Port of Seattle, Decision 11131 (PORT, 2011)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	CASE 24116-E-11-3657
PORT OF SEATTLE	DECISION 11131 - PORT
Involving certain employees represented by:	
TEAMSTERS LOCAL 117	ORDER OF DISMISSAL

On July 14, 2011, the Port of Seattle (employer) filed a petition for investigation of a question concerning representation for certain Bus Driver-Airport Transit Operators. Specifically, the employer intends to hire 65 new employees in February, 2012 for the position of Bus Driver-Airport Transit Operator. The employer indicated these new employees would be responsible for driving travelers who are rental car customers between the airport and a new rental car facility. Teamsters, Local 117 (union) represents a unit of 43 Bus Drivers and Cashiers employed by the employer. Those employees are covered by a collective bargaining agreement which was in effect from June 1, 2008 through May 31, 2012. The union made several requests for the employer to bargain for these new employees which prompted the employer to file its representation petition.

On July 18, 2011, a letter was sent to the parties requesting information as to why this case should not be dismissed. The parties were given a period of time to respond and to date, there has been no response.

DISCUSSION

The petition appears to be filed prematurely because the employees have not yet been hired and, according to the employer, won't be hired until February, 2012. The Commission has long held

that when determining bargaining units or unit placement, it will not consider speculation, but only duties that are actually performed. *State – Natural Resources*, Decision 8458-B (PSRA, 2005); *City of Redmond*, Decision 7814-B (PECB, 2004).

At this point, the employees are merely prospective employees since they have not yet been hired. Thus, they cannot be organized or accreted, nor can their inclusion in, or exclusion from, an existing unit be determined. *Pierce Transit*, Decision 10161 (PECB, 2008).

Chapter 41.56 RCW is most often encountered in its regulation of relationships between unions and employers, but it is founded on the right of employees to be represented by organizations of their own choosing. Accretions to bargaining units are an exception from the norm. The addition of job classifications to an existing bargaining unit necessarily infringes upon the rights of the affected employees to designate a bargaining representative of their own choosing. An accretion cannot be ordered where the number of employees to be added is so large as to call into question the union's majority status in the enlarged unit.

A basic tenet of unit clarification, accretion, self-determination process is that the majority status of the underlying unit not be disturbed. Simply put, if the number of employees to be added to a unit equals or exceeds the number of employees in the existing unit, the majority status of the union's representation in the underlying unit is called into question, and a question concerning representation is found to exist. *Pierce County*, Decision 10992 (PECB, 2011).

The union's existing bargaining unit consists of 43 employees and the employer intends to hire 65 new employees. The number of employees to be added exceeds the number of employees in existing bargaining unit so that a question concerning representation exists. The union is free to organize the employees once they have been hired and file a representation petition. The petitioned-for employees would then be free to choose an exclusive bargaining representative if they so desire.

NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above matter is DISMISSED.

Issued at Olympia, Washington, this 1st day of August, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Cathleen Callahan

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.