification before he may bid out of the Treatment Plant.

(B) When the proper class of License has been secured by the employee, he shall be entitled to receive an additional ten (10¢) cents per hour over the Base Rate for an Operator, this increased Base Rate to continue as his Base Rate so long as he continues to hold the valid License. However, if the employee holds a Class A, Subclass 1, 7, 8, 10 and 11 Certification, he shall be entitled to the One (\$1.00) Dollar Hourly Add-On described in Section 5.04, Hourly Base Rates of Pay, Paragraph (B), rather than the additional ten (10¢) cents per hour described in the preceding sentence of this Paragraph (B).

Rationale: *Clarification of language.*

FINDING: Add new language at 2.03, Operator Qualifications, at (H), as follows:

(H) **Switching shifts at treatment plant:**

- Must be approved in advance by supervisors;
- No more than one (1) trade per employee, per month;
- Trading of shifts will not result in any overtime, including mandated overtime, as per the regulations of the Fair Labor Standards Act or any other applicable legislation dealing with mandated overtime pay; including terms of this Contract;
- All requests to trade shifts and the approval of the same is to be in writing, signed by the employees involved and the supervisor who approved the trade.

Rationale: *Agreement of the parties.*

FINDING: Add new language as Article 2.06, Meter Readers, as follows:

2.06 Meter Readers

The three current meter readers (Fularz, McGregor & Slusar) shall retain their meter reader rate unless and until they bid to another classification (higher or lower).

Rationale: *Through investment and technology, the meter reader job is essentially eliminated and there is a problem with how to handle the pay of those employees displaced. Since the elimination of the meter reader position was due to technological advances, the meter reader should not suffer financial consequences. It is noted that although three (3) meter reader jobs were eliminated, there was no evidence of a commensurate reduction of bargaining unit employees. It appears they were utilized in other classifications due to the increase in water usage which, according to the Authority's 2013 Engineer's Annual Report, has increased has increased over 100,000 gallons, or nearly double the amount used in 2008. Further, the report identified capital expenditures of over \$600,000 in 2013 and \$450,000 in 2014.*

**ARTICLE THREE
VACATIONS**

FINDING: Article 3.07, regarding Vacations, shall read as follows:

3.07 An employee who is eligible for a Regular Vacation shall be entitled to the number of weeks of Regular Vacation determined by his years of employment in accordance with the following schedule:

Accumulated Seniority	Weeks of Vacation
1 year of completed service but less than 2	1
2 years but less than 10	2
10 years but less than 17	3
17 years or more	4

Employees entitled to Regular Vacation in excess of the above schedule at the expiration of the previous Contract on November 30, 2008, shall be entitled to such additional weeks of regular vacation for the balance of this Contract. They are "grandfathered" for the life of this Contract.

Each year, an employee entitled to regular vacation shall receive twenty (20) hours of vacation pay at his regular rate at the time of his first week of vacation. Such payment shall be made at the time the first full week of vacation is taken in that year.

Rationale: *Cost containment; in line with other similar facilities and in consideration of the workforce make-up. Additional hours of pay is partial compensation for elimination of extended vacation. Although the employees enjoyed splendid wage rates and benefits in the past, comparisons do not warrant such excessive cuts. Management granted the wages and benefits they now wish to delete.*

FINDING: Article 3.11, shall read as follows:

3.11 An employee may take two (2) weeks of Regular Vacation on a day-to-day basis. All such days may only be taken subject to the following:

(A) and (B) language is unchanged.

Rationale: *Contract housekeeping.*

FINDING: Articles 3.12 – 3.34, Extended Vacations: These Articles are DELETED in their entirety; all prior vesting, payments or bonus payments related thereto are null and void.

Rationale: *In line with other vacations and in consideration of the pension rate increase. If certain employees would prefer increased benefits they may deposit the twenty (20) hours of vacation pay added in 3.07 above into an Individual Retirement Account (IRA). The cost of the extended vacation contributes to the extra vacation pay and the pension increase.*

**ARTICLE FOUR
FRINGE BENEFITS**

FINDING: Article 4.01, Holidays, shall read as follows:

4.01. Holidays

To be eligible for holiday pay, an Employee must work the first scheduled workday preceding the holiday and the next scheduled workday following the holiday, unless a doctor's (MD) slip, stating that the employee was unable to work on the day in question, is provided upon the first day of return to work following the holiday.

Rationale: *Common language in contracts to prevent abuse and to be fair to an employee who is sick on the days in question.*

FINDING: Article 4.02, Bereavement, shall read as follows:

4.02 Bereavement Pay

(A) If a death occurs in an employee's immediate family ("immediate family" being defined as employee's legal spouse, mother, father, mother-in-law, father-in-law, son, daughter, brother, sister or step- parents), the employee, upon request, will be excused from such scheduled workdays as are within three (3) calendar days following the death, the last excused day to be the day of the funeral. To be eligible, the employee must attend the funeral and provide verification of death and relationship to deceased, if requested.

Rationale: *Parties were essentially in agreement to this modification and it is realistic.*

FINDING: Article 4.04, Sick Leave, shall read as follows:

4.04 Sick Leave (Days)

After the completion of one year of service (employee's date of hire), each employee shall receive sick days in accordance with the following schedule:

Fourteen (14) days in the first year of this Contract;
Thirteen (13) days in the second year of this Contract;
Twelve (12) days in the third year of this Contract;
Eleven (11) days in the fourth year of this Contract.

- Unused sick says may be carried over from one year to the next and there is no limit to the amount of sick days accrued;
- Sick days shall not be used in the calculation of overtime;
- Sick days shall be paid at the straight time regular rate of pay;
- During the term of this Contract, there shall be no sick day buy-outs for any reason.

Rationale: *Cost containment. Sick days are utilized for payment in the first week of workers' compensation and to make up the difference of the workers' compensation payment and the employee's regular rate of pay. If needed, it would take one hundred eighty three (183) sick days to cover the time one would be able to apply for disability under Social Security. There is no sick leave buy-out as this would create another accrued liability that is not cost prudent at this time.*

FINDING: Article 4.06, Life Insurance, shall read as follows:

4.06 Life Insurance

The following term life insurance ("Term Insurance") shall be provided for each Regular Employee and Retirees who retire after the effective date of this Contract, as follows:

(i) For each Regular Employee during his active service, in the face amount of Twenty Thousand (\$20,000) Dollars, with an additional Twenty Thousand (\$20,000) Dollars payable in the event of accidental death.

(ii) For each retiree ("Retiree") who retires after the effective date of this Contract, in the face amount of Twenty Thousand (\$20,000) Dollars, with an additional Twenty Thousand (\$20,000) Dollars payable in the event of accidental death, until the retiree reaches the age of sixty-five (65) years of age.

Rationale: Reasonable and acceptable to the parties.

FINDING: Article 4.07, Health Insurance, (A), (B), (D) and (F) shall read as follows:

4.07 Health Insurance

(A) The Authority will continue to provide health insurance benefits for all eligible Regular Employees and Retirees under a plan comparable to the plan in effect as of the effective date of this Contract.

Coverage for a newly hired regular employee shall begin the first of the month following employment.

Temporary employees are not eligible for health coverage.

(B) Employees who retire after November 30, 2008, shall not be eligible for any health insurance benefit of any type upon reaching the age of sixty-five (65).

Effective the first of the month following the effective date of this new Contract, each employee, retired or otherwise, who is covered under the Authority's health insurance plan shall pay eight (8%) percent of the cost of their coverage. Payment of such costs shall be made through payroll or pension withholding.

(D) When any person, including covered family member, who is receiving medical benefits under any provision of this Contract becomes eligible to enroll in Medicare and/or Medicaid, such person must promptly do so. Following his enrollment, the Authority will make a benefit payment to that person to reimburse him for his actual out-of-pocket cost for the Medicare and/or Medicaid coverage

No payment will be made under the terms of this Article which would result in a duplication of payment or reimbursement to a person who is receiving similar coverage, or payment or reimbursement for any type of health insurance, from any other source.

(F) Following the death of a Retiree, the Authority will no longer provide any benefit to his survivor under this Article.

Rationale: *Cost containment; very similar to current contract. It is noted that the Authority is absorbing the very costly annual increase in health insurance benefits.*

FINDING: Article 4.08, Pension Benefits, shall read as follows:

4.08 Pension Benefits

The flat rater multiplier shall be increased from \$20.50 to \$25.00 for all years of service prior to January 1, 1995, and the pension percent multiplier shall be increased from 1.5% to 1.6% for all years of service, after January 1, 1995, as included in Employer's February 13, 2012 proposal.

Rationale:

PENSION INCREASE

- *Cost of past accrued liability;*
- *Cost of increased future liability;*
- *Increased cost due to anticipated future wage increases;*
- *Age of work force;*
- *Years of service of work force;*
- *Sex distribution of work force;*
- *Anticipated life expectancy;*
- *Anticipated percentage of return of investments of the Fund;*
- *Survivor option;*
- *Marital status;*
- *2012 Pension Study performed by Boetger & Associates, Inc.;*

- Level of funding – currently fully funded;
- Other necessary statistical data.

All of the above are necessary factors utilized to determine anticipated pension increase costs. Based upon a February 8, 2012, study by Boetger & Associates, Inc., an increase in the pension multiplier from 1.5% to 1.6 % for years of service after January 1, 1995, and a considerable increase in the multiplier for years prior to January 1, 1995, which adds a substantial amount to the past accrued liability, the pension increases are reasonable, fair and prudent considering all the facts available.

This is a defined benefit plan. That is, the amount of monthly pension payment is defined by the multiplier and the years of service, and the Authority is required to contribute sufficient funds to meet these requirements.

The amount of the monthly pension payment an employee is entitled to increases with every year of service and with every wage increase granted while the employee is on the payroll. Therefore, there is a constant increase in the cost to the Authority.

It is noted that this a non-contributory plan, which means the employees are not required to contribute to the funding of the pension, as found in many other labor agreements.

ARTICLE FIVE WAGES AND HOURS

FINDING: Article 5.04, Hourly Base Rates of Pay, shall read as follows:

5.04 Hourly Base Rates of Pay

The following Hourly Base Rates of Pay will be effective as of the dates set forth at the head of each column:

	Date of Agreement	April 1, 2015	April 1, 2016	April 1, 2017
Utilityman	28.28	28.99	29.71	30.45
Operator (Treatment Plant)	26.51	27.17	27.85	28.55
Pipeman	26.51	27.17	27.85	28.55
Serviceman	25.80	26.45	27.11	27.79
Meter Reader	25.71	26.35	27.01	27.69
Helper (Treatment Plant)	25.26	25.89	26.54	27.20
Laborer	24.90	25.52	26.16	26.81
Stock Clerk	27.71	28.40	29.11	29.84
Computer Operator II	25.55	26.19	26.84	27.51
Computer Operator (Special)	24.66	25.28	25.91	26.56
Computer Operator I	22.92	23.50	24.09	24.69
Clerk/Cashier	20.83	21.35	21.88	22.43

Rationale:

WAGE INCREASE SUMMARY (FOR THE FOUR YEARS OF CONTRACT)

52 weeks at 40 hours/week = 2,080 hours/year, including vacations, holidays and other contractual days.

Current average hourly rate	\$25.52
Total hourly increase	\$ 2.65
4 th year average hourly rate	\$28.17

	Annual Increase	Compounded Increases
Average increase-1 st year (.64¢/hour)	\$1,331.20	\$1,331.20
Average increase-2 nd year (.65¢/hour)	\$1,352.00	\$2,683.20
Average increase-3 rd year (.67¢/hour)	\$1,393.60	\$4,076.80
Average increase-4 th year (.69¢/hour)	\$1,435.20	\$5,512.00

Total new money earnings during the life of the Contract **\$13,603.20**

1 st year wage increase	\$1,331.20
2 nd year wage increase	\$1,352.00
3 rd year wage increase	\$1,393.60
4 th year wage increase	\$1,435.20

TOTAL ANNUAL INCREASE IN PAY IN
FOURTH YEAR OF CONTRACT **\$5,512.00**

Average yearly increase \$3400.80

The 2.5% yearly wage rate increase does not just cost the Authority 10% over the life of the Contract. The yearly increase compounded for four (4) years provides an actual 11.1% increase over the life of the Contract. Additionally, due to what is called "CREEP", this creates an 11.1% increase in the cost of overtime, vacation pay, holiday pay, sick leave pay, bereavement pay, jury duty pay, as well as an 11.1% increase in contributions for the pension plan, social security, Medicare, unemployment compensation and workers' compensation. It appears the total cost of fringe benefits, including health and life insurance, is equal to approximately 50% of the hourly wage rate.

Current rates are comparable or better than average for like classifications and often exceed rates in authorities of other similar distressed areas.

Increases are commensurate with other like authorities, including the City of New Kensington Public Works Department, the City of Lower Burrell Public Works Department, and the Western Allegheny County Authority. There were both higher and lower increases in the comparable public rate exhibits provided by the parties. Upon analysis these increases are found to be fair and just, considering the rates paid in similar public positions and the financial situation of the Authority.

- *It was established in 2006 by a newspaper exposé that the bargaining unit pay rates and benefits were inordinately high in comparison to other similar water authorities;*
- *The bargaining unit employees refused any wage or benefit adjustments requested by the Authority in 2006 and continued to enjoy the inordinately high wages and benefits contained in their Contract until it expired in 2008;*
- *The bargaining unit employees continued to receive wage increases contained in the 2003 Contract until it expired in 2008;*
- *The acceptance of the severe wage and benefit reductions requested by the Authority under similar conditions would be extremely unusual. No one wishes to give up what they bargained for;*
- *No increases in wages or benefits were granted from the 2008 contract expiration forward;*
- *Following the contract expiration, the 2008 wage rates and benefits continued in effect per Pennsylvania Statutes, and status quo was maintained;*
- *In the private sector, givebacks became common as upon impasse, employers could implement the changes in wages and benefits and the Union had the right to strike;*
- *The right to strike in certain sections of the public sector (this Authority being one) is denied to a union by law, however, the right to implement changes is denied to the employer, thus the continuation of the status quo.*

Comparison with other units of the Authority is a required consideration of the Fact-Finder. It was advanced by the Union that the salaried group received increases and performance bonuses during this hiatus from 2006 to the present. In response, the salaried employees suffered a severe permanent reduction in wages and benefits in 2006 and their raises and benefits since then were commensurate with normal wage and benefits granted at those times. During this same eight (8) year time period, the bargaining unit employees fully enjoyed all of their considerably above-average contractual wages and benefits.

Bargaining history is also a required consideration by the Fact-Finder. In 2011, the negotiating team both initialed an agreement and shook hands on it. This agreement was never presented to the bargaining unit as a tentative agreement to be voted upon, as is normal acceptable practice in the bargaining of contracts. Initialed terms of an agreement require recommendations of acceptance to the respective constituents, otherwise, there is no credibility in bargaining. For whatever reason, no such presentation was made or voted on and this created a lack of trust, making further bargaining very difficult. It therefore was a settlement offer which is inadmissible as it would deter making bargaining offers.

FINDING: Article 5.06, Overtime, (D) shall read as follows:

5.06 Overtime

(D) Sick days shall not be counted as time worked in the calculation of overtime and any other form of premium pay.

Rationale: Contract clarification; cost containment.

**ARTICLE SEVEN
DURATION OF CONTRACT**

FINDING: The effective date of this Contract shall be the date of final acceptance of the Fact-Finding Report, as determined by the Pennsylvania Labor Relations Board; the Contract shall continue in full force and effect for a period of four (4) years from date of acceptance.

Rationale: *The Authority proposed three (3) years in order to determine their financing for the future. The Union requested five (5) years, as they did not wish to go through this experience that has been ongoing for so many years. The Fact-Finder split the difference, to permit time to pass to enable the parties to develop a more trusting relationship before the next negotiations.*

RESOLUTION OF ISSUES

All collective bargaining issues or proposals, whether submitted or not, in dispute over the resolution of this new Contract that are not addressed in this Fact-Finding Award are considered moot or resolved. There are no other outstanding issues and all the contract language not addressed herein remains unchanged and this results in a complete labor agreement of the parties.

ISSUED AT LATROBE, PENNSYLVANIA, ON THIS 3RD DAY OF MARCH, IN THE YEAR OF OUR LORD TWO THOUSAND FOUTEEN.

**THOMAS L. HEWITT
FACT- FINDER**