

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL BROTHERHOOD OF)	
ELECTRICAL WORKERS, LOCAL 77,)	
)	
Complainant,)	CASE 15254-U-00-3852
)	
vs.)	DECISION 7277 - PECB
)	
LEWIS COUNTY PUBLIC UTILITY)	
DISTRICT,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission on June 16, 2000. The complaint was filed by IBEW, Local 77 (union) against Lewis County PUD (employer). The union was certified by the Commission on March 26, 1999, as the exclusive bargaining representative for hydrospecialists employed at the Cowlitz Falls Hydro Electric Project. See *Lewis County PUD*, Decision 6622-A (PECB, 1999).

On September 27, 2000, a deficiency notice was issued for the complaint under WAC 391-45-110.¹ The allegations of the complaint were then characterized as:

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, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

Employer interference and refusal to bargain in violation of RCW 41.56.140(1) and (4), by refusing to provide a previously-budgeted cost-of-living wage increase to employees.

The deficiency notice indicated that the Commission has consistently held that once employees have exercised their statutory right to select an exclusive bargaining representative, an employer is prohibited from taking unilateral action in regard to the wages, hours, and working conditions of those employees, and has the obligation to maintain the status quo. See *Franklin County*, Decision 1890 (PECB, 1984). The wages of bargaining unit employees become a subject for collective bargaining and an employer's status quo obligations commence, as soon as the union becomes the exclusive bargaining representative of the employees involved. See *Snohomish County Fire District 3*, Decision 4336-A (PECB, 1994). The deficiency notice informed the complainant that absent the filing and service of an amended complaint stating a cause of action within 21 days following the date of the deficiency notice, the complaint would be dismissed.

On October 11, 2000, the complainant filed an Amended Statement of Facts in response to the deficiency notice. The Amended Statement of Facts indicates that prior to the union's certification, the employer had a longstanding practice of granting regular annual wage increases to its employees at Cowlitz Falls Dam. The Amended Statement of Facts alleges that this practice was an established term and condition of employment for employees. In a letter accompanying the Amended Statement of Facts, the union recites various cases from the National Labor Relations Board in support of its position.

Any materials filed by a complainant in response to a deficiency notice must be reviewed under WAC 391-45-110. In this matter, the

employer did not budget for a wage increase, then refuse to grant the increase after employees organized to form a union. Instead, the union was certified in March, 1999, and in April, 1999, the employer budgeted a cost of living wage increase for all of its employees at Cowlitz Falls Dam, to be effective January 1, 2000. The employer is legally required to maintain the status quo after certification of the union. Granting bargaining unit employees a wage increase in January of 2000 would have violated this obligation. The Amended Statement of Facts fails to cure the defects indicated in the deficiency notice.

NOW THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 31st day of January, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

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.