

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON STATE COUNCIL OF COUNTY)	
AND CITY EMPLOYEES)	CASE 14125-C-98-914
)	
For clarification of an existing)	DECISION 7035 - PECB
bargaining unit of employees of:)	
)	
PIERCE COUNTY RURAL LIBRARY)	
DISTRICT)	ORDER CLARIFYING
)	BARGAINING UNIT
)	

Timothy L. Liddiard, Staff Representative, appeared for the union.

Mann, Johnson, Wooster and McLaughlin, by Richard H. Wooster, Attorney at Law, appeared for the employer.

On September 8, 1998, the Washington State Council of County and City Employees (union) filed a petition with the Public Employment Relations Commission under Chapter 391-35 WAC, seeking clarification of an existing bargaining unit of employees of Pierce County Rural Library District (employer). As originally filed, the petition was limited to an "account collection specialist" position. A hearing was conducted on August 5, 1999, by Hearing Officer Jack T. Cowan. The Hearing Officer took a motion to amend the petition under advisement. Both parties filed briefs, and an issue arose concerning the timeliness of the union's brief.

The Executive Director concludes that the motions to amend the petition and to strike the brief are properly denied, and that the bargaining unit status of the disputed position should not be changed.

BACKGROUND

The bargaining unit at issue here dates back to 1974. In an order issued on May 31, 1974,¹ the Pierce County Library Staff Association was certified as exclusive bargaining representative of a bargaining unit described as follows:

UNIT: All Regular full-time and part-time employees of Pierce County Rural library District

EXCLUDED: Coordinator of Adult Book Materials, Coordinator of Audio-Visual Services, Coordinator of Children's Services, Coordinator of Extension Services, Coordinator of Reference Services, Coordinator of Technical Services, Coordinator of Special Services, Public Information Officer, and the Bookkeeper.

The Director, the Business Manager, the Confidential Secretary to the Director and any Secretary to the Board, the work of which secretary has to do with confidential matters relating to labor relations.

At an unspecified time and by unspecified means, the Washington State Council of County and City Employees became the exclusive bargaining representative of that bargaining unit.

The employer and union are parties to a collective bargaining agreement for the period from January 1, 1998 through December 31, 2000, in which the bargaining unit is described as:

¹ From 1967 through 1975, Chapter 41.56 RCW was administered by the Department of Labor and Industries. The Public Employment Relations Commission took over administration of the statute on January 1, 1976.

[A]ll regular full-time and regularly scheduled part-time employees as set forth in Index of Titles, for whom the Union was certified by the Department of Labor and Industries ... dated May 31, 1974, and all those subsequently certified.

This Agreement is applicable to employees of Pierce County Library System as noted in the index of classifications table, with the exception of substitutes and those temporary employees with assignments of six (6) months or less duration.

The "Index of Classification Titles by Salary Range" contained the following titles covered by the agreement:

Page	Volunteer Coordinator
Office Aide	Graphics Designer
Library Aide	Computer Support
Maintenance Assistant I	Specialist
Maintenance Assistant II	Electronics Specialist
Office Assistant	Audio/Visual Specialist
Branch Assistant I	Reference Associate
Branch Assistant II	Assistant System Trainer
Library Assistant I	Facilities Specialist
Library Assistant II	Maintenance Supervisor
Library Assistant III	Custodial Supervisor
Graphics Assistant	Assistant Branch
Custodian	Supervisor
Driver I	Graphics Supervisor
Driver II	Network Support
Storyteller	Specialist
Printing Technician	Library Support
Acquisitions Specialist	Supervisor
Interlibrary Loan	Branch Supervisor
Specialist	System Trainer
Computer Support	Librarian
Technician	Cataloging Librarian
Bookmobile Operator	Collection Management
Community Branch	Librarian
Supervisor I	Supervising Librarian
Community Branch	
Supervisor II	

Apart from the job classifications listed in the parties' contract, the employer has a number of unrepresented employees working in its business office. Those positions appear to have existed for a number of years, and the union never claimed to represent any of those business office positions prior to these proceedings.

The instant dispute arose when the employer decided to transfer certain work historically performed by bargaining unit employees to a new position in its business office. Briefly:

- For several years predating, the duties of bargaining unit member Sheila Naylor as a "library assistant II" in the Technical Services/Circulation Department included an account collection effort.²
- When Naylor left her job with the employer, her account collection responsibilities were turned over to another bargaining unit employee, Joan Wood.
- During negotiations for the parties' current contract, the employer proposed creation of a new "account collection specialist" position in the business office, but the union resisted removal of that work from the bargaining unit.
- The employer gave a bargaining unit employee, Pauline Monk, two separate half-time assignments: (1) As the account collection specialist; and (2) as the volunteer coordinator.

² The focus of the assignment was on collecting fines levied for overdue and lost library materials. Naylor contacted library patrons who had accrued \$75.00 or more in library fines. If the patron was unwilling or unable to pay the amount due, Naylor would turn the matter over to a collection agency for further action.

Prior to the conclusion of the parties' negotiations on a successor contract, the union filed the petition to initiate this unit clarification proceeding.

PROCEDURAL ISSUES

Motion To Strike Brief

The Hearing Officer established a "mailed by October 11, 1999" deadline for the parties' post-hearing briefs. The employer's brief was received on October 13, 1999, but the union's brief did not arrive until October 20, 1999. The employer then filed a motion to have the union's brief excluded as untimely. The Executive Director denies the employer's motion.

WAC 10-08-200 sets forth the authority of a presiding officer in an adjudicative proceeding. Of importance on this motion, that rule specifies that a presiding officer can:

(9) Permit or require oral argument or briefs and determine the time limits for submission thereof

The value of written briefs lies in the hope that they will set forth a party's view of the facts and its arguments in a more cogent manner than might be presented at a hearing. Inasmuch as unit clarification proceedings are "investigatory",³ rather than "adversary", litigation concepts such as "default" are inapplicable. Neither party has been or will be prejudiced by allowing both

³ Representation proceedings under Chapter 391-25 WAC also fall into this category.

briefs to be considered as part of the record in this unit clarification proceeding.

Additional support for denial of the motion is found in a letter filed by the union representative on January 25, 2000, stating:

I contacted [the Hearing Officer] on October 11th, 15th, and 19th to request and confirm extensions to the ... deadline [for briefs]. I also discussed with you that I had attempted to contact [counsel for the employer] three times during this time and that he would not respond to my calls. Based on these facts, you approved the requested extensions.

... I can assure you that [the employer's] brief was a complete non-factor in the authoring of the Union's brief. [The employer's] brief was not read by any member of Council 2 prior to the submission of the Union's timely post hearing brief and was not considered in any way.

An extension of time granted under WAC 391-08-180 clearly explains the delayed mailing of the union's brief.

Motion To Amend Petition

At the hearing, the union sought to expand the scope of the proceedings to cover additional positions in the employer's business office. Citing the "all ... employees" language of the certification, the union asserted that all of the business office employees other than those holding the "bookkeeper" and "business manager" titles mentioned in the certification should be included in the bargaining unit. The employer resisted the union's motion, arguing that the union had not given proper notice of its intent to expand the scope of the hearing beyond the position originally specified in the petition. The Hearing Officer took the motion

under advisement, and the hearing was limited to the "account collection specialist" position originally at issue. The Executive Director denies the union's motion.

Amendments Permitted, Not Guaranteed -

WAC 391-35-070 acknowledges the possibility of amending a unit clarification petition, using the following terms:

Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the executive director or the commission may impose.

While that rule provides latitude for dealing with proposed amendments, there is no absolute guarantee that amendment will be allowed in all circumstances. At a minimum, the general rule permitting amendments must be read in conjunction with other rules which impose substantive and/or procedural limitations on unit clarification proceedings under Chapter 391-35 WAC.

Substantive Defect -

WAC 391-35-110 includes: "A unit clarification petition cannot be processed if a question concerning representation exists." Even if the language of the certification is sufficiently vague to leave room for an interpretation that the unit was to include business office employees other than the "bookkeeper" and "business manager", the union's motion at this late date raises a question concerning representation.

First, the record is insufficient to establish that the Washington State Council of County and City Employees is the direct successor to the differently-named organization certified in 1974.

Second, the record is insufficient to form any conclusion about whether the employer had any business office employees other

than the excluded "bookkeeper" and "business manager" positions, when the unit was created in 1974.⁴

Third, it is clear that some number of business office employees other than the "bookkeeper" and "business manager" have been excluded from the bargaining unit for many years, raising the distinct possibility that the business office employees could stand on their own as an appropriate separate bargaining unit.

Procedural Defect -

The union's motion must also be denied on procedural grounds. WAC 391-35-020(2) sets specific time limits for the filing of unit clarification petitions:

(2) Where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit filed by a party to the collective bargaining agreement will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings:

(i) It put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or

⁴ To the contrary, counsel for the employer suggested, in argument on the motion, that the bookkeeper and business manager were the only business office employees when the bargaining unit was created. While that legal argument is not "evidence", it certainly is not an admission against interest by the employer.

class via the unit clarification procedure;
and

(ii) It filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

Here, the motion to enlarge the scope of this proceeding was made while the parties had a "valid written and signed collective bargaining agreement in effect".

WAC 391-35-020(2) applies here, and renders the proposed amendment untimely.⁵ During their negotiations, the employer and union had several discussions about the employer's proposal to create a non-represented position to deal with collection of accounts. The union resisted the employer's proposal concerning that position, and it filed this unit clarification petition using the following description of the controversy:

Position Classification:	Account Collec- tion Specialist
Number of Positions:	1
Present Unit Status:	Unrepresented
Reason for Proposed Change:	Account collection duties have traditionally and historically been performed within the bargaining unit.

The parties never discussed a "whole business office" issue during their negotiations in 1997 and 1998, and it is clear that neither party filed a unit clarification petition concerning a "whole business office" controversy prior to signing their contract.

⁵ There is no claim or evidence that the business office positions are "confidential" within the meaning of RCW 41.56.030(2), so WAC 391-35-020(1) is inapplicable here. Similarly, the business office positions are unrepresented, so WAC 391-35-020(3) is inapplicable here.

Due Process Defect -

The Hearing Officer properly limited the scope of the hearing to the one position at issue in the original petition. The employer was not given notice that a much broader question would be a subject of discussion, evidence or argument at the hearing in this case. Even an "investigatory" representation or unit clarification proceeding is conducted under the Administrative Procedure Act, Chapter 34.05 RCW. Parties to adjudicative proceedings are entitled to notice of the issues to be addressed at a hearing. Ambush and surprise are not acceptable practice.

DISCUSSIONPositions of the Parties

The union argues that the disputed position must be included in the existing bargaining unit. Claiming that there is a long history of inclusion in the bargaining unit and no meaningful change of circumstances, the union maintains that the employer should not be allowed to remove traditional bargaining unit work by creating a new position in the business office. The union contends that the new position still encompasses a great deal of bargaining unit work, and that the bargaining unit has a legitimate claim to the work being performed by the employee holding the disputed position.

The employer argues that the disputed position should not be included in the existing bargaining unit. It contends the union has never claimed to represent the business office employees, that the account collection position performs duties more aligned with the business office, and that the incumbent does not perform any library duties. In addition, the employer maintains that the new

position has evolved into general business office support, and the union does not have any legitimate claim for the position.

Unit Determination Principles

The authority to determine and modify bargaining units is delegated by the Legislature to the Commission in RCW 41.56.060, as follows:

RCW 41.56.060 DETERMINATION OF BARGAINING UNIT--BARGAINING REPRESENTATIVE. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the **duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees.**

[Emphasis by **bold** supplied.]

Those criteria are referred to collectively as the "community of interest" factors.

Commission precedent evidences a long-standing concern for the stability of bargaining relationships, and contradicts a situational approach to unit determination controversies:

Absent a change of circumstance warranting a change of the unit status of individuals or classifications, the unit status of those previously included in or excluded from an appropriate unit by agreement of the parties or by certification will not be disturbed. However, both accretions and exclusions can be

accomplished through unit clarification in appropriate circumstances.

City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981).

One outgrowth of status as the exclusive bargaining representative of an appropriate bargaining unit is the union's right to protect the work jurisdiction of that unit.⁶ An employer which assigns non-supervisory work to an employee within an existing bargaining unit of non-supervisory employees thereby creates a work jurisdiction claim for the union representing that bargaining unit. See: City of Spokane, Decision 6232 (PECB, 1998).

From time to time, concerns about unintelligible unit structures and conflicting work jurisdiction claims have led to conclusions that unit structures proposed by (or even agreed upon by) employers and unions are inappropriate. See: South Kitsap School District, Decision 1519 (PECB, 1983)[work jurisdictions of nominally-separate "aide" and "office-clerical" bargaining units overlapped at multiple points]; Skagit County, Decision 3828 (PECB, 1991)[attempt to organize separate unit of "flaggers" excluded from bargaining unit by agreement of employer and union created potential for work jurisdiction conflicts between them and two groups remaining in bargaining unit].

Where employees hold two separate positions within an employer's workforce, they may find themselves in two different bargaining units. The Commission has strongly indicated, however, that such

⁶ Decisions in numerous unfair labor practice cases dating back to South Kitsap School District, Decision 472 (PECB, 1978) have found unilateral "skimming" and "contracting out" of bargaining unit work to be unlawful.

"dual status" situations are to be minimized or avoided. Ephrata School District, Decision 4675-A (PECB, 1995).

Application of Precedent

At some time since 1974, the employer may well have created business office positions in addition to the "bookkeeper" and "business manager" named in the certification. The union appears to have slept on its rights, at its own peril, and the history of bargaining between these parties has developed with exclusion of the business office personnel from the bargaining unit.

At some time in the past, the employer apparently identified a need to collect fines for overdue and lost library materials. If it had chosen to assign that task to a business office employee initially, it is likely that this controversy would never have arisen. Having failed to make a timely claim when additional business office positions were created, the union could easily have ignored the creation of a work assignment which is arguably of an "accounting" or "business" nature.

Instead of assigning the account collection function to a business office employee, the employer initially assigned that non-supervisory work to the bargaining unit represented by the union. The employer thereby gave rise to the union's work jurisdiction claim in this case. See, City of Spokane, supra.

To its credit, the employer appears to have recognized its notice and bargaining obligations under South Kitsap School District, Decision 472, supra, and numerous other precedents concerning "skimming" and "contracting out" of bargaining unit work. It notified the union it was considering creation of a new business

office position with responsibilities arguably characterized as removing work from the existing bargaining unit.⁷ However, the employer's good faith (or lack thereof) is not before the Executive Director. In this unit clarification proceeding, the parties and disputed position are examined as they now exist, and the focus is on the bargaining unit placement of the position for the future. At the bottom line, regardless of any negotiations and/or impasse between the parties, the Commission has the authority to determine this unit issue under RCW 41.56.060. See, City of Richland, supra.

There is no doubt that the background of the current incumbent of the disputed position, Pauline Monk, lies in the field of business administration. She has neither background nor work experience in library services. The unit placement of a particular position must be based, however, on the duties, skills, working conditions, extent of organization and history of bargaining for the position, rather than on the qualifications or preferences of the current incumbent. See, City of Vancouver, Decision 440 (PECB, 1978), citing Western Electric Co., 45 LRRM 1475 (1960).

The employer questioned Monk about her preferences, but neither those questions nor the employee's answers are probative. The Commission has repeatedly ruled that testimony of individual employees is not an appropriate basis for assessing the "desires of employees" under RCW 41.56.060. Indeed, the Commission's proce-

⁷ Employers have frequently stumbled over their obligation to give notice to the exclusive bargaining representative and provide opportunity for collective bargaining (if requested) prior to transferring bargaining unit work to persons outside of the bargaining unit. Where the work is transferred to employees of another business entity, it is characterized as "contracting out"; where the work is transferred to other employees of the same employer who are either unrepresented or members of a different bargaining unit, it is characterized as "skimming".

dures protect the confidentiality of employee views on such sensitive matters by conducting secret ballot unit determination elections, when appropriate. City of Vancouver, Decision 6179 (PECB, 1998), citing Oak Harbor School District, Decision 1319 (PECB, 1981); King County, Decision 6696 (PECB, 1999). There is no occasion to conduct a unit determination election unless two or more appropriate unit configurations are being sought by petitioning unions. Clark County, Decision 290-A (PECB, 1978). In this case, a one-person bargaining unit of account collection personnel could not be appropriate under Town of Fircrest, Decision 248-A (PECB, 1977) and, as noted above, there is no petition before the Commission for a separate unit of business office employees.

Creation of Dual Status Situation -

In this case, the employer's claim that the disputed position has evolved outside of the historical bargaining unit is defeated by the employer's own actions. When asked introductory questions about her current responsibilities, Monk testified as follows:

- Q. [By Mr. Liddiard] And what is your position with the Pierce County Library System?
- A. I have two positions. I'm a volunteer coordinator from 9:00 to 1:00 and from 1:00 to 5:00 I am the collections specialist in the business office.

In other testimony, Monk indicated she was the volunteer coordinator for four years prior to taking over the account collection function. The parties' collective bargaining agreement indicates the "volunteer coordinator" role is within the bargaining unit represented by the union. The employer has not presented any evidence or arguments to justify removal of the "volunteer coordinator" role from the bargaining unit.

The exclusion of the account collections role proposed by the employer in this case would place Monk in a dual status situation: She would be a member of the bargaining unit from 9:00 a.m. to 1:00 p.m. each day, while working as the volunteer coordinator, but she would be excluded from the bargaining unit (and potentially a member of a different bargaining unit if one were to be organized in the business office) from 1:00 p.m. to 5:00 p.m. each day. Nothing in this record justifies creation of a dual status situation. Even the suggestion of such a result is strongly contradicted by evidence that Monk takes telephone calls for both roles throughout her work days.

No Change of Circumstances -

The evidence does not support a conclusion that a physical relocation of the disputed position justifies a change of bargaining unit status. While they performed the task of collecting fines for overdue and lost materials, Naylor and Wood had their workstations on the main floor of the employer's Processing and Administrative Center. Monk now performs her collection tasks at a workstation in the business office, on the second floor of the same building. The distance between the two areas (aggregating vertical and horizontal distances) is less than 100 feet. An office aide and a facilities specialist who are included in the bargaining unit have their workstations on the second floor of the same building.

There has been no single event warranting a change of the bargaining unit status of the disputed position.⁸ Nor has there been a

⁸ For example, in Spokane County, Decision 3011 (PECB, 1988), a change in the responsibilities of a management official precipitously ended the derivative "confidential" exclusion of that official's secretary.

gradual change warranting a change of bargaining unit status.⁹ The account collection function has some accounting aspects, but that has been true since the role was first created. The account collection function may have been thought of as an adjunct to regular library duties when it was first assigned to a bargaining unit employee, and increased account collection activity may have reduced the traditional library work of the bargaining unit employees who have performed the role thereafter, but it is still only a part-time function. Even with a special project to contact library patrons with balances of only \$25.00 to \$74.99, this is only a half-time position.

The employer undertook a wage and classification study at about the same time the parties commenced their negotiations on a successor collective bargaining agreement. The "library assistant II" classification was criticized as being over-broad, and the account collection work was analyzed as a separate job classification. A specification was created for a new classification, in which the distinguishing features of the job were stated as follows:

An employee in this class reviews monies due the library from patrons, negotiates settlements, posts payments, and oversees collection agencies. The work is performed under the general direction and supervision of the Technical Services Coordinator but considerable leeway is granted for the exercise of independent judgment and initiative. The nature of the work performed requires that an employee in this class establish and maintain close cooperative working relationships with the supervisor, library branch employees,

⁹ For example: In City of Wapato, Decision 2619 (PECB, 1987), where it was concluded that reserve police officer who was being scheduled as if he were a regular part-time employee was properly included in an existing bargaining unit.

other library employees, collection agencies and the public. Direction is provided to employees in the class of Library Assistant I.

Nothing in that job description, on its face, requires exclusion of the position from the existing bargaining unit. Moreover, the references to "library branch employees", "other library employees" and to "library assistant I" employees suggest regular contact with the bargaining unit.

On May 14, 1998, the employer sent a letter to union officials explaining the employer's position in the following terms:

You may be aware that the "account collections" function has been assigned to the Technical Services/Circulation Department since at least 1990. As we look at the roles of both the previously-staffed position and the proposed position in the Library System organization, we see:

- a close working relationship with Business Services staff members,
- regular interactions with Public Services management and Branch Library staffs,
- frequent and repeated contacts with patrons who owe PCL money or materials, and
- a primary contact with the commercial collection agency engaged by the Library System to perform accounts receivable/collections services

From these relationships, we perceive the "collections" function as being more closely linked to Business Services activities rather than with the functions of Circulation or Technical Services. For these reasons, we feel that the "collections" function and position might be more appropriately placed with the Business Services group.

Our preliminary thoughts include reassigning the "collections" function from the vacant ... position, previously held by Ms. Naylor in Circulation/Technical Services, to a newly-

created position which could be assigned to the Business Services group as a non-bargaining unit position. ...

The union responded in a letter dated May 22, 1998, which included the following:

Regardless of which department of the organization collections duties are assigned to, the work is bargaining unit work of AFSCME Local 3787. Barring a PERC decision otherwise, we will assume that the position assigned to do collections will remain within the bargaining unit. ...

In a letter to the union dated May 29, 1998, Carrillo summed up the employer's view of the situation as follows:

As you will recall, at the end of the negotiations session on a separate matter, I asked if you and [the union president] would be available to meet to discuss the above subject. [The union president] responded that a meeting was not necessary since in her opinion, there was nothing to discuss. She suggested that instead of a meeting a unit clarification be filed to resolve the issue.

After the session you and I met to discuss other matters and I again suggested a meeting so that we could listen to and consider whatever ideas, alternatives or concerns you might wish to raise about our proposed removal of the account collections duties from the bargaining unit. Although you did ultimately agree that you would be willing to meet to discuss the issue, you stated that in your view the Library had three alternatives 1) To file a unit clarification to resolve the issue or 2) To assign the duties to someone in the business office and make that individual part of the bargaining unit or 3) To assign the duties to someone in the business office who is not a bargaining unit member and the Local

would file an Unfair Labor Practice for "skimming" of bargaining unit work. After our discussions, I advised you that I would be sending this letter reflecting our discussions.

If the foregoing accurately reflects our discussions no further correspondence is necessary. If the foregoing does not accurately reflect our discussions, please contact me immediately so that we can correct any miscommunication....

The union replied in a letter dated June 3, 1998, expressing the union's position in the following terms:

Your letter of May 29, 1998 accurately reflects the discussions held on May 27, 1998. At that time, though, I did forget one alternative - status quo. **The Library has the option of leaving the Account Collection functions where they are now, in the same department and in the bargaining unit. ...**

[Emphasis by **bold** supplied.]

The parties discussed the disputed position at a meeting held on June 29, 1998, but did not reach agreement on the matter. On July 6, 1998, the employer sent a letter to the union, purporting to implement a change of the bargaining unit status of the position:

Based on all of the information presented and all the rationale provided in [the] May 14, 1998 correspondence to you and [the union president], **it is the Library's decision to remove the collections function from the bargaining unit** and assign the function to a position in the Business Services Office. We shall immediately begin a recruitment to fill the position.

[Emphasis by **bold** supplied.]

The employer promulgated a new class specification based on (but not identical to) the draft specification prepared for the wage and classification study and it recruited for the new position.

Neither the correspondence nor the new class specification establish changed circumstances warranting removal of the account collection function from the existing bargaining unit. In her account collection role, Monk makes monthly lists of patrons with outstanding balances, and prepares correspondence in an effort to recoup any amount over \$25.00.¹⁰ She is responsible for bookkeeping activities associated with her collections,¹¹ including entering amounts collected in the appropriate ledger and making deposits as necessary. She also prepares statistics showing how the program is operating. She has constant contact with several collection agencies, and coordinates their work on behalf of the employer. However, none of that is significantly different from the tasks performed by Naylor and Wood. Moreover, when thousands of letters sent in the recent effort to contact patrons with smaller amounts due were returned undeliverable by the post office, Monk turned to bargaining unit employees for assistance with processing them.

Monk testified that her collection work is "cyclical" in nature, so that a great deal of effort is expended at the beginning of each month (when letters are sent to patrons), and more sporadic effort is required later in the month (when responses to her contacts come in), but the small amount of time she spends on other activities in

¹⁰ When collections work began, the library limited its efforts to account deficiencies over \$75.00. The reduced threshold for action is a matter of degree, not of kind.

¹¹ It appears that bargaining unit employees working in library branches would have routine contacts with patrons concerning overdue and lost materials, and would receive money tendered to pay library fines.

the business office do not provide independent basis for a change of her unit status.¹²

FINDINGS OF FACT

1. Pierce County Rural Library District provides library services to local residents, and is a "public employer" within the meaning of RCW 41.56.030(1).
2. The Washington State Council of County and City Employees, a bargaining representative" within the meaning of RCW 41.56-.030(3), is the exclusive bargaining representative of non-supervisory employees of Pierce County Rural Library District.
3. At the direction of the employer, bargaining unit employees historically attempted to collect library fines and/or obtain the return of overdue library materials from patrons. For more than five years, bargaining unit employee Sheila Naylor was responsible for contacting library patrons about amounts due, collecting money, making accounting entries, turning over delinquent accounts to collection agencies, and coordinating with collection agencies.
4. When Naylor left employment with the employer, her account collection responsibilities were assigned to another bargain-

¹² Monk performs other duties as time permits, perhaps five hours per week. Activities such as sorting time cards, reviewing vacation and sick leave balances, and processing mail and accounts payable are understood as only filling out her half-time "accounts collection" assignment. If continued, those activities might provide basis for future work jurisdiction claims by the union under City of Spokane, supra.

ing unit employee, Joan Wood. Naylor trained Wood on the account collection process.

5. During the course of negotiations between the employer and union for a successor collective bargaining agreement in 1997, the employer proposed removal of the account collections function from the bargaining unit. The union rejected removal of the account collections work from the bargaining unit. The parties were unable to agree on the unit determination issue, and the instant unit clarification petition was filed prior to their signing their current collective bargaining agreement.
6. In 1998, the employer created a new position "account collection specialist" position in its business office, to take over the collection of fines for overdue library books and lost materials. The employer advertised the position and selected Pauline Monk, a bargaining unit employee who had been serving as "volunteer coordinator". Monk works half-time as the account collection specialist, and continues to work half-time as the volunteer coordinator. Wood trained Monk on the account collection process.
7. In her account collection assignment, Monk performs duties and utilizes skills similar to those of Naylor and Wood when they performed that assignment. She receives telephone calls for both the accounts collection and volunteer coordinator roles throughout the day. Monk has performed other duties in the business office, such as sorting time cards, reviewing vacation and sick leave balances, assisting in mail distribution, and performing accounts payable work when she has time available during her hours in the business office. When she needed assistance with a special collection project, however, Monk sought assistance of bargaining unit employees.

CONCLUSIONS OF LAW

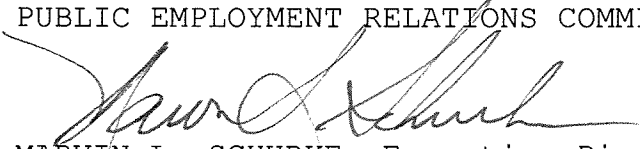
1. The Public Employment Relations Commission has jurisdiction in this case under Chapter 41.56 RCW and Chapter 391-35 WAC.
2. Exclusion of the accounts collection specialist position, as presently constituted, from the bargaining unit at issue in this proceeding would create a dual status situation for the incumbent employee, and would constitute an inappropriate bargaining unit configuration under RCW 41.56.060.
3. The employer has not established a change of circumstances sufficient to warrant removal of the account collection function from the bargaining unit in which it has historically existed, so that a change of the bargaining unit status of the position is not warranted under RCW 41.56.060.

ORDER

The existing bargaining unit is clarified to include the position of "account collection specialist".

Issued at Olympia, Washington, on the 20th day of April, 2000.

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 391-35-210.