

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
 )  
INTERNATIONAL ASSOCIATION OF )  
MACHINISTS AND AEROSPACE WORKERS ) CASE 18388-E-04-2490  
 )  
Involving certain employees of: ) DECISION 8734-A - PECB  
 )  
COMMUNITY TRANSIT ) DECISION OF COMMISSION  
 )  
\_\_\_\_\_ )

*Don Hursey*, Directing Business Representative, IAM/AW,  
District 160, for the union.

Summit Law Group, PLLC, by *Shannon E. Phillips*, Attorney  
at Law, for the employer.

This case comes before the Commission on a timely appeal filed by Community Transit (employer) seeking to overturn a direction of election issued by Executive Director Marvin L. Schurke.<sup>1</sup> The Commission affirms and adopts the Executive Director's decision and dismisses the objections.

BACKGROUND

On April 5, 2004, the International Association of Machinists and Aerospace Workers, District 160 (union) filed a representation petition with this Commission under Chapter 391-25 WAC seeking certification as exclusive bargaining representative of historically unrepresented employees in the "service quality monitor" (SQM) classification of the employer. An investigation conference was conducted on May 4, 2004, and an investigation statement issued

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<sup>1</sup> *Community Transit*, Decision 8734 (PECB, 2004).

the same day framed an issue as to the propriety of the bargaining unit proposed by the union. Hearing Officer Starr H. Knutson conducted a hearing on June 14, 2004, and the parties filed briefs.

In his decision issued on September 21, 2004, the Executive Director ruled that "a bargaining unit of all the employees performing as [SQMs], excluding confidential employees, supervisors, and all other employees of the employer, is an appropriate unit for the purposes of collective bargaining under RCW 41.56.060," and he directed an election. The union prevailed in a representation election held on October 14, 2004, and the employer filed objections to bring this case before the Commission.

#### DISCUSSION

The sole issue before the Commission is whether a bargaining unit consisting exclusively of SQMs is appropriate. This Commission has authority to determine appropriate bargaining units for purposes of collective bargaining. In structuring bargaining units, the Commission is guided by RCW 41.56.060, which states:

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.

The Commission's goal is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1002). The criteria outlined in RCW 41.56.060 are applied collectively to discern the existence of a "community of interest" among the employees of a particular employer. *Benton County*, Decision 7651-A (PECB, 2001).

Unit determinations are made on a case-by-case basis, and the starting point for any unit determination analysis is the configuration sought by the petitioning organization. *King County*, Decision 5910-A (PECB, 1997). The statute does not require determination of the "most" appropriate unit; it is only necessary that a petitioned-for unit be an appropriate unit. *City of Winslow*, Decision 3520-A (PECB, 1990).

This Commission has previously noted that the Legislature did not prioritize the criteria set forth in RCW 41.56.060, and has never required that all four factors be present within every case. However, the "duties, skills, and working conditions" component generally operates in all unit determination cases. *City of Seattle*, Decision 5910-A. History of the bargaining unit need only be considered where there is a history of representation, and the extent of organization and the desires of employees may be considered, but are not dominant factors towards the ultimate determination.

#### Duties, Skills, and Working Conditions

On appeal, the employer argues that the bargaining unit made up exclusively of the SQM positions is inappropriate because the SQMs have strong commonalities with other administrative and clerical employees. It also argues that the evidence demonstrates that the SQM position requires clerical skills to perform assigned duties similar to other administrative and clerical staff. We disagree.

The evidence and testimony presented demonstrates that the SQMs primarily collect and enter data about the employer's transit routes and ridership. Unlike other administrative and clerical workers, they perform at least 50% of their duties outside of the office and have variable work hours. Although other administrative and clerical workers at times perform functions similar to the SQM

classification, such as using a computer and answering phones, no evidence was presented to demonstrate that employees outside of the SQM classification could function as a SQM without considerable training. The Executive Director properly concluded that the unit was appropriate within the meaning of RCW 41.56.060.

The employer also argues that the Executive Director erred by finding that there is no evidence of any interchange of functions or personnel between the petitioned-for unit and other personnel. Testimony was provided that the SQMs regularly work with data specialists to compile and complete reports required by the federal government. However, interacting with other office personnel to complete work does not equate to an interchange of function or personnel. We agree with the Executive Director that any evidence of interchange described within its finding is lacking.

Finally, the employer argues that allowing the unit, based on some of the unique functions of the position, would unnecessarily fragment the employer's workforce and could potentially lead to the proliferation of small bargaining units based upon certain unique functions of a particular job. The employer correctly notes that this Commission has traditionally discouraged very small units, particularly where the positions can be fit into a broader unit. *Pierce County*, Decision 6051-A (PECB, 1998). However, this concern is less apt in situations where the proposed unit has been historically unrepresented. Declaring the proposed unit to be inappropriate based upon an employer's wish to prevent fragmentation of its workforce ignores the employees' statutory right to bargain collectively under Chapter 41.56 RCW.

Finally, the employer's argument concerning a proliferation of bargaining units is speculative. We have consistently held that speculation alone is not sufficient to control the outcome of a

unit determination proceeding. *City of Bremerton*, Decision 7739-A (PECB, 2003); *City of Redmond*, Decision 7814-B (PECB, 2003). Absent any evidence that allowing the proposed unit of SQM's would somehow lead to a proliferation of bargaining units, we reject the employer's contentions.

NOW, THEREFORE, it is

ORDERED

The Direction of Election issued by Executive Director Marvin L. Schurke in the above-captioned matter on September 21, 2004, is affirmed.

Issued at Olympia, Washington, the 4th day of March, 2005.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARILYN GLENN SAYAN, Chairperson

  
PAMELA G. BRADBURN, Commissioner

Commissioner Douglas G. Mooney did not take part in the consideration or decision of this case.

# PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
BY: /s/ MAJEL C. BOUDIA

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