STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	
WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES	CASE 9254-E-91-1539
Involving certain employees of:	DECISION 4138 - PECB
ABERDEEN SCHOOL DISTRICT	ORDER OF DISMISSAL

On July 12, 1991, the Washington State Council of County and City Employees (union) filed a petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of certain employees of Aberdeen School District (employer). The union's petition sought a bargaining unit limited to:

> Regular part-time employees of the food service program working more than one-sixth of the school year and less the [sic] 4 hours per day.

The matter was routinely processed through the initial stages of the Commission's procedures, as set forth in Chapter 391-25 WAC.

A pre-hearing conference was conducted on September 6, 1991. The parties framed an issue concerning the propriety of the proposed bargaining unit, as follows:

The employer argued that the petitioned-for bargaining unit was inappropriate, because the employer and union already have a bargaining relationship concerning the employer's full-time food service employees, and because a collective bargaining agreement had already been executed for the existing bargaining unit when the petition in this matter was filed.

The union contended that the petitioned-for bargaining unit is appropriate. The union was unwilling to raise a question concerning representation in a bargaining unit encompassing both the petitioned-for part-time employees and the existing bargaining unit of full-time employees, and it reiterated its desire to create a new bargaining unit limited to part-time employees.

The case remained dormant for a time, and the Commission became aware that the union official who filed the petition was no longer associated with the union. A letter directed to the union by the Executive Director, on April 7, 1992, reviewed the status of the case and Commission precedent bearing on the issues raised. The union was asked to clarify its intentions and provide additional information about its position in the matter. The union was given 14 days in which to respond, or face dismissal of the petition as abandoned.

On April 10, 1992, the union filed a letter requesting additional time to evaluate the situation. To date, the union has not sent any further information.

DISCUSSION:

The Public Employment Relations Commission is responsible for the determination of appropriate bargaining units. RCW 41.56.060 states, in pertinent part:

> The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purposes of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their

> bargaining representatives; the extent of organization among the public employees' and the desire of the public employees. ...

Parties may agree on bargaining units, but such agreements do not guarantee that the unit is or will continue to be appropriate. In particular, the agreements made by parties on questions of unit determination are not binding on the Commission. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981).

In Skagit County, Decision 3828 (PECB, 1991) [currently pending on review before the Commission], this union argued that certain part-time employees should be included in an existing bargaining unit as regular part-time employees. The union contended there that the affected employees shared a community of interests with the existing bargaining unit, and that they were well-integrated into the work regularly performed by bargaining unit members. Such arguments were accepted by the Executive Director as being consistent with Commission precedent, under which regular part-time employees are routinely included in the same unit with full-time employees doing similar work. See, also, City of Seattle, Decision 780 (PECB, 1979), where creation of a separate unit of part-time employees was rejected due to the ongoing potential for work jurisdiction disputes with the bargaining unit of full-time employees doing similar work. Following the reasoning of the City of Seattle decision to its logical extremes, where the limits of an existing bargaining unit have been set by an employer and union at an artificial level, a subsequent proceeding calling that artifice to the attention of the Commission may result in a ruling that the underlying unit is not an appropriate unit. See, for example, South Kitsap School District, Decision 1541 (PECB, 1983). Similarly, the Commission has consistently refused to approve bargaining units limited to "full-time" employees. See, Centralia School District, Decision 2599 (PECB, 1987), and cases cited therein.

In the instant case, the union acknowledged during the pre-hearing conference that the petitioned-for employees perform the same type of work as is performed by employees in the existing bargaining unit. It thus appears that the union's pursuit of the petition in this case would bear a potential for casting doubt on the continued propriety of the existing bargaining unit limited to full-time food service employees. Given the Commission precedent on the subject, and the lack of a response from the union, the instant petition must be deemed abandoned.

ORDER

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

ENTERED at Olympia, Washington, this 23rd day of July, 1992.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION

MARVIN L. SCHURKE
Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-25-390(2).