



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**United Steelworkers of America, AFL-CIO, CLC**  
**(Manchester Water Works, Local 8938)**

**v.**

**City of Manchester**

**Case No. G-0058-19**  
**Decision No. 2014-109**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: April 25, 2014

Appearances:

Vincent A. Wenners, Jr., Esq., for the Complainant

Thomas Arnold, Esq., for the Respondent

Background:

On March 26, 2014 the United Steelworkers of America, AFL-CIO, CLC, Manchester Water Works, Local 8938 (Union) filed an unfair labor practice complaint claiming that the City of Manchester (City) violated RSA 273-A:5, I (a) and (h) when, among other things, it prematurely notified employees of health care plan changes during the status quo period, prior to the ratification of the parties' agreement on these changes, and started deducting increased health insurance premiums from employees' wages without adequate notice. The Union asserts that under Section 102(b) 7 of the Affordable Care Act, the City was required to give notification of health plan changes after the agreement regarding changes was made but 60 days prior to the effective date of the changes. The Union claims that the City's actions constitute a breach of

contract, impermissible direct dealing, and unilateral change in terms and conditions of bargaining unit members' employment. The Union requests that the PELRB order that the City give 60 day notice of the modification of the health care plan pursuant to the Affordable Care Act, return all increased health insurance premiums deducted from employees' wages since December 1, 2013, and refund all increased co-payments and deductible payments "until the City gives proper notice under the Affordable Care Act."

The City denies the charges and claims that it notified employees of the changes as mandated by the Affordable Care Act and started deducting increased premiums only after the parties' agreement was ratified; that the PELRB lacks jurisdiction to interpret, apply, rule on or enforce the Affordable Care Act; and that the PELRB lacks jurisdiction over the Union's breach of contract claim because the parties' contract provides for final and binding arbitration. The City requests that the PELRB dismiss the complaint.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the Union's claims
2. Whether the City violated RSA 273-A:5, I (a) and (h) as charged by the Union.

#### WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing.

## DECISION

1. "Parties" means the Union, the City or their counsel/representative appearing in the case.

The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.


2. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **June 2, 2014**.
3. The parties shall pre-mark each exhibit and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

## HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **June 10, 2014 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 2 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

April 25, 2014

  
Karina A. Mozgovaya, Esq.  
Staff Counsel/Hearing Officer

Distribution: Vincent A. Widders, Jr., Esq.  
Thomas Arnold, Esq.