

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the joint petition of:

STATE – WASHINGTON  
TECHNOLOGY SOLUTIONS

and

WASHINGTON FEDERATION OF  
STATE EMPLOYEES

For clarification of an existing  
bargaining unit.

CASE 129034-C-17

DECISION 12765 - PSRA

ORDER MERGING  
BARGAINING UNITS

*Robin Vazquez*, Labor Negotiator, and *Karl Nagel*, Labor & Policy Advisor, for  
Washington Technology Solutions.

*Herb Harris*, Coordinator of PERC Activities, for the Washington Federation of  
State Employees.

On June 6, 2017, Washington Technology Solutions (employer) and the Washington Federation of State Employees (union) jointly filed a unit clarification petition seeking to merge two bargaining units. The parties also request that the merged bargaining unit description be amended accordingly. The petition does not seek to add or remove any positions to or from the merged bargaining unit. The request for merger and amendment to the bargaining unit description is granted.

### BACKGROUND

Prior to 2011, the Department of Information Services (DIS) provided information technology services to various state agencies. In 2011, the Washington State Legislature abolished DIS and divided its functions and employees among two new state agencies: Consolidated Technology Services (CTS) and the Department of Enterprise Services (DES).

The union represented a wall-to-wall bargaining unit of non-supervisory employees at DIS. When the Legislature abolished DIS and divided the employees among the new agencies, the represented employees transferred to the new agencies were presumed to be included in appropriate bargaining units. The Legislature also provided a mechanism for either the union or employer to ask this agency to review the appropriateness of the bargaining units at the new agencies. RCW 41.80.911.

This agency deemed appropriate the bargaining unit that was transferred to CTS from DIS, and the union continued to represent that unit. *State – Consolidated Technology Services*, Decision 11266-A (PSRA, 2012). The bargaining unit that was transferred to DES was deemed inappropriate, and those employees became unrepresented.<sup>1</sup> *State – Enterprise Services (Technology Solutions)*, Decision 11663 (PSRA, 2013).

In 2013, this agency clarified a second bargaining unit represented by the union. This second bargaining unit of employees performs information and calling conference work and was also transferred to CTS as part of the 2011 changes. *State – Consolidated Technology Services*, Decision 11821 (PSRA, 2013). At that point, the union represented two bargaining units at CTS. No other labor organization represented employees at that agency.

In 2015, the Legislature transferred some of the information technology employees at DES as well as certain information technology employees at the Office of Financial Management to CTS. None of these transferred employees were represented by a bargaining agent. The Legislature renamed the agency Washington Technology Solutions. The legislation once again provided a mechanism for either the union or employer to ask this agency to review the appropriateness of the existing bargaining units following the reorganization. RCW 43.105.907. The employer and union subsequently worked together to determine if any modifications needed to be made to the existing bargaining units at Washington Technology Solutions. As a result, the parties filed the instant petition.

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<sup>1</sup> This agency initially directed a representation election but the union disclaimed interest in the employees. *State – Enterprise Services (Technology Solutions)*, Decision 11663-A (PSRA, 2013).

## ANALYSIS

This agency has the authority to create new bargaining units and to modify existing bargaining units to ensure their continued appropriateness. RCW 41.80.070. Included in that authority is the ability to merge existing bargaining units. Bargaining units of state civil service employees may be merged if the bargaining units subject to merger are represented by the same exclusive bargaining representative and the resulting unit is appropriate under the statute. RCW 41.80.070(3); WAC 391-25-426.

The merger of bargaining units under RCW 41.80.070(3) can be presumed to reflect a concern about the proliferation of bargaining units as well as an attempt to avoid fragmentation issues. *University of Washington*, Decision 11155 (PSRA, 2011). Although the statute allows for the merger of existing bargaining units to avoid fragmentation, the focus of the statute is narrow. The statute does not anticipate or contemplate other types of modifications or clarifications to the resulting bargaining unit in the same proceedings.<sup>2</sup>

Merger is appropriate under RCW 41.80.070 because the parties are not seeking to add any positions to the bargaining unit. *See State – Agriculture*, Decision 12375 (PSRA, 2015) (the scope of RCW 41.80.070(3) and WAC 391-25-426 is narrow; the statute and rule only apply to existing bargaining units). Given that the parties are seeking to redefine the merged bargaining unit to expressly exclude those positions that were transferred to Washington Technology Solutions as part of the most recent reorganization, modification of the bargaining unit is also appropriate under RCW 43.105.907.

## CONCLUSION

In this instance, the parties agree that the two bargaining units represented by the union should be merged. Nothing has come to the attention of this agency suggesting that a single, merged

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<sup>2</sup> However, the parties can agree to clarify existing bargaining units provided the clarification is timely. *See, e.g., State – Fish and Wildlife*, Decision 12141 (PSRA, 2014).

bargaining unit comprised of the employees in the existing bargaining units would be inappropriate. Merging the bargaining units would also address the “fragmentation” component of the statutory unit determination criteria found in RCW 41.80.070. The parties’ request for merger and amendment to the bargaining unit description is granted.

#### FINDINGS OF FACT

1. Washington Technology Solutions is an employer within the meaning of RCW 41.80.005(8).
2. The Washington Federation of State Employees (union) is an employee organization within the meaning of RCW 41.80.005(7) and represents two separate bargaining units of non-supervisory employees at Washington Technology Solutions.
3. One of the bargaining units the union represents was transferred from the Department of Information Services (DIS). This agency deemed appropriate the bargaining unit that was transferred to Consolidated Technology Solutions (CTS) from DIS, and the union continued to represent that unit. *State – Consolidated Technology Services*, Decision 11266-A. That bargaining unit is currently described as:

All non-supervisory civil service employees of the Washington State Consolidated Technology Services covered by Chapter 41.06 RCW and Chapter 41.80 RCW, excluding supervisors, confidential employees, WMS employees, employees in existing bargaining units, and all other employees.

4. In 2013, this agency clarified a second bargaining unit represented by the union. This second bargaining unit of employees performs information and calling conference work and was also transferred to CTS as part of the 2011 changes. *State – Consolidated Technology Services*, Decision 11821. That bargaining unit is currently described as:

All non-supervisory civil service employees performing Information and Conference Calling work at the Washington State Consolidated Technology Services covered by Chapter 41.06 RCW and Chapter 41.80 RCW,

excluding supervisors, confidential employees, WMS employees, employees in existing bargaining units, and all other employees.

5. In 2015, the Legislature transferred some of the information technology employees at the Department of Enterprise Services as well as certain information technology employees at the Office of Financial Management to CTS. None of these transferred employees were represented by a bargaining agent. The Legislature renamed the agency Washington Technology Solutions.
6. The parties agree that merging the bargaining units described in Findings of Fact 3 and 4 would result in an appropriate bargaining unit.
7. No facts that would call into question the propriety of the proposed merger described in these findings of fact have been discovered or brought to the attention of this agency.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and WAC 391-25-426.
2. The merger of the bargaining units described in Findings of Fact 3 and 4 will result in an appropriate unit for the purpose of collective bargaining under RCW 41.80.070.

#### ORDER

1. The bargaining units described in Findings of Fact 3 and 4 shall be merged into one bargaining unit described as follows:

All non-supervisory civil service employees whose primary role is to manage, maintain, and support Compute, Storage, Network, Data Center, and Telecommunications infrastructures, Help Desk, Desktop Support, Disaster Recovery, and Email at Washington Technology Solutions, excluding supervisors, WMS employees, EMS employees, confidential

employees, consultants or employees who primary role is to develop, configure, or administer database, website, or software applications; administrative or clerical; business or system analysis; contracting; cybersecurity; fiscal; human resources; procurement; project management; or privacy.

2. The Washington Federation of State Employees shall continue to be the exclusive bargaining representative of the merged bargaining unit described in paragraph 1 of this order.

ISSUED at Olympia, Washington, this 14th day of August, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, 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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### RECORD OF SERVICE - ISSUED 08/14/2017

DECISION 12765 - PSRA has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:



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CASE NUMBER: 129034-C-17

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