

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON STATE COUNCIL OF COUNTY)	CASE 11886-E-95-1948
AND CITY EMPLOYEES)	
)	DECISION 5280-A - PECB
Involving certain employees of:)	
)	
SNOHOMISH COUNTY)	INTERIM CERTIFICATION
)	
)	

Tom Michel, Representative, appeared on behalf of the petitioner.

Tom Platt, Attorney at Law, and David Ellgen, Representative, appeared on behalf of the employer.

This case comes before the Commission on objections filed by Snohomish County, seeking to overturn a unit determination ruling contained in a direction of cross-check issued by Executive Director Marvin L. Schurke on September 28, 1995.

BACKGROUND

On July 6, 1995, the Washington State Council of County and City Employees (union) filed a petition for investigation of question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of all full-time and regular part-time employees of the "Juvenile Court Youth Service Corps". [Case 11886-E-95-1948.]

On July 18, 1995, the union filed a petition seeking certification as exclusive bargaining representative of office-clerical employees

of the "Snohomish County Juvenile and Family Court". [Case 11912-E-95-1953.]

At a pre-hearing conference held on August 21, 1995, the parties agreed to merge the two bargaining units into one, and to have the question concerning representation determined by a cross-check. Pending resolution of an issue concerning one employee,¹ the parties stipulated the description of an appropriate bargaining unit as:

All full-time and regular part-time clerical and youth services employees of the Juvenile Services Division of the Snohomish County Superior Court, excluding supervisors, confidential and all other employees.

The employer also reserved a right to question inclusion of a family court clerical employee in the bargaining unit. The union asserted that the family court and juvenile court employees have always been included in the same bargaining unit. Except for the two employees identified as being at issue, the parties agreed on the list of employees in the bargaining unit.

On August 29, 1995, the employer filed objections to the statement of results of the pre-hearing conference, stating the family court clerical employee would more appropriately be placed in a bargaining unit with family court investigators, who are at a different location than the juvenile services division and subject to separate supervision.

As a result of preliminary processing of the petition, the Executive Director proceeded with determination of the question

¹ The employer contended Maureen Ronan should be excluded from the bargaining unit as a supervisor and/or confidential employee. The parties were advised the eligibility question would be reserved for later determination.

concerning representation. The direction of cross-check issued on September 28, 1995, described the bargaining unit as:

All full-time and regular part-time office-clerical and youth services employees of the Juvenile Services Division and Family Court of the Snohomish County Superior Court, excluding supervisors, confidential and all other employees.

The Executive Director stated that the employer's request to exclude all mention of the "family court" from the unit description raised a question of law for which summary judgment was appropriate, and that a unit clarification proceeding might be appropriate in the event of a future change of circumstances. The Executive Director stated that, in the meantime, the arguments advanced by the employer do not prevent going forward with determination as to the question concerning representation. The issues framed concerning the eligibility of certain employees for inclusion in the bargaining unit were reserved for subsequent determination, consistent with City of Redmond, Decision 1367-A (PECB, 1982).

On October 5, 1995, Representation Coordinator Sally Iverson issued a tally of cross-check, indicating that the disputed individuals did not affect the outcome, and that the union was entitled to certification as exclusive bargaining representative.

On October 12, 1995, the employer filed objections to the direction of cross-check. The employer asserted it was advised a hearing would be conducted to resolve disputed unit placement issues, that the issue concerning the appropriate placement of the family court office-clerical position was properly a question of fact which should require a hearing, and that the direction of cross-check holds in abeyance a decision regarding the supervisory status of another employee. The employer contends that the Executive Director's decision to grant summary judgment sua sponte, and

without prior notice to the parties, was inappropriate and should be reversed.

DISCUSSION

The Commission has considered the matter, and is satisfied that the union will be entitled to certification as exclusive representative of a bargaining unit, regardless of the outcome of the employer's concerns. As in City of Winlock, Decision 4056-A (PECB, 1992), and City of Dupont, Decision 4959-A (PECB, 1995), the issuance of an interim certification will permit bargaining to commence between the parties on the undisputed employees, without waiting for the final outcome of the eligibility dispute.

A hearing is appropriate to consider the eligibility of the family court office-clerical position for inclusion in the bargaining unit. That hearing can be held at the same time as the properly delayed hearing on the supervisory status of another employee.

FINDINGS OF FACT

1. The above-named petitioner timely filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, involving certain employees of the above-named employer. The showing of interest filed in support of the petition was administratively determined by the Commission to be sufficient.
2. As a result of preliminary processing of the petition, the Commission proceeded with determination of the question concerning representation, and issues framed concerning the eligibility of certain employees for inclusion in the bargaining unit were reserved for subsequent determination.

3. These representation proceedings were conducted in the bargaining unit described as:

All full-time and regular part-time office-clerical and youth services employees of the juvenile services division and family court of the Snohomish County Superior Court, excluding supervisors, confidential and all other employees.

4. All proceedings were conducted under the supervision of the Commission, in a manner designed to afford the affected employees a free choice in the selection of a bargaining representative. A tally of the result was previously furnished to the parties. The reserved eligibility issues do not affect the outcome of the question concerning representation.

CONCLUSIONS OF LAW

1. Subject to a final determination on the inclusion of the office-clerical employee assigned to the family court, the bargaining unit described in paragraph 3 of the foregoing findings of fact is an appropriate unit for the purposes of collective bargaining.
2. All conditions precedent to issuance of an interim certification have been met.

NOW, THEREFORE, it is

ORDERED

1. The employees of the above-named employer in the appropriate bargaining unit described in paragraph 3 of the foregoing findings of fact have chosen:

WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES,

and that organization is certified as their exclusive bargaining representative for the purpose of collective bargaining with their employer.

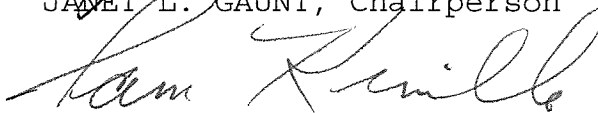
2. These proceedings shall remain open for determination on the propriety of including the family court office-clerical position in the bargaining unit, and for determination of the eligibility issues reserved during the preliminary processing of the case.
3. The matter is remanded to the Executive Director for further proceedings consistent with this Order.

ISSUED at Olympia, Washington, this 21st day of November, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANET L. GAUNT, Chairperson



SAM KINVILLE, Commissioner



JOSEPH W. DUFFY, Commissioner