

**THE PUBLIC REVIEW BOARD  
INTERNATIONAL UNION, UAW**

APPEAL OF:

SCOTT DEDIC, PRESIDENT, AND  
TAMMY THOMPSON, FINANCIAL SECRETARY  
LOCAL UNION 2256, UAW  
(Lansing, Michigan),  
Appellant

-vs-

CASE NO. 1562

THE UAW'S INTERNATIONAL AUDITING DEPARTMENT  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

---

**DECISION**

(Issued July 20, 2007)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,  
Prof. Benjamin Aaron, Prof. Janice R. Bellace,  
Prof. James J. Brudney, Prof. James E. Jones,  
Jr., Dean Harry C. Katz, and Prof. Maria L.  
Ontiveros.

The officers of Amalgamated Local Union 2256 argue that the per capita tax obligation described in the Affiliation Agreement between the Lansing Independent Employees Union and the International Union, UAW, was intended to apply to all public sector units that subsequently joined the Local.

**FACTS**

Appellant Scott Dedic is the President and appellant Tammy Thompson is the Financial Secretary and Treasurer of Lansing Area Public Employees Amalgamated Local Union 2256. Amalgamated Local 2256 was established on September 30, 1987, pursuant to an Affiliation Agreement between the Lansing Independent Employees Union (LIEU) and the International Union, UAW.<sup>1</sup> At the time of its affiliation with the UAW, Local 2256 was chartered as an Amalgamated Local Union with two units: City

---

<sup>1</sup> Record, pp. 1-4.

of Lansing Area Public Employees and County of Ingham Technical, Office and Professional Employees (TOP).<sup>2</sup> Subsequently, an additional 19 units joined the Local.<sup>3</sup>

UAW International Auditor Blake Miller conducted an audit of the books and records of Local 2256 covering the period January 1, 2004, through December 31, 2005. As a result of the audit, Miller determined that Local 2256 was in arrears in its per capita tax payments to the International Union in the amount of \$18,605.47.<sup>4</sup> President Dedic reported this finding to the Local 2256 Executive Board on March 22, 2006. Dedic advised the Executive Board that the Local Union disagreed with Miller's finding. He stated that the International Union was investigating the claim. The UAW Auditing Department confirmed Blake Miller's conclusion in a report dated April 13, 2006. The report states:

"Analysis shows that per capita tax errors due the International have been made, and a detailed breakdown of these errors was explained to and left with the financial secretary. A check was received covering these errors in the amount of \$18,605.47."<sup>5</sup>

Scott Dedic and Tammy Thompson appealed the auditor's conclusion to the International Executive Board (IEB) on May 18, 2006. In support of the appeal, Dedic and Thompson referred to the Affiliation Agreement between LIEU and the International Union, UAW. Paragraph 1 of that Agreement states as follows:

"Dues

The dues rate will be 1.4 hours of straight time earnings per month. The per capita to the International Union will be 32% per month (30% to the general fund and 2% to the International Union's Family Education Center Fund.)"<sup>6</sup>

Dedic and Thompson reported that Auditor Miller changed the calculation of per capita taxes to 45.7 percent per month. They explained:

"Mr. Miller has indicated that he believes that the Affiliation Agreement between Lansing Independent Employees Union, and International Union, UAW, is for the City of Lansing Unit and Ingham County Unit. However, Local 2256 has

---

<sup>2</sup> Record, p. 43.

<sup>3</sup> Record, p. 41.

<sup>4</sup> Record, p. 13.

<sup>5</sup> Record, p. 25.

<sup>6</sup> Record, p. 1.

consistently applied the original application of per capita tax since the inception of this Affiliation Agreement to all units and we have not had any prior audit findings relative to this application according to the Agreement.”<sup>7</sup>

Appellants pointed out that the Affiliation Agreement does not identify any item as applying only to the City of Lansing and Ingham County Units. The agreement does not distinguish between units in terms of per capita tax obligations. Paragraph 4 of the Affiliation Agreement states:

“Agreements

As agreements are negotiated or renegotiated and as units are added in the future, the Bargaining Agent will be set forth therein as Lansing Area Public Employees Local 2256 UAW-AFL-CIO.”<sup>8</sup>

Appellants asked that the per capita tax calculations be reviewed and recalculated in accordance with the terms of the Affiliation Agreement.<sup>9</sup> They also asked that the sum of \$18,605.47, as well as any overpayment of per capita taxes resulting from Miller’s application of the higher percentage rate, be returned to the Local.<sup>10</sup>

President Gettelfinger’s staff concluded that a hearing was unnecessary on the appeal and they prepared a report to the IEB on the President’s behalf based on information provided by the appellants, UAW Local 2256, and the UAW Secretary Treasurer’s office. Staff reported that local union dues and per capita tax requirements are established in Article 16, §2, of the International Constitution. Under that section the minimum amount of dues paid by members is equal to two hours straight time pay per week. The local union retains 38 percent of dues collected and pays 30 percent to the Strike Assistance Fund and 32 percent to the General Administrative Fund of the International Union. The final paragraph of Article 16, §2, provides that the International President is authorized to grant a specific exoneration or to make a special arrangement pursuant to Article 13, §11, of the Constitution. Article 13, §11, provides as follows:

“The International President shall be empowered to grant Local Unions or units dispensations relating to initiation fees, per capita tax and/or Strike Assistance Fund dues, to the International Union with the approval of the International Executive Board, when in the International President’s

---

<sup>7</sup> Record, p. 39.

<sup>8</sup> Record, p. 1.

<sup>9</sup> Record, p. 40.

<sup>10</sup> The Local Union paid the higher rate while disputing it. (Record, p. 25)

judgment such dispensations will add to the growth of or conserve the interests of this International Union.”

Staff reported that International President Owen Bieber addressed the dues obligations for employees in the public and health care sector and other non-traditional areas in an Administrative Letter, Volume 43, Letter #3, issued on September 28, 1992. President Bieber acknowledged that employees in the public sector who are prohibited from striking should not be required to pay that portion of dues allocated to the strike fund. With regard to such members, the Administrative Letter states:

“...Minimum union dues for such members, therefore, are a sum equivalent to 1.4 straight time hours per month (2 hours - .6 hour [the 30 percent allocated to the strike fund] = 1.4 hours). Public sector units are permitted to voluntarily pay the full complement of 2 hours dues and contribute it to the strike fund, or, in a few cases, units have been allowed to use a portion of the dues equal to the amount that would otherwise be allocated to the strike fund for other purposes.”<sup>11</sup>

For local unions which do not collect dues for the Strike Assistance Fund, Bieber reported that the IEB established a per capita tax requirement of 42.85 percent to the International Union and 2.85 percent to the Family Education Center Fund for a total of 45.7 percent.<sup>12</sup>

Staff stated that the per capita percentage agreed to by the International Union in its Affiliation Agreement with the LIEU was negotiated pursuant to Article 13, §11. Staff argued, however, that the parties to the Affiliation Agreement did not intend that the dues obligation established in 1987 would apply to all units that became affiliated with the Local Union in the future. Staff’s report states:

“...Financial dispensations, exonerations and a number of other financial considerations have been used as an incentive to certain independent unions to affiliate with the UAW. These arrangements normally assist the smaller unions in a controlled, smooth transition from their existing laws or constitution to the UAW’s Constitution. We doubt that it was the intent of the parties in 1987 to establish a local union that would forever be distinct from other similar local unions governed by the same Constitution. We don’t believe that such arrangements were made so that any local unions would become islands within our own structure, that

---

<sup>11</sup> Record, p. 51.

<sup>12</sup> Record, p. 53

members in Lansing would always be required to pay less dues than a member in a similar occupation in Flint earning a similar wage. The provision so empowers the President to ‘...add to the growth of this International Union,’ not forever change the Union’s structure.”<sup>13</sup>

Staff observed that individuals who subsequently joined UAW Local 2256 signed an application for membership which contains an agreement to honor the Constitution and the laws of the Union. In addition, each new member signed an Authorization for Check-Off of Dues Card agreeing to pay “monthly dues in such sum as may be established from time to time as union dues in accordance with the Constitution of the International Union, UAW.”<sup>14</sup>

Staff concluded that the Affiliation Agreement was made with the members of the LEIU, and that the dues and per capita tax obligations stated therein applied only to those members. They held that all members of Amalgamated Local 2256 who joined the Union subsequent to the execution of the Affiliation Agreement should be required to pay dues in accordance with the International Constitution and the policies established by the IEB. Nevertheless, staff held that Local 2256 should not be penalized for the International Union’s failure to enforce these requirements in the past. They decided, therefore, that the Local’s check in the amount of \$18,605.47 should be refunded.<sup>15</sup>

The IEB adopted staff’s report as its decision on October 2, 2006. Dedic and Thompson appealed the IEB’s decision to the Public Review Board (PRB) on October 26. In support of their appeal, appellants submitted the following statement signed by Leon A. Hilton, a retired member of UAW Local 2256:

“Seeing how I was the party negotiating for Lansing Independent Employees Union as the President, I know the intent of the parties. This Agreement was to forever stay in effect and was made by two legal organizations. Thirty-two percent of dues were to be paid in per capita tax to the International on one point four hours of dues. There was neither talk of red circling current members or units nor any proposal to do so.

I am very sorry that the current International Executive Board finds that they probably would not have voted or agreed to the terms of this Affiliation Agreement, but I do not believe

---

<sup>13</sup> Record, p. 55.

<sup>14</sup> Record, pp. 55-56.

<sup>15</sup> Record, p. 57.

that this relieves them of their responsibility to live up to its terms."<sup>16</sup>

We initially considered this appeal on February 16, 2007, and concluded that the merits of appellants' claim could not be resolved on the basis of the written record. We asked the International Union to provide more information about the practice of granting dispensations to amalgamated local unions pursuant to Article 13, §11, as an incentive to affiliate with the UAW. We also asked if there was any other evidence regarding the intent of the parties to the Affiliation Agreement between LIEU and the UAW with respect to the per capita obligations of units subsequently joining the Local.

Administrative Assistant Dave Curson responded to our inquiry in a letter dated March 30, 2007. He stated that when an amalgamated local union agrees to affiliate with the UAW, the former local union generally ceases to exist. He observed that most affiliation agreements have an escape clause which allows units to opt out of the agreement, but such units subsequently have no connection to the units that have affiliated. Units subsequently added to the new UAW amalgamated local union also have no ties to the former non-affiliated local union, so that any affiliation agreement between the former local union and the UAW would not apply to the new units. Curson reported that there were no examples of affiliation agreements where the dispensations granted with respect to per capita taxes as an incentive to affiliate with the UAW were carried forward to units subsequently joining the local union unless it was done in error. He asserted that it was error for the dispensations to be carried forward and applied to units that joined Local Union 2256 after it affiliated with the UAW.<sup>17</sup>

Local 2256 President Scott Dedic stated that he had no knowledge of an established practice except that organizations ought to be bound by the terms of their written agreements. Furthermore, Dedic pointed out that UAW Amalgamated Local 2256 has been in existence for twenty years and has been audited numerous times during that period. Dedic reported that no issue was raised with respect to per capita taxes during this period. Dedic argued that this history supported the conclusion that the dispensations were properly carried over and that the auditor made an error in 2006.<sup>18</sup> Dedic maintained that Leon Hilton's letter was the only evidence in the record of the parties' intentions at the time that the Affiliation Agreement between the UAW and LIEU was executed.

Curson stated that the International Union had no direct evidence of the intent of the parties to the Affiliation Agreement between the UAW and the LIEU when that agreement was executed in 1987. He reported that the minutes of the IEB meeting during which the Affiliation Agreement between LIEU and the UAW was approved do not address the issue. He explained that the International Union based its conclusion

---

<sup>16</sup> Record, p. 62.

<sup>17</sup> Record, pp. 85-86.

<sup>18</sup> Record, p. 101.

that the dispensations allowed to the original units of Local Union 2256 should not have been carried over to units subsequently joining the Local on an amendment to the AFL-CIO Constitution adopted in 1984. Curson's letter quotes Article XX from the AFL-CIO Constitution, as amended on May 8, 1984. Article XX contains the following paragraph:

"No later than four years after the affiliation, the affiliated local or subordinate body must be required: to pay the regular per capita to the AFL-CIO affiliate on all members of the local or subordinate body; and to maintain its status as an affiliated local or subordinate body of the AFL-CIO affiliate continuously thereafter."<sup>19</sup>

According to Curson, this policy was applied to all affiliation agreements that the UAW entered into after 1984. Curson stated that local unions given dispensations as an incentive to affiliation after 1984 were required to be in compliance with the rates established for all UAW local unions within four years of the affiliation agreement.

Curson provided the text of three other affiliation agreements that were approved by the IEB on June 13, 1988. He argued that the discussion of these agreements reported in the minutes of the IEB meeting reflected the members' understanding that the new affiliates would be required to comply with the AFL-CIO requirement. The minutes of the IEB meeting report that Vice President Steve Yokich presented the three affiliation agreements with the following comment:

"...Those affiliations are identical to the ones that we did before. They have an escape clause but they have to do it within the limits of the four years that we have under the AFL-CIO. If you recall, at the last Convention they said that if you affiliate, the affiliation has to stand within four years and be under the Constitution of the International Union."<sup>20</sup>  
...

Later in the meeting, the requirement that the affiliating local must comply with the UAW Constitution within four years was referred to once again. Curson emphasized the following comments in his quotation from the IEB Meeting Minutes:

"VICE PRESIDENT YOKICH: The bail-out position, do you want that read in?

PRESIDENT BEIBER: What is that?

---

<sup>19</sup> Record, p. 87.

<sup>20</sup> Record, pp. 87-88.

VICE PRESIDENT YOKICH: I told you, under the Constitution we changed it. On the AFL-CIO Convention we added that into this one. Do you want that read in?

PRESIDENT BEIBER: No, not if it is standard stuff.

VICE PRESIDENT YOKICH: That's the two hours' dues."<sup>21</sup>

Curson stated:

"It is clear that Vice President Yokich understood that newly affiliated local unions had to be paying full dues and per capita within four (4) years of affiliation to obtain status under Articles XX and XXI of the AFL-CIO Constitution. The four (4) year roll-in, in Yokich's terms, was 'standard stuff.' It is reasonable to believe that when the affiliation agreement was reached with the Lansing Independent Employees Union, Vice President Yokich intended those units to be in full compliance with the UAW's International Constitution and policies within four (4) years."<sup>22</sup>

Dedic responded to this argument that the Affiliation Agreement between LIEU and the UAW contains no reference to Article XX of the AFL-CIO Constitution. He said that this document had never been mentioned by any of the parties until now. He stated:

"...At no point during this process has AFL-CIO Article XX been brought forward as the reason for reversing the affiliation until now. One could be led to believe the International Union could permit any content in these agreements knowing they would be dissolved in four years. Or the International Union did know that this Article XX existed, and purposely crafted the language as identified in the current affiliation to the satisfaction of the LIEU. The intent of AFL-CIO Article XX identifies the amount of per capita owed from the International Union to the AFL-CIO. The Local Unions do not directly pay this per capita and therefore the International Union could make adjustments in per capita with Locals in the amount of per capita received from the Local Unions as long as they adjust the amount they forward to the AFL-CIO."<sup>23</sup>

---

<sup>21</sup> Record, p. 88.

<sup>22</sup> Record, p. 96.

<sup>23</sup> Record, p. 101.



Curson acknowledged that the President and the IEB could have entered into an affiliation agreement that was not in compliance with the AFL-CIO policy, but he maintained that the evidence does not establish that the Union intended to alter the per capita tax obligations for future units of Amalgamated Local Union 2256.

### ARGUMENT

#### **A. Scott Dedic and Tammy Thompson on behalf of Amalgamated UAW Local Union 2256:**

Local 2256 is an amalgamated Local Union representing eighteen different units, nine from the private sector and nine from the public sector. The private sector units are paying the correct amount of per capita and are not at issue in this appeal. The Local pays 62 percent per capita on 2 hours of dues for all of the private sector units. Public sector employees without the right to strike should pay dues of 1.4 hours and their units pay per capita taxes of 32 percent. We would like to point out that the Local has been paying per capita correctly from 1987 until the audit for the period from January 1, 2004 through December 31, 2005, when the new auditors assigned to the Local changed the rules.

In essence, the IEB is attempting to revoke an agreement that it made with the LIEU on September 30, 1987. To justify this action, the IEB states that it does not believe it was the intent of the parties that the agreement would apply to future members or units. Paragraph 14 of the Affiliation Agreement defines the term of its intended application. That paragraph states:

#### “Effective Date

All of the above commitments made on behalf of the Local and/or the International Union, UAW, will become effective immediately upon notice of affiliation by the officers of the Local to the President of the International Union, UAW. This Affiliation Agreement shall remain in effect unless changed under the preceding paragraph 13.”

The language in Paragraph 14 of the Affiliation Agreement would not have been needed if a sunset date had been established for the per capita percentage provided in the Agreement. The amendment to the AFL-CIO Constitution that was adopted in 1984 did not preclude the parties from agreeing to the terms set forth in the Affiliation Agreement. Such exceptions to the usual per capita requirements for UAW Local Unions have also been applied to other Local Unions, despite the existence of the AFL-CIO policy. When Local 6000 affiliated with the UAW, the International Union issued a Guarantee Agreement to the Local Union promising that their dues structure would

never be changed from six tenths of an hour per pay period. The International Union does not maintain that the Guarantee only applies to those members who were present at the time the Guarantee was issued. Local Union 2256 should also be entitled to rely on promises made to its members in 1987.

The language of the Affiliation Agreement with respect to dues and per capita taxes is unambiguous. The real question raised by this situation is whether the IEB has the authority to overturn past commitments and agreements. The International Union's position is not a reasonable interpretation of the documents. On behalf of Local Union 2256, we are asking the PRB to uphold the terms of the Affiliation Agreement, including the specific language "as units are added in the future." In accordance with that Agreement, all per capita taxes in excess of 32 percent applied to 1.4 hours per month should be refunded to the Local.

### **B. International Union, UAW:**

This appeal concerns an interpretation of the Affiliation Agreement between the UAW and LIEU in the context of the UAW Constitution. In order to deal with the LIEU's transition into the UAW, the parties agreed to a waiver of the requirements of Article 16, §2, with respect to the dues and per capita taxes due from existing members. Once the affiliation was consummated, however, LIEU ceased to exist as a separate entity. It became a UAW Local Union subject to the International Constitution. Any units which amalgamated with Local 2256 after that were incorporated into the UAW structure. If the parties had intended to apply the special dues arrangement granted to LIEU's members to subsequently amalgamated units, the Affiliation Agreement would have so provided.

Allowing Local Union 2256 to apply the special arrangement granted to LIEU members to subsequent units would create islands within the UAW structure. Article 13, §11, allows for special dues arrangements in order to add to the growth of the International Union, not to balkanize local unions. The dues and per capita arrangement with Local 6000 is clearly distinguishable from the affiliation agreement reached with Local 2256. There was never an affiliation agreement enacted with any union representing Michigan State employees. Those workers decertified their union before organizing with the UAW. The existing dues and per capita structure has nothing to do with any affiliation agreement. If new units were added to Local Union 6000, the per capita obligations for those units would be based on the UAW Constitution, and not the dues structure in place at Local Union 6000.

The International Union's interpretation of the LIEU Affiliation Agreement and its determination that its terms applied only to the existing units of LIEU was not improper and should be upheld.

### **C. Rebuttal by Scott Dedic:**

The Affiliation Agreement has been in effect for twenty years and no issue has ever been raised with respect to per capita taxes until now, although the Local 2256 has been audited numerous times. It is surprising for the International Union to declare that it has been making an error for twenty years. The International has not produced any documents to support its new interpretation of the Affiliation Agreement. The affiliation agreements included in Curson's letter do not demonstrate anything about the intent of the parties to the Affiliation Agreement between the UAW and LIEU and they are all distinguishable from our Affiliation Agreement in a number of significant ways. Most particularly, none of the agreements approved in 1988 contained the phrase "and as units are added in the future."

The evidence we have provided of the intent of the parties and the fact that our Agreement contains significant language which was not included in other agreements proves that Vice President Yokich intended to hold UAW Local 2256 at the per capita rate as established in the Affiliation Agreement. The International Union should know better than any of us that contracts are written in a specific way for a specific purpose. We hold employers to that standard and I think we should get the same respect from our International Union.

### DISCUSSION

The facts underlying this appeal are not in dispute. It is clear that Amalgamated Local Union 2256 believed that the per capita rate of 32 percent stated in the Affiliation Agreement applied to all future public sector units that joined the Local. The auditor for the UAW believed that the rate of 45.7 percent should apply based on the customary application of Article 16, §2, of the International Constitution and Administrative Letter, Volume 43, Letter #3 to public sector units. The Local Union asserts that the application of the 45.7 percent rate to future public sector units amounted to an abrogation of its original Agreement with the International Union, while the International Union argues that it merely corrected error in its application. The International Union has asked us to uphold its interpretation of the Affiliation Agreement in the context of the International Constitution.

Unfortunately, there is no language in the Affiliation Agreement that can be interpreted to resolve this dispute. Although Paragraph 1 of the Agreement states that the per capita rate payable to the International Union will be 32 percent per month, this statement does not apply to all future units. Private sector units that subsequently joined the Local paid the customary rate of 62 percent based on the equivalent of 2 hours straight time pay. Paragraph 1 of the Agreement lacks a specific declaration that future public sector units would keep the 32 percent rate. The language in Paragraph 4 of the Agreement relied on by appellants to support their position does not specifically refer to the per capita rate. It declares simply that as units are added in the future, the Bargaining Agent for those units will be the Lansing Area Public Employees Local 2256 UAW-AFL-CIO.

Retired member Leon Hilton, who was involved in the negotiation of the Affiliation Agreement, reports that there was no talk of separating the original public sector units from those which subsequently joined the Local. Apparently, there was no discussion of the per capita rate that would be applied to either public or private sector units during the drafting of this Agreement. This was clearly a point that ought to have been clarified at the outset with specific language, and it was not. The only conclusion that we can draw from these facts is that there was no meeting of the minds about the application of per capita taxes to future units when the Affiliation Agreement was adopted in 1987.

The AFL-CIO policy was fairly new at the time, and apparently the parties were simply not thinking about it when they drafted the Affiliation Agreement. The IEB made a mistake when they approved this Affiliation Agreement without any language addressing the requirement of Article XX of the AFL-CIO Constitution. The Union's argument that future units agreed to pay per capita rates established by Article 16, §2, of International Constitution by signing dues check-off cards does not remedy the deficiencies in this Agreement. All UAW members sign these cards regardless of the dues structure of their particular Local. There is no dispute that Article 13, §11, of the Constitution authorized the International President to agree to the 32 percent per capita rate applicable to the City of Lansing Area Public Employees and the County of Ingham TOP. Local 2256 clearly acted in good faith when it applied the per capita rate of 32 percent to subsequent public sector units. Administrative Assistant Curson acknowledged this in his report to the IEB in response to the Local Union's appeal. For this reason, President Gettelfinger's staff determined that the arrearage of \$18,605.47 ought to be refunded to the Local Union.

Furthermore, if this were simply a matter of interpreting an agreement, the past practice of twenty years would argue strongly in favor of the Local Union's interpretation of the contract. If the International Union disagreed with the Local Union's interpretation of the Agreement, it should have raised the issue when the first new unit was added to the Local. Its attempt to do that now would appear to be untimely. Finally, we assume that the International Union is primarily responsible for drafting affiliation agreements with new UAW Locals, and it is clear that such agreements require the approval of the IEB. Under the circumstances, any ambiguities in the agreements would be construed against the International Union.

Nevertheless, we do not believe that this record supports a conclusion that public sector units of UAW Amalgamated Local 2256 should be forever exempt from paying the customary per capita rate established by the UAW. We agree with the International Union that if this had been the policy intended by the parties, it would have been stated explicitly in the Agreement. Furthermore, the fact that there was no discussion of the per capita issue when the Affiliation Agreement with the LIEU was presented to the IEB strongly supports the conclusion that there was no intent to make a permanent exception to the policy of compliance with UAW dues and per capita requirements in connection with this affiliation. The failure of the International Union to explain the per capita requirements for future public sector units and to enforce those requirements in

the past was an error. The error has been acknowledged and now the present circumstances must be addressed.

We cannot supply what is missing from the Affiliation Agreement by means of an interpretation. However, now that the International Union has returned the arrearage assessed by the auditor and explained its position to the Local, we are hopeful that the leadership of Local 2256 will be open to negotiate with the International Union over the per capita rate that ought to be applied from this point on to the public sector units that joined the Local after the original affiliation, because of the benefit the entire Local Union derives from being affiliated with the UAW. The situation revealed by the audit in 2006 requires the parties to sit down and come to an agreement on this issue and incorporate language in the Affiliation Agreement to reflect that agreement.

The case is remanded to the IEB for appropriate action consistent with this decision. If the parties are unable to agree on mutually satisfactory language within 90 days, we will schedule a hearing so that the issues raised by this dispute can be resolved.