

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the joint petition of:

CITY OF WOODINVILLE

and

TEAMSTERS LOCAL 117

For clarification of an existing bargaining unit.

CASE 25803-C-13-1555

DECISION 11838 - PECB

ORDER OF DISMISSAL

On June 26, 2013, the City of Woodinville (employer) and Teamsters Local 117 (union) filed a joint petition for clarification of a bargaining unit with the Public Employment Relations Commission under Chapter 391-35 WAC. The petition concerns employees of the City of Woodinville. The petition was reviewed under WAC 391-35-020, and a deficiency notice issued on July 3, 2013, indicated that the petition was defective. The parties were given a period of 21 days in which to file and serve an amended petition or face dismissal of the case.

The parties have 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; or
- (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; or

(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 employer and union filed the petition apparently seeking to add certain employees to an existing bargaining unit. The petition indicates that the parties seek to add the employees due to a change of circumstances, but the alleged change is not described. There is no evidence suggesting that this petition can be processed under Chapter 391-35 WAC. The parties must show that the petition is timely under WAC 391-35-120, and why a question concerning representation does not exist under WAC 391-25 WAC.

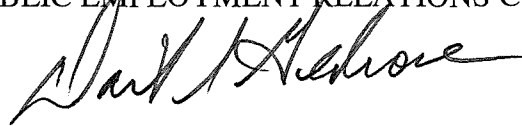
NOW, THEREFORE, it is

ORDERED

The petition for clarification of a bargaining unit filed in Case 25803-C-13-1555 is DISMISSED as procedurally defective.

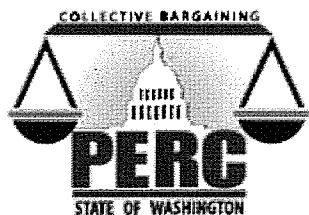
ISSUED at Olympia, Washington, this 1<sup>st</sup> day of August, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

This 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

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The attached document identified as: **DECISION 11838 - 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 DUFFIELD

CASE NUMBER: 25803-C-13-01555 FILED: 06/26/2013 FILED BY: JOINT  
DISPUTE: MISC CLARIF  
BAR UNIT: PUBLIC WORKS  
DETAILS: -  
COMMENTS:

EMPLOYER: CITY OF WOODINVILLE  
ATTN: RICHARD LEAHY  
17301 133RD AVE NE  
WOODINVILLE, WA 98072  
Ph1: 425-877-2265

PARTY 2: TEAMSTERS LOCAL 117  
ATTN: TRACEY THOMPSON  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168-4614  
Ph1: 206-441-4860

REP BY: SPENCER NATHAN THAL  
TEAMSTERS LOCAL 117  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168  
Ph1: 206-441-4860