

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF)	
COUNTY AND CITY EMPLOYEES,)	
COUNCIL 2,)	CASE 10531-U-93-2441
)	
Complainant,)	DECISION 4502-A - PECB
)	
vs.)	
)	
CITY OF WHITE SALMON,)	SUMMARY JUDGMENT
)	
Respondent.)	
)	
)	
)	

Pamela Bradburn, General Counsel, Washington State Council of County and City Employees, filed the complaint on behalf of the union.

E. Thompson Reynolds, City Attorney, filed the answer on behalf of the employer.

On June 22, 1993, the Washington State Council of County and City Employees (WSCCCE) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of White Salmon (employer) made unilateral changes of practice, on and after May 17, 1993, concerning: (1) The computation of overtime compensation for its employees; and (2) required use of compensatory time off for weekend work. An amended complaint filed on July 2, 1993, more specifically details the allegations.¹

On July 14, 1993, the Executive Director issued a preliminary ruling under WAC 391-45-110, finding a cause of action to exist. The employer was directed to answer the complaint.

¹ Together, the complaint and amended complaint in this matter allege that the employer altered its practices, by excluding "compensatory time" and "sick leave" from the computation of overtime compensation.

The answer filed by the employer on July 29, 1993, indicates that the mayor omitted giving notice to the union or offering to bargain with the union, prior to notifying the employees that only actual hours of work will be considered in determining overtime pay. The employer's answer also indicates that the mayor did not provide notice to the union or offer to bargain, prior to notifying the employees that they must adjust their workweek to take required water samples on the weekend or take compensatory time off. It thus appeared that the critical facts were not at issue, and that a summary judgment might be appropriate, finding a violation of RCW 41.56.140(4) and (1).

On September 23, 1993, the employer was directed to show cause why a summary judgment should not be issued in the matter.² The City of White Salmon did not file any further statement of position or objection as to why summary judgment should not be issued.

FINDINGS OF FACT

1. The City of White Salmon is a municipality of the state of Washington, and is a public employer under RCW 41.56.030(1).
2. The Washington State Council of County and City Employees, Council 2, a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of certain employees of the City of White Salmon.
3. On and after May 17, 1993, the City of White Salmon announced changes of the wages, hours and working conditions of employees in the bargaining unit represented by Council 2, without having given notice to the exclusive bargaining representative or providing an opportunity for collective bargaining prior to

² City of White Salmon, Decision 4052 (PECB, 1993).

the implementation of the changes. Such changes concerned: (1) The computation of overtime compensation for its employees; and (2) required use of compensatory time off for weekend work.

Conclusions of Law

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-45 WAC.
2. Based on the admissions made by the employer in its answer to the complaint in this matter, and the absence of any response from the employer when it was directed to show cause why a summary judgment should not be issued, no issues of fact are framed in this matter, and a summary judgment is appropriate under WAC 10-08-230.
3. By unilaterally changing the wages, hours or working conditions of its employees without giving notice to and providing an opportunity for collective bargaining with the exclusive bargaining representative of its employees, the City of White Salmon has failed and refused to bargain in good faith, and has committed, and is committing, unfair labor practices under RCW 41.56.140(4).

ORDER

The City of White Salmon, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

A. CEASE AND DESIST FROM:

- (1) Failing or refusing to bargain in good faith with the Washington State Council of County and City Employees,

Council 2 as the exclusive bargaining representative of its employees, with respect to all wages, hours and working conditions, and specifically with respect to compensation for overtime work.

- (2) In any other manner interfering with, restraining or coercing its employees in their exercise of their collective bargaining rights secured by the laws of the State of Washington.
- B. Take the following action to remedy the unfair labor practices and effectuate the policies of the Public Employees' Collective Bargaining Act:
- (1) Recalculate the compensation payable to all employees for overtime work on and after May 17, 1993, based on the policies in effect prior to May 17, 1993, and make the employees whole for any reduction of compensation suffered by reason of the employer's unlawful implementation of changed computation procedures.
 - (2) Reinstate the scheduling practices for weekend work that were in effect prior to May 17, 1993.
 - (3) Give notice to and, upon request, bargain collectively in good faith with the Washington State Council of County and City Employees, Council 2, prior to implementing any changes of wages, hours and working conditions of employees in the unit represented by that organization.
 - (4) Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall be duly signed by an authorized representative of the City of White Salmon, and shall

remain posted for 60 days. Reasonable steps shall be taken by the above-named respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

- (5) Notify the above-named complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the above-named complainant with a signed copy of the notice required by the preceding paragraph.
- (6) Notify the Executive Director of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Executive Director with a signed copy of the notice required by this order.

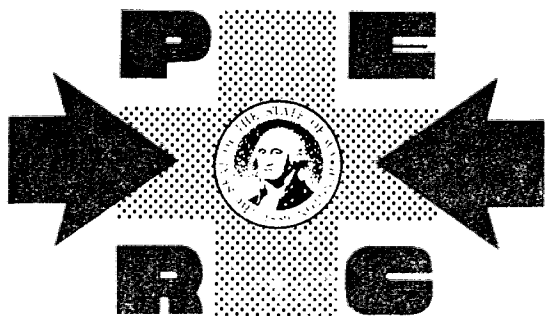
Issued at Olympia, Washington on the 19th day of November, 1993.

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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

APPENDIX

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL NOT fail or refuse to bargain in good faith with the Washington State Council of County and City Employees, Council 2, as the exclusive bargaining representative of its employees, with respect to all wages, hours and working conditions, and specifically with respect to compensation for overtime work.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

WE WILL recalculate the compensation payable to all employees for overtime work on and after May 17, 1993, based on the policies in effect prior to May 17, 1993, and make the employees whole for any reduction of compensation suffered by reason of the unlawful implementation of changed computation procedures.

WE WILL reinstate the scheduling practices for weekend work that were in effect prior to May 17, 1993.

WE WILL give notice to and, upon request, bargain collectively in good faith with the Washington State Council of County and City Employees, Council 2, prior to implementing any changes of wages, hours and working conditions of employees in the unit represented by that organization.

CITY OF WHITE SALMON

DATED: _____

BY: _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (206) 753-3444.