

employer: . . . Thus, the facts establish that less isolationism exists than the union asserts. The existence of some different duties among employees in the sewer division is not so sufficiently distinct to justify a finding of a separate community of interest for employees in the proposed unit. A high degree of interaction exists -- even up to a daily basis for some employees -- between the petitioned-for employees and the rest of the employer's employees, as well as there being a functional integration among the divisions.

Thus, a largely factual conclusion that the petitioned-for unit was inappropriate led to dismissal of the petition. The union filed its petition for review on July 11, 1989.

DISCUSSION

This representation proceeding is conducted pursuant to Chapter 391-25 WAC, but is affected by provisions of Chapters 10-08¹ and 391-08 WAC.² WAC 391-25-390(2) provides for the filing of a petition for review "within twenty days following the date of" an order of dismissal issued by the Executive Director.

WAC 10-08-050(4) and 391-08-120(4) provide, identically, that "papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at" the office of the agency. WAC 10-08-080 and 391-08-100 provide, identically:

¹ Chapter 10-08 WAC is promulgated by the state's Chief Administrative Law Judge, to provide uniform rules for processing of "contested cases" under Chapter 34.04 RCW and as a model for "adjudicative proceedings" under Chapter 34.05 RCW.

² Chapter 391-08 WAC was promulgated by this Commission, to provide rules of practice and procedure for all types of proceedings before the agency.

COMPUTATION OF TIME. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

In this case, the 20-day period for filing of a petition for review of the Executive Director's decision issued on June 19, 1989 would have ended on Sunday, July 9, 1989, and so was automatically extended to the close of business on Monday, July 10, 1989.

Although dated July 6, 1989, the union's letter requesting review of the Executive Director's decision was not received (filed) at the Olympia office of the Commission until July 11, 1989, at which time the Commission's date stamp was routinely affixed.

The procedural defect was not noted immediately. The Executive Director sent a letter to the parties on July 19, 1989, acknowledging the filing of the petition for review on July 11 and granting an extension of briefing deadlines requested by the union. Relying on the filing date specified in the Executive Director's letter, the employer's brief filed on August 10, 1989 noted that the petition for review appeared to have been filed one day late. We have verified that the petition for review was, indeed, late.

In Mason County, Decision 3108-A (PECB, 1989), the Commission dismissed an untimely petition for review, noting that "both the filing of an original and three copies of a petition for review with the Commission and service of a copy of the petition for review upon opposing parties" was deemed to be jurisdictional.

That ruling was consistent with a long line of decisions in which this Commission has strictly enforced the time limits provided in its rules for the filing and service of petitions for review. Port of Seattle, Decision 2661-B (PECB, 1988); Othello School District, Decision 3037-A (PECB, 1988); Lewis County, Decision 2957-A (PECB, 1988); Inchelium School District, Decision 2395-C (PECB, 1987); and others dating back to at least 1978.

The union has not responded in any manner to the "timeliness" argument advanced by the employer in its appeal brief. Neither are we aware of any special circumstance, or any action or error on the part of agency personnel which might have misled the union as to the due date for its petition for review. It appears that the union merely relied, to its detriment, on the U.S. Postal Service to get its petition for review delivered on time.

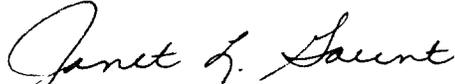
NOW, THEREFORE, it is

ORDERED

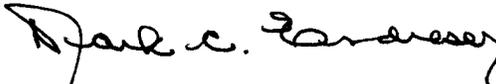
The petition for review filed by the Washington State Council of County and City Employees is DISMISSED as untimely.

Issued at Olympia, Washington the 11th day of April, 1990.

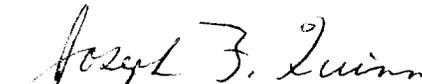
PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANET L. GAUNT, Chairperson



MARK C. ENDRESEN, Commissioner



JOSEPH F. QUINN, Commissioner