King County, Decision 13100 (PECB, 2019)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: PROTEC17 For clarification of an existing bargaining unit of employees of: KING COUNTY	CASE 129763-C-17 DECISION 13100 - PECB ORDER CLARIFYING BARGAINING UNIT

Denise Cobden, Senior Union Representative, for PROTEC17.

Kristi D. Knieps, Senior Labor Negotiator, for King County.

On October 16, 2017, PROTEC17 (union) filed a unit clarification petition seeking to add certain employees at King County (employer) to the union's existing information technology bargaining unit. The union's petition concerns the employees in the cloud solutions architect, business intelligence solutions architect, and solution architect – data positions (collectively solution architect group). The union claims these positions are information technology employees that only share a community of interest with the union's information technology bargaining unit. The union requests that the positions be added to the bargaining unit without an election.

Representation Case Administrator Dario de la Rosa conducted an investigation of the union's petition and met with the parties to discuss scope of the union's petition and the community of the bargaining unit. During those discussions, the parties agreed with the representation case administrator that the existing bargaining unit is the only appropriate bargaining unit for the at-issue positions.

The job duties and working conditions of the job classes in the solution architect group show that these positions only share a community of interest with the union's information technology bargaining unit. The bargaining unit is clarified to include the solution architect group.

BACKGROUND

The union represents a bargaining unit of information technology employees. The history of that bargaining unit is set forth in *King County*, Decision 11828 (PECB, 2013), *aff'd*, Decision 11828-A (PECB, 2013). Important for this decision is the fact that the employer created a new executive department to centralize the employer's information technology services so that it could be managed in a more holistic, efficient, and fiscally responsible manner. *Id.* The employer specifically removed certain types of information technology services from the control of specific departments to the control of a new centralized information technology department, King County Information Technology (KCIT). *Id.* Although the union represented the majority of nonsupervisory information technology employees throughout the workforce, other bargaining representatives represented information technology employees.

Following its decision to reorganize its information technology workforce into a centralized department, the employer filed a series of unit clarification petitions. The employer sought to include all of its information technology employees in a single bargaining unit that included all information technology employees assigned to KCIT. The Commission ultimately ruled that the community of interest for information technology employees resides with the other employees in the employer's workforce performing information technology duties. *Id.* The union's bargaining unit was clarified to include all of the information technology employees assigned to KCIT because that bargaining unit is the only appropriate bargaining unit for information technology employees. *Id.*

Solution Architect Group
The solution architect group includes employees in the solution architect – application, solution architect – data, and solution architect – technology job classes. All of these job classes are newly created and have been excluded from the union's information technology bargaining unit. There are some common elements that are applicable to all three job classes: these positions apply extensive enterprise architecture and advanced architecture principles, theories, concepts, and technical leadership to the employer. These positions do not supervise employees in the traditional sense, but they provide significant influence and leadership. They provide their

technical expertise and experience not only in in their areas but also through the decisions they make. There are long-lasting impacts to the employer through the strategies, standards, roadmaps, and designs they create. To accomplish these tasks, the positions work with information technology architects, engineers, software developers, and other staff inside and outside of KCIT.

The solution architect – technology job class includes technical leadership positions that are considered subject matter experts in a specific infrastructure-oriented technology domain. The employees in these positions have deep, specific knowledge of the technologies in their domain and have a heavy emphasis on interoperability across domains to ensure seamless solutions. Some examples of technology domains include the following: compute, cloud, storage, backup, network, security, identity, end-user facing, automation, and data platforms.

The solution architect – application job class holds a lead designer position within a service or domain of applications. The position acts as both an independent contributor and as part of a team performing application and integration system analysis, design, and implementation of complex cross-department, and cross-domain application. At the same time, the position serves a critical role in ensuring a well architected application portfolio. To accomplish these tasks, the position works closely with management and technical experts within KCIT.

The solution architect – data job class architects, designs, and modernizes data. The position focuses on enabling business customers to gain greater value from their own data so they can make better business decisions. The position is assigned to a business domain, such as law enforcement or transportation, and analyzes data to create roadmaps to enhance the usefulness of that data. The position focuses on key, assigned aspects of the data management practice and matures those processes and capabilities at the county. The position works closely with stakeholders and other information technology team members to engineer information management solutions.

All of the employees in the solution architect group are assigned to KCIT, and the work performed by the solution architect group is similar to the work being performed by employees in the union's bargaining unit, such as the systems architect and applications developer – master job classes.

Employees in the systems architect job class design and implement new systems architecture and infrastructure; design all first implementations; design architecture and implementation plans for customer projects, and advise IT staff throughout the county on major project issues. The systems architects also coordinate activities of project teams and provide direction, training, and guidance for IT staff. The applications developer – master job class performs complex application design, development and systems integration, leads development projects, implements and supports high impact applications and their related systems. Employees in the positions also serve as technical experts and guide subordinate level applications developers on advanced issues.

ANALYSIS

Applicable Legal Standard

Community of Interest

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The goal in making bargaining unit determinations is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993). When making bargaining unit determinations, the Commission seeks to avoid fragmentation and potential work jurisdiction disputes. *King County*, Decision 6696 (PECB, 1999). Bargaining unit determinations are made on a case-by-case basis. *King County*, Decision 5910-A (PECB, 1997).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency as well as the parties to a collective bargaining relationship a mechanism to make changes to an appropriate bargaining unit based upon a change of circumstances. *See, e.g., Toppenish*

School District, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units). Unit clarification proceedings can be used to determine the bargaining unit placement of newly created positions. WAC 391-35-020(1)(a).

In making bargaining unit determinations, the Commission 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). The criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A. Not all of the factors will arise in every case and any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff'd*, *Renton Education Association v. Public Employment Relations Commission*, 101 Wn.2d 435 (1984).

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 (PSRA, 2013); *City of Auburn*, Decision 4880-A.

Application of Standard

The employees in the solution architect group only share a community of interest with the union's existing information technology bargaining unit based upon the duties, skills, and working conditions of the petitioned-for employees; the extent of organization in the employer's workforce; and the avoidance of fragmentation. All of the positions perform duties associated with computer and technology support for employer and its associated departments. While there may be

differences between specific duties of the information technology employees, such as design architecture, software engineering, or programming duties, the duties that are performed are all part of the continuum of functions needed to support the mission of the division and there are certain similarities in function.   The cloud solutions architect job duties include creating architecture for new web applications and servers, business intelligence, data and enterprise infrastructure services.   These duties are similar to the employees in the systems architect job class.

An analysis of the extent of organization among employees involves comparing the petitioned-for employees 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.*   The extent of organization in KCIT demonstrates a preference for a vertical bargaining unit configuration that includes all of the employees in the department.   Requiring the solution architect group to organize separately would result in a proliferation of bargaining units in the employer's workforce and would create work jurisdiction issues within KCIT.   Accordingly, the employees in the solution architect group must be added the union's existing bargaining unit without the need of an election.

FINDINGS OF FACT

1.   King County is a public employer within the meaning of RCW 41.56.030(12).

2.   PROTEC17 is a bargaining representative within the meaning of RCW 41.56.030(2).

3.   The union represents a bargaining unit that includes all of the information technology employees assigned to King County Information Technology.

4.   The solution architect group includes employees in the solution architect – application, solution architect – data, and solution architect – technology job classes.   All of these job classes are newly created and have been excluded from the union's information technology

bargaining unit. There are some common elements that are applicable to all three job classes: these positions apply extensive enterprise architecture and advanced architecture principles, theories, concepts, and technical leadership to the employer. They provide their technical expertise and experience not only in in their areas but also through the decisions they make. There are long-lasting impacts to the employer through the strategies, standards, roadmaps, and designs they create. To accomplish these tasks, the positions work with information technology architects, engineers, software developers, and other staff inside and outside of KCIT.

5.   The solution architect – technology job class includes technical leadership positions that are considered subject matter experts in a specific infrastructure-oriented technology domain. The employees in these positions have deep, specific knowledge of the technologies in their domain and have a heavy emphasis on interoperability across domains to ensure seamless solutions. The solution architect – application job class serves as a lead designer within a service or domain of applications. To accomplish these tasks, the position works closely with management and technical experts within KCIT.

6.   The solution architect – data job class architects, designs, and modernizes data. The position focuses on enabling business customers to gain greater value from their own data so they can make better business decisions. The position focuses on key, assigned aspects of the data management practice and matures those processes and capabilities at the county. The position works closely with stakeholders and other information technology team members to engineer information management solutions.

7.   All of the employees in the solution architect group are assigned to KCIT and the work performed by the solution architect group is similar to the work being performed by employees in the union's bargaining unit, such as the systems architects and applications developer – master job classes.

CONCLUSIONS OF LAW

1.   The Public Employment Relations Commission has jurisdiction over this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.

2.   Based upon findings of fact 3 through 7, the newly created position in the solution architect group share a community of interest with the bargaining unit described in finding of fact 3.

ORDER

The employees in the cloud solutions architect, business intelligence solutions architect, and solution architect – data job classes (collectively solution architect group) are added to the bargaining unit described in finding of fact 3 without the need of an election.

ISSUED at Olympia, Washington, this __19th__ day of November, 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.

DECISION 13100 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

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CASE 129763-C-17

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