

Spokane County, Decision 9400 (PECB, 2006)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
INTERNATIONAL UNION OF)	CASE 18912-C-04-1214
OPERATING ENGINEERS, LOCAL 280)	
)	DECISION 9400 - PECB
For clarification of an existing)	
bargaining unit of employees of:)	
)	ORDER OF DISMISSAL
SPOKANE COUNTY)	
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On September 30, 2004, International Union of Operating Engineers, Local 280 (IUOE) filed a complaint charging unfair labor practices against Spokane County (employer). The complaint alleged that the employer unilaterally transferred bargaining unit work to the newly-created position of "facilities maintenance manager".

On October 18, 2004, the employer filed a petition seeking clarification of the IUOE-represented bargaining unit with respect to the unit status of the disputed position. A cover letter accompanying the employer's petition indicated that the Washington State Council of County and City Employees (WSCCCE) may have a claim on the disputed position, and WSCCCE was added to the Commission's docket records on the clarification case.

On October 20, 2004, a preliminary ruling and deferral inquiry was issued, framing the following issue for further proceedings:

Employer interference with employee rights in violation of RCW 41.56.140(1) and refusal to bargain in violation of RCW 41.56.140(4), by skimming of building maintenance specialist work to a newly-created non-unit facilities maintenance manager position, without providing an opportunity for bargaining.

On October 28, 2004, a letter was sent to the parties stating that the unfair labor practice would continue to be processed but the unit clarification petition would be suspended until the unfair labor practice complaint was resolved. The parties' attention was directed to WAC 391-35-110 which stated, in pertinent part:

(2) A unit clarification proceeding may control or be controlled by an unfair labor practice proceeding. If a petition for clarification under this chapter is pending at the same time as a complaint under chapter 391-45 WAC involving all or any part of the same bargaining unit, the executive director or designee shall have discretion to withhold processing of one of the related proceedings pending the outcome of the other related proceeding.

In the event that the IUOE prevailed in the unfair labor practice litigation, it would be likely that the work which was allegedly "skimmed" from the bargaining unit would be returned, and that there would be no need for unit clarification proceedings.

On December 9, 2004, the unfair labor practice was deferred to arbitration. The parties were informed that the Commission would not take further action on the unfair labor practice complaint until the arbitration process was completed.


On February 1, 2006, the union withdrew the unfair labor practice complaint. No mention was made about the status of the unit clarification petition. Attempts to contact the union about the unit clarification matter have been unsuccessful. Given the fact that the same position was at issue in the unit clarification petition and the unfair labor practice complaint, it must be assumed that the parties have concluded a satisfactory resolution concerning the disputed "facilities maintenance manager" position. The unit clarification petition must be dismissed.

ORDER

The petition filed in the above-captioned matter is hereby DISMISSED.

Issued at Olympia, Washington, this 21st day of July, 2006.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


KENNETH J. LATSCH, Operations Manager

This order will be the final order of the agency on the issue addressed unless notice of appeal is filed with the Commission under WAC 391-35-210.