

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
KITSAP COUNTY SUPERVISORS)	
COLLECTIVE BARGAINING GROUP)	CASE 14866-E-99-2479
)	
Involving certain employees of:)	DECISION 6930 - PECB
)	
KITSAP COUNTY)	ORDER OF DISMISSAL
)	
)	

Kathy Coon, President, appeared on behalf of the petitioner.

Jacqueline Aufderheide, Deputy Prosecuting Attorney, appeared on behalf of the employer.

Bill Keenan, Representative, appeared on behalf of the intervener, Washington State Council of County and City Employees.

On October 29, 1999, the Kitsap County Supervisors Collective Bargaining Group filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of supervisory employees of Kitsap County. The Washington State Council of County and City Employees (WSCCCE) was granted intervention as the incumbent exclusive bargaining representative of the petitioned-for employees. An investigation conference was conducted on December 9, 1998, by telephone conference call.

During the investigation conference, the WSCCCE asserted that the petitioner failed to serve it with a copy of the petition in a timely manner. The Commission's rules include:

WAC 391-25-050 PETITION FORM--NUMBER OF COPIES--FILING--SERVICE. Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and one copy of the petition shall be filed at the commission's Olympia office, as required by WAC 391-08-120(1). **The party filing the petition shall serve a copy on the employer and each employee organization named in the petition as having an interest in the proceedings, as required by WAC 391-08-120(3) and (4).**

...

WAC 391-08-120 FILING AND SERVICE OF PAPERS. ...

SERVICE ON OTHER PARTIES

(3) A party which files or submits any papers to the agency shall serve a copy of the papers upon all counsel and representatives of record, and upon all parties not represented by counsel or upon their agents designated by them or by law. **Service shall be completed no later than the day of filing** or submission under subsection (1) or (2) of this section, by one of the following methods:

(a) Service may be made personally, and shall be regarded as completed when delivered in the manner provided in RCW 4.28.080;

(b) Service may be made by first class, registered, or certified mail, and **shall be regarded as completed upon deposit in the United States mail** properly stamped and addressed.

(c) Service may be made by telegraph or by commercial parcel delivery company, and shall be regarded as completed when deposited with a telegraph company or parcel delivery company properly addressed and with charges prepaid.

(d) Service may be made by electronic telefacsimile transmission, and shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission, together with same day mailing of a

copy of the papers, postage prepaid and properly addressed, to the person being served.

PROOF OF SERVICE

(4) **On the same day that service of any papers is completed** under subsection (3) of this section, the person who completed the service shall:

(a) Obtain an acknowledgment of service from the person who accepted personal service; or

(b) Make a certificate stating that the person signing the certificate personally served the papers by delivering a copy at a date, time and place specified in the certificate to a person named in the certificate; or

(c) **Make a certificate stating that the person signing the certificate completed service of the papers by:**

(i) **Mailing a copy** under subsection (3)(b) of this section; or

(ii) Depositing a copy under subsection (3)(c) of this section with a telegraph or parcel delivery company named in the certificate; or

(iii) Transmitting and mailing a copy under subsection (3)(d) of this section.

[Emphasis by **bold** supplied.]

The petitioner did not contest that service was not provided on the "same day" the petition was filed with the Commission.

Contemporaneous Service Required

The petition indicated the WSCCCE is the incumbent exclusive bargaining representative of the petitioned-for employees under a collective bargaining agreement which expires December 31, 1999. As such, it had a right to intervene in the proceedings under WAC 391-25-170. The obligation to make a contemporaneous service of papers is a small imposition on parties implementing the require-

ments of the Administrative Procedure Act and the Commission's rules, and is necessary to effect communications within a collective bargaining process which emphasizes good communication and orderly dispute resolution. See, Mason County, Decision 3108-B (PECB, 1991).

In this case, the petitioner filed its petition with the Commission on October 29, 1999, and did not mail a copy to the WSCCCE until a subsequent day. The petition must be dismissed.


NOW THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-entitled matter shall be, and hereby is, DISMISSED for failure of the petitioner to properly serve the petition on the incumbent organization named in the petition.

Issued at Olympia, Washington, this 11th day of January, 2000.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-390(4) and 391-25-660.