

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of)
)
PUBLIC SERVICE EMPLOYEES UNION,)
LOCAL NO. 674)
)
and)
)
THE CITY OF SEATTLE)
)
_____)

CASE NO. E-76-81 (384-)
Decision No. 140 PECB

In the Matter of the Petition of)
)
INTERNATIONAL FEDERATION OF)
PROFESSIONAL AND TECHNICAL)
ENGINEERS, LOCAL NO. 17)
)
and)
)
THE CITY OF SEATTLE)
)
_____)

CASE NO. E-76-108 (563-)
Decision No. 141 PECB

APPEARANCES:

Mr. Gary Grant; Mr. Jeff Riddle; and Mr. Joe Daniels,
appearing for and on behalf of the Public Service Employees
Union, Local 674.

Mr. Michael T. Waske; and Ms. Bobbie Baker, appearing for and
on behalf of International Federation of Professional and
Technical Engineers, Local No. 17.

Mr. Gene V. Nelson, and Mr. Pat LeMay, appearing for and on
behalf of the City of Seattle.

MEMORANDUM OF DECISION

Background

On August 2, 1976, Public Service Employees Union, Local No. 674¹ (hereinafter referred to as Local 674), filed a petition with the Public Employment Relations Commission seeking to represent clerical employees employed by the Police Department of the City of Seattle. Since the petition was accompanied by the requisite showing of interest, the petition was processed according to Commission procedure.² In response to the petition, the City of Seattle took the position that the petitioned-for unit was inappropriate, as the only appropriate unit consisted of a City-wide unit of clerical employees.

1 Local 674 is affiliated with the Service Employees International Union, AFL-CIO.

2 See, WAC 391-20-100.

On October 13, 1976, the International Federation of Professional and Technical Engineers, Local No. 17³ (hereinafter referred to as Local 17), filed a petition with the Public Employment Relations Commission seeking to represent clerical employees in certain departments of the City of Seattle, other than the Police Department.⁴ As the petition was accompanied by a sufficient showing of interest, the petition was processed. Here again the City took the position that the unit was inappropriate, as the only appropriate unit was City-wide.

The Executive Director of the Commission found that a question of representation existed and consolidated the proceedings. Pursuant to that directive, a consolidated formal hearing was held before William G. Jeffery, a member of the Commission's staff, who acted as Hearing Examiner pursuant to Chapter 41.56 RCW. The hearing was held on October 26, and 27, 1976, at Seattle, Washington.

Jurisdiction

The City of Seattle is a municipal corporation and thus satisfies the requirement of RCW 41.56.020. No question was raised as to either labor organizations' non-compliance with RCW 41.56.030(3) or with WAC 391-20-065. Therefore, the Commission has jurisdiction in this matter.

Local 674's Petition

In determining the appropriateness of a unit, specific statutory guidance is provided in RCW 41.56.060. The statute requires consideration of the duties, skills, and working conditions of the petitioned-for public employees; the history of collective bargaining of the public employees and their bargaining representative; the extent of organization among the public employees; and the desires of the public employees. Each of these criteria will be considered seriatim.

As to clerical skills, potential employees are initially subject to standardized testing procedures by the Seattle Civil Service Commission. Persons demonstrating a sufficient skill level are certified according to test scores to a hiring list, from which clerical employees of the Police Department are selected. It is also possible for an employee to transfer from another City department into the Police Department upon completion of a probationary period and when a job opening exists. While clerical employees do transfer into and from the Department,

3 Local 17 is affiliated with the AFL-CIO.

4 Local 17 sought to represent clerical employees in the following City Departments: Building; Engineering; Lighting; Parks & Recreation; Water; Community Development; Public Health; and Office of Management & Budget.

there appears to be few, if any, instances of temporary transfers into the Department to cover vacations, illnesses, and peak workload situations.

As to wages and working conditions, the parties agree that clerical employees receive the same wages and benefits according to job classifications. The Department operates on a twenty-four (24) hour basis, necessitating weekend and shift work. Clericals are supervised by commissioned personnel of the Department. Potential employees are subject to background checks as to suitability, and the Seattle Police Department Manual⁵ requires that all employees wanting supplemental employment outside of the Department, must submit an Off Duty Employment Permit to their bureau commander for approval. Approved permits are valid only until December 31st of each year, after which a renewal is necessary. Permit approval is conditioned on the amount of sick days used, employee work record, and misconduct. Employees are prohibited from working in any occupation which would tend to lower the dignity of the police service; any employment related to the towing of vehicles; and employment at any establishment that sells or dispenses intoxicating liquors. Further, off duty employment is limited to twenty-four (24) hours per week. One witness testified that she was prohibited from working as a cocktail waitress, indicating that the regulations are enforced.

Department clerical employees in the criminal records section will be subject to the disclosure prohibitions imposed under the Omnibus Crime Control and Safe Streets Act of 1968.⁶ Specifically, any law enforcement agency receiving federal funds from the Law Enforcement Administration is required to institute procedures to protect individual privacy. An employee who violates the supplementing regulations as to criminal history record information may be subject to a fine not to exceed \$10,000.00 and the agency may lose federal funds.⁷

The record contains much testimony as to the amount and degree of verbal abuse that Police Department clericals receive. While there is no question that such does occur to some extent, it is mitigated by the fact that police officers are available to provide assistance, and only about twenty-three (23) percent, thirty (30) out of a total clerical work force of some one-hundred and thirty (130) in the Department, work on the counters or payment windows. Also, there are

5 See, Seattle Police Department Manual, page ii for definition of employee, and Section 1.07.200, Off Duty Employment Regulations, Page I-51.

6 See, 42 U.S.C. §3701, et seq., as amended (1970).

7 These provisions are not effective until January of 1977.

physical barriers between the clerical and the potential assailant.

The record indicates that some clericals act as the spouse of a detective during investigations of potential criminal activity. However, these instances are relatively few and are voluntary. Clericals do exercise some degree of judgment upon receiving "tip" information, and when reviewing the files for information on potential criminal suspects.

In view of the above skills, duties, and working conditions of Police Department clericals, there has been established a sufficient community of interest among these persons. That is, they possess a substantial mutual interest in the terms and conditions of employment.

Considering the history of collective bargaining of Police Department clericals, there exists no present collective bargaining agreement. However, the clericals were part of a larger unit represented by Teamsters Local Union No. 763. This unit included all civilian employees of the Police Department and was certified by the Washington State Department of Labor & Industries in June of 1972, and was decertified by the Department, pursuant to an election, in August of 1975. The City of Seattle and the Union agreed to the scope of this unit, and two collective bargaining agreements were negotiated by the parties.

Local 674 stated in its closing argument that there has been no history of collective bargaining as to Police Department clericals, and the City did not contradict this. Regardless, there has been no stable long-standing history of bargaining among the clericals, and any determination herein made would not disturb an existing bargaining relationship. Local 674 does presently represent the Parking Enforcement Officers of the Police Department.

Considering the extent of organization, Local 674 has limited its organizational activity to the clerical employees of the Police Department. It is noted that Chapter 41.56 RCW does not contain a provision similar to Section 9(c) (5) of the National Labor Relations Act.⁸

As to the desires of the public employees, Local 674 did present a showing of interest sufficient to meet the threshold requirement of thirty (30) percent. This particular criteria is more relevant in those situations where it has been determined that alternatively appropriate bargaining units exist. In that case, the National Labor Relations Board has permitted expression of employee desires

⁸ Compare Chapter 41.56 RCW with 29 U.S.C. § 159(c) (5) (1970).

and this approach has been sanctioned by the United States Supreme Court.⁹

However, as to the present petition, no argument has been advanced that alternative units exist.

In conclusion, the evidence indicates that Local 674 has met the statutory criteria. That is, because of the community of interest among Police Department clericals, the absence of any long-term stable bargaining relationship, and the extent of Local 674's organization, the petitioned-for unit is appropriate.

Position of City of Seattle

The City does not dispute the existence of a community of interest among the clerical employees of the Police Department, but it contends that this community of interest embraces all clerical employees of the City. Presently, there are some 1,200 clericals throughout the City in approximately 30 offices and departments. Under a mandate to reduce job classifications throughout the City, the Civil Service Commission undertook a study of all clerical employees. During 1974 and 1975, using a statistical sampling technique to review job skills, duties and basic work requirements, the Commission concluded that various clerical positions throughout the City required the same basic skills, knowledge and abilities. From this study, two basic clerical classifications resulted: Office Aid and Office Assistant. From these two basic and generalized classifications, numerous job assignments result. For instance, the Office Assistant classification includes such specific jobs as: clerk; stenographer; telephone operator; court clerk, and municipal court cashier to mention a few. Based on this evidence, the City contends that all clerical employees have the same skills and duties. As to hours of work, the City explains that clerical employees of the Municipal Courts and of the Office of Management & Budget also work shifts, with the differential being the same throughout the city. As to verbal abuse, the City contends that clerical employees of the Department of Licenses & Consumer Affairs are subject to similar abuse.¹⁰ However, employees of other City departments and offices are not subject to the restriction as to outside employment as are employees of the Police Department. As to the judgment factor exercised by Police Department clericals, the City contends that other clericals must also exercise judgment. For instance, the City suggests that clericals in the Office of Mayor must determine which telephone calls to refer directly to City officials.

⁹ Pittsburgh Plate Glass Co. v. NLRB, 313 U.S. 146 (1941).

¹⁰ No clerical employees of this Department so testified.

In summation, the City's position can be best described by quoting a portion of its initial response to Local 674's petition;

Any unit so certified should be City-wide in scope. As you probably know, the Professional and Technical Engineers, Local 17 are attempting to organize clerical employees throughout several City departments. We are prepared to argue with them at a representation hearing that any certification should be City-wide in scope. We intend to be consistent in this approach. Thus, we will likewise argue with Local 674 at a representation hearing that any clerical bargaining unit should be City-wide in scope.

Anything less than a City-wide clerical bargaining unit would tend to fragment the City's collective bargaining effort. It is our policy to strive for City-wide bargaining units. To bargain separately for different departments with different unions would be highly inefficient and not conducive to good labor relations or collective bargaining. ¹¹

Local 17's Petition

As indicated, Local 17 filed a petition seeking to represent clerical employees in some City departments, but excluding the Police Department. During that part of the consolidated hearing regarding Local 17's petition, the parties chose to withdraw from the hearing and attempted to reach agreement among themselves as to the scope of the unit. As a result, the Commission received an amended petition dated November 12, 1976, from Local 17 wherein the Union sought to represent some but not all of the City's clerical employees.¹² In addition, the Commission was provided with a letter from the City to Local 17, whereby both parties agreed to the petitioned-for unit, and the City consented to a Commission conducted election. ¹³ The unit, so stipulated, includes all City departments with the exception of the Human Rights Department, which was excluded because of the confidential nature of its activity. ¹⁴

11 Contained in a letter dated August 9, 1976, from the City of Seattle Personnel Department to the Public Employment Relations Commission.

12 The City Departments petitioned for by Local 17 in its amended petition of November 12, 1976, are: Building; Engineering; Lighting; Parks & Recreation; Water; Board of Public Works; Community Development; Fire; General Services; Human Resources; Licenses & Consumer Affairs; Public Health; and Seattle Center. Those offices or Departments excluded are: Municipal Courts; Corporation Counsel; Office of the Mayor; City Council; Comptroller; Treasurer; Civil Service Commission; Retirement Board; Office of Management & Budget; Personnel; Citizens Service Bureau; Office of Policy Planning; Office of Purchasing; and Human Rights Department.

13 Letter from City of Seattle to Local 17 dated November 15, 1976. This letter was also signed by Mr. Michael T. Waske of Local 17 indicating the Union's agreement. The letter was presented to the Public Employment Relations Commission with Local 17's amended petition.

14 This is not to suggest that a basis exists under Chapter 41.56 to support this exclusion.

Conclusion

The agreement, as to Local 17's petition, is the most recent expression of the City's policy as to the acceptable scope of the clerical bargaining unit. No explanation was provided to the Commission as to the City's rationale in altering its earlier position as to the City-wide unit. Beyond the agreed-upon unit, there are some fifteen (15) City offices and departments which may still be subject to organization with a potential for the problems of fragmentation and inefficient bargaining against which the City first argued.

In seeking guidance from the statute, it is noted that RCW 41.56.060 directs the Commission to decide the unit appropriate for collective bargaining. Because of the consent agreement between the City and Local 17, the only petition requiring a determination is that of Local 674. While the stipulation is inconsistent with the City's original petition, it is not contrary to any provision of the statute, nor is it contrary to any established Commission policy, and thus will be accepted.

As to Local 674's petition, wherein a determination is necessary, the petitioned-for unit meets the statutory criteria, as the record indicates and, therefore, does constitute an appropriate unit.

DATED at Seattle, Washington, this 15th day of December, 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY:

William G. Jeffery
William G. Jeffery

Case Nos. E-76-81 and E-76-103

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Pursuant to a Formal Hearing conducted on October 26 and 27, 1976, before Hearing Examiner, William G. Jeffery, and said Examiner having considered the evidence and arguments of each party, and being fully advised in the premises advanced, and pursuant to WAC 391-08-600, said Examiner now makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

I.

That Public Service Employees Local No. 674 did petition the Public Employment Relations Commission seeking to represent clerical employees in the Police Department of the City of Seattle. Said petition being dated August 2, 1976.

II.

That International Federation of Professional and Technical Engineers, Local No. 17 did petition the Public Employment Relations Commission seeking to represent clerical employees in certain Departments of the City of Seattle, but excluding the Police Department. Said petition being dated October 13, 1976.

III.

That a consolidated Hearing for both petitions was directed by the Executive Director of the Public Employment Relations Commission.

IV.

That the City of Seattle is a municipal corporation pursuant to the statutes of the State of Washington, and that no question was raised as to the status of the petitioning Unions.

V.

That clerical employees of the City of Seattle are tested and certified to a list from which all City agencies hire.

VI.

That clerical employees of the Police Department operate on a twenty-four (24) hour basis thereby requiring shift and weekend work.

VII.

That clerical employees of the City of Seattle are subject to certain provisions of the Seattle Police Department Manual necessitating prior approval of off-duty employment.

VIII.

That no long-standing history of collective bargaining exists as to the clerical employees of the Police Department.

IX.

That the extent of Local 674's organization is limited to the clerical employees of the Police Department.

X.

That the City of Seattle initially stressed that the appropriate unit was all clerical employees of the City of Seattle.

XI.

That the City of Seattle and Local 17 subsequently agreed to a unit not including all clerical employees of the City of Seattle.

CONCLUSIONS OF LAW

I.

That the Public Employment Relations Commission has jurisdiction pursuant to Chapter 41.56 RCW.

II.

That Local 674 meets the criteria set forth in RCW 41.56.060, and thus constitutes a unit appropriate for collective bargaining.

III.

That the Stipulated Agreement between the City of Seattle and Local 17 is hereby accepted.

ORDER

IT IS ORDERED that as all clerical employees of the Seattle Police Department petitioned for by Public Service Employees, Local No. 674 (Service Employees International Union, AFL-CIO) constitute an appropriate unit for purposes of collective bargaining pursuant to Chapter 41.56 RCW, a secret ballot election shall be conducted among the petitioned-for employees, excluding any employees beyond the scope of Chapter 41.56 RCW.

DATED at Seattle, Washington, this 15th day of December, 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY: William G. Jeffery
William G. Jeffery