

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

TEAMSTERS LOCAL 839

Involving certain employees of:

BEN FRANKLIN TRANSIT

CASE 130012-E-18

DECISION 12925 - PECB

DIRECTION OF ELECTION

Shannon E. Phillips, Attorney at Law, Summit Law Group, for Ben Franklin Transit.

David W. Ballew, Attorney at Law, Reid, McCarthy, Ballew & Leahy, LLP, for Teamsters Local 839.

On January 26, 2018, Teamsters Local 839 (union) filed a petition to represent certain employees of Ben Franklin Transit (employer). The petitioned-for employees include the job classifications of Dial-A-Ride dispatchers and Dial-A-Ride schedulers (Dial-A-Ride employees). The employer asserts that a bargaining unit of Dial-A-Ride employees would be inappropriate absent the inclusion of the employer's Coach dispatchers and Coach schedulers (Coach employees).

Hearing Officer Katelyn M. Sypher conducted a hearing on June 20, 2018. At the hearing, Sypher reiterated that the scope of the hearing would be limited to whether the petitioned-for unit positions share a community of interest with Coach employees so as to make the petitioned-for unit inappropriate. The employer then asserted for the first time that an additional classification, an Americans with Disabilities Act (ADA) eligibility coordinator, must also be included to create an appropriate bargaining unit.

The hearing officer permitted the parties to introduce evidence as to this classification. At the close of the hearing, the employer moved to conform its prior position of record with the evidence introduced as to the ADA eligibility coordinator. The union objected to the admission of this evidence and the hearing officer deferred ruling to allow the parties to present their positions in their post-hearing briefs. The parties filed post-hearing briefs on July 30, 2018.

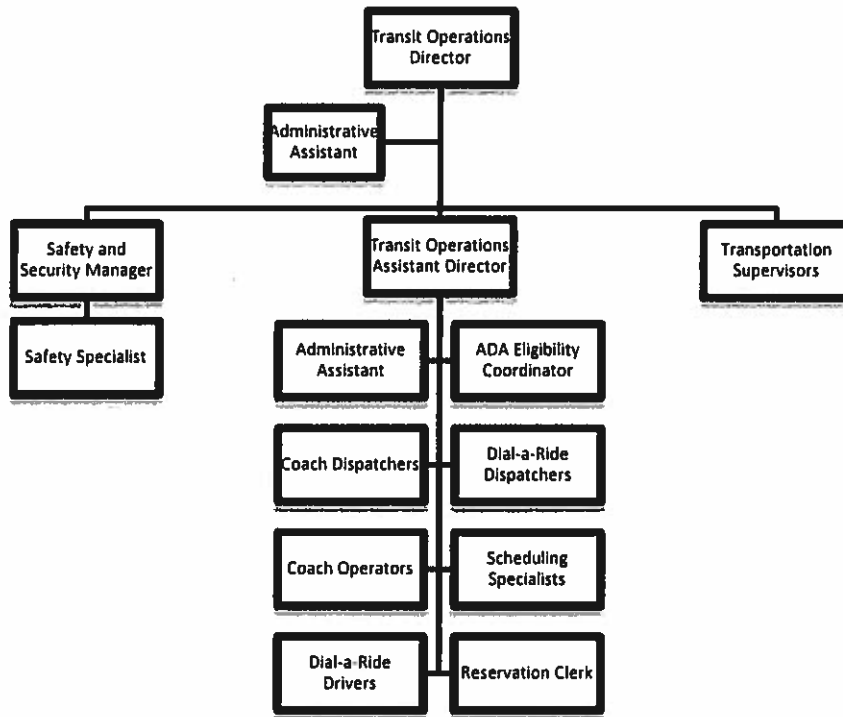
The petitioned-for unit of Dial-A-Ride employees constitutes an appropriate bargaining unit and does not cause undue fragmentation of the workforce. While some duties of the Dial-A-Ride employees and the Coach employees are similar, Dial-A-Ride dispatchers and schedulers share unique commonalities in their job requirements and working conditions. A bargaining unit of the Dial-A-Ride employees would not cause undue fragmentation. The ADA eligibility coordinator is not stranded and need not be included in the bargaining unit.

BACKGROUND

Ben Franklin Transit operates a public transportation system providing service in Pasco, Kennewick, Richland, and West Richland. The system consists of a fixed-route, fixed-stop coach bus service to serve the general population (Coach) and a point-to-point paratransit system (Dial-A-Ride). The Dial-A-Ride service allows eligible passengers with mobility impairments and other disabilities to call the employer to schedule rides to and from any location within the Dial-A-Ride service area, in a vehicle that can accommodate the passenger's mobility equipment. Both "modes," or "sides," of the employer's transit service are overseen by Transit Operations Director Kenneth Hamm and Assistant Director Kathryn Ostrom.

The employer's workforce includes three existing bargaining units. Two units consist of classifications within the Transit Operations Department, including a bargaining unit of Coach operators and a separate unit of Dial-A-Ride operators and reservation clerks. *See Ben Franklin Transit, Decision 10816 (PECB, 2010); Ben Franklin Transit, Decision 2357-A (PECB, 1986).* Certain maintenance and facilities classifications, which fall under a separate department of the employer's operations, are also represented. *See Ben Franklin Transit, Decision 12867 (PECB, 2018).* All three bargaining units are represented by the petitioning union, Teamsters Local 839. The remaining employees of Ben Franklin Transit are unrepresented.

The employer’s Transit Operations Department organization chart is illustrated below.



The Dial-A-Ride employees, Coach dispatchers, and the ADA eligibility coordinator report directly to Hamm and Ostrom. All work on the operations floor of the employer’s operations and maintenance building. The Dial-A-Ride employees and ADA eligibility coordinator work on one side of the floor and Coach dispatchers work on the opposite side. The two sides of the floor are separated by a lunch room, restrooms, and a training room.

All four groups of employees are salaried and currently placed in the employer’s Grade 3 salary scale, which has a minimum salary of \$47,866 and a maximum of \$71,799. All are eligible for the health insurance benefits that the employer offers to all unrepresented employees. Under this benefits package, employees pay 5 percent of the insurance premiums for their own health insurance coverage and 20 percent for their dependents’ coverage. All classifications are subject to the same workplace policies that the employer applies to its unrepresented employees, such as an anti-harassment policy and a computer security policy.

Coach and Dial-A-Ride Dispatcher Positions

Dispatcher candidates are generally hired from internal driver candidates. In most cases, a Dial-A-Ride operator will be hired as Dial-A-Ride dispatcher or a Coach operator will be hired as a Coach dispatcher due to the candidate's familiarity with the functions and processes of each particular service. In the event that an operator is hired as a dispatcher for the opposite side of the operation, the newly hired dispatcher requires more training.

The essential qualifications for both dispatcher positions are the same: a high school diploma or General Education Development degree, a Washington state drivers' license, typing skills, and prior dispatch experience. At times, the employer has used the same generic job posting for both dispatcher positions but at other times it has used a job description that specifies which of the two positions it was seeking to fill.¹ Once employed, dispatchers in both positions are required to obtain commercial driver's licenses, however only Dial-A-Ride dispatchers are required to obtain a Class C commercial driver's license, which carries a passenger endorsement. Dial-A-Ride dispatchers also must obtain cardiopulmonary resuscitation (CPR) certification, which Coach dispatchers are not required to obtain.

Both Dial-A-Ride and Coach dispatchers receive on-the-job training from experienced employees on their respective sides of the operation and they must learn the local geography, though the level of detail required for each side differs. Coach dispatchers must learn the route for each Coach bus. Dial-A-Ride dispatchers must learn local streets in detail, including alleyways and even-versus-odd street numbers, because passengers can request a pick up or drop off at any address, and the service must ensure passengers always board and alight in safe, accessible places.

Dial-A-Ride dispatchers are also required to learn ADA standards applicable to public transportation. Examples of these standards include knowing the number of personal care attendants who can accompany a passenger without paying a fare and what can and cannot

¹ Dispatcher witnesses Andrea Benson and John Gabriel Martin attested that they were aware in advance of whether the position they were applying for was within Coach or Dial-A-Ride. There is no evidence that any dispatcher has ever been hired to work for both modes of the transit operation concurrently.

constitute a service animal. Dial-A-Ride dispatchers must also keep track of which Dial-A-Ride vehicles can accommodate which pieces of mobility equipment.

Both Coach and Dial-A-Ride dispatchers serve as the first point of contact for the operators in the field on their modes of the transit system. Both sets of dispatchers communicate with operators about field conditions using two-way radios and mobile ranger systems built into the Coach and Dial-A-Ride vehicles. The time devoted to such duties differs on each side of the transit operation.

Coach dispatchers field approximately one call every 30 minutes from a Coach operator. Dial-A-Ride dispatchers receive a steady stream of 1,200–1,600 mobile ranger messages per day from Dial-A-Ride operators. One Dial-A-Ride dispatcher per shift devotes his time almost exclusively to reading and responding at high speed to the incoming messages. Another dispatcher fields calls from Dial-A-Ride passengers and records updates to the passengers' schedules and other pertinent pieces of information. That dispatcher then relays the information to a Dial-A-Ride operator. A third dispatcher fields calls from will-call passengers who need rides and slots them into the operators' schedules. A fourth dispatcher strictly monitors operator progress on the routes. All of the above factors prompt the Dial-A-Ride dispatchers to make continuous, real-time adjustments to operator routes during the service day.

Coach dispatchers, by contrast, perform other daily duties that are more administrative in nature. Coach dispatchers spend a minimum of one and one-half hours of their shifts performing operator attendance and payroll tasks. These tasks include fielding morning messages from operators reporting their absences, reviewing and processing a daily payroll packet, running a daily payroll variance report, and inputting attendance information into each operator's work file.

Each day at noon, the Coach dispatchers on shift work as a team to create the Coach operator schedule for the next day. This task includes cross-referencing a list of all the route work to be completed with a daybook listing operator meetings and requests for time off. The dispatchers assign fill-in operators as needed from a "B board" list. Coach dispatchers also play a role in a quarterly shake up process during which operators bid for shifts. The dispatchers create a work

schedule that allows each operator to be free from other duties in order to participate in the bid. The Coach dispatchers are also responsible for inputting the data resulting from the shake up into the employer's computer systems. None of these administrative, payroll, or scheduling tasks are performed by dispatchers on the Dial-A-Ride side.

Both sets of dispatchers rely on separate, specialized software to perform their duties. Dial-A-Ride dispatchers use a program called Trapeze, which tracks operators and makes route adjustments via specially-programmed hot keys. All Dial-A-Ride dispatchers receive Trapeze software training from Trapeze company representatives. Coach dispatchers use a program called TripSpark to track buses and input data into operators' mobile ranger systems. TripSpark company representatives train certain Coach dispatchers on the software upon its introduction, and those dispatchers train the remainder of the Coach dispatchers. Coach dispatchers also use a separate program, FleetNet, to track operator hours and payroll.

Both Coach and Dial-A-Ride dispatch operations are open Monday through Saturday. Coach dispatch's hours of operation are Monday through Friday, 4:00 a.m. through 9:15 p.m., and Saturday, 7:00 a.m. through 3:30 p.m. Dial-A-Ride dispatch's hours of operation are Monday, 3:00 a.m. through 9:30 p.m., Tuesday through Friday, 4:00 a.m. through 9:30 p.m., and Saturday, 7:00 a.m. through 3:30 p.m. Dial-A-Ride dispatchers work four overlapping shifts per day. Each shift is 10.5 hours in length. All dispatchers receive a 30-minute lunch break. The Coach dispatchers work three overlapping dispatch shifts per day. The morning and late shift dispatchers work 10.5-hour shifts (4:00 a.m. until 2:30 p.m., and 10:45 a.m. until 9:15 p.m.), and the mid-shift dispatcher works an 8.5-hour shift (7:00 a.m. until 3:30 p.m.). The Coach dispatch operation also employs one part-time dispatcher with a fluid schedule.²

Coach and Dial-A-Ride dispatchers do not fill in for one another's shifts and have limited, if any, interaction on the job. The Transit Operations Department director reported seeing dispatchers from each side interact with one another periodically to share information regarding road conditions that may benefit operators from both sides. However, no regular work processes

² No evidence was offered as to the Coach dispatch's shift lengths and times for Saturday.

necessitate interaction between the two sides. Andrea Benson, a Coach dispatcher, testified that she typically spends 100 percent of her work time on the Coach side of the operations floor. Her job duties as a Coach dispatcher had not included involvement in any ADA-related paratransit matters, with only one or two exceptions during her tenure. Those exceptions related to an ADA eligibility coordinator asking Coach dispatch for the staging of a Coach bus for Dial-A-Ride applicant testing.

Dial-A-Ride Scheduler Position

Dial-A-Ride schedulers typically work afternoon shifts. They are responsible for reviewing the passenger reservations entered by reservationists for the next day and crafting the initial routes for each Dial-A-Ride driver. The schedulers use the Trapeze software to batch reserved rides into draft routes. The schedulers then review and edit each route to ensure that efficient route choices are made. Schedulers are also responsible for outreach to such local service agencies as Goodwill Employment and The Arc of the Tri-Cities to coordinate mass pick-ups from popular service locations.

Like Dial-A-Ride dispatchers, schedulers receive on-the-job training in their job duties from other Dial-A-Ride employees and software training from Trapeze company representatives. Schedulers must learn which Dial-A-Ride vehicles are compatible with which mobility devices. Schedulers share files with other Dial-A-Ride employees, including dispatchers and reservationists, regarding the types of mobility equipment used by each passenger. At least one Dial-A-Ride employee has progressed into the dispatch position after working as a Dial-A-Ride scheduler.

ADA Eligibility Coordinator Position

The ADA eligibility coordinator serves as the gatekeeper for passenger access to the Dial-A-Ride service. The coordinator's job duties include screening passenger applications for Dial-A-Ride and arranging physical tests to assess applicants' ability to ride Coach buses. The coordinator also arranges for support services to certain passengers who possess an impairment or disability but are deemed ineligible for Dial-A-Ride, such as assigning a trainer to help the individual learn to use the Coach bus system.

ANALYSIS

Applicable Legal Standards

The Washington State Legislature delegated to this agency the authority to determine appropriate bargaining units for purposes of collective bargaining. When making bargaining unit determinations for employees covered by Chapter 41.56 RCW, the agency considers “the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees.” RCW 41.56.060(1). These criteria are applied collectively to discern the existence of a “community of interest” among the employees of a particular employer. *Community Transit*, Decision 8734-A (PECB, 2005). The Legislature did not prioritize the unit determination criteria set forth in RCW 41.56.060(1), and not all statutory factors need to be considered in every case. *Community Transit*, Decision 8734-A. There is no indication that the Legislature intended any of the criteria to dominate over the others.

This agency’s role is to determine whether there is *a* community of interest, not the *best* community of interest. Consequently, the fact that other groupings of employees may also be appropriate does not render the proposed configuration inappropriate. *State – Secretary of State*, Decision 12442 (PSRA, 2015), *citing Snohomish County*, Decision 12071 (PECB, 2014), and *City of Winslow*, Decision 3520-A (PECB, 1990). When making bargaining unit determinations, the Commission seeks to avoid fragmentation and potential work jurisdiction disputes. *University of Washington*, Decision 8315 (PECB, 2003).

The Commission also looks at the “extent of organization” among employees and compares the employees involved in the proposed unit with the employer’s overall workforce. *Washington State University*, Decision 10115 (PSRA, 2008). The application of this factor is designed to ensure that an employee or group of employees is not stranded in a unit too small to effectively exercise its right to collectively bargain. *Id.*

Application of Standards*Dispatchers and Schedulers*

The Dial-A-Ride dispatchers and schedulers share a community of interest and organizing them into a bargaining unit would not cause undue fragmentation. Dial-A-Ride dispatchers and schedulers share unique commonalities in their job requirements and working conditions. They work in close proximity to one another in the Dial-A-Ride area of the operations floor. They undergo similar on-the-job training, including training by Trapeze software company representatives. They use the same software and passenger files. They must have the same knowledge regarding mobility equipment and its compatibility with the Dial-A-Ride fleet. There is evidence of job progression between the two positions.

The Dial-A-Ride employees work separately from the employer's Coach dispatch operation and the two sides rarely interact. This lack of interaction eliminates any risk of work jurisdiction issues arising from the Coach and Dial-A-Ride dispatchers being separately organized.

The extent of organization also supports a bargaining unit configuration of just the Dial-A-Ride employees. The petitioned-for unit would replicate the vertical bargaining unit structure for the two existing bargaining units of Dial-A-Ride and Coach operators in the Transit Operations Department.³ The autonomy of operations between the two modes and the existing distinctions between Dial-A-Ride and Coach bargaining units undermine the employer's argument of fragmentation, and the employer appears to risk just one additional bargaining unit if the Coach dispatchers should seek to be represented.

This does not mean that Dial-A-Ride dispatchers and schedulers share no community-of-interest factors with Coach dispatchers. All three positions report to the same supervisor, are subject to the same method of compensation and salary scale, are eligible for the same benefits, and are subject to the same workplace policies. A unit of all three positions may *also* be an appropriate

³ The employer disputes the union's characterization of the two separate operator units as vertical rather than horizontal units. Regardless of terminology, it is undisputed that the Coach and Dial-A-Ride operators are separately organized.

bargaining unit, but this does not render the petitioned-for unit of just the Dial-A-Ride employees inappropriate. *State – Secretary of State, Decision 12442.*

ADA Eligibility Coordinator

The petitioned-for bargaining unit of Dial-A-Ride employees is not rendered inappropriate if the ADA eligibility coordinator is not included in that bargaining unit. The ADA eligibility coordinator position would not be stranded because it is not, in fact, stranded. Six other individuals within the employer's Transit Operations Department, including the five Coach dispatchers and an administrative assistant, presently remain unrepresented. The employer contends that the ADA eligibility coordinator shares a community of interest with the Coach dispatchers; it is possible those classifications could seek representation together at a later date and test the veracity of that position based on a full and complete record.

CONCLUSION

The petitioned-for group of Dial-A-Ride dispatchers and Dial-A-Ride schedulers shares a sufficient community of interest to constitute a unit appropriate for the purposes of collective bargaining. Excluding the employer's Coach dispatchers does not cause undue fragmentation. The ADA eligibility coordinator need not be included because it is not stranded and could be accreted into another existing unit. The matter is remanded to the Representation Case Administrator for further processing consistent with this decision.

FINDINGS OF FACT

1. Ben Franklin Transit (employer) is a public employer within the meaning of RCW 41.56.030(12).
2. Teamsters Local 839 (union) is a bargaining representative within the meaning of RCW 41.56.030(2).

3. Ben Franklin Transit operates a public transportation system providing service in Pasco, Kennewick, Richland, and West Richland. The system consists of a fixed-route, fixed-stop coach bus service to serve the general population (Coach) and a point-to-point paratransit system (Dial-A-Ride). The Dial-A-Ride service allows eligible passengers with mobility impairments and other disabilities to call the employer to schedule rides to and from any location within the Dial-A-Ride service area, in a vehicle that can accommodate the passenger's mobility equipment.
4. The Dial-A-Ride employees, Coach dispatchers, and the ADA eligibility coordinator work on the operations floor of the employer's operations and maintenance building. The Dial-A-Ride employees and ADA eligibility coordinator work on one side of the floor and Coach dispatchers work on the opposite side. The two sides of the floor are separated by a lunch room, restrooms, and a training room.
5. Dispatcher candidates are generally hired from internal driver candidates. In most cases, a Dial-A-Ride operator will be hired as Dial-A-Ride dispatcher or a Coach operator will be hired as a Coach dispatcher due to the candidate's familiarity with the functions and processes of each particular service. In the event that an operator is hired as a dispatcher for the opposite side of the operation, the newly hired dispatcher requires more training.
6. The essential qualifications for both dispatcher positions are the same: a high school diploma or General Education Development degree, a Washington state drivers' license, typing skills, and prior dispatch experience. At times, the employer has used the same generic job posting for both dispatcher positions but at other times it has used a job description that specifies which of the two positions it was seeking to fill.
7. Once employed, dispatchers in both positions are required to obtain commercial driver's licenses, however only Dial-A-Ride dispatchers are required to obtain a Class C commercial driver's license, which carries a passenger endorsement. Dial-A-Ride dispatchers also must obtain cardiopulmonary resuscitation (CPR) certification, which Coach dispatchers are not required to obtain.

8. Both Dial-A-Ride and Coach dispatchers receive on-the-job training from experienced employees. Coach dispatchers must learn the route for each Coach bus. Dial-A-Ride dispatchers must learn local streets in detail, including alleyways and even-versus-odd street numbers, because passengers can request a pick up or drop off at any address, and the service must ensure passengers always board and alight in safe, accessible places.
9. Dial-A-Ride dispatchers are also required to learn ADA standards applicable to public transportation. Dial-A-Ride dispatchers must also keep track of which Dial-A-Ride vehicles can accommodate which pieces of mobility equipment.
10. Coach dispatchers field approximately one call every 30 minutes from a Coach operator. Dial-A-Ride dispatchers receive a steady stream of 1,200–1,600 mobile ranger messages per day from Dial-A-Ride operators.
11. One Dial-A-Ride dispatcher per shift devotes his time almost exclusively to reading and responding to the incoming messages at high speed. Another dispatcher fields calls from Dial-A-Ride passengers and records updates to the passengers' schedules and other pertinent pieces of information. That dispatcher then relays the information to a Dial-A-Ride operator. A third dispatcher fields calls from will-call passengers who need rides and slots them into the operators' schedules. A fourth dispatcher strictly monitors operator progress on the routes. All of the above factors prompt the Dial-A-Ride dispatchers to make continuous, real-time adjustments to operator routes during the service day.
12. Coach dispatchers perform other daily duties that are more administrative in nature. Coach dispatchers spend a minimum of one and one-half hours of their shifts performing operator attendance and payroll tasks. These tasks include fielding morning messages from operators reporting their absences, reviewing and processing a daily payroll packet, running a daily payroll variance report, and inputting attendance information into each operator's work file.

13. Each day at noon, the Coach dispatchers on shift work as a team to create the Coach operator schedule for the next day. This task includes cross-referencing a list of all the route work to be completed with a daybook listing operator meetings and requests for time off. The dispatchers assign fill-in operators as needed from a "B board" list. Coach dispatchers also play a role in a quarterly shake up process during which operators bid for shifts.
14. Dial-A-Ride dispatchers use a program called Trapeze, which tracks operators and makes route adjustments via specially-programmed hot keys. All Dial-A-Ride dispatchers receive Trapeze software training from Trapeze company representatives. Coach dispatchers use a program called TripSpark to track buses and input data into operators' mobile ranger systems. TripSpark company representatives train certain Coach dispatchers on the software upon its introduction, and those dispatchers trained the remainder of the Coach dispatchers.
15. Coach and Dial-A-Ride dispatchers do not fill in for one another's shifts and have limited, if any, interaction on the job. No regular work processes necessitate interaction between the two sides.
16. Dial-A-Ride schedulers typically work afternoon shifts. They are responsible for reviewing the passenger reservations entered by reservationists for the next day and crafting the initial routes for each Dial-A-Ride driver. The schedulers use the Trapeze software to batch reserved rides into draft routes. The schedulers then review and edit each route to ensure that efficient route choices are made.
17. The ADA eligibility coordinator serves as the gatekeeper for passenger access to the Dial-A-Ride service. The coordinator's job duties include screening passenger applications for Dial-A-Ride and arranging physical tests to assess applicants' ability to ride Coach buses. The coordinator also arranges for support services to certain passengers who possess an impairment or disability but are deemed ineligible for Dial-A-Ride, such as assigning a trainer to help the individual learn to use the Coach bus system.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-25 WAC.
2. Based upon findings of fact 3 through 17, a bargaining unit of “All full-time and regular part-time Dial-A-Ride Dispatchers and Scheduling Specialists employed by Ben Franklin Transit, excluding supervisors, confidential employees and all other employees.” is an appropriate bargaining unit appropriate under RCW 41.56.060.

ORDER

The matter is remanded to the Representation Case Administrator for further processing consistent with this decision.

ISSUED at Olympia, Washington this 23rd day of October, 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 391-25-590.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 10/23/2018

DECISION 12925 – PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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