A Look Back at the Kaiser Aluminum and United Steelworkers Dispute

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Before 1998, the Kaiser Aluminum and Chemical Corporation and the United Steelworkers of America only had one bargaining round that resulted in a work stoppage, but their 1998 negotiations led to a prolonged, almost intractable labor dispute.

A 2-year work stoppage between the Kaiser Aluminum and Chemical Corporation and the United Steelworkers of America (USWA) came to an end on September 18, 2000, following binding arbitration. The strike involved about 2,900 workers and led to 1.4 million days of idleness. Five plants were affected - one each in Tacoma, Washington; Gramercy, Louisiana; and Newark, Ohio; and two in the Spokane, Washington area (Trentwood and Mead facilities). The union also represented nonstriking workers covered by a separate agreement at plants in Richmond, Virginia; Tulsa, Oklahoma; and London, Ontario.

Parties To The Dispute

The Kaiser Aluminum and Chemical Corporation, the operating subsidiary of Kaiser Aluminum Corporation, is a leading producer of alumina, primary aluminum, and fabricated aluminum products; the company also is a major supplier of alumina and primary aluminum in domestic and international markets.

The United Steelworkers of America (USWA) is an international labor union affiliated with the American Federation of Labor-Congress of Industrial Organizations, and it is the major representative of workers in the primary metals and rubber and plastics industries.

Issues In Dispute

The major issues leading to the dispute ranged from wages and benefits to contracting out of bargaining unit work, cuts in bargaining unit jobs, and the substantive elimination of supplemental and local agreements. According to Kaiser, its last prestrike settlement offer on October 28, 1998, included a raise in base wages of $2.75 per hour over 5 years, a $750 ratification bonus, a $5 increase in the monthly pension multiplier (monthly benefit per year of credited service), and redemption of preferred stock (A series) that would generate an average payout of $10,000 per employee.

The proposed settlement also would have improved the existing vision and dental plans and guaranteed that there would be no involuntary terminations of employees adversely affected by productivity and efficiency provisions in the proposal. However, Kaiser said it needed to institute several productivity improvements because it was a medium-sized aluminum producer facing cost competitiveness issues that required it to have efficient and flexible operations.[1] In particular, the company wanted to eliminate 400 bargaining unit jobs, cap its contributions to retirees' health insurance premiums, eliminate seniority overtime, contract out 150 jobs (for a variety of jobs from janitors and painters to diesel mechanics and laborers), and make several other changes in work rules. The company also wanted to separate its plants on certain issues for bargaining purposes because each plant had unique operations and was located in a different labor market.

The union pointed out that when Kaiser was struggling to survive in the 1980s, its members had agreed to wage and benefit concessions worth millions of dollars.[2] They also accepted shares of the company's "A" series preferred stock instead of a portion of their wages. After Kaiser returned to profitability, the union wanted the company to pay back its employees for their sacrifices over the last 15 years. The union also wanted to increase security for its members and gain wage and benefit parity with workers at two other primary metals producers - Alcoa and Reynolds. In particular, the union felt that Kaiser's wage, health insurance, and pension proposals were inadequate. It also opposed the company's proposals to contract out work and cut bargaining unit jobs, have a 5-year contract, and substantially eliminate supplemental and local agreements that dealt with seniority, overtime, shift and vacation scheduling, and substitute work.

The union claimed that the company was more interested in provoking a strike than bargaining fairly.[3] It charged that Kaiser had prepared for a strike by advertising for replacement workers before bargaining began. The union also claimed that Kaiser's real wage proposal did not improve the workers' standard of living because only 32 cents of the company's proposed wage increase of $1.50 per hour in the first year was "new money." The remaining $1.18 per hour was money that the company would get by eliminating the union's existing profit-sharing, gainsharing, and metal-price bonus plans.[4]

The union also claimed that Kaiser was taking money that the union had earned and was repackaging it as a wage increase. The union said that the real raise in the company's proposal amounted to only 2.3 percent per year, less than the 3-percent annual rate of inflation economists had been forecasting for the upcoming several years. And, at some locations, the union said, eliminating the bonus plans would actually result in a wage cut. The union also charged that the company had committed unfair labor practices by refusing to provide the union with critical productivity data needed for bargaining, making a settlement contingent upon the union not striking, threatening to take away pension service from employees who strike, and refusing to negotiate over mandatory bargaining issues.[5]

After Kaiser presented its proposals to the union, the union rejected the company's offer and went on strike against Kaiser on September 30, 1998, one month after formal bargaining talks began. The company expressed disappointment over the union's action and said that its top priority would be to continue operations and serve its customers. With the help of 1,000 temporary workers, salaried employees, workers from other plants, and retirees, Kaiser kept its facilities running, albeit at reduced levels in some of them.

Post-strike Negotiations

On October 2, the company contacted the Federal Mediation and Conciliation Service (FMCS) to request their mediatory services. The parties met on October 9 and again on October 21 and 22 to see if they could find a basis to resume full negotiations. Between these meetings, the union charged that Labor Ready Inc., the company that supplied Kaiser with replacement workers, was breaking Washington State law because it illegally hired and recruited out-of-State replacement workers, offered them employment, and brought them into the State. The union filed a complaint with the State's Department of Labor and Industry (DLI) and asked for an investigation.

After the two sides met on October 25, they agreed that any further meetings to be scheduled would be held under the auspices of a Federal mediator. Kaiser and the union met again on October 26, and discussed the next step in the negotiation process and the timing of future meetings.

On October 30, negotiations hit a snag when the union was angered by comments made by Kaiser's chief executive officer to a group of New York industry analysts, in which he said that the company believed it had to reduce the number of jobs at the five plants by 600 to 900 jobs if the plants were to reach their full business potential.[6] The union responded by calling the proposal "radical and ill conceived," saying that it was "a continuing sign of the bad faith with which Kaiser had approached the negotiations."[7]

The parties next met on November 18 and 19, without the assistance of a Federal mediator. The company addressed the subject of productivity improvement and potential reductions in hourly employment levels at the five plants, as well as the terms under which such reductions could occur.

On November 21, the union asked the FMCS to schedule a resumption of negotiations with Kaiser so they could present the company with a comprehensive offer to end the dispute. At the prompting of the FMCS, both sides agreed to meet on December 1, under the auspices of a Federal mediator. At that meeting, the union presented its proposal to Kaiser, which included the following demands:

- Early retirement incentive to reduce the workforce
- Protection against the sale of the plants or the entire company

- Protection against contracting out of work
- Kaiser’s commitment to make capital investments in the plants
- Employment security guaranteeing workers with 2 or more years of service protection against layoffs and a guarantee of 40 hours of work per week
- Wage and benefit parity with employees at Alcoa and Reynolds
- Productivity improvements

Kaiser said the settlement offer did not meaningfully address the concerns that it had made known to the union - in particular, productivity gains that were essential for improving the competitive position of each of the five affected plants. The company said the union’s proposal continued to deal with productivity issues in an unacceptable manner. In particular, Kaiser noted that the union proposal would impose additional restrictions on the company’s ability to improve production. For example, it said, the proposal contained the most onerous contracting-out restrictions in the metals industry.

In addition, Kaiser said the economics of the union proposal were virtually unchanged from September 30. The proposal, it said, would have made Kaiser’s hourly employees at the five plants the highest paid in the industry even though the productivity and cost performance of the plants compared unfavorably with others in the industry. With that, negotiations were adjourned.

Kaiser did agree to meet with the Steelworkers on December 11, to respond formally to the union’s last contract proposal. The two sides continued to meet until December 17, when the union walked out of the meetings after hearing Kaiser’s counteroffer. The company’s 1,200-page proposal included terms that they hoped would accomplish the following:

- Eliminate "antiquated" work rules and restrictions on contracting out of bargaining unit work
- Cut 700 jobs
- Establish a $35 million package of enhanced retirement benefits and severance benefits for employees adversely affected by job reductions
- Postpone the capping of employer contributions toward health care premiums for 5 years
- Provide wage increases of $3.13 an hour, on average, over 4 years, with proportionally higher raises going to more highly skilled workers
- Grant a $1,000 signing bonus
- Provide additional improvements in the dental and vision care plans
- Institute a form of successorship clause, which, the company said, would have given employees greater job security if any of the five plants were sold

The December 17 offer was never submitted for a rank-and-file vote because, according to the union, their members had empowered the union’s local presidents to unilaterally reject any proposals they considered concessionary. Kaiser expressed frustration with this bargaining strategy.

Negotiations In 1999

The parties resumed negotiations on January 7, 1999, and held additional contract talks on January 11-13. The major focus of the talks revolved around the company’s December 17 contract offer. The two sides exchanged frank opinions of their respective proposals, but remained far apart on all major issues. The meetings adjourned on January 13, at which time the union made an unconditional offer to have its members return to work under the terms of the old agreement.

The next day, Kaiser declined the union’s offer and imposed a lockout to support its bargaining position. The company said it intended to continue operating its plants with salaried employees and temporary replacement workers, as it had since the strike began. In a prepared statement, Kaiser stated the following:

"We regret having to take this step. However, we believe the union leadership has given us no choice in light of the lack of progress during recent labor negotiations and the huge gap between the two sides. Given this gap, we believe that the lockout is necessary to persuade the union to embrace the legitimate proposals Kaiser has made during the bargaining. By taking this step, we hope that it will result in an early contract settlement between the parties so that bargaining unit members can return to work. We look forward to continued negotiations with the union in hopes of reaching agreement on a new labor contract."[8]

The union responded by saying it would escalate the corporate campaign that it had previously started and would file additional unfair labor practice charges against the company. In a prepared statement, the union said, "There will be major demonstrations at the company's shareholder meetings, a customer awareness campaign, a union-sponsored environmental and safety audit, as well as many other activities."[9]

The parties met again on April 5, but there was no progress. On April 7, the union asked for a break in negotiations to prepare a counteroffer to the company's December 17 settlement proposals. Negotiators resumed contract talks on May 10-11, but reportedly made no meaningful progress in narrowing their differences.

With the help of a Federal mediator, the parties resumed negotiations on May 24-25, so the union could present Kaiser with a revised proposal for a new collective bargaining agreement. That proposal, according to the union, included productivity and manning changes and cuts of 237 jobs through an early retirement program.

In response, Kaiser rejected the union's proposal because, it said, the union's economic demands exceeded the company's proposals by millions of dollars, would not eliminate enough jobs, would overly restrict the company's ability to contract out work, and ignored the company's need to use competency as a factor in the selection process for key jobs. In short, the company felt that the union's proposals would severely hamper its ability to improve the competitive positions of the five affected plants.

Kaiser, saying it was disappointed with the union's proposal, floated a revised proposal that "preserves traditional seniority contract language while still recognizing the company's right to perform job-related aptitude tests for certain critical positions."[10] According to the company, it modified its position on four issues - the role of competency in promotions, transfers, and reductions; the extent of job testing; the testing of employees upon return to work after the stoppage ends; and employee performance issues.

On July 16, the National Labor Relations Board (NLRB) regional office in Oakland, California dismissed all 24 charges of unfair labor practices filed by the union. The Steelworkers had alleged that the strike was caused or prolonged by unfair labor practices committed by Kaiser. In particular, the union had alleged that the company refused to bargain in good faith, attempted to destroy the scope of the bargaining unit, refused to provide information necessary for bargaining, failed to make contract proposals in a timely manner, and refused to accept the union's unconditional offer to return to work. If the NLRB had found that the alleged unfair labor practices caused or prolonged the strike, Kaiser would have been liable for back pay from the date the employees offered to return to work. The union appealed the decision to national office of the NLRB.

On August 2-3, 9-13, and 23-26, the parties held a series of intensive bargaining sessions, but the contract talks stalled, although negotiators modified key elements of their proposals to try to narrow the gap between their divergent positions. Kaiser said that progress was not made because the union advanced a proposal that would have added significant new restrictions on Kaiser's ability to contract out certain jobs and would have required the company to hire up to 50 additional full-time employees. The union said that it rejected Kaiser's offer of enhanced job security guarantees in exchange for productivity improvements and was opposed to the company's insistence on contracting out jobs.

The parties resumed contract talks on October 14-15, but they made no meaningful progress, although the union made a new proposal for productivity improvements and the company offered to eliminate the proposed cap on their contributions to current retirees' health insurance premiums. Under Kaiser's proposal, however, future retirees would pay 20 percent of health insurance premiums.

Kaiser and the union held additional meetings on November 1-2 and November 10-11 to discuss the issues of contracting out and retiree health insurance. During these meetings, the company, which had identified 65 jobs that could be contracted out at one of the plants, offered to reduce this number by 20 if the retained jobs could be performed with the same level of efficiency as would be gained through contracting out. The union expressed interest in the company's offer, but said many details remained to be worked out. The parties agreed to meet again in mid-December.

During the negotiations held on December 14, the union presented Kaiser with a new proposal on retiree medical coverage dealing with the cost of prescription drugs and the use of Medicare-risk HMOs.[11] The union proposed a formulary - a book listing pharmaceuticals and their applications - for prescription drugs that it believed would not only benefit its members, but also would save Kaiser money. In addition, they proposed an aggressive incentive program through which retirees who participated in a Medicare-risk HMO would equally share cost savings with Kaiser. The company presented a counteroffer on prescription drugs, which was rejected by the union. Contract talks were adjourned and additional meetings were scheduled for January 2000.

Negotiations In 2000

Kaiser and the Steelworkers met on January 11-13, and 24, 2000 and made limited progress in narrowing their differences. The parties recessed contract talks until February 15-17, after which they decided to adjourn contract talks until March. During the recess, the company and the union held informal meetings.

The parties resumed negotiation on March 13-15, and Kaiser outlined a master proposal, which the union rejected. Economic terms of that proposal would have included an average base wage increase of $3.80 per hour over the term of a 6-year contract, with an additional $2.80 per hour for certain highly skilled jobs, as well as a $1,000 lump-sum signing bonus. The proposal also included a vacation bonus of $150 per week for nonprime vacation weeks, an $8 increase in the pension multiplier, the elimination of the cap on the company contributions for retiree medical insurance premiums, and the redemption of Kaiser's A Series preferred stock, which would have yielded about $10,000 per worker, on average.

Kaiser's noneconomic terms included a cut of 700 jobs through job combinations and contracting out and additional job cuts because of productivity improvement and through attrition; continuation of the existing contracting out language; continuation of the five-plant bargaining unit; and competency testing for key jobs restricted to an agreed-upon list. Other terms would have established 10- or 12-hour work shifts, implemented favorable job combination language consistent with the intent of the expired contract, extended the probationary period, and restored the seniority language in the expired contract.

The parties met again on March 23-24 and on April 2-3. While they were not able to agree on a solution to key areas of dispute, they did agree to continue to meet regularly to work toward a settlement. According to the parties, the major sticking points to settlement continued to revolve around productivity improvements, contracting out of bargaining unit work, and retiree cost sharing of health care premiums.

Negotiators conducted further contract talks on April 3-4, at which time Kaiser presented the union with a new contract offer to end the dispute. That proposal, according to the company, included movement on retiree health care cost sharing, return-to-work terms, productivity improvements, and voluntary early retirement incentives for Kaiser's Trentwood facility.

The parties then conducted intensive contract talks on April 24-25. Despite the multiple meetings, no meaningful progress was made. As a result, Kaiser broke off talks with the union, saying that the bargaining sessions were not productive. The company also said it was frustrated by the union rejection of its April 4 offer without submitting it to the rank and file.

On April 26, the the NLRB informed the parties that it would soon issue a ruling finding that Kaiser's lockout of workers on January 14, 1999 violated U.S. labor laws. This action, which bolstered the union's bargaining position, resulted from the union's appeal of the NLRB regional office's unfavorable ruling on July 16, 1999.

Arbitration process. Kaiser and the Steelworkers resumed negotiations on May 10-12, after which contract talks were recessed. The parties then conducted a series of bargaining sessions on May 17-19, May 23-26, June 7-9, June 12-14, and June 28-30. On June 30, Kaiser and the Steelworkers had a breakthrough in negotiations when they reached a tentative agreement on a process to resolve their 21-month dispute. The agreement, which was subject to union rank-and-file approval, called for the parties to continue negotiations for 28 days. If they could not reach a negotiated agreement by then, however, they would submit any unresolved issues to a five-member interest arbitration panel. The panel would have 21 days to submit a final and binding decision. Union members ratified the agreement on July 13.

Meanwhile, on June 30, the NLRB regional office in Oakland, California formally charged Kaiser with illegally locking out the union, unlawfully discriminating against employees to discourage membership in the union, and failing and refusing to bargain in good faith. As part of the remedy for these actions, the NLRB said it would seek full back pay and benefits for striking employees from January 14, 1999, the date the lockout began. The NLRB set a hearing for November 13, so the company could answer the charges.

Kaiser and the Steelworkers attempted to resolve their outstanding differences in a series of meetings in July and August, but were unable to agree on a handful of issues.[12] They exchanged final contract offers on August 17. During a week of hearings August 21-24, the parties submitted to the arbitration panel their "last, best offers" on each of the remaining issues in dispute.[13]

Interestingly, the parties had already reached agreement on a number of difficult issues, including a new expedited procedure for contracting out, limits on the number of bargaining unit jobs that can be contracted out (27), and the removal of the cap on the company's contributions to retiree's heath care premiums. They also agreed to reinstate health insurance for all striking workers and their families.

Arbitration award. On September 18, the arbitration panel issued a final and binding decision resolving the outstanding issues in dispute, which were divided into six categories:

- Economics (wage-related issues)
- Retiree health insurance issues (such as duration of the agreement and custodial care)
- Department scheduling issues at the company's Mead plant
- An increase in layoff benefits for 30 smelter workers
- Return to work issues (for example, recharging of the depleted supplemental unemployment benefit fund)
- Contract language (pay for union officials and overtime bypass penalties.[14]

The panel found in favor of the union on two categories, retiree health insurance and contract language, and in favor of the company on the remaining four categories.

As part of the 5-year settlement, union members received special assistance payments until they could be recalled to work at Kaiser--$200 a week for the first two weeks, $300 for the third week, and $500 per week thereafter. The special payments gave union members the opportunity to address personal affairs, such as giving notice to current employers if they had taken alternate employment and wanted to return to work at Kaiser.

Under the arbitration award, workers received increases in their base hourly wage rates totaling $3.42 over 5 years and consisting of three elements: $1.44 in across-the-board average wage increases, 80 cents in cost-of-living restoration, and $1.18 from the roll in of gainsharing payments. The union had been seeking an over-the-term increase of approximately $3.72 an hour.

In terms of pensions, the union sought an increase of $10 per month for each year of credited service in the pension multiplier. The arbitration panel selected the company's proposal, which called for an increase in the pension multiplier of $8.25 per month for each year of credited service, but made the increase applicable only to future retirees.

The arbitration panel agreed with the union's proposals on retiree health insurance. Kaiser had claimed that retiree health benefits were not vested and were renewable on a contract-by-contract basis. The union proposed extending retiree health insurance for 12 years and eliminating a cap on company contributions for retiree health care, a position the arbitration panel accepted.

Although the union received $12 million in severance and supplemental unemployment benefits for employees affected by approximately 500 agreed-upon job reductions, the arbitration panel rejected its request for a $4 million loan to recharge the supplemental unemployment benefit (SUB) fund. The union had claimed that it needed to recharge the SUB fund because Kaiser had sold portions of its electric power holdings to the state of California, and its smelters in Mead and Tacoma would be idled for at least 1½ years, resulting in 350 layoffs. The union had been seeking a cushion to help those laid-off workers. The panel also rejected the union's proposal for an increase in layoff benefits for 30 smelter workers.

Other terms of the arbitration award kept the current contract language for pay for union officials and overtime bypass penalties and provided Kaiser with changes in contract language it wanted for department scheduling at the Mead plant. The settlement did not resolve the unfair labor practice charges the NLRB filed against Kaiser on June 30, 2000. Those charges, as well as the back pay issue, have yet to be decided by the NLRB.

On October 1, some but not all union members went back to work; the dispute resulted in the loss of about 540 jobs.[15] Although prolonged and contentious, the work stoppage was only the second in the parties' 52-year bargaining history.[16] In total, the dispute accounted for 1.4 million lost workdays, and was the "longest and largest lockout in the 58-year history of the United Steelworkers" union.[17]

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End Notes

1 "Kaiser Aluminum Offers Steelworkers Better Pay, Benefits and Job Protection;" "Asks for Employee Support," Kaiser Aluminum Corporation news release, December 17, 1998, on the Internet at http://www.kaiserengprod.com/kaisermain.nsf (visited January 14, 1999).

2 "Seeking a middle ground," Spokesman Review, October 11, 1998, pp. A14-15.

3 "Why We're on Strike at Kaiser Aluminum," United Steelworkers of America news release, September 30, 1998, p. 2.

4 Metal-price bonus plans provided employees with quarterly lump-sum cash payments based on the movement of the average metal price over that quarterly period.

5 "Kaiser Aluminum Precipitates Strike by 3,000 USWA Members;" "Workers Protest Company Unfair Labor Practices and Job Elimination Plans," United Steelworkers of America news release, October 1, 1998, on the Internet at http://www.usa.org/kaiser/kaisernews1001.html (visited October 7, 1998).

6 "Steelworkers React to Kaiser CEO Haymaker Comments," United Steelworkers news release, October 30, 1998, on the Internet at http://www.uswa.org/kaiser/kaisernews103098.html (visited November 7, 1998).

7 Ibid.

8 "Kaiser Aluminum Declines Union Offer of Return to Work," Kaiser Aluminum Corporation news release, January 14, 1999, on the Internet at http://www.kaiserengprod.com/kaisermain.nsf (visited January 14, 1999).

9 "Kaiser Unlawfully Locks Out 3,100 Steelworkers;" "Company Spurns Union Offer to Return to Work," United Steelworkers of America, news release, January 14, 1999, page 1.

10 "Kaiser Aluminum Revises Proposal On Seniority In Talks With USWA; Company Also Rejects Latest Union Proposal," Kaiser Aluminum Corporation news release, May 25, 1999, on the Internet at http://www.kaiserengprod.com/kaisermain.nsf (visited May 25, 1999).

11 A Medicare-risk HMO is an arrangment in which a Medicare beneficiary joins an HMO. In return for a predetermined monthly dollar amount per Medicare enrollee, the HMO agrees to provide all Medicare-covered services that are medically necessary, with the exception of hospice care. The fixed dollar amount is derived from costs in the fee-for-service sector for providing a full range of prepaid health services.

12 The parties agreed several times to extend their July 31 deadline as talks progressed.

13 The parties could not retreat from their positions on June 30, 2000 on any of the unresolved issues; and the panel would choose either the company's final position or the union's separately on each of the unresolved issues.

14 Overtime by-pass penalties are payments to employees who are by-passed over for overtime work.

15 An additional 148 jobs were lost when Kaiser dropped its beverage can body stock business at its Trentwood, WA facility; another 356 jobs were lost when Kaiser shutdown smelters at Mead and Tacoma, WA. Daily Labor Report, No. 182, September 19, 2000, p. AA-1.

16 Spokesman Review, October 1, 1998, p. A1.

17 "United Steelworkers News," United Steelworkers of America news release, September 18, 2000, p. AA-1.

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