

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON FEDERATION OF STATE)	CASE 19143-C-05-1222
EMPLOYEES)	DECISION 9593 - PSRA
)	
For clarification of existing)	CASE 19144-C-05-1223
bargaining units of employees of:)	DECISION 9594 - PSRA
)	
WASHINGTON STATE OFFICE OF THE)	
INSURANCE COMMISSIONER)	ORDER MERGING
)	BARGAINING UNITS
)	

On January 21, 2005, Washington Federation of State Employees (union) filed two petitions seeking clarification of existing bargaining units of employees of the Office of the Insurance Commissioner (employer). The petitions, docketed as Case 19143-C-05-1222 and 19444-C-05-1223 sought to add certain employees to existing bargaining units. In the first case, the union seeks to merge a bargaining unit of non-supervisory insurance examiners into an existing and larger unit of non-supervisory employees of the employer. In the second case, the union seeks to merge a bargaining unit of supervisory insurance examiners into an existing and larger unit of supervisory employees of the employer.

The employer has filed a document stating that it does not oppose the merger of the bargaining units, and there are no positions in dispute between the parties in either case.

Based on these factors, the Operations Manager accepts the information and stipulations made by the parties, and acting under

WAC 391-25-426 merges the bargaining units as proposed by the union in its original petitions.

ANALYSIS

Applicable Legal Principles

One provision of the Personnel System Reform Act of 2002 (PSRA) 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) and (b) 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, skill 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 . . .

.
(3) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit.

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. The

"fragmentation" and "merger" components of RCW 41.80.070 can be presumed to reflect legislative concern about the existence of more than 170 separate bargaining units among state civil service employees when the PSRA was enacted in 2002. The Commission adopted a special rule to implement the "merger" authorization in RCW 41.80.070 as follows:

WAC 391-25-426 SPECIAL PROVISION - STATE CIVIL SERVICE EMPLOYEES. An employee organization that represents two or mor bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420(2)(a). If the merged unit is found to be appropriate under WAC 391-25-420(2)(c)(I) and (ii), the employee organization shall be certified as exclusive bargaining representative without need for unit determination elections.

In essence, the special rule eliminates the need for concurrent unit determination elections to validated the merger of separately-organized bargaining units.

Application of Standards

By stipulations now before the Commission, the parties seek to have four separate bargaining units merged into two final unit configurations. The filings made with the agency show that there are fundamental similarities among the duties, skills and working conditions of employees in the proposed bargaining units. Nothing has come to the attention of the Commission staff that contradicts the propriety of the mergers proposed by the union and agreed to by the employer. In this case the merger of the non-supervisory insurance examiners unit into the existing non-supervisory unit and the merger of the supervisory insurance examiners unit into the

existing supervisory unit address the admonition against "fragmentation" in the statutory unit determination criteria.

FINDINGS OF FACT

1. The Office of the Insurance Commissioner is an agency of the State of Washington and is an employer within the meaning of RCW 41.80.005(10).
2. Washington Federation of State Employees, an employee organization within the meaning of RCW 41.80.005(7) is the exclusive bargaining representative of various separately-created bargaining units of supervisory and non-supervisory employees of the Office of the Insurance Commissioner who are covered by the State Civil Service Law, Chapter 41.06 RCW.
3. The parties are in agreement that the bargaining unit of non-supervisory insurance examiners should be merged into a larger bargaining unit of non-supervisory employees of the employer. The parties also agree that the bargaining unit of supervisory insurance examiners should be merged into a larger bargaining unit of supervisory employees of the employer.
4. No facts have been adduced or brought to the attention of the Commission which call into question the propriety of the proposed mergers described in these findings of fact.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.80 RCW.

2. The merger of the bargaining units set forth in paragraph 3 of the foregoing findings of fact will result in two appropriate bargaining units for the purposes of collective bargaining under RCW 41.80.070, implementing the provisions of that section concerning fragmentation and merger of bargaining units.

ORDER

The non-supervisory bargaining unit of insurance examiners is merged into the existing non-supervisory bargaining unit of employees of the Office of the Insurance Commissioner. The supervisory bargaining unit of insurance examiners is merged into the existing supervisory bargaining unit of employees of the Office of the Insurance Commissioner.

Washington Federation of State Employees shall continue to be the exclusive bargaining representative of all employees in the two merged bargaining units.

ISSUED at Olympia, Washington, on this 16th day of February, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



KENNETH J. LATSCH, Operations Manager

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.