

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 46

Involving certain employees of:

SOUND TRANSIT

CASE 26020-E-13-3827

DECISION 11956 - PECB

DIRECTION OF CROSS-CHECK

On October 17, 2013, the International Brotherhood of Electrical Workers, Local 46 (IBEW), filed a petition seeking certification as exclusive bargaining representative of certain employees of Sound Transit. An investigation conference was conducted by electronic mail. The parties agreed to the appropriateness of the petitioned-for bargaining unit and the eligibility list. The parties disagreed about the method to determine the question concerning representation. The IBEW submitted a showing of interest demonstrating that at least 70% of the petitioned-for employees supported the petition and requested that the matter be resolved by cross-check of records. The employer asked that the matter be resolved by a mail ballot election. The dispute concerning methodology was referred to the Executive Director.

ISSUE

The sole issue to be determined at this time is whether use of the cross-check method is appropriate in this case. The union stated a preference for a cross-check, while the employer objected to the use of the cross-check procedure. The Executive Director rules that a cross-check is appropriate.

APPLICABLE LEGAL PRINCIPLES

RCW 41.56.060 sets forth the methods for determining questions concerning representation, and states in part:

The Commission shall determine the bargaining representative by (a) examination of organization membership rolls, (b) comparison of signatures on organization bargaining authorization cards, or (c) by conducting an election specifically therefore.

In the event the agency is going to determine representation through a comparison of the signatures on organization bargaining authorization cards, the Commission's rules limit the availability of this "cross-check" procedure, as follows:

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. (1) 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 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.

(2) A direction of cross-check and other rulings in the proceedings up to the issuance of tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the cross-check. An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.

(emphasis added).

The general preference for elections occasionally expressed by employers is not sufficient to disregard the statute and rule. In *City of Redmond*, Decision 1367-A (PECB, 1982) and numerous subsequent decisions, the Commission and the Executive Director have refused to ignore the cross-check option (or to write it out of the statute).

ANALYSIS

The wording on the authorization cards submitted as the showing of interest in this case clearly indicates that, by signing the card, the employee wishes to be represented by the IBEW for the purposes of collective bargaining.

Examination of the case file indicates that the union submitted a showing of interest in excess of the 70% required by WAC 391-25-391. The investigation statement that is to be posted in the employer's workplace will inform employees that a cross-check will occur in this matter. If employees desire to withdraw their authorization cards in advance of a cross-check, the procedure for doing so is detailed in WAC 391-25-410(2). If enough employees withdraw their cards, an election will be ordered.

NOW, THEREFORE, it is

ORDERED

1. The Representation Case Administrator shall immediately prepare an Investigation Statement that sets forth the eligibility list and the terms of the cross-check.
2. Sound Transit shall immediately supply the Commission with copies of documents from its employment records which bear the signatures of the employees on the eligibility list.
3. The Representation Case Administrator shall perform a cross-check of records for the bargaining unit on a date consistent with that which is stated in the Investigation Statement.

Issued at Olympia, Washington, on the 16th day of December, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: *[Signature]*
DIANE THOVSEN

CASE NUMBER: 26020-E-13-03827 FILED: 10/17/2013 FILED BY: PARTY 2
DISPUTE: QCR UNORGANIZED
BAR UNIT: SKILLED MAINT
DETAILS: -
COMMENTS:

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