

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 483

For clarification of an existing bargaining
unit of employees of:

CITY OF TACOMA

CASE 25115-C-12-1526

DECISION 11519 - PECB

ORDER OF DISMISSAL

On September 6, 2012, the International Brotherhood of Electrical Workers, Local 483 (union) filed a petition for clarification of a bargaining unit with the Public Employment Relations Commission under Chapter 391-35 WAC. The petition concerns classified employees of the City of Tacoma (employer). The petition was reviewed under WAC 391-35-020, and a deficiency notice issued on September 19, 2012, indicated that the petition was defective. The union was given a period of 21 days in which to file and serve an amended petition or face dismissal of the case.

The union has not filed an amended petition. The petition is dismissed.

DISCUSSION

The deficiency notice pointed out the defects to the petition.

Unit clarification proceedings are controlled by Chapter 391-35 WAC. Within that chapter, WAC 391-35-020 applies to the timeliness and limitations relative to petitions:

WAC 391-35-020 TIME FOR FILING PETITION
LIMITATIONS ON RESULTS OF PROCEEDINGS.

TIMELINESS OF PETITION

- (1) A unit clarification petition may be filed at any time, with regard to:
 - (a) Disputes concerning positions which have been newly created by an employer.
 - (b) Disputes concerning the allocation of employees or positions claimed by two or more bargaining units.

- (c) Disputes under WAC 391-35-300 concerning a requirement for a professional education certificate.
- (d) Disputes under WAC 391-35-310 concerning eligibility for interest arbitration.
- (e) Disputes under WAC 391-35-320 concerning status as a confidential employee.
- (f) Disputes under WAC 391-35-330 concerning one-person bargaining units.
- (2) A unit clarification petition concerning status as a supervisor under WAC 391-35-340, or status as a regular part-time or casual employee under WAC 391-35-350, is subject to the following conditions:
 - (a) The signing of a collective bargaining agreement will not bar the processing of a petition filed by a party to the agreement, if the petitioner can demonstrate that it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class through a unit clarification proceeding, and it filed the petition prior to signing the current collective bargaining agreement.
 - (b) Except as provided under subsection (2)(a) of this section, the existence of a valid written and signed collective bargaining agreement will bar the processing of a petition filed by a party to the agreement unless the petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class.

LIMITATIONS ON RESULTS OF PROCEEDINGS

- (3) Employees or positions may be removed from an existing bargaining unit in a unit clarification proceeding filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions.
- (4) Employees or positions may be added to an existing bargaining unit in a unit clarification proceeding:
 - (a) Where a petition is filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions; or
 - (b) Where the existing bargaining unit is the only appropriate unit for the employees or positions.
- (5) Except as provided under subsection (4) of this section, a question concerning representation will exist under chapter 391-25 WAC, and an order clarifying bargaining unit will not be issued under chapter 391-35 WAC:
 - (a) Where a unit clarification petition is not filed within a reasonable time period after creation of new positions.
 - (b) Where employees or positions have been excluded from a bargaining unit by agreement of the parties or by a certification, and a unit clarification petition is not filed within a reasonable time period after a change of circumstances.
 - (c) Where addition of employees or positions to a bargaining unit would create a doubt as to the ongoing majority status of the exclusive bargaining representative.
- (6) Where a petitioning union seeks severance of a portion of an existing bargaining unit of classified employees at a school district or educational service

district, appropriate bargaining units existing on July 25, 2005, may not be divided into more than one appropriate bargaining unit without the agreement of the employer and certified bargaining representative of the unit where severance is sought.

The union represents Customer Service Representative, Technical (CSRT) positions. The petition seeks to include three Biosolids Distributor Operator (BDO) positions in the bargaining unit represented by the union, stating that the “Work has evolved and is clearly cashier work, which falls under the CSRT Classification.” Information provided with the petition includes job descriptions for both positions, showing that they have distinct duties. Additional information includes letters of May 2012 concerning the processing of payments and stating the union’s concerns over certain procedures affecting the CSRT positions it represents. The only reference to the BDO position is the statement that “payments are received from the BioSolids Distribution Operators with hand written receipts”

This limited information does not show that BDO work has evolved into CSRT work. The petition is not timely under WAC 391-35-020(1), and there is no showing of a change of circumstances altering the community of interest that would allow the processing of the petition under WAC 391-35-020(4).

NOW, THEREFORE, it is

ORDERED

The petition for clarification of a bargaining unit filed in Case 25115-C-12-1526 is DISMISSED as procedurally defective.

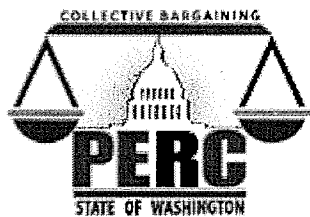
ISSUED at Olympia, Washington, this 18th day of October, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

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

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 10/18/2012

The attached document identified as: **DECISION 11519 - PECB** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: /S/ ROBBIE DURFIELD

CASE NUMBER: 25115-C-12-01526 FILED: 09/06/2012 FILED BY: PARTY 2
DISPUTE: COMMUNITY INT
BAR UNIT: CLERICAL
DETAILS: -
COMMENTS:

EMPLOYER: CITY OF TACOMA
ATTN: JOHN DRYER
747 MARKET ST ROOM 1544
TACOMA, WA 98402
Ph1: 253-591-5481 Ph2: 253-591-5563

PARTY 2: IBEW LOCAL 483
ATTN: ALICE PHILLIPS
3525 ALDER ST
TACOMA, WA 98409
Ph1: 253-565-3232