

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|                               |   |                      |
|-------------------------------|---|----------------------|
| INTERNATIONAL BROTHERHOOD OF  | ) |                      |
| ELECTRICAL WORKERS, LOCAL 77, | ) |                      |
|                               | ) |                      |
| Complainant,                  | ) | CASE 20866-U-07-5317 |
|                               | ) |                      |
| vs.                           | ) | DECISION 9843 - PECB |
|                               | ) |                      |
| PUBLIC UTILITY DISTRICT 1 OF  | ) |                      |
| SNOHOMISH COUNTY,             | ) | ORDER OF DISMISSAL   |
|                               | ) |                      |
| Respondent.                   | ) |                      |
| <hr/>                         |   |                      |

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by the International Brotherhood of Electrical Workers, Local 77 (union) on January 22, 2007. A deficiency notice was issued on January 24, 2007. The union amended its complaint on February 13, 2007. The amended complaint alleged that Snohomish PUD (employer) interfered with employee rights in violation of RCW 41.56.140(1) and refused to bargain in violation of RCW 41.56.140(4), by its unilateral change in switching and clearing procedure, without providing an opportunity for bargaining. The amended complaint was reviewed under WAC 391-45-110.<sup>1</sup> A preliminary ruling and deferral inquiry was issued on March 1, 2007, finding a cause of action to exist and providing the employer

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the amended complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the amended complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

with an opportunity to file an answer to the amended complaint. The employer was asked to specify in its answer whether deferral to arbitration was requested. In an answer filed on March 21, 2007, the employer requested that the amended complaint be deferred to arbitration.

The Commission's policy concerning deferral to arbitration is contained in the following provisions of WAC 391-45-110(3):

WAC 391-45-110 Deficiency notice - Preliminary ruling - Deferral to arbitration.

(3) The agency may defer the processing of allegations which state a cause of action under subsection (2) of this section, pending the outcome of related contractual dispute resolution procedures, but shall retain jurisdiction over those allegations.

(a) Deferral to arbitration may be ordered where:

(i) Employer conduct alleged to constitute an unlawful unilateral change of employee wages, hours or working conditions is arguably protected or prohibited by a collective bargaining agreement in effect between the parties at the time of the alleged unilateral change;

(ii) The parties' collective bargaining agreement provides for final and binding arbitration of grievances concerning its interpretation or application; and

(iii) There are no procedural impediments to a determination on the merits of the contractual issue through proceedings under the contractual dispute resolution procedure.

(b) Processing of the unfair labor practice allegation under this chapter shall be resumed following issuance of an arbitration award or resolution of the grievance, and the contract interpretation made in the contractual proceedings shall be considered binding, except where:

(i) The contractual procedures were not conducted in a fair and orderly manner; or

(ii) The contractual procedures have reached a result which is repugnant to the purposes and policies of the applicable collective bargaining statute.

The amended complaint and answer were reviewed under WAC 391-45-110(3). On March 28, 2007, the amended complaint was deferred to

arbitration. On August 7, 2007, the union sent a letter to the unfair labor practice manager withdrawing its amended unfair labor practice complaint in Case 20866-U-07-5317.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in the above captioned matter is DISMISSED.

ISSUED at Olympia, Washington, this 24<sup>th</sup> day of August, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

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.

# PUBLIC EMPLOYMENT RELATIONS COMMISSION


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## RECORD OF SERVICE - ISSUED 08/24/2007

The attached document identified as: **DECISION 9843 - PECB** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
BY *RS* ROBBIE DUFFIELD

CASE NUMBER: 20866-U-07-05317 FILED: 01/22/2007 FILED BY: PARTY 2  
DISPUTE: ER UNILATERAL  
BAR UNIT: ALL EMPLOYEES  
DETAILS: Executive - All  
COMMENTS:

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