STATE OF MAINE

MAINE LABOR RELATIONS BOARD
Case No. 05-03
Issued: March 22, 2005

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| LOCAL 2303, IAFF, AFL-CIO-CLC, | ) | |
| Complainant, | ) | |
| v. | ) | DECISION AND ORDER |
| CITY OF GARDINER, | ) | |
| Respondent. | ) | |

This is a prohibited practice case, filed pursuant to 26 M.R.S.A. § 968(5)(B) on July 14, 2004, by Robert F. Bourgault, Association Representative, on behalf of Local 2303, IAFF, AFL-CIO-CLC ("Association" or "complainant"), alleging that the City of Gardiner ("City" or "respondent") violated 26 M.R.S.A. § 964(1)(E) and § 965 by unilaterally changing the employees' terms and conditions of employment and refusing to negotiate those changes. The City filed a timely response on August 4, 2004, through its representative, David A. Barrett, Manager of Personnel Services and Labor Relations at Maine Municipal Association, denying that its actions constituted a violation of the Municipal Public Employees Labor Relations Law ("MPELRL"), 26 M.R.S.A. ch. 9-A.

The party representatives met with the Executive Director on November 10, 2004, and agreed that an evidentiary hearing was not necessary in this matter, and that the Board could deliberate based upon a record consisting of the fact stipulations and exhibits, and upon the written arguments of the parties.
The complainant submitted three exhibits for the Board's consideration: Exh. C-1, April 6, 2004, memo from Fire Chief Kimball; Exh. C-2, undated letter from Richard Sieburg, President

of Local 2303, to Fire Chief Kimball; and Exh. C-3, April 12, 2004, letter from Robert Bourgault to City Manager Jeffrey Kobruck. The respondent did not object to the admission of these exhibits. Both the complainant and the respondent submitted written briefs; the complainant submitted a reply brief. The briefing was completed on December 15, 2004. The Board met to deliberate the case on January 7, 2005.

## JURISDICTION

The Association is the bargaining agent, within the meaning of 26 M.R.S.A. § 962(2), of the uniformed members of the Gardiner Fire Department, except the Fire Chief. The City is the public employer, within the meaning of 26 M.R.S.A. § 962(7). The jurisdiction of the Board to hear this case and to render a decision and order lies in 26 M.R.S.A. § 968(5). All subsequent statutory references are to the MPELRL, Title 26, M.R.S.A.

## STIPULATIONS

The parties stipulated to the following on November 10, 2004:

1. Local 2303 of the International Association of Firefighters, AFL-CIO-CLC (hereinafter referred to as "Union"), is the bargaining agent within the meaning of 26 M.R.S.A. § 962(2) for a bargaining unit composed of the uniformed members of the Gardiner Fire Department (Firefighters/EMT's and the Assistant to the Chief) except the Fire Chief.

2. The City of Gardiner ("City") is the public employer within the meaning of 26 M.R.S.A. § 962(7) of the employees whose classifications comprise the bargaining unit mentioned in paragraph 1.

3. The City and the Union have entered into successive comprehensive collective bargaining agreements covering employer-employee relations for the bargaining unit mentioned in paragraph 1 for many years. The parties' 2002-2005 collective bargaining agreement is attached hereto, made a part hereof, and designated as Joint Exhibit A.

4. On or about April 12, 2004, Fire Chief Mark Kimball promulgated a new Policy and Procedure, designated as P&P No. 3.12, that changed the rescue call back procedure. The policy changed a practice that had been in place for at least 18 years. The Policy created a new Code call out, Code 22, indicating that the City only needed two off-duty personnel to respond. Emergency calls needing more than two off-duty firefighters would be toned out as a general call for all personnel.

5. Prior to issuance of P&P 3.12, the rescue call back applied to all unit employees who responded.

6. The only provision in the parties 2002-2005 collective bargaining agreement relating to call back procedures is Article 9, § 5 which states:

> In the event that an employee covered by this Agreement is recalled to duty because of any emergency, the employee shall be paid the overtime rate for actual time worked, but not less than the pay for (2) hours overtime.

7. In a letter from Robert F. Bourgault to City Manager Jeff Kobrock dated April 12, 2004, the Union objected to the unilateral change and requested that the policy be either rescinded or held in abeyance and that the parties meet to discuss the change in working conditions. A copy of the letter is attached hereto, made a part hereof, and designated as Joint Exhibit B.

8. The City Manager has not responded to the letter from the Union.

8.5. Employees responding to emergency rescue calls are being compensated in accordance with terms and conditions in the current collective bargaining agreement.

9. The City of Gardiner has contracts with other communities to provide those municipalities with ambulance/rescue services. Such municipalities include: Pittston, Farmingdale, West Gardiner, Litchfield, Dresden, Richmond and Randolph. The City of Gardiner also provides back-up to Delta Ambulance for servicing the Town of Whitefield.

10. The City of Gardiner has "mutual aid agreements" with other communities and has requested assistance from them approximately fifty-four times in calendar year 2004 to date, with the City of Augusta responding thirty-seven times.

<u>DECISION</u>

The statutory duty to bargain embodied in § 965(1) requires that the employer and the bargaining agent negotiate in good faith with respect to the mandatory subjects of bargaining--wages, hours, working conditions and contract grievance arbitration. The duty to bargain continues throughout the life of the collective bargaining relationship between the employer and the bargaining agent, provided that the parties have not otherwise agreed in a prior written contract. <u>Council 74, AFSCME v. Ellsworth School Committee</u>, No. 81-41, at 7 (MLRB July 23, 1981).

A corollary to the duty to bargain is the well-established prohibition against public employers making unilateral changes in the mandatory subjects of bargaining. <u>See</u>, <u>e.g.</u>, <u>State of Maine (Bur. of Alcoh. Bev.) v. MLRB</u>, 413 A.2d 510, 515; <u>NLRB v. Katz</u>, 369 U.S. 736, 743 (1962). "The essence of this prohibition is that once a bargaining agent has begun to represent a unit of employees, the employer may not make unilateral changes in mandatory subjects of bargaining without negotiating the changes with the bargaining agent." <u>Teamsters Local Union No. 48 v. Town of Jay</u>, No. 80-02, at 3 (MLRB Dec. 26, 1979). The rationale for the prohibition is that unilateral changes in mandatory subjects "is a circumvention of the duty to negotiate which frustrates the objectives of the duty much as does a flat refusal to bargain." <u>NLRB v. Katz</u>, 369 U.S. at 743. An employer's action is unilateral if it is taken without prior notice to the bargaining agent of the employees involved in order to afford said agent a reasonable opportunity to demand negotiations on the contemplated change. <u>City of Bangor v. AFSCME, Council 74</u>, 449 A.2d 1129, 1135 (Me. 1982).

In order to constitute a violation of § 964(1)(E), three elements must be present. The public employer's action must: (1) be unilateral, (2) be a change from a well-established practice, and (3) involve one or more of the mandatory subjects

of bargaining.  Bangor Firefighters Ass'n v. City of Bangor, No. 84-15, at 8 (MLRB Apr. 4, 1984).  The City here conceded that the new rescue call-back policy was a unilateral change and that it was a change in a well-established practice of the City (City's brief, at 3).  The City argues, however, that it was not required to negotiate with the Association about the new call-back policy for two reasons.  First, the City argues that terms in the current collective bargaining agreement ("CBA") allow the City to alter the policy without negotiation.  Second, the City argues that the call-back policy was not a mandatory subject of bargaining, and that the City was therefore allowed to unilaterally alter the policy without negotiation.  We will address both of these arguments, in turn, below.

Where, as here, a collective bargaining agreement is in effect between the parties, the obligation to bargain continues in the following circumstances:

> If, as in the instant case, there is a collective bargaining agreement in effect which does not contain a so-called "zipper clause," the obligation to bargain continues with respect to new issues which arise during the course of the administration of the collective bargaining agreement when those new issues are neither contained in the terms of the contract nor negotiated away during bargaining for that contract or a successor agreement.

East Millinocket Teachers Ass'n v. East Millinocket School Committee, No. 79-24, at 4-5 (MLRB Apr. 9, 1979).  The City relies on the following CBA articles in support of its argument that it has already bargained the terms of the call-back policy: Article 9 (Hours of Work), Section 5; and Article 13 (Management Rights/Employee Rights), Section 1.  Article 9, Section 5 of the CBA is the only provision that specifically refers to call-back or recall to duty.  It provides:

> In the event that an employee covered by this agreement is recalled to duty because of any emergency, the employee shall be paid the overtime rate for the actual time worked, but not less than the pay for (2) hours overtime.

Article 13, Section 1 provides, in relevant part:

> The City retains all rights and authority to manage and direct its employees and to determine work shift assignments, except as otherwise specifically provided in this agreement. The City may adopt rules and regulations for the operation of the department and the conduct of its employees provided such rules do not conflict with any provision of this agreement.

Article 9, Section 5 relates to the manner in which employees who are recalled to duty are paid (overtime for the number of hours actually worked, but not less than two hours' overtime). It is clear that this section relates only to payment for recall, as the parties agree that this section continues to be applied to the new call-back system. This section does not describe or memorialize, however, the *system or policy* used in recalling employees to work; it does not contain the terms of any call-back system negotiated and agreed to by the parties that would obviate the need to negotiate about a mid-term change to that system, or that would allow the City to change the system on a unilateral basis. Further, the language at the beginning of the section ("*In the event* that an employee covered by this agreement is recalled . . .") does not constitute a waiver on the Association's part of its right to demand mid-term bargaining about a unilateral change in a policy that had been long in place at the time this CBA was negotiated.

We reach the same conclusion about the effect of Article 13, Section 1 which contains, in part, a general "management rights" clause. A party may waive its right to demand negotiations during the term of a collective bargaining agreement over unilateral changes by agreeing to a "zipper clause" or similar

clause which covers such changes. It is well established that for such a waiver to be effective as a bar to negotiations, the evidence of waiver must be clear and unmistakable. Council No. 74, AFSCME v. City of Bangor, No. 80-41, at 9-10 (MLRB Sept. 24, 1980), aff'd, 449 A.2d 1129 (ME. 1982). The Law Court has found, for instance, that a broadly worded zipper clause can have the effect of waiving the right to compel any mid-term bargaining, even impact bargaining. State of Maine v. MSEA, 499 A.2d 1228, 1230 (Me. 1985). In that case, the zipper clause that the Court found to be an effective waiver stated, in part:

> Each party agrees that it shall not attempt to compel negotiations during the term of this Agreement on matters that could have been raised during the negotiations that preceded this Agreement, matters that were raised during the negotiations that preceded this Agreement or matters that are specifically addressed in the Agreement.

See also Bureau of Employee Relations v. AFSCME, Council 93, 614 A.2d 74 (Me. 1992) (interpreting a similar zipper clause to waive the duty to bargain about changes to the payroll schedule).

In contrast, the Board has not found a general management rights clause to be an effective waiver. For instance, in MSAD No. 54 Education Ass'n v. MSAD No. 54, No. 86-12 (MLRB Oct. 8, 1986), the Board considered whether the following CBA articles constituted a waiver of the statutory duty to bargain:

> The Association recognizes that except as specifically amended by the terms of this Agreement, the [school] Board retains all functions, powers and duties or authority vested in it by the applicable laws of the State of Maine or other governmental agency.
>
> During the effective dates of this Agreement, anything not covered in said agreement shall be reserved as a management right and privilege.

The Board found that these provisions did not generally address

the duty to bargain mid-term, or specifically address the duty to bargain mid-term over the matter at issue (change in teacher smoking policy), and so did not constitute a waiver of the duty to bargain a change in that policy. In Auburn Firefighters Ass'n v. City of Auburn, No. 83-10 (MLRB March 9, 1983), the Board found that a clause which provided that the employer remained vested ". . . solely and exclusively with all of its common law and its statutory rights and with all management and supervision or operations, and personnel . . ." did not authorize the employer to implement a new light duty work program and did not constitute a waiver by the union to compel bargaining about the program before it was implemented. Here, the management rights clause in Article 13 is likewise not specific enough to allow the City to institute the new call-back policy, nor does it contain any "clear and unmistakable" waiver of the Association's right to bargain about the new policy. In summary, the Board does not conclude that the language of the CBA itself allowed the City to alter the policy without negotiation.

This finding does not end the matter, however, as the City also argues that it was not required to bargain about the new call-back policy because it was not a mandatory subject of bargaining. In order for the Board to find that the employer committed an unlawful unilateral change, the Board must find that the call-back policy involved a mandatory subject of bargaining, that is, a matter that is significantly related to wages, hours, or working conditions. City of Bangor v. AFSCME, Council 74, supra, 449 A.2d 1129, at 1135. The City argues that its decision to create the new call-back policy is akin to "minimum manning" proposals that the Board has not found to be mandatory subjects of bargaining in past decisions. In Portland Firefighters Ass'n, Local 740 v. City of Portland, No. 83-01 (MLRB June 24, 1983), aff'd, 478 A.2d 297 (Me. 1984), the Board considered whether union proposals to set minimum manpower assignments either per

shift, per station or per truck were mandatory subjects of bargaining. The Board found that the union did not show that these proposals were related to firefighter safety or workload (i.e., working conditions), and therefore were not mandatory subjects. The Board contrasted these types of "minimum manning" proposals with proposals related to the way that firefighters were deployed or assigned to tasks at a scene (laying hoses, putting up ladders, ventilating roofs, and the like), finding that these latter proposals would be directly related to safety/workload and would involve the mandatory subjects of bargaining.[1] Portland Firefighters, at 5. The Law Court affirmed the Board's decision, upholding the Board's finding that a proposal requiring a minimum number of firefighters per shift, per station or per truck was not equivalent to assigning a minimum number of firefighters to a particular task at the scene of a fire. Portland Firefighters v. City of Portland, 478 A.2d 297, at 298. In City of Bangor v. Bangor Firefighters Ass'n, No. 83-06 (MLRB Aug. 2, 1983), the Board reached a similar conclusion, finding that a bargaining proposal to set a minimum number of firefighters to be aboard each unit of firefighting apparatus responding to a first alarm was not a mandatory subject of bargaining. In addition to adopting the reasoning of Portland Firefighters, the Board cited the following additional consideration as supporting its conclusion:

> A community's overall level of fire fighting protection is a political decision, to be made by the municipality's elected officials. Should the municipal officers, in response to a perceived demand from their constituents to keep the municipal tax rates low, decide to provide minimal fire fighting protection, said decision is not subject to collective bargaining. The level of fire fighting protection is directly

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[1] The Board suggested, for instance, that work rules and procedures related to specific tasks, directly related to safety and workload, would be mandatory subjects of bargaining.

> related to the number of fire fighters available at the scene to fight fires. . . . If the number of fire fighters at the scene of a fire is inadequate, those present should not be expected to perform the same work which should, within reasonable safety and workload, be done by a larger number of fire fighters.

City of Bangor, supra, No. 83-06, at 9. See also Auburn Firefighters Ass'n v. City of Auburn, No. 89-01 (MLRB March 31, 1989) (absent a proven safety nexus, the increase of one firefighter on the fireground which resulted from the employer's unilateral imposition of a new work order is not mandatorily negotiable).

In determining whether the call-back policy here is like the "minimum manning" cases described above, the Board views the policy as having two parts. First, the policy allows the Fire Chief to determine when only two off-duty firefighters are needed in an emergency call-back situation. If this level of personnel is needed, the new "Code 22" policy will be utilized. If more firefighters than two are needed, then the old "general call" will be utilized, and all who wish to respond may do so. Second, the policy provides for the manner in which the two off-duty firefighters are selected for the call-back--the first two firefighters who call into the station will be awarded the overtime. The Board finds that the part of the new policy which allows the Fire Chief to determine when only two off-duty firefighters are needed for a call-back is, at essence, a decision about "minimum manning" and therefore controlled by the precedent described above. In Portland Firefighters and the other minimum manning cases, the union sought to negotiate about the minimum number of personnel needed to work at the station, on a truck, and the like, even though the union did not show a connection between the manning proposal and safety or workload. Here, the Association is demanding something similar--it seeks to negotiate about the number of off-duty firefighters that may be

needed on a call-back to the station or a scene.[2] The Association makes no argument that there is any connection between safety, workload, or other working conditions and the number of firefighters that the City chooses to seek on a call-back. The Board therefore concludes that the part of the policy which relates to the number of firefighters needed for a call-back is not a mandatory subject of bargaining.

The Association attempted to distinguish the minimum manning cases by suggesting that the issue here is not really manning since the old general call-back policy did not require the City to accept any particular level of manning for a call-back. As an example, if the City sent out a general call for off-duty firefighters and seven elected to respond to the call and the City did not actually need seven, the excess number of fire-fighters could be sent home. The City would only be required to pay all firefighters sent home the minimum two hours' overtime required by the CBA. The Board does not see this as a distinction with a difference. This matter may be, in fact, "only" about money. The City wishes to be able to control its overtime costs by deciding that some situations only need two off-duty firefighters to respond; the Association wishes to be able to preserve the opportunity to get overtime pay (at least two hours) for those firefighters who wish to respond to the call. The fact that it is about money does not make the call-back policy a mandatory subject of bargaining, however. The Portland Firefighters and similar cases were also about money in

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[2]It is not clear from the record *where* the two off-duty fire-fighters called in under the new policy are to report--to a scene, or to the station. The stipulations describe these as "emergency" rescue calls, which implies that the firefighters are called to a scene. In its brief, however, the City emphasized that the policy is used for station coverage when on-duty firefighters have been called away from the station. In either case, we find that the Association cannot demand negotiations about the number of personnel needed--at the scene, or at the station--in accordance with Portland Firefighters, et al.

that cities in those cases would not bargain about minimum personnel levels, an issue with obvious budgetary implications. The Board nevertheless found that these personnel levels were not significantly related to wages, hours and working conditions, and therefore not a mandatory subject of bargaining.

The Board recognizes that the City's unilateral institution of the new call-back policy may result in there being occasions when certain unit members will not have the opportunity to earn some overtime wages that they formerly would have been allowed to earn. A loss of some potential overtime wages is possible for some members, although this is a matter of speculation.[3] However, the Board has been unable to find--and the Association has not cited--any case which establishes that the *amount* of overtime that an employer offers to employees is itself a mandatory subject of bargaining. The Portland Firefighters and other minimum manning cases, while not about overtime *per se*, suggest the opposite. In Teamsters Local Union No. 48 v. Lewiston-Auburn Water Pollution Authority, Nos. 79-65 & 80-07 (MLRB July 29, 1980), the Board considered the proper monetary relief to be given to an employee who was discriminated against due to protected activities, including the denial of some overtime opportunities. While the Board ordered the employer to pay an amount equal to a rough estimate of the overtime lost, it also suggested:

> . . . [T]he amount of overtime available is a matter that is generally an exclusive employer decision that may be based on any number of factors not necessarily relating to working conditions or other bargaining subjects. The public employer cannot be required to provide overtime indefinitely simply because it has

[3]Whether any firefighter is actually deprived of the opportunity to earn overtime wages is dependent on many factors---how often the new policy is utilized, how often the old policy is still utilized, how often firefighters responded to general calls in the past, etc.--which are not before the Board on this stipulated record.

provided such in the past.

Teamsters, supra, at 13. Likewise here, the fact that the City wishes to limit the amount of overtime opportunities under some circumstances, which may (or may not) affect the overtime earnings of some unit members, does not make this policy one that significantly affects wages, hours, or working conditions.

This is not to suggest that some aspects of overtime are not mandatory subjects of bargaining. It is for this reason that the Board considers the City's new call-back policy to have two parts, the second being the manner in which the overtime is allocated. There is Board precedent supporting a finding that the manner in which overtime is offered significantly affects the working conditions and thus is a mandatory subject. In Thomas Blake and South Portland Professional Firefighters Ass'n v. City of South Portland, No. 94-12 (MLRB June 2, 1994), for instance, the Board considered whether the City made an unlawful unilateral change when it altered the method of filling fire station vacancies, a change which resulted in officers (members of a separate bargaining unit) receiving increased opportunities for this overtime work and in firefighters receiving decreased opportunities. The Board found that the City committed a unilateral change in a mandatory subject--not by changing the amount of overtime available, but by changing the process for determining which station was undermanned and thus who (officer or fire-fighter) would get the overtime. In Teamsters Local Union No. 48 v. Town of Fort Fairfield, No. 86-01 (MLRB Jan. 24, 1986), the Board found that the union established all the elements necessary to prove an unlawful unilateral change when the Police Chief altered the past practice of offering a regularly occurring overtime shift opportunity to the police officer who worked the regular shift prior to this shift, and instead offering this opportunity to reserve officers. The Board stated that *overtime allocation policy* was a mandatory subject of

bargaining, but went on to find no violation as the Police Chief was new and swiftly rescinded the change in policy. See also Teamsters Local Union No. 48 v. Town of Jay, No. 80-08 (MLRB Jan. 9, 1980) (town committed unilateral change when it drastically changed patrol-men's work schedule, including the elimination of the bidding and posting procedure for filling open shifts).

Based upon this precedent, the Board concludes that the method of awarding overtime that is part of the City's new call-back policy was a mandatory subject of bargaining. This part of the new policy was a change from a well-established practice since, under the previous policy of using general call-backs exclusively, all firefighters who chose to respond to a call-back could respond. There was no need for the Association to negotiate about who would get the overtime, since it was naturally allocated by the election of the firefighters. When the new call-back policy was instituted which limited the offer of overtime in certain circumstances, the City also unilaterally created a system by which the two-person overtime would be allocated (first two firefighters calling into station after call announced). Because the City instituted this new system of overtime allocation without notice to the Association or opportunity to negotiate about this change, the City committed a unilateral change in the mandatory subjects of bargaining and violated the duty to bargain as provided in §964(1)(E).

In summary, the Board finds that the City did not commit a unilateral change in the mandatory subjects of bargaining when it instituted that part of the new call-back policy which provided for a new code call-back requiring only two firefighters when the Fire Chief determines that this constitutes sufficient coverage for a call-back. However, the City committed a unilateral change in the mandatory subjects of bargaining, and thus violated § 964(1)(E), when it instituted that part of the new call-back policy which provided for the manner in which this limited two-

firefighter overtime was to be allocated. The terms of the CBA did not allow the City to alter this part of the policy without negotiation, nor did the Association waive the right to negotiate mid-term about this policy change prior to it being implemented.[4]

Upon finding that a party has engaged in a prohibited practice, we are instructed by § 968(5)(C) to order the party "to cease and desist from such prohibited practice and to take such affirmative action . . . as will effectuate the policies of this chapter." A properly designed remedial order also seeks "a restoration of the situation, as nearly as possible, to that which would have obtained" but for the prohibited practice. Caribou School Department v. Caribou Teachers Ass'n, 402 A.2d 1279, 1284 (Me. 1979). Restoring the *status quo ante* in this case is somewhat difficult. In part, we order that the City rescind that part of the new call-back policy which allocates the overtime opportunity to the first two firefighters who respond to the call, and that the City negotiate in good faith with the Association about this part of the policy, including participation in the statutory dispute resolution process, if necessary to resolve the issue. We understand that it may not be possible for the City to continue to implement the new call-back policy at all until it has negotiated the overtime allocation part of this policy.

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[4]We wish to emphasize here that the matter before us is whether the City committed a unilateral change in the mandatory subjects of bargaining. This is what the Association argued in its April 12, 2004, letter to City, demanding that the new call-back policy be rescinded or held in abeyance and that the City negotiate this policy change. This is further the issue as characterized by the Association in its prohibited practice complaint. By this decision, the Board does not preclude the possibility that the City might also be required to negotiate the impact of that part of the new policy that requires only two firefighters to report for coverage, *if there is any impact*, upon the terms and conditions of employment--an issue separate from the matter that we have addressed, which was whether the City was required to negotiate about the change to the policy itself. See City of Bangor v. AFSCME, Council 74, 449 A.2d 1129, 1134-1135 (Me. 1982).

We find it unnecessary to order any make-whole relief in this matter. There was no evidence presented of how often the new policy has been used since its implementation. To the extent it has been utilized, it would be impossible to determine whether different firefighters would have received the overtime opportunity under the new call-back policy if a different allocation system had been in place.

ORDER

On the basis of the foregoing findings of fact and discussion, and by virtue of and pursuant to the powers granted to the Maine Labor Relations Board by 26 M.R.S.A. § 968(5), it is hereby ORDERED:

That the City of Gardiner and its representatives and agents:

I. Cease and desist from refusing to bargain with the Association over that part of the new "Code 22" call-back policy which determines the method of allocating the overtime work that is generated by this new call-back system; and

II. Take the following affirmative actions designed to effectuate the purposes of the Act:

A. Rescind that part of the new "Code 22" call-back policy which determines the method of allocating the overtime work that is generated by this new call-back system; and

B. Meet with the Association for the purpose of negotiating that part of the new "Code 22" call-back policy which determines the method of allocating the overtime work, within ten days of receipt of this order. The parties

may meet beyond the ten-day period if mutually agreeable.

Dated at Augusta, Maine, this 22nd day of March, 2005.

MAINE LABOR RELATIONS BOARD

The parties are advised of their right pursuant to 26 M.R.S.A. § 968(5))(F) (Supp. 2004) to seek a review of this decision and order by the Superior Court. To initiate such a review, an appealing party must file a complaint with the Superior Court within fifteen (15) days of the date of issuance of this decision and order, and otherwise comply with the requirements of Rule 80(C) of the Rules of Civil Procedure.

/s/_____________________________
Peter T. Dawson
Neutral Chair

/s/_____________________________
Karl Dornish, Jr.
Employer Representative

/s/_____________________________
Carol B. Gilmore
Employee Representative