CITY OF WORCESTER AND LOCAL 495, SEIU, AND WORCESTER CITY EMPLOYEES UNION (NAGE) AND CITY OF WORCESTER PROFESSIONAL AMBULANCE DRIVERS ASSOCIATION,[1] MCR-2632-3, 2686-8, 2695, 2767-8 (10/18/78)

(30 Bargaining Unit Determination)
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35.7 supervisory and managerial employees

Commissioners participating: James S. Cooper, Chairman; Garry J. Wooters, Commissioner; Joan G. Dolan, Commissioner

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DECISION AND DIRECTION OF ELECTION

On June 30, 1978, the Labor Relations Commission (Commission) issued a Decision in the above-captioned matters directing that further hearings be held. City of Worcester, 5 MLC 1108. The case arises out of four petitions filed by the Worcester City Employees Union, a Division of the National Association of Government Employees (NAGE)[2] and two petitions filed by Local 495, Service Employees International Union, AFL-CIO (Local 495 or SEIU).[3] Initial hearings were held on the consolidated petitions on March 15 and April 7, 1978. Following the Commission's June 30 Decision, additional hearings were held on August 3, 1978. All parties were afforded full and fair opportunity to be heard, to

[1]The City of Worcester Professional Ambulance Drivers Association had filed a petition with the Commission seeking a unit of ambulance drivers. As the proceedings in these consolidated cases were likely to affect that matter, the Association was permitted to intervene here.

[2]Case Nos. MCR-2685, 2686, 2687, 2688.

[3]Case Nos. MCR-2632, 2633.

examine and cross-examine witnesses, and to introduce evidence. All parties have filed briefs which have been considered. Upon the entire record in this matter[4] the Commission finds as follows:

Background of the Dispute

Resolution of the issues before the Commission requires an understanding of the labor relations history and organizational structure in the City of Worcester (City).

In 1968 the City recognized Local 495 as the exclusive representative of six units of employees.[5] These six units were subsequently grouped together for purposes of contract negotiation under a single "part" of the collective bargaining agreements between Local 495 and the City.[6] Between 1968 and the present, Local 495 has become the exclusive representative of numerous other employee groups. In most cases this status was obtained through Commission certification following consent election.[7] These units may be characterized as extent of

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[4]The Commission has taken administrative notice of the AGreements for Consent Election and Certification of Representative in Case Nos. MCR-370, 598, 599, 723, 884, 724, 957, 1364, 1345, 1366, 1215, 1379, 2109, 2171, 2108 all involving the City of Worcester and Local 495. The Commission has also taken administrative notice of other bargaining units in the City of Worcester. See infra, p.e. City's Brief, p. .

[5]The units as recognized defy concise description. They are defined only by a listing of job titles at each location. However, in broad outline the units may be characterized as follows: City Hospital (service, maintenance, clerical and administrative, and technical); Belmont Home (custodial, maintenance, service, clerical); Parks and Recreation (non-professionals); Worcester Free Public Library (custodial); Vocational School (clerical); Vocational School (custodial).

[6]SEIU and the City negotiate concurrently for all employees represented by Local 495. The resulting document contains a number of "common" articles followed by fourteen "parts". Each part describes the employees to whom it applies, indicates which common articles apply to those employees, and may contain unique provisions applying only to those employees. Each of the separate parts of the agreement corresponds to Commission issued certifications or groups of certifications. We have previously held that the negotiation and execution of this document did not effectively merge the individual units such as to make the NAGE petition for particular "parts" inappropriate, 5 MLC 1108, 1113-1114.

[7]In 1968 the Commission certified a unit of "all labor service employees in the Department of Public Works." MCR-376. The unit was re-affirmed one year later in a contested hearing. MCR-598, 599. Neither decision indicates any rationale for restricting the unit to the Department. We find no reason to do so now.

organization units. Never more than department-wide, they often contained only a few employees.[8] The Commission has not determined that the majority of these units are appropriate based upon a record made at a hearing. The only Commission participation in establishing these units has been to approve Consent Election Agreements entered into by the City and SEIU, and to conduct elections and certify the results.

During the same ten-year period the City has established a collective bargaining relationship with ten other units of employees which may be described as follows:

(1) a unit of about 550 firefighters represented by Local 1009, I.A.F.F.;

(2) a unit of about 340 police patrolmen represented by Local 378, I.B.P.O.;

(3) a unit of about 90 police officials represented by the Worcester Police Officials Association;

(4) a unit of about 145 vocational school teachers represented by the Worcester Vocational Teachers Association;

(5) a unit of about 7 vocational school administrators represented by the Worcester Vocational Administrators Association;

(6) a unit of abou 55 public works department clerical employees represented by Local 14, 15 and 200, Federation of State, City and Town;

(7) a unit of about 10 vocational school cafeteria workers represented by Local 16, Federation of State, City and Town;

(8) a unit of about 10 planners represented by the Worcester Branch Engineers and Planners;

(9) a unit of about 250 nurses represented by the Worcester City Hospital Institutional Nurses Association; and

(10) a unit of about 210 clericals represented by the Worcester Clerks' Association.

The record does not reflect what numbers or classifications of employees within the City are currently unrepresented. That such employees exist is made clear by the pendency of petitions in MCR-2755 (seeking ambulance drivers),

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[8] See, e.g., Case No. MCR-884, where the records indicate that the unit included "all motor equipment repairmen in the labor service". Five employees voted in the election. MCR-957, involving eight police department building custodians; MCR-2171, including five deputy sealers of weights and measures; and MCR-2166 covering "assistant dog officers."

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MCR-2632 (seeking respiratory therapists), MCR-2633 (seeking parking meter maintenancemen), and MCR-2789 (seeking police detention attendants).

The petitions filed by NAGE sought to unseat SEIU in four of the existing contractually recognized units. At the initial hearings in this matter SEIU and the City took the position that all units which SEIU represented had been merged, and that NAGE could not seek to "sever" the previously certified parts. The Commission rejected this argument for two reasons: First, the record did not support the conclusion that the separate units had actually been merged; and second, the unit resulting from such a merger would be inappropriate. See 5 MLC 1108, 1113-1114. NAGE argued that the previously certified units were appropriate insofar as they were the existing units. The only evidence to support the appropriateness of such units was the prior agreement of SEIU and the City that they were appropriate. NAGE introduced no community of interest information in support of the previously certified units. The Commission concluded that it required further information to determine the appropriate unit, and ordered additional hearings.

The parties have now suggested to the Commission a comprehensive unit structure for the City of Worcester. Where as our June 30 Decision to reopen the hearing has been the subject of extensive comment and some misunderstanding by the parties, a brief digression on the rationale of that decision is in order prior to analysis of the new units proposed by the parties.

Opinion

The Labor Relations Commission has passed upon the appropriateness of only one of the units represented by Local 495. That case was decided ten years ago. SEIU was granted the right to represent other employees in the City of Worcester through recognition, or by certification following AGreement for Consent Election. The Commission encourages and approves of such practices. See MLRC Rules, 402 CMR 14.11; 402 CMR 14.06(2). Neither a lawful recognition, nor a stipulation of the parties as to appropriate unit structure binds other parties or the Commission in future cases where unit structure is in dispute, and an affirmative determination must be made by the Commission. Town of Braintree, 5 MLC 1133 (1978). Where a bargaining unit is litigated, the Commission must make a determination that it is appropriate based not upon the agreement of the parties, but upon the statutory criteria set forth in G.L. c.150E, sec. 3:

> The Commission shall prescribe rules and regulations and establish procedures for the determination of appropriate bargaining units which shall be consistent with the purposes of providing for stable and continuing labor relations, giving due regard to such criteria as community of interest, efficiency of operations and effective dealings, and to safeguarding the rights of employees to effective representation.

While bargaining history is one element of community of interest, it is by no means the only component. In prior cases the Commission has declined to approve conglomerate units established by hte parties where such units fail to meet basic community of interest criteria. See , e.g., City of Springfield, 2 MLC 1022 (1975) where the City and AFSCME had "amalgamated" a number of

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individual units into a single recognized unit, covered by a single agreement. NAGE petitioned for the combined unit. AFSCME and the City took the position that the overall unit was not appropriate. The Commission agreed, and directed an election in broad occupational units on a city-wide basis. The similarity to these consolidated cases should be apparent.

In City of Lawrence, 3 MLC 1280 (H.O. 1976), aff'd 4 MLC 1843 (1978) the City and the incumbent had created a consolidated unit by successive recognitions. The petitioner sought to sever a comprehensive clerical unit. The Hearing Officer permitted the severance, finding the amalgamated unit inappropriate:

> The existing unit as recognized would never be certified by the Commission. Not only does it include professionals and non-professionals (there is no indication that the professional employees voted for such inclusion as required by Section 3 of the Law) but it is also inappropriate for lack of a community of interest. The city hall clerical employees share with the hospital employees few of the basic indicia of community of interest such as commonality of supervision, job function, qualifications, training and skills, interaction between the hospital and city hall is limited. 3 MLC at 1283-1284 (H.O.).

Our June 30 Decision is clearly consistent with these precedents, and with the Braintree case, supra. Taken together, these cases establish that when the appropriateness of the bargaining unit is at issue, bargaining history alone will not be determinative. The unit whose preservation is sought must itself be "an appropriate unit" under the statutory standard. If so, considerations of stability and bargaining history may serve to preserve it against challenge by a party seeking a "more appropriate unit" or the "most appropriate unit." Where the existing unit is inappropriate, the Commission will establish the most appropriate unit under the circumstances and, if a question concerning representation has arisen, direct an election in such a unit.[9]

It is clear that the existing unit structure in the City of Worcester may not be considered appropriate. As we have previously held that the units established by consent and recognition were never merged, it is these units whose appropriateness must be determined. The problems of unit proliferation in the public sector are too well known to require extended discussion. Statement Accompanying Amendments to Rules and Regulations of the Labor Relations Commission, 1 MLC 1318 (1975) (hereinafter "Statement").

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[9]A lawful recognition or certification pursuant to an Agreement for Consent Election will establish a continuing bargaining relationship between the consenting parties even where the unit would be inappropriate if it had been litigated. We hold here only that such units may be successfully challenged by petitioners seeking appropriate units. The Commission, however, may refuse to approve the Agreement for Consent Election when it is clear that the unit agreed upon by the parties is inappropriate. Admittedly, such a refusal is rare because the Commission does not review a completely litigated record necessary for a determination of appropriateness.

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> Most commentators writing on unit determination have focused on problems caused by fragmentation and the comparative virtues of large and small groupings. Rock, Shaw and Clark, Pendleton and Prascow have all cited pressures for larger public sector units noting:[10]
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> --that common terms and conditions of employment imposed by civil service standards create a wider community of interest among workers;
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> --that unit proliferation can lead to repetitious bargaining and whipsawing;
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> --that narrowly constructed units will limit the practical scope of bargaining. Public Sector Unit Determination, Administrative Procedures and Case Law: A Comparative Evaluation of Executive Order 11491 and Selected State Collective Bargaining Frameworks, (Indiana University, School of Public and Environmental Affairs) (1978).

The Commission has emphatically adopted this view. See, e.g., Statement, supra; Commonwealth of Massachusetts, Board of Regional Community Colleges, 1 MLC 1426 (1975); Pittsfield School Committee, 3 MLC 1490 (1977); University of Massachusetts, 3 MLC 1179 (1976); City of Quincy, 3 MLC 1012 (1976). Units which are limited to departments or other administrative units of a large employer such as the City of Worcester must be considered too narrow to be appropriate under this policy.

Certainly on this record, still entirely devoid of any evidence on community of interest, there is no showing that employees of any department have a community of interest separate and distinct from employees in other departments.[11]

Even had we agreed with the City and SEIU that the previously recognized units had been merged into a single unit, a major restructuring of units would be required. Such a unit would have included some, but not all, clerical and

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[10]Citing, Eli Rock, "The Appropriate Unit question in the Public Service: The Problem of Proliferation" 67 Mich. L. Rev. 1013-1016; Leo C. Shaw and R. Theodore Clark, Jr., "Determination of Appropriate Bargaining Units in the Public Sector Legal and Practical Problems" 51 Oreg. L. Rev. 151-176; Edwin C. Pendleton, "Collective Bargaining in the Public Sector: The Bargaining Unit", Reports (University of Hawaii Industrial Relations Center) (1970); Paul Prascow, "Principles of Unit Determination, Concepts and Problems", Unit Determination Recognition, Recognition and Representation of Election, Election in Public Agencies (University of California, Institute of Labor Relations) (1972).

[11]See discussion of a separate hospital unit strucure, infra.

administrative employees[12]; some, but not all, "blue collar" employees[13]; and some, but apparently not all, technical employees.[14] Such a unit might have been subject to severance even if it had included all such employees. The Commission has been reluctant to force together in a single unit white collar, blue collar, and technical employees. Statement, 1 MLC 1330-34; Sagus School Committee, 2 MLC 1412 (1976). Such a unit would be overcomprehensive by including overly broad employee groupings, and overly narrow by not including all of any such groupings. It would be subject to redefinition were an employee organization to seek an appropriate unit, City of Lawrence, supra; City of Springfield, supra.

The Appropriate Unit

In post-hearing briefs the parties have suggested comprehensive unit structures for the City. SEIU argues in favor of a two-unit proposal[15] grouping all non-professionals whom it represents in one unit, and including a-l professionals in the other. The City supports the two-unit approach, but would also find fultable a three unit proposal splitting non-professionals into a unit of service, maintenance, and institutional employees, and a unit of all clerical and administrative employees. Under the three-unit plan all professionals would be combined in a single unit.

NAGE proposes the establishment of seven units.

A. Non-Professionals
   1. Clerical and Administrative
   2. Institutional Maintenance and Service
   3. Laborer and craft
   4. Hospital technicians and health care workers

B. Professionals
   1. Nurses
   2. Librarians
   3. Engineers and Inspectors

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[12]Large units of clericals in public works and city hall are represented by unions other than SEIU. See p. 4, supra.

[13]See p. 5, supra, indicating small pockets of unrepresented blue collar employees.

[14]See City of Worcester, 4 MLC 1765 (H.O. 1978) and 5 MLC 1189 (H.O. 1978) (Unit placement of emergency medical technicians).

[15]On July 13, 1978 Local 495 filed petitions seeking units of "all non-professionals currently represented by Local 495" (MCR-2767) and "all professional employees represented by Local 495" (MCR-2768). At the August 3 hearing it indicated that a three unit approach would be acceptable. In its brief, only the two-unit approach is discussed.

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Certain of the issues raised by the alternative unit proposals need not be resolved in the context of these consolidated cases. NAGE does not seek to represent professional employees.[16] Thus, we need not define with great precision the shape of future professional units. Rather, we will attempt to make clear our general approach in this area, and rely on a future petitioner to seek and demonstrate the appropriateness of such a unit.

In determining the unit structure for the non-professional employees we are guided more by our experience insuch matters than the record made by the parties. The record and the briefs of the parties are singularly devoid of any evidence on community of interest, and contain in its place argument, theory and citation. Under such circumstances the Commission must rely on certain general assumptions. We assume that employees in the City of Worcester are similar to employees in simlar job classifications in other public agencies. We assume that a clerical employee of the City of Worcester has skills, experiences, and working conditions approximating those of a clerical employee in the City of Lynn, or Springfield, or Brockton. We assume that a laborer in the City of Worcester has concerns and bargaining objectives similar to those of a laborer in Boston or Pittsfield. In other areas, hwoever, the Commission may not rely on its general expertiese.

NAGE argues for a vertical unit of health care non-professionals. The proposal represents an aberration from the consistent pattern of broad horizontal occupational groupings. It is possible that a record could have been made to justify such a unit. Evidence indicating unique working conditions, separate supervision, lack of interchange with other employees, distinct skills and experiences might have established a "separate and distinct" community of inter for these employees. We lack such evidence. Neither may we divine such conclusions from our expertiese in such matters, for it is certainly plausible that the community of interest of such employees is not sufficiently distinct to warrant a separate unit. Indeed there is some evidence that there is interchange between health care and non-health care employees.

The most recent contract between SEIU and the City makes only incidental special provisions for hospital employees. Virtually all of their terms and conditions of employment are established by the general provisions of the contract applicable to all City employees. Given this record we cannot justify the establishment of a vertical unit of health care employees. Rather, these employees will be grouped with similar classifications of City employees.

We reach a similar conclusion, for similar reasons, in rejecting NAGE's argument for a unit of laborers and craft employees, NAGE argues that such employees work under conditions distinct from other blue collar employees, often engaging in heavy physical activity, working outdoors, and employing tools. The City counters this argument by stating (without record citation) that there are too few such employees to justify separate representation. This may well

[16] If Local 495 pursues its petition in MCR-2768, the issue of appropriate unit placement of professionals may be determined in that case.

be the case. On this record, however, it is impossible to establish either conclusion with any degree of certainty.

While separate units for skilled trades[17] have often been established, both the National Labor Relations Board and the Commission have often included such employees in broader units of blue collar employees. Where either of these unit placements may be equally appropriate, but the record is inadequate to determine the issue, we will opt for establishing the larger unit. This is especially appropriate isnce the Commission has adopted the principle of craft severance as described by the NLRB in Mallinckrodt Chemical Works, 162 NLRB 387, 61 LRRM 1011 (1966). See Saugus School Committee, supra. Thus, we prefer not to mandate separate representation for such employees on the basis of an inadequate record when this result may be accomplished at a later time--given a record to support severance.

Even on this record we will establish distinct units of blue and white collar employees. The historical and practical justifications of such a basic division are overwhelming. The arguments advanced by the City in support of an overall non-professional unit have been considered by the Commission and rejected:

> Employees in industry and government have been segregated into distinct units, not for the union's solace, or the employer's harassment, but in recognition of the self evident proposition that "diverse" employees have different negotiating concerns. Arguments advanced by hte employer as to common wage plans, common benefits, or common civil service do not obscure this fact. Since unions have traditionally organized employees only along occupational lines, the conclusion is inescapable that a single unit which groups all non-professional employees will--to a far greater extent than ten units composed of occupational groupings--frustrate employees, lower morale, create disharmony, and impair the efficiency of [the public employer]. Statement, supra. at 1331
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> Consolidation of [clerical and administrative employees] and [blue collar employees] on a statewide basis owuld ignore their separate concerns alluded to supra...and preclude the effective representation required by statute. The community of interest of the blue collar employees, as demonstrated in the text, is clearly distinct from that of white collar comployees. Moreover, since the lines of super-

[17]The proposed combination of laborers and craft employees is somewhat unusual in our experience. Separate units of craft employees have been justified on a historical basis, and in recognition of the higher levels of skills possessed by these employees. NAGE's brief does not address the issue of why the laborers might have a community of interest with craft employees rather than with other blue collar employees if two units were established. As we include all such employees in an overall unit we do not reach the issue here.

> visory authority for blue and white collar employees are clearly demarcated, we conclude that separate units would not cause any great administrative problem for the employer. Application of the statutory criteria thus requires that blue and white collar employees, who have distinct negotiating interests, be represented in separate bargaining units. Statement I MLC 1318, 1335 n. 21.

Only in terms of geography and size may the unit issue in Worcester be distinguished from the state employee case quoted above. The distinction does not alter our conclusions as to the separate community of interest as between blue and white collar employees.

The record in these matters indicates that there exist substantial numbers of "technical" employees employed by the City of Worcester, as that term has been defined by case law. Prior to its decision in Sheffield Corporation, 131 NLRB 1101, 49 LRRM 1265 (1961) the NLRB had automatically excluded "technical" employees from other units. That decision indicated that the Board would "make a pragmatic decision in each case based upon analysis of the following factors among others: desires of the parties, history of bargaining, similarity of skills and job functions, common supervision, contact with and/or interchange with other employees, similarity of working conditions, type of industry, organization of plant, whether the technical employees work in separately situated and separately controlled areas, and whether any union seeks to represent technical employees separately." The Commission has noted the distinct community of interest of technical employees, Beth Israel Hospital, CR-3404, 3405 (1974) at pp. 12-13; but has also noted that they may share a community of interest with clerical employees. Center for Blood Research, 1 MLC 1120 (1974), or other employees, Statement, 1342, n.33. None of the parties to this proceeding have requested the establishment of a separate technical unit. NAGE's proposed health care unit would have included some of such employees with other non-professionals, but would have fallen short of an overall unit of technical employees. At this time no question concerning the representation of technical employees exists. Should any of the parties desire to represent such employees, and demonstrates that it has a sufficient showing of interest among such employees, an election in a city-wide unit of technical employees will be directed.

Impact of the Unit Determination

Restructuring of the bargaining unit involved in these consolidated cases raises numerous other issues on which the parties are entitled to guidance.

We find that NAGE has a sufficient showing of interest in the custodial, service and maintenance (overall blue collar) unit which we have found appropriate above. We shall, therefore, direct an election in that unit. We have not dismissed the petition as it is Commission practice to permit an employee organization which ahs a sufficient showing of interest in the unit found appropriate to proceed to election in that unit even though it is not the unit sought. There remains a question concerning representation with regard to the employees covered by the custodial, service and maintenance unit.

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The Commission has also found appropriate a unit of "technical employees." As we do not know the numbers of employees in such a unit we cannot determine if either employee organization has a sufficient showing of interest. If neither SEIU nor NAGE request an election in this unit within ten days the Commission will consider that no question concerning representation exists unless and until an employee organization files a timely petition supported by a sufficient showing of interest.

Although we have expressed our views on the appropriate unit structure for certain white colair employees, we hold that no question concerning representation exists with regard to these employees. As noted in the Decision, there exist two additional units of clerical employees represented by unions not participating in this litigation. No employee organization ahd indicated a desire to seek an overall unit of white collar employees (as opposed to the clearly inappropriate unit of all white collar employees represented by Local 495).

Similarly, the Commission has expressed, on prior occasions, a preference for establishing a separate unit ofrsupervisory personnel. City of Everett, 3 MLC 1372 (1977); Chicopee School Committee, 1 MLC 1195 (1974). The establishment of separate supervisory units, although usually litigated in the context of police departments, Cambridge Police Department, 2 MLC 1027 (1975); City of Everett, supra, has been firmly established as Commission policy in fire departments, Town of Greenfield, 5 MLC 1036 (1978) and school departments, Chicopee School Committee, supra; Quincy School Department, 3 MLC 1640 (H.O. 1977). This principle is equally applicable to all phases of local government. As the Commission stated in Town of Greenfield:

> Regardless of the type of employee or framework in which a case arises (i.e., initial unit determination as opposed to severance petition), each situation has been approached on its own facts with a view towards determining the central issue of whether indicia of supervisory authority are strong enough to mandate separattion of supervisors from those they supervise. 5 MLC at 1040.

As one Hearing Officer has stated: "Supervisors who train, evaluate, discipline and direct the work of other employees perform functions which have the potential to disrupt effective collective bargaining." Town of Greenfield, 4 MLC 1225, 1228 (1977) aff'd 5 MLC 1036 (1978). See also City of Taunton, 3 MLC 1686 (H.O. 1977) for a careful analysis of the criteria used to make the division between supervisors and non-supervisors.

No extended discussion of this point is necessary at this time. Neither the City nor any of the parties to these cases seeks to create a separate unit of supervisors, despite the Commission's preference for creating such a unit. In this case the practical difficulties of excluding these employees persuade us not to do so at this time. We cannot identify supervisory positions from the job titles with any precision. We have no record to aid us in this regard. If such employees could be identified, an appropriate unit would have to be defined. For these reasons we will permit the City's supervisory employees, including the blue collar supervisors, to remain in the unit established by this decision. We put the parties on notice that should a petitioner seek to establish a supervisory

unit or units, the Commission will remove such supervisors as may be established on the record from existing certified or recognized bargaining units.

Our Decision in this matter leaves undisturbed the bargaining relationship between SEIU and the City of Worcester for employees not covered by either the technical unit, or the overall blue collar unit. As between the parties to the consensual bargaining relationship the units remain appropriate until challenged.

Conclusions of Law

Upon all of the evidence and the record as a whole we find:

1. The following units are appropriate[18] for the purposes of collective bargaining:

Unit 1: All full-time and regular part-time service, maintenance and custodial laborers and craft employees, excluding all clerical and administrative employees, all technical employees, all professional employees, and all managerial and confidential employees as defined in the Law.

Unit 2: All full-time and regular part-time technical employees, excluding all service, maintenance, and custodial employees, all laborers and craft employees, all clerical and administrative employees, all professional employees nad all managerial and confidential employees as defined in the Law.

2. A question exists concerning the representation of the employees described in Unit 1 above.

3. An election by secret ballot shall be directed to determine whether a majority of the employees in Unit 1 desire to be represented by the Worcester City Employees Union, a Division of the National Association of Government Employees, or by Local 495, Service Employees International Union, AFL-CIO, or by neither of said employee organizations.

4. Either of the employee organizations party to these consolidated matters may, within ten (10) days of receipt of this decision, indicate to the Commission that it wishes to proceed to an election in Unit 2 above, and that it has an adequate showing of interest in Unit 2.

5. Any election directed pursuant to this Decision shall be conducted at such times and place, and under such conditions as shall be specified in a Notice of Election to follow the Decision.

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[18]The blue collar supervisory positions, if they exist, are currently represented by SEIU. Our preference would be to exclude those employees from the overall unit which we establish by our decision today. See discussion, above. For the reasons indicated these individuals are included in the present unit.

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The eligible voters shall include all those persons within the above-described unit whose names appear upon the payroll of the employer on October 6, 1978 and who have not since quit or been discharged for cause.

In order to assure that all eligible voters will have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to this election shall have access to a list of voters and their addresses which may be used to communicate with them.

Accordingly, it is hereby further directed that three copies of an election eligibility list, containing the names and addresses ofall the eligible voters in Unit 1 must be filed by the City Manager of the City of Worcester with the Executive Secretary of the Labor Relations Commission, Leverett Saltonstall Building, 100 Cambridge Street, Room 1604, Boston, Massachusetts, 02202, no later than fourteen (14) days from the date of this Decision and Direction of Election.

The Executive Secretary shall make the list available to all parties to the election. Since failure to make timely submission of this list may result in substantial prejudice to the rights of the employees and the parties, no extension of time for the filing thereof will be granted except under extraordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election should proper and timely objections be filed.

COMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

James S. Cooper, Chairman
Garry J. Wooters, Commissioner
Joan G. Dolan, Commissioner