



1975, at Topeka, Kansas, at which evidence was presented by both parties. Written argument has been received from both parties.

## II. FINDINGS OF FACT

The Board, having reviewed the pleadings and the evidence herein, having received the recommendations of Donald R. Hoffman, duly appointed hearing examiner, and being otherwise fully advised in the premises, makes the following findings:

1. The employer, the Kansas Turnpike Authority (KTA), established by K.S.A. 68-2001 et seq., is a state agency.

2. At the time of the filing of the Petition herein for an appropriate unit determination, specifically, on the 13th day of December, 1974, there existed no work stoppage or picketing with respect to the employer.

3. The Board has not considered this matter in any way heretofore; it has not considered any prior matter relative to said employees and employer.

4. The representative, R. A. Caraway, of the petitioner, the Kansas Public Employees Union, AFSCME, AFL-CIO, was duly licensed pursuant to K.S.A. 1973 Supp. 75-4336 of the laws of the State of Kansas, at the time of the filing of the Petition herein.

5. The petitioner has filed its annual report for 1973 and its constitution and by-laws are on file with the Secretary of State as required by K.S.A. 1973 Supp. 75-4337.

6. No other employee organization claims to represent any employees pertinent hereto or are known to have a manifest interest in the same.

7. Toll Collectors I and II (formerly, until September 27, 1974, "collectors") and Toll Collectors III (formerly, until September 27, 1974, "collectors in charge") are "directly responsible to the (assistant) supervisor in charge of their respective interchanges" and perform basically the same duties, as provided by their respective job descriptions, all of which show the following examples:

Issue correct classification of toll tickets at the entry lanes and collect the proper tolls and tickets at the exit lanes.

Operates the radio and telephone in the entry lane toll both in connection with properly handling the collection of tolls and other turnpike business.

During a tour of duty, each collector is accountable for all axles crossing his treadle and ticket axles must balance out with treadle axles.

Required to handle all irregular transactions as outlined under operating procedures in the collector's manual.

Issue information to patrons, when it is requested, relative to road information, restaurants, motels, etc.

8. Said Toll Collectors must have completed eight school grades and must have the "(a)bility to make change quickly and adequately to keep traffic moving" and must have the "(a)bility to maintain an attitude of courtesy and good public relations in everyday contacts with the traveling public," as provided by their respective job descriptions at Exhibits C-1, C-2 and C-3.

9. The basic difference between the positions of Toll Collectors I, II and III is a pay-raise difference for which length of service is a necessary requirement, except for the necessity for Toll Collectors I and II to receive authority, generally by telephone, for special patron problems, e.g., lost ticket or illegal u-turn.

10. That Toll Collector III positions are presently maintained by the employer only at Wellington<sup>(1)</sup>, Kansas City<sup>(6)</sup>, and Bonner Springs<sup>(6)</sup> interchanges among its 17 interchanges.

11. All of said Toll Collectors, in the performance of their duties:

- a) serve a public relations/public information function with the traveling public, unlike any other group of employees of the employer;
- b) are uniformed, but have no security function and are unarmed, notwithstanding their possession of sums of money not less than \$400.00, the amount of change of which each Toll Collector begins a shift;
- c) must accurately perform a substantial amount of clerical work, as shown by Exhibits B-1 through B-8 and testimony thereon, and including preparing deposits of money following shift work (for which he receives no compensation).
- d) must frequently perform accurate communications chores relative to the highway patrol, the employer's headquarters, the Toll Collectors III, if applicable, and the weather bureau.

e) are usually without present and direct supervision of the assistant supervisor although none may be considered a supervisory employee as defined by K.S.A. 1973 Supp. 75-4322(b).

12. The principal and major standard for performance evaluation is fiscal accountability for accuracy of axle variation and treadle counts vis-a-vis funds received, as shown by Exhibit B-9 and testimony relating thereto.

13. This standard allows no variance for defective equipment, which does occur, which may necessitate extraordinary clerical (non-machine) calculations for all Toll Collectors and is, therefore, unique thereto.

14. All the Toll Collectors work with a 10-step, 28-day rotational, 8-hour/<sup>-day</sup>per shift schedule, consistent with Exhibit B-10, which provides for as many as six and seven days of consecutive work, which can require an employee to work 16 hours in a row without a break, which does not allow choice of holidays, except as required to be taken by the employer and which may be required to be taken on a non-holiday, and which does not provide credit for seniority following absence from sickness or other leave.

15. Notwithstanding length of service, a Toll Collector may be placed on relief status, which places him outside the above-noted rotational shift schedule and places him on an irregular shift, while Toll Collectors with less length of service may be on said shift schedule.

16. Transfers or promotions by Toll Collectors to other positions with the employer are minimal, if not non-existent.

17. Toll Collectors have only limited contact with other blue collar, i.e., maintenance, employees of the employer, e.g., upon entrance or exit of maintenance employee vehicles, to relay messages from headquarters, including telephoning maintenance employees after regular hours at their respective homes to return to work because of hazardous conditions caused from weather or accident.

18. The evidence and statements of the employer suggests including maintenance personnel in an appropriate unit with Toll Collectors. Both employer and employee organization oppose

inclusion of any other employees, such as headquarters clerical personnel, therein.

19. No interest by KTA employees other than Toll Collectors has been manifested in establishing an appropriate unit for ultimate meet and confer proceedings, as provided by K.S.A. 1973 Supp. 75-4321 et seq.

20. KTA personnel other than Toll Collectors work a regular five-day-per-week, eight-hour-per-day schedule, which allows a one-hour lunch break, except for emergencies.

21. Toll Collectors get no lunch break (and sometimes go without lunch), but must maintain their work duty positions at all times, except for hygienic relief, which is difficult for a Toll Collector on "A" evening shift, when only a singular Toll Collector per interchange is on duty.

22. Toll Collectors have concerns as employees that are unique to their positions, which are also unique, by the very nature of their job duties.

23. All KTA employees are provided the same fringe benefits; Toll Collectors and maintenance personnel are on the same pay scale.

24. Toll Collectors and maintenance personnel have different supervision and, therefore, constitute separate divisions thereof.

25. Previous organizing efforts to include both maintenance personnel and Toll Collectors were fraught with difficulty from the point of view of AFSCME; this stemmed from different interests stemming from completely different job functions.

26. The petitioner is prepared to submit a thirty (30) percent showing of interest should its alleged appropriate unit be approved.

27. KCA personnel are not subject to the Kansas Civil Service Act, but are members of the Kansas Public Employees Retirement System.

28. All KTA maintenance personnel may be properly considered within a laborer status, similar to that of the building trades of private enterprise.

29. All Toll Collectors may be properly considered within a clerical/service status, similar to that of the retail clerk of private enterprise.

30. The employer, in its pleadings, opposes the establishment of the appropriate unit requested by the petitioner; however, the employer does not request the establishment of an alternative appropriate unit.

### III. CONCLUSIONS OF LAW

It is, therefore, by the Board, considered, adjudged and decreed that:

1. The employer, the Kansas Turnpike Authority, is subject to the Public Employer-Employee Relations Act by virtue of its status as a state agency.

2. The petitioner and its representative are in compliance with the requirements of said act.

3. Both employer and petitioner, therefore, are subject to the jurisdiction of the PERB herein and, therefore, have standing in this matter.

4. In view of the pleadings herein, the Board may only rule on the appropriateness of the petition before it; it may not modify or design any appropriate unit other than that requested by the petitioner herein, notwithstanding statements and testimony of the employer; the Board may only approve or reject the appropriate unit as alleged by the Petitioner.

5. Taking into consideration the criteria provided by K.S.A. 1973 Supp. 75-4327(e), including relevant factors not specifically mentioned therein, the unit alleged by the petitioner as appropriate for meet and confer purposes should be and is hereby considered appropriate therefor, in view of the hereinabove findings.

### IV. ORDER

IT IS, THEREFORE, BY THE BOARD CONSIDERED, ORDERED, ADJUDGED AND DECREED that the unit alleged by the petitioner herein shall be deemed appropriate, pursuant to K.S.A. 1973 Supp. 75-4327, by all parties for certification and meet-and-confer purposes resulting therefrom provided by the Kansas Public Employer-Employee Relations Act.

DONALD R. HOFFMAN  
Hearing Examiner/Assistant Attorney  
General  
First Floor - State House  
Topeka, Kansas 66612  
(913) 296-2215

Submitted and Approved:

MCCULLOUGH, WAREHEIM & LABUNKER

By: W. Wareheim

(913) 296-2215