

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

CLARK COUNTY

For clarification of an existing bargaining
unit represented by:

PROFESSIONAL AND TECHNICAL
EMPLOYEES, LOCAL 17

CASE 26462-C-14-1591

DECISION 12271-A - PECB

DECISION OF COMMISSION

Prosecuting Attorney Anthony F. Golik, by *Emily A. Sheldrick*, Deputy Prosecuting Attorney, for Clark County.

Patrick Silvernale, Union Representative, for the Professional and Technical Employees, Local 17.

Tedesco Law Group, by *Katelyn S. Oldham*, Attorney at Law, for the Office and Professional Employees International Union, Local 11.

Clark County (employer) filed a unit clarification petition to determine which bargaining unit the Department Information Systems Coordinator II (DISC II) positions in the Assessor's Office belonged in. The Professional and Technical Employees, Local 17 (PTE 17) and the Office and Professional Employees International Union, Local 11 (OPEIU 11) both represent employees in the Assessor's Office. The Executive Director determined that the petition was timely and that the DISC II positions in the Assessor's Office belonged in the PTE 17 bargaining unit.¹ OPEIU 11 filed a timely appeal.

The Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. We review findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the Executive Director's conclusions of law. *City of Bellingham*, Decision 7322-B (PECB, 2002). Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *Id.*

¹ *Clark County*, Decision 12271 (PECB, 2015).

OPEIU 11 asserted that it represents the DISC II positions in the Assessor's Office because that job classification is included in the collective bargaining agreement between the employer and OPEIU 11. The employer voluntarily recognized the OPEIU 11 bargaining unit. The record contained no evidence that the duties of the DISC II positions in the Assessor's Office were ever performed by a member of the OPEIU 11 bargaining unit. Absent evidence that DISC II duties were performed by any member of the OPEIU 11 bargaining unit, the Commission is not bound by the parties' agreements on bargaining unit structure. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, 29 Wn. App. 599 (1981), *rev. denied*, 96 Wn.2d 1004 (1981); *see also King County*, Decision 11441-A (PECB, 2013); *Toppenish School District*, Decision 10394-B (PECB, 2011). In contrast, the record demonstrated that Tami McManus performed DISC II duties in the Assessor's Office while a member of the PTE 17 bargaining unit. As the Executive Director noted, those duties became PTE 17 bargaining unit work.

OPEIU 11 argued the Executive Director erroneously failed to include or analyze findings of fact for the duties performed by one of the DISC II employees. We agree this was in error. Accordingly, we enter findings of fact concerning the job duties of that employee.

Substantial evidence exists to support the Executive Director's findings of fact. Those findings, along with the additional findings we enter below, support the Executive Director's conclusion of law that the appropriate placement for the DISC II job classification is in the bargaining unit represented by PTE 17. We affirm the Executive Director.

NOW, THEREFORE, it is

ORDERED

The Findings of Fact issued by Executive Director Michael P. Sellars are AFFIRMED and adopted as the Findings of Fact of the Commission. Additional Findings of Fact are entered:

16. Nguyen works in the Assessor's Office. She runs *ad hoc* queries from PACS and gathers data from other sources for the appraisers. Nguyen works on issues with PACS, and supports and updates PACS. The employer assigned Nguyen to reverse engineer an application.

17. If Nguyen and McManus are unable to resolve an issue, they contact the employer's Information Technology Department for assistance.
18. In her work, Nguyen interacts with her supervisor, the appraisers, and McManus.
19. The DISC II employees have administrative access to PACS that allows them to perform system updates, create specialized reporting tools, and control employees' access to the system.
20. Nguyen and McManus back each other up. Nguyen covered for McManus while she was on vacation.

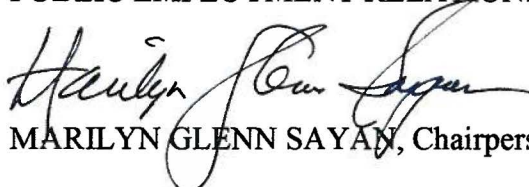
Conclusions of Law 1 and 2 are AFFIRMED and adopted as the Conclusions of Law of the Commission. Conclusion of Law 3 is VACATED and the following Conclusion of Law is substituted:

3. Based upon Findings of Fact 10 through 20, the DISC II employees on the Assessment Services Team in the Clark County Assessor's Office share a community of interest with the employees in the Appraisers and Other Professionals bargaining unit represented by PTE 17.

The Order is AFFIRMED and adopted as the Order of the Commission.

ISSUED at Olympia, Washington, this 24th day of July, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


THOMAS W. McLANE, Commissioner


MARK E. BRENNAN, Commissioner



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DECISION 12271-A--PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:


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