

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION  
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case No. 12-01

DECISION NO. 277 - MEC

RULING ON MOTION TO  
DISMISS AND ORDER  
GRANTING PARTIAL  
DISMISSAL

Schwerin, Campbell and Barnard, attorneys, by *Dmitri Iglitzin*, appearing for and on behalf of the Inlandboatmen's Union of the Pacific.

Christine Gregoire, Attorney General, by *David Slown*, Assistant Attorney General, appearing for and on behalf of the Washington State Ferries.

BACKGROUND

On May 9, 2001, the Inlandboatmen's Union of the Pacific (IBU), filed an unfair labor practice complaint with the Marine Employees' Commission (MEC), charging Washington State Ferries (WSF) with refusing to bargain collectively with representatives of employees. IBU charged WSF with numerous unfair labor practices in the context of four alleged events: 1) unilateral late-spring bid, 2) skimming of terminal department work, 3) reduction of Terminal Department Work, and 4) alteration of on-call employment. IBU requested expedited handling of the matter.

Following review, the Commission determined that the facts alleged might constitute unfair labor practices, if later found to be true and provable.

On May 18, 2001, the MEC received a Motion to Make Complaint More Definite and Certain, filed by AAG David Slown on behalf of WSF, pursuant to WAC 316-45-050(3) and 316-45-250. WSF alleged that IBU's complaint was "so vague and uncertain as to hamper respondent in the preparation of its answer, and in the preparation of its case."

On May 18, 2001, Hearing Examiner John Nelson issued an Order to Make Complaint more Definite and Certain, requiring the IBU to provide the facts enumerated in WSF's Motion.

The MEC scheduled a hearing for June 18, 2001.

On May 29, 2001, MEC received IBU's Amended Statement of Facts and Amended Remedy Sought. IBU's amendment included two additional violations: "Transfer of Terminal Department Work to Deck Department" and "Elimination of Terminal Department Work Through Technology."

On June 8, 2001, MEC received WSF's Answer to the Complaint.

#### WSF'S MOTION

On June 11, 2001, Washington State Ferries, (WSF), by its Counsel, moved for dismissal basing its Motion on several grounds: 1. That the allegations were unrelated courses of action. 2. That two additional charges were added by letter dated May 24, 2001. 3. That the IBU response to the Motion for a More Definite Statement was seriously deficient.

#### CONCLUSIONS AND ORDER

The MEC has carefully considered the Motion to Dismiss, together with the IBU response thereto, and hereby responds as follows:

1. In response to the concern that allegations specify separate and unrelated courses of action, the WSF Motion to Dismiss is denied. There is no requirement in the MEC rules or in the Statute that allegations related to an event or events close in time, even though separate and unrelated on the face, must be filed as separate unfair labor practices. No legal authority has been advanced for the WSF position that such a filing is

impermissible. Indeed, economy and efficiency may favor such a resolution. This basis for WSF's Motion to Dismiss is accordingly without merit and hereby denied.

2. As to the concern that the fourth and fifth causes of action in the IBU's Amended Statement of Facts are different issues than those originally complained of and ruled upon by MEC in finding that the original Complaint filed in this matter might constitute unfair labor practices, the MEC notes that the IBU response to the WSF Motion to Dismiss seeks to have these causes dismissed. MEC hereby dismisses without prejudice, that part of the unfair labor practice charge, those allegations encompassed by the fourth and fifth causes of action. More particularly, those causes of action set forth in paragraphs 30—33 (transfer of terminal department work to deck department) and 34-37 (elimination of terminal department work through technology) of the IBU Amended Statement of Facts.
3. As to that portion of the Motion to Dismiss based upon the IBU's failure to adequately make its complaint "More Definite and Certain" the MEC finds that the WSF has a well placed concern regarding its ability to defend the remaining allegations, and IBU is hereby ordered to again respond with specific information particularly as to the names of employees in the bargaining unit adversely affected and a specific statement as to the harm suffered.

The response to the request for a more definite and certain statement must be filed with the MEC with a copy served upon WSF and its Counsel, by July 9, 2001.

DATED this \_\_\_\_ day of June 2001.

MARINE EMPLOYEES' COMMISSION

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JOHN D. NELSON, Chairman

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JOHN P. SULLIVAN, Commissioner