

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
INTERNATIONAL ASSOCIATION OF)	CASE 15417-C-00-994
FIRE FIGHTERS, LOCAL 1604)	
)	
For clarification of an existing)	DECISION 7343 - PECB
bargaining unit of employees of:)	
)	
CITY OF BELLEVUE)	ORDER OF DISMISSAL
)	
_____)	

The petition for clarification of bargaining unit in the above-referenced matter was filed with the Public Employment Relations Commission by International Association of Fire Fighters, Local 1604 (union) on October 4, 2000. The union represents a bargaining unit of fire inspectors and fire investigators. The petition sought to include the position of fire plans reviewer in the existing unit.

The petition was reviewed under WAC 391-35-020.¹ A deficiency notice was issued on December 13, 2000, indicating that it appeared that the petition was untimely under WAC 391-35-020. The deficiency notice stated that the collective bargaining agreement that the union filed with its petition was signed by the parties on April 4, 2000, with an effective date of January 1, 2000 through December 31, 2002.

¹ At this stage of the proceedings, the question at hand is whether the petition states a claim for relief available through unit clarification proceedings before the Public Employment Relations Commission.

The deficiency notice stated that the petition fails to indicate whether the position of "Fire Plans Reviewer" is a new position, or whether the position was in existence when the Commission issued Decision 5769 in 1996 certifying the bargaining unit. Unit clarification proceedings are controlled by Chapter 391-35 WAC, which includes (emphasis added):

WAC 391-35-020 Petition--Time for filing. (1)

Disputes concerning status as a "confidential employee" may be filed at any time.

(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 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.

(3) Disputes concerning the allocation of employees or positions between two or more bargaining units may be filed at any time.

The deficiency notice stated that the union appears to rely on WAC 391-35-020(2)(a) for the timeliness of its petition. However, the petition fails to demonstrate evidence of any changed circumstances during the term of the collective bargaining agreement.

The deficiency notice advised the union that an amended petition could be filed and served within 21 days following such notice, and

that any materials filed as an amended petition would be reviewed under WAC 391-35-020 to determine if they stated a cause of action. The deficiency notice further advised the union that in the absence of a timely amendment stating a cause of action, the petition would be dismissed. Nothing further has been received from the union.

NOW THEREFORE, it is

ORDERED

The petition for clarification of bargaining unit in the above captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 27th day of March, 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 391-35-210.