STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ENERGY NORTHWEST (WASHINGTON PUBLIC POWER SUPPLY SYSTEM), Employer.	)	
STEVE SOLNICKA, Complainant,	)	CASE 14423-U-99-3574
vs.	)	DECISION 6746 - PECB
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 77, Respondent.	)	ORDER OF DISMISSAL
STEVE SOLNICKA, Complainant,	)	CASE 14424-U-99-03575
vs.	)	DECISION 6747 - PECB
ENERGY NORTHWEST (WASHINGTON PUBLIC POWER SUPPLY SYSTEM) Respondent.	)	ORDER OF DISMISSAL

On March 2, 1999, Steve Solnicka filed two unfair labor practice complaints with the Public Employment Relations Commission under Chapter 391-45 WAC. Two separate case numbers were assigned, consistent with the Commission's docketing procedures:

- Case 14423-U-99-03524 was docketed for charges against International Brotherhood of Electrical Workers, Local 77 (union); and

- Case 14424-U-99-03575 was docketed for charges against the Washington Public Power Supply System, now called Energy Northwest (employer).

Both cases were examined for purposes of making a preliminary ruling under WAC 391-45-110.[1] A deficiency notice was issued on June 1, 1999, and the complainant was given 14 days in which to file and serve an amended complaint or face dismissal of the cases.

Amended complaints filed by the complainant on June 15, 1999, are again before the Executive Director under WAC 391-45-110. The complaints still fail to state a cause of action, for the reasons enumerated below, and must be dismissed.

DISCUSSION

Steve Solnicka is identified as an employee of the employer, and as a member of the bargaining unit represented by the union. The controversy arises out of a "Joint Communication" negotiated by the employer and the union, and signed under date of October 6, 1998. That agreement includes: A committee to develop flexible medical benefits; an agreement limiting the parties' negotiations for a successor agreement; a 2% lump sum payment; vacation scheduling options; and a joint labor/management team to review work practices, training and radiation protection. Solnicka asserts that various parts of the "communication", and particularly the elements concerning the joint selection of a benefits consultant and the

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[1] At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether the complaint as filed, states a claim for relief available through the unfair labor practice proceedings before the Commission.

agreement to limit future contract negotiations, violates unspecified provision of Chapter 41.56 RCW.

Limits on Future Negotiations

Solnicka argued that the employer and union created some sort of "contract bar" when they negotiated a committee to develop flexible medical benefits and agreed to limited general negotiations, which Solnicka sees as foreclosing future negotiations concerning health care. The deficiency notice identified problems with that claim, and Solnicka's amended complaint states:

> The flexible health care benefits offered by Supply System/Energy Northwest are offered to employee on a one year basis with rate change possibilities accordingly. When we were faced with high rate increases for calendar year 1999, many of our employees wanted to be insured with the PEBB plan. Supply System/ Energy Northwest employees were told they could not switch to PEBB or any other insurance. The reason was that a two year contract existed between Supply System Energy Northwest and Group Health Northwest. ...

While Solnicka's amended complaint clearly indicates that he disagrees with the employer and union about benefits, dissatisfaction by individual bargaining unit members with an agreement between the employer and the exclusive bargaining representative does not provide basis for finding an unfair labor practice violation. The duty to bargain exists only between an employer and union under RCW 41.56.030(4), and the parties to a collective bargaining relationship have the authority to agree to terms and conditions that will be binding for up to three years into the future. RCW 41.56.070. The stability provided by contracts is at the very heart of the collective bargaining process, and nothing in

Chapter 41.56 RCW guarantees employees a right to annual changes of their wages, hours or working conditions. The opinions of individual bargaining unit members may vary on many parts of a negotiated agreement, but such disagreements must be worked out during negotiations or during the contract ratification process. A union is certified by majority vote among the employees in a bargaining unit, rather than by unanimity. A union has a duty of "fair" representation to the employees it represents, but it not obligated to satisfy each and every one of them.

Nothing in the amended statement of facts suggests that the complained-of agreement contains anything that is illegal or improper. The contract bar "window" period created under RCW 41.56.070 when the original contract was signed could not be closed or limited by the signing of the contract extension, but would only operate if employees or another union file a representation petition under Chapter 391-25 WAC. The contract extension created a second contract bar "window" period in the months preceding the expiration of the contract extension. This allegation does not state a cause of action.

Disputed Contract Provisions

Solnicka asserted that the agreement of the employer and union to establish a permanent employer-employee committee on benefits (with participation of a jointly-selected insurance consultant) precludes the use of the state Public Employees Benefits Board for that purpose. The usual assumption that all of the facts alleged are true and provable does not require the Executive Director to ignore conflicts within a complaint, and the deficiency notice pointed out that examination of the document at issue in these cases does not support the claim that it excludes future changes of consultants or decision-making processes. The amended complaint states:

> Simply stated, I believe if the Employer has a two year contract with an insurance carrier for it's employee's [sic], then rates should be fixed for two years. Conversely, if rates are open for yearly adjustment, then the choice of employees to belong to another carrier as one consolidated group for rate advantage, should be open yearly also.

As indicated above, however, the specific details of insurance benefits and their administration are mandatory subjects of collective bargaining to be negotiated between an employer and the exclusive bargaining representative of its employees. Solnicka disagrees with the employer and union about details which were likely part of the negotiation process. While his opinions might have been useful to the union during the negotiations, the mere fact the final agreement does not reflect his opinion does not give rise to a cause of action against either the employer or union.

Automatic Contract Extension

Solnicka asserted that the agreement of the employer and union to limit subjects to be negotiated under a contract re-opener amounts to an unlawful extension of the collective bargaining agreement or an automatic renewal of that agreement. See, RCW 41.56.070. In his amended complaint, Solnicka stated that he interprets the contract negotiated between the employer and the union as barring any future negotiation of provisions with which employees had disputes or disagreements.

Contracts are a creature of the parties, and parties to collective bargaining relationships often institute limited negotiations to focus on particular issues which are of concern. Regardless of their motive in this case however, the complainant has not provided any additional facts which would change the "limited negotiations"

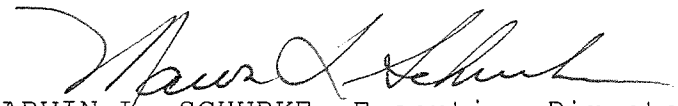
agreement into an illegal "automatic renewal" clause. While he cites City of Tacoma, Decision 5085 (PECB, 1995), for the proposition that if provisions in a collective bargaining agreement are "limited" then they fall into the category of a contract extension, that decision did not examine the validity of agreed-upon contract provisions. Rather, it determined whether the statutory extension of a contract, pursuant to RCW 41.56.123, constitutes a bar to a representations petition under RCW 41.56.070. It is not applicable in the instant case. Solnicka has not provided additional information or facts which would show that the employer and union negotiated an "automatic renewal" clause, or that they have negotiated a contract with a fixed term more than three years following their last ratification action. Therefore this allegation does not state a cause of action and must be dismissed.

ORDERED

The complaints charging unfair labor practices filed in the above-captioned matters are hereby DISMISSED.

Issued at Olympia, Washington, this 19th day of July, 1999.

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 391-45-350.