

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
WASHINGTON, D.C. 20424

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DEPARTMENT OF ENERGY AND  
DEPARTMENT OF ENERGY,  
PITTSBURGH ENERGY  
TECHNOLOGY CENTER  
Respondent  
and Case No. 2-CA-80050  
AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
LOCAL 1916, AFL-CIO  
Charging Party  
.....

Barbara S. Liggett, Esquire  
For the General Counsel

Curtis W. McBride, Esquire  
For the Respondent

Before: BURTON S. STERNBURG  
Administrative Law Judge

DECISION

Statement of the Case

This is a proceeding under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. Section 7101, et seq. and the Rules and Regulations issued thereunder.

Pursuant to an amended charge first filed on November 12, 1987, by the American Federation of Government Employees, Local 1916, AFL-CIO, (hereinafter called the Union), a

Complaint and Notice of Hearing was issued on January 29, 1988, by the Regional Director for Region II, Federal Labor Relations Authority, New York, N.Y. The Complaint alleges that the Department of Energy, (hereinafter called Respondent Energy) and the Department of Energy, Pittsburgh Energy Technology Center, (hereinafter called Pittsburgh Energy Technology Center), violated Sections 7116(a)(1), (5) and (8) of the Federal Service Labor-Management Relations Statute, (hereinafter called the Statute), by failing and refusing to furnish to the Union the names and home addresses of bargaining unit members employed by Respondent Pittsburgh Energy Technology Center.1/

On February 22, 1988, the Respondent filed an Answer denying the commission of any unfair labor practices but admitting all but two of the factual allegations of the Complaint.2/

On April 5, 1988, Counsel for the General Counsel filed with the Regional Director for Region II a Motion for Summary Judgment and a "Memorandum In Support" thereof. On the same date, the Regional Director for Region II, pursuant to Section 2423.22(b)(1) of the Federal Labor Relations Authority's Rules and Regulations, transferred the General Counsel's Motion for Summary Judgment to the Chief Administrative Law Judge for decision. The matter was subsequently assigned to the undersigned Administrative Law Judge for decision on the Motion for Summary Judgment. Thereafter, Counsel for Respondents filed "Respondents Memorandum and Answer In Opposition To Charging Party's Motion For Summary Judgment."

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1/ Specifically Respondent Pittsburgh Energy Technology Center is charged with refusing to furnish the Union the requested information upon instructions from Respondent Energy.

2/ Respondents denied that the requested information is necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. Although Respondents admit that the requested information is maintained in the regular course of business and reasonably available, they point out that the requested information is not maintained separately from non-bargaining unit employees. Finally, Respondents take the position that the Privacy Act prohibits the disclosure of the requested information.

Having read the Complaint and Respondent's Answer thereto, as well as the respective briefs of the parties in support of their respective positions on the General Counsel's Motion for Summary Judgment, I am convinced, based primarily upon the Federal Labor Relations Authority's decision in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA No. 101, enf. in part and remanded sub non, U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA No. 86-2579 (8th Cir. 1/15/88) petitions for rehearing filed, that a hearing in the instant matter is not necessary since there is no material fact in dispute.

Accordingly, upon the basis of the above described record, and after consideration of the parties briefs, I make the following findings of fact, conclusions and recommendations.

1. At all times material herein, the Union has been, and is now, a labor organization within the meaning of Section 7103(a)(4) of the Statute.

2.(a) At all times material herein, Respondent Energy has been, and is now, an agency within the meaning of Section 7103(a)(3) of the Statute.

(b) At all times material herein the Respondent Pittsburgh Energy Technology Center has been, and is now, a constituent entity within the Department of Energy and an agent acting on its behalf.

3. At all times material herein, Ralph J. Wichterman has occupied the position of Director, Organization and Personnel Division at Respondent Pittsburgh Energy Technology Center's Pittsburgh, Pennsylvania facility.

4. At all times material herein, the individual named above in paragraph 3 has been, and is now, a supervisor or management official as defined in Section 7103(a)(10) and (11), respectively, of the Statute and has been, and is now, an agent of Respondent Pittsburgh Energy Technology Center acting on its behalf.

5. At all times material herein, the Union has been, and is now, the exclusive representative for a unit of non-supervisory professional and nonprofessional employees of the U.S. Energy Research and Development Administration,

that an order issue directing Respondent Energy to rescind and cease the policy of requiring Respondent Pittsburgh Energy Technology Center and other components of Respondent Energy not to furnish to the unions representing its employees the names and home addresses of all employees in bargaining units represented by such unions.

Respondents on the other hand takes the position that the Privacy Act of 1974, 5 U.S.C. 552a, prohibits the release of the home addresses of the bargaining unit employees. Respondent further contends that there has been no showing that the home addresses are necessary for full and proper discussion, understanding, and negotiation of subjects with the scope of collective bargaining.

In agreement with the General Counsel I find that the Authority's decision in Farmers Home Administration, Finance Office, St. Louis, Missouri, supra, is dispositive of all Respondent's contentions and or defenses.<sup>3/</sup> Thus, the Authority held that the release of the names and home addresses of unit employees is not prohibited by the Privacy Act, and that the exclusive representative need not offer any explanation as to the reasons it seeks such information since the Union's need "is so apparent and essentially related to the nature of exclusive representative . . . ."

Accordingly, in view of the foregoing, and based upon the Authority's holdings set forth above, and since the Union's request meets all the requirements of Section 7114(b)(4) of the Statute, as interpreted by the Authority,

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<sup>3/</sup> See also United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, No. 87-3005 (3d Cir. Mar. 2, 1988), enforcing Philadelphia Naval Shipyard, 24 FLRA 37 (1986); U.S. Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, No. 87-1143 (7th Cir. Jan. 27, 1988, affirming Department of the Air Force, Scott Air Force Base, Illinois, 24 FLRA 226 (1986); Department of Health and Human Services, Social Security Administration v. FLRA, 833 F. 2d 1129 (4th Cir. 1987), petition for rehearing filed Jan. 8, 1988, affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); Department of Health and Human Services, Social Security Administration and Social Security Administration Field Operations, New York Region, 24 FLRA 583 (1986); Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986).

Pittsburgh Energy Research Center, now known as the Department of Energy, Pittsburgh Technology Center, having been recognized as the exclusive representative on October 13, 1966 under Executive Order 10988.

6. On or about October 6, 1987, the Union, by its agent Raymond J. Bernarding, requested that Respondent Pittsburgh Energy Technology Center furnish the Union with the names and home addresses of all employees who are in the bargaining unit represented by the Charging Party as described in paragraph 5 above.

7.(a) The information requested in paragraph 6 above is maintained by Respondent Pittsburgh Energy Technology Center in the regular course of business. However, the information is not separated into bargaining unit and non-bargaining unit employees. All employees names and addresses are in one data file.

(b) The information requested in paragraph 6 above is reasonably available to Respondent Pittsburgh Energy Technology Center.

(c) The information requested in paragraph 6 above does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining.

8. On or about October 15, 1987, and at all times material thereafter, Respondent Pittsburgh Energy Technology Center, by its agent Ralph J. Wichterman, failed or refused, and continues to fail and refuse, to furnish to the Union the requested information referred to above in paragraph 6.

9. On or about October 15, 1987, and at all times material thereafter, Respondent Energy directed Respondent Pittsburgh Energy Technology Center not to provide the Union with the information described in paragraph 6 above, and/or Respondent Energy prevented, and is preventing, Respondent Pittsburgh Energy Technology Center from furnishing the information referred to above in paragraph 6 to the Union.

#### Discussion and Conclusions

The General Counsel takes the position that the Authority's decision in Farmers Home Administration Finance Office, St. Louis, Missouri, supra, is dispositive of the matter and summary judgment in its favor is in order. As a remedy the General Counsel requests, among other things,

I find that the refusal of Respondents to furnish the Union with the names and home addresses of the bargaining unit employees constituted a violation of Sections 7116(a)(1), (5) and (8) of the Statute.

I further find that Respondent Pittsburgh Energy Technology Center was prevented by Respondent Energy from fulfilling its obligations imposed by Section 7114(b)(4) of the Statute. In this connection it is noted that Respondents admit that Respondent Energy has in furtherance of an established policy instructed Respondent Pittsburgh Energy Technology Center not to furnish the requested names and home addresses of the unit employees employed by Respondent Pittsburgh Energy Technology Center. Accordingly, inasmuch as the Respondent Pittsburgh Energy Technology Center was acting ministerially and without discretion in the matter, I shall pursuant to established Authority Policy, dismiss the complaint with respect to Respondent Pittsburgh Energy Technology Center. Veterans Administration, Washington, D.C. and Dallas Veterans Administration Medical Center, Veterans Administration, Dallas, Texas, 31 FLRA No. 48.

However, with respect to Respondent Energy which was responsible for directing Respondent Pittsburgh Energy Technology Center not to furnish the Union with the requested information, I find that it improperly prevented the Respondent Pittsburgh Energy Technology Center from complying with Section 7114(b)(4) of the Statute and improperly interfered with the local bargaining relationship between the Union and Respondent Pittsburgh Energy Technology Center. In view of the foregoing, I further conclude that Respondent Energy by virtue of its activity in preventing Respondent Pittsburgh Energy Technology Center from complying with Section 7114(b)(4) of the Statute and interfering with the local bargaining relationship between Respondent Pittsburgh Energy Technology Center and the Union violated Sections 7116(a)(1), (5) and (8) of the Statute. Veterans Administration, Washington, D.C. and Dallas Veterans Administration Medical Center, supra.

Accordingly, the General Counsel's Motion For Summary Judgment is hereby granted, and it is recommended that the Authority issue the following Order:

#### ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, we order that the United States Department of Energy shall:

1. Cease and desist from:

(a) Directing the United States Department of Energy, Pittsburgh Energy Technology Center, to refuse to furnish the American Federation of Government Employees, Local 1916, AFL-CIO, the designated agent of the exclusive representative for a bargaining unit of its employees, the names and home addresses of all employees in the unit.

(b) Directing other component activities of the United States Department of Energy, to refuse to furnish on request of the exclusive representative of bargaining units of its employees or designated agents of the exclusive representative for bargaining units of its employees the names and home addresses of employees in the units they represent.

(c) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of the rights assured them by the Statute.

(d) In any like or related manner, interfering with the local bargaining relationship between the American Federation of Government Employees, Local 1916, AFL-CIO, and the United States Department of Energy, Pittsburgh Energy Technology Center.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Direct the United States Department of Energy, Pittsburgh Energy Technology Center to furnish the American Federation of Government Employees, Local 1916, AFL-CIO, the designated agent of the exclusive representative for a bargaining unit of its employees, the names and home addresses of all employees in the unit.

(b) Post at its facility, United States Department of Energy, Pittsburgh Energy Technology Center, copies of the attached

Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by a responsible official of the United States Department of Energy, Washington, D.C., and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region II, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.

The allegations in the Complaint against the United States Department of Energy, Pittsburgh Energy Technology Center, are dismissed.



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BURTON S. STERNBURG  
Administrative Law Judge

Dated: April 28, 1988  
Washington, D.C.

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT direct the United States Department of Energy, Pittsburgh Energy Technology Center, to refuse to furnish, upon request of the American Federation of Government Employees, Local 1916, AFL-CIO, the exclusive representative for a bargaining unit of our employees, the names and home addresses of all employees in the unit.

WE WILL NOT direct other component activities of the United States Department of Energy to refuse to furnish on request of the exclusive representative of bargaining units of our employees or the designated agents of the exclusive representative for bargaining units of our employees the names and home addresses of employees in the units they represent.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce employees in the exercise of rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL NOT, in any like or related manner, interfere with the local bargaining relationship between the American Federation of Government Employees, Local 1916, AFL-CIO, and the United States Department of Energy, Pittsburgh Energy Technology Center.

WE WILL direct the United States Department of Energy, Pittsburgh Energy Technology Center, to furnish the American Federation of Government Employees, Local 1916, AFL-CIO, the names and home addresses of all the employees in the unit.

\_\_\_\_\_  
(Activity)

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region II, whose address is: 26 Federal Plaza, Room 3700, New York, N.Y. 10278, and whose telephone number is: (212) 264-4934.