Spokane County, Decision 7866 (PECB, 2002)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
PACIFIC NORTHWEST REGIONAL COUNCIL OF CARPENTERS	)	CASE 15898-E-01-2641
	)	
Involving certain employees of:	)	DECISION 7866 - PECB
	)	
SPOKANE COUNTY	)	ORDER OF DISMISSAL
	)	

Rinehart, Robblee & Hannah, by *Terry Jensen*, Attorney at Law, for the petitioner.

Timothy O'Brien, Attorney at Law, for the employer.

David Kanigel, Attorney at Law, for the incumbent intervener, Washington State Council County and City Employees, Local 1553.

On July 2, 2001, the Pacific Northwest Regional Council of Carpenters (PNRCC) 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 certain employees of Spokane County. The Washington State Council of County and City Employees (WSCCCE) was granted intervention in the proceedings, based on its status as the incumbent exclusive bargaining representative of the petitioned-for employees in a larger bargaining unit. An investigation conference was conducted on July 24, 2001. An investigation statement issued the same day framed an issue as to the propriety of the bargaining unit proposed for severance. A hearing was held on October 16, 2001, and January 16, 2002, before Hearing Officer Rex L. Lacy. The PNRCC and WSCCCE each filed a brief.

Based on the evidence and arguments advanced by the parties, and the record as a whole, the Executive Director rules that the bargaining unit proposed for severance is not an appropriate unit for the purposes of collective bargaining. The petition is DISMISSED.

BACKGROUND

Spokane County (employer) has one of the larger populations among counties in the state of Washington. At the time of hearing, the employer had collective bargaining relationships with organizations representing 21 bargaining units existing within its workforce.

The WSCCCE has represented Spokane County employees since approximately 1956. It currently represents seven separate bargaining units, totaling more than 500 Spokane County employees.

The employer and WSCCCE have been parties to a series of "master" collective bargaining agreements covering all of the employees represented by the WSCCCE. The recognition clause of their current contract contains a long list of covered departments, as follows:

> Assessor, Auditor, Treasurer, Clerk, Purchasing, Printing Department, Information Systems, Building and Code Enforcement, Planning, Facilities Maintenance, Parks, Recreation, and Fair, Animal Control, 9-1-1 Emergency Communications, Spokane County Juvenile Court Support Staff, Public Defender Support Staff, Prosecutor Support Staff, Corrections Support Services, Community Development, Veterans Services and Community Services except those who are working in a classification where another bargaining agent has been certified as the bargaining representative.

The petition in this case was timely filed in June 2001, during a hiatus between contracts. The previous master contract between the employer and WSCCCE had expired on December 31, 2000. Although it is nominally effective from January 1, 2001, through December 31, 2003, the current master contract between the WSCCCE and the employer was not signed until August 2001.

The contract signed in August 2001 provided for 2 percent salary increases for all covered employees in 2001 and 2002. Predictably, however, those wage increases were withheld for the employees at issue in this case.[1]

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[1] Although a subject of consternation to the PNRCC, the withholding of the negotiated salary increases for the employees at issue in this representation proceeding is not a basis for any inference or ruling adverse to the employer or WSCCCE. In *Yelm School District*, Decision 704-A (PECB, 1980), it was the WSCCCE which (as petitioner) took umbrage with a suspension of negotiations by an employer and an incumbent organization concerning employees the WSCCCE was seeking to represent. The Commission wrote:

> The petitioner takes exception to a ruling by the Hearing Officer which excluded from introduction . . . evidence . . . purporting to establish that the [disputed] classification was excluded from final agreements and implementations of agreements between the employer and the [incumbent] after the petition was filed in this matter. We find that the employer followed well-settled principles in avoiding controversial involvement with a class of employees disputed under a question concerning representation. Those parties had, in fact, no other legal option open to them.

The Commission's policy has remained notwithstanding a divergence by the National Labor Relations Board (NLRB) from its comparable policy in *RCA Del Caribe, Inc.*, 262 NLRB 963 (1982), and the *Yelm* holding has since been codified in WAC 391-25-140(4).

POSITIONS OF THE PARTIES

The PNRCC acknowledges that the employees it seeks to represent have been represented by the WSCCCE at an unspecified date after 1956, but it now contends that they never voted for representation by the WSCCCE. The PNRCC claims it would be a more adept representative for the proposed unit than the WSCCCE, and that the bargaining history between the employer and WSCCCE "has not yielded completely successful and stable collective bargaining results." The PNRCC urges that a severance would not create instability, and that the employees in the proposed unit have no kinship or community of interest with the other employees represented by the WSCCCE. It urges that the employees in the proposed unit maintain a community of interest as skilled trade journeymen.

The employer did not take a position in this matter, and asks that the Commission determine the appropriate bargaining unit(s).

The WSCCCE asserts that the history of bargaining for what it characterizes as a "county-wide" unit dates back to 1956, and it points out that the proposed bargaining unit has no history of separate representation. The WSCCCE contends the employees in the proposed unit do not have specialty skills sufficient to distinguish them from the other employees it represents, and that the petitioned-for employees do not form a distinct and homogeneous group of skilled journeymen. WSCCCE argues that the employees in the proposed unit have working conditions and duties similar to other employees within the same bargaining unit represented by the WSCCCE, and that they do interact with other employees represented by the WSCCCE even if only on a minimal basis. The WSCCCE claims the disputed employees have isolated themselves from the bargaining unit by not attending meetings.

DISCUSSION

Applicable Legal Principles

The determination and modification of appropriate bargaining units is a function delegated by the legislature to the Public Employment Relations Commission. RCW 41.56.060 provides:

> The Commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the Commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. . . .

Those criteria, taken together, are used to assess the existence of a "community of interests" among employees for the purposes of collective bargaining with their employer. Bargaining units are often structured as "employer-wide" (encompassing all eligible employees of the employer), "vertical" (encompassing all employees in a department or branch of the employer's table of organization), or "horizontal" (encompassing all employees in some occupational grouping). The Commission is not limited to finding the "most appropriate" unit configuration. The fact that there may be other groupings of employees which could also be appropriate, or even more appropriate, does not require rejection of a proposed unit that is itself appropriate. *City of Centralia*, Decision 3495-A (PECB, 1990). Thus, the issue in this case is whether the unit proposed for severance is an appropriate unit.

While none of the four components of the statutory unit determination criteria prevails over or trumps the others, they do not all operate in every case. In particular, the "history of bargaining" component is inapposite with regard to unrepresented employees, the "extent of organization" component is inapposite where an employer-wide unit is proposed, and the "desires of employees" component is inapposite unless two or more appropriate unit configurations are being proposed by petitioning and intervening organizations.

Limitations on "Severance" Attempts -

At various times dating back to 1935, the NLRB has almost completely precluded, or at least severely restricted, division of existing bargaining units into two or more units. *See Mallinckrodt Chemical Works*, 162 NLRB 387 (1966). Limitations on severances particularly honor the "history of bargaining" component of the RCW 41.56.060 criteria. *See Yelm School District*, Decision 704-A (PECB, 1980), where the Commission wrote (emphasis added):

> The decision in *Mallinckrodt* . . . contains the definitive statement of existing NLRB policy on the adjudication of severance disputes. The Board there observed:
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> > It is patent that the *American Potash* tests do not effectuate the policies of the Act. We shall, therefore, . . . broaden our inquiry to permit evaluation of all considerations relevant to an informed decision in this area. The following areas of inquiry are illustrative of those we deem relevant:
> >
> > 1. Whether or not the proposed unit consists of a *distinct and homogeneous group of skilled journeymen* craftsmen performing the *functions of their craft on a nonrepetitive basis*, or of employees constituting a *functionally distinct* department, *working in trades or occupa-*

tions for which a tradition of separate representation exists. 14/

2. The history of collective bargaining of the employees sought and at the plant involved, and at other plants of the employer, with emphasis on whether the existing patterns of bargaining are productive of stability in labor relations, and whether such stability will be unduly disrupted by the destruction of the existing patterns of representation.

3. The extent to which the employees in the proposed unit have established and maintained their separate identity during the period of inclusion in a broader unit, and the extent of their participation or lack of participation in the establishment and maintenance of the existing pattern of representation and the prior opportunities, if any, afforded them to obtain separate representation.

4. The history and pattern of collective bargaining in the industry involved.

5. The degree of integration of the employer's production processes, including the extent to which the continued normal operation of the production pro-

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14/ We are not in disagreement with the emphasis the *American Potash* decision placed on the importance of *limiting severance to true craft or traditional departmental groups*, nor do we disagree with the admonitions contained in that decision as to the *need for strict adherence to these requirements.* Our dissatisfaction with the Board's existing policy in this area stems not only from the overriding importance given to a finding that a proposed unit is composed of such employees, but also to the loose definition of a true craft or traditional department which may be derived from the decisions directing severance elections pursuant to the *American Potash* decision.

cesses is dependent upon the performance of the assigned functions of the employees in the proposed unit.

6. The qualifications of the union seeking to "carve out" a separate unit, including that union's experience in representing employees like those involved in the severance action. 15/

In view of the nature of the issue posed by a petition for severance, the foregoing should not be taken as a hard and fast definition or an inclusive or exclusive listing of the various considerations involved in making unit determinations in this area. No doubt other factors worthy of consideration will appear in the course of litigation. 16/ We em-

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15/ With respect to this factor, we shall no longer require, as a sine qua non for severance, that the petitioning union qualify as a "traditional representative" . . . . The fact that a union may or may not have devoted itself to representing the special interests of a particular craft or traditional departmental group of employees is a factor which will be considered . . . .

16/ We are in a period of industrial progress and change which so profoundly affect the product, process, operational technology, and organization of industry that a concomitant upheaval is reflected in the types and standards of skills, the working arrangements, job requirements, and community of interests of employees. Through modern technological development, a merging and overlapping of old crafts is taking place and new crafts are emerging. Highly skilled workers are, in some situations, required to devote those skills wholly to the production process itself, so that old departmental lines no longer reflect a homogeneous grouping of employees.

> phasize the foregoing to demonstrate our intention to free ourselves from the restrictive effect of rigid and inflexible rules in making our unit determinations. Our determinations will be made only after a weighing of all relevant factors on a case-by-case basis, and we will apply the same principles and standards to all industries. [footnote omitted]
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> [Citation omitted.] This Commission subscribes to the point of view expressed by the NLRB in *Mallinckrodt* (in the context of member Fanning's dissent) . . . .
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> The Commission specifically notes:
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> 1. [The types of employees at issue] do not meet the well-established criteria for classification as skilled journeymen craftsmen.
> 2. A severance . . . would not be productive of stable labor relations . . . .
> 3. There is no history giving the petitioned-for employees an identity separate from others in the existing bargaining unit.
> 4. "All of the employees of the employer" . . . constitute an integrated support operation essential to the overall discharge by the [school] district of its primary educational function, and therefore are more appropriately dealt with as a unit.

Thus, all components of the statutory unit determination criteria have application in severance situations:

The duties, skills and working conditions of employees are considered in resolving almost all unit determination issues, but are particularly implemented in severance situations by the "distinct and homogeneous group of skilled journeymen craftsmen performing the functions of their craft" or "functionally distinct department, working in trades or occupations for which a tradition

of separate representation exists" inquiries. Consideration of the "qualifications of the petitioner seeking to 'carve out' a smaller unit" furthers the inquiry into the grounds for separate treatment.

The history of bargaining is clearly the main impediment to a severance, and tends to grow in importance with each passing day and year that the existing unit configuration is in existence.

The extent of organization compares the proposed unit to the whole of the employer's workforce, and is particularly implemented in severance situations by evaluating whether the employees in the proposed unit have established and maintained a separate identity during the period of their inclusion in a broader unit. The existence of disputes between bargaining unit members and their incumbent exclusive bargaining representative do not automatically warrant a severance, and must be balanced against concerns about excessive fragmentation of an employer's workforce.

The desires of employees are implemented by conducting a unit determination election under WAC 391-25-420, if and when it is found that a unit proposed for severance could be appropriate.[2] See *Mukilteo School District*, Decision 1008 (PECB, 1980). If the employees vote for severance, they will be responsible for overruling their own history of bargaining; if they fail to vote for severance, they will remain within the historical unit configuration.

While some of the policy concerns considered and applied by the NLRB in the private sector may arguably be inapplicable in the public sector in the absence of a right of public employees to

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[2] Because employee views on unit configuration may be closely related to their preferences for or against a particular organization, and because all employees are entitled to equal voice on such matters, the Commission does not receive testimony from employees or make unit determination decisions on the basis of testimony or authorization cards. See WAC 391-25-420.

strike,[3] limitations on severance inherently preserve the stability of bargaining relationships.

Duties, Skills and Working Conditions

Review of the evidence fails to support a conclusion that the petitioned-for facilities employees qualify for severance from the bargaining unit in which they have historically been represented. In fact, the proposed severance fails on several grounds.

The "distinct . . . group" Component -

The evidence indicates overlapping functions between departments in the current bargaining unit:

1. The employees in the proposed bargaining unit are under the same immediate supervisor, but there is no indication that labor relations or personnel affairs are conducted separately for this small division. While there are some separate contractual rights, such as the groupings of employees for purpose of exercising seniority in the event of layoff or

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[3] Contrasting with the explicit preservation of the right to strike set forth in Section 13 of the National Labor Relations Act (NLRA), RCW 41.56.120 states:

> Nothing contained in this chapter shall permit or grant any public employee the right to strike or refuse to perform his official duties.

Contrasting with language in Section 7 of the NLRA that gives private sector employees a right "to engage in other concerted activities for the purposes of collective bargaining or other mutual aid and protection" which encompasses the right to strike, RCW 41.56.040 omits any reference to "concerted activity" by public employees. Moreover, the Commission has refused to consider the potential for a strike as a factor in making a unit determination under RCW 41.56.060. *Clark County*, Decision 290-A (PECB, 1977).

vacation selection, many other contractual rights are standardized at a divisional or departmental level, or even across the entire existing bargaining unit.

2. Although the petitioned-for employees primarily work at the employer's main campus, they also work at other locations on occasion.

3. Other employees in the bargaining unit represented by the WSCCCE perform facilities maintenance functions in other departments and locations, and even have the same classification titles as the petitioned-for employees, but are not included in the bargaining unit proposed by the PNRCC.

4. The petitioned-for employees occasionally work at the same locations where the other employees providing facilities maintenance functions work, so that the proposed severance would create an ongoing potential for work jurisdiction conflicts even though employees from the separate departments have not historically worked side-by-side.

Caution is indicated in any "severance" situation, lest the creation of an additional bargaining unit create a potential for work jurisdiction disputes. Under *South Kitsap School District*, Decision 472 (PECB, 1978) and numerous subsequent decisions, any union certified as exclusive bargaining representative of a bargaining unit has the right to protect the work jurisdiction of that bargaining unit. An employer that desires to shift bargaining unit work to employees of another employer (termed "contracting out") or to other employees within its own workforce (termed "skimming") is obligated to give notice and provide an opportunity for bargaining before deciding upon and implementing any change from the status quo. In a later case involving some of the same positions, *South Kitsap School District,* Decision 1541 (PECB,

1983), two bargaining units with overlapping borders were both found to be inappropriate, and had to be combined in a subsequent representation proceeding.

The "skilled journeymen craftsmen" Requirement -

Under *Yelm School District, Monroe School District,* and *Clark County,* the Commission has limited terms such as "skilled crafts" and "trades" to groups of employees that have long traditions of separate organization representation in the private sector, e.g. carpenters, plumbers, painters, and electricians. Such employees traditionally attain "journeyman" status after several years of formal apprenticeship training under the oversight of an apprenticeship council while working under the close supervision of skilled craft persons. The history of bargaining for those types of employees predate the creation of the NLRB, the Congress of Industrial Organizations (CIO), and even the American Federation of Labor (AFofL).

The evidence in this case does not support the PNRRC claim of "craft" status for the employees it seeks to represent. While the employees in the proposed bargaining unit have two to 30+ years of experience in their "trade specialist II" or "maintenance worker II" classifications, the evidence does not establish that all of the employees in the proposed unit underwent the formal apprenticeship required for "journeyman" status in any of the traditional crafts.[4] While they are undoubtedly experienced and proficient in their work, the employees in the facility trade department thus do not qualify as journeymen as those terms are used in Commission precedents.

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[4] Indeed, the evidence only establishes that one employee, Ronnie Delaney, holds "journeyman" status.

Moreover, the duties performed by the petitioned-for employees are not of a distinct trade. Instead, the duties of the "trade specialist II" classification are diverse, as follows:

1. Performs *carpentry* work in the renovation, alternation, maintenance and constructs foundations using forms; *pours concrete* and installs doors, window, and wooden fixtures, etc.
2. Constructs Foundations using forms, pours concrete and installs reinforcing steel.
3. *Paints* walls; ceilings, and woodwork; refinish cabinets or other items; replace Formica desks, countertops, etc. Makes sign blanks; paints and letters signs.
4. *Operates heavy equipment*, including but not limited to, backhoe, caterpillar tractors, farm tractors, fork lifts, dump-trucks, and trailers.
5. *Applies herbicides and fertilizers* to park turf.
6. Supervises extra help workers in safety training, maintenance and equipment operation duties.
7. Performs other related duties as required.

Thus, the job description calls for expertise falling into the traditional work jurisdictions of several crafts. Further, the evidence indicates that the employees in the proposed bargaining unit are not called upon to perform all of the duties listed in their job description. In particular, the petitioned-for employees are not fully capable of pouring concrete.

The "maintenance worker II" classification specifically differs from the "trade specialist II" with regard to a focus on maintenance of the county grounds,[5] as follows:

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[5] Dean Moser testified that one "maintenance worker II" actually works as a custodian, and only substitutes as a maintenance worker on an irregular basis, when needed.

1. Prune trees and shrubs, plants and cultivate gardens to maintain healthy and attractive stock.
2. Maintain and repair maintenance equipment such as power saws, lawn mowers and sprinkler systems.
3. Install and maintain irrigation systems and various piping and plumbing systems.
4. Clean walks and grounds.

Overlapping duties between "maintenance worker II" and "trade specialist II" classifications include "applying pesticides, herbicides and fertilizers as part of the landscaping maintenance programs . . . perform other related duties as required, perform rough carpentry work in construction of tables, roads, concrete forms, etc".

The evidence fails to provide a basis to distinguish the petitioned-for employees from the employees working in the same classifications in other departments. The employees in the proposed bargaining unit primarily make furniture and perform indoor painting work. An employee who performs many of the same functions at the fairgrounds, including making furniture and painting walls, has the skills required to pour concrete as well as to install or repair electrical wiring and plumbing.

The Minimum Qualifications -

The requirements for the "trades specialist" classification differ markedly from the traditional apprenticeship required to gain journeyman status, as follows:

- TRAINING AND EXPERIENCE: Two (2) years of work experience in one or more of the Trades Specialist I skills; or Maintenance Worker I class with an emphasis in a trade or substituting successful completion of technical school training in the applica-

ble trade for up to one year of the desired experience.

- LICENSE: All positions require a valid driver's license. Certain positions may require a combination driver's license. Certain positions may require a valid herbicide applicator's license.

The minimum requirements for the "maintenance worker" classification also differ markedly from the traditional apprenticeship required to gain "journeyman" status, as follows:

- TRAINING AND EXPERIENCE: Two years experience at a level of Maintenance Worker I or a similar level of work in a related type of operation.

Importantly, neither set of minimum qualifications includes anything comparable to the formal requirements and external oversight associated with apprenticeship.

The "homogenous group" Component -

The testimony supplied in this record clearly confirms the inference made above from the job descriptions, to the effect that the functions performed by the petitioned-for employees are not of one distinct trade as in the "craft" model of the former AFofL unions. Instead, they are multi-functional "maintenance" functions more closely associated with the "industrial" model of the former CIO unions. There is no tradition of separate representation for multi-functional "maintenance" personnel.

Working Conditions -

All of the petitioned-for trade specialists and maintenance workers have some similar working conditions, including:

- Working in loud environments;
- Working irregular shifts;
- Wearing clothing appropriate for labor-intensive environment;
- Working with hazardous tools, machines and materials;
- Wearing protective gear;
- Attending regular safety meetings; and
- Working both inside and outside of buildings, in and around the "campus" area.

However, those working conditions are not unique or distinct. The trade specialist and maintenance workers performing facilities maintenance functions in other departments have similar working environments.

History of Bargaining

The history of bargaining between this employer and the WSCCCE predates the enactment of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, in 1967. Against that fact, arguments advanced by the PNRCC are found to be without merit:

- The loss to antiquity of details about the formation of the existing unit configuration and about the inclusion of the petitioned-for employees in the existing unit is not controlling.[6] What is important here is that the facilities employees have been represented by the WSCCCE for many years and there is no evidence that the employees at issue in this

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[6] Some testimony suggests that the facilities employees may not have been represented by the WSCCCE in 1956, but the details were lacking.

proceeding have any history of separate representation, either prior to or within their representation by the WSCCCE.

- The fact that petitioned-for employees have not been active in WSCCCE affairs recently does not provide basis for an inference that the WSCCCE has intentionally excluded them. The evidence shows that facilities employees served as union shop stewards prior to the last two years. It may be inevitable that some employees working on varying shifts in large and complex operations will be inconvenienced by union meeting schedules, but inconvenience does not rise to the level of systematic exclusion.

- Self-help by the employees involved to exclude themselves from union affairs is not binding on the Commission, just as agreements by employers and unions on unit determination matters are not binding on the Commission, under *City of Richland,* Decision 279-A (PECB, 1978), *aff'd,* 29 Wn. App. 599 (1981), *review denied,* 96 Wn.2d 1004 (1981).

The history of bargaining thus continues to weigh heavily against the severance proposed in this case.

Extent of Organization

The employer's total workforce numbers about 2000 employees. Simple mathematics provides basis for concern about excessive fragmentation in this case:

- Dividing the total workforce among the 21 existing bargaining units implies that each unit averages about 3.5 percent of the employer's overall workforce.

- The aggregate number of employees under the "master" contract between the employer and the WSCCCE is about 25 percent of the

total workforce, but the seven existing units represented by the WSCCCE still each average about 3.6 percent of the employer's total workforce.

- The bargaining unit proposed for severance by the PNRCC would be minuscule in comparison, encompassing less than one-half of one percent of the employer's overall workforce.

Moreover, the proposed unit limited to one of three divisions within the facilities department is clearly part of a larger operation. Thus, there is every reason for concern that allowing the severance proposed in this case would set a precedent for further unraveling of labor-management relationships and stability and eventually leading to excessive fragmentation of the bargaining process.

The employer's workforce provides a wide variety of services to and for the public. While the PNRCC correctly points out that the employees at issue in this proceeding do not provide direct services to the public, that distinction is not supported by citation of any statutory language or Commission precedent. The efforts of the petitioned-for employees to provide furniture and facilities for use by other Spokane County employees to use in serving the employer's customers are comparable to the efforts of the bus drivers in *Yelm*, who provided transportation services so that other employees of that employer could educate its customers. Both the *Yelm* case and this case involve "support" functions that contribute to the ultimate services provided to the public.

The possibility that work historically performed by petitioned-for employees could be contracted out in the future does not justify creation of a separate bargaining unit. Under the *South Kitsap* cases cited above, the employer would owe a duty to bargain to the

exclusive bargaining representative of its employees, regardless of whether it was the PNRCC or the WSCCCE that held that status. The severance proposed by the PNRCC would create a potential for more "skimming" claims regarding transfers of work within what is now a single bargaining unit represented by the WSCCCE.

The PNRCC assertion that the petitioned-for employees do not provide an "essential" service is not persuasive. Apart from the fact that the argument is not founded upon any provision of Chapter 41.56 RCW or any Commission precedent, decisions about whether to provide or maintain functions are "entrepreneurial" matters for the employer to decide. *Federal Way School District*, Decision 232-A (EDUC, 1977); *King County Fire District 16*, Decision 3714 (PECB, 1991). The Commission takes the facts as it finds them in representation cases. Inasmuch as Spokane County has decided to have its own facilities staff, the provisions of Chapter 41.56 RCW are fully applicable to those employees.

The "qualifications of the union" component of the severance criteria is not met in this case. While it is recognized that the PNRCC represents carpenters and painters in both the private and public sectors in and around Spokane County, the PNRCC has not provided evidence showing that it has any particular expertise (or any different expertise than the WSCCCE) with representing multi-functional "maintenance" workforces suggestive of the "industrial union" model.[7] Indeed, the testimony concerning work with herbicides and fertilizers was that "carpenters . . . don't do that type of work." Transcript 92.

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[7] The terms used in *Mallinckrodt* and Commission precedents on severances reflect the situation which existed prior to the merger of the AFofL and the CIO to form the "AFL-CIO" as the national umbrella organization for the labor movement.

FINDINGS OF FACTS

1. Spokane County (employer) is a public employer within the meaning of RCW 41.56.030(1).

2. Pacific Northwest Regional Council of Carpenters (PNRCC), a bargaining representative within the meaning of RCW 41.56.030(3), has filed a timely and properly supported petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of certain facilities employees of Spokane County.

3. Washington State Council of County and City Employees (WSCCCE), a bargaining representative within the meaning of RCW 41.56.030(3), has been granted intervention in the proceedings as the incumbent exclusive bargaining representative of the petitioned-for employees.

4. The WSCCCE has represented employees of Spokane County since approximately 1956, and currently represents approximately 500 employees in the current bargaining unit. Since at least 1993, all of the Spokane County employees represented by the WSCCCE have been covered by "master" collective bargaining agreements negotiated by the employer and WSCCCE.

5. Spokane County provides various services to the public and has chosen to hire personnel who provide services directly to the public, but has also chosen to hire personnel who provide indirect services to the public by supporting the employer's direct service functions.

6. The bargaining unit proposed for severance in this case is limited to one division within the employer's facility

department, and consists of one-half of one percent of the employer's overall workforce. Employees outside of the bargaining unit proposed for severance perform similar functions in other departments.

7. The petitioned-for employees are multi-functional maintenance employees, and are not a distinct and homogenous group of skilled journeymen craftsmen.

8. Employees in the unit proposed for severance have served as shop stewards for the WSCCCE in the past, and the evidence does not support a conclusion that they have been systematically excluded from rights or union affairs by their incumbent exclusive bargaining representative.

9. The severance of the bargaining unit proposed by the PNRCC would create an ongoing potential for work jurisdiction claims and disputes concerning "skimming" of bargaining unit work that do not exist in the historical unit configuration.

10. The PNRCC has not demonstrated particular experience or qualifications with representing groups of multi-functional maintenance employees.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-25 WAC.

2. The separate unit of facility trade employees proposed by the PNRCC is not an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, and no question concern-

ing representation currently exists under Chapter 391-25 WAC for such a bargaining unit.

ORDER

The petition of the Pacific Northwest Regional Council of Carpenters for the investigation of a question concerning representation is DISMISSED.

ISSUED at Olympia, Washington, this 4th day of October, 2002.

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 391-25-660.