STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF YAKIMA, Complainant, vs. YAKIMA POLICE PATROLMAN'S ASSOCIATION, Respondent.	)	CASE NO. 2426-U-79-350 DECISION NO. 767 PECB ORDER OF DISMISSAL

The complaint charging unfair labor practices was filed in the captioned matter on October 31, 1979. It alleges that the respondent has refused to bargain, in violation of RCW 41.56.150(4), by insisting on bargaining of, and attempting to obtain interest arbitration of, a proposal concerning shift scheduling. The complaint alleges that "shift scheduling" is a non-mandatory subject of bargaining, relying on the history of bargaining between these parties and the "management rights" clause of their collective bargaining agreement.

The "scope" of mandatory collective bargaining for employers and exclusive bargaining representatives of the employees involved is specified in RCW 41.56.030(4) within the definition of "collective bargaining":

> "'Collective bargaining' means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter." (Emphasis added).

The "interest arbitration" procedures of RCW 41.56.450 are found within the same chapter as the definition of collective bargaining, and limit the ability of parties to reject concession or agreement.

The scheduling of work shifts falls within the broad ambit of "hours" of employment. Bargaining history and the contents of an existing collective bargaining agreement have no bearing on the case, as the Public Employment Relations Commission has clearly reserved to itself the authority to determine whether a particular subject is a mandatory or non-mandatory subject of bargaining. See WAC 391-21-550. It follows that the presence or absence of a bargaining history is a neutral factor in determining a current "scope of bargaining" dispute.

Assuming all of the facts alleged to be true and provable, no unfair labor practice violation could be found. The Association is entitled to advance mandatory subjects of bargaining, including hours of employment in its various forms, in negotiations and interest arbitration. To the extent that questions of "efficiency", "managerial flexibility", "managerial discretion", etc. are involved, such matters are for the interest arbitration panel in the absence of agreement between the parties in conventional collective bargaining negotiations between the parties or in mediation.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above entitled matter is dismissed.

DATED at Olympia, Washington this 9th day of November, 1979.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION

MARVIN L. SCHURKE
Executive Director