

City v. L.333, et. Al, 18 OCB 44 (BOC 1976) [Decision No. 44-76
(Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

DECISION NO. 44-76

DOCKET NO. RE-71-76

-and-

UNITED MARINE DIVISION, LOCAL 333,
I.L.A., AFL-CIO

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DECISION AND ORDER CONSOLIDATING
CERTIFICATIONS

On February 11, 1976, the Office of Labor Relations of the City of New York filed its petition herein, requesting the consolidation of the following eight certifications held by United Marine Division, Local 333, I.L.A., AFL-CIO:

- I. Certification 7 NYCDL No. 79
Deckhand
Marine Oiler
Marine Stoker
Water Tender
in the Transportation Administration
- II. Certification No. 60-72
Launch Operator (Water Pollution)
Gasoline Engineman (Marine)
- III. Certification 5 NYCDL No. 69
Marine Sounder
- IV. Certification 2 NYCDL No. 40 (Dec. No. 75-73)
Ferry Agent
Supervising Ferry Agent
- V. Certification 2 NYCDL No. 41
Ferry Terminal Supervisor

VI.-VIII. Certification MR-12-65 (three units)
Dockmaster - 1 NYCDL No. 41
Dockmaster (Rule X*) - 9 NYCDL No. 26
Supervising Dockmaster - I NYCDL No. 42.

The certificate holder has been notified of the pendency of this petition and has raised no objection. However, in a letter dated March 10, 1976, District No. I-Pacific Coast District, Marine Engineers Beneficial Association, AFL-CIO, applied to intervene herein, alleging that the proposed consolidated unit would be inappropriate. Although MEBA indicated that it was then involved in a "current campaign ... to seek an election for the employees covered in certification 7 NYCDL #79," it neither submitted any showing of interest with its intervention request, nor did it file a representation petition, although it would have been timely to do so during the month of March 1976, pursuant to Rule 2.7 (Contract Bar).

In its Decision No. 33-74 (reaffirmed by Decision No. 50-74) (Matter of Local 1199, Drug and Hospital Union, RWDSU, AFL-CIO), the Board held that:

"... a party having a bona fide interest in a proposed consolidated unit, or a segment thereof, should intervene during the pendency of the consolidation proceeding to set forth its unit views. Such intervention will be limited solely to challenging the appropriateness of the unit, unless otherwise timely under Rule 2.7, Contract Bar. [Emphasis added.]

equated to the Rule XI titles of Dockmaster, Supervising Dockmaster, and Chief Dockmaster.

If a party intervening in a consolidation proceeding is successful in persuading the Board that the segment of the consolidated unit it seeks is an appropriate unit and should not be consolidated, it will be timely to file a representation petition for that segment during the sixth month prior to the expiration date of the contract for that segment

It follows logically that, if a timely representation petition may be filed simultaneously with a timely application to intervene, such a petition must be filed at that time. As MEBA has both failed to file such a timely petition, and to submit any showing of interest in any of the units proposed to be consolidated, its application to intervene herein is hereby denied for lack of standing.

Moreover, our investigation shows that the requested consolidated unit would be appropriate for collective bargaining purposes.

O R D E R

NOW, THEREFORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED that Certifications 7 NYCDL No. 79, No. 60-72, 5 NYCDL No. 69, 2 NYCDL No. 40 (Dec. No. 75-73), 2 NYCDL No. 41, and MR-12-65 (1 NYCDL Nos. 41 and 42 and 9 NYCDL No. 26) be, and the same hereby are, combined and consolidated so as to constitute one bargaining unit consisting of the titles set forth below; and it is hereby

CERTIFIED that United Marine Division, Local 333, I.L.A., AFL-CIO, is the exclusive representative for the purposes of collective bargaining of all employees in the consolidated unit, to wit: Deckhands, Marine Oilers [in the Transportation Administration only], Marine Stokers, Water Tenders, Launch Operators (Water Pollution), Gasoline Enginemen (Marine), Marine Sounders, Ferry Agents, Supervising Ferry Agents, Ferry Terminal Supervisors, Dockmasters, Supervising Dockmasters, Chief Dockmasters, and Dockmasters (Rule X), employed by the City of New York and related public employers subject to the jurisdiction of the Board of Certification, subject to existing contracts, if any, covering any or all of said employees.

DATED: New York, N.Y.
September 23, 1976

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

WALTER L. EISENBERG
MEMBER

Decision No. 44-76
Docket No. RE-71-76

The titles and title code numbers of the employees affected by this decision are as follows

Chief Dockmaster	81665
Deckhand	91529
Dockmaster	81610
Dockmaster (Rule X)	93006
Ferry Agent	10725
Ferry Terminal Supervisor	81560
Gasoline Engineman (Marine)	91536
Launch Operator (Water Pollution)	91538
Marine Oiler	91546
Marine Sounder	91549
Marine Stoker	91552
Supervising Dockmaster	81660
Supervising Ferry Agent	10730
Water Tender	91572

81665 91529 81610 93006 10725 81560 91536 91538 91546 91549 91552
81660 10730 91572