

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

C-TRAN

and

AMALGAMATED TRANSIT UNION
LOCAL 757

For clarification of an existing bargaining unit.

CASE 135110-C-22

DECISION 13584 - PECB

ORDER CLARIFYING BARGAINING
UNIT

Krista Cordova, Labor Relations Coordinator, for the Amalgamated Transit Union
Local 757.

Laura Merry, Chief Human Resource and Safety Officer, for C-Tran.

Amalgamated Transit Union Local 757 (ATU or union) represents a bargaining unit of special services dispatchers and a bargaining unit of Operations department supervisors at C-Tran (employer).¹ The parties jointly filed a petition to merge the two existing bargaining units continuing to be represented by the union.

The parties' request to merge the paratransit/special services dispatchers bargaining unit and the Operations department supervisors bargaining units is granted. Based on the parties' joint stipulations, the parties have agreed to merge the bargaining units and the resulting bargaining unit is an appropriate bargaining unit under RCW 41.56.060.

¹ Special services dispatchers' certification *C-Tran*, Decision 5834 (PECB, 1997) and Operations department supervisors' certification *C-Tran*, Decision 11014 (PECB, 2011).

BACKGROUND

The union represents a bargaining unit bargaining unit of paratransit/special services dispatchers and a bargaining unit of Operations department supervisors. The paratransit/special services dispatchers bargaining unit is currently described as:

All full-time and regular part-time special services dispatchers employed by C-Tran, excluding supervisors, confidential employees, and all other employees.

C-Tran, Decision 5834 (PECB, 1997). The Operations department supervisors bargaining unit is currently described as:

All full-time and regular part-time supervisors in the Operations Department of C-Tran, excluding confidential employees, managers, directors, and all other employees.

C-Tran, Decision 11014 (PECB, 2011).

During the most recent collective bargaining negotiations the parties discussed the changes to the paratransit/special services positions in the paratransit/special services dispatcher bargaining unit and agreed on the need to merge the two bargaining units because of the similar duties, skills, and working conditions. The changes include changing the Paratransit position to a Demand Response Dispatch Supervisor. The Demand Response Dispatch Supervisor is a position within the Operations department. The position supervises Demand Response Operators and supervises Fixed Route Operators as needed. The Demand Response Dispatch Supervisors are responsible for evaluating, coaching, and mentoring Demand Response Operators. The Demand Response Dispatch Supervisors plan, schedule, and assign work. They process leave requests, publish schedules, and log absences. They respond to, investigate, and document incidents and events, customer comments, and personnel issues. They administer the drug and alcohol policy. The Demand Response Dispatch Supervisor requires three years of applicable supervisory experience and extensive customer services skills.

The Operations Supervisors in the Operations department supervisors bargaining unit supervise operators and contracted security officers. The Operations Supervisors are responsible for supervising, mentoring, and evaluating the performance of all Operators. They plan, schedule, and assign work and bus routes. They respond to, investigate, and document incidents, accidents, customer comments, and personnel issues. They also administer the drug and alcohol policy. The Operations Supervisors require three years of applicable supervisory experience and extensive customer services skills.

ANALYSIS

Applicable Legal Standards

The authority to determine and certify appropriate bargaining units is a function of the Legislature delegated to this Commission. RCW 41.80.070; *Central Washington University*, Decision 10215-B (PSRA, 2010). Included with this authority is the power to, upon request, modify that unit through a unit clarification proceeding. *See Pierce County*, Decision 7018-A (PECB, 2001).

Merger of Bargaining Units

Prior to 2011, a bargaining representative who wanted to merge two or more bargaining units of employees that it represented in an employer's workforce was required to file a unit merger petition under WAC 391-25-420. This agency would first determine if the resulting bargaining unit would be an appropriate bargaining unit under RCW 41.56.060. If the resulting bargaining unit was an appropriate bargaining unit, then a representation election would be conducted to determine if the employees in both bargaining units desired the merger. WAC 391-25-420(2)(d)(ii). If either bargaining unit rejected the merger, then the petition would be dismissed. WAC 391-25-420(2)(d)(i).

In 2011, the Legislature amended RCW 41.56.050 to allow an employer and union to agree to merge two or more bargaining units without the need of a representation election. RCW 41.56.050(2). Thus, if the parties are in agreement about the merger, they are not required to submit the matter to this agency. In the event that there is a disagreement between the parties about the proposed merger, the parties could then submit the matter to this agency, the WAC 391-25-420 merger rule would apply, and this agency would conduct an election.

Although RCW 41.56.050(2) only requires parties to submit merger disputes to this agency if there is disagreement, parties may nevertheless seek a determination from this agency as to whether the merger of two existing bargaining units would result in an appropriate bargaining unit under RCW 41.56.060. If the resulting bargaining unit is appropriate on its face, then a certification may be issued for the newly merged bargaining unit.² This will provide the parties with an assurance that the bargaining unit conforms to the RCW 41.56.060 statutory requirements.

This process is consistent with a similar process that exists for state civil employees who collectively bargain under chapter 41.80 RCW. RCW 41.80.070(3) states that a union representing two or more bargaining units of state civil service employees may petition this agency to merge those bargaining units. The only question that this agency asks is whether the resulting bargaining unit is appropriate under the unit determination standards and, if so, then a certification will be issued.

Application of Standards

In this case, the parties agreed that the two existing ATU bargaining units can be merged to form a single bargaining unit of employees. ATU also demonstrated that the employees in the two bargaining units are in favor of the merger. Thus, the parties are not in dispute about the merger.

Additionally, the resulting merged bargaining unit is appropriate. While the union represents two bargaining units, and the parties have negotiated two collective bargaining agreements, the collective bargaining agreements have significant overlap. The Demand Response Dispatch Supervisor and Operations Supervisor have similar working conditions. Both positions work in the Operations department of the employer. Both positions evaluate, coach, and mentor subordinate employees. They both plan, schedule, and assign work. Additionally, they respond to, investigate, and document incidents and events, customer comments, and personnel issues, and

² Because the merger has been achieved without a representation election, a certification bar is not created through this type of merger.

they administer the drug and alcohol policy. Because of their similar working conditions and requirements, a community of interest exists.

The two existing bargaining units shall be merged into the Operations department supervisory bargaining unit. The bargaining unit shall be described as:

All full-time and regular part-time supervisors in the Operations Department of C-Tran, excluding confidential employees, managers, directors, and all other employees.

FINDINGS OF FACT

1. C-Tran (employer) is an employer within the meaning of RCW 41.56.030(12).
2. Amalgamated Transit Union Local 757 (ATU or union) is an exclusive bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit bargaining unit of paratransit/special services dispatchers and a bargaining unit of operations department supervisors. The paratransit/special services dispatchers bargaining unit is currently described as:

All full-time and regular part-time special services dispatchers employed by C-Tran, excluding supervisors, confidential employees, and all other employees.

C-Tran, Decision 5834 (PECB, 1997). The Operations department supervisors bargaining unit is currently described as:

All full-time and regular part-time supervisors in the Operations Department of C-Tran, excluding confidential employees, managers, directors, and all other employees.

C-Tran, Decision 11014 (PECB, 2011).

4. During the most recent collective bargaining negotiations the parties discussed the changes to the paratransit dispatcher positions in the special services dispatcher bargaining unit and the parties agreed on the need to merge the two bargaining units because of the similar duties, skills, and working conditions. The changes including changing the Paratransit position to a Demand Response Dispatch Supervisor.
5. The Demand Response Dispatch Supervisor is a position within the Operations department. The position supervises Demand Response Operators and Fixed Route Operators as needed. The Demand Response Dispatch Supervisors are responsible for evaluating, coaching, and mentoring Demand Response Operators. The Demand Response Dispatch Supervisors plan, schedule, and assign work. They process leave requests, publish schedules, and log absences. They respond to, investigate, and document incidents and events, customer comments, and personnel issues. They administer the drug and alcohol policy. The Demand Response Dispatch Supervisor requires three years of applicable supervisory experience and extensive customer services skills.
6. The Operations Supervisors in the Operations department supervisors bargaining unit supervise operators and contracted security officers. The Operations Supervisors are responsible for supervising, mentoring, and evaluating the performance of all Operators. They plan, schedule, and assign work and bus routes. They respond to, investigate, and document incidents, accidents, customer comments, and personnel issues. They also administer the drug and alcohol policy. The Operations Supervisors require three years of applicable supervisory experience and extensive customer services skills.

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 4, the union and employer agree that the bargaining units described in finding of fact 3 can be merged to form a single bargaining unit.

3. Based upon findings of fact 4 through 6, the employees in the merged bargaining units share a community of interest.

ORDER

The bargaining units described in finding of fact 3 that are represented by Amalgamated Transit Union Local 757 are merged to form a single bargaining unit described as follows:

All full-time and regular part-time supervisors in the Operations department of C-Tran, excluding confidential employees, managers, directors, and all other employees.

ISSUED at Olympia, Washington, this 25th day of October, 2022.

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

ISSUED ON 10/25/2022

DECISION 13584 - 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 135110-C-22

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