

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON STATE DEPARTMENT  
OF ENTERPRISE SERVICES

For clarification of an existing bargaining  
unit represented by:

COMMUNICATIONS WORKERS OF  
AMERICA, THE NEWSPAPER GUILD,  
LOCAL 37082

CASE 131888-C-19

DECISION 13041 - PSRA

ORDER CLARIFYING  
BARGAINING UNIT

*Brad Sherman*, Administrative Officer for the Communications Workers of America, The Newspaper Guild, Local 37082.

*Julie Carnigan*, Assistant Attorney General, Attorney General Robert W. Ferguson for the Washington State Department of Enterprise Services.

On June 27, 2019, the Washington State Department of Enterprise Services (employer) filed a petition to clarify a bargaining unit of employees in the electronic pre-press specialist, assistant pre-press supervisor, and electronic pre-press technician job classifications (bargaining unit) represented by the Communication Workers of America, The Newspaper Guild, Local 37082 (union). The employer alleges that the bargaining unit is no longer appropriate under RCW 41.80.070 and WAC 391-35-330 because it now includes only one employee. The bargaining unit in question was last clarified in April 2012. At that time, the bargaining unit was described as “All employees of the Department of Enterprise Services Business Resources Division Printing and Imaging Services Night Productions and Pre-Press design work units in the following job classifications: Electronic Pre-Press Specialist, Assistant Pre-Press Supervisor, and Electronic Pre-Press Technician, excluding confidential employees, and all other employees.”

According to the petition, at the time the unit was recognized, the unit consisted of three positions. In February 5, 2014, one of the positions was eliminated through a reduction in force. Thus two employees remained in the bargaining unit. On March 1, 2019, one of the pre-press specialists

took another job within the agency. The employer has determined it no longer needs two positions to perform the work and will not be filling the pre-press specialists' vacancy. The position was delimited effective March 1, 2019, leaving a single employee in the bargaining unit. The union agrees that only one employee remains in the bargaining unit.

## ANALYSIS

### Applicable Legal Standard

This agency has the authority to define new bargaining units of employees and to modify existing bargaining units to ensure their continued appropriateness. RCW 41.80.070. A one-person unit is inappropriate for collective bargaining. *Port of Bellingham*, Decision 1570-A (PORT, 1983). The agency codified this standard in 2001 when it adopted WAC 391-35-330, which states that “[a] bargaining unit cannot be considered appropriate if it includes only one employee.”

In determining whether an existing bargaining unit has become an inappropriate one-person unit, the Commission considers whether the reduction in unit size to one employee is temporary or permanent. *Grant Public Hospital District 1*, Decision 11755 (PECB, 2013). “A temporary reduction in force of a small unit to a single employee does not . . . relieve an employer of its bargaining obligation.” *Port of Bellingham*, Decision 1570-A, citing *Crispo Cake Cone Co.*, 190 NLRB 352 (1971). In situations where an employer is alleging a unit is no longer appropriate because it includes only one employee, the employer has the burden to establish that the reduction in unit size is permanent, not temporary, in nature. If an employer can establish that the unit has been permanently reduced to one employee, the unit becomes inappropriate and the employer no longer has a bargaining obligation. *Evergreen Water/Sewer District 19*, Decision 10648 (PECB, 2010), citing *Crescendo Broadcasting, Inc.*, 217 NLRB 697 (1975).

### Application of Standard

The bargaining unit is no longer appropriate. In this case, the bargaining unit has included only two employees since February 5, 2014. After one of those employees took another job, the employer determined it no longer needed that position and delimited the position effective

March 1, 2019. The union agrees that only one position remains in the bargaining unit. Consequently, the bargaining unit is inappropriate under RCW 41.80.070 and WAC 391-35-330. The bargaining unit is officially dissolved through this order.

ORDER

The bargaining unit of employees in the electronic pre-press specialist, assistant pre-press supervisor, and electronic pre-press technician job classifications represented by the union is no longer an appropriate bargaining unit under RCW 41.80.070 and WAC 391-35-330. The bargaining unit is hereby dissolved.

ISSUED at Olympia, Washington, this 22nd day of July, 2019.

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.



# RECORD OF SERVICE

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ISSUED ON 07/22/2019

DECISION 13041 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 131888-C-19

EMPLOYER: WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES

REP BY: FRANKLIN PLAISTOWE  
OFFICE OF FINANCIAL MANAGEMENT  
LABOR RELATIONS SECTION  
PO BOX 47500  
OLYMPIA, WA 98504-7500  
labor.relations@ofm.wa.gov

JULIE CARNIGNAN  
OFFICE OF THE ATTORNEY GENERAL  
7141 CLEANWATER DR SW  
PO BOX 40145  
OLYMPIA, WA 98504-0145  
juliec1@atg.wa.gov

JANETTA SHEEHAN  
OFFICE OF FINANCIAL MANAGEMENT  
INSURANCE BUILDING  
PO BOX 43113  
OLYMPIA, WA 98504-3113  
janetta.sheehan@ofm.wa.gov

PARTY 2: COMMUNICATIONS WORKERS OF AMERICA LOCAL 37082

REP BY: BRAD SHERMAN  
COMMUNICATIONS WORKERS OF AMERICA LOCAL 37082  
2900 EASTLAKE AVE E STE 220  
SEATTLE, WA 98102-4943  
guild37082@gmail.com