

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of:)	
)	
INTERNATIONAL BROTHERHOOD OF)	CASE 7847-E-89-1332
ELECTRICAL WORKERS, LOCAL 77)	DECISION 3495 - PECB
)	
Involving certain employees of:)	CASE 7944-E-89-1344
)	DECISION 3496 - PECB
CITY OF CENTRALIA)	
)	DIRECTION OF CROSS-CHECKS
)	

Hafer, Price, Rinehart and Schwerin, by Richard H. Robblee, Attorney at Law, appeared on behalf of the petitioner at the hearing. Kathleen Phair Barnard, Attorney at Law, joined on the briefs.

Matthew D. Durham, Management Consultant, appeared on behalf of the employer.

On March 10, 1989, the International Brotherhood of Electrical Workers, Local 77, (IBEW) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of certain employees in the Water and Wastewater Utilities Department of the City of Centralia.¹

On April 26, 1989, IBEW Local 77 filed a second petition for investigation of a question concerning representation with the Commission, this time seeking certification as exclusive bargaining representative of certain employees in the Parks Department of the City of Centralia.²

A pre-hearing conference was conducted on April 28, 1989, at which time the parties stipulated all of the issues in both cases except

¹ Case 7847-E-89-1332.

² Case 7944-E-89-1344.

for the description of the appropriate bargaining unit(s) and eligibility list(s). A hearing before Hearing Officer Katrina I. Boedecker on July 6, 1989, was limited to the issue concerning the description of the bargaining unit(s). The parties filed post-hearing briefs.³

BACKGROUND

The City of Centralia has approximately 125 full-time employees who are assigned to work in eight different departments. Of interest in this proceeding, the Water and Wastewater Utilities Department is managed by Denise Lahmann, while the Parks Department is managed by J.D. Fouts, and the Public Works Department is managed by Terry Calkins. The lines of supervision and authority are separate between those three departments, although they all lead ultimately to City Manager William DaVee.

The employer has a city-wide salary and classification plan which was developed with the Kenney Consulting Group and adopted by the city council in 1987. That plan contains job titles, which are placed in salary ranges. The consultant grouped the job classifications in the salary ranges based upon similarity of duties, responsibilities and knowledge required to perform the assigned tasks. Various positions from the Water and Wastewater Utilities Department, the Parks Department and/or the Public Works Department have been assigned to the same salary range. The employer offers identical fringe benefit plans to all of its employees.

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The issuance of a decision in this matter was held up for a time to await whatever guidance might emanate from a decision by the Commission in Federal Way Water and Sewer District, Decision 3228 (PECB, 1990). As it turned out, the Commission's disposition of the Federal Way case on procedural grounds did not yield the anticipated guidance on the substantive issue faced here.

The employer currently has collective bargaining relationships with various organizations covering four separate bargaining units: Police Department employees are represented by Teamsters Local 252; Fire Department employees are represented by a local affiliate of the International Association of Fire Fighters; an employer-wide bargaining unit of office-clerical workers is represented by Teamsters Local 252; Electrical Utility Department employees are represented by IBEW Local 77.

Water and Wastewater Utilities Department

Lahmann testified that the employer's water utility operation provides fresh water supply for approximately 5200 customers. It operates four booster pump stations and maintains five reservoirs for water distribution, using approximately 88 miles of lineal pipe throughout the system. Lahmann testified, further, that the wastewater utility operation serves approximately 3500 customers and operates 21 sewage pump stations.

The department's staff is assigned almost equally between the two utilities, but all of them work out of one shop. They share a locker room and break room. They also have similar work schedules: 8:00 a.m. to 5:00 p.m., Monday through Friday, with one hour for lunch at noon. The shop used by the Water and Wastewater Utilities Department is physically separated from, and some distance from, the facilities used by the employer's other departments. Water and Wastewater Utilities Department employees have infrequent contact with employees in the employer's other departments.

Employees of the Water and Wastewater Utilities Department work as water technicians, meter readers, and treatment plant operators.⁴

⁴ The parties stipulated that "process analyst" and "engineering technician" positions in the department would be included in any unit established by the Commission.

Employees on both sides of the department have similar duties, maintaining and repairing underground pipes, and they operate the same type of equipment, including backhoes, dump trucks, compressors, jackhammers, cut-off saws, tapping equipment and hand tools. There is a common history of employee transfers between the water and wastewater functions, but there has been no cross-movement of employees between the Water and Wastewater Utilities Department and the Parks Department or the Public Works Department.

Unlike Parks Department or Public Works Department employees, the Water and Wastewater Utilities Department employees are subject to rotating duty on weekends, and are subject to being called to work in cases of emergency. The employees in that department meet together monthly to discuss safety and procedure updates.

Parks Department

Fouts testified that the Parks Department is responsible for ten parks covering approximately 235 acres within the city limits. The employees oversee six recreational facilities, including a kitchen, a swimming pool and a racketball court.

Public Works Department

The Public Works Department maintains approximately 70 miles of streets and 26 miles of storm drains. In addition, the Landfill Division of that department oversees the collection and disposal of 43,000 tons of refuse each year.

POSITIONS OF THE PARTIES

The union asserts that two separate units are appropriate under the statutory criteria: A bargaining unit of Water and Wastewater Utilities Department employees, and a bargaining unit of Parks

Department employees. The union contends that the employees in each of its proposed units have a distinct community of interest. Responding to the employer's arguments, the union contends that the employer is proposing a "hodge podge unit" merely for its convenience, and it resists the inclusion of Public Works Department employees in any bargaining unit, since those employees were not included in either of the union's petitions and have not expressed any interest in having an exclusive bargaining representative.

The employer argues that the bargaining units proposed by the union would fragmentize the employer's workforce and labor relations structure, in contravention of established Commission precedent. The employer proposes that there be one employer-wide bargaining unit of technical, operations and maintenance employees spanning the Water and Wastewater Utilities Department, the Parks Department and the Public Works Department. It cites the integration of employees for salary purposes without regard to their department as justification for consolidation of the departments in question into one unit.

DISCUSSION

The criteria used to determine appropriate bargaining units are set forth in RCW 41.56.060:

DETERMINATION OF BARGAINING UNIT -- BARGAINING REPRESENTATIVE. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose 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. The commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

Where employees share significant similarities in duties, skills and working conditions, a "community of interest" is said to exist. Bargaining units are organized around such communities of interest.

This employer has previously acknowledged, and even asserted, the propriety of a separate bargaining unit of the employees in its Water and Wastewater Utilities Department. City of Centralia, Decision 2940 (PECB, 1988). In that case, another organization sought to divide the Water and Wastewater Utilities Department into two separate units. The employer's position in that case was set forth in the decision as follows:

The employer argues that the existing bargaining structure in the city is based upon a "department-by-department" approach, and that anything smaller than a "departmental" unit would be an unnecessary fragmentation of the employer's workforce.

The same decision goes on to recite that the employer had been a party in a previous case to a stipulation that a department-wide unit including the water and wastewater employees was appropriate.⁵

This case is distinguished, on its facts, from the situation in Federal Way Water and Sewer District, supra, where a close question was presented as to whether employees working in similar functions

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Case 6949-E-87-1199, filed July 17, 1987. The petition in that case was withdrawn by the union prior to the conduct of an election. The dismissal order was issued on November 24, 1987. The petition leading to City of Centralia, Decision 2940, was filed on December 3, 1987.

in a recently merged employer entity could be organized in separate "vertical" bargaining units. Apart from the positions taken and stipulations made in previous proceedings, the record in the instant case amply establishes that, whether working on the "water" side or on the "wastewater" side of that department, the employees in the City of Centralia Water and Wastewater Utilities Department are part of an integral operation under separate supervision.

The employees of the Parks Department similarly share a community of interest among themselves. Their work locations, shift arrangements and supervision are separate from both the Water and Wastewater Utilities Department and the Public Works Department, and there is no significant integration of duties or interaction among employees. See, City of Redmond, Decision 2324 (PECB, 1985); City of Bellevue, Decision 1214 (PECB, 1981).

To reject either or both of the separate bargaining units proposed by the union here, it would be necessary to conclude that the proposed unit(s) are inappropriate under the criteria of RCW 41.56.060. The employer's use of a common salary and classification plan, and its use of certain common fringe benefits is not enough to base a conclusion that a single bargaining unit consolidating the three departments in question is the only appropriate unit structure available within the employer's workforce. Similarly, in view of their clearly separate identities within the employer's own table of organization, the employer's emphasis on similarities of responsibilities and qualifications among the water, wastewater, parks and public works employees does not rise to a level to require rejection of the proposed bargaining units.

Where a proposed unit structure is otherwise appropriate under the statutory criteria, it will not be held inappropriate simply because the employer fears inconvenience. Grays Harbor County, Decision 3067 (PECB, 1989); City of Redmond, supra.

Concerns about fragmentation of bargaining units relate to the long-term stability of the bargaining relationship(s). The Commission considers "the group sought by the union against the balance of the employer's workforce". City of Centralia, supra. In this case, the employees in the Public Works Department have not expressed any interest in being represented for purposes of collective bargaining, and the petitioner has not sought to represent them. The establishment of separate units for the Water and Wastewater Utilities Department and for the Parks Department will promote the desired stability in bargaining, by reflecting the departmental organization of the employer.

Method of Determination

RCW 41.56.060 specifically authorizes the Commission to use a "cross-check" methodology for determining questions concerning representation. The Commission has adopted WAC 391-25-391, which defines the limited circumstances under which a cross-check is to be used. In this case, the union has provided a "showing of interest" demonstrating that it has the support of a substantial majority of the employees in each of the bargaining units. There has already been delay in the processing of this case, and further delay would only exacerbate the problem. The conditions precedent for a cross-check are met.

FINDINGS OF FACT

1. The City of Centralia is a public employer within the meaning of RCW 41.56.030(1). Among its operations are a Water Department, Parks Department and Public Works Department.
2. International Brotherhood of Electrical Workers, Local 77, a bargaining representative within the meaning of RCW 41.56-.030(3), has filed a timely and properly supported petition

- for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of employees in the Water and Wastewater Utilities Department of the City of Centralia.
3. International Brotherhood of Electrical Workers, Local 77, a bargaining representative within the meaning of RCW 41.56-.030(3), has filed a timely and properly supported petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of employees in the Parks Department of the City of Centralia.
 4. The Water and Wastewater Utilities Department and the Parks Department of the City of Centralia are separate departments within the employer's table of organization. The employees in those departments have separate supervision, separate work locations, separate functions and separate shift arrangements. There is no significant integration of duties or interaction of personnel across departmental lines. The employees in each of those departments share a community of interest among themselves.
 5. The Public Works Department of the City of Centralia is a separate department within the employer's table of organization. The employees in that department have supervision, work locations, functions and shift arrangements different from either the Water and Wastewater Utilities Department or the Parks Department. There is no significant integration of duties or interaction of personnel across departmental lines.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.

2. A bargaining unit consisting of all full-time and regular part-time nonsupervisory employees of the Water and Wastewater Utilities Department of the City of Centralia, excluding elected officials, officials appointed for a fixed term, the city manager, department heads, confidential employees, supervisors and all other employees of the employer, is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060, and a question concerning representation presently exists in that bargaining unit.
3. A bargaining unit consisting of all full-time and regular part-time nonsupervisory employees of the Parks Department of the City of Centralia, excluding elected officials, officials appointed for a fixed term, the City Manager, department heads, confidential employees, supervisors and all other employees of the employer, is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060, and a question concerning representation presently exists in that bargaining unit.

DIRECTION OF CROSS-CHECKS

1. A cross-check of records shall be made under the direction of the Public Employment Relations Commission in the bargaining unit described in paragraph 2 of the foregoing conclusions of law, to determine whether a majority of the employees in that bargaining unit have authorized International Brotherhood of Electrical Workers, Local 77 to represent them for the purposes of collective bargaining.
2. A cross-check of records shall be made under the direction of the Public Employment Relations Commission in the bargaining unit described in paragraph 3 of the foregoing conclusions of law, to determine whether a majority of the employees in that

bargaining unit have authorized International Brotherhood of Electrical Workers, Local 77 to represent them for the purposes of collective bargaining.

Dated at Olympia, Washington, on the 30th day of May, 1990.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.