STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
DENNIS REDMON	)	CASE 20994-E-07-3243
	)	
Involving certain employees of:	)	DECISION 9665 - PSRA
	)	
WASHINGTON STATE - REVENUE	)	
	)	
In the matter of the petition of:	)	
	)	CASE 20995-E-07-3244
BRIAN O'SULLIVAN	)	
	)	DECISION 9666 - PECB
Involving certain employees of:	)	
	)	
WASHINGTON STATE - REVENUE	)	ORDER OF DISMISSAL
	)	

On March 29, 2007, Dennis Redmon and Brian O'Sullivan each filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking to decertify the Washington Public Employees Association (WPEA) as exclusive bargaining representative of certain employees at Washington State Department of Revenue.

On April 10, 2007, the employer responded to a routine letter requesting a list of employees for each petition. Review of the showing of interest provided by the petitioners revealed that some of the cards did not meet our requirements for a proper showing of interest. A deficiency notice was issued on April 23, 2007, pointing out the defects. The petitioners were given until May 8, 2007, to show good cause why their petitions should not be dismissed. To date, neither petitioner has responded.

DISCUSSION

It is well settled that showing of interest cards must be dated and
must be current. A substantial number of the cards submitted were
dated March 2005, which was the **previous** decertification window
period. Cards signed and dated from that period are not current to
this campaign. A. *Werman & Sons,* 114 NLRB 629 (1956).

In addition, those same cards were ambiguous in that they did not
clearly indicate that the card signer did not wish to be repre-
sented by the WPEA. In order to be valid, cards must clearly state
that the card signer no longer wishes to be represented. Mere
concurrence with having an election is not sufficient. *King
County,* Decision 2644 (PECB, 1987).

Excluding the cards that were ambiguous and not current resulted in
less than the requisite 30 percent showing of interest.

WAC 391-25-110 requires that a petitioner provide an adequate
showing of interest before the Commission conducts a representation
election.

> WAC 391-25-110   SUPPORTING EVIDENCE - SHOWING OF
> INTEREST CONFIDENTIAL. (1) A petition filed by employees
> or an employee organization shall be accompanied by a
> showing of interest *indicating that the petitioner has
> the support of thirty percent or more of the employees in
> the bargaining unit* which the petitioner claims to be
> appropriate. *The showing of interest shall be furnished
> under the same timeliness standards applicable to the
> petition*, and shall consist of original or legible copies
> of individual authorization cards or letters signed and
> dated by employees in the bargaining unit claimed
> appropriate.

(emphasis added).

RCW 41.56.070 creates a "contract bar" which is restated in the Commission's rules as follows:

> WAC 391-25-036 SPECIAL PROVISION--STATE CIVIL SERVICE EMPLOYEES.
> (1) The "window" period specified in WAC 391-25-030(1) shall be computed as not more than one hundred twenty nor less than ninety days prior to the stated expiration date of the collective bargaining agreement.

Upon examination of the collective bargaining agreement covering the petitioned-for bargaining unit, it appears the "window" period has closed. As stated in WAC 391-25-110, the showing of interest must be filed under the same standards applicable to the petition so the insufficiency of showing of interest could not be remedied by the filing of additional cards. The petitions must be dismissed.

NOW, THEREFORE, it is

<u>ORDERED</u>

The petitions for investigation of a question concerning representation filed in the above-captioned matters are hereby, DISMISSED for insufficient showing of interest.

Issued at Olympia, Washington, this __9th__ day of May, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

CATHLEEN CALLAHAN, 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.