STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL FEDERATION OF)
PROFESSIONAL AND TECHNICAL)
ENGINEERS, LOCAL 17,)
)   CASE NO. 5779-U-85-1067
)
)
             Complainant,   )   DECISION NO. 2228 - PECB
)
   vs.   )
)   PRELIMINARY RULING
KING COUNTY,   )
)
             Respondent.   )
_____)

The complaint charging unfair labor practices was filed in the captioned matter on April 18, 1985. The factual allegations of the complaint are as follows:

    I.   On June 11, 1984 Local 17 requested voluntary recognition by the employer as exclusive bargaining representative on behalf of all clerical employees employed by the King County Superior Court's Family Court Division. Local 17 had a 100% showing of interest to support this request. The employer refused to grant Local 17 voluntary recognition.

    II. On June 27, 1984 Local 17 filed a petition raising a question concerning representation on behalf of all Family Court Division clerical employees. The employer resisted this petition alleging the proposed unit was inappropriate. It was the employer's position that an appropriate unit would be a unit consisting of all King County Superior Court clerical employees and not just those employed by the Family Court Division. A formal hearing to determine the appropriate unit was convened by PERC on December 10, 1984.

    III. A decision has yet to be rendered as to the appropriateness of Local 17's petitioned or (sic) unit.

    IV. On March 12, 1985 the employer informed all Superior Court employees that non represented personnel would receive a 2.56% cost of living increase in their March 20 paycheck. On March 20, 1985 all King County Superior Court clerical employees except those who expressed an interest in being represented by Local 17 received a 2.56% cost of living increase in their paycheck.

    V.   The actions of the employer in granting cost of living increases to employees who had not expressed an interest in being represented by Local 17 and denying the increase to those who did is inherently destructive of guaranteed rights and constitutes prohibited interference, restraint, and coercion.

The representation case referred to was dismissed in <u>King County</u>, Decision 2157 (PECB, 1985), where it was concluded that the unit sought by the petitioner (the complainant herein) was not an appropriate unit for the purposes of collective bargaining. The time for filing of a petition for review has passed, and that proceeding is now closed.

An employer has an obligation to refrain from making unilateral changes of wages, hours or working conditions of employees affected by a representation case during the pendency of the representation proceedings. Even where it negotiates or implements changes concerning employees not affected by the representation petition, the employer must avoid controversial involvement with the employees subject to a question concerning representation. <u>Yelm School District</u>, Decision 704-A (PECB, 1980). The only substantial deviation from the foregoing rule is where an employer implements a previously scheduled change, such that denial of the change would be an alteration of the "dynamic status quo". The allegations in the instant case fall short of suggesting that the employees in the petitioned-for bargaining unit had any reasonable expectancy of a pay increase of the amount implemented and at the time implemented by the employer for its other employees.

Assuming all of the facts alleged to be true and provable, the complaint fails to state a cause of action and is subject to dismissal under WAC 391-45-110. With the guidance provided here, the complainant may be better able to focus attention on conduct which would constitute an unfair labor practice.

NOW, THEREFORE, it is

<u>ORDERED</u>

The complainant will be allowed a period of fourteen (14) days following the date of this Order to amend the complaint. In the absence of an amendment, the complaint will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this __17th__ day of May, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director