

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

TEAMSTERS LOCAL 760

For clarification of an existing bargaining
unit of employees of:

YAKIMA COUNTY

CASE 130626-C-18

DECISION 12899 - PECB

ORDER CLARIFYING
BARGAINING UNIT

Carl Keller, Business Agent, for Teamsters Local 760.

Rocky L. Jackson, Attorney at Law, Menke Jackson Beyer, LLP, for Yakima
County.

On May 9, 2018, Teamsters Local 760 (union) filed a unit clarification petition to add the animal control officer in the Yakima County Sheriff's Office (employer) to the union's existing Clerical and Dispatch bargaining unit. Since 2003, the union has represented the animal control officers as part of a separate Animal Control Officer bargaining unit. *Yakima County*, Decision 8079 (PECB, 2003). Over time, the number of employees in that bargaining unit has been reduced to one, thereby rendering that bargaining unit inappropriate.

The Clerical and Dispatch bargaining unit is also part of the sheriff's office and includes the all noncommissioned employees of the sheriff's office. *Yakima County*, Decision 2142 (PECB, 1985). The employer does not oppose adding the animal control officer position to the Clerical and Dispatch bargaining unit. Adding the animal control officer to the Clerical and Dispatch bargaining unit is appropriate because it is the only appropriate placement for that position. Excluding the animal control officer from the existing unit would strand that position because there are no other noncommissioned employee bargaining units.

ANALYSIS*Applicable Legal Standard*

The Public Employment Relations Commission has the authority to define new bargaining units and to modify existing bargaining units in order to ensure their continued appropriateness. RCW 41.56.060. When a bargaining unit is certified, the work performed by employees in that bargaining unit becomes the historic work jurisdiction of that unit. *See, e.g., Kitsap County Fire District 7, Decision 7064-A (PECB, 2001)* (“Bargaining unit work is defined as the work historically performed by bargaining unit employees.”).

Ordinarily, employees are permitted a voice in the selection of an exclusive bargaining representative. RCW 41.56.070. Accretion, or the addition of a group of employees to an existing bargaining unit without an election, is the exception to the statutory rule of employee free choice because it deprives employees of a vote in the determination of whether they are represented for purposes of collective bargaining. *State – Enterprise Services (Contracts & Legal Services), Decision 11652-A (PSRA, 2013)*.

An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong only in one existing bargaining unit. *Id.; City of Auburn, Decision 4880-A (PECB, 1995)*. In order for an accretion to be directed, the resulting unit must be appropriate. *Pierce County, Decision 6051-A (PECB, 1998)*. An accretion will be denied if the positions could stand on their own as a separate bargaining unit or could appropriately be placed in any other bargaining unit. *City of Auburn, Decision 4880-A*. An accretion cannot be ordered where the number of employees to be added to the bargaining unit is so large as to call into question the union’s majority status in the enlarged unit. *Port of Seattle, Decision 11131 (PORT, 2011)*. The party proposing accretion bears the burden of demonstrating that conditions for accretion are present. *State – Enterprise Services (Contracts & Legal Services), Decision 11652-A; City of Auburn, Decision 4880-A*.

Application of Standards

The Animal Control Officer bargaining unit consisted of two employees in the animal control officer job class when it was originally certified by this agency in 2003. The employees in the bargaining unit have been represented by the union since that time and the most recent applicable contract expired on December 31, 2017. In early 2018, one animal control officer left employment with the county and the employer decided not to fill that position.

The union's Clerical and Dispatch bargaining unit currently consists of 23 noncommissioned employees in the financial specialist, office specialist, office coordinator, law enforcement dispatch, lead records-senior program representative, law enforcement dispatch supervisor, and program coordinator job classes. The current contract covering this group expires on December 31, 2018. Although the parties call this bargaining unit the Clerical and Dispatch unit, the unit is actually composed of "all regular full-time and regular part-time employees of the Yakima County Sheriff's Department." *Yakima County*, Decision 2142. There are three other bargaining units in the sheriff's office, including a nonsupervisory uniformed bargaining unit,¹ a supervisory uniformed bargaining unit,² and a security personnel bargaining unit.³

When the Animal Control Officer bargaining unit was reduced to one position, that bargaining unit was rendered inappropriate. WAC 391-35-330; *see also Town of South Prairie*, Decision 12769 (PECB, 2017). Adding the remaining animal control officer to the union's Clerical and Dispatch bargaining unit is appropriate in this instance because that bargaining unit consists of all non-uniformed positions in the sheriff's office. That structure would include the animal control officer upon dissolution of the Animal Control Officer bargaining unit. Additionally, the animal control officer position would be stranded if it were not included in the Clerical and Dispatch bargaining unit because it would be the only non-uniformed employee role in the department that was not included in an existing bargaining unit.

1 *Yakima County*, Decision 2122 (PECB, 1984).

2 *Yakima County*, Decision 9589 (PECB, 2007).

3 *Yakima County*, Decision 7075 (PECB, 2000). It appears that when the security personnel bargaining unit was created it was part of the Yakima County Department of Corrections but has since been moved under the supervision of the sheriff's office.

Finally, the history of bargaining for the animal control officer position supports a conclusion that the job class appropriately belongs in the Clerical and Dispatch bargaining unit. The union has represented the animal control officer since the bargaining unit's creation and has successfully negotiated on the position's behalf. Accordingly, the Clerical and Dispatch bargaining unit will be clarified to include the animal control officer working in the sheriff's office.

FINDINGS OF FACT

1. Yakima County (employer) is a public employer within the meaning of RCW 41.56.030(12).
2. Teamsters Local 760 (union) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit of animal control officers who work in the sheriff's office. That bargaining unit is currently described as follows:

“All full-time and regular part-time animal control officers of Yakima County, excluding supervisors, confidential employees and all other employees.” *Yakima County*, Decision 8079 (PECB, 2003).

4. The union represents a bargaining unit of Clerical and Dispatch employees who work in the sheriff's office. That bargaining unit is currently described as follows:

“All regular full-time and regular part-time employees of the Yakima County Sheriff's Department, excluding the sheriff, the sheriff's confidential secretary, unclassified civil service appointees; all fully commissioned uniformed deputy sheriffs; sergeants and lieutenants as defined in RCW 41.26.030; all security officers, security supervisors, sergeants and lieutenants.” *Yakima County*, Decision 2142 (PECB, 1985).

5. There are three other bargaining units in the sheriff's office, including a nonsupervisory uniformed bargaining unit, a supervisory uniformed bargaining unit, and a security personnel bargaining unit.
6. The Animal Control Officer bargaining unit described in finding of fact 3 consisted of two employees in the animal control officer job class when it was originally certified by this agency in 2003. The employees in the bargaining unit have been represented by the union since that time and the most recent applicable contract expired on December 31, 2017. In early 2018, one animal control officer left employment with the county and the employer decided not to fill that position.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-35 WAC.
2. Based upon finding of fact 6, the Animal Control Officer bargaining unit described in finding of fact 3 is inappropriate under WAC 391-35-330 because it has only one employee.
3. Based upon findings of fact 3 through 6, the animal control officer position shares a community of interest with the Clerical and Dispatch bargaining unit described in finding of fact 4.

ORDER

1. The bargaining unit described in finding of fact 3 is dissolved as inappropriate.
2. The bargaining unit described in finding of fact 4 shall be modified to include the animal control officer without the need to modify the existing unit description.

ISSUED at Olympia, Washington, this 2nd day of August, 2018.

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

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

MARILYN GLENN SAYAN, CHAIRPERSON
MARK E. BRENNAN, COMMISSIONER
MARK R. BUSTO, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

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DECISION 12899 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: AMY RIGGS

CASE NUMBER: 130626-C-18

EMPLOYER: YAKIMA COUNTY

REP BY: JACQUI LINDSAY
YAKIMA COUNTY
128 N 2ND ST RM B27
YAKIMA, WA 98901
jacqui.lindsay@co.yakima.wa.us
(509) 574-2210

ROCKY L. JACKSON
MENKE JACKSON BEYER, LLP
807 N 39TH AVE
YAKIMA, WA 98902
rjackson@mjbe.com
(509) 575-0313

PARTY 2: TEAMSTERS LOCAL 760

REP BY: LEONARD CROUCH
TEAMSTERS LOCAL 760
1211 W LINCOLN AVE
YAKIMA, WA 98902-2535
leonard@teamsters760.org
(509) 452-7194

CARL KELLER
TEAMSTERS LOCAL 760
1211 W LINCOLN AVE
YAKIMA, WA 98902
carl@teamsters760.org
(509) 452-7194