

# BMS

BUREAU OF MEDIATION SERVICES

State of Minnesota

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IN THE MATTER OF PETITIONS FOR  
INVESTIGATION AND  
DETERMINATION OF APPROPRIATE  
UNITS AND CERTIFICATION AS  
EXCLUSIVE REPRESENTATIVE

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September 17, 2012

City of Bloomington, Minnesota

- and -

American Federation of State, County and Municipal Employees, Minnesota Council 5, South  
St. Paul, Minnesota

BMS Case Nos. 12PCE1115 and 12PCE1116

## **REQUEST FOR RECONSIDERATION ORDER**

### **INTRODUCTION**

On September 6, 2012 the State of Minnesota, Bureau of Mediation Services (Bureau), issued a Certification Unit Determination Order and a Mail Ballot Election Order (Orders) in the above-entitled matter. On September 17, 2012 pursuant to Minnesota Rules 5510.2210 (2012) the City of Bloomington, Minnesota (City) filed a Request for Reconsideration (Request) of the Bureau's Orders. The American Federation of State, County and Municipal Employees, Minnesota Council 5, South St. Paul, Minnesota (Union) was provided a copy of the City's Request.

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An Equal Opportunity Employer

## ISSUE

Is the Request appropriate?

## DISCUSSION

Minnesota Rules 5510.2210 (2012) provides procedures for parties to request the Commissioner of the Bureau to reconsider a determination:

5510.2210 REQUEST FOR RECONSIDERATION.

Subpart 1. **General.** A party may file a request for reconsideration of orders issued by the commissioner.

Subpart 2. **Timeliness of request.** A request shall be filed within ten calendar days following the date of the order.

Subpart 3. **Form of request.** The request shall be filed in writing and contain a statement of the request and the grounds supporting the request. Unfair election practice charges shall not be a ground for reconsideration.

Subpart 4. **Staying of order.** If the commissioner determines that the request raises substantial and material issues, the challenged order may be stayed until a hearing or investigation has been held and a decision is issued.

It is the policy of the Bureau to grant timely requests for reconsideration if we find that such request is based upon a claimed error of fact or law which was not adequately developed or articulated during the hearing or in the agency order. A Request for Reconsideration will not normally be granted for the purpose of merely rearguing a case or point or for the purpose of admitting evidence which was within the capacity of the parties to introduce during the original hearing.

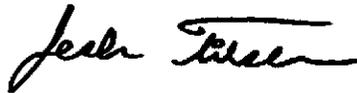
## ANALYSIS

Procedural due process requires an opportunity for the Union to respond to the City's Request for Reconsideration; however, this does not compel the abeyance of the election process. Thus, the Union will be provided seven working days to respond to the City's Request for Reconsideration. The Request arrived on the day the ballots are scheduled to be mailed. Therefore, the election process, as outlined in the Election Order, will proceed with the ballots being mailed on September 17, 2012. Returned ballots will be impounded until a determination on the merits of the City's Request for Reconsideration is made. The tabulation of the ballots, originally scheduled for October 2, 2012 will be stayed until a final determination is made on the Request.

**FINDINGS AND ORDERS**

1. The Union shall have until 4:30 p.m. Wednesday, September 26, 2012 to respond to the City's Request for Reconsideration.
2. The Election Order dated September 6, 2012 provided for tabulation on Tuesday, October 2, 2012. The tabulation date will be stayed and the ballots impounded until a determination on the merits of the City's Request for Reconsideration is made.
3. The Employer shall post this Order at the work locations of the affected employees.

STATE OF MINNESOTA  
Bureau of Mediation Services



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JOSH L. TILSEN  
Commissioner

cc: Kay McAloney (2)  
(Includes Posting Copy)  
Frank Madden  
Alan Kearney  
Thom Boik