

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
UNITED STAFF NURSES UNION,)	CASE 8645-E-90-1456
LOCAL 141)	
Involving certain employees of:)	DECISION 3607 - PECB
RITZVILLE MEMORIAL HOSPITAL)	
)	ORDER OF DISMISSAL
)	
In the matter of the petition of:)	
UNITED FOOD AND COMMERCIAL)	CASE 8652-E-90-1458
WORKERS, LOCAL 1439)	
Involving certain employees of:)	DECISION 3608 - PECB
RITZVILLE MEMORIAL HOSPITAL)	
)	DIRECTION OF ELECTION
)	
In the matter of the petition of:)	
RITZVILLE MEMORIAL HOSPITAL)	CASE 8709-E-90-1463
Involving certain employees of:)	DECISION 3609 - PECB
RITZVILLE MEMORIAL HOSPITAL)	
)	ORDER OF DISMISSAL
)	

Webster, Mrak and Blumberg, by Mark E. Brennan, Attorney at Law, appeared on behalf of the unions.

Stamper and Taylor, by Conni L. Stamper, Attorney at Law, appeared on behalf of the employer.

On June 15, 1990, United Staff Nurses Union, Local 141, filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of registered nurses employed by Ritzville Memorial Hospital.¹

On June 19, 1990, United Food and Commercial Workers Union, Local 1439, filed a petition for investigation of a question concerning representation with the Commission, seeking to represent licensed practical nurses, technical employees and RT-certified nursing assistants of Ritzville Hospital.²

On July 24, 1990, Ritzville Memorial Hospital filed a petition for investigation of a question concerning representation with the Commission, citing that the demands for recognition made on it by USNU Local 141 and UFCW Local 1439 possibly involve the same groups or groupings of employees.³

A pre-hearing conference was held at Ritzville, Washington, on August 6, 1990. Hearing Officer J. Martin Smith issued a statement of results of pre-hearing conference on August 7, 1990. The Executive Director has considered the stipulations and positions of the parties as framed at the pre-hearing conference, and concludes that the matter can be resolved by summary order issued pursuant to WAC 391-08-230.

DISCUSSION

The Parties

Located in Adams County 60 miles to the west of the major population center of Spokane, Ritzville Memorial Hospital is operated by a public hospital district and is a public employer subject to the jurisdiction of the Commission under Chapter 41.56 RCW.

The docket records and decisions concerning cases processed by the Commission with regard to other employers indicate that United

² Case 8652-E-90-1458.

³ Case 8709-E-90-1463.

Staff Nurses Union, Local 141, is affiliated with the United Food and Commercial Workers Union, AFL-CIO.⁴

The Bargaining Unit

The parties were not able to agree on bargaining unit descriptions during the course of the pre-hearing conference. Essentially, the employer took the position that a bargaining unit combining its registered nurses (RN) and licensed practical nurses (LPN) was more appropriate than either of the petitioned-for bargaining units. Additionally, the employer asserted that certain "per diem" nurses and certain "technical" employees should be excluded from any bargaining unit sought by the unions.

While it was stipulated at the pre-hearing conference that 11 full-time and regular part-time employees (eight RN employees and three LPN employees) would be eligible voters in either a combined unit or separate bargaining units, it appeared that disputes remained as to more than 25% of the total number of employees involved. A hearing was scheduled for September 11, 1990.

Just prior to the scheduled hearing date, USNU Local 141 notified the Commission that it would be willing to withdraw the petition in Case 8645-E-90-1456, in favor of the petition filed by UFCW Local 1439 in Case 8652-E-90-1458, with the understanding that the bargaining unit would consist of all nurses (RN and LPN) and technical employees of Ritzville Memorial Hospital. UFCW Local 1439 indicated that it desired to amend its petition to seek an employer-wide unit of professional and technical employees. The Hearing Officer thereupon postponed the hearing and sought to obtain an election agreement under WAC 391-25-230, together with a supplemental agreement under WAC 391-25-270 if needed.

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See, for example, Valley Medical Center, Decision 3312 (PECB, 1989); Stevens Memorial Hospital, Decision 3313 (PECB, 1989).

Although the employer had previously urged the consolidation of its RN and LPN employees into a single bargaining unit, it continued to dispute the inclusion of "technical" and "per diem" employees in such a unit. It thus remained unwilling to sign any election agreement and/or supplemental agreement raising the possibility that two technical employees and/or two "per diem" RN employees could be included in the bargaining unit.

Propriety of Summary Direction of Election

In City of Redmond, Decision 1367-A (PECB 1982), the Commission endorsed the use of "summary judgment" procedures to expedite the determination of questions concerning representation. Direction of a cross-check had been substantially delayed in that case while a hearing was conducted and a decision was rendered on eligibility disputes affecting about 25% of the total number of employees involved in the case. In affirming the decision of the Executive Director on other issues, the Commission clearly indicated that an election or cross-check should be conducted as soon as possible, and that eligibility issues such as those raised in that case should be reserved for resolution in proceedings conducted after the question concerning representation is determined. The admonition in Redmond to get on with determining the question concerning representation is entirely consistent with the structure of Chapter 391-25 WAC, which postpones appeal procedures until after a tally has been issued. See, also, the Commission's more recent ruling in Olympic Memorial Hospital, Decision 3317-A (PECB, 1989).

Registered nurses are generally regarded as "professional" employees, while licensed practical nurses are generally regarded as "technical" employees. Nothing in Chapter 41.56 RCW precludes or limits the creation of a bargaining unit which includes both "professional" and "technical" employees of the same employer. In the situation involved here, the employer has evidently persuaded the unions that "professional" and "technical" employees should be

commingled to avoid fragmentation of its nursing workforce. The remaining issue as to the "per diem" employees is entirely an "eligibility" issue, relating to whether they have a sufficient employment relationship with this employer to have a community of interest warranting their inclusion in the bargaining unit.⁵ The issue as to the "technical" employees similarly concerns their community of interest with the undisputed core of the bargaining unit.⁶ It is concluded that the issues raised by the employer are subject to post-election determination of the type called for in Redmond.

Disposition of Cases

The amendment of the petition in Case 8652-E-90-1458 is allowed, and a representation election is directed in that case. The ballot will contain choices for UFCW LOCAL 1439 and NO REPRESENTATION. The eligibility cut-off date for that election will be the date of this order, as called for by WAC 391-25-390. The employer is asked to provide the Commission and UFCW Local 1439 with an updated list of employees. Either party will be permitted to challenge the ballots of the disputed "per diem" and "technical" employees, to preserve those issues for post-election determination. Eligibility disputes arising from the updated list will be also handled by challenged procedures.

The indicated willingness of USNU Local 141 to withdraw Case 8645-E-90-1456 will be acted upon, and that case will be dismissed.

⁵ The USNU had acknowledged that two of the nursing employees worked too few hours to be considered eligible for inclusion in the bargaining unit, leaving only two others in dispute.

⁶ In the eligibility lists circulated after September 11, 1990, the only "technical" employees currently working for the Ritzville Memorial Hospital were identified as X-Ray Technician Shaikh Hamid and Respiratory Technician Terre Creighton.

The petition filed by the employer will also be dismissed. That filing may have been redundant from the outset, as only one question concerning representation can exist at a time regarding any group of employees, and cases had already been filed by both unions. Here, the subsequent developments make clear that the question concerning representation will be determined in Case 8652-E-90-1456.

FINDINGS OF FACT

1. Adams County Public Hospital District 2, d/b/a Ritzville Memorial Hospital, provides health care services in and around Ritzville, Washington, and is a "public employer" within the meaning of RCW 41.56.030(1).
2. United Staff Nurses Union, Local 141, chartered by the United Food and Commercial Workers International Union, AFL-CIO, a "bargaining representative" within the meaning of RCW 41.56-.030(3), has filed a timely and properly supported petition to represent registered nurses employed by Ritzville Memorial Hospital.
3. United Food and Commercial Workers Union, Local 1439, a bargaining representative within the meaning of RCW 41.56-.030(3), has filed a timely and properly supported petition to represent licensed practical nurses and other technical employees of Ritzville Memorial Hospital.
4. Taken together, the petitions before the Commission raise questions concerning representation affecting all non-supervisory professional and technical employees of the employer, including registered nurses (RN), licensed practical nurses (LPN), x-ray technicians, and respiratory technicians.

5. Issues framed in these proceedings concern the bargaining unit status and eligibility of no more than 25% of the total number of employees involved.
6. During the course of these proceedings, UFCW Local 1439 has sought to amend its petition to seek a single bargaining unit consisting of professional and technical employees of the employer.
7. During the course of these proceedings, USNU Local 141 has indicated a desire to withdraw its petition.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. A bargaining unit described as:
All full time and regular part-time non-supervisory professional and technical employees of Ritzville Memorial Hospital, excluding supervisors, confidential employees, office-clerical employees, maintenance employees, food service employees and students
is an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, and a question concerning representation presently exists in such unit in Case 8652-E-90-1458.
3. There is no dispute concerning the inclusion and voter eligibility of at least 75% of the employees within the bargaining unit described in paragraph 2 of these conclusions of law, and a summary direction of election issued pursuant to WAC 391-08-230 will expedite the determination of the question concerning representation under RCW 41.56.070.

4. Remaining issues concerning the bargaining unit status and voter eligibility of certain employees can be resolved through the challenged ballot procedures of Chapter 391-25 WAC.

ORDER

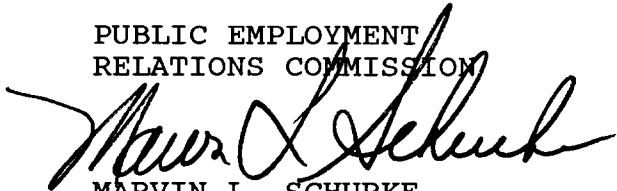
1. Decision 3607 - PECB. The petition for investigation of a question concerning representation filed by USNU Local 141 in Case 8645-E-90-1456 is dismissed as "withdrawn".
2. Decision 3609 - PECB. The petition for investigation of a question concerning representation filed by Ritzville Memorial Hospital in Case 8709-E-90-1463 is dismissed as redundant to the continuing proceedings in Case 8652-E-90-1458.

DIRECTION OF ELECTION

Decision 3608 - PECB. A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission in Case 8652-E-90-1458, in the appropriate bargaining unit described in paragraph 2 of the foregoing conclusions of law, for the purpose of determining whether a majority of the employees in that unit desire to be represented for the purposes of collective bargaining by United Food and Commercial Workers Union, Local 1439, or by no representative.

DATED at Olympia, Washington, this 18th day of October, 1990.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION


MARVIN L. SCHURKE
Executive Director