

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

CITY OF TACOMA,

and

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS LOCAL 483

For clarification of an existing bargaining unit.

CASE 133261-C-20

DECISION 13305 - PECB

ORDER CLARIFYING BARGAINING  
UNIT

*Alice Phillips*, Business Manager/Financial Secretary, for the International Brotherhood of Electrical Workers Local 483.

*Dylan Carlson*, Senior Labor Relations Manager, for City of Tacoma.

The employer recently created a new Water Systems Operations Supervisor position which it believes should be placed in its water division. The International Brotherhood of Electrical Workers Local 483 (union) represents a bargaining unit of employees in the water division at the City of Tacoma. *City of Tacoma*, Decision 13043 (PECB, 2019). The parties jointly filed a unit clarification petition asking this agency to place the Water Systems Operations Supervisor in the union's water division bargaining unit. The Water Systems Operations Supervisor shares a community of interest with only the employees in the union's water division bargaining unit and shall be included in that bargaining unit without the need of an election.

## ANALYSIS

### Applicable Legal Standard

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).

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). Unit clarification proceedings can be used to determine the bargaining unit placement of newly-created positions. WAC 391-35-020(1)(a).

An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong only in one existing bargaining unit. *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 Water Systems Operations Supervisor logically belongs in the union's water division bargaining unit because it shares the same duties, skills, and working conditions with the

employees in that bargaining unit. The extent of organization also dictates that this position be included in the bargaining to avoid work jurisdiction issues.

The employer's water division delivers fresh water to the City of Tacoma as well as to parts of Pierce and King Counties. The union's bargaining unit includes all of the nonsupervisory trades positions in the city's water division and includes positions such as the Water Service Supervisors, Water Pumps and Storage Supervisor, and Water Treatment Plant Supervisors.<sup>1</sup> These positions also oversee crews of trades workers and are generally responsible for construction work, fixing leaks, responding to customer calls about problems with service, installing new distribution pipes and meters, preventative maintenance, filling and draining reservoirs, operating pumps, and coordinating work in the field.

The positions in the water division share certain duties, skills, and working conditions. For example, all positions share similar lines of supervision and all employees are bound by the same sets of policies. Certain positions, such as the Water Control Station Operator, Water Treatment Plant Supervisor, and Water Quality Specialist, require either a Washington State Water Works Certification, a Backflow Assembly Tester Certification, or a Water Distribution Manager Certification, to perform their job. The employer currently reimburses bargaining unit employees for the costs of acquiring these certifications. All of these employees share similar lines of supervision and also share the same working conditions.

The employer placed the newly created Water Systems Operations Supervisor in the Water division and intends for this position to share similar lines of supervision and working conditions as bargaining unit employees. The Water Systems Operations Supervisor is organizationally on the same level as the Water Service Supervisors, Water Pumps and Storage Supervisor, and Water Treatment Plant Supervisors, will oversee a crew of trades employees, and will be paid at the same

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<sup>1</sup> Although certain job titles include the term "supervisor" none of these positions are supervisors as defined by WAC 391-35-340. *See also City of Tacoma, Decision 12744 (PECB, 2017)*. Additionally, the parties are not claiming that the Water Systems Operations Supervisor is a supervisory position.

rate as those other positions. The employer requires the Water Systems Operations Supervisor to possess all similar certifications as the bargaining unit employees and also intends to reimburse the employees occupying the position for the costs acquiring the certifications.

Finally, the extent of organization supports a conclusion that the Water Systems Operations Supervisor only belongs in the union's bargaining unit. The duties of the Water Systems Operations Supervisor are functionally integrated with the other positions in the union's bargaining unit and to exclude this position from the union's bargaining unit would create work jurisdiction issues. The Water Systems Operations Supervisor is added to the union's bargaining unit without the need of an election.

#### FINDINGS OF FACT

1. The City of Tacoma is a public employer within the meaning of RCW 41.56.030(12).
2. The International Brotherhood of Electrical Workers is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit of employees working for the employer's Water Division that is currently described as follows:

All employees in classifications in the water division bargaining unit working at the City of Tacoma,

Including: Water Treatment Plant Supervisor, Water Control Station Operator, Water Meter Repair Worker, Water Meter Repair Worker Lead, Water Plant Maintenance Worker, Water Pumps & Storage Supervisor, Water Quality Specialist, Water Service Mechanic, Water Service Supervisor, Water Service Worker, Water Treatment Plant Operator, Water Utility Worker, Watershed Inspector, and Water Supply Supervisor.

Excluding: confidential employees and all other employees.

4. The union's bargaining unit includes all of the nonsupervisory trades positions in the city's Water Division and includes positions such as the Water Service Supervisors, Water Pumps and Storage Supervisor, and Water Treatment Plant Supervisors. These positions also oversee crews of trades workers and are generally responsible for construction work, fixing leaks, responding to customer calls about problems with service, installing new distribution pipes and meters, preventative maintenance, filling and draining reservoirs, operating pumps, and coordinating work in the field.
5. Certain positions, such as the Water Control Station Operator, Water Treatment Plant Supervisor, and Water Quality Specialist, require either a Washington State Water Works Certification, a Backflow Assembly Tester Certification, or a Water Distribution Manager Certification, to perform their job. The employer currently reimburses bargaining unit employees for the costs of acquiring these certifications. All of these employees share similar lines of supervision and also share the same working conditions.
6. The employer recently created the Water Systems Operations Supervisor position and placed that position in the Water Division. The Water Systems Operations Supervisor is organizationally on the same level as the Water Service Supervisors, Water Pumps and Storage Supervisor, and Water Treatment Plant Supervisors, will oversee a crew of trades employees, and will be paid at the same rate as those other positions. The employer requires the Water Systems Operations Supervisor to possess all similar certifications as the bargaining unit employees and also intends to reimburse the employees occupying the position for the costs acquiring the certifications.
7. The duties of the Water Systems Operations Supervisor are functionally integrated with the other positions in the union's bargaining unit and to exclude this position from the union's bargaining unit would create work jurisdiction issues.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 3 through 7, the Water Systems Operations Supervisor only shares a community of interest with the bargaining unit described in finding of fact 3.

ORDER

1. The employees in the Water Systems Operations Supervisor job class are added to the union's water division bargaining unit. That bargaining unit shall be redefined as follows:

All employees in classifications in the water division bargaining unit working at the City of Tacoma,

Including: Water Treatment Plant Supervisor, Water Control Station Operator, Water Meter Repair Worker, Water Meter Repair Worker Lead, Water Plant Maintenance Worker, Water Pumps & Storage Supervisor, Water Quality Specialist, Water Service Mechanic, Water Service Supervisor, Water Service Worker, Water Treatment Plant Operator, Water Utility Worker, Watershed Inspector, Water Systems Operations Supervisor, and Water Supply Supervisor.

Excluding: confidential employees and all other employees.

ISSUED at Olympia, Washington, this 9th day of February, 2021.

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 02/09/2021

DECISION 13305 - PECB 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 133261-C-20

EMPLOYER: CITY OF TACOMA

REP BY: DYLAN CARLSON  
CITY OF TACOMA  
747 MARKET ST RM 1520  
TACOMA, WA 98402  
dcarlson2@cityoftacoma.org

PARTY 2: IBEW LOCAL 483

REP BY: ALICE PHILLIPS  
IBEW LOCAL 483  
3525 SO ALDER ST  
TACOMA, WA 98409  
alice@ibew483.org