

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL BROTHERHOOD OF)	
ELECTRICAL WORKERS, LOCAL 483,)	
)	CASES 9604-U-92-2158
Complainant,)	9608-U-92-2162
)	
vs.)	DECISION 4053-B - PECB
)	4075-A - PECB
CITY OF TACOMA,)	4076-A - PECB
)	
Respondent.)	ORDER ON RECONSIDERATION
)	
)	

The above-captioned matters, along with three similar cases arising out of other bargaining relationships between the same parties, were previously the subject of an order of dismissal issued on April 28, 1992.¹ That dismissal was based on an apparent failure of the union to respond to a preliminary ruling letter issued by the Executive Director on February 28, 1992.

On May 6, 1992, the union moved for reconsideration, advancing that it had prepared and sent a response to the preliminary ruling letter concerning the above-captioned cases, but had inadvertently misdirected the copies intended for the Commission to the offices of the employer.² The documents filed by the union on May 6, 1992 were incomplete, however, as they did not contain a statement of facts in support of the amended complaint.

On May 12, 1992, the union filed another copy of the amended complaint, with a statement of facts attached.

¹ City of Tacoma, Decision 4053 - PECB.

² The union requested conversion of the dismissals in the three remaining cases to withdrawals. A separate order is being issued to effect that conversion. City of Tacoma, Decision 4053-A (PECB, 1992).

The Executive Director has considered the matter, and concludes that certain actions are warranted to control the future processing of the above-captioned cases.

The assignment of one decision number to multiple related cases is appropriate where all of the cases are being handled together, but will tend to cause confusion where the processing and results of the cases diverge from one another.³ A new decision number has thus been assigned to each of the above-captioned matters, which clearly diverge from the three withdrawn cases and could potentially diverge from one another.

The motion for reconsideration comes within the 20-day period provided by the Commission's rules for a party to petition for Commission review of an order of dismissal issued by the Executive Director. The Executive Director stands in the shoes of an Examiner, who can withdraw a decision under WAC 391-45-330 upon discovery of a mistake or new evidence. Such an action appears to be appropriate in this case, where the response to the preliminary ruling letter was prepared and merely mis-filed.

The amended complaint still fails to state a cause of action. The unfair labor practice procedures of the Commission are markedly different from those of the National Labor Relations Board (NLRB) at certain points in the process. While the NLRB would investigate based on a "charge" containing only minimal facts, the Commission's rules require the filing of a complaint which contains full details of the dates, times and participants in occurrences. WAC 391-45-050. The Executive Director must make a preliminary ruling under WAC 391-45-110 based on what is contained within the four corners

³ The first decision in a particular case ordinarily receives a decision number unique to that case. Each subsequent decision in that case is distinguished by assignment of a letter suffix to the decision number, beginning with "A" and progressing through the alphabet.

of the complaint. While it is presumed under WAC 391-45-110 that all of the facts alleged in a complaint are true and provable, the Executive Director is not empowered to make leaps of logic or to fill in gaps in a complaint. The original preliminary ruling letter in this case had pointed out an evident defect under the six-month statute of limitations contained in RCW 41.56.160, but it also required filing of additional factual details. The amended statement of facts filed on May 12, 1992 adds only a conclusionary "within six months" allegation, and is not sufficient to state a cause of action.

NOW, THEREFORE, it is

ORDERED

1. The order of dismissal entered on April 28, 1992 as Decision 4053 - PECB with respect to CASE 9604-U-92-2158 is hereby redesignated as Decision 4075 - PECB.
2. The order of dismissal entered on April 28, 1992 as Decision 4053 - PECB with respect to CASE 9608-U-92-2161 is hereby redesignated as Decision 4076 - PECB.
3. The orders of dismissal issued on April 28, 1992 with respect to CASE 9604-U-92-2158 and CASE 9608-U-92-2161 shall be, and hereby are, vacated pursuant to WAC 391-45-330.
4. Decision 4075-A (CASE 9604-U-92-2158). The complaint charging unfair labor practices, as amended and as reconsidered under WAC 391-45-330, shall be, and hereby is, DISMISSED for failure to state sufficient facts to form an opinion that a cause of action exists in the matter.
5. Decision 4076-A (CASE 9608-U-92-2161). The complaint charging unfair labor practices, as amended and as reconsidered under

WAC 391-45-330, shall be, and hereby is, DISMISSED for failure to state sufficient facts to form an opinion that a cause of action exists in the matter.

Entered at Olympia, Washington, on the 19th day of May, 1992.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.