

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
TEAMSTERS UNION, LOCAL 763) CASE 12097-E-95-2000
Involving certain employees of:) DECISION 5390 - PECB
CITY OF CLYDE HILL) DIRECTION OF CROSS-CHECK
_____)

Tom Krett, Organizer, appeared on behalf of the union.

Cabot Dow, Labor Relations Consultant, Mitchell Wasserman, City Administrator, and Bill Wehmyer, Chief of Police, appeared on behalf of the employer.

On October 9, 1995, Teamsters Union, Local 763, 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 certain employees of the City of Clyde Hill. On December 4, 1995, the Commission received notice from the incumbent union, Clyde Hill Police Guild, that it had abandoned the bargaining unit.¹ A pre-hearing conference was conducted, by telephone conference call, on December 12, 1995. The union stated a preference for a cross-check to determine the question concerning representation, while the employer objected to use of the cross-check procedure. The dispute concerning methodology was referred to the Executive Director.

RCW 41.56.060 sets forth the methods for determining questions concerning representation:

¹ The last president of the organization notified the Commission that the organization had been abolished as the result of a unanimous vote of its members taken on July 27, 1995.

The commission shall determine the bargaining representative by (1) examination of organization memberships roles, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

[1975 1st ex.s. c 296 §17; 1967 ex.s. c 108 §6.]

The Commission's rules limit the availability of the "cross-check" procedure, as follows:.

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. Where **only one organization is seeking certification** as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that such **organization has been authorized by a substantial majority of the employees** to act as their representative for the purposes of collective bargaining, and the executive director finds that the **conduct of an election would unnecessarily and unduly delay** the determination of the question concerning representation with little likelihood of altering the outcome, the executive director may issue a direction of cross-check. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

[Statutory Authority: RCW ... 41.56.040, 41.58.050, ... 80-14-046 (Order 80-5), §391-25-391, filed 9/30/80, effective 11/1/80.]

When WAC 391-25-391 was adopted, the "substantial majority" was defined as a showing of interest of more than 70% of the employees in the bargaining unit.

Employers occasionally oppose the use of the cross-check procedure on the basis of a general preference for elections, notwithstanding that cross-checks have been specifically authorized by the statute since its inception in 1967. The Commission's rules on cross-checks have been in place for more than a dozen years, and the

Commission endorsed the "70% test" for a cross-check in City of Redmond, Decision 1367-A (PECB, 1982). Employer objections on various grounds were rejected in a trilogy of cases decided in 1990. Port of Pasco, Decision 3398-A (PECB, 1990); City of Centralia, Decision 3495-A (PECB, 1990); City of Winslow, Decision 3520-A (PECB, 1990). Clearly, this employer's general preference for an election is not a basis to deny use of the cross-check procedure. See, also, Pike Place Market, Decision 3989 (PECB, 1992).

Examination of the petition and pre-hearing statement in this case indicates that the union has submitted the kind of substantial showing of interest required by WAC 391-25-391. Use of the election procedure would inherently delay the determination of the question concerning representation, and the union's showing of interest in excess of 70% inherently indicates little likelihood of an election altering the result.

DIRECTION OF CROSS-CHECK

1. A cross-check of records shall be made under the direction of the Public Employment Relations Commission in the appropriate bargaining unit described as:

All full-time and regular part-time law enforcement officers of the City of Clyde Hill, excluding confidential employees, supervisors, and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized Teamsters Union, Local 763, to represent them for purposes of collective bargaining.

2. The employer shall immediately supply the Commission with copies of documents from its employment records which bear the

signatures of the employees on the eligibility list stipulated by the parties.

Issued at Olympia, Washington, on the 14th day of December, 1995.

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.