

COMMONWEALTH OF KENTUCKY  
OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION

FV

KOSHRC #1319

SECRETARY OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

GENERAL ELECTRIC COMPANY

RESPONDENT

DECISION AND ORDER

A Petition for Discretionary Review of the hearing officer's Memorandum and Order was filed by IUE Local 761 with this Commission on January 14, 1986.

The hearing officer's Memorandum and Order approving and incorporating by reference a Stipulation and Settlement Agreement was issued December 23, 1985. It also dismissed the Petition to Intervene of IUE Local 761, finding that the employee representative was not willing to contest the abatement period or method.

After a careful review of the record herein, we find that service and notice to employees represented by IUE Local 761 was not accomplished pursuant to Section 51(3) of the Rules of Procedure of this Commission.

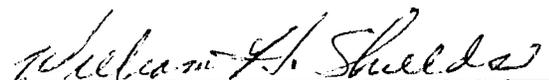
Section 51(3) requires service of a proposed settlement on represented and unrepresented affected employees in the manner set forth in Section 9, subsection 6 of which requires service and notice to employees represented by an authorized employee representative be accomplished by postage prepaid first-class mail or by personal delivery.

In the appropriate case, a motion for approval of an agreement that has not been properly served on affected employees would be denied, without prejudice, subject to reconsideration upon receipt of adequate proof of service, in order to afford an authorized employee representative its participatory rights.

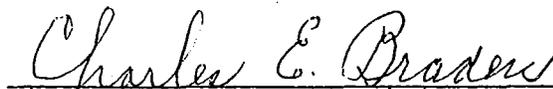
In the case on review, however, we conclude that the objections of IUE Local 761 to the proposed settlement do not concern the reasonableness of the abatement date. Since the role of an employee representative in a settlement agreement is limited to objecting to the reasonableness of the abatement date, other objections will not be heard by this Commission. Accord, General Electric Co., \_\_\_\_\_ CCH OSHD 1127,452 (December 11, 1985.)

**THEREFORE, IT IS HEREBY ORDERED** that Respondent's motion to withdraw its Notice of Contest is **GRANTED**, and the proposed Stipulation and Settlement Agreement **ADOPTED** and incorporated herein by reference.

All other findings and conclusions of the hearing officer not inconsistent with this opinion are hereby **AFFIRMED**.

  
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William H. Shields, Chairman

  
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Carl J. Ruh, Commissioner

  
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Charles E. Braden, Commissioner

DATED: January 30, 1986  
DECISION NO. 155 3