

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0369**

In the Matter of a Petition for Determination of an Appropriate Unit
and Certification as Exclusive Representative.

**Filed January 20, 2026
Affirmed
Ross, Judge**

Bureau of Mediation Services
File No. 24PCE2002

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Considered and decided by Ross, Presiding Judge; Johnson, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

This dispute concerns the composition of a new labor-union division among a subset of City of Alexandria public-works employees. The Minnesota Bureau of Mediation Services (BMS) commissioner favored the bargaining-unit arrangement proposed by the union as the appropriate unit over the one proposed by the city. The city appeals the commissioner's appropriate-unit determination, arguing that the decision is arbitrary and

capricious and that its findings lacked substantial evidentiary support. Because the commissioner’s decision logically follows from applying the relevant legal criteria to the circumstances and is adequately supported by the record, we affirm.

FACTS

The International Union of Operating Engineers, Local 49, petitioned the Minnesota Bureau of Mediation Services (BMS) to certify a proposed bargaining unit as the exclusive representative of the City of Alexandria’s public works department’s streets and stormwater division. Local 49 described the proposed bargaining unit this way:

All employees employed by the City of Alexandria, Minnesota, in the Public Works Department, streets and stormwater Division, who are public employees within the meaning of Minn. Stat. [§] 179A.03, [s]ubd. 14, excluding clerical, supervisory employees within the meaning of Minn. Stat. [§] 179A.03, subd. 17, and confidential employees with[in] the meaning of Minn. Stat. [§] 179A.03, subd. 4.

The city proposed a broader unit of all eligible employees of the public works department rather than just the streets and stormwater division. The disagreement required a BMS decision as to whether the proposed unit was “appropriate” under the Public Employment Labor Relations Act, codified in Minnesota Statutes sections 179A.01 to 179A.25 (2024).

A BMS hearing officer conducted a hearing where the city and Local 49 argued for their positions about which composition of employees should best represent the employees of the public works department. Each supported its position with exhibits and testimony expounding on the department’s organization and the responsibilities of its employees. We summarize the relevant portions of the lengthy factual record as follows.

The public works department is composed of two divisions: the streets stormwater division (streets) and the parks facilities division (parks). The streets division repairs the city's streets and sidewalks, maintains its stormwater facilities, and cleans its ponds. The parks division maintains the city's parks and trails. Each division employs one or more nonsupervisory public works maintenance workers, public works maintenance operators, and public works mechanic-operators. Those three positions under each division have the same essential functions and minimum qualifications, but streets division employees receive some on-the-job training to operate division-specific vehicles, like road graders and jet trucks.

Public works maintenance workers perform manual and semi-skilled tasks to maintain and repair public works facilities. The city classifies the position as grade 5 with 206 points, resulting in an annual pay range between \$50,208.44 to \$62,760.55. Only one maintenance worker was employed in the public works department at the time of the hearing, and she worked in the parks division.

Public works maintenance operators perform semi-skilled and skilled tasks to maintain and repair public works facilities. The city classifies the position as grade 10 with 347 points, resulting in an annual pay range between \$62,868.79 to \$78,585.99. The position requires the same minimum qualifications as maintenance workers but also requires a Class A commercial driver's license and experience in maintenance or operating construction equipment.

Public works mechanic-operators perform unskilled, semi-skilled, and skilled tasks to provide preventative maintenance and repairs to public works department's vehicles and

equipment. They may also be assigned the duties of a maintenance operator. The city classifies the mechanic-operators position as grade 13 with 438 points, resulting in an annual pay range between \$71,949.90 and \$89,937.37. Its minimum qualifications exceed those of the other two positions, requiring an associate's degree in mechanics or a related field, relevant state certification, repair experience, and other credentials. At the time of the hearing, the public works department employed one mechanic-operator, and he was assigned to the streets division.

The public works department in total has 16 employees, 10 of whom are assigned to streets. The streets division employees report directly to a division director, while parks division employees report to their own division director. The division directors report to the city administrator. The mechanic-operator testified that his direct supervisor is the streets division director, who assigns him work even when his duties involve repairing parks facilities equipment. Each division director conducts performance reviews and other employee-management functions for his division. The divisions collaborate on projects like snow removal and maintaining the city ballpark, but each division director still directs his own employees during these collaborations.

The streets and parks divisions are housed in adjacent buildings that share a parking lot and garbage dumpsters. The employees in both divisions have access to both buildings and can clock in and out at either one. Streets division employees typically clock in and spend up to an hour at the streets building before dispersing to work on projects throughout the city. The mechanic-operator spends most of his time in the streets building's shop.

Some public-works-wide training, such as forklift training and CPR training, are held in the parks building.

The BMS commissioner later issued his Unit Determination Order, declaring Local 49's proposed unit as the appropriate bargaining unit. The city unsuccessfully asked the commissioner to reconsider, and it now appeals by certiorari.

DECISION

The city appeals from the BMS commissioner's order determining the appropriate bargaining unit. We may reverse or modify an administrative agency's decision if it prejudices a relator's substantive rights by being "arbitrary or capricious" or "unsupported by substantial evidence in view of the entire record as submitted[.]" Minn. Stat. § 14.69(e), (f) (2024). But we presume agency decisions to be correct in recognition of their expertise, and we defer to their judgment. *Rsrv. Mining Co. v. Herbst*, 256 N.W.2d 808, 824 (Minn. 1977). The Public Employment Labor Relations Act authorizes the BMS commissioner to determine the appropriate unit after a representative petitions the BMS to do so. Minn. Stat. § 179A.04, subd. 2 (2024); *see also* Minn. Stat. § 179A.02 (2024). The commissioner must make his determination applying the criteria of Minnesota Statutes section 179A.09 (2024). Minn. Stat. § 179A.04, subd. 2. The city argues that the commissioner's decision to approve Local 49's proposed bargaining unit was arbitrary or capricious and lacked substantial evidentiary support. We address both arguments.

I

We are unconvinced by the city's argument that the commissioner's decision was arbitrary or capricious by departing from prior BMS decisions without explanation. An

agency's departure from its norms or prior decisions without explanation might indicate that it is acting inappropriately based on its will rather than appropriately on its judgment. *In re Denial of Contested Case Hearing Requests*, 993 N.W.2d 627, 648, 653 (Minn. 2023). And this sort of departure can interfere with the public's right to be informed of government actions affecting the public interest and reveal that the agency decision was arbitrary and capricious. *Id.* at 653. The city argues that the commissioner's decision is arbitrary and capricious particularly because his "evaluation of the community of interest factors was inconsistent with prior Bureau decisions" and included explanations that "run[] counter to the evidence." It bases this argument on the following statutory requirement outlining the criteria the commissioner must apply when determining the appropriate unit:

[T]he commissioner shall consider the principles and the coverage of uniform comprehensive position classification and compensation plans of the employees, professions and skilled crafts, and other occupational classifications, relevant administrative and supervisory levels of authority, geographical location, history, extent of organization, the recommendation of the parties, and other relevant factors. The commissioner shall place particular importance upon the history and extent of organization, and the desires of the petitioning employee representatives.

Minn. Stat. § 179A.09, subd. 1. The argument fails for the following reasons.

A. Principles and Coverage of Uniform Comprehensive Position Classification and Compensation Plans of the Employees

The commissioner's appropriate-unit determination rested in part on his conclusion that one of the appropriate-unit criteria is neutral, and the city challenges that conclusion as arbitrary and capricious. The challenged factor involves the "principles and the coverage of uniform comprehensive position classification and compensation plans of the

employees.” *Id.* The city contends that the commissioner arbitrarily determined this factor to be neutral for four reasons, none convincing.

The city argues first that the commissioner’s conclusion relies on a factual error. It asserts that, although Local 49’s proposed unit included maintenance workers in the streets division, the only maintenance worker actually employed at the time of the hearing was assigned to the parks division. But the statute focuses the commissioner’s attention abstractly on position *classifications* and compensation *plans* of the employees, *id.*, and it does not limit that consideration to the impact only on current employees. The commissioner properly considered how the proposed determination might be appropriate based on the classification and compensation plan of a maintenance worker hypothetically assigned to the streets division.

The city argues second that the commissioner’s reasoning on this factor departed from prior BMS decisions, which it says found this factor to weigh against a proposed unit that both included employees with different classifications and excluded employees with the same classification. The city also assails the reasoning as arbitrary or capricious because the commissioner failed to support the departure with citations to legal authority or to the record. The commissioner’s lack of citation is immaterial; what is required is the commissioner’s “reasoned analysis” for the decision. *In re Rev. of 2005 Ann. Automatic Adjustment of Charges for All Elec. & Gas Utils.*, 768 N.W.2d 112, 120 (Minn. 2009). And the commissioner included various circumstances to support its decision, including the fact that the city’s police department established precedent for having two bargaining units within a single department. This reasoning satisfies us that the alleged departure from BMS

decisions in other cases resulted here from circumstances unique to this case rather than from an arbitrary imposition of will.

The city argues third that the BMS errantly reasoned that Local 49 “provided evidence” that the employees inside its proposed unit are similarly classified by the city regarding compensation. But the stipulated hearing exhibits and the testimony of city officials detail the classification and compensation of the positions in Local 49’s proposed unit, show how they fit into the city-wide classification plan, and reflect what the plan aims to achieve. The commissioner’s interpretation of these materials as showing similarities in the employees’ classification and compensation is sufficiently reasoned to defeat the claim of arbitrariness.

And the city argues fourth that the commissioner failed to consider how including some public works employees but excluding others with the same classification might hamper the city’s ability to manage and compensate them and threaten the department’s team dynamic. But the commissioner did consider these potential concerns. His order acknowledges testimony from the city’s human resources director discussing these issues and other evidence the city provided on this point. That the commissioner did not weigh these concerns in a manner that led to the city’s preferred outcome does not render his decision arbitrary or capricious.

B. Relevant Administrative and Supervisory Levels of Authority

The city wrongly asserts that the order reflects an inconsistent decision on the criterion requiring the commissioner to consider “relevant administrative and supervisory levels of authority.” Minn. Stat. § 179A.09, subd. 1. The city offers three BMS decisions

to support its proposition that employees do not share a community of interest if they have different direct supervisors who in turn share the same, higher-level supervisor or an organization-wide grievance procedure. *See Anoka County & AFSCME, Council 5*, BMS Case No. 22-PCE-1956 (Aug. 4, 2022); *Law Enf't Lab. Servs., Inc. & Anoka County*, BMS Case No. 21-PCE-0336 (Feb. 24, 2021); *Anoka County & Law Enf't Lab. Servs., Inc.*, BMS Case No. 22-PCE-0989 (June 2, 2022), *rev'd on other grounds*, 3 N.W.3d 586 (Minn. 2024). The proposition fails to consider the hierarchical nature of local-government structures in which many employees have different immediate supervisors who themselves share a common senior supervisor. The commissioner's decision in this case is consistent with the city's cited cases because the streets division employees share a direct supervisor, and their community of interest is not based on having a common supervisor higher up the line of command.

The city offers an unconvincing comparison to *City of Bloomington & AFSCME, Council 5*, BMS Case Nos. 12-PCE-1115, 12-PCE-1116, at 4 (Sept. 6, 2012). In that case, the BMS rejected a union's proposal for two bargaining units within a city's public works department even though the employees in each unit had their own first-line supervisor, reasoning that the employees shared a department-wide supervisor. *Id.* Two details distinguish that case from this one. The first is that the city's public works department lacks a department-wide supervisor. The city administrator does not so function because the commissioner did not find that he directly supervises department employees. And the second is that the commissioner here was considering only one proposed bargaining unit, not two, as was the *Bloomington* case. *Id.* at 1. The city's case comparison fails.

C. Geographic Location

The city unpersuasively maintains that the commissioner’s findings on the geographic-location criterion depart from its prior decisions. It relies on *Anoka County & AFSCME, Council 5* for the proposition that the BMS weighed this factor against a proposed unit of employees who work in multiple locations. 22-PCE-1956, at 9. But in that case the BMS dealt with a proposed unit of library employees working at nine facilities across the county. *Id.* at 9–10. Where the employees in a proposed unit “work from the same work location and work throughout [the city],” the BMS weighs this factor favoring the proposed unit. *IBEW, Local 160, & City of Truman*, BMS Case No. 20-PCL-1339, at 4 (Aug. 17, 2020). The decision here is consistent with this approach, as the commissioner found that the streets division employees were assigned projects in the streets building but worked on the projects throughout the city. Adopting the city’s recasting of facts to assume that public works employees divide their time between the divisions’ buildings would require us to reweigh the evidence, which we will not do.

II

The city challenges the commissioner’s findings on the criteria just discussed and others as unsupported by substantial evidence in the record. We consider an argument that an agency’s findings are unsupported by substantial evidence by considering whether the record provides a reasonable basis for the agency’s conclusions. *In re NorthMet Project Permit to Mine Application Dated Dec. 2017*, 959 N.W.2d 731, 749 (Minn. 2021). We have carefully considered the agency’s findings on the challenged criteria, and we conclude that they are sufficiently supported by substantial evidence. The commissioner identified

the evidence it relied on for each factor and explained how the evidence informed its reasoning. And the evidence the commissioner cites in support exists in the record and is accurately depicted in its order. The commissioner's order rests on substantial evidence.

Most of the city's argument here indirectly asks us to draw our own factual findings from the evidence and to reach conclusions the commissioner did not reach. This is not our role. It is true, as the city asserts, that the commissioner's order recites facts without always explaining its conclusions on some of the "other relevant factors." But given that those criteria did not affect the determination, the asserted shortcomings resulted in no prejudice and therefore cannot provide a basis for reversal. *See In re Denial*, 993 N.W.2d at 653–54. The city adds policy arguments on managerial authority, but the proper focus is on whether the commissioner appropriately applied the required statutory criteria. Because the city fails to establish its claim that the commissioner instead rendered an arbitrary decision unsupported by substantial evidence, the commissioner's determination stands.

Affirmed.