

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON STATE - TRANSPORTATION)	CASE 18169-C-04-1160
)	
For clarification of an existing)	DECISION 8500 - PSRA
bargaining unit represented by:)	
)	
INTERNATIONAL FEDERATION OF)	
PROFESSIONAL AND TECHNICAL)	
ENGINEERS, LOCAL 17)	ORDER CLOSING CASE
)	
)	

Kermit Wooden, Human Resources Director; *Ann Mitchell*, Human Resources Consultant; *Jessica Todorovich*, Human Resources Consultant, for the employer.

Vincent Oliveri, Business Agent; *Kathy Cunningham*, Business Agent; and *Bill Kalibak*, Business Agent, for the union.

On January 21, 2004, the Washington State Department of Transportation (employer) filed a petition for clarification of an existing bargaining unit with the Public Employment Relations Commission under WAC 391-35-026(1), seeking division of a bargaining unit of employees currently represented by the International Federation of Professional and Technical Engineers, Local 17 (union). An investigation conference was conducted on February 19, 2004, by Hearing Officer Starr H. Knutson.

The employer filed a letter on March 4, 2004, in which it stated the parties had reached agreement that the unit did not mix supervisors and non-supervisors and requested withdrawal of the

petition. The Executive Director accepts the employer's request and issues this order closing the case.

BACKGROUND

The employer is a state general government agency that oversees the state's transportation and ferry systems. The union has historically represented several of employer's bargaining units consisting of employees performing professional and technical engineering.

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 one section that took effect on June 13, 2002, is pertinent here:

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, *unless the unit does not meet all the requirements of (a) . . . of this subsection.* 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. *However, a unit is not appropriate if it includes:*

(a) *Both supervisors and non-supervisory employees.*

. . . .

(emphasis added). The Commission adopted a rule to implement that statute during the transition period which will exist until the

duty to bargain under the new system goes into effect on July 1, 2004, as follows:

WAC 391-35-026 SPECIAL PROVISION -- STATE CIVIL SERVICE EMPLOYEES. In addition to the circumstances described in WAC 391-35-020, bargaining units of state civil service employees may be modified under this section until RCW 41.80.050 and 41.80.080 take effect on July 1, 2004.

(1) *Bargaining units of state civil service employees in existence on June 13, 2002, shall be subject to being "divided" into separate units of supervisors and nonsupervisory employees under this section.*

(a) A petition to have an existing unit divided may be filed by the exclusive bargaining representative, by the employer, or by those parties jointly.

(b) The separation of bargaining units shall be implemented on or before July 1, 2004.

(emphasis added). Although it filed the petition to initiate this proceeding under WAC 391-35-026, the employer now states that there are no supervisory employees in the bargaining unit.

ANALYSIS

The determination and modification of appropriate bargaining units of state civil service employees is now a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.06.340; 41.80.070. In countless representation and unit clarification cases over the past 28+ years, the Commission has both: (a) accepted stipulations of parties that employees are or are not supervisors; and (b) terminated proceedings where a party withdraws its claim of supervisory status.

In light of the request for withdrawal by the moving party, there is no present claim or controversy as to whether the bargaining

unit historically known as the "Engineering Services" bargaining unit is inappropriate under RCW 41.80.070. While the parties' opinion on the supervisor question is not binding on the Commission or any potential third parties, no further proceedings are necessary in this case.

NOW, THEREFORE, it is

ORDERED

The proceedings on the petition for clarification of an existing bargaining unit filed in the above-captioned matter are CLOSED.

ISSUED at Olympia, Washington, on this 8th day of April, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in dark ink, appearing to read "Marvin L. Schurke", is written over the printed name below.

MARVIN L. SCHURKE, Executive Director