

City of Vancouver, Decision 11219 (PECB, 2011)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL UNION,
LOCAL 11

For clarification of an existing bargaining
unit of employees of:

CITY OF VANCOUVER

CASE 24253-C-11-1463

DECISION 11219 - PECB

ORDER OF DISMISSAL

Rick D. Wilson, Union Representative, for the petitioner, Office and Professional Employees International Union, Local 11.

Terry M. Weiner, Assistant City Attorney, for the employer.

Audrey Eide, General Counsel, for the incumbent union, Washington State Council of County and City Employees.

On September 18, 2011, the Office and Professional Employees International Union, Local 11 (OPEIU) filed a unit clarification petition under Chapter 391-35 WAC, to clarify whether two administrative assistants at the City of Vancouver should be represented by OPEIU. On the face of the petition, OPEIU indicated those positions were excluded from its existing bargaining unit at Parks and Recreation. On October 10, 2011, the Washington State Council of County and City Employees (WSCCCE) filed a letter requesting that the petition be dismissed stating that the two administrative assistant positions being petitioned for by OPEIU were already represented by WSCCCE in its unit that was certified by the agency. *City of Vancouver*, Decision 10775 (PECB, 2010).

Hearing Officer Kristi Aravena sent a letter to the parties asking why the petition should not be dismissed since the positions at issue were already represented for the purposes of collective bargaining by WSCCCE. To date, there has been no response from OPEIU.

APPLICABLE LEGAL STANDARDS

Under 41.56.060 the Commission has the authority to determine, modify, or combine appropriate bargaining units. In cases regarding a question concerning representation, the Commission has the authority to certify, decertify, or change the exclusive bargaining representative of a bargaining unit. *Toppenish School District*, Decision 10394-A (PECB, 2009).

However, WAC 391-35-010 addresses unit clarification cases and specifically limits who may file a unit clarification petition. The rules states that a “petition for clarification of an existing bargaining unit may be filed by the employer, the exclusive bargaining representative, or their agents, or by the parties jointly.” *Toppenish School District*, Decision 10394-A (PECB, 2009).

ANALYSIS

The two positions at issue here were involved in case 22961-E-10-3526, and are included in the bargaining unit represented by WSCCCE:

All full-time and regular part-time employees of the Recreation Division of the City of Vancouver Recreation Department in the Firstenberg Community Center, Marshall Community Center, Luepke Senior Center, and the Vancouver Tennis Center, excluding supervisors, confidential employees, Parks Department employees, Customer Service Representatives, Facilities Assistants, Field Maintenance, Support Specialists and Department Aides.

In that case, OPEIU attempted to intervene in the proceedings because it represented employees in the Parks Department, Customer Service Representatives, Facilities Assistants, Field Maintenance, Support Specialists, and the Department Aides. Because the petitioned-for were historically unrepresented, OPEIU was given a period of time to provide the required showing of interest to be allowed to intervene in the case. OPEIU failed to do so and was excluded from any further participation in that case.

CONCLUSION

Because the positions at issue are already represented for the purposes of collective bargaining by WSCCCE, the petitioner does not have standing to file a unit clarification petition under WAC 391-35-310. The petitioner's unit clarification petition is hereby dismissed.

ISSUED at Olympia, Washington, this 7th day of November, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script that reads "Cathleen Callahan".

CATHLEEN CALLAHAN, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

Sally Iverson
BY:/S/ SALLY IVERSON

CASE NUMBER: 24253-C-11-01463 FILED: 09/19/2011 FILED BY: PARTY 2
DISPUTE: COMMUNITY INT
BAR UNIT: ALL EMPLOYEES
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