

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

MARK FRY

Involving certain employees of:

RONALD WASTEWATER DISTRICT

CASE 23642-E-10-3609

DECISION 10924 - PECB

ORDER OF DISMISSAL

On November 16, 2010, Mark Frey filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking to decertify the Teamsters, Local 763 as exclusive bargaining representative for certain employees at Ronald Wastewater District.

The petitioner included a copy of the current collective bargaining agreement between the employer and Teamsters, Local 763 which indicates the current contract is valid from January 1, 2008 through December 31, 2010. The petition appeared to be untimely under the Commission's rules, and a deficiency notice was issued on November 18, 2010, pointing out that defect. The petitioner was given until November 30, 2010, to show good cause why the petition should not be dismissed as untimely. To date, the petitioner has not filed a response.

ISSUE

The sole issue to be determined at this time is whether the representation petition was timely filed.

APPLICABLE LEGAL PRINCIPLES

RCW 41.56.080 creates a “contract bar” which is restated in the Commission’s rules as follows:

WAC 391-25-030 Petition-Time for Filing. (1) A “contract bar” exists while a valid collective bargaining agreement is in effect, so that a petition involving any or all of the employees covered by the agreement will be timely only if it is filed during the “window” period not more than ninety nor less than sixty days prior to the stated expiration date of the collective bargaining agreement...(3) Where neither a “contract bar” nor a “certification bar” is in effect under this section, a petition may be filed at any time.

The “window” period for the current collective bargaining agreement was October 3, 2010 through November 1, 2009. The petition in this case was filed after the window period, and must be dismissed. A valid petition may be filed after the expiration date of a collective bargaining agreement if a new agreement has not been reached.

Your attention is directed to the following rule:

WAC 391-25-030(c) A “protected” period is in effect during the sixty days following a “window” period in which no petition is filed, and a successor agreement negotiated by the employer and incumbent exclusive bargaining representative during that period will bar a petition under this chapter. If the filing and withdrawal or dismissal of a petition under this chapter intrudes upon the protected period, the employer and incumbent exclusive bargaining representative shall be given a sixty-day protected period commencing on the date the withdrawal or dismissal is final.

(emphasis added).

Since the petition was filed prematurely before the contract had expired, it disrupted the “protected” period for the incumbent union and employer to negotiate a successor agreement. Therefore, the petition must be dismissed and the employer and incumbent union shall be given a new sixty-day “protected” period.

NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-captioned mater is dismissed.

Issued at Olympia, Washington on the 1st day of December, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


for CATHLEEN CALLAHAN, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.