

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARLIN O. OSTHUS, REGIONAL
DIRECTOR, FOR AND ON BEHALF OF
THE NATIONAL LABOR RELATIONS
BOARD,

Petitioner,

v.

BADGER UNIFIED COOPERATIVE
SERVICES,

Respondent.

ORDER

14-cv-367-jdp

The National Labor Relations Board (NLRB) petitions the court for an injunction to stop what it alleges are the unfair labor practices of Badger Unified Cooperative Services (BUCS). One component of the relief sought is a preliminary injunction, pending the NLRB's resolution of a complaint against BUCS initiated by International Brotherhood of Electrical Workers (IBEW), the union that represents BUCS employees. Section 10(j) of the National Labor Relations Act authorizes the NLRB to make the petition, and it authorizes this court to issue such an injunction if doing so is "just and proper."

The court has reviewed the petition, Dkt. 2, and BUCS's brief in opposition, Dkt. 6. These pleadings are enough to outline the contours of the dispute, but they are not enough to allow the court to determine whether the injunction would be just and proper, which essentially requires the court to evaluate the traditional injunction factors. *Lineback v. Irving Ready-Mix, Inc.*, 653 F.3d 566, 570 (7th Cir. 2011). This court has established procedures to be followed when a party seeks a preliminary injunction, a copy of which is attached to this

order. These procedures, if followed diligently, will provide the court with what it needs to decide the petition for preliminary relief.

Also before the court is the NLRB's "Motion to Try Section 10(j) Petition Based on Administrative Record and Supplemental Affidavits." Dkt. 3. The court construes this motion as one seeking permanent injunctive relief to effectuate any order issued after the NLRB hearing on the IBEW charges against BUCS, which is set to begin July 15, 2014. This motion is denied as premature; the NLRB may renew this motion after the conclusion of the hearing. Should the NLRB do so, the renewed motion should be accompanied by a memorandum of law in support of the motion, its proposed Findings of Fact and Conclusions of Law, and a proposed Order Granting Injunction, all to be filed within 14 days of the conclusion of that hearing. BUCS will have 14 days to respond to such a renewed motion. The NLRB may file a reply within seven calendar days after that.

The court appreciates that the NLRB has apparently served its petition on BUCS, and it appreciates BUCS's prompt response and the appearances of its counsel. Accordingly, the court will consider service to be complete, and future service on the NLRB and BUCS will be accomplished through the court's CM/ECF system. However, the court notes that International Brotherhood of Electrical Workers, Local 953, has not appeared in this action, and thus the court will require the parties to serve all papers on the IBEW Local 953, and to certify that service to the court.

It is ORDERED that:

1. The NLRB has until June 17, 2014, to file the required materials in support of its petition for temporary injunction;

2. BUCS has fourteen days from the filing of the NLRB's supporting materials to file its opposition;
3. If, after filing of the required materials, the court determines that a hearing is necessary, it will schedule a hearing in consultation with counsel;
4. The NLRB's "Motion to Try Section 10(j) Petition Based on Administrative Record and Supplemental Affidavits," Dkt. 3, is DENIED as premature; the NLRB may renew this motion as provided in this order; and
5. The parties are required to serve all papers on the IBEW Local 953, and to certify that service to the court.

Entered this 3rd day of June, 2014.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge