STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, AFSCME, AFL-CIO	)	CASE 11886-E-95-1948 DECISION 5280 - PECB
	)	CASE 11912-E-95-1953
Involving certain employees of:	)	DECISION 5281 - PECB
	)	
SNOHOMISH COUNTY	)	DIRECTION OF CROSS-CHECK
	)	

Tom Michel, Staff Representative, appeared on behalf of the union.

Perkins Coie, by Thomas E. Platt, Attorney at Law, and David Ellgen, Attorney at Law, appeared on behalf of the employer.

On July 6, 1995, the Washington State Council of County and City Employees (WSCCCE) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of employees of the Snohomish County "Juvenile Court Youth Services Corps." Case 11886-E-95-1948. On July 18, 1995, the WSCCCE filed a similar petition seeking certification as exclusive bargaining representative of office-clerical employees of the "Snohomish County Juvenile and Family Court." Case 11912-E-95-1953. A pre-hearing conference was conducted, by telephone, on August 21, 1995, during which the parties stipulated to the two cases being processed together, and to determination of the question concerning representation by a cross-check. Pending resolution of an issue concerning one employee, the parties stipulated the description of an appropriate bargaining unit as:

> All full-time and regular part-time clerical and youth services employees of the Juvenile Services Division of the Snohomish County

> Superior Court, excluding supervisors, confidential and all other employees.

The employer reserved a right to question inclusion of a Family Court clerical employee in the bargaining unit. The employer also contended that Maureen Ronan should be excluded from the bargaining unit as a supervisor and/or confidential employee.[1] Except for the clerical assigned to the Family Court, the parties otherwise agreed on the list of employees in the bargaining unit. A statement of results of that conference issued on August 23, 1995, required the parties to make any objections known within 10 days thereafter.

On August 29, 1995, the employer filed an objection to the statement of results of the pre-hearing conference, stating that the Family Court clerical employee would more appropriately be placed in a bargaining unit with Family Court investigators, who are at a different location than the Juvenile Services Division and subject to separate supervision. The union also filed an objection to the statement of results, asserting that the Family Court and Juvenile Court employees have always been included in the same bargaining unit.

Propriety of the Petitioned-for Bargaining Unit

The determination of appropriate bargaining units under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, is a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.56.060. The Commission's decisions generally recognize that the task is not limited to establishing "the most appropriate" bargaining unit,[2] and that "there may be more than one configuration of appropriate bargaining units in any

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[1] The parties were advised that the "supervisor" question would be reserved for later determination.

[2] Ben Franklin Transit, Decision 2357-A (PECB, 1986).

given organization."[3] While the unit sought by a petitioning organization and the stipulations of parties are generally the basis for unit determinations,[4] an exception is made where a proposed bargaining unit would cover employees having widely divergent statutory rights.[5]

In these proceedings, the union's consolidated petitions describe a bargaining unit which touches on two separate segments of the employer's workforce. The employer would exclude all mention of the "Family Court" from the unit description. The issue which the employer seeks to raise is a question of law, for which summary judgment is appropriate under WAC 391-08-230.

The WSCCCE has historically represented a bargaining unit which includes both "juvenile court" and "family court" employees. The correspondence in these case files indicates that the existing bargaining unit will continue to include "family court investigators." Another unit description crossing the same lines on the employer's table of organization is not inappropriate on its face.

RCW 41.56.040 gives employees the right to select representatives of their own choosing. It appears that the historical unit which will continue to include "family court investigators" has never included the office-clerical position now at issue. Moreover, the divergence of job titles appears to suggest that separate communities of interest continue to exist. It would not be appropriate to now place the disputed office-clerical employee into the existing bargaining unit. City of Vancouver, Decision 3160 (PECB, 1989),

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[3] King County Fire District 39, Decision 2638 (PECB, 1987).

[4] See, for example, City of Centralia, Decision 3495-A (PECB, 1990).

[5] See, for example, City of Yakima, Decision 837 (PECB, 1980), where employees eligible for interest arbitration were placed in a separate bargaining unit from those not eligible for interest arbitration.

rejected the arguments of an employer which, when faced with the possibility of an additional bargaining unit within its workforce sought to force historically unrepresented employees into one of the existing bargaining units. The same principle applies here.

Nor would it be appropriate to strand the disputed office-clerical outside of the petitioned-for bargaining unit, which appears to include all other non-represented office-clerical employees in the departments involved. Stranding in a one-person unit would exclude the employee from all collective bargaining rights. Town of Fircrest, Decision 246 (PECB, 1977). At the same time, Commission precedents dating back as far as Franklin Pierce School District, Decision 78-B (PECB, 1977) have recognized the existence of a community of interests among office-clerical employees.

The Commission has endorsed the expeditious processing of representation cases. City of Redmond, Decision 1367-A (PECB, 1982). Should there be changes of circumstances in the future, due to reorganizations or otherwise, that might an appropriate basis for a unit clarification proceeding under Chapter 391-35 WAC. In the meantime, the arguments advanced by the employer do not, as a matter of law, prevent going forward with determination of the question concerning representation in these matters.

DIRECTION OF CROSS-CHECK

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 office-clerical and youth services employees of the Juvenile Services Division and Family Court of the Snohomish County Superior Court, excluding supervisors, confidential and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized Washington State Council of County and City Employees to represent them for purposes of collective bargaining.

Dated at Olympia, Washington, on the 28th day of September, 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.