

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

KERRIE ALLIE

Involving certain employees of:

OROVILLE SCHOOL DISTRICT

CASE 24369-E-11-3680

DECISION 11239 - PECB

ORDER OF DISMISSAL

On October 31, 2011, Kerrie Allie filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking to decertify the Organized Classified Association of Oroville/WEA (union) as exclusive bargaining representative of the Secretaries of the Oroville School District (employer).

A routine letter was mailed to the employer requesting a list of employees. In a response filed on November 7, 2011, the employer indicated that the petitioner sought only a portion of a historically larger unit. The employer supplied a copy of the current collective bargaining agreement which was in effect February 1, 2006 through January 31, 2009. That agreement indicated the employer recognized the union as the exclusive bargaining representative for all custodians, maintenance, bus drivers, and secretaries (including library and satellite technicians) of the District excluding supervisors, confidential employees, and all other employees.

The petitioner was notified that the petition appeared to seek an inappropriate "severance-decertification" affecting only a portion of the employees who have historically been included in a much larger bargaining unit. The petitioner was given a period of 14 days to show cause why the petition should not be dismissed. To date, the petitioner has not responded.

DISCUSSION

A decertification petitioner must take the unit as he or she finds it. WAC 391-25-210 (1) states:

In proceedings on a petition for "decertification" under WAC 391-25-070 (6) (c) or 391-25-090 (2), the parties shall not be permitted to remove positions from or add positions to the existing bargaining unit.

The Commission had rejected "severance-decertification" petitions long before that rule was adopted. In *City of Seattle*, Decision 2612 (PECB, 1987), where an employee sought to decertify only a select group of employees from a larger bargaining unit, the Commission wrote:

The distinction between "decertification" of an incumbent exclusive bargaining representative and "severance" of a part of the existing bargaining unit is well founded and clear. Proceedings in the "decertification" category are characterized by employees seeking to be rid of their present union, with the result that they end up with no union representation. By contrast, cases in the "severance" category involve a petition of one organization seeking to carve out a separate bargaining unit from a larger unit historically represented by the same or another organization. In both types of cases, the Commission must honor statutory directive that it consider the "history of bargaining". RCW 41.56.060. A decertification petitioner does not have the prerogative to fashion a new bargaining unit or voting group, however. Rather, employees who seek to be rid of their union must take the existing unit as they find it and must move to decertify the context of the existing bargaining unit. Accordingly, petitions which, as here, simultaneously seek "severance" and "decertification" are precluded by controlling precedent of the Public Employment Relations Commission. See, *City of Seattle*, Decision 1229-A (PECB, 1982) [Commission affirmed Executive Director's dismissal of "severance-decertification" petition seeking to remove some, but not all, of the employees from an existing bargaining unit of City of Seattle employees represented by Plumbers Local 32]; *Valley General Hospital*, Decision 1333 (PECB, 1982) [Executive Director dismissed "severance-decertification" petition.] The Commission's decisions on this subject are, in turn, based on precedents of the National Labor Relations Board (NLRB). *Campbell Soup Co.*, 111 NLRB 234 (1955) [cited by Commission, with approval, as standing for the proposition that severance principles may not be applied to obtain decertification of part of an existing bargaining unit; *Oakwood Tool & Engineering Co.*, 122 NLRB 812 (1958); *Associated General Contractors of California, Inc.*, 209 NLRB 363 (1974).

A petition seeking a "severance-decertification" is void from the outset, and must be dismissed as such.

NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above matter is dismissed.

Issued at Olympia, Washington, this 28<sup>th</sup> day of November, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.