

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL BROTHERHOOD OF)	
ELECTRICAL WORKERS, LOCAL 483,)	
)	CASE 11519-U-95-2699
Complainant,)	
)	DECISION 5049 - PECB
vs.)	
)	
CITY OF TACOMA,)	RULING ON MOTION
)	TO DISMISS
Respondent.)	
)	
)	

Welch and Condon, by David Condon, Attorney at Law, appeared on behalf of the complainant.

Patricia Bosmans, Acting City Attorney, by G. S. Karavitis, Mark L. Bubenik, and K. B. Gerhardt, Assistant City Attorneys, appeared on behalf of the respondent.

On January 11, 1995, the International Brotherhood of Electrical Workers, Local 483 (IBEW), filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Tacoma had refused to bargain and thus had committed an unfair labor practice in violation of RCW 41.56-.140(4). The Executive Director of the Commission issued a preliminary ruling, pursuant to WAC 391-45-110, finding that the complaint stated a cause of action as to the allegation that the employer refused to bargain the effects and impacts of its decision to eliminate the position of customer service consultant in the IBEW bargaining unit.

On February 21, 1995, the employer filed its answer to the complaint as well as a motion to dismiss the complaint for "failing to identify whether there are any 'effects' of the decision to eliminate positions that are both the subject of mandatory bargaining and still unbargained."

The motion to dismiss must be denied. A careful reading of the complaint and answer demonstrates that the union and employer disagree on what are mandatory subjects of bargaining when a lay off occurs. Specifically, the union requested information on the "expected impact of the loss of this work; intentions of the department regarding any and all plans for dissemination of any work presently performed by this group; and any on-going efforts to maintain this function in your section or others after layoffs occur." The employer responded that there would be no impact on workloads other than that already negotiated and that there would be no impact on safety conditions. The employer also wrote, "These two matters [workloads and safety] are the only aspects of a layoff situation which are the subject of mandatory bargaining."

The statements filed by both parties frame contested issues of material facts so that a summary judgment is not available under WAC 391-08-230. A formal hearing is necessary so that a record may be developed upon which the Examiner, and, if need be, the Commission, may execute their responsibilities under the statute.

NOW, THEREFORE, it is

ORDERED

The motion to dismiss made by the employer in the above-captioned case is DENIED.

Entered at Olympia, Washington on the 27th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


KATRINA I. BOEDECKER, Examiner