

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
WASHINGTON STATE PATROL) CASE 18470-C-04-1186
)
Involving certain employees) DECISION 8578 - PSRA
represented by:)
) ORDER CLARIFYING
COMMUNICATION MANAGERS ASSOCIATION) BARGAINING UNIT
)
)
_____)

Juliet Wehr Jones, Legal Officer, for the employer.

Larry Borrell, President, for the union.

On April 26, 2004, the Washington State Patrol (employer) filed a letter with the Public Employment Relations Commission, requesting modification of the description of an existing bargaining unit represented by the Communications Managers Association (union). Based on the materials filed by the employer, the concurrence of the union, and the absence of opposition from any other potential party, the Executive Director modifies the unit description to reflect the actual facts.

BACKGROUND

The employer is a state general government agency that provides public safety services. The union represents a bargaining unit of communications station managers working for this employer. The bargaining unit was created under authority conferred by the State Civil Service Law, Chapter 41.06 RCW.

The Washington Personnel Resources Board (WPRB) approved the creation of a bargaining unit at a meeting held on December 8, 1994. The WPRB did not issue its written order until July 21, 1995,¹ when it described the unit as:

Included: In the Washington State Patrol all employees *in the Washington Management Service* in the classification of Communications Officer 4 working as Communication Station Managers.

Excluded: All other employees.

The Washington State Department of Personnel (DOP) did not issue a certification naming the union as exclusive bargaining representative of that bargaining unit until September 10, 1996.

The WPRB and the DOP orders were erroneous when issued, because the employer had removed the employees in this bargaining unit from the Washington Management Service (WMS) in March 1995. The employer now acknowledges that it did not bring the change of circumstances to the attention of the WPRB or DOP at that time.

The Personnel System Reform Act of 2002 (PSRA) was signed into law in 2002, with various effective dates. A new collective bargaining system for state civil service employees is codified as Chapter 41.80 RCW, of which two sections that took effect on June 13, 2002, are pertinent here:

RCW 41.06.340 DETERMINATION OF APPROPRIATE BARGAINING UNITS (1) With respect to collective bargaining as authorized by RCW 41.80.001 and 41.80.010 through 41.80.130, the public employment relations commission created by chapter 41.58 RCW shall have authority to adopt rules, on and after June 13, 2002, relating to determination of appropriate bargaining units

¹ Department of Personnel case RU-366.

within any agency. In making such determination the commission shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees. The public employment relations commission created in chapter 41.58 RCW shall adopt rules and make determinations relating to the certification and decertification of exclusive bargaining representatives.

. . . .

RCW 41.80.070 BARGAINING UNITS -- CERTIFICATION.

(1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modification of existing units, the commission shall consider: the duties, skills and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation.

The Public Employment Relations Commission has thus acquired jurisdiction with regard to both the determination of appropriate bargaining units and the certification of exclusive bargaining representatives.

ANALYSIS

The PSRA excludes WMS employees from collective bargaining rights at RCW 41.80.005(6)(c) by reference to RCW 41.06.022, which reads:

RCW 41.06.022 . . . DEFINITION. . . . No employee who is a member of the Washington management service may be included in a collective bargaining unit established under RCW 41.80.001 and 41.80.010 through 41.80.130.

The employer has proposed to eliminate an ambiguity by requesting that the words "Washington Management Service" be deleted from the description of this bargaining unit. The union has concurred with the employer's request.

FINDINGS OF FACT

1. The Washington State Patrol is a general government agency of the state of Washington within the meaning of RCW 41.80.005(1).
2. The Washington State Patrol Communications Managers Association, an employee organization within the meaning of RCW 41.80.005(7), is the exclusive bargaining representative of a bargaining unit of Washington State Patrol employees.
3. The employer and union concur that the description of the bargaining unit set forth in orders issued by the Washington Personnel Resources Board and the Department of Personnel erroneously describe the employees as members of the Washington Management Service.
4. All of the positions in the bargaining unit had been removed from the Washington Management Service during or about March 1995, and continue to be in the general (classified) service under Chapter 41.06 RCW.
5. No other organization is known to exist which claims or may claim to represent employees in the bargaining unit involved, and no facts have been discovered or brought to the attention of the Executive Director which call into question the facts presented by the Washington State Patrol and concurred in by the Communications Managers Association.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and WAC 391-25-426.
2. Under the circumstances described in the foregoing findings of fact, the bargaining unit continues to be an appropriate unit for the purposes of collective bargaining, within the meaning of RCW 41.80.070.

NOW, THEREFORE, it is

ORDERED

The description of the bargaining unit of Washington State Patrol employees represented by the Communications Managers Association is amended to read as follows:

All communications station managers employed by the Washington State Patrol, excluding confidential employees, internal auditors, non-supervisory employees, and employees in other bargaining units.

Issued at Olympia, Washington, this 27th day of May, 2004.

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 391-25-660.