

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
TEAMSTERS UNION, LOCAL 760 ) CASE 20927-E-07-3226  
Involving certain employees of: ) DECISION 9626 - PECB  
CITY OF ZILLAH ) DIRECTION OF CROSS-CHECK  
\_\_\_\_\_ )

*Robert Koerner*, Business Representative, for the union.

*Gary Clark*, Mayor, *Sharon Bounds*, City Clerk/Treasurer  
and *Dave Simmons*, Chief of Police, for the employer.

On February 23, 2007, the Teamsters Union, Local 760, filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of certain employees of City of Zillah. An investigation conference was held on March 15, 2007, where the parties entered into stipulations on all matters except the description of the bargaining unit. The employer declined to stipulate to the proposed unit description which included a reference to part-time employees. The dispute concerning the unit description was referred to the Executive Director.

ISSUE

The sole issue to be determined at this time is whether it is appropriate to use a generic description of "all full-time and regular part-time employees" when the employer does not currently have any part-time employees.

APPLICABLE LEGAL PRINCIPLES

The determination of bargaining units is a function delegated by the Legislature to the Commission under RCW 41.56.060. The description of an appropriate bargaining unit is a necessary ingredient in any final order certifying an exclusive bargaining representative. Unit descriptions often outlast the employer officials, union officials and employees who participate in the creation of a bargaining relationship, and must serve as a guide to resolve unit work jurisdiction questions for the entire duration of the bargaining relationship. There is thus a concern for clarity and consistency on the part of the Commission in such matters.

Commission precedents dating back to the onset of agency operations have used generic terms such as "full-time and regular part-time" in unit descriptions even when no part-time employees existed at the time the petition was filed. *City of Union Gap*, Decision 5486 (PECB, 1996).

If the employer were to employ part-time employees in the future, Commission precedent codified in WAC 391-35-350 provides:

It shall be presumptively appropriate to include regular part-time employees in the same bargaining unit with full-time employees performing similar work, in order to avoid a potential for conflicting work jurisdiction claims which would otherwise exist in separate units.

Examination of the case file indicates that the union submitted a showing of interest in excess of the 70 percent required by WAC 391-25-391. If employees desire to withdraw their authorization cards in advance of a cross-check, the procedure for doing so is detailed in WAC 391-25-410(2).

The Commission's rules limit the availability of the "cross-check" procedure, as follows:

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES.

(1) Where *only one organization is seeking certification* as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that the *organization has been authorized by in excess of seventy percent of the employees* to act as their representative for the purposes of collective bargaining, the executive director may issue a direction of cross-check.

(2) A direction of cross-check and other rulings in the proceedings up to the issuance of tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the cross-check. An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.

Therefore, the Executive Director deems it appropriate to proceed with a cross-check for the purposes of determining the exclusive bargaining representative.

NOW, THEREFORE, it is

ORDERED

1. The employer shall immediately supply the Commission with copies of documents from its employment records which bear the signatures of the employees on the eligibility list stipulated by the parties.

2. A cross-check of records shall be made by the staff of the Public Employment Relations Commission in the appropriate bargaining unit described as:

All full-time and regular part-time clerical employees of the City of Zillah, excluding supervisors, confidential employees and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized the Teamsters Union, Local 760, to represent them for purposes of collective bargaining.

Issued at Olympia, Washington, on the 5th day of April, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.