

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of)
CITY OF BUCKLEY,)
Petitioner-Employer,)
and)
OPERATING ENGINEERS, LOCAL 286,)
Respondent-Union.)

CASE NO. 736-C-77-29

DECISION NO. 287-A-PECB

DECISION ON APPEAL

APPEARANCES:

For Petitioner: John Burns (Hafer, Cassidy & Price) Attorney at Law

For Employer: J. H. Curran (Cabot Dow Associates)

The City of Buckley filed a timely appeal from a unit clarification issued by Hearing Officer Jack T. Cowan on September 19, 1977. Both parties filed appeal briefs. The Commission has considered the entire record in the matter and makes the following:

FINDINGS OF FACT

1. The findings of fact of the Hearing Officer are confirmed.

CONCLUSIONS OF LAW

1. The two superintendents are working foremen, employees of the City of Buckley, and are in no sense deputies under the evidence. The Random House Dictionary defines "deputy" as used in RCW 41.56.030(2) as "a person appointed or authorized to act as a substitute for another or others." While these two superintendents exercise extensive authority, neither is, nor claims to be, nor is alleged to be, a substitute for the mayor even in their own fields of expertise.

2. The two superintendents are clearly supervisors; and, were this a case concerning the composition of a bargaining unit in the first instance, a persuasive argument for excluding them therefrom could be made.

3. But "employees" they clearly are. They have been included in the bargaining unit with the apparent consent of the city. Their position

is that of working supervisors who will not be severed from an existing agreed unit simply because the employer finds it more convenient at this time to have them out than to have them in, or who failed to appeal their inclusion when it had the opportunity to do so. If supervisors as such were not employees under RCW 41.56.030(2), the city could, of course, require those working foremen to resign from the union or be dismissed. Florida Power & Light v. IBEW, 417 U.S. 790, 792-795, 812-813. But supervisors are employees under the Washington statute and the city has bargained concerning them as working foremen.

O R D E R

The Hearing Officer's decision is affirmed.

DATED this 9th day of December, 1977.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Mary Ellen Krug
MARY ELLEN KRUG, Chairman

Michael H. Beck
MICHAEL H. BECK, Commissioner

Paul A. Roberts
PAUL A. ROBERTS, Commissioner