

Lewis County, Decision 6404 (PECB, 1998)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
TEAMSTERS UNION, LOCAL 252)	CASE 13816-E-98-2308
)	
Involving certain employees of:)	DECISION 6404 - PECB
)	
LEWIS COUNTY)	DIRECTION OF CROSS-CHECK
)	
)	

Darren O'Neil, Representative, appeared on behalf of the union.

Brian M. Baker, City Attorney, appeared on behalf of the employer.

On April 1, 1998, the Teamsters Union, Local 252, 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 supervisory employees of Lewis County.

An investigation conference was conducted by telephone conference call on May 4, 1998. The employer questioned the appropriateness of the proposed unit and whether the employees had a community of interest. The matter was assigned to a hearing examiner and a hearing was scheduled for August 4, 1998.

On July 27, 1998, the Commission received notification from the parties that the scheduled hearing would not be necessary because an agreement had been reached. The unit description in the agreement listed individual classifications instead of using a generic description as is consistent with Commission policy. The

parties met and on August 21, 1998 agreed to the following unit description:

All full-time mid-level supervisory employees of Lewis County in the present departments of Community Services, Public Works, General Administration, excluding upper level supervisors, non-supervisory employees, confidential employees, elected officials, officials appointed for a fixed term of office, and all other employees of the employer.

The only outstanding issue is that the parties disagreed about the method to determine the question concerning representation. The union stated a preference for a cross-check, while the employer objected to the 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:

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.

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 interest submitted in support of the petition indicates that the **organization has been authorized by in excess of seventy percent of the employees** to act as their representative for the purposes of collective bargaining, the executive director may issue a direction of

cross-check. The direction of cross-check and any accompanying rules shall not be subject to review by the Commission except upon objections timely filed under WAC 391-25-590.

[Emphasis by **bold** supplied]

Employers occasionally oppose the use of the cross-check procedure on the basis of a general preference for elections. Such general preferences are not, however, sufficient to disregard the rule.

Examination of the case file indicates that the union submitted the kind of substantial showing of interest required by WAC 391-25-391. The union's showing of interest in excess of 70% inherently indicates little likelihood of an election altering the result. The showing of interest is confidential under WAC 391-25-210, and cannot be the subject of a hearing. If employees desire to withdraw their authorization cards, the procedure for doing so is detailed in WAC 391-25-410(2).

DIRECTION OF CROSS-CHECK

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

All full-time mid-level supervisory employees of Lewis County in the present departments of Community Services, Public Works, General Administration, excluding upper level supervisors, non-supervisory employees, confidential employees, elected officials, officials appointed for a fixed term of office, and all other employees of the employer

to determine whether a majority of the employees in that bargaining unit have authorized the Washington State Council of County and City Employees, to represent them for purposes 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 27th day of August, 1998.

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.