

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
INTERNATIONAL BROTHERHOOD OF) CASE 12921-E-97-2163
ELECTRICAL WORKERS, LOCAL 483)
Involving certain employees of:) DECISION 5879 - PECB
CITY OF TACOMA) ORDER OF DISMISSAL
_____)

David R. Dye, Business Representative, represented the union.

J. C. Gilbertson, Human Resources Director, represented the employer.

On January 15, 1997, International Brotherhood of Electrical Workers, Local 483, filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of "all incumbents in the classification of water distribution supervisor". The petition indicated, on its face, that the number of employees involved in the proposed bargaining unit was "One (1)". In response to a routine inquiry from the Commission, the employer supplied a letter stating that the petitioned-for classification "presently is filled by a single incumbent".¹

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, is patterned after the federal Labor-Management Relations Act of

¹ A letter received from the employer on February 3, 1997, not only confirms that the petition covers a one-person bargaining unit, but also indicates that the sole incumbent (Martin Hall) is scheduled to retire in March of 1997.

1947, and precedent developed by the National Labor Relations Board and the federal courts under that statute are influential in the interpretation of the state law. Nucleonics Alliance v. WPPSS, 101 Wn.2d 24 (1984). It has long been contrary to NLRB policy to certify a representative for a bargaining unit consisting of only one employee. Griffin Wheel Company, 80 NLRB 1471 (1948); Sonoma-Marin Publishing Company, 172 NLRB 625 (1968). The Public Employment Relations Commission reached the same result in its first years of operation, in Town of Fircrest, Decision 248-A (PECB, 1977), stating that a bargaining unit cannot be considered appropriate if it includes only one person.

In a letter issued on February 5, 1997, the union was notified that its petition appeared to be defective on its face. The union was given a period of 14 days in which to show cause why the petition should not be dismissed.

In a response filed on February 12, 1997, the union acknowledged that there was only one employee in the classification covered by the petition in this matter. It made reference to "two other individuals that we have recently organized", where the employer had extended voluntary recognition to the union. It urged that issues concerning the unit placement of those two employees and the employee affected by this petition should be negotiated between the employer and union.

The functions of the Commission in representation proceedings under Chapter 391-25 WAC are: (1) To determine an appropriate unit for the purposes of collective bargaining under the criteria set forth in RCW 41.56.060; and (2) to determine (by an election or cross-check as set forth RCW 41.56.060 and .070) whether a labor organization has the support of the majority of the employees in an appropriate unit. There is no reason to proceed with an election or cross-check in this case, where a one-person bargaining unit is fatally defective.

The union's request for referral of the unit issue to bargaining between the parties must be rejected. Unit determination is not a subject for bargaining in the usual "mandatory/permissive/illegal" sense. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981).²

NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-captioned matter is dismissed as defective on its face.

Issued at Olympia, Washington, on the 19th day of March, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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

² If the parties' only dispute is on whether certain positions are properly accreted to some existing bargaining unit, it may be appropriate for one of them to file a unit clarification petition under Chapter 391-35 WAC.