

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of:)	
TEAMSTERS UNION, LOCAL NO. 589,)	CASE NO. 3154-E-80-613
Involving certain employees of:)	DECISION NO. 1079-A - PECB
CLALLAM COUNTY TRANSIT SYSTEM.)	ORDER DETERMINING CHALLENGES

William McCully, General Manager, appeared on behalf of the respondent.

Steven B. Frank, Attorney at Law, appeared on behalf of the intervenor, Amalgamated Transit Union Division No. 587.

On November 14, 1980, International Brotherhood of Teamsters, Local Union No. 589 filed a petition with the Public Employment Relations Commission for investigation of a question concerning representation in a bargaining unit described as follows:

"Inclusions:

All full-time and regular part-time employees of Clallam County Transit System.

Exclusions:

General Manager, Operations Supervisor, Administrative Assistant, Bookkeeper and confidential employees as defined in RCW 41.56."

Amalgamated Transit Union, Local 587 timely moved for intervention in the captioned proceedings. The parties filed an election agreement and a supplemental stipulation to the election agreement, whereby "dispatchers" were to vote challenged ballots subject to a later determination by the Commission.

Following an election in which a majority of the employees voted for representation by the intervenor, the Public Employment Relations Commission issued a Conditional Certification, Decision No. 1079 (PECB, 1981), on January 22, 1981, designating the intervenor as exclusive bargaining representative, with the "dispatchers" conditionally excluded. A hearing was held on February 24, 1981 before Ronald L. Meeker, Hearing Officer.

BACKGROUND:

Clallam County Transit System was authorized by the Clallam Transit Authority, pursuant to RCW 36.57, on or about September 10, 1980. The Transit Authority is composed of six members and three alternate members designated by the following:

1. Board of Clallam County Commissioners
2. Port Angeles City Council
3. Sequim City Council

Each of the Authority members and/or alternate members are elected officials of their respective bodies.

The Authority has a Transit General Manager, who is responsible for the overall operations of the system and supervision of all its employees; an Operations Supervisor, who supervises and directs the activities of the dispatchers and drivers; and an Administrative Assistant/Bookkeeper, who assists the Operations Supervisor and Transit General Manager. The Receptionist/Office Secretary is included in the bargaining unit.

The position description for the disputed position identifies the duties and responsibilities of the dispatchers as follows:

POSITION TITLE: Dispatcher

POSITION SUMMARY: Responsible for supervising, coordinating, and dispatching drivers of mass transit vehicles within the service area.

DUTIES AND RESPONSIBILITIES:

1. Supervises, coordinates, and dispatches drivers to convey passengers according to schedules and/or demand-responsive systems.
2. Records movement and location of vehicles to inform other departments and the public regarding current schedules and routes.
3. Receives telephone or radio reports of accidents, delays, equipment breakdowns, and other maintenance difficulties.
4. Assists operations supervisor in restoring and maintaining service and schedules when interrupted.
5. Keeps drivers advised of current road and traffic conditions.
6. Maintains log of scheduled runs, number of vehicles, and names of drivers.
7. Records calls and emergencies as required.
8. Maintains records and makes reports as required.

9. Assists drivers in making accident reports.
10. May suspend or call in drivers for infractions of operating regulations.

IMMEDIATE SUPERVISOR: Operations Supervisor.

That document was stipulated in evidence. In the context that the employer had been in operation for less than six months at the time of the hearing in this matter, no issues have been raised as to the accuracy or sufficiency of the position description. The employer has two regular dispatchers who are in dispute in this proceeding. Two full-time drivers from the employer's workforce have been selected and trained for work as substitute dispatchers; but they are not at issue in these proceedings.

The employer maintains a rather complex hiring process. After initial screening of applicants by the Department of Employment Security, this employer has all applications screened by four individuals drawn from its management and/or board of directors. Numerical scoring is used, including rejection of high and low scores and computation from the remaining scores to determine competitive position. Interviewing is done by teams of two or more persons. Up to the time of the hearing, such teams had always included at least one of the managers excluded from the unit by agreement of the parties. The interviewers follow a pre-determined set of questions and then arrive at their scores separately, after which a final score is determined and the applicant with the highest score is hired. One of the dispatchers sat on the interview team for the relief dispatcher positions.

Bus drivers report to work at a garage about 2½ miles from the transit office. The drivers then report to the transit office, where the dispatchers work, before commencing their scheduled runs. If a driver does not report for work, the lead driver at the garage informs the dispatcher, who locates a replacement from the extra board. The dispatcher determines if drivers are in conformance with the transit system dress code and physically able to drive the assigned route. The dispatcher then gives the drivers their trip bag containing the driver's daily schedule and an emergency envelope that has pencils, accident cards, procedural forms, transfers, and coins to use for telephone calls. The dispatcher can suspend an employee for being out-of-uniform or for drunkenness or other serious infraction of the operational rules. However, no employee has been suspended since the system began operations.

The dispatcher's daily routine, after the drivers depart on their scheduled routes, becomes routinely ministerial. They answer the telephone, maintain daily records, provide road and traffic condition reports, and assist drivers as needed. Dispatchers extract information from trip bags turned in by drivers and prepare trip bags for issuance.

POSITION OF THE PARTIES:

The employer contends that the dispatchers are, by position description and function, supervisors since they have the authority to suspend operators for infractions of operating rules and because they are members of interviewing teams who make recommendations to hire.

Intervenor contends the dispatchers are public employees under RCW 41.56 and should be included in the bargaining unit as non-supervisory employees whose duties, skills and working conditions are similar to the drivers and the receptionist who are included in the bargaining unit. Intervenor further contends that if the Commission concludes the dispatchers are supervisory they should still be a part of the bargaining unit.

DISCUSSION:

The legislature has not chosen to define "supervisors" in RCW 41.56 or to exclude them from collective bargaining rights under the Act. City of Tacoma, Decision No. 95-A (PECB, 1977); METRO v. L & I, 88 Wn2d 925 (1977). It is within the different duties, skills, and working conditions of supervisors that circumstances are sometimes found which warrant the exclusion of supervisors from bargaining units composed primarily of employees they supervise. City of Richland, Decision No. 279-A (PECB, 1978), Aff'd Ct. of Appeals (Div. III, 1981).

Duties, Skills, and Working Conditions

The dispatchers participation in hiring is limited by the highly structured interviewing process. The process involves asking predetermined questions. The interviewers do not recommend applicants for hire using any criteria other than the ranking of the applicants based upon a mathematical compilation of scores. The ultimate responsibility for selection of employees rests with higher authority, and the authority of the screeners and interviewers is so dispersed as to preclude a conclusion that any individual participant makes an independently effective recommendation.

The dispatchers authority to suspend employees is limited to violation of the employer's dress code and serious infractions of the rules. Any such discipline meted out must be reported to higher authority. All other infractions of work rules that could involve discipline are reported, in writing, to the Operations Supervisor, who makes an independent investigation and takes the appropriate action against the employee involved. Dispatchers do not supervise any other personnel in their work location and the record does not indicate that the lead drivers report to or are supervised by the dispatchers except when a driver does not report to work. There is undisputed testimony that similar arrangements exist elsewhere in the transit industry where dispatchers are included in rank and file units.

Although dispatchers are paid a straight salary, whereas drivers are paid hourly wages, the dispatchers work the same 40-hour week as drivers and the same 5:00 A.M. to 8:30 P.M. schedule of hours. Dispatchers and drivers have also been treated alike for purposes of holiday rights, and are distinguishable thereby from the excluded management personnel.

FINDINGS OF FACT

1. Clallam County Transit System is a public employer within the meaning of RCW 41.56.030(1), operating in Clallam County, Washington.
2. Amalgamated Transit Union, Division No. 587, is a bargaining representative within the meaning of RCW 41.56.030(3).
3. Amalgamated Transit Union, Division No. 587, is the certified bargaining representative for a unit described as follows:

"Included: All full time and regular part-time employees of Clallam County Transit System.
 Excluded: General Manager, Operations Supervisor, Administrative Assistant/Bookkeeper and confidential employees as defined in RCW 41.56."

The parties have a dispute concerning the unit status of the position of dispatcher

4. Dispatchers are public employees within the meaning of RCW 41.56, and the parties raised no confidentiality claims.
5. Dispatchers employed by the employer are primarily assigned to work of an administrative nature and have only limited supervisory authority concerning suspension of bus drivers for infractions of established employer rules and dress codes. Any recommendations or actions of a supervisory nature are subject to independent review and determination by the Operations Supervisor or Manager.
6. Dispatchers have work hours and holiday rights similar to those of bus drivers employed by the employer and, when absent from work, are replaced by bus drivers who are not, because of their interchangeability with the dispatchers, in dispute in these proceedings.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and WAC 391-25.

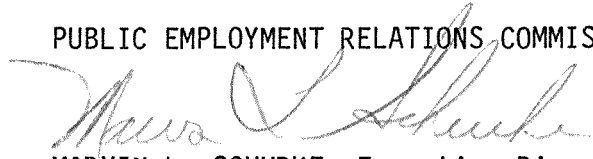
2. Dispatchers have duties, skills and working conditions more closely aligned with bargaining unit members (drivers and office secretary/receptionist) and would properly be included in the bargaining unit described in Finding of Fact No. 3.

ORDER

The challenges to the eligibility of Lee Berg and Terry Weed are overruled. Since opening of their ballots would unnecessarily disclose the secrecy of their votes without effect on the outcome of the election, their ballots are impounded. An amended tally is attached.

DATED at Olympia, Washington this 4th day of August, 1981.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director