

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT,  
Public Employer-Respondent

Case No. C06 E-104

-and-

ASSOCIATION OF MUNICIPAL ENGINEERS,  
Labor Organization-Charging Party.

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APPEARANCES:

City of Detroit Law Department, by Andrew Jarvis, Esq., for Respondent

Vinod Sharma, President, Association of Municipal Engineers, for Charging Party

**DECISION AND ORDER ON  
MOTION FOR RECONSIDERATION**

On June 18, 2007, we issued our Decision and Order in the above-captioned matter finding that no timely exceptions had been filed to the Administrative Law Judge's Decision and Recommended Order issued on March 29, 2007. Therefore, our Decision adopted the ALJ's recommendation that the charges be dismissed. On June 20, 2007, Charging Party filed a Motion for Reconsideration.<sup>1</sup>

In the Motion for Reconsideration, Charging Party contends that it delivered the exceptions to the post office on May 10, 2007 and expected the documents to be delivered to our office before the May 11, 2007 deadline. However, the exceptions were not received in the Commission's office until May 14, 2007. Charging Party contends that despite the untimeliness of the exceptions, we should reconsider this issue because justice requires review of the underlying merits. Charging Party urges us to review the postmark date on the envelope in which the exceptions were mailed.

Although the envelope in which the exceptions were mailed appears to have been postmarked on May 10, 2007, the postmark date is immaterial. It is well established that the date of filing of exceptions is the date that the document is received at the

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<sup>1</sup> The Respondent did not file an answer to the Motion for Reconsideration.

Commission's office. See e.g. *Amalgamated Transit Local 26*, 20 MPER 1 (2007); *Wayne Co Cmty College Dist*, 18 MPER 54 (2005); *City of Detroit (Dep't of Public Works)*, 17 MPER 5 (2004); *Police Officers Ass'n of Michigan*, 18 MPER 14 (2005). Charging Party relied on regular mail for the delivery of the exceptions instead of using an option that would have ensured timely delivery. In sending the exceptions by regular mail, Charging Party bore the risk of delay. See *City of East Grand Rapids*, 20 MPER 41 (2007), citing *Talamantes-Penalver v INS*, 51 F3d 133, 136 (CA 8, 1995); *Anssari-Gharachedaghy v INS*, 246 F3d 512 (CA 6, 2000).

**ORDER**

Charging Party's Motion for Reconsideration is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Christine A. Derdarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

Dated: \_\_\_\_\_