

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|                              |   |                      |
|------------------------------|---|----------------------|
| INTERNATIONAL ASSOCIATION OF | ) |                      |
| FIRE FIGHTERS, LOCAL 1052,   | ) |                      |
|                              | ) |                      |
| Complainant,                 | ) | CASE 15425-U-00-3900 |
|                              | ) |                      |
| vs.                          | ) | DECISION 7319 - PECB |
|                              | ) |                      |
| CITY OF RICHLAND,            | ) |                      |
|                              | ) |                      |
| Respondent.                  | ) | ORDER DENYING        |
|                              | ) | MOTION TO AMEND      |
|                              | ) |                      |
|                              | ) |                      |

---

Emmal Skalbania and Vinnedge, by Alex J. Skalbania, Attorney at Law, appeared for the complainant.

Menke Jackson Beyer Elofson and Ehlis, L.L.P., by Rocky L. Jackson, Attorney at Law, appeared for the respondent.

On October 6, 2000, International Association of Fire Fighters, Local 1052 (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Richland (employer) as respondent. A preliminary ruling was issued under WAC 391-45-110 on December 13, 2000, finding a cause of action to exist with respect to allegations of:

Employer interference with employee rights and refusal to bargain in violation of RCW 41.56-.140(1) and (4), by breach of its good faith bargaining obligations through delays in negotiations, and refusal to schedule meetings at reasonable times.

Martha M. Nicoloff was assigned as Examiner, and the matter was scheduled for hearing on April 4 and 5, 2001. Subsequently, this

case was consolidated for processing with a case the employer filed against the union, Case 15599-U-01-3952.

On February 13, 2001, the union sought to amend the complaint to allege several additional violations of RCW 41.56.140:

- The union alleges that, when the parties finally met in negotiations, the employer's initial proposal included numerous substantive changes to the collective bargaining agreement between the parties, including the deletion of all grievance procedures, removal of prevailing rights, elimination of seniority as a factor in reductions in force, elimination of various premium and incentive pays, increase in hours in the work week, elimination of certain "just cause" provisions, and a number of other changes, which reflect the lack of a good faith effort by the employer to reach agreement with the union on a new collective bargaining agreement.
- The union alleges that the employer has made a number of unilateral changes in working conditions or threatened unilateral changes in working conditions in various components of its operation, including the technical rescue team, a new "disciplinary matrix," a department reorganization involving creation of or changes to a number of fire department jobs, and change of job assignment and pay rate for bargaining unit employee Keith Ramsay.

In addition, while the original complaint purported to concern a bargaining unit which includes both fire fighters and battalion chiefs, the amended complaint claims that both the original and amended complaints are being filed on behalf of two bargaining units, one composed of battalion chiefs, and one which includes all fire fighting personnel below the rank of battalion chief.

DISCUSSION

The Examiner has considered the union's motion for amendment,<sup>1</sup> and concludes that it must be denied.

The Washington Administrative Code (WAC) allows for the amendment of unfair labor practice complaints. WAC 391-45-070 outlines the criteria for such amendments.

(1) A complaint may be amended upon motion made by the complainant, if:

(a) The proposed amendment only involves the same parties as the original complaint;

(b) The proposed amendment is timely under any statutory limitation as to new facts;

(c) The subject matter of the proposed amendment is germane to the subject matter of the complaint as originally filed or previously amended; and

(d) Granting the amendment will not cause undue delay of the proceedings.

It is clear that the proposed amendments are timely under RCW 41.56.160, but there are concerns with regard to other requirements of the rule:

- The changed allegations regarding the bargaining unit(s) involved in the proceeding touch on a unit clarification proceeding already pending before the Commission under Chapter 391-35 WAC. In a petition filed on January 2, 2001, and docketed as Case 15556-C-01-1004, the employer has asked that

---

<sup>1</sup> These motions to amend are properly before the Examiner. WAC 391-45-070(2)(b) includes: "After the appointment of an examiner but prior to the opening of an evidentiary hearing, amendment may be allowed upon motion to the examiner and subject to due process requirements."

the battalion chiefs be separated from the rank-and-file fire fighters. The Executive Director has already corresponded with the parties in that proceeding, and the Examiner deems it inappropriate to intrude on that process.

- While the original complaint concerns the failure or refusal of a party to meet at reasonable times and places, the proposed amendments concern the substantive proposals and good faith of the parties once negotiations actually commenced.
- The proposed amendments concern alleged unilateral changes and/or threats of unilateral changes quite separate and apart from the refusal to meet theory of the original complaint.

Thus, the subject matter of the proposed amendments is not germane to the issues raised by the original complaint. In accordance with WAC 391-45-070(3), the proposed amendments will be docketed as new cases, and will be processed independently.

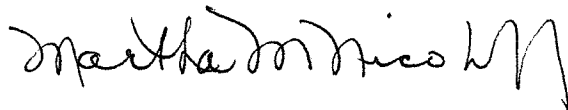
NOW, THEREFORE, it is

ORDERED

The motion to amend the complaint charging unfair labor practices in this matter is denied.

ISSUED at Olympia, Washington, this 21<sup>st</sup> day of March, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARTHA M. NICOLOFF, Examiner